SENATE—*Monday, May 13, 1974*

The Senate met at 12 o'clock noon and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

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

Eternal Father, in the morning and the evening and at noonday we praise Thee for Thy goodness and mercy and for Thy providential care over this Nation. Keep us forever "one nation under God," a people faithful to Thy precepts, a government under Thy higher law. Help us here so to comport ourselves as to be responsive to the people's needs, so to act as to advance Thy kingdom on Earth, so to live as to manifest the life of God in the life of man.

We pray in His name who said:

Whoever is greatest among you let him be the servant of all.—Matt. 23: 11.

Amen.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries, and he announced that on May 10, 1974, the President had approved and signed the following enrolled bills:

S. 1647. An act to extend the Environmental Education Act for 3 years;

S. 2771. An act 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; and

S. 3292. An act to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. METCALF) 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 the Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, May 9, 1974, be dispensed with.

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, 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.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 801, 802, 808, and 809.

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

INDIAN TRIBE LANDHOLDINGS IN NORTH AND SOUTH DAKOTA

The Senate proceeded to consider the bill (S. 1411) to authorize the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation to consolidate its landholdings in North Dakota and South Dakota, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, at the beginning of line 3, after the enacting clause, strike out "That the Sisseton and Wahpeton Sioux Tribe of the Lake" and insert "That the Secretary of the Interior is authorized, at his discretion and upon the request of the Sisseton and Wahpeton Sioux Tribe of the Lake"; in line 8, after "South Dakota", strike out "is authorized"; on page 2, line 2, after the word "Indian", strike out "allotments" and insert "trust lands"; in line 13, after the word "South", strike out "Dakota; except that title to any lands or interests in lands acquired pursuant to this Act shall be examined by and be accepted by the Secretary of the Interior or his duly authorized representative in accordance with the general standards for acquisition of title to lands by the United States." and insert "Dakota"; at the beginning of line 21, strike out "Reservation, acting through its governing body, is authorized" and insert "Reservation, acting through its governing body or its designated agent, is authorized with the approval of the Secretary of the Interior"; on page 3, line 15, after the word "acquired", strike out "by" and insert "for"; in line 19, after the word "title", strike out "may" and insert "may, with the approval of the Secretary of the Interior,"; on page 4, line 3, after "SEC. 3.", strike out "All lands acquired by the tribe or by members" and insert "All lands acquired by the United States in trust for the tribe or members"; and, in line 23, after the word "proceeding", strike out "may" and insert "may, with the approval of the Secretary of the Interior,"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized, at his discretion and upon the request of the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation or its delegated designated agent in the States of North Dakota and South Dakota, to acquire through purchase, gift, or exchange any lands or interest in lands within the boundaries of the Lake Traverse Reservation in North Dakota and South Dakota for the purpose of consolidating landholdings, eliminating fractional heirship interests in Indian trust lands, providing land for any tribal program for the improvement of the economy of the tribe and its members through the development of industry, recreational facilities, housing projects, and the general rehabilitation and enhancement of the total resource potential of the reservation. For the purchase of such lands or interests in lands the use of any funds available to the tribe from any source is authorized and title to any land acquired under the authority of this Act shall be taken in the name of the United States in trust for the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation in North Dakota and South Dakota.

SEC. 2. (a) Notwithstanding any other provision of law, the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation, acting through its governing body or its designated agent, is authorized with the approval of the Secretary of the Interior to exchange or sell any tribal real property not needed or suitable for use by the tribe or so situated or located that it would be to the economic advantage of the tribe to sell or exchange the property; except that (1) any such sale shall be by competitive sealed bidding, and a preference shall be given to enrolled members of the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation to match the high bid; (2) the amount or exchange value received for the property shall not be less than the fair market value thereof as determined by the Secretary of the Interior or his duly authorized representative; (3) if lands involved in an exchange are not of equal value, the difference in value shall be paid in money; (4) any proceeds from the sale of land under this authority or money received to equalize an exchange shall be used exclusively for the purchase of other land on the reservation; (5) title to any land acquired for the tribe under this authority shall be taken in the name of the United States in trust for the tribe; and (6) if an enrolled member of the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation acquires land from the tribe under this Act, title may, with the approval of the Secretary of the Interior, be taken in the name of the United States in trust for the use and benefit of such member.

(b) All of the foregoing provisions of this Act shall be construed to be exclusive to resident United States citizens enrolled as members of the Sisseton Wahpeton Sioux Tribe of the Lake Traverse Reservation.

SEC. 3. All lands acquired by the United States in trust for the tribe or members thereof under the authority of this Act shall be exempt from State and local taxation.

SEC. 4. Any tribal land may, with the approval of the Secretary of the Interior, be encumbered by a mortgage or deed of trust, and shall be subject to foreclosure or sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the State in which the land is located. For

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

the purpose of the foreclosure or sale proceeding, the Sisseton and Wahpeton Sioux Tribe of the Lake Traverse Reservation shall be regarded as vested with an unrestricted fee simple title to the land, the United States shall not be a necessary party to the foreclosure or sale proceeding, and any conveyance of the land pursuant to such proceeding shall divest the United States of title to the land. Title to any land redeemed or acquired by the tribe at such foreclosure or sale proceeding shall be taken in the name of the United States in trust for the tribe, and title to any land purchased by an individual member of the tribe at such proceeding may, with the approval of the Secretary of the Interior, be taken in the name of the United States in trust for the use and benefit of the individual Indian purchaser.

SEC. 5. The Secretary of the Interior is authorized to take such action as may be necessary to carry out the purposes of this Act.

The amendments were agreed to.

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

FREEDOM OF INFORMATION ACT SOURCE BOOK

The resolution (S. Res. 314) authorizing the printing of the committee print entitled "Freedom of Information Act Source Book" as a Senate document, was considered and agreed to, as follows:

Resolved, That the committee print of the Committee on the Judiciary entitled "Freedom of Information Act Source Book: Legislative Materials, Cases, Articles" be printed as a Senate document; and that there be printed for the use of that committee one thousand three hundred additional copies of such document.

TRUST LANDS FOR THE KOOTENAI TRIBE OF IDAHO

The Senate proceeded to consider the bill (S. 634) to declare that certain federally owned lands shall be held by the United States in trust for the Kootenai Tribe of Idaho, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, at the beginning of line 8, strike out "and" and insert "art"; and, on page 2, after line 17, insert a new section, as follows:

SEC. 3. The Indian Claims Commission is directed to determine in accordance with the provisions of the Act of August 13, 1946 (60 Stat. 1050), the extent to which value of the title conveyed should or should not be set off against any claim against the United States determined by the Commission.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to valid existing rights, all of the right, title, and interest of the United States in the following described tracts of land, and the improvements thereon, that were acquired and that are now administered by the Secretary of the Interior for the benefit of the Kootenai Tribe of Idaho, are hereby declared to be held by the United States in trust for said tribe:

TRACT NUMBERED 1. Part of lot 3 in section 20, township 62 north, range 1 east, Boise meridian, Boundary County, Idaho, described as follows: Beginning at a point 20 rods south and 20 rods west of the northeast corner of lot 3, section 20, thence west 20 rods, thence south 20 rods, thence east 20 rods, thence north 20 rods to place of beginning, containing 2.50 acres, more or less.

TRACT NUMBERED 2. That part of lot numbered 3 in section 20, township 62 north, range 1 east, Boise meridian, Boundary County, Idaho, described as follows: Beginning at a point 20 rods south of the northeast corner of lot 3, thence west 20 rods, thence south 20 rods, thence west 10 rods, thence south 40 rods, thence east 30 rods, thence north 60 rods, to place of beginning, containing 10.00 acres, more or less.

SEC. 2. The above-described property shall be administered in accordance with the laws and regulations applicable to Indian tribal trust property.

SEC. 3. The Indian Claims Commission is directed to determine in accordance with the provisions of the Act of August 13, 1946 (60 Stat. 1050), the extent to which value of the title conveyed should or should not be set off against any claim against the United States determined by the Commission.

The amendments were agreed to.

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

U.S. FLAG FOR DECEASED MEMBERS OF THE READY RESERVE

The Senate proceeded to consider the bill (H.R. 5621) to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve which had been reported from the Committee on Armed Services with amendments to strike out all after the enacting clause and insert:

That section 1482 of title 10, United States Code, is amended by adding the following new subsection at the end thereof:

"(f) The Secretary concerned may pay the necessary expenses for the presentation of a flag to the person designated to direct the disposition of the remains of a member of the Reserve of an armed force under his jurisdiction who dies under honorable circumstances as determined by the Secretary and who is not covered by section 1481 of this title if, at the time of such member's death, he—

"(1) was a member of the Ready Reserve; or

"(2) had performed at least twenty years of service as computed under section 1332 of this title and was not entitled to retired pay under section 1331 of this title.".

The amendments were agreed to.

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

The bill was read the third time, and passed.

The title was amended, so as to read: "An act to amend title 10, United States Code, to provide for the presentation of a flag of the United States for deceased members of the Ready Reserve and for deceased members of the Reserve who die after completing twenty years of service, but before becoming entitled to retired pay."

ORDER OF BUSINESS

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

WHAT IS RIGHT WITH THE FEDERAL GOVERNMENT: INCREASES IN GOVERNMENT PRODUCTIVITY

Mr. PROXMIRE. Mr. President, Americans rightly find a great deal wrong with their Government. They have difficulties with the bureaucracy, problems with their veterans' pensions, issues over their income tax, and hassles with this agency or that agency over grants or policies.

But even though there are thousands of examples where Government is insensitive to citizens' problems and slow to move, it is nonetheless true that there has been an amazing increase in Government efficiency over the years.

BREAKTHROUGH ON PRODUCTIVITY

In fact, the Federal Government may be on the brink of the greatest improvement in Federal Government efficiency in our history.

This improvement could mean that a streamlined, cost-conscious Federal Government could provide more services with an easier tax burden.

This sharply contradicts the prevailing wisdom that Government is not only more corrupt but more wasteful, that it is doing almost everything wrong, and that the one certainty about our future is that Federal taxes will grow ever more burdensome. Of course, that latter sad situation may develop, but if so, it will be because of human failure to take advantage of a rich opportunity to cut Government costs and the tax burden.

Recent developments for the first time make it possible literally to get more out of our Government—in a big way—for our tax dollar. Here is how:

First. For the first time in our history the Government is measuring its productivity. It is at long last asking the right questions: How much production are we getting from each Government agency for each man-hour we pay for? How has this production been changing in each agency? Has it been improving or getting worse? How much has it been improving? How can it improve more? Asking these questions is as vital to getting more for our tax money out of Government as the same questions have been for years for our immensely productive private economy.

Second. The Federal Government is about to adopt a budget reform act that has passed both Houses and which will require the Congress to set a ceiling and make the tough spending priority choices within that ceiling that will force the rejection of the less necessary and more wasteful Government activities.

Third. The productivity drive and the budget reform act may be about to force the Government to make a big new investment in labor saving equipment that could result in a sharp reduction in costs in the next few years.

Fourth. For the first time in its history the Government has just begun to measure its productivity and has found that contrary to the assumptions of most economists it has improved year by year. In some agencies the improvement in productivity has been better than twice as great as it has been historically in the private sector. In most it has lagged behind the private sector. And in some—about 30 percent of Government jobs—it has actually declined.

But more than 60 percent of Federal Government jobs are now made subject to Government productivity measurement, compared to only 12 percent in the private sector, and there is no question—hard as it may be to believe—that the taxpayer is not only getting more for his money than ever before, but he can get far more in the future.

INCREASED EFFICIENCY AT THE SOCIAL SECURITY ADMINISTRATION

Now let me be specific about my claim that the Federal Government may be on the brink of the greatest improvement in efficiency in our history through increases in productivity.

In fiscal year 1973 the Social Security Administration serviced about 30 million retirement, survivors, and disability insurance beneficiaries. In addition, they serviced about 20 million persons under health insurance programs, or a total of 50 million people.

They had 3.9 million claims for retirement and survivors' benefits. They had claims from 1.5 million people for disability insurance. They had 79 million claims for payment for medical services. They issued 11 million new social security account numbers. They posted 348 million items to update the earnings records of individuals covered by social security. That was their workload.

But those questions have never been asked before and that is one of the reasons why the Federal Government has become so oppressive in many cases and less efficient than it should be.

What kind of job are they doing? Compared with the job they did in 1964, they have vastly improved their efficiency. In that period their workload went up by 1¾ times or it was 274 percent of the 1964 workload. But in that period, they performed this additional workload with only 77 percent more people or 177 percent of the 1964 workload.

If you divide this work output by the manpower used, you find that the Social Security Administration was about 54 percent more efficient in 1973 as in 1964. And the estimate for 1974 is that it will rise to 62.25 percent.

That is what is called productivity. Throughout the Government there have been marked improvements in recent years.

I ask unanimous consent that a table entitled "Indexes of Work Output, Manpower, and Productivity" for the Social Security Administration for the period to 1974 be printed in the RECORD.

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

INDICES OF WORK OUTPUT, MANPOWER, AND PRODUCTIVITY

Year	Work output	Manpower	Productivity[1]
1964 actual	100.00	100.00	100.00
1965 actual	104.69	99.70	105.01
1966 actual	151.56	136.74	110.84
1967 actual	175.10	140.06	125.02
1968 actual	198.50	154.51	128.47
1969 actual	206.75	153.48	134.71
1970 actual	218.31	151.34	144.35
1971 actual	231.02	156.39	147.72
1972 actual	238.99	159.23	150.09
1973 estimate	273.55	177.90	153.77
1974 estimate	348.37	214.71	162.25

[1] Productivity index equals work output index divided by manpower index times 100.

PRODUCTIVITY REPORT—60 PERCENT OF MANPOWER COVERED

Mr. PROXMIRE. Mr. President, on June 30, 1973, a task force composed of the Executive Director of the Civil Service Commission, Mr. Bernard Rosen, the Assistant Comptroller General, Mr. Thomas Morris, and the then Assistant Director of the Office of Management and Budget, Mr. Dwight Ink, reported their findings on productivity in the Federal Government. This summary report was entitled "Measuring and Enhancing Productivity in the Federal Government—Phase III."

Their report covered 45 agencies of the Government, some 187 organizational elements in these agencies, and involved 60 percent of the manpower in the Government for the period fiscal years 1967–72. Here is what they found:

First, the productivity of these 45 agencies which included 60 percent of the manpower of the Government, increased by 8.7 percent in the period, or by 1.74 percent per year. The increase varied from 1.1 percent in 1969 to 2.8 percent in 1970. Over the period there was a 12.8-percent increase in output with a 3.8-percent increase in man-years which gives a total increase of 8.7 percent.

I ask unanimous consent that a table showing the total productivity increase for these years be printed below.

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

Item	Total for fiscal years 1967–72					
	1967	1968	1969	1970	1971	1972
Outputs	100.0	105.1	107.9	110.9	112.3	112.8
Inputs (man-years)	100.0	103.8	105.5	105.4	105.0	103.8
Productivity (output per man-year)	100.0	101.2	102.3	105.2	107.0	108.7

MARKED DIFFERENCES IN PERFORMANCE

Mr. PROXMIRE. Second, among the 187 organizations in these 45 agencies there were marked differences in productivity. Some 58 organizations had a decline in productivity while 129 elements or organizations saw an increase in productivity.

Of the 129 organizations which showed an increase, 96 or 75 percent of them had more than a 10-percent productivity increase. Even more startling, 70 of the 129, or 54 percent, showed more than a 20-percent productivity gain.

Of these 58 agencies showing a decline, the decline was limited to 10 percent or less in more than half, or 31 of the 58, and only 10 had a decline greater than 20 percent.

On the whole these results were good and showed that in the Government as well as in private industry, increases in efficiency and productivity can be made and have been made.

Further, they are conservative results for they do not include the improvements in quality or complexity of the services provided.

This is important for a great many people believe that principles of private business and management cannot be applied in the Government sector. This is just not true.

Thousands of Government personnel do routine work of processing. This is not only true of the Social Security Administration but it is equally true of the Internal Revenue Service, the Passport Office, the Veterans' Administration, the Post Office, the Customs Service, the Tariff Commission, the Railroad Retirement Board, and dozens of other agencies

BREAKTHROUGH FOR GOVERNMENT

Why is this study and its results important? The only way the Federal Government can provide the big increase in the services demanded by the American people without bankrupting the Government and placing an impossible burden on the taxpayer is through increases in efficiency. Otherwise, it will be taxpayer ripoff.

We are now on our way. We have taken the first steps in providing the basis for a vast increase in productivity. We are measuring productivity in the Federal Government. We know that there have been overall increases. We also know that these increases have been less than in the private sector but significant increases nonetheless.

We therefore have a basis for improvement. We know how to do it. We know that it can be done. We are on our way and we have the momentum. This is the way we can give the taxpayer more services for his tax dollar. That is why the study and its results are so important.

It is a major breakthrough for the Government for until recently no one believed that the successful, private industry, programs for efficiency could be applied to the Federal Government.

SPECTACULAR EXAMPLE OF CUSTOMS BUREAU

While the average increase in productivity is somewhat low, there are some spectacular examples of agencies where the increase was high. Let me give just one rather spectacular example from the report. It deals with the Bureau of Customs of the Treasury Department.

From 1967 to 1972 there was a 93-percent increase in the number of parcels or mail coming from abroad. The number rose from 1.5 million to almost 3 million parcels.

In the same period, the number of man-year used rose from 511 to 735, or by 44 percent, to process this vast increase in volume.

But the number of parcels handled per man-year increased from 30,400 to 40,500, or by 34 percent, or an increase in the productivity index from 100 to 134.

How did this happen? How could one man process one-third more than he did before?

First, specialized facilities were developed to process airmail, on the one hand, and surface mail, on the other.

Second, duplicate handling was eliminated. At San Francisco, for example, formerly a second processing took place in the land customs offices even after processing at San Francisco.

Third, mail handlers were specially trained and given new promotion opportunities.

And finally, this happened even though the work became more complex and there was an increasing improvement in quality because of the demand to look more closely for illegal drugs, weapons, and explosives.

This annual average productivity increase of 6.8 percent for these 5 years is a very major accomplishment—twice as great an increase, incidentally, as we have had in the private sector of the economy on the average.

MANPOWER SAVINGS FROM INCREASED PRODUCTIVITY

Because of the overall gain in productivity in these 45 agencies and 60 percent of the Government manpower which was covered by the study in the fiscal years 1968–72, there were some very big savings in wages. Fewer man years were required to process the same amount of work at the end of the period than at the beginning. The cumulative savings in wage costs for the period was estimated at $1.5 billion. This is not a net savings for it does not include the cost of new equipment, training costs and the change in organization. But the savings for salaries alone was $1.5 billion even though both the quantity of work and the quality of the work, in the view of those who were in the project, were vastly increased.

WHERE THE GAINS WERE MADE

In some areas some very spectacular increases in productivity were made. I am now speaking of functions rather than of agencies as such.

Probably the largest overall gain by function was in processing loans and grants where the measured increase was 47.7 percent in the period. Specialized printing was another area with a large increase, namely almost 25 percent. The overhaul and maintenance of heavy equipment showed a 35-percent gain.

On the other hand, standard printing in the Government showed a decline of 15.4 percent and the public service in hospitals and clinics showed an 8-percent decline in the period.

WHY HAS PRINTING SUCH A BAD RECORD?

The raw unpublished data for increases in productivity in the printing industry as a whole indicates an annual rate of change from 1959 through 1971 of about 2.3 percent per year. Yet standard printing in the Government saw a decline of about 3 percent per year while specialized printing in the Government saw an annual productivity increase of about 5 percent per year.

The study indicates that productivity in standard Government printing may have been low because the high productivity areas were contracted out privately while the Government was left with the cats and dogs which lowered productivity.

My own view is that that is probably an excuse and that the lack of mechanization, organization, and training accounts for it. I see no reason why Government printing should not improve at least the private rate of 2.3 percent per year.

REASONS FOR GAINS

The big gains in productivity in certain areas came about for several reasons. Foremost among these was the far greater use of computers and machines.

Not including the military and intelligence activities, where the largest number of computers are to be found, there was an increase from 2,412 computers in 1968 to about 6,000 at the end of the study.

Further, simplifying procedures and applying statistical sampling was a major reason for the increase in productivity.

In addition, improvements in organization added greatly. For example, the reorganization of the Export-Import Bank to process loans by type of loan rather than by geographic region allowed for a much greater specialization among those doing the processing and added to efficiency.

Finally, improvements in the education and training of personnel brought increases in efficiency.

JOLIET EXAMPLE

One sensational example of how adaptation by the Government of private enterprise investment opportunities saved millions was at the Army ammunition depot at Joliet, Ill.

The Army selected 24 capital investments improvements and allocated $500,000 to them. They returned more than $1.8 million in the first year, or $18 million on a ten-year basis for a half million investment. In other words, $500,000 was invested, and the Government got $18 million out of it because of the great productivity in the labor-saving equipment introduced.

This 300-percent return in the first year was brought about by investments like that in an automatic nailing machine which saved 20 men in constructing pallets, an automatic ammunition loader which saved 42 men, and an automatic scrap compactor which increased the recovery rate and reduced storage space and repayed the investment in 160 days.

It is these kinds of opportunities which private industry routinely seeks out which the Federal Government must now encourage.

But the Federal Government will have a rough time doing it. In the spectacular gains in the Joliet example, machines replaced men. In private industry that happens routinely. But in government, bureaucrats are reluctant to part with their manpower. Jobs are based on how many people are supervised.

It is going to be a very very tough proposition indeed to get top bureaucrats to introduce labor saving devices which will reduce the number of people under their jurisdiction. Yet the Joliet examples shows that it can be done with spectacular results.

A further difficulty is that it takes big initial capital investment funds. Because of the backward way the budget is put together, the OMB is reluctant to provide funds for investment because the new machines have to be written off in 1 year rather than amortized over their life. This is going to be a big drag on Government productivity gains.

The conclusion of Elmer Staats and the other experts was that this is where the Government can increase its efficiency, its productivity, can cut costs, can ease the burden on the taxpayer, by making the kind of capital investment that we simply have not made in the past and that one would expect a bureaucracy to resist without this knowledge of how much it will save the taxpayer.

I ask unanimous consent that the transcript of the hearings on Federal productivity held by the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee, held on December 17, 1973 (pp. 34–42) in which the Joliet Arsenal examples was discussed, be printed at this point in the RECORD.

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

TRANSCRIPT

Mr. STAATS. If I may, I would like to turn to page 17, the importance of capital investment in productivity improvement.

Authorities have concluded that improved technology and the availability of more capital per worker have been the major sources of productivity growth in the private sector over a long period of time. In light of this finding, the joint project team studies ways in which Federal agencies now select capital investment items for inclusion in their annual budgets. The team found that Federal managers sometimes lack the incentive and opportunity to seek funds for cost-reducing capital investments. Such projects tend to drop out of tight budgets when they have to compete with items related to program requirements or current priorities, such as pollution abatement, health and safety. This contrasts sharply with the experience in the private sector, where top management and boards of directors keep the spotlight on such investment.

To document opportunities for more timely financing of productivity—improving investments, the joint team obtained data on unfunded projects from 14 agencies and selected a number for analysis.

There is a special report on this, Mr. Chairman, which I believe you have before you. But in this sample the team identified 392 projects which would be self-liquidating in less than three years—with one time savings of $62 million and recurring annual savings of $66 million. The team believed that this sample covered only about half of the opportunities which might have been discovered in a complete inventory. Examples of the investment possibilities are modern materials-handling equipment, tape-driven machine tools, automated laboratory equipment, mechanized warehouse equipment, consolidation of facilities, and others.

Concurrent with the team's study, the Army conducted its own test by allocating a $500,000 fund, available only for fast payback capital investments, to its Ammunition Procurement and Supply Agency (APSA) in Joliet, Illinois. APSA was allowed to make immediate decisions on proposed investments by the Government Owned Contractor Operated (GOCO) ammunition-loading plants where the payback could be achieved in two years or less. In a few months, 24 projects were approved which would return $1.8 million in annual savings. The majority of these projects have paid or will pay for themselves in less than 180 days following installation. Illustrations are:

An automatic nailing machine costing $38,185 saved 20 men in constructing pallets for bombs. The annual savings of $240,000 resulted in an amortization period of 57 days. And there are other examples here. We have a chart which again Mr. Morris will explain to you, which I think illustrates very graphically what savings is possible.

Senator PROXMIRE. That first example you

gave, an automatic nailing machine costing $38,000 and saving 20 men, that would pay for itself in less than a year, wouldn't it?

Mr. MORRIS. In less than three months.

This is the startling thing about what this study has revealed, that there are many, many investments at activity locations which are passed up—

Senator PROXMIRE. Have the newspapers picked up this at all? Has this story been released or handled in such a way that the newspapers have let the success story be known.

Mr. MORRIS. No sir.

Senator PROXMIRE. I am as energetic as anybody, or more so, for criticizing the Defense Department for wasting money and for all their failures. I think something like this—you ought to let this one read as something that is an example of the success of the military.

Mr. STAATS. That is a very good point you are making, Mr. Chairman, because we ought to be in a position to give more recognition to people who are willing to make these kinds of decisions.

Mr. INK. Mr. Chairman, if I might just add a note, there have been several instances in which this type of thing has been released to the press. But frankly, we have had great difficulty in interesting the press in picking it up.

Senator PROXMIRE. Mr. Ink, could you give me, when you get a chance, maybe in the next couple of days write me a letter giving me the instances that you have in mind. Maybe if I put them all together I could get together with some press people and see if we can give that a ride. Because—

Mr. INK. I don't have a complete listing, but—

Senator PROXMIRE. Just give whatever number of examples you think would be most impressive. I think this one right here if presented in the right way—if you can pay for something in three months, that is fantastic. Anybody who didn't do that in private industry would be out on his tail if he had any kind of board of directors.

I am sorry to interrupt you, Mr. Morris.

Mr. MORRIS. That is all right, sir. You made the point so quickly that I didn't feel it necessary to proceed.

What we have learned is that our appropriations process and our budget planning process just simply isn't geared to permit this kind of expenditure to take place in a timely way. The process may run to 19 to 20 months for that $36,000 item. We not only lose the saving during that time, but when we have got to the point of finally buying it there is probably something else that we should do with those dollars. So we have discovered through this study that we need much better procedures for allowing people to proceed quickly to make investments that they are going to pay back in a few months' time. Out of 24 cases one paid back in 30 days, five in two months, four in 90 days, six in 180, and only eight went over six months. The Air Force and the Navy are doing similar things now, we are advised.

Mr. STAATS. Why don't you go ahead and present the other charts while you are there?

Senator PROXMIRE. Only eight went over six months, and in six months to two years they had all paid for themselves?

Mr. MORRIS. Yes sir. Altogether there were 24 cases. Those are just other illustrations. And we have all 24 which will be submitted for the record.

Mr. Banowitz of the Defense Department is with us, and he is responsible for this program. But as you see, we have cases where expenditures of $50,000 were paid back in 41 days. So it is just obvious that there are many opportunities that we have never known about, they have been buried.

Senator PROXMIRE. That automatic loading and small arms ammunition pays for itself in 41 days. It is astonishing.

Mr. MORRIS. That is right, sir, saving 42 people who were engaged in packing operations.

Senator PROXMIRE. That is $435,000 a year. That is not peanuts.

Mr. STAATS. We could cite many other examples, Mr. Chairman, but these are just a few that help bring out the basic point. We cite a couple of others here, and there are many more in the document which we have given to you. On page 19 we point out——

Senator PROXMIRE. Maybe, Mr. Ink, if I just go through this a little more carefully than I have had a chance to I can get them out of here. This chart itself gives me great success stories.

Mr. STAATS. We are advised that the Air Force and the Navy are considering similar tests to the ones we have just referred to here. The experiences revealed here are of such value that we are submitting a more detailed writeup on it for inclusion in your hearing record. We think it is very important.

Mr. Chairman, I might digress here to say that one of the most encouraging things about this whole study that we have done is to get people to be thinking in terms of productivity analysis, capital investment decisions, personnel management, and so forth. So that this is one of the fallouts or byproducts that we are getting, from the very fact that we are beginning to focus now on productivity and output measures.

After considering these findings, the joint team concluded that several actions were necessary to insure timely capital investments in support of future productivity improvements:

First, the need for clear visibility in the Federal budget process, through a separate declaration to OMB and the Congress, of capital items with productivity-enhancement potential.

Second, expert attention to developing high-payoff capital investment opportunities. This means adding to agency organizations personnel trained in identifying such opportunities.

Third, better audits of actual results obtained to insure credibility and achievement of the results anticipated.

Fourth, timely financing. A study of ways to achieve this objective is continuing. It may be that legislation may be necessary to allow certain activities, particularly those operating under industrial or revolving funds, the authority to borrow or otherwise establish reserves for new equipment purchases.

Senator PROXMIRE. Could I interrupt at this point and say that I think it would be very helpful—I don't know if you can do it, if you are in a position to do it—if we could work in the direction of trying to determine just some examples for each Subcommittee Chairman, the House and Senate Appropriations Committee. For example, I am Chairman of the Committee that handles the money for HUD, the Veterans, and for Space, and so on. If I could show some examples of some savings there in each of these agencies, any three or four of those agencies, I am sure that my opposite number in the House, Congressman Boland, would be just as interested as I am, or more so. And I think this is true right down the line of all the Subcommittee Chairmen of the House and Senate. And I would think that the agency heads would also be very interested in this kind of thing if it is called to their attention.

Mr. STAATS. You have anticipated me a little bit here, because in our future plans here we say in here in the second paragraph that the Joint Financial Management Improvement Program task force, in which GAO will actively participate, has been assigned the responsibility of analyzing the factors which have caused productivity changes and preparing an annual report to the President and the Congress. The report will analyze productivity trends and present case studies to illustrate factors contributing to productivity increases and decreases. The task force will also continue to seek opportunities for expanding the coverage of the indices.

Now, here is something that is relevant to your question, Mr. Chairman, in addition, GAO plans to report annually to the Congress on the agencies' progress in (1) identifying opportunities for using laborsaving equipment and (2) acquiring it. We believe such visibility is necessary to insure attention to such investments, without which the Government will fall short of achieving its full potential for improved productivity.

You have made a good suggestion, I think here, that we could bring this down by agencies and by Subcommittees of the Appropriations Committee.

Senator PROXMIRE. I think we would all be enormously grateful. We are all looking for these things, and we want to do something that will enable us to get things for the taxpayer dollars, and cutting out services that we can cut. We haven't looked at that other thing.

Mr. STAATS. We are very enthusiastic about this approach, and we think it should be extremely helpful to both the agencies and the Congress.

BUREAU OF LABOR STATISTICS

Mr. PROXMIRE. During a hearing on Friday, May 3, of the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee on the subject of the monthly unemployment figures, the Commissioner of the BLS, Dr. Julius Shiskin, discussed productivity in his agency.

At his agency, productivity averaged 3.7 percent from 1967 to 1973, a very good figure and one which compares favorably with private industry. Because they are a statistical organization there are obviously great opportunities for introducing computers and laborsaving devices. Nevertheless they have made a good record.

But listen to what Dr. Shiskin said about productivity at the BLS when he came there a few months ago. I quote from the hearing:

> One of the things I found when I came to BLS—and here we have an establishment of about 2,000 workers—is that there are a lot of people that didn't know what they were supposed to be doing.

He went on:

> And apparently there were many people in fairly high positions who didn't understand what their role was in the organization.

He has taken steps, particularly through a rank and file committee on underutilization to act on this problem.

But the point is that there are in every agency of Government, great opportunities to make improvements. If the BLS, which has had one of the best productivity records, had a lot of people who "didn't know what they were supposed to do" and "many people in fairly high positions who did not understand that their role was in the organization," then there must be and are tremendous opportunities for improvement.

I ask unanimous consent that the letter and enclosures which Dr. Shiskin sent

me subsequent to his appearance be printed in the RECORD at this point.

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

BUREAU OF LABOR STATISTICS,
Washington, D.C., May 9, 1974.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: During my appearance before your subcommittee on May 3, you requested that I furnish you with some information on producivity in the BLS and management improvements that have been recently initiated in the Bureau of Labor Statistics over the past several months. I enclose two reports in response to your request: (1) Productivity in the Bureau of Labor Statistics and (2) Recent Management Improvements in BLS.

I would like to note that in my daily contacts with members of the BLS staff at all levels, I am continually impressed with their Competence and commitment to the goals and objectives of the Bureau's program. The managerial efforts mentioned in the attachment, therefore, have been taken in recognition of the tremendous importance of the Bureau's programs in the provision of meaningful economic and statistical data to the Nation's decision-makers and the general public and the constant need for improving the organizational and managerial effectiveness and efficiency of our organization.

If you wish to have any further information, please call.

Sincerely yours,

JULIUS SHISKIN,
Commissioner.

BUREAU OF LABOR STATISTICS,
Washington, D.C.

PRODUCTIVITY IN THE BUREAU OF LABOR STATISTICS

Table 1 presents the overall productivity, output, and man-year indexes for the Bureau of Labor Statistics for FY 1967–73. For comparison with the BLS productivity trends, table 2 presents the productivity indexes for the overall measured sample of the Federal Government (covering 61 percent of Federal civilian man-years in FY 1973) and for "Reference Services" (the functional category in which BLS is classified). Although it would have been desirable to make comparisons with only statistical organizations, the data were too limited.

BLS PRODUCTIVITY TRENDS AND CASUAL FACTORS

BLS productivity showed a strong upward trend of 3.7 percent per year from FY 1967 through 1973 which reflected a sharp increase in output coupled with a modest rise in man-years. Year to year productivity changes were substantial ranging from –3.4 percent in FY 1970 to 9.7 percent in FY 1972.

Over the whole period, the BLS performance was substantially higher than that of the overall sample for the Federal sector as well as for the function grouping of agencies which were performing somewhat similar functions.

The gain in BLS output per man-year during the seven-year period can be attributed primarily to: (1) increased use of automatic data processing which shortened the production time of established outputs and enabled a broadening of scope in many programs, (2) the gradual upgrading of clerical staff to professional status, (3) increased use of computer terminals within program offices, and (4) extending and modifying a reorganization of the Bureau along functional lines which increased specialization of manpower in some critical positions.

TABLE 1.—PRODUCTIVITY, OUTPUT, AND MAN-YEAR INDEXES FOR THE BUREAU OF LABOR STATISTICS, FISCAL YEARS 1967–73

[Fiscal year 1967=100]

	Productivity	Output	Man-years
Indexes:			
1967	100.0	100.0	100.0
1968	105.1	105.2	100.1
1969	114.6	111.7	97.5
1970	110.7	105.6	95.4
1971	113.4	121.4	107.0
1972	124.4	139.0	111.7
1973	126.4	144.2	114.1
Year to year percent change:			
1967–68	5.1	5.2	.1
1968–69	9.0	6.2	–2.6
1969–70	–3.4	–5.5	–2.2
1970–71	2.4	15.0	12.2
1971–72	9.7	14.5	4.4
1972–73	1.6	3.7	2.1
Average annual rate of change: 1967–73	3.7	6.4	2.6

TABLE 2.—PRODUCTIVITY INDEXES FOR THE BUREAU OF LABOR STATISTICS, TOTAL GOVERNMENT SAMPLE, AND REFERENCE SERVICES, FISCAL YEARS 1967–73

	Bureau of Labor Statistics	Total Government sample	Reference services [1]
Productivity indexes, 1967=100:			
1967	100.0	100.0	100.0
1968	105.1	100.7	102.1
1969	114.6	102.8	110.7
1970	110.7	104.0	111.2
1971	113.4	105.7	111.3
1972	124.4	106.4	114.2
1973	126.4	111.3	109.2
Year-to-year rates of change:			
1967–68	5.1	.7	2.1
1968–69	9.0	2.1	8.4
1969–70	–3.4	1.2	.5
1970–71	2.4	1.6	.1
1971–72	9.7	.7	2.6
1972–73	1.6	4.6	–4.4
Average annural rate of change: 1967–73	3.7	1.7	1.8

[1] Reference services includes the following elements: National Agricultural Library (Agriculture), Statistical Reporting Service (Agriculture), National Technical Information Service (Commerce), National Archives (GSA), NIH Library of Medicine (HEW), Bureau of Labor Statistics (Labor), Broadcasting Services Technical Operations (USIA), Civil Rights Commission, Public Documents (GPO).

RECENT EFFORTS TO IMPROVE MANAGEMENT IN BLS

CLARIFICATION OF FUNCTIONS AND RESPONSIBILITIES OF EACH MAJOR OFFICE IN BLS

In 1967, the Bureau of Labor Statistics experienced a major reorganization that created a functional organization structure comprised of substantive program offices, such as Wages and Industrial Relations, Prices and Living Conditions, Manpower and Employment, etc.; a central data collection and processing organization in Washington that planned and controlled the survey design, sample selection, data collection and processing of statistical data for each survey; a central Publications Office; a central Administrative Management Office; and, finally, a number of regional offices where survey collection, regional economic analysis and information and correspondence functions were performed. Prior to that date, each substantive program office within the Bureau had complete control over its program from the development of program specifications, through the design and collection of the data, to the analysis and publication of the results. Over the years, several minor modifications to the basic organizational structure were made. Each of these was an attempt to improve upon the basic functional organization created in 1967.

Despite these efforts, some confusion over the respective roles and responsibilities of program offices and the support offices still existed within the Bureau when I arrived in August 1973. In an attempt to clarify the respective roles and responsibilities of each major component of the Bureau, a policy statement was prepared and released in November 1973 that clarified, in greater detail than had been done before, the functions and responsibilities of each major office in the Bureau. While no such statement can address every issue that may arise, it has resulted in more harmony and better communication between organizational units within the Bureau.

The Bureau's top management during its day-to-day involvement with the Bureau's organizational units is reinforcing, by its actions, the policy statement that has been developed. It is also clarifying further any areas of responsibility and authority that still seem to need it.

ESTABLISHMENT OF A COMMITTEE ON UNDERUTILIZATION

In response to the fact that in large organizations like the Bureau some employees are sometimes underutilized or in the wrong jobs, a Committee on Underutilization was established about six months ago. The basic function of the Committee is to determine the extent underutilization does, in fact, exist in the Bureau and to make specific recommendations which will help alleviate the problems in areas where fact-finding indicates they exist.

The Committee is comprised of a cross-section of BLS employees at all levels, except top management. It includes representatives of middle management, senior and junior professionals, and the statistical/clerical areas. Its modus operandi is: (1) to hold discussions with individuals who feel that they are being underutilized; (2) to follow up or validate the information expressed by these individuals through interviews of a probability sample of BLS employees; and (3) to make specific recommendations on Bureau operations or policies that will alleviate any problems that are found to exist.

In areas where the Committee determines underutilization problems exist, but a more in-depth study needs to be conducted, the professional staff in the Office of Administrative Management will be utilized. Since underutilization and overutilization often is hand-in-hand, attention will also be focused on areas of overutilization and recommendations will be made to alleviate situations where constant heavy workloads on both supervisory and nonsupervisory personnel exist.

The Committee has already submitted several suggestions which have been accepted and others are being considered which, hopefully, will provide greater opportunities for motivating and utilizing the skills and talents of Bureau employees. This Committee provides an additional antenna, over and above the line managers and Personnel Office, in identifying areas of underutilization.

DEVELOPMENT OF A PROJECT MANAGEMENT SYSTEM

BLS has developed and is in the process of implementing a project management system within the Bureau to better plan and control the execution of the Bureau's programs. This system is being applied on a test basis on the Bureau's FY 1974 new programs and several other important base programs such as the CPI Revision and the Computer Systems Redesign. Funds were allocated to each of the new programs based upon detailed plans that were developed by the responsible program office manager in consultation with representatives from the affected support offices within the Bureau.

Each project has detailed milestones developed that indicate the steps or events that are needed to be completed and the

individual and organization responsible for each step. Detailed cost and manpower estimates have also been developed for each project.

Monthly reviews of the program's progress will be held in the future on each project to make sure the project is on schedule and within resource allocations. Bureau Management will be furnished with detailed obligation and cost reports to and in the tracking of the resources.

ESTABLISHMENT OF A CPI REVISION MANAGER

In an effort to provide the Bureau with the required managerial focus for completing the remaining portions of the CPI Revision program and to assure meeting program objectives within the existing dollar ceiling, a CPI Revision Manager position was established within the Bureau, reporting directly to the Commissioner and having responsibility for the planning and management of the program.

The Manager supervises a small staff assigned to his immediate office to assist him. He manages the planning and execution of the CPI Revision Program through the assignment of responsibility and authority to the various organizational units within the Bureau and contractors as necessary. He has management responsibility and authority for all CPI Revision resources and resource allocation. The Manager utilizes a management team made up of representatives from each of the interested organizations to coordinate the various activities of the program.

ESTABLISHMENT OF A TASK FORCE ON DECENTRALIZATION

In keeping with the Administration's basic policy to decentralize as much as possible of the Government operation to the regions and in order to improve the overall effectiveness and efficiency of the Bureau, I recently established a small task force to study the BLS program, its organizational structure, and operating procedures to determine whether there are certain activities that are now performed in Washington that could more effectively be conducted at the regional level. As mentioned earlier, the reorganization of 1967 did decentralize considerable authority to the BLS regional level. The function of this task force will be to review the Bureau's operation as it currently exists and to see whether some additional decentralization could and should take place.

ESTABLISHMENT OF A MONTHLY PROGRESS REPORT

In August 1973, a reporting requirement was established for a Monthly BLS Progress Report. The primary objective was initially to help the new Commissioner become more familiar with the total activities of the Bureau. The report covers major accomplishments for each organization within the Bureau for the previous months; major, current and planned activities; and major unresolved issues and problems. The reports are also utilized by Bureau management to communicate to its employees on the plans, status, and problems of the Bureau's many programs. The reports are distributed to members of the Executive Committee and Assistant Regional Directors for Bureau of Labor Statistics. These managers, in turn, are encouraged to circulate the reports to members of their staff and to make the reports available to any employee who may wish to read them. An all-employee memorandum has been distributed announcing the availability of the reports and encouraging their use.

REVIEW OF BUREAU PROGRAMS CONTENT AND ITS RELEVANCE

The managerial improvements discussed above would all be for naught if the Bureau programs, that is, the economic and social statistics which are produced by the Bureau, were not the appropriate ones to meet public needs. The Bureau's program is subject to continuous review by our Business Research Advisory Council and our Labor Research Advisory Council. In addition, the Subcommittee of the Government's Council on Economic Policy, various OMB Interagency Committees, and the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee of Congress review our program and provide us with their advice and comments. Nevertheless, to insure that our programs and their resultant data are relevant, important, timely, and accurate, a comprehensive review of the Bureau's programs has been initiated. The results of this review, when completed, will be reflected in future program proposals and budget documents.

CONCLUSION

Mr. PROXMIRE. Measuring and improving the Federal Government's efficiency and productivity is a new endeavor. But the work done by the GAO, the OMB, and the Civil Service Commission in measuring what has gone on in some 45 agencies covering 60 percent of the man-years in the Government is very encouraging. Until 10 years ago we had never even measured productivity in the Federal Government.

In some areas like social security, the Customs Service, and specialized printing, spectacular gains have been made.

Overall, far more gains than losses have occurred. Further, the conclusion that more than half of the 187 organizations covered by the study had a productivity gain of 10 percent or more, and 70 or 37 percent had productivity gains of 20 percent or more, means that government procedures can be improved and are being improved even with a much greater workload.

The fact is that the American public's social security check, income tax form, and parcels coming in from abroad are now processed at a much faster rate with relatively fewer people and with lower manpower costs than they were 8 or 10 years ago.

Government has many faults, but the study of productivity in the Federal Government shows that many, many improvements have been made, far more agencies have improved their efficiency than have seen it reduced, and the American people are being served by their Government in a far more efficient and productive way than before.

Much of our faith in our free economic system is based on the belief that the private sector operates more efficiently than the public sector.

The tough impact of competition and the iron power of the market place to compel and enforce efficiency and low cost as the price of staying in business explains a big part of this country's progress.

But the efficiencies of the free market can rub off on the public sector and do.

They have not rubbed off enough. There is much we can do. Now we can address ourselves specifically to productivity in the Federal Government.

Until Kermit Gordon's study and the study I have talked about today were done the assumption had been that there was no increase in the Federal sector in productivity. In gaging the economic growth of the country economists simply assumed zero growth for the Federal Government.

In the past few years we have started to measure Government productivity—beginning with Kermit Gordon's study of five agencies in 1962. We now have a measure of the productivity of 60 percent of all Federal jobs measured in man-years. That is five times the measurement of productivity we have of jobs in the private sector. And the data is available to increase that percent immediately to 65 percent.

That measure is impressive for three reasons:

First. For the first time we are actually measuring Federal Government productivity.

Second. There is demonstrated, documented improvement in productivity in the Federal sector. That is contrary to the general belief among businessmen, bankers, and the general public.

Third. The improvement is substantial but it is still far less than in the private sector.

Because annual productivity improvement is less than in the private sector, we now have the basis for:

First. Recognizing where the shortfalls are so that we can concentrate on these sectors and improve them.

Second. Adapting the techniques that have been so promising in the private sector to the public sector to achieve a sharp improvement in the public sector. We can also adapt in those agencies that have not improved some of the techniques used successfully in the agencies that have seen big productivity improvements.

In recent years socialist economies have adapted in their governments those investment and automation techniques from the capitalist and free economic societies which have greatly increased the productivity of the free societies.

If socialist countries can adapt capitalistic methods of increasing production then the free economic societies should be even more able to adapt their own free economic techniques for use in improving their own governments' efficiencies.

Given the greater dependence of the American public on the services which their Government performs the fact that we are on our way is a very encouraging circumstance indeed.

It is one of the things which is right with America and right with the Federal Government.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 14013) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes; agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MAHON, Mr. WHITTEN, Mr. ROONEY of New York, Mr. SIKES, Mr. PASSMAN, Mr. EVINS of Tennessee, Mr. BOLAND, Mr. NATCHER, Mr. FLOOD, Mr. STEED, Mr. SLACK, Mrs. HANSEN, Mr. MCFALL, Mr. CEDERBERG, Mr. MINSHALL of Ohio, Mr. MICHEL, Mr. CONTE, Mr. DAVIS of Wisconsin, Mr. ROBISON of New York, Mr. SHRIVER, and Mr. MCEWEN were ap-

pointed managers of the conference on the part of the House.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 514) to amend the Act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. METCALF).

HOUSE BILL REFERRED

The bill (H.R. 8193) to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels, was read twice by its title and referred to the Committee on *Commerce*.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 5 minutes.

STATUS REPORT—S. 3433, A BILL TO FURTHER THE PURPOSES OF THE WILDERNESS ACT

Mr. AIKEN. Mr. President, I wish to ask the majority leader when he expects that Calendar No. 771, S. 3433, may be brought up for action. This bill is a refinement for Calendar No. 29, S. 22, which was reported unanimously by the Committee on Agriculture and Forestry on February 15, 1973, and now has been on the calendar for about 15 months.

The reason for this refinement is that the Committee on Interior and Insular Affairs last year considered another bill which related to the Wilderness Act, and that bill was referred to the Committee on Agriculture and Forestry because of the land affected: 95 percent came under the jurisdiction of Agriculture Committee rather than Interior. It applies to land east of the 100th meridian, mostly.

This bill was unanimously reported on May 2 of this year by members of the Committee on Agriculture and Forestry; also eight Members who sponsored the Interior bill last year, beside the Senator from Alabama (Mr. SPARKMAN), who is not a member of either committee.

I wonder when that might be brought up for action.

Mr. MANSFIELD. Is the Senator referring to S. 3433?

Mr. AIKEN. The Senator is correct.

Mr. MANSFIELD. As the Senator will recall, on February 15, 1973, S. 22, a bill to establish a system of wild areas within the lands of the National Forest System, was reported by the Committee on Agriculture and Forestry, of which the distinguished Senator from Vermont (Mr. AIKEN) is the ranking minority member.

As I recall, on several occasions I served notice that that bill, S. 22, would be brought up, but at the request of the Committee on Interior and Insular Affairs it was postponed.

Finally, at the instigation of the chairman of the committee, the Senator from Georgia (Mr. TALMADGE), and the ranking minority member, the Senator from Vermont (Mr. AIKEN), now raising the question, I served notice it would be brought up very shortly.

Then, I was visited by members of the Committee on Interior and Insular Affairs after they had discussed the matter with Senator TALMADGE and Senator AIKEN, and it was agreed it would be referred to the Committee on Agriculture and Forestry.

It is my understanding that after several months in that committee, on May 2, 1974, that committee reported S. 3433 unanimously, which is a bill closely related to S. 22, which has been on the calendar since February 19, 1973.

Frankly, I think this bill has been on the calendar long enough and it is the intention of the joint leadership to call it up as soon as possible after the recess is concluded.

Mr. AIKEN. I thank the Senator from Montana.

I thought that we had reached a full agreement with the staff of the Interior Committee, through the Agriculture Committee, but it seems impossible to write a bill that some industrial interests will find wholly to their liking. I have reluctantly come to the conclusion that there are those who do not want any bill at all.

I see the Senator from Alabama on the floor and I know he is very much concerned with the bill.

We have gone far I would say, to meet any questions which might be raised about it by people west of the 100th meridian, particularly the grazing interests. However, I fear there are a few at least who do not want any restriction on anything at any time, as far as I can see. I do not think we can let them run the affairs of Congress too long.

Mr. MANSFIELD. Do not worry.

Mr. AIKEN. They have been very well treated up to now; I agree with that, but I felt the Committee on Interior and Insular Affairs and the Committee on Agriculture and Forestry each have a full-sized job to do, and I thought we were in full agreement.

Mr. MANSFIELD. I want to assure the distinguished Senator from Vermont that the mining interests will not run this Senate nor dictate to the joint leadership what bills it will or will not take up. We will do our own thing in our own way, as the Constitution has decreed, and once a bill is reported from committee it is entitled to consideration, debate, and disposal.

I would point out in conclusion that there are two Members on the Republican side who have a hold on it; that there are two Members on the Democratic side who want to be notified; and one Member on the Democratic side who was represented as having some amendments to offer. But despite all this we will get to it as soon as we can after the recess.

Mr. AIKEN. I do not think Congress can work effectively if one or two Members can determine what legislation will be acted upon or not acted upon.

Mr. MANSFIELD. May I say that the Senate, as a whole, has delegated to the joint leadership the responsibility of calling up legislation and the Senator may be assured that this will be done.

Mr. AIKEN. Ninety-five percent of the land which is proposed as wilderness areas is now under the jurisdiction of the Committee on Agriculture and Forestry. Only 5 percent of the land involved comes under Interior Committee jurisdiction. We thought we had taken care of all objections.

TRIBUTE TO MORTON MINTZ

Mr. PROXMIRE. Mr. President, the Sunday New York Times reported that the winner of the A.J. Liebling award is Morton Mintz of the Washington Post.

A. J. Liebling, of course, was the late, great critic of the press. His remarkable criticism, carried in the New Yorker magazine for many years constituted one of the most intelligent and perceptive analyses of the successes and failures of the American press.

Any reporter winning an award in the name of A. J. Liebling has reason to be very proud, indeed.

The tribute to Morton Mintz on his winning the award is so terse and descriptive of the fine job that this reporter has done on many occasions for the country that I would like to quote it in full:

The A. J. Liebling award is made to Morton Mintz for—

> His incisive news reporting about bureaucratic and corporate misdeeds, for his refusing to follow the more glamorous, rewarding, and well traveled path of Washington journalism and, most of all, for being his own man.

Those of us who have been enlightened and informed by the remarkable job that Mr. Mintz has done over the years in writing for the Washington Post I am sure will join in congratulating him on this well deserved honor.

SENATOR ALLEN'S VICTORY AT THE POLLS LAST WEEK

Mr. HARRY F. BYRD, JR. Mr. President, I rise to congratulate the splendid Senator from Alabama (Mr. JAMES B. ALLEN) on the magnificent victory which he won at the polls last week.

In the Democratic primary last Tuesday, Senator ALLEN received 572,000 votes to 118,000 for his opponent. Thus, Senator ALLEN received 83 percent of the total votes cast in the Democratic primary in Alabama. More than that, Senator ALLEN carried every county and city in the State of Alabama.

His victory is a well-deserved one, and in some respects an astonishing one in this sense: Senator ALLEN had no TV media campaign, he had no radio campaign programing, and he had only one newspaper advertisement during the campaign. He spent very little money and only a fraction of what would have been spent had the so-called public financing law been in effect.

I think it shows what can be done by a candidate who has had such an out-

standing record in the U.S. Senate. Those of us who are his colleagues know Senator ALLEN to be one of the hardest working Members of the Senate. We know him to be one of the ablest Members of the Senate. We know him to be one of the most courageous Members of the Senate. He has taken strong stands on difficult issues. He has fought hard for the philosophy of government in which he believes, and evidently in which the people of Alabama believe. He has made an outstanding record for himself in the Senate of the United States. And, as a colleague, I am so pleased and proud to note the splendid vote of approval which was given Senator ALLEN in Alabama last week.

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

Mr. HARRY F. BYRD, JR. I am delighted to yield to my colleague from Alabama.

Mr. ALLEN. Mr. President, I appreciate the very fine, very warm, unsolicited remarks. I remember very distinctly 4 years ago when the distinguished senior Senator from Virginia announced that he was going to run in Virginia as an Independent. I recall that the very day the distinguished Senator made that announcement the Senator from Alabama took the Senate floor and commended him for his courageous decision, and the Senator from Alabama predicted that the people of Virginia would stand by the distinguished Senator from Virginia in his choice, that they recognized the high principles and courageous stands in the Senator's convictions, and there was a realization that the people of this country are thinking less and less in terms of party labels, but are seeking men, such as the distinguished Senator from Virginia, who had the courage of their convictions, who stand for principles of sound government.

So it was no surprise to the Senator from Alabama that the distinguished Senator from Virginia won an overwhelming victory in the general election 4 years ago.

The Senator from Alabama has stood with the distinguished Senator from Virginia in many battles here in the Senate.

So I find that the views of the Senator from Alabama coincide nearly every time with the views of the distinguished Senator from Virginia, and I commend him and thank him from the bottom of my heart for his kind words.

Mr. HARRY F. BRYD, JR. I am thankful for the most generous comments of my friend the Senator from Alabama, and I shall always remember the comments he made in the Senate about this Senator, which were so encouraging to me at a difficult time.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT ON S. 3398, TO AMEND TITLE 38, UNITED STATES CODE, EDUCATIONAL PROGRAMS FOR VETERANS, WIVES, AND WIDOWS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of amendment No. 1266 by Mr. DOLE to the energy bill, S. 3267, the Senate proceed to the consideration of Calendar Order No. 816, S. 3398, a bill to amend title 38, United States Code, to provide a 10-year delimiting period for the pursuit of educational programs by veterans, wives, and widows; that there be a 30-minute limitation for debate, to be equally divided between the majority leader and the minority leader or their designees; that a vote occur on the bill at the conclusion of the 30-minute period; and that paragraph 3 of rule XII be waived.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GRIFFIN. Mr. President, I shall not object, but merely indicate that this request is in accord with the views of those on our side who are interested in this bill. In fact, I know of no objection whatsoever to the bill, but one or two Senators may have short statements to make, and I believe it would be perhaps in order to say that the joint leadership expects that there will be a rollcall vote on this bill.

Mr. ROBERT C. BYRD. Yes. That is my understanding on this side.

The ACTING PRESIDENT pro tempore. Without objection, the request of the Senator from West Virginia is agreed to.

RESTRAINT NEEDED IN CALLS FOR THE RESIGNATION OF PRESIDENT NIXON

Mr. ROBERT C. BYRD. Mr. President, throughout the past few days there has been an increasing intensity of calls for the resignation of President Nixon. Talk of resignation has escalated sharply, and, late last week, the Halls of Congress were swept with rumors of forthcoming resignation.

I have been a constant critic of the tactics employed by the President throughout the Watergate crisis. I deplored the inadequate investigation of the Watergate break-in by the Justice Department and the FBI. I worked with my colleagues on the Judiciary Committee to establish an independent special prosecutor. I was appalled at the firing of Archibald Cox and spent an entire day, during public hearings, to extract, under oath, pledges of independence for the new special prosecutor, Mr. Jaworski, from Attorney General Designate William Saxbe. I have been critical of every delaying tactic employed by the President and his attorneys to impede the investigations by the Special Prosecutors and the House Judiciary Committee.

To the President's charges that the Congress was dragging out Watergate, I responded that the most expeditious way for the country to get Watergate behind it would be for the President to be forthcoming with the production of tapes and documents necessary to the proper conduct of the investigations going forward under our constitutional form of government.

I take the time now to reiterate my constant position on Watergate and related affairs, for I do not wish to be misunderstood in what I am about to say about the whirlwind of resignation talk. The United States has been justly proud of being a government of laws, and not of men. We have been scrupulously fair in our determination to preserve the principle that a defendant is innocent until proved guilty. It should be borne in mind, in this connection, that the President of the United States is not yet even a defendant—except in the court of public opinion. If a President of the United States should be drummed out of office by intense pressure from the media, Members of Congress, indeed, by public opinion itself—before articles of impeachment, based on evidence formally presented, have been voted—I fear the impact such an event would have on the constitutional bedrock of our system.

Ours is not a parliamentary form of government under which an administration may be swept away by a "no confidence" vote and a new election called for by that vote. The President of the United States serves a set term of 4 years under our Constitution—through periods of high public confidence and low public confidence. The office is protected from what Walter Lippmann termed "the will of the transient majority," which he described as manifesting itself in pre-World War II Germany, when the German Reichstag, in one hysterically fanned vote, voted away its prerogatives for the next thousand years.

If calls for resignation and the fanning of resignation rumors create a flash fire of public opinion that stampedes a President into a forced resignation, this would change our system from one of fixed tenure to one in which a President would remain in office only by popular approval. Our Constitution gives the mechanism by which a President may be removed from office if his acts have made him unfit to continue to exercise the public trust. That mechanism is being employed.

Even now the House Judiciary Committee is hearing evidence to determine if articles of impeachment should be drafted to be sent to the floor of the House for a determination by that body as to whether the President should stand trial in the Senate. It will only be through the operation of this mechanism that enough evidence will be presented to the Senate and the American people to allow them to make a reasoned judgment on the culpability of the President.

There may very well come a time when the evidence and the circumstances are such that consideration of resignation would be justified. My concern now however, goes to demands for resignation of the President before the evidence has been formally acted upon by the House of Representatives and articles of impeachment adopted.

I recognize the concern for the agony the country may endure through an impeachment proceeding in the House and a possible trial in the Senate, which has prompted many to call for the resignation of the President so that the Nation may be spared such an experience. I submit, however, that in the highly charged atmosphere that now exists throughout the country, nothing is more important to the Nation than the exercise of sober judgment. Nothing is more dangerous than capitulation to mass emotionalism,

which takes so little to deteriorate into mass hysteria.

But, if the President were to resign due to such pressures as are now engulfing the country, and, by so doing, terminate the impeachment inquiry now underway in the House, a significant portion of our citizens would feel that the President had been driven from office by his political enemies. The question of guilt or innocence would never be fully resolved. The country would remain polarized—more so than it is today. And confidence in government would remain unrestored.

Future generations would hesitate to use the constitutional mechanism of impeachment if they saw that it had such an impact on us that a wave of public outcry drove a President out of office rather than allowing the mechanism to run its proper course. An impeachment proceeding is a constitutional remedy of last resort. As agonizing as it may be in its use, the country will survive its application. So, I speak—not in the defense of the President, but, rather, in defense of the constitutional system and fairness to all concerned.

I have carefully read the transcripts of the President's meetings which were recently released. I find little comfort for the President in them. Indeed, I feel they are damaging to him. I share the view of the House Judiciary Committee that the transcripts cry out for the best evidence to be produced, that the actual tapes themselves be studied to determine if some events are as ambiguous as they might appear to be in an edited transcript of the words themselves. I believe that not only those tapes, but also the tapes and documents still being withheld by the President from the Special Prosecutor and the House Judiciary Committee ought to be produced and studied so that a sound judgment can be made, based on all of the best evidence, of any culpability on the part of the President.

I submit that resignation, brought about by such events as we have seen in the past few days, could do serious and permanent damage to our constitutional system. Rather, I would hope that the storm would subside and that the President would fully cooperate by surrendering the best evidence, which still remains in his possession, and that the Congress proceed calmly and with judicial prudence with its impeachment inquiry. The result of such action would assure the American people that, whatever the final result, it had been reached carefully and in the spirit of detached fairness that is so necessary to prevent a scar from being left upon the American system that could take generations to heal.

Mr. MANSFIELD. Mr. President, I want to go on record as being in accord with what the distinguished assistant majority leader has just stated. I have no fear that our Constitution will not survive. I recognize that the Nation is going through a purgatory of sorts as present, but I think that out of this turmoil, this punishment, will come a better United States, will come a people who are more interested in their government, a people who will watch more closely their elected officials and hold them to account, and who will watch the candidates for public office, as well. I think that is all to the good.

Resignation is not the answer, because the cries for the President's resignation can echo and reecho throughout the land, but the only one who will decide that question is the President himself.

The President has indicated that he wants this matter settled in the courts, and it is being settled in the courts. He wants it settled in Congress, and it is being settled in Congress, because on Thursday last the House Committee on the Judiciary, after unconscionable delays, not on its part, but on the part of the executive branch of the Government, finally got under way and is now conducting hearings on the resolutions of inquiry covering impeachment, which have been submitted in the House.

The House committee, I understand, had hoped that it could have completed its hearings and rendered judgment to the House as a whole by the last day of April. But because of delays for which there was no justification, in my opinion, they did not get under way with the initial hearing until the first part of May. So far as the Senate is concerned, we have to wait upon a judgment by the House Judiciary Committee, and it, in turn, has to present its findings to the House itself. Then we shall have to wait upon the House for a finding by the House as a whole. If the findings are in the affirmative, based on the resolutions of inquiry, then the matter will come to the Senate for final disposition. But that is on an "if and when" basis.

May I say that none of us should be anticipatory—I certainly have not tried to be—as to what the House will do, because none of us will know until the House reaches that particular time.

But if and when this matter comes before the Senate for consideration, it will receive prompt attention, and if and when it comes before this body, it will be my intention to meet immediately with the distinguished minority leader, the Senator from Pennsylvania (Mr. HUGH SCOTT) and try to work out arrangements for such an event if it should occur.

The distinguished assistant majority leader indicated that a President—any President—is subject to the whims of a transient majority or minority. May I point out, using the word "transient" as a base, that as far as any President is concerned, he is only a transient occupying the permanent office of the Presidency, and as far as any Member of the House of Representatives or any Member of the Senate is concerned, he is a transient also, occupying temporarily a position in the institution of Congress, in the House or the Senate, as the case may be.

I join the distinguished assistant majority leader in saying that this is a time to keep cool. The expression, I believe, is, "Cool it." The evidence must be forthcoming. I would express the hope that the executive branch would release the tapes untouched, so that the House Judiciary Committee could have the benefit of all that went on, and in that fashion render judgment and place Watergate behind us.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The time for morning business has expired.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that morning business be extended for 15 minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a 20-minute extension of the time for routine morning business, with statements therein limited to 5 minutes.

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

Mr. CURTIS. Mr. President, a parliamentary inquiry.

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

Mr. CURTIS. How much time am I allotted?

The ACTING PRESIDENT pro tempore. The Senator has 5 minutes.

Mr. CURTIS. Mr. President, I want to commend the majority leader and his assistant for the sound position they have taken against the President of the United States resigning. I believe they have spoken up, not for the present incumbent of the White House, but for our country. I commend them for calling attention to the fact that we are not a parliamentary government, where the Chief Executive is responsible to the legislature. We are separate, coordinate, equal branches, and the President of the United States is not the schoolmaster over Congress, nor does Congress have authority over the President.

As we look about us, we can see what is happening in the world, with governments toppling: Canada, facing an uncertain situation; England, having gone through a close election based upon the great weakness of the parliamentary system that creates a hiatus with no strong leadership; France; Israel; West Germany.

Mr. President, we need a President to serve for 4 years, as provided by the Constitution, to give stability and leadership to the whole free world, and there is no one who dares deny that that leadership has been given. It is still being given.

I realize that many of the requests for resignation are well intended, but I believe that unwittingly they are playing into the hands of those who would want to unduly influence the House of Representatives, who would create in the minds of the Members of the House the attitude, "Well, this is so bad, everyone wants him to resign, regardless of what the facts are, we had better send it to the Senate and have a trial," and thus an injustice might be done, with great damage to our country.

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

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MANSFIELD. Mr. President, how much time does the Senator have left?

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes remaining.

Mr. CURTIS. Oh, I am sorry; I thought my time had expired.

Mr. President, Congress is on trial as well as the Executive. When history is written, when 10 years from now, 25 years from now, or 50 years from now these matters are viewed objectively, we will find that Congress has been on trial. We are on trial charged with maintaining a government of laws. We are on trial to maintain the American tradition of the rule of law. We are on trial to base our actions upon sworn testimony of people placed under oath. We are on trial to adhere to the rule of law that requires rigid cross-examination in order to bring out the truth. We are on trial to maintain for every American, the humblest to the highest, the presumption of innocence. We are on trial to turn our backs to those who have ulterior motives—and there are individuals and groups who are openly Nixon haters. We must turn our backs on what they say and do with innuendo, unfounded charges, facts never developed under oath. We are on trial to preserve the great American system of rule of law and not mob rule.

There is little difference between a mob aroused and throwing rocks and a mob aroused and throwing unsubstantiated charges. I would be the first person to admit that things have been done that are wrong, that not only has bad advice been given, but it has been received. At the same time, we cannot desert the principles of the rule of law. We cannot write our own definition of what we think ought to be grounds for impeachment; the Constitution says it is what it is, and it must be a criminal act.

Charges are hurled and hurled and hurled. I had a country lawyer call me Saturday. He said:

> Mr. Senator, I have been making out income tax returns for farmers—Democrats, Republicans, and Independents—and they are able to pay their debts and to buy equipment because of a new day in agriculture based upon the foreign policy of Richard Nixon, opening up segments of trade that never existed before.

He said:

> I make out income tax returns for a great many dairy farmers.

He said:

> Somebody ought to say that President Nixon was right when he raised dairy supports, for the dairy farmers, having to meet all of the expensive operations of sanitation, equipment, and so on, to deliver the best milk to the country, had gone for years not having a decent living, let alone a profit.

This country lawyer who called me said that decision was right.

Everyone knows that Senators on both sides of the aisle not only urged higher dairy supports but also accepted political contributions, and they are not corrupt. People have a right to participate in politics. If you believe a man represents principles that you are for, if you have a right to go up and down the street and urge his election, you have a right to give him your check so he can publish an ad and tell a lot of people about it.

So let us be fair. Time will show, of course, that there is a lot of wind and hot air to these dairy charges, and that when you get right down to facts, either it is all right or the pot cannot call the kettle black.

Nevertheless, those who are trying to stampede Congress into abandoning the rule of law keep on hurling, hurling, and hurling the same old wornout, unsubstantiated charges.

Now, here is something else, Mr. President. The American people have several remedies. If the conduct on an officeholder is not on the level that they desire, or if they totally disagree with his principles, periodically we go to the polls and we vote in secret. Thank heaven we can do that. In the meantime, it takes a very serious charge to remove someone from office through impeachment. I cite no expert other than the distinguished Senator from North Carolina (Mr. ERVIN), that an impeachment is criminal in nature. We should proceed with caution and, above all, adhere to the rule of law.

"Oh," they say, "the President will get in a position that he cannot perform the duties of his office."

Mr. President, he is doing that and his critics do not like it.

The PRESIDING OFFICER (Mr. ABOUREZK). The additional time of the Senator has expired.

Mr. GRIFFIN. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I respect every man's opinion on the energy legislation but, in my opinion, the veto of the energy bill by the President scotched the first step in a series of steps that could well have led to the nationalization of the oil industry.

Mr. President, you may totally disagree with my view on that, but the fact remains a strong President made a courageous decision.

Mr. President, you may disagree on the impounding of funds, but the fact remains that a strong President has, by impounding funds and holding back on spending, saved the country last year $12 billion at a time when deficits are creating a great upward pressure on prices. To the person who totally disagrees on the authority of the President to impound, it cannot be said that a strong President did not take decisive and understandable action.

Not many months ago, it looked as though we might be headed for armed conflict in the Middle East. A strong President so managed affairs that there is not an American soldier in the Middle East at this time.

A strong President is today managing the affairs of our country so that we no longer need the draft.

We cannot control those outside who would stampede the Congress. There is freedom of the press in this country but, thank heaven, a free people do not always have to be led astray by it.

Our job is to follow the rule of law.

Many have asked, "How can we dispose of Watergate?" How do we do that? By following the rule of law, adhering to testimony taken under oath and which has withstood cross-examination. We should not demand that an accused person bring in evidence to convict himself.

The accusers, in effect, say, "Bring in evidence to convict yourself or we will charge that you are not cooperating."

In what tribunal anywhere is such a rule of law tolerated? Where is it tolerated the prosecutors say to a citizen, in effect, "We do not like the tone of things. Therefore you are refusing to cooperate. You bring us evidence against yourself."

I happen to believe that if the House of Representatives had any hard facts or provable evidence admissible in a court, they would act to do it.

Mr. President, let us adhere to the rule of law.

Mr. MANSFIELD. Mr. President, I want to commend the House Judiciary Committee for the way it has conducted itself under the most trying of circumstances.

I want to commend its staff for being leak-proof in comparison to other committees which have been functioning over the years.

The Senator has indicated that governments are toppling to the right and left of us. I want to assure this Senate that this Government will not topple.

So far as the Senate is concerned, I think it is to be complimented for exercising its responsibilities with restraint during these trying times.

The Senate has not arrived at any hard and fast conclusion any more than the House has.

So far as this body is concerned, there will be not only the appearance of fair play but there will be the reality of fair play and impartiality.

So far as the President's desires go, that the matter be settled in the courts, they will be.

So far as the President's desire that the matter be settled in the Congress, it will be.

It will be, because this matter is going to be carried through to a final conclusion.

It can be no other way.

It will be carried through to those conclusions on the basis of the constitutional processes which are now in effect and in operation.

So far as this Nation is concerned, no one need have any fear that we will not survive, because we will.

ORDER OF BUSINESS

Mr. WILLIAM L. SCOTT and Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. ABOUREZK). The time for morning business——

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be an additional 15 minutes for morning business under the same limitation.

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

Mr. WILLIAM L. SCOTT. Mr. President, I would associate myself with the remarks just made by the distinguished Senator from Nebraska (Mr. CURTIS), but at the same time I want to commend the distinguished majority leader and

the distinguished majority whip for the responsible statements they have made here on the floor of the Senate today. It is in sharp conflict with some of the statements we hear reported from time to time.

Only today, representatives of a statewide organization visited my office. The question of Watergate came up. About 30 representatives were crowded into my office, and they were unanimous in their desire that whatever action should be taken be taken promptly and that a decision regarding the President be resolved within the Congress under the provisions of the Constitution.

Mr. ALLEN. Mr. President, I commend the distinguished majority leader and the distinguished assistant majority leader for their statement on the Senate floor today. These are statements of statesmanship. They are statements of a nonpolitical, patriotic approach to the problems confronting the Nation today.

The country is indeed fortunate that we have in the leadership of the majority party in the Senate men of honor, integrity, and patriotism, who have not been stampeded themselves and who are not seeking to stampede the President in his actions.

Certainly, Mr. President, the Constitution provides the procedure governing efforts to remove a President from office, and I commend the distinguished majority leader and the assistant majority leader for their insistence that the constitutional processes be followed in this most important issue that confronts Congress and the Nation.

If the President of the United States should be drummed out of office, stampeded into taking precipitate action, without the constitutional processes being followed, think of the polarization of our people that would result. Think of the unanswered questions that would plague our country for decades and for generations to come.

We all want Watergate behind us, but the Democratic leadership has pointed the way to getting Watergate behind us, by following the constitutional processes. I feel that the Nation owes a debt of thanks to these gentlemen. I was never prouder of having such leadership on the part of the majority party. I have not always agreed with the political philosophy of the leadership and have felt free to depart from that leadership when I felt that the people of my State and the people of the Nation supported different views, but on this issue I am wholeheartedly behind the statesmanlike position they have adopted and have enunciated on the floor of the Senate. I feel that the position they have taken is going to calm the fears, the doubts, and the rumors that are so prevalent throughout this city and the country as to the President's actions.

Yes, let us get Watergate behind us. Let us follow the constitutional processes in doing so.

Mr. THURMOND. Mr. President, I would like to associate myself with the remarks of the distinguished Senator from Nebraska (Mr. CURTIS).

It has been difficult for me to understand why people would demand the President's resignation or ask him to resign. President Nixon has said that he is not guilty of the things with which he has been charged. If he is not guilty, why should he resign? I would not resign if I were not guilty. I would stand and fight and fight and fight if I were not guilty.

If the facts reveal that President Nixon is guilty, I am prepared to vote to convict him. I am not saying whether he is guilty or not. He says he is not guilty. He has not been proved guilty. Yet, from reading the Washington Post and the New York Times and some of the other liberal news media, he has already been convicted.

Mr. President, there has been a concerted effort to try to place in the minds of the people of this country the thought that President Nixon is guilty. There has been a concerted effort to try to sway the Members of the House to bring impeachment proceedings. It is my hope that in this country, where a man is presumed innocent until he is proved guilty, that presumption will clothe our President, just as it would clothe any other individual. And of all people whom it should clothe, it should be the President of the United States. He is the only President we have. He speaks for this Nation. He speaks for the people of this country when he is talking to Mr. Brezhnev and the Chinese leaders and the other leaders of the countries of the world.

Why should we want to downgrade the President? Why should we want to embarrass him? Why should we want to weaken his hand when he is trying to help the people of this Nation—until the facts come out?

Mr. President, a good deal has been said about vulgarity and profanity, in an attempt to turn the church people of this country against this man. If he used vulgarity or profanity, I do not admire him for it, and I think he made a mistake. I do not know whether he did or not. I understand it was deleted from the transcripts of the tapes.

At any rate, it was well known by people who knew President Truman that he used vulgarity and profane language, but we did not see it played up as we do today against President Nixon. It was well known that Lyndon Johnson used vulgarity and profane language, but we did not see it played up as we do now against President Nixon.

After all, cannot we be fair? Simply because a man uses some profane language at times are we going to say, "Kick him out; resign; get out." Again, I repeat, I do not like profane language. But I am not going to vote to kick a man out of office just because he used profane language. There has got to be a reason to put this man out of office.

The Constitution sets out the grounds for impeachment. A man must be guilty of treason, for one thing. It there any evidence here that this man is guilty of treason? It has not come out so far. A man must be guilty of bribery. Is there any evidence here against this man for bribery? It has not come out so far. Is there any evidence here that he is guilty of a high crime or misdemeanor? It has not come out so far.

Mr. President, I believe when the American people reflect that they will see that some of the news media in this country are against this man and want to get him out of office for other reasons. Those who were against him in the election, some of them are still against him and they have led the fight to a certain extent, not necessarily the leaders who go out in the open, but others who back that movement.

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

Mr. THURMOND. Mr. President, I ask unanimous consent that I may proceed for 3 additional minutes.

Mr. ROBERT C. BYRD. Mr. President, similar requests have been objected to for 2½ years, now. The Senator from Michigan might get recognition or the Senator from Kansas, and yield to the Senator from South Carolina.

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

Mr. ROBERT C. BYRD. The Senator from Kansas (Mr. DOLE) could get recognized for 5 minutes.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I yield 3 minutes.

The PRESIDING OFFICER. The Chair should state that the additional 15 minutes have expired. The time for morning business has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended to the hour of 1:30 p.m., and that the unfinished business then be laid before the Senate.

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

The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, usually people turn on a President when times are bad, when the economy is not good, and when times are hard. But I say to you, Mr. President, have we ever experienced a more prosperous period in this country than we have since President Nixon has been in office? A high standard of living has been attained during that period; the largest per capita income has been attained; the largest wage for the worker has been attained during that period; the largest gross national product, which now runs more than $1 trillion a year, has come about under this man.

Yes, some people say we have inflation and they blame him for that. Mr. President, you cannot blame the President for inflation; you know the chief cause of inflation. It is when Congress spends more than we take in; and that is what Congress has done for 24 of the last 30 years. We have spent more than we have taken in. That is the chief cause of inflation.

Mr. President, after all, I think we are living in a time now that tries men's souls. We are living in a period now where history is going to write which people were swept off their feet by emotionalism and hysteria, and which Senators held their ground and tried to steer this country, the ship of this country, in the right path, and which Senators are

going to be fair, just, and reasonable during this period of crisis.

Mr. President, I believe the only course we can pursue is to see that this man, the President of the United States, receives the same fair and just treatment that any other individual in this country receives. If that is done, he can ask nothing more, and the people can ask nothing more. The Members of Congress have an obligation, in my judgment, to assure that fair and just treatment is accorded to the President.

TRANSCRIPTS OF TAPES SUBMITTED BY THE PRESIDENT: PUBLIC TRANSCRIPTS—VI

Appendix 30. Meeting: The President, Haldeman and Ehrlichman, Oval Office, April 16, 1973. (9:50–9:59 a.m.)

J. E. Did you get those—

P. I'm going to ask him which one he wants to sign. It seems to me that I don't want to pressure him or should I just have him sign effective today or not announce it. What is your advice? We've got plenty of time.

J. E. Well, as I made it loud and clear that he ought to sign both of them. Then you could use whichever one he wanted or none, depending on how circumstances unfold.

P. (Unintelligible)

J. E. Unless he won't. You know, you know what to do at that point.

H. You go to Petersen and ask him not to (unintelligible)

P. That is why, John, I want to nail down what Dean said about other bugs on the White House and so forth, and so on. I assume that is the Plumbers operation.

J. E. No, no. What he is referring to is the FBI's bugs on the journalists in the first year he was nominated.

P. (Unintelligible)

J. E. Hold on. No, no. These were almost all FBI bugs. What I said all National Security—

P. (Unintelligible)

J. E. I can't say. I doubt it. I think it was before his time.

P. The reason that I made the call while in Dean's presence last night was that he said Liddy was saying how he knows Liddy had told (unintelligible) or something like that. I said he must (unintelligible). Well, he thought he ought to get ahold of his attorneys. Liddy said will not (unintelligible) higher authorities. (Unintelligible) not the President, (unintelligible) Mitchell. And I said, I called Petersen (unintelligible) where to go (unintelligible) Liddy's attorney. The President is not asking for any type of (unintelligible).

J. E. He can't hurt anything at this point and it certainly (unintelligible) way the thing he had to do with Mitchell and Magruder.

P. (Unintelligible)

J. E. Remove any impediment against their testifying by reason of misplaced loyalty to you.

P. (Unintelligible)

J. E. Petersen, is obviously reacting to the whole (unintelligible).

P. I would like also a scenario with regard to the President's role, in other words, the President—

P. (Unintelligible).

J.E. I can't say. I doubt it. I think it was before his time.

P. The reason that I made the call while in Dean's presence last night was that he said Liddy was saying how he knows Liddy had told (unintelligible) or something like that. I said he must (unintelligible). Well, he thought he ought to get ahold of his attorneys. Liddy said will not (unintelligible) higher authorities. (Unintelligible) not the President, (unintelligible) Mitchell. And I said, I called Petersen (unintelligible) where to go (unintelligible) Liddy's attorney. The President is not asking for any type of (unintelligible).

J.E. He can't hurt anything at this point and it certainly (unintelligible) way the thing he had to do with Mitchell and Magruder.

P. (Unintelligible).

J.E. Remove any impediment against their testifying by reason of misplaced loyalty to you.

P. (Unintelligible).

J.E. Petersen, is obviously reacting to the whole (unintelligible).

P. I would like also a scenario with regard to the President's role, in other words, the President—

J.E. Ziegler has just left my office. He feels we have no more than 12 hours. He's got some input from the Post and he estimates unless we take an initiative by 9 o'clock tonight it will be too late. Now, for that reason, I would suggest that Ziegler set a meeting with Petersen and if you and Ziegler can persuade Petersen the announcement has come from the White House—

P. I'll tell them.

J.E. Otherwise the Justice Department will, of course, crack this whole thing.

H. Perhaps the whole thing, but I think it would be a good idea (unintelligible) Petersen alone.

J.E. That is a very good point.

J.E. Now you know how (unintelligible) around for sometime ahead of time you got this well thought through and well laid out and I think he is quite (unintelligible) about it and quite (unintelligible).

P. (Unintelligible).

J.E. We'll do that while you are gone. There is one point before you talk to Dean that I heard last night that doesn't fit together. Maybe it doesn't matter. And that is that Dean said, last night, as I understood it, that Petersen had told you that Liddy has not talked. They can't get Liddy to talk.

P. Yeah.

J.E. Dean told us that Liddy had told him everything. Told the U.S. Attorney.

P. I know that, I know that, but I—

J.E. Petersen lying to you or (unintelligible).

P. Well, maybe a little both.

J.E. Well, I think it is probably (unintelligible).

P. A snow job.

J.E. Either that or Dean is (unintelligible) cover-up in case anything starts to seep out.

P. Cover-up—How strong (unintelligible).

J.E. Ron thinks that it ought to be done from up here. That (unintelligible) I mentioned it to him the other day he thought you should do it here, if you did it at all.

P. I could do it right here?

J.E. Yes. But he wants to get out the fact that Dean (unintelligible) you that the Dean report was inadequate (unintelligible) that several weeks ago you reinstituted an examination of the personal investigation and that this culminated in a whole series of actions over the weekend.

P. I spent the weekend working on it. (Unintelligible) got to say.

J.E. The report did not. This is the week that Mitchell being here (unintelligible).

P. (Unintelligible).

J.E. Well, now, If I am going to be splashed on this thing you are better off now having another scrap with Dean.

P. Well, somebody is going to be.

J.E. Well, we could not (unintelligible)—

P. Investigation of the matters.

J.E. I think that that is the way, the investigation of the matter.

P. But I didn't talk to Mitchell.

J.E. Well, they say who did it, delegating him to do that. I mean that, that's—

P. (Unintelligible) look one damn thing.

J.E. Well, I think there is a full Ehrlichman report, unquote. (Unintelligible).

P. Would you mind talking to Moore to see Gray or (unintelligible) you can talk to him can't you? Time is of the essence right now. (Unintelligible).

J.E. I understand.

P. (Unintelligible).

J.E. No, no, I'll take care of it.

P. (Unintelligible).

J.E. As a matter of fact, I have a problem. I'm going to get Moore to talk to Fielding also, and find out what was in there because I don't want to know.

P. Right. (Unintelligible).

J.E. And then Moore can advise you.

P. I don't know (unintelligible) when I get back (unintelligible) Justice Department drag it out of the White House. You (unintelligible).

J.E. (Unintelligible) you do it. Petersen here is working with me on—

P. Yesterday. Yesterday, I talked to Mr. Kleindienst. He removed (unintelligible) people involved. I said, "Now, Petersen and myself. That's right, Petersen (unintelligible).

J.E. Well, he's got a (unintelligible) So. Well, I'll be seeing Dean now.

P. Yeah, but—

J.E. I think that the point is that in picking up these letters from him, it would be the agreement that neither he nor you would announce it immediately. So the announcement would be your discretion.

P. Right.

J.E. And the decision would be at your discretion as to which way to go.

P. Right.

J.E. And you might ask him whether he intends to plead guilty or not—

P. Yeah.

J.E. Or not guilty.

P. Yeah.

J.E. And that will weight in your own (unintelligible).

P. That's right. That's right. (Unintelligible.)

(Material unrelated to Presidential actions deleted.)

Appendix 31. Meeting: The President and Dean, Oval Office, April 16, 1973. (10:00–10:40 a.m.).

The President/John Dean.

P. Good morning, John. How are you?

D. Good morning.

P. Sit down, sit down. Trying to get my remarks ready to deliver for the building trades. You know I was thinking, get the odds and ends—(inaudible). You will remember we talked about resignations, et cetera, et cetera, that I should have in hand. Not to be released.

D. Uh, huh.

P. But that I should have in hand something or otherwise they will say, "What the hell. After Dean told you all of this, what did you do?" You see?

D. Uh, huh.

P. I talked to Petersen about this other thing and I said, "Now what do you want to do about this situation on Dean, et cetera?" And he said, well, he said I don't want to announce anything now. You know what I mean.

D. Uh, huh.

P. But what is your feeling on that? See what I mean?

D. Well, I think it ought to be Dean, Ehrlichman and Haldeman.

P. Well, I thought Dean at this moment.

D. All right.

P. Dean at this moment because you are going to be going and I will have to handle them also. But the point is, what is your advice? You see the point is, we just typed up a couple just to have here which I would be willing to put out. You know.

D. Uh, huh.

P. In the event that certain things occur.

D. I understand.

P. To put—just putting. What is your advice?

D. I think it would be good to have it on hand, and I would think to be very honest with you—

P. Have the others too?

D. Yeah, have the others too.

P. Well, as a matter of fact, they both suggested it themselves so I've got that—I am sorry, Steve, I hit the wrong bell.

D. (Half laugh.)

P. So I have already done that with them.

D. All right.

P. They said look whatever—and I want to get your advice on them, too. And what I would think we would want to do is to have it in two different forms here and I would like to discuss with you the forms. It seems to me that your form should be to request an immediate leave of absence. That would be one thing. The other, of course, would be just a straight resignation.

D. Uh, huh

P. First, what I would suggest is that you sign both. That is what I had in mind. And then we'll talk about after—you don't know yet what you're. For example, if you go in and plead guilty you would have to resign.

D. That is right.

P. If on the other hand, you're going in on some other basis, then I think the leave of absence is the proper thing to do.

D. Uh, huh, I would think so.

P. And that is the way I would discuss it with others, too. If you have any other thoughts, let me know. I am not trying to press you on the thing. I just want to be sure John's got the record of anything that I should have here.

D. I think it is a good idea. I frankly do. But I think if you do it, for one, I think you have problems with others too Mr. President.

P. I already have the others.

D. That is what I am trying to advise you on—

P. But on theirs, both, it is all pending their appearance, et cetera. That isn't yours. Nothing is going to be said but I have to have it in hand by reason, as I told them as a matter of fact after our talk last night. I told them that I have to have these in hand so that I can move on this if Petersen is going to report to me everyday. I said now Petersen, "If you get this stuff confirmed, I need to know." He said, well, I asked him specifically, "what do you do? Who is going to be today?" And he said, "well, Strachan." There the three today I think. Who is the third one?

D. I don't know.

P. That's right! You're not supposed . . .

D. (Laughter).

P. Then, OK.

D. What I would like to do is draft up for you an alternative letter putting in both *options* and you can just put them in the file. Short and sweet.

P. Alright. Fine. I had dictated something myself. All my own which, if you can give me a better form, fine. I just want you to do it either way. Do you? Or do you want to prepare something?

D. I would like to prepare something.

P. Good. Alright. Fine. Why don't you take this? You can take those as an idea and have something. I've got to see Petersen at 1:30.

D. Alright.

P. Understand I don't want to put anything out because I don't want to jeopardize your position at all. You have a right to, just as everybody else has. You have taken a hell of a load here but I just feel that since what you said last night that we've got to do it and with Haldeman and Ehrlichman I have leave of absences from them. Which, however, I will not use until I get the word from Petersen on corroboration which he advised himself. I talked to him after you left—about 11:45 and let [him—characterization omitted] know how hard we work around here.

D. Well, you will have something within a couple of hours.

P. I won't be back. Yes, you draft what you want me to. In other words you can—

D. And if you don't like what I draft, you can tell me and I will change it in any way that you want.

P. Oh sure, oh sure. But I can't make the decisions, of course. You see and also, well, put it this way: you draft what you want and if I have any concern about it I'll give you a ring. You can be around, et cetera. But you would agree that nothing should be put out now?

D. I would agree. I was thinking about that.

P. You see we got that problem today that the thing may break. You know with Magruder, et cetera and I. You know that is what I wanted to run over with you briefly. You know to get your feeling again as to how we handle it. You were saying the President should stay one step ahead of this thing. Well, we've got—the only problem is what the hell can I say publicly? Here is what we have done. I called in Kleindienst. I have been working on it all week. As soon as I got the Magruder thing I got in Kleindienst and then at 4:00 p.m. we got in Petersen. Kleindienst withdrew and assigned Petersen. I said, "Alright, Henry, I don't want to talk with Kleindienst anymore about this case. I am just going to talk to you. You are in charge. You follow through and get to the bottom of this thing and I am going to let the chips fall where they may." We have covered that all the way down the line. Now I had to follow him to a certain extent on the prosecution side. On the other hand on the PR side I sure as hell am not going to let the Justice Department step out and say look we dragged the White House in here. I've got to step out and do it, John. Don't you agree?

D. That's right.

P. Again, I don't want to walk out and say look John Dean's resignation has been accepted. (Expletive omitted) That isn't fair.

D. Nor would it be fair to say Ehrlichman and Haldeman's have.

P. You see, they haven't been charged yet. As soon as they are charged it's a problem. But in your case you haven't been charged with anything yet.

D. No, I have not.

P. That is my problem. The only reason I am doing this is because of what you said about them and that is why I am getting from them too.

D. Well there is a chance today when LaRue goes down that Haldeman, Ehrlichman's name are going to be right down there before the Grand Jury.

P. Well, the name may be in but the point is you don't just throw somebody out because their name comes forth. You understand?

D. I understand.

P. You could also, if you would, I would like for you to prepare a letter that you would have for Ehrlichman and Haldeman. Would you do that?

D. Yes, sir.

P. Then I will give them the form and let them work out something that is appropriate. Would you prepare that for me?

D. Yes, I will.

P. But they told me last night orally, just as you did, that

D. They stand ready?

P. With head erect, they said, "Look, we will leave in a minute. We will leave today, do whatever you want." I said, "No, you are going to have to wait until we get some evidence." You know what I mean?

D. Uh, Huh.

P. I gather you agree with me.

D. That is what I do and the question is timing and—

P. Let's get Dean's advice as to how we handle this from now on. What is your advice?

D. Well, I would say you should have the letters in hand and then, based on what you learn from Petersen, you can make a judgment at the time. I think you are still five steps ahead of what will ever emerge publicly. I don't think—

P. I think they caught (inaudible) somebody told me that the *Post* according to Ziegler has something they are running tomorrow. Magruder talking around and everything. I don't know.

D. Well, I know some of the things Magruder said. He said that the prosecutors had asked him a number of questions about Ehrlichman and Haldeman. There is no doubt that that will be out on the street also.

P. Then the other will come out too.

D. Uh, Huh.

P. That's my point, see.

D. Fortunately, I am hoping that the ultimate resolution of this thing is that no one has any problems and that is possible.

P. Legally?

D. Legally.

P. That's right, which I hope is your case too. In other words when I say anything about the White House staff—not you, not Colson, or Haldeman because—(expletive omitted). Let me make this point again. I need—we know there is, Ziegler has always said it was oral.

D. That's right.

P. Right. But you remember when you came in, I asked you the specific question "Is anybody on the White House staff involved in it?" You told me, "No."

D. That's right. And I have no knowledge—

P. You still believe that—

D. Yes sir, I do.

P. But you did tell me that in the aftermath there were serious problems.

D. That's right.

P. Right. And, I said, "Well, let's see what they are."

D. And now you are beginning to see what they are. They are potential, technical, obstruction of justice problems.

P. I talked to Petersen last night and he made exactly the same point. He said the obstruction was morally wrong. No, not morally. He said it may not have been morally wrong and it may not have been legally wrong, but he said from the standpoint of the Presidency you can't have it. So, he seems to think that the obstruction of justice thing is a (expletive omitted) hard thing to prove in court.

D. That's right.

P. Which I think should be some comfort to you.

D. Well, my lawyer tells me, you know, that, "legally you are in damn good shape."

P. Is that right? Because you're not—You were simply helping the defendants get their fees and their—What does he say?

D. In that position, I am merely a conduit. It is very technical, very technical. I am a conduit to other people. That is the problem.

P. What was the situation, John? The only time I ever heard any discussion of support for the defense fund was (inaudible). I guess I should have assumed somebody was helping them. I must have assumed it. But I must say people were good in a way because I was busy. Was when you mentioned to me something about hard-hitting problem. But that was handled by Mitchell. Was that true or what?

D. The last time we had a request was the week before sentencing.

P. He hit you at a dinner or something?

D. No, no. O'Brien, who was one of the lawyers who was representing the Re-Election Committee, was asked by Hunt to meet with him. He came to me after the meeting and said that Hunt asked that the following message be passed to you. I said, "why me?" He said, "I asked Hunt the same question."

P. You, Dean—or me, the President?

D. Passed to me, Dean.

P. He had never asked you before?

D. No.

P. Let me tell you. What did you report to me on though. It was rather fragmentary, as I recall it. You said Hunt had a problem—

D. Very fragmentary. I was—

P. I said, "Why, John, how much is it going to cost to do this?" That is when I sent you to Camp David and said (expletive removed) "Let's see where this thing comes out."

D. That's right.

P. And you said it could cost a million dollars.

D. I said it conceivably could. I said, "If we don't cut this thing—"

P. How was that handled? Who handled that money?

D. Well, let me tell you the rest of what Hunt said. He said, "You tell Dean that I need $72,000 for my personal expenses, $50,000 for my legal fees and if I don't get it I am going to have some things to say about the seamy things I did at the White House for John Ehrlichman." Alright I took that to John Ehrlichman. Ehrlichman said, "Have you talked to Mitchell about it?" I said, "No, I have not." He said, "Well, will you talk to Mitchell?" I said, "Yes I will." I talked to Mitchell. I just passed it along to him. And then we were meeting down here a few days later in Bob's office with Bob and Ehrlichman, and Mitchell and myself, and Ehrlichman said at that time, "Well is that problem with Hunt straightened out?" He said it to me and I said "Well, ask the man who may know: Mitchell." Mitchell said, "I think that problem is solved."

P. That's all?

D. That's all he said.

P. In other words, that was done at the Mitchell level?

D. That's right.

P. But you had knowledge; Haldeman had knowledge; Ehrlichman had knowledge and I suppose I did that night. That assumes culpability on that, doesn't it?

D. I don't think so.

P. Why not? I plan to be tough on myself so I can handle the other thing. I must say I did not even give it a thought at the time.

D. No one gave it a thought at the time.

P. You didn't tell me this about Ehrlichman, for example, when you came in that day.

D. I know.

P. You simply said, "Hunt needs this money." You were using it as an example of the problems ahead.

D. I have tried all along to make sure that anything I passed to you myself didn't cause you any personal problems.

P. John, let me ask you this. Let us suppose if this thing breaks and they ask you John Dean, "Now, John, you were the President's Counsel. Did you report things to the President?"

D. I would refuse to answer any questions unless you waive the privilege.

P. On this point, I would not waive. I think you should say, "I reported to the President. He called me in and asked me before, when the event first occurred, and passed to the President the message that no White House personnel in the course of your investigation were involved." You did do that didn't you?

D. I did that through Ehrlichman and Haldeman.

P. I know you did because I didn't see you until after the Election.

D. That's right.

P. Then you say, after the election when the McCord thing broke, the President called you in. I think that is when it was, wasn't it?

D. No. It was before the McCord thing, because you remember you told me after Friday morning that McCord's letter—you said, "you predicted this was going to happen." Because I had oh, in the week or two weeks—

P. Why did I get you in there? What triggered me getting you in?

D. Well, we just started talking about this thing.

P. But I called you and Moore together for a Dean Report, didn't I?

D. On a Wednesday morning—

P. Oh, I know what was involved. It was involving that damn executive privilege and all that.

D. The Gray things were popping. On the Wednesday morning before I asked—

P. We had three conversations to my recollection.

D. Well, sir, I think we had more than that. But, of course, we have a record of that through those people.

P. Yeah.

D. I think we had more than that.

P I have to read this. Go ahead.

D. But the one report where I finally called Bob and said, "Bob, I don't think the President has all the facts."

P. That's right and then you came and sat in this chair and that is the first time that I realized the thing.

D. That's right.

P. Now the question: well Mr. Dean, is: "Why didn't you tell the President before?" And your answer there is, "I didn't know." That's what you told me last night. You see, I don't want you, John, to be in a position and frankly I don't want the President to be in the position, where one of his trusted people had information that he kept from him.

D. I did not know.

P. Fine. You did not know. How did you find out then? But you can handle that.

D. That's right.

P. But I did ask you and I think you should say the President authorized me to say this—I won't reveal the conversation with the President—he asked me this question. I told him this, that nobody in the White House was involved. And in addition to that to the best of my ability I kept, I guess, or how do you think you should handle this Presidential advice? Maybe you better—

D. Well, I think the less said about you, I think you say anything you want to say anything about it.

P. Well, let me tell you I am going to handle that properly and I just wanted to be sure that it jives with the facts. I can say that you did tell me that nobody in the White House was involved and I can say that you then came in, at your request, and said, "I think the President needs to hear more about this case."

D. That's right.

P. Then it was that night that I started my investigation.

D. That's right—that was the Wednesday before they were sentenced. Now I can get that date—

P. Would you do this. Get your chronology of this. Wednesday you came in and told me that, et cetera. That would be helpful for me to have. That is when I frankly became interested in the case and I said, "Now (expletive omitted) I want to find out the score." And set in motion Ehrlichman, Mitchell and—not Mitchell but a few others. OK?

D. Sure.

P. One other thing. On this privilege thing—nothing is privileged that involves wrongdoing.

D. That is correct.

P. On your part or wrongdoing on the part of anybody else. I am telling you that now and I want you when you testify, if you do, to say that the President told you that. Would you do that? Would you agree to that?

D. Yes Sir.

P. Fine. However, let me say with regard to what we call the electronic stuff they heard, and what I have now found is in the leak area of the national security area. That I consider privileged.

D. I do too.

P. And I think you should say, for example, on that. What I mean is I think in the case of the Kraft's stuff what the FBI did, they were both fine. I have checked the facts. There were some done through private sources. Most of it was done through the Bureau after we got—Hoover didn't want to do Kraft. What it involved apparently, John, was this: the leaks from the NSC. They were in Kraft and others columns and we were trying to plug the leaks and we had to get it done and finally we turned it over to Hoover. And then when the hullabaloo developed we just knocked it off altogether. But in my view, I consider that privileged.

D. I have no intention of raising that in any conversation.

P. Have you informed your lawyers about that?

D. No.

P. I think you should not. Understand, not because it would cut anything but I do think it is privileged. But it is up to you.

D. No—I think it is privileged also.

P. Support your own—and this was necessary to do. If we had had Hoover under more control, as Lyndon Johnson did, it would have been better. Now, your guess is when will you be called? Perhaps Tuesday or Wednesday or—

D. I would think sometime this week.

P. You don't think the thing is likely to break today?

D. No, I don't.

P. I wonder what Ziegler's got. He must, he seems to think something is going to break. He hasn't been in to see me and I will have to get him in later. Well, I will ask Petersen. Don't you agree with me that it is better that we make the first announcement and not the Justice Department.

D. Yes I do. On your own staff.

P. Oh hell, I am going to make the announcement on Magruder too. (expletive omitted) It was our campaign. I am not going to have the Justice Department—we triggered this whole thing. Don't you agree? You helped to trigger it. You know what I mean.

D. When history is written and you put the pieces back together, you will see why it happened. Because I triggered it. I put everybody's feet to the fire because it just had to stop.

P. That's right.

D. And I still continue to feel that.

P. You put Magruder's feet to the fire. Where did you see Magruder?

D. I didn't. In fact, I refused to see him. That was one of the problems.

P. Oh, and that's why—

D. I started to talk with—I met with him in one of these outer offices at a meeting.

P. What got Magruder to talk? I would like to take the credit.

D. Well.

P. I was hoping that you had seen him because—

D. He was told, one, that there was no chance.

P. As a matter of fact, he made a statement about (inaudible) around the White House. I guess this was pre-primaries—it was all committed.

P. But on Magruder, come again.

D. The situation there is that he and Mitchell were continuing to talk. Proceeding along the same course they had been proceeding to locking their story, but my story did not fit with their story. And I just told them I refused to change, to alter my testimony. But would repeat it just as I had given it.

This had to do with a number of meetings in the Department of Justice.

P. Oh yes, I remember. You told me that. I guess everybody told me that. Dean said, "I am not going down there and lie," because your hand will shake and your emotions. Remember you told me that.

D. Yes, I said that. I am incapable of it.

P. Thank God. Don't ever do it John. Tell the truth. That is the thing I have told everybody around here. (expletive omitted) tell the truth! All they do John is compound it.

P. That (characterization omitted) Hiss would be free today if he hadn't lied. If he had said, "Yes I knew Chambers and as a young man I was involved with some Communist activities but I broke it off a number of years ago." And Chambers would have dropped it. If you are going to lie, you go to jail for the lie rather than the crime. So believe me, don't ever lie.

D. The truth always emerges. It always does.

P. Also there is a question of right and wrong too.

D. That's right.

P. Whether it is right and whether it is wrong. Perhaps there are some gray areas, but you are right to get it out now.

D. I am sure.

P. On Liddy I wanted to be sure. You recall our conversation. You asked me to do something. I have left it with Petersen now and he said he would handle it. That's the proper place. When Liddy says he cannot talk with peers it must be higher authority, I am not his higher authority. It is Mitchell.

D. Well, he obviously is looking for the ultimate, but I think he is looking for the ultimate. He has the impression that you and Mitchell probably talk on the telephone daily about this.

P. You know we have never talked about this.

D. I understand that.

P. I have never talked to Mitchell about this except when whether we go the executive privilege thing.

D. Right.

P. He came in and said everyone should testify in executive session except you. Which I think, I think it should not be with executive privilege.

D. I think, Mr. President, the earlier, it will be a fizzle, when Petersen finishes with his—

P. You don't think we can hold to executive privilege anyway do you, John?

D. To hold on executive privilege?

P. Tell me your version what should we do?

D. I think if there are indictments down there in that court room, none of us will be able to go up to testify. I think the Watergate is just going to be totally carved out of the Ervin Hearings.

P. That's Watergate and then the other stuff is not that important, Segretti and all that?

D. Segretti and all that stuff is not that important. They will try. They can have a lot of fun with it, but it is not very meaningful.

P. So you think that Liddy thought that my calling Mitchell would be typical. Well, we covered that last night. You were there. Is that enough?

D. Petersen will tell you if it doesn't—

P. You tell me if you don't think it is enough—

D. No, I think it is enough.

P. I am going to expect you—after all, you are still the Counsel around here—

D. Laughter.

P. No, I am serious. You've got to advise me the same with Haldeman and Ehrlichman as long as you are around here, we've got to—

D. Well, I want to lay one thing out. I think there is a mythical belief—Now, I have not talked to Bob or John about this—they don't have a problem Mr. President. And I am not really sure that they do, but I am telling you, they do.

P. A problem? There is no question about it. Petersen made the point. I said, "Tell me what the facts are." And he said, "The problem is that they are going to get splashed, and when they get splashed, you've got a problem, Mr. President." Now then he goes on to say that as far as the legal form of obstruction is concerned and he covers all three of you here, it is a very difficult case to prove. Do you agree with that?

D. Uh, huh. That's fine.

P. You see that is the point. I know it would work. I am speaking not in personal terms.

D. It is a technical case and it is a tough case.

P. It's a tough one to prove. What does he mean by that?

D. Apparently, my lawyer said, "Now, I have won cases on this with tougher facts than you've got I will assure you." It would not be a—

P. So that is their real culpability, both Ehrlichman and Haldeman are in on the obstruction, is that your point?

D. It would be a very good idea if they had counsel.

P. I told them last night they ought to get lawyers so I am one step ahead of you there. Is there anything else you think I should do? You don't think I should—I am not going to let the Justice Department break this case, John.

D. I understand. You've got to break it. You are breaking it. Well, (expletive omitted) that is what we have done.

D. That's right.

P. I could have told you to go to Camp David and concoct a story couldn't I? And you have never heard that said, have you?

D. No, sir.

P. In fact, I think I covered a little of that (inaudible). But on the other hand, it was your job to tell me, wasn't it?

D. Uh, huh.

P. And you have. Basically what you have done—no, you told me the truth though. You've told me the truth. It was your job to work for the President, the White House staff and they were not involved in the pre-thing. But then you thought the post-thing. You thought about it and that is why you decided, as you said,

D. I thought we should cut the cancer right off because to keep this whole thing—

P. Look, one thing I want to be sure. When you testify, I don't want you to be in a position, and I don't want the President to be in a position, that his Counsel did not level with him. See my point?

D. There is no point that I have not leveled with you, as you should know.

P. Now when they say, "Now Mr. Dean, why didn't you tell the President—did you know about this? Why didn't you tell the President?"

D. That is a PR situation Mr. President. The U.S. Attorneys are not going to ask me questions asking what I said to the President and what I didn't.

P. Well, I frankly think—I would hope you can help on the PR there by saying—

D. I will be happy to help on it.

P. I would like for you to say—and you are free to talk. You are to say, "I told the President about this. I told the President first there was no involvement in the White House. Afterwards, I told the President that I—" And the President said, "Look, I want to get to the bottom of this thing, period." See what I am driving at—not just the White House. You continued your investigation, et cetera, and the President went out and investigated on his own. Which I have done, believe me. I put a little pressure on Magruder and a few of

D. Uh, huh.

P. And as a result of the President's actions this thing has been broken.

D. That's right.

P. Because also I put pressure on the Justice Department—I told Kleindienst—(expletive omitted)

D. No, I think you are in front right now and you can rest assured everything I do will keep you as far as—

P. No, I don't want, understand when I say don't lie. Don't lie about me either.

D. No, I won't sir—you—

P. I think I have done the right thing, but I want you to—if you feel I have done the right thing, the country is entitled to know it. Because we are talking about the Presidency here.

D. This thing has changed so dramatically. The whole situation since I gave you the picture

P. Since you sat in that chair—

D. In that chair over there and gave you what I thought were the circumstances, the potential problems. You have done nothing but try to get to the bottom of this thing, and—

P. I think so. Well, I said, "Write a report." But my purpose was you write a report as I said, "I want the Segretti stuff. Put everything else. Was the White House involved? You know, et cetera." How about—one last thing. Colson. You don't think they are going to get him into something?

D. I think he has some technical problems close also. I don't know if he has any. To the best of my knowledge, he had no advance knowledge of this thing.

P. Right. I suppose the key there is Hunt. He was so close to Hunt. I just want to know for my own benefit. As I told you last night, I don't want to get out there in front and have someone say "What about Chuck Colson?"

D. Chuck swore up and down to me—

P. I have got to say—to you John Dean—was Colson involved?

D. I have no information that he was at all.

P. Post? The two things you mentioned last night.

D. That and let's face it the other technical jobs, you know.

P. Yeah.

D. All the obstruction is technical stuff that mounts up.

P. Well, you take, for example, the clemency bit. That is solely Mitchell apparently and Colson's talk with Bittmann where he says he will do everything I can because as a friend.

D. No, that was with Ehrlichman.

P. Hunt?

D. That was with Ehrlichman.

P. Ehrlichman with whom?

D. Ehrlichman, and Colson and I sat up there. Colson presented his story to Ehrlichman regarding it and then John gave Chuck very clear instructions on going back and telling him, "Give him the inference he's got clemency but don't give him any commitment."

P. No commitment.

D. Right.

P. That's alright. No commitment. I have a right to say here—take a fellow like Hunt or a Cuban whose wife is sick or something and give them clemency for that purpose—isn't that right?

D. That's right.

P. But John specifically said, "No commitment," did he?

D. Yes.

P. And then Colson went on apparently to—

D. I don't know how Colson delivered it—

P. To Hunt's lawyer—isn't that your understanding?

D. Yes, but I don't know what he did or how—

P. Where did this business of the Christ-

mas thing get out, John? What in the hell is that all about? That must have been Mitchell, huh?

D. No, that was Chuck again.

P. That they would all be out by Christmas?

D. No, I think he said something to the effect that Christmas is the time the clemency generally occurs.

P. Oh yeah. Well, I don't think that is going to hurt him. Do you?

D. No.

P. Clemency is one thing. He is a friend of Hunt's. I am just trying to put the best face on it, but if it is the wrong thing to do I have to know.

D. Well, one of the things, I think you have to be very careful. And this is why the issue should be very good is, if you take a set of facts and let the prosecutors who have no PR judgment but they will give you the raw facts as they relate to the law, and it's later you have to decide what public face will be put on it.

P. Oh, I understand. You can help on that, John.

D. Yes sir. Wherever I may be I will be available to help on that.

P. Well, I hope you are right—You think you testify when? Well, Petersen will decide that.

D. Yeah.

P. Do you want me to say anything to him about it?

D. No. I think my lawyers and the U.S. Attorney's office ought to continue to work in the same manner—

P. You see, I am having him report to me daily now. Which I think I should do.

D. Right.

P. So all I will say is that I am going to tell him that we have talked today and that I went over again the various materials—

D. What would be the best thing in the world is if they decide that they've got nothing but technical cases against people at the White House and they chuck them all out. That is not impossible.

P. Should I telephone him?

D. No sir.

P. That's what they ought to do.

D. That's right.

P. It may be a tough case for them to prove John.

D. Well, they started out not to do it and none of the events are even released. It could very well happen.

P. Well that's what I hope and I understand. The reason I have to have that is in case there is a break tonight. I don't want to have to call John Dean in and say, "Look, John, can I have it?" It looks like I was, like a crimp in my plans.

I've got to know because I do have some knowledge there might be more involved here. All that I am saying of this, as you know, is that I have heard things from the U.S. Attorney, and from John Dean and from my own people that indicate that there could be a technical violation. Under the circumstances, I feel that it is my duty to have your resignation in hand. Of course, the President always has a resignation. How does that sound to you?

D. Well, that's right. Well, the thing is in phrasing the letter is important. You don't call anybody involved when it is their problem, so that is why I would like—

P. Well, understand those are my dictations. They are only a form for you. You work it out and work it out so that it would be one that would apply to you and work out the answer to Ehrlichman and Haldeman's letter. Just a form that I can give anybody—Strachan—

D. He has gone to USIA.

P. Well, that doesn't come to me does it?

D. Well, the whole Executive Branch is—

P. No, no, I mean just let him submit his resignation to Keogh. I will get his resignation. I will tell those guys—

D. I don't think you ought to tell Strachan. I think—

P. No, no, no—tell Keogh he ought to ask for his resignation.

D. I think Bob ought to do that though.

P. Bob Haldeman? Good. I will tell Bob to get Strachan and Magruder. That's your advice. Also if you do have any random thoughts on how many more we could do on the presentation of this thing, sit over in your office and think.

You know what I mean, the President is in front.

D. I will give you some notes on it which I think will help.

P. Would you do that.

D. Sure I will.

P. The record. Here is what I have done—here is what I have done—here is what we think the President ought to do and when, you see what I mean. And then if we have to use these things, I pray to God we don't, you guys don't deserve them. You don't deserve them.

D. Well, the important thing is not them, it is you.

P. No—well, I know maybe it isn't me personally, it is this place.

D. It is this office and the campaign office as well.

P. Remember, be back.

D. Alright sir.

P. I would just sit there. Hang tight.

D. I couldn't be more objective, Mr. President.

P. What—

D. I say, don't think I have lost my objectivity at all in this. Do you know why? (unintelligible)

P. Laughter. Ok John.

Appendix 32. Meeting: The President, Haldeman and Ehrlichman, Oval Office, April 16, 1973. (10:50–11:04 a.m.)

P. Come in.

H. Do you want John too?

P. Yes, John too.

H. The scenario worked out pretty well. Yeah—

P. Well, John, let me say this is quite the operator. We first talked about the work he did before this began. I said that I wanted him to know that it is national security work. He said I consider it so. I said, "Have you told anybody about it?" He said, "No. I don't intend to. I don't intend to say a thing more than I need to say in answering questions with regard to this matter, and I will not comment on anything else of course. I will not comment on any conversation I have had with the President." So far as he is concerned, that operation will not be discussed. Of course, the problem I suppose is as far as others are concerned or were involved. But if they do John, I would play it straight out. Damn it, of course we do this.

JDE. Well, I have been thinking about this a little bit. If I ever got a question like that at the Grand Jury I would have to step out and ask the U.S. Attorney to step out and tell him that it's under Executive Privilege. Since it is a National Security matter, I can't answer; that I would be happy to refer it to the President for his decision as to whether I should answer that or not, but that I am in no position to respond. If he says, well then we will have to go talk to the Judge, I will say that is what I think we should do.

P. Fine. And then you get to the Judge and say this involved—

JDE. —a highly sensitive national security.

P. National security investigations involving leaks. Would you say that?

JDE. No.

P. No? You would not tell them what area?

JDE. No. I am just not at liberty, and the procedure we have in government for a thing like that is for the witness who is put a question like that to refer it to the President for his personal review.

P. That's right.

JDE. And I would like an opportunity for that to be done.

P. I can see you being asked the question.

JDE. I kind of think that is right, but that is the process that I would have to follow.

P. I told him I would like to have that letter and he said, "What about Haldeman and Ehrlichman?" I said they have already told me that they will resign in case—naturally nobody is going to resign around here until somebody—until I get better information, until I can satisfy myself with Petersen, etc. And he said, "Well, do you mind if I take the letters and I prepare them? I would like to prepare them so that in the event I have to go to trial they won't prejudice me in that." I said, "Fine, fine. Prepare me what you think your letter of resignation should be." So there it is. So he is thinking in both terms, apparently. I am just guessing and I think that it is altogether proper, because he should have a letter of that sort. But I told him, as I told Haldeman and Ehrlichman last night, there is no question about people resigning around here. I've got their letters of resignation in hand anytime I want them. Wasn't that the proper thing to say to him?

JDE. That's fine.

HRH. He doesn't give you any indication how he is going to plead?

P. No. He said my lawyers have to work that out. But he also hits this again, John: that his lawyers think that his possible criminal liability is limited. You know what I mean, damn hard to prove. Now maybe he said basically when I see what is involved here—he mentioned something like, "sort of a (unintelligible) facing me, but it is a damn hard case"—and he said what his lawyers have told him is that the Justice Department could well come out of this without any indictments against anyone on the White House staff. I said, "What about Colson?" And he said, "Well there are three areas." He mentioned Bittman. He mentioned call to Hunt, etc.

H. The call to Magruder.

P. Oh, yes. Call to Magruder, but that's previous. I hit him hard and I said, "Now look here, John. We had received this report? What about his call? Was that true?" And he said, "Yes." I said, "Do you still believe that?" And he said, "Yes." He said as far as anyone getting any (unintelligible) out, nobody got anything out of it. As for the legal side of this, John, he has some sharp lawyers and they think this is a damn hard case to prove.

JDE. For the government to prove?

H. Government thinks so, too, doesn't it?

P. As I told you today, Petersen said that the legal end is just terribly difficult.

H. It is our moral thing and the pressure. Bascially it is a PR job.

P. We have to decide this and decide it in terms of many things. But I, at least, felt a little better about it than I did last night.

H. Apparently.

P. Well, now when do I receive Rogers?

H. Anytime you want. I talked to him. He is on standby.

P. How about four o'clock? Get him over here.

H. That is fine. Whatever you want.

P. Well, I will just call him and tell him to be on standby this afternoon. It may be earlier. Well, no, it is just as well. Get him over here at 4 o'clock.

H. 4 o'clock.

P. E.O.B.

E. He is helping us to find counsel.

P. Good, good. How has the scenario worked out? May I ask you?

H. Well, it works out very good. You be-

came aware sometime ago that this thing did not phase out the way it was supposed to and that there were some discrepancies between what you had been told by Dean in the report that there was nobody in the White House involved, which may still be true.

P. Incidentally, I don't think it will gain us anything by jumping on the Dean Report as such.

E. No.

P. What I mean is I would say I was not satisfied that the Dean Report was complete and also I thought it was my obligation to go beyond that to people other than the White House.

E. Ron has an interesting point. Remember you had John Dean go to Camp David to write it up. He came down and said, "I can't."

P. Right.

E. That is the tipoff and right then you started to move.

P. That's right. He said he could not write it.

H. Then you realized that there was more to this than you had been led to believe. (unintelligible)

P. How do I get credit for getting Magruder to the stand?

E. Well it is very simple. You took Dean off of the case right then.

H. Two weeks ago, the end of March.

P. That's right.

E. The end of March. Remember that letter you signed to me?

P. Uh, huh.

E. 30th of March.

P. I signed it. Yes.

E. Yes sir, and it says Dean is off of it. I want you to get into it. Find out what the facts are. Be prepared to—

P. Why did I take Dean off? Because he was involved? I did it, really, because he was involved with Gray.

E. Well there was a lot of stuff breaking in the papers, but at the same time—

H. The scenario is that he told you he couldn't write a report so obviously you had to take him off.

P. Right, right.

E. And so then we started digging into it and we went to San Clemente. While I was out there I talked to a lot of people on the telephone, talked to several witnesses in person, kept feeding information to you and as soon as you saw the dimensions in this thing from the reports you were getting from the staff—who were getting into it—Moore, me, Garment and others.

H. You brought Len Garment in.

E. You began to move.

P. I want the dates of all those—

E. I've got those.

P. Go ahead. And then—

E. And then it culminated last week.

P. Right.

E. In your decision that Mitchell should be brought down here; Magruder should be brought in; Strachan should be brought in.

P. Shall I say that we brought them all in?

E. I don't think you can. I don't think you can.

H. I wouldn't name them by name. Just say I brought a group of people in.

E. Personally come to the White House.

P. I will not tell you who because I don't want to prejudice their rights before (unintelligible).

E. But you should say, "I heard enough that I was satisfied that it was time to precipitously move. I called the Attorney General over, in turn Petersen."

P. The Attorney General. Actually you made the call to him on Saturday.

E. Yes.

P. But this was after you heard about the Magruder strategy.

E. No, before.

P. Oh.

E. We didn't hear about that until about three o'clock that afternoon.

P. Why didn't you do it before? This is very good now, how does that happen?

E. Well——

P. Why wasn't he called in to tell him you had made a report, John?

H. That's right. John's report came out of the same place Magruder's report did——

P. No. My point is——

E. I called him to tell him that I had this information.

P. Yeah but, why was that? That was because we had heard Magruder was going to talk?

E. No. Oh, I will have to check my notes again.

H. We didn't know whether Magruder was going to talk.

E. That's right.

H. Magruder was still agonizing on what he was going to do.

P. Dean—but you remember you came in and said you have to tell him about it politely. Well, anyway——

H. I will tell you the reason for the hurry up in the timing was that we learned that Hunt was going to testify on Monday afternoon.

E. The President is right. I didn't talk to Kleindienst. Remember, I couldn't get him.

P. Yeah.

E. I didn't talk to him until he got home from Burning Tree, which was the end of the day, and I had already talked to Magruder.

P. Right. But my point is when did we decide to talk to Kleindienst? Before Magruder?

E. Oh, yes. Remember, early in the morning I said I will see these two fellows but I've got to turn this over to the Attorney General.

P. Which two fellows were you going to see?

E. Mitchell and Magruder.

P. With what your conclusions were?

E. I had this report and I tried all day long to get the Attorney General who was at the golf course and got him as soon as he got home for——

Do we want to put this report out sometime?

E. I am not sure you do, as such.

P. I would say it was just a written report.

E. The thing that I have——

P. The thing they will ask is what have you got here?

H. It was not a formal report. It was a set of notes.

P. Handwritten notes?

E. Yeah. There are seven pages, or eight pages. Plus all my notes of my interviews.

H. And then Magruder came over. Well, you don't want to put that out. You don't want to specify who came, but then you called in other individuals. Then the President met with the Attorney General and the Prosecutor and got the Head of the Criminal Division on Sunday. You met with him twice actually, didn't you?

P. No, I met Kleindienst on Sunday at 1 o'clock, and then at 4:00 p.m., and then I met with Dean, Ehrlichman, you. And I also talked to Henry Petersen on three different occasions that night on the telephone.

H. Yeah.

Appendix 33, Meeting: The President and Haldeman, Oval Office, April 16, 1973. (12:00–12:31 p.m.)

(Material unrelated to Presidential actions deleted)

P. Now we got a plan on how we stage this damn thing in the first stages. Ron's got it all worked out. We've gone over, and then he's got the use of this Advisory Group and—What does this amount to Bob?

H. Well the trouble is, you can't leave that out because you get into invariables of whether you do it before or after the Magruder story is out. He feels, and they all feel, I guess, that you have to establish your position and what you have done and the scenario works pretty well on that.

P. Yeah, but you don't do a backgrounder on that.

H. It works out pretty well on that. The ideal time to do it is when you break the case. Get Petersen over here. You run your backgrounder, tell your story. You know, I got into this and this is what I have done. Or Ziegler does, or however you do it. I guess you will do it. And then you say this has led, as we fully suspected it would, to the next major step. That Mr. Petersen here will describe which is the status of the case today. And then Petersen says "As the President has reviewed these steps, and I can tell you today that we have broken the case and that Jeb Magruder, one of the principal figures in this, has given us a full report on exactly what did transpire. It clearly establishes by his own testimony his own guilt as a high official of the Re-Election Committee and provides charges against others which we are pursuing with the same diligence that we have up to now, and I will not discuss the others. We will get to that and report to you periodically as developments take place. But this is following up proper processes and I am not going to jeopardize the rights of others. He could say that I am not going to say anything, and nothing should be said, that will jeopardize the rights of the defendants, but I also am not going to say anything that will jeopardize our prosecution because we are moving on people and we are going to get them." Ron will mention to you, and Steve chatted with me, Len Garment, as you would expect, has followed your orders that he steep himself in Watergate. He has steeped himself in the Watergate and now says it is imperative that he meet with you for at least five minutes, preferably prior to 2 o'clock today, to report to you.

And what he will say to you is that it is clear to him that you are in possession of knowledge that you cannot be in possession of without acting on. And that your action has to include cutting cleanly and that you've got to remove me and probably Ehrlichman, although he has an interesting thesis, according to Ron—I have not talked to Len—which is at least worth considering, which is that I move ahead of the game now, put out my whole story, including the factual details without pulling any punches of my, you know, that $350,000 fund. Yes, I sent it back to the Committee—and I go into specifics. That I understand that Mr. Strachan delivered it to Mr. LaRue and that my motive was not to provide funds for the defendants. My motive was to move these funds back where they belonged, but I have to agree that I fully recognized that LaRue's motive in accepting money was, as I had been told at least, was a need to provide money for the defendants, to provide legal fees and to provide support for their families. And I acted at all times at the instigation of and through John Dean. In other words I didn't do any of this. John Dean came to me and said we need this and I knew I wanted to get rid of the money and said this is the way to do it, etc. And I must say that John Dean, the President's Counsel, through whom I was working and who was my only contact in this matter, at no time advised me that I was involved in doing anything that was illegal or improper and I would assume and have to act on the assumption that Dean got away with it.

P. Now, look. I don't want to get into the position of—

H. Hanging someone else? Well, but he is going to have to hang himself at that point in time.

P. But the whole point is whether he then gets off and gets on other things. See what I mean? I don't want him—he is in possession of knowledge about things that happened be-

fore this. I told him that was all National Security.

H. OK. Len makes a rather interesting case which is that we have to look at this in terms of the President and the Presidency.

P. Right. I'll see him.

H. That is what we all say.

P. Does he know what I have already done?

H. I don't know.

P. Petersen and all the rest?

H. I don't know. Ehrlichman and Ziegler feel you shouldn't see him and that Ron should just assure him that you have all these facts and that you are moving and what he wants done is in the process of being done.

P. Why don't you call and tell him (unintelligible) in and tell him that now—

H. I don't think I should tell him that. John should.

P. I see your point, because he is asking for you to be fired?

H. Well he is suggesting a route. He mentioned a case that is a better route for me and is a better route for the Presidency.

P. But you would be the first one to go out?

H. Yeah. I go out and I resign. I resign and tell my story publicly. Not to the jury, but do it publicly in some fashion and tell the whole story, all the details. And say that I am absolutely clear in my own mind that I have done nothing legally or morally wrong; that that might be up to the Grand Jury to determine. Then his argument is that I am in a position—he thinks that I can bring something like that off. He feels that Ehrlichman should not try to do it because he doesn't think he can bring it off and he thinks, therefore, you've got to cover up and try to hold Ehrlichman in but if you get a problem you will just have to let him go. But at that point it is a pretty rough spot anyway.

P. Yeah—we just don't know what the situation is on Ehrlichman, on what there is.

H. No. And there are more potentials there than there are on mine. Mine I think we have them all out and we know them all and Ehrlichman's—

P. Well, there may be more potentials. I think Dean, frankly, is more inclined to give Ehrlichman a screwing than anybody else. I have that feeling.

H. Well, and if Colson gets hung up anywhere, he will go on Ehrlichman and not me. He can't get me because I didn't work with him on any of that stuff. John did.

P. What would this be, Bob? Would this be before I said anything?

H. I don't think so. I don't know. Ron just raised this at the last minute. He wasn't even going to raise it and then he said, "Well, you might as well know how Len spins it out."

P. What the hell information has Len got that I don't have?

H. None.

P. Is he just basing this on minutia, this, that or the other thing?

H. He doesn't have anything you don't have. All he says—he says it isn't a question of the legal thing. He said there is no question but that you could get through the whole legal thing but then look up the damn road you have to go through all these trials and everything. They are going to get back into it again there—

P. That's right.

H. They are going to get into the money and where the money went. If we haven't told them by then, they are going to drag it out of us drop by drop.

P. That's right.

H. I can see it is a weak appearing case in terms of what did I think I was giving the money back to them for. Where did the money go? Now there is no question about that, some of it. I don't think all of it did. But I knew where some of it was going to go.

P. But again you guys have to see what in the hell, again what LaRue testifies. What the money was for; to shut them up, or was it to provide help for their families.

H. You see, that is the whole point. In my viewpoint it wasn't to shut them up, but that is a hard case for anybody to believe I suppose.

P. Yeah, they will say it was to keep them quiet.

H. Well, absolutely. But that—so they can't make the legal case.

P. Does Ron like this scenario of your going out?

H. No. He is opposed to it. He thinks it is wrong, but he says you know I am biased so that is a judgment call that I probably shouldn't even try to make.

P. Rogers. I will see him this afternoon.

H. I haven't raised that with Rogers.

P. Rogers has not said that either you or Ehrlichman should leave has he?

H. But he doesn't know the facts.

P. Well—could you, you know really, so that—

H. Want me to meet with him and Bill and try to fill in the facts?

P. I really think you—as to what the points of vulnerability are, and you can just do this cold turkey. Say I just wanted him to know this as I haven't made notes. I just want him to know this, all cold turkey. I have just made a few. Say that is what I want to talk to him about. Could you do that? And point out that it is my view, and others, that this is a damn arguable, damn hard, case. Would you mind doing that? Have him come over, I should say at 3:30 and I will see him at 4:00 PM.

H. Sure.

P. That would be very helpful.

P. I would just say, so that Len doesn't think that I don't want to see him, I just don't want him to tell me the obvious. That is the point. Could Ehrlichman just let Len know that the events have overtaken us? Is that dangerous? No, we better tell him.

H. He knows pretty much on that.

P. He knows about Magruder and the rest?

H. I don't know that he knows it in specific terms, but he has come up with the same information that John did and anybody that was looking into the picture.

P. Well, the reason is I think I know everything Len would be telling me—

H. Oh, yeah.

P. Hell you know, we talked about this a week ago. You know how you handle it.

H. On the way to San Clemente I made the pitch for my going out ahead, but not going into it in as much detail. If I do it now with what they've got, if I do anything I have to do everything. That's Ron's point and I think he is right on that.

P. Yeah. What does Ron think about this, leaving out the PR: does he think we should try to tough it through? I am going to ask Rogers that, frankly.

H. I am not sure. I think Ron would say just wait and see. You see his point is that there is no question that I will be tarnished.

P. The question is whether your useability, basically—

H. And you have to evaluate that at that point and it seems to me at that point you have the option of my saying to you that I have concluded and I will. I haven't, but I will sure say it—that I have concluded that I am tarnished to the point where I can't be useful.

P. Right. Your usefulness has been impaired and, therefore, we can't be useful. That's the way you put it.

H. Sure, then I go out. Garment's statement is that then I go out and hit this, use the position that I have established that way from the outside to—

P. To fight?

H. Yeah, somehow or other. I don't exactly know how. I think he spells that out but Ron didn't get into it with me. And a—

P. Let me get some (unintelligible). Was it Ron and John Ehrlichman who said they did not think I should see him? They did not think I should bother seeing Len? On what grounds?

H. No. Ron is the one who saw Len.

P. I was up so late last night. Go ahead.

H. Yeah. Ron thought you had to see him just for internal reasons. You know, Len's so concerned about things that you almost have to see him just to keep the—

P. Why don't I see him after I see Rogers? How would that be?

H. That you could do easily.

P. In other words, I will have a plan in mind. I'm going to get some thoughts in my mind. I am not going to have any trouble with them.

H. Ziegler has been meeting with this group of Chappie Rose and Moore and they have been running out of there with (unintelligible).

P. Could you ask Ziegler to have Len put it on a piece of paper before I meet? That would be helpful. Tell him I am meeting with Rogers at 4:00 o'clock and would just like his recommendation on a piece of paper before that. How does that sound to you? Let me say that I can move the Rogers thing up or down.

H. Can you move him up to three?

P. Well, wait a minute. 1:30 PM. I've got to get some rest this afternoon.

H. Yeah. Still, leave it at four. You might know something by then.

P. Have you filled Henry in, Bob?

H. Nope.

P. You haven't? He's got enough problems in Laos. I haven't. Somebody else—he seems to know of it.

H. Well, Garment took it upon himself to go meet with Henry and Al Haig to discuss his concern about the whole situation, apparently.

P. Well, what the hell did he do that for?

H. On the basis that he thought there was a real danger and threat to the Presidency and that—

P. Maybe I don't want a memo from him first. What do you think? Maybe he just better do it orally.

H. Well, John thought he should have written to you. That that is what he should have done at the beginning. Maybe you have a problem with that. That means the Secretaries got to write it up.

P. Yep, yep. Well just say, tell him that I am meeting with Rogers this afternoon. I think somebody should say that. Who has he put the request through? Through John?

H. No, he just sent it up through Steve Bull. Ron knew he was. He is working with Ron now, rather than John.

P. OK.

H. You know, it is impossible. That is why I hope Rogers can stay cool and sort of above it. It is impossible for any of us—

P. All the concerned people. If we could get a feel. I just have a horrible feeling that we may react.

P. Reacting like Dean?

H. Yes. That we are way overdramatizing.

P. That's my view. That's what I don't want to do either.

H. As I say, that is self-serving too, so its—

P. Well, as you know, of course, that would be the tendency. That is the trouble with Garment. I wanted him to get into this on the legal side. I didn't mean, I must say, I really didn't mean for him to get into the problems of each day and all that, because Len always reacts to things. Am I right that we have got to do something to restore the credibility of the Presidency?

H. Of course you know the credibility gap in the old days. Len is the panic button type. If we had reacted in Garment's way in other things, we wouldn't be where we are. That doesn't mean he isn't right this time, incidentally.

P. I know. It would be very helpful to me

if you could see Rogers yourself. I would get him in at 3:00 o'clock, give him an hour on the whole damn thing. I wonder if you and John shouldn't see him together?

H. I would like to if that is ok with Bill.

P. Yeah. Will you ask him?

H. I will ask him. Say that we want to give him a full run before he meets with you.

P. I have suggested, John, too, because he has made a study and we want you to come in. In balance, he can meet with just you, but I prefer he meet with the two of you and then I want to see him at 4:00 o'clock.

H. Ehrlichman makes a strong case that on my making a statement or anything, that as of now that my potential—

P. Guilt?

H. Well, not guilt, but that I should not do anything without my lawyers.

P. That's my inclination. I don't think you can say a thing—

H. What can the lawyers tell me?

P. I think the time has outrun that, because Petersen has told me that you, Ehrlichman are going to be called to the Grand Jury soon. He has told me that. Under the circumstances, I could not advise you with my limited knowledge of the law. I could not advise anybody to make a statement. You know what I mean?

H. Check.

P. Because, basically, when you get in there they are going to question you on your damn statement.

H. Of course, for my dough, that is alright, because whatever I say in the statement is exactly what I say in the Grand Jury. So—

P. But nevertheless, I wouldn't give them that opportunity. I'd keep that.

H. I think Len's view is that what you need is a bold, new, you know, really some kind of a dramatic move. Henry feels that, but Henry feels that you should go on television.

P. I know, 9:00 o'clock.

H. Which is his solution to any problem.

P. Do you believe I should do the 9:00 o'clock news?

H. On this, no.

P. I don't think so either.

H. I said, we are all steeped in this, but look at the newspaper. Where is the Watergate today?

P. Well in the country it is not that big. It is just a little bit in the evening news and it should be handled as a news story. I am not going to go on and say, look, we are in a hell of a shape. It will be a big news story, it will be a big story for a couple or three weeks. Let's face it,—

H. Yep, that's right.

P. But it is not going to be at the moment. We are going to have one hell of a time.

Appendix 34. Meeting. The President and Petersen, EOB Office, April 16, 1973. (1:30–3:25 p.m.)

Door opening—walking

Inaudible

Inaudible

P. Yeah—I always come here in the afternoon (inaudible) tied up.

HP. That's (inaudible) great.

P. Well—I always run upstairs—that's why I'm a little panting.

HP. (inaudible) stopped smoking

P. I get my exercise. Sit down—sit down.

HP. Four months ago I couldn't run up the stairs.

P. Really?

HP. Yeah.

P. What's your age (inaudible)?

HP. 52, sir.

P. My my you've got some great years ahead of you. (inaudible)

HP. (Laughter) I stopped smoking about six years ago.

P. Right.

HP. And it didn't make any difference then. I didn't feel—

P. Yeah. Let me get to two quick questions before you give me whatever you've got. Three questions—one very fundamental that (inaudible) perhaps the first two are related. I (inaudible) Dean, first Magruder, with the information that I know, it seems to me that I've got to tell the (inaudible) something about what's been done (inaudible) where it would be worse.

What's your reaction to that? We got to be sure that when people ask us later that we didn't—these people that are out (inaudible).

HP. I think so. We're——

P. Would that affect your case at all?

HP. I'd like that not to be done until we conclude the (inaudible)

P. With respect to?

HP. Plea.

P. Depending on the plea now (inaudible)

HP. We are trying to get the plea down. His lawyers are—reluctant on two grounds. One, whether Judge Sirica is just going to lower the boom on him.

P. Yeah.

HP. And clap him in jail immediately.

P. Right.

HP. So we'll have to see Judge Sirica and see if we can't reach some understanding of that. All we would request is that he not be clapped in jail before the others against whom he's testified.

P. Like Mitchell and (inaudible)

HP. Go to jail. Secondly——

P. Yes.

HP. Secondly, his lawyers are most concerned about what action the—Senator Ervin and his Committee will take. And I instructed them to tell his lawyers that I'll go talk to Senator Ervin.

P. Is that your intention?

HP. Well that is—yes, sir, I think we can make very persuasive arguments on a fair trial and a free press with a man who is pleading guilty and is a potential witness.

P. How about the others?

HP. You can't guarantee success.

P. What about the others? What really can you do in this case? I would think you'd have a hell of a problem on—like getting a fair trial for Mitchell on this—and if—in case the Ervin Committee moves forward.

HP. I think this.

P. (Inaudible) What are you doing to do?

HP. Oh I—that would—in effect we'd have to—what I propose to do is go ask Senator Ervin to hold up. To get him . . .

P. He won't agree with it.

HP. If he doesn't agree we'll just have to go our separate course.

P. There's nothing we can do to—try to enjoin the committee?

HP. I don't think so. Judge Sirica's even instructed all those people to cooperate with the Senate Committee—(laughter). (Inaudible) very far with him.

P. That's (inaudible)—that's before (inaudible).

HP. Ah.

P. Yeah.

HP. And if we go to—if we file an injunction action you know, we're going to have another Constitutional confrontation between the judiciary and the committee.

P. But you've got to tell Senator Ervin that his continued investigation will jeopardize the rights of the defendants and also will jeopardize the possibilities of prosecution.

HP. That's right.

P. Understand—not on a case of (inaudible) but (inaudible) I'm speaking of a case of Mitchell.

HP. Precisely right.

P. It would well—I would think, seriously jeopardize your chances on the prosecution. If I were Mitchell's attorney, I would raise holy hell about that, wouldn't you?

HP. Precisely right; yes sir.

P. I think he will.

HP. Yes sir. And of course, the Delaney case and you probably remember it (inaudible).

P. Oh yeah. The Irish.

HP. Yes sir.

P. What happened there?

HP. Well (inaudible) we requested a Committee to hold off and they did not and as a consequence of all that the case was reversed on the basis of prejudicial publicity and (inaudible) a fair trial.

P. What was the name of that? Knowland? Or——

HP. Delaney.

P. Delaney?

HP. Yes sir.

P. He was an Irishman. (Inaudible).

First, (inaudible)—I shouldn't convict him—probably not.

HP. I honestly don't recall, Mr. President . . . I think that their (inaudible) . . .

P. Now, the second—The second is this then (inaudible) that I think, well, just is just, to say we discussed it so we got the record clear. Use the—my now charge representing me in this thing. In other words—you understand now, you're talking only to me.

HP. Yes, sir.

P. And there's not going to be anybody else on the White House staff.

HP. Yes, sir.

P. In other words, I am acting counsel and everything else. I don't want it from anybody else (inaudible). The only other person I possibly could think of would be Dick Moore but I, he's a damn good guy.

HP. He's a valuable man,

P. Huh?

HP. He's a valuable man,

P. I might say that I—if I find some day—maybe something that I want to get to you but I am just so tied up I may ask him to do it. Will that be all right with you?

HP. Yes sir.

P. You have confidence in him?

HP. Yes sir.

P. Now you understand he's a friend of Mitchell's and a friend of everybody around here, but I think totally trustworthy and I don't think you've got him involved in the—with this damn thing.

HP. There's one reservation . . .

P. He might tell somebody else?

HP. No sir. . . . and well, I'll have to check it out. Yesterday, last evening, at my home when I was talking to Silbert, we went into the . . . One of them mentioned Dick Moore. It was just a slip of the lip—no place in the conversation, and I meant to go back at them and ask them why 'cause they should not know him. I'll have to check that out with——

P. Well then don't (inaudible)—let's just—better keep it with me then.

HP. All right.

P. I need caution—I don't want to—I don't want any question raised on this. All I—you have told me now that you do not want Magruder's (inaudible) to have him canned today. Correct?

HP. Today.

P. That's right.

HP. I'll get back to you on that.

P. Because I told you that he has to go.

HP. Yes, sir.

P. All right, but you think it might jeopardize your chance to bargain with the plea? Is that it?

HP. Yes, sir.

P. How could we—it do that? He knows he's going to have to go, and (inaudible)

HP. We haven't tied that down yet.

P. Hmm?

HP. You see, I mean if he thinks we're being—if we pull the string too tight on him before these other things are tied down. We may be (inaudible).

P. Now that you've got all this information (inaudible) you can say that other people know as well as Dean—I (inaudible) Dean—

what we do about him. I got him into (inaudible) this morning and I said look I think I've got to have in hand your resignation. He's writing it now.

HP. Right.

P. And I will get it from him later today and I don't want to (inaudible) him. I said I don't want to—he wanted to spend a week (inaudible) write one that would not be harmful to (inaudible). Well I know—I've got to have it—and obviously he can't continue as Counsel. Do you have any problems with that?

HP. I don't have any problem with that. But you do, because that is one of the reasons that I wanted you to see Dean. What you do between you and Dean is something else with a—other than what the prosecution does—

P. My point was. . .

HP. . . . The prosecution has a relationship where if we as the prosecution were requesting you . . .

P. Oh.

HP. To can Dean as a pressure tactic.

P. Oh (inaudible). I see. Why?

HP. But, I have no objection to your reaching an agreement and (inaudible) are the alternatives.

P. Yeah. I see—I had a different impression last night. Remember we talked and I—you left the clear impression to me that you didn't think—you said (inaudible) I said wait.

HP. I, yes, because I need a lot more to—recommend to you that he be—he be canned.

P. Whatever (inaudible). Suppose—put yourself in my position now—now put yourself in that you're Counsel to the President now—now don't be on the prosecution side—(inaudible) our side. Dean, I think, wants to have his resignation effective after he has made his deal with you. Now (inaudible) the prosecution.

Now—query—should I allow him to do that? I'm President and I know what the—I know what his situation is. If you were President (inaudible).

HP. As President I would take his resignation and——

P. You would.

HP. Yes. As prosecutor I would do something different. But from your point of view I don't think you can sit on it. I think we have the information under control but that's a dangerous thing to say in this city.

P. Ah.

HP. And if this information comes out I think that you should have his resignation and it should be effective. We both just (inaudible).

P. There's this. This is something that we're going—you know—probably great difference of opinion in the Department of Justice (inaudible). More important for the Department of Justice is (inaudible). Presidency have (inaudible) as a result of some diligent efforts its own (inaudible). Now with (inaudible) I don't have to announce the (inaudible). We have a situation where the U.S. Attorney, in effect, the (inaudible) thing when the President has to go in and explain (inaudible).

HP. (Inaudible) for a purpose.

P. Yeah but—see—I don't (inaudible) the damn sure (inaudible).

HP. Yeah. The——

P. Yeah. See what I am getting at is this. The only things that I would say—I can say that I (inaudible) and I've got this information and the case has been broken and I've got to say that and if the Department of Justice is going to (inaudible) I've got to.

HP. Well that I'd do.

P. I've got to be able to say this.

HP. And we don't have any objection to that.

P. All right.

HP. A—a——

P. When do you want me to. When can I say this?

HP. (Inaudible) always say shy. But what we want to tie it to is the Magruder plea.

P. Yeah but I've got to say it before he pleads. I've got . . .

HP. Can't you say—yes—but can't you make the announcements?

P. Well why don't you (inaudible) Magruder (inaudible)

HP. It depends on the negotiations.

P. They're going to believe this (inaudible) if it breaks today. I don't want—you and I don't want the Washington Post to break it.

HP. No sir.

P. And after all—we have broken this—you, the Department of Justice, damn it—you see—demonstrated that the judicial system does work—isn't that right?—sometimes it takes time.

HP. I'd say that's correct.

P. But it does work.

HP. A—a.

P. You see I can't have Magruder go into open court and then I come in laying (inaudible) out of this and that the other thing. I'd like to explain (inaudible).

HP. No—that's not what I had in mind.

P. I've got to (inaudible). Before Magruder—as a matter of fact, why not today? What I had in mind is that I would—would go out with you—and at that point answer any questions. And I would say (inaudible) and talk about any individuals and so forth and so on—that are—broad ranging—and you know—proceedings going on. I can't furnish you right this (inaudible) in your own minds 'til you see what you come up with, what we can do. Now then, of course, after that (inaudible) they aren't going to object to that I'm sure—there will be plenty of kudos and glory (inaudible) just fine.

HP. (Inaudible).

P. (Inaudible) something, but the need, as you see, we've got to show that the President takes the initiative. When I get backed up here as this, Henry, I can't be here (inaudible).

HP. You're absolutely right, and my only hesitancy if that's what you sense is this—what we do can't be counter-productive. If it serves to put us out in front and serves also to cause cooperating witnesses to withdraw them it's counter-productive.

P. Which is (inaudible). You're talking about (inaudible)?

HP. And Magruder and Dean and who could tie it down.

P. Yeah.

HP. You know with Dean and Magruder. You know we have two potential witnesses—only one who has agreed to be a witness and . . .

P. On Dean, I guess perhaps you have mixed emotions on that as to (inaudible)—that might—my getting his resignation today might affect to tie it down too.

HP. Yes sir.

P. You feel very strongly about that.

HP. Yes sir.

P. Well let me put it this way—suppose I get his resignation dated today and he hands it to me and I'll say, John, this resignation is accepted the moment that you put any (inaudible) with this (inaudible). That—that—you see if I . . .

HP. I have no objection to your taking his resignation immediately.

P. Yes.

HP. My problem is with the announcement.

P. Oh—we couldn't announce it to (inaudible)

HP. I could tell him and I could tell his counsel. Well on that sort of relationship between you and the President of the United States. And I don't even intervene in that. You've got no right to sit down here, talk to us and expect me not to ask for your resignation. That doesn't bother me. It's the announcement part that bothers me, because . . .

P. All right, fine what now? How do you see—how do you visualize all that we can get to keep ahead of the curve with regard to the announcement on this—on the Magruder thing and so forth. Can we make any announcement today about your activity—your position and—well I—no that'll tip everybody off—is that the problem?

HP. Well I think so. The meeting could (inaudible) seems to me is—what about Kleindienst?—it's an expression of dissatisfaction on your part (inaudible).

P. O that's right—that's right. You've got to . . .

HP. How do you handle it?

P. (Inaudible) where he wants them to (inaudible). Get it done(?) and get it done today.

HP. I'll call him.

P. (Inaudible) out.

HP. Oh I can't say he's with 'em. We're all outside in a storm.

P. But this—what's (inaudible) think of this?

HP. Personally, (inaudible) well I've been (inaudible) and have advised the Jury of that fact and two that Gray, from what Titus who has (inaudible) of the (inaudible) over there has to go in to see Sirica.

P. I don't think (inaudible) that's (inaudible).

HP. That's (inaudible). I don't think he will do anything unless it's in the current (inaudible) of proceeding he's in (inaudible). I can't conceive a point which of Titus and—if there—

P. This timing thing I think is terribly important you know.

HP. I think it is.

P. Can't have the President—after all—after all these months and what we've gone through and now once I have learned something of it I say "bah."

HP. No—no. Well.

P. Better we.

HP. I think we ought to talk of alternatives in general terms.

P. We can't. No, the announcement—what I had in mind would be (inaudible) announcement—still to the (inaudible) going to name several other people who were involved . . . (inaudible) because of the people named (inaudible) language used. (Inaudible) some people (inaudible) judgment (inaudible) matter for the President (inaudible) special, I'm going to call him special counsel (inaudible) this case (inaudible) possibility before he walks into that open court (inaudible) can't get to that today (inaudible) meeting with (inaudible)?

H.P. (Inaudible) question. (Inaudible) I told him one, I would be willing to go (inaudible) and advise his lawyers of that fact and two that they—and by that I mean Titus who has the best relationship with Sirica over there—is going to have to wait and see Sirica, ah—

P. (Inaudible)

HP. That's a problem. That's a risk we would have to take. I don't think he will. I don't think he will do anything unless it is in the context of a proceeding in his court. I can't conceive of him urging the (inaudible) of Titus and (inaudible).

P. (Inaudible) timing on this is terribly important you know, because—

HP. I understand it is.

P. You can't have the press—after all these months and what we have gone through and all. Once, I find something out—I say—ACT! Better we . . .

HP. Well, I think we ought to talk of (inaudible) in more general terms, Mr. President.

P. You can't. No—the announcement—what I had in mind would be—the an-

nouncement—stick to developments and if he's going to name—several other people were involved (inaudible) other people—then my concern—were wrong and (inaudible) abuse and something has been charged. And that the President (inaudible)—I'm going to tell them that the (inaudible) Counsel has resigned.

HP. Why can't you not have Ziegler make a statement that—a—well—that you as the President have taken it upon yourself to personally inquire into the Watergate situation.

P. All right—what else?

HP. And.

P. That I designated Henry Petersen as my special counsel?

HP. That's fine—and that—particular (inaudible) been made that I am not in a position to disclose, but there have been major developments.

P. Say that the President has done (inaudible)—Sunday—but I've been in it for two weeks actually now and it's (inaudible) happened there (inaudible) incidentally (inaudible)—a month ago I got Dean in and said (inaudible) a report (inaudible) Camp David and write a report. The report was not frankly accurate. Well it was accurate but it was not full. And he tells me the reason it wasn't full, was that he didn't know. Whether that is true or not I don't know. Although it wasn't I'm told. But I am satisfied with it and I think I've read enough in the (inaudible) (inaudible) papers up here. So then I put Ehrlichman to work on it.

Ehrlichman then worked for two weeks and he got materials together which—virtually—this is before—he got together a case basically hypothetical—based on—without orders—without knowing what the hell Magruder was going to say, which is (inaudible) what led to these same conclusions. Get my point? (Inaudible) called Kleindienst on Saturday, (inaudible) before Kleindienst (inaudible) and said look I've got this. Saturday afternoon Magruder, as you know came in. So we've seen—we got the wire about the same time but I—if it—it's a pretty good record in that respect. Because I had worked (inaudible) I said now damn it get these facts.

HP. It was Friday, you say, sir?

P. (Inaudible) Friday—Friday the thirteenth I guess.

P. Friday the thirteenth—but was it Friday?

HP. Yes sir.

P. Are you (inaudible)

HP. Yes sir, because I was down on my *boat (inaudible)*

P. Well—what could (inaudible) I could say that in the past (inaudible) the President—the President for the past two weeks conducted a personal investigation into this (inaudible) have used Ehrlichman, and a, where as Ehrlichman is involved in a way that you might be (inaudible) absolutes (inaudible)—absolutely impeccable going after facts.

HP. Well I'm concerned about that because of a . . .

P. If John is not . . .

HP. (Inaudible) Ehrlichman

P. Huh?

HP. In connection with Ehrlichman, I've got to point out something to you.

P. Yeah.

HP. You'll recall, one of the things that Dean says about Ehrlichman and—he was instructed by Ehrlichman to deep six certain documents that he found in Hunt's office.

P. Yeah.

HP. And that he thought better of that and gave it to Pat Gray.

P. Right.

HP. Well—several months ago I asked Pat Gray—a very casual conversation—did you ever receive any documents from John Dean. (Inaudible) Gray tells me was that he did not and he said no. And I just let it go at that.

P. My God.

HP. Thereafter I heard he had also told Fred Fielding that he had given certain documents to Gray.

P. Who told you—Dean?

Dean told me he also had told Fielding—Fred Fielding. When I leave here I'm going to stop by Fred's office and talk to him. Today I went up to see Gray. Well I asked him, he said that was absolutely untrue. He said I have never received anything from Hunt's office except through the Agency. Dean never gave me anything. So I'm going back to Dean on it, and I'm gonna leave here and talk to Fielding, and see what his story is on it. Incidentally, I have no (inaudible) that Fielding is involved. I just want to know what Dean told him about this.

P. Well I don't know, but you better ask Ehrlichman, too.—Dean (inaudible)

HP. We will ask all of them. . .

P. He was the one who was supposed to have (inaudible) and then told me I said what the hell's the story on this. He said that was never done. He said we were just talking about—what the hell is this? In fact, let me point out what I know—for whatever it's worth because I did conduct my ir estigation after I got this from you. I said what is this for—what is this stuff. He said—basically, let me just say, what's been done and the wiretapping material and all that business—all of that was, of course, turned over to the (inaudible).

(Inaudible) in the safe also, were documents—documents that had no relation to the Watergate whatever. They were what they political documents.

They said—he said we just sealed that up and,

HP. (Inaudible) Gray

P. (Inaudible) then you have both Ehrlichman and (inaudible). Word against Ehrlichman's and Dean's.

HP. Maybe Dean—maybe Gray has to stimulated his recollection—maybe he got an envelope that he never opened. Strange as that may seem. But he said categorically no.

P. Well he's right in saying any documents about this case apparently.

HP. That's right and I explained to him that these were not documents relating to Watergate, and he said I never got a thing. In this crisis, atmosphere that denied it, he denied it (inaudible) two months ago when I asked him casually. I don't know (inaudible) to reconcile that, that. . .

P. How do you reconcile that? How the hell are you going to reconcile that?

HP. Well, I guess we (inaudible). Ehrlichman, at some stage (inaudible) under oath on it. For one thing, we'd better get Fielding (inaudible).

(Inaudible). Call the Director of the FBI?

H.P. We may have to.

P. (Inaudible) it's worth, because Ehrlichman tells the same story. I think Gray did get something. And probably destroyed it.

H.P. Probably (inaudible) he did.

P. My suggestion is that—I mean—I have alerted—I have a suggestion—I think you better talk with Ehrlichman.

HP. All right.

P. Because Ehrlichman's recollection is that—he—I think he thinks he (inaudible)—you better tell him—better tell him what Gray has told you though.

HP. (Inaudible).

P. (Inaudible) now this is what he says and it may be that Gray just hasn't any recollection of what the hell it was and thought this was—well if it's not related to this case and fearful there is no place for political stuff in the FBI—that maybe was what he was thinking of. I don't know—I don't know what the hell the justification was—he could have—then he might be a rationale if there is a rationale.

Gray says he didn't get anything?

H.P. Gray said he didn't (inaudible).

I think that (inaudible) all this down in this notebook.

P. Oh.

H.P. I don't think there's anything here that I didn't tell you yesterday except Strachan came in this morning.

P. Yeah.

H.P. And he was warned of his rights and despite considerable fencing he didn't want to answer any questions. So they've sent him out and told him to get a lawyer and come on back this afternoon.

P. Oh he pled self-incrimination?

HP. No—they didn't meet in Grand Jury. It was just a pre-appearance interview and they sent him out to get a lawyer. He didn't want to talk about it.

P. Oh.

HP. So he is coming back—supposed to come back this afternoon with counsel.

P. He's not talking? I thought he was going to testify.

H.P. Whether or not he—well he may testify—but at this point.

P. Why didn't he have his lawyer with him this morning?

HP. Apparently he didn't think it was necessary—You see he appeared before the Grand Jury last week.

P. Yeah.

HP. And the questions asked were very easy—frankly, they were about political contribution violations and whether or not—Hunt and Liddy and (inaudible) expected to be more of the same.

P. All right, the point . . . (inaudible). Take this situation about this deep six thing.

HP. Yes, sir.

P. Is that enough to hang Ehrlichman on?

HP. No sir—I don't think it is. Well (inaudible) my point . . .

P. Well Ehrlichman says deep six it. I mean, he says we were talking about this and Dean says (inaudible) put it in. (Expletive removed) all it is (inaudible) is just a (inaudible) with the damn Bureau again. (Expletive!)

HP. Well, that's a . . .

P. (Inaudible) I pray to God (inaudible). Don't let me judge between these guys—these two guys?

HP. Okay. The second thing I wanted to mention to you, Mr. President. You asked whether or not there was any problem about having the (inaudible). I don't think there is. But there is this situation you should be aware of.

P. Yeah.

HP. Part of Magruder's testimony *goes* to the obstruction of justice—suborination of perjury, and he says that lawyers were involved, and Mardian was involved and that he cultured his testimony, cross-examined him on 't. Dean was (inaudible).

P. Yeah.

HP. Ah.

P. Pardon me, Dean coached him too?

HP. Yes sir.

P. On that.

HP. Both of them.

HP. Then, after he appeared Dean called and said you know what went on? And I said, well, (inaudible) a good witness in his own behalf, but, the jury just was unable to swallow . . .

P. The story . . .

HP. That he or anybody else was (inaudible).

P. You told (inaudible).

HP. The amount of money. Yes, Sir.

P. Now why the hell didn't Dean tell me that?

HP. That—but in any event I guess—the Grand Jury did believe him on that.

P. (Expletive.)

HP. At that point—that was in the course of the inquiry, because he was allegedly developing for you as President's Counsel to keep you informed of what was going on.

P. He said that—he (inaudible).

HP. But Magruder says then Dean called Magruder and said—you passed. I have talked to Petersen—you passed in your Grand Jury appearance. Now the . . .

P. What did you tell Magruder (inaudible)?

HP. Dean?

P. Dean—I'm sorry.

HP. I told Dean that he made a good witness in his own behalf.

P. But the Jury didn't believe him?

HP. But the Jury had some difficulty in accepting the story with respect to the money—that is—that anyone could . . .

P. Oh you mean the money for the bugging

HP. (inaudible) hundred thousand dollars and not ask what the hell Liddy was doing with it, which is what Magruder was testifying to.

P. OK—go ahead.

HP. Dean then calls Magruder, according to Magruder, and says Petersen says you've passed. Now that has great relevance in terms of the subornation of perjury charge. And the possibilities are . . .

P. Well, when (inaudible) after—Dean said, you passed?

HP. Yeah—the possibility is that I could be witness.

P. Dean told Magruder—you passed. That's what Magruder says.

HP. That's right.

P. So you—and that—how's that involve subornation and perjury? Oh, I see.

HP. See they previously could engage in the cultured story—then go in. Dean was party to that. After he testifies, Dean calls me and says how did he do? I tell him. Dean then passes it on to Magruder, in effect—and "I told you it would be all right if you just testify the way we said, Petersen says you passed." I—conceivably, I could be a witness on that issue.

P. But

HP. Silbert

P. Is?

HP. No, no sir—he is not (inaudible). (Inaudible) it.

P. (Inaudible) not supposed to talk to you—and you were not supposed to tell Dean (inaudible).

HP. I didn't tell him (inaudible).

P. He's conducting an investigation for the President.

HP. That's right.

P. Dammit, I'm entitled to know this.

HP. And I can tell under the rule

P. Yeah.

HP. Those that (inaudible) to the extent that it's necessary to discharge my obligation

P. Yeah.

HP. And I didn't tell him any testimony in any event.

P. I see.

HP. I told him what occurred, that is to say the Grand Jury didn't believe his story—yes he was a good witness on his own behalf.

P. That's right.

HP. But I don't think. That's

P. You characterized it rather than give him the substance of it.

HP. That's right. That's right.

P. OK. (Inaudible) on—may I have that piece of paper please.

HP. Yes sir

P. This is on Haldeman and Ehrlichman?

HP. Yes sir

P. Right?

HP. And incidentally, you asked for Colson. We have very little on Colson. Colson's alleged to have been putting pressure on as a member of the White House staff,

P. Yeah. I know—I have heard that part of it

HP. But that's all.

P. Well listen I know all that, but I don't know whether it's bull. But everybody put pressure on, but the point is whether or not Colson and/or Haldeman put it on for money

HP. We don't know that.

P. That's the point.

HP. We don't know.

P. Colson denies it—and Haldeman denies it. Haldeman says he wanted it for one purpose and Colson wanted it for another purpose. Colson used the word O'Brien at one time I understand.

HP. I don't know—we don't know that. If we learn that that's going to be very damaging piece of information because our information is that O'Brien was a specific target of—

P. Hhm?

HP. The Liddy operation.

P. See—I don't know—I don't.

HP. But we don't know that.

P. O'Brien—what the hell—(inaudible) another—or Colson—it must be—I have heard that O'Brien—you told me that I think—you must have told me that—or (inaudible)—about somebody had said get (inaudible) Mitchell—Dean said—or Dean—it must have been Dean then—Dean said that—said Magruder had said that Mitchell said get the stuff on O'Brien. Is that correct? Does that have a (inaudible)?

HP. I don't know that.

P. Does that ring a bell?

HP. I don't know that. No, Sir.

P. Well put it down—if it's relevant—somebody ought to think—I heard something about O'Brien.

HP. Is it—it is true in this sense that O'Brien was allegedly the target of the Liddy operation which was being financed with the blessing of Mitchell and Magruder and Dean. It's true in that context.

P. Oh I see.

HP. But I don't have it specifically from anyone of them.

P. Hhmm. You don't have it on Colson—I hope not.

HP. No sir—I don't have it on Colson—now we are going to interview Howard, who is a—

P. Dick Howard?

HP. Yes sir.

P. What do you have him on?

HP. Just on Colson's activities—you know—whether we can tie any of this down with respect to—

P. He's a clean guy I think—I think—I hope so.

HP. Well—only as a witness—we have nothing against him—we look (inaudible).

P. So, as far as this thing you don't have that on Colson?

HP. No sir.

P. Well who is it? I saw so many people over the past (inaudible) I was sure that you told me or maybe Dean did—Dean—Dean speaks rather freely at the moment. I guess he may have told me about—he seems to know everything about Magruder and this kind of thing. Now (inaudible) telling me about what they have on Colson. You sure you didn't talk to someone about that?

HP. Yes sir. At that point that's all I know. And I just discussed this with Earl Silbert before we came up here.

P. Nothing afterwards on Colson—nothing on the aftermath.

HP. No sir.

P. Nothing on?

HP. Allegations that Colson's involved but we have nothing specific.

P. No, no, no—I understand that. What's the situation on one other thing here. (Inaudible) I want to get to the bottom of it if I can, so.

HP. If it weren't for the subject, then, otherwise we could—

P. I want to get to the bottom of this. What is the situation on—come to—let me come to Magruder again. You don't think you could get new evidence—you would not mind—would you mind that release you talked about—with Ziegler in working out—see if he could work out some sort of a statement or do you prefer to go on (inaudible) not work work out a statement? It's gonna involve you, that's the point. (inaudible) I got the point that you feel that you could say that. There have been some major developments in the case, and the past few weeks, the President has been conducting his own investigation.

HP. I think that's fine, and I wholly support that.

P. Yeah.

HP. The only reservation I have.

P. You don't want to put your name in it yet.

HP. Well I don't have—that's up to you.

P. I thought you said Sunday.

HP. I don't have any objection to that.

P. Sunday. Because —

HP. I don't want the—

P. Because—

HP. I don't want the (inaudible) defendants named.

P. What?

HP. I don't want the punitive defendants named.

P. Oh, of course not.

HP. (Inaudible), and I don't—

P. Wait a minute—then how do I get you into it?

HP. You just—

P. And Kleindienst out? Because of allegations that have been made, Kleindienst has removed himself from the case, can we say?—Well how you want me to handle Kleindienst?

HP. Well I think that's terribly sensitive, Mr. President.

P. How do we.—What do I say then about you? That Henry Petersen is acting as the President's Special Counsel? Can I say it that way?

HP. Yes, you can say it that way.

P. (Inaudible.)

HP. And I think just refuse any direct questions with respect to Kleindienst.

P. Then Sunday—Sunday—he has met at great length with Henry Petersen who is acting as Special Counsel at this time.

H.P. I think.

P. Hh? No?

HP. I think they—that my concern is (inaudible).

P. First, your concern is—

HP. Concerns are: One, if you say there are major developments and then you—you leave the innuendo.

P. Yeah.

HP. That Kleindienst was out—it looks like Kleindienst is a defendant.

P. I get it.

HP. So we ought to avoid that. The second thing is that we can't—we can't expound on that.

P. All right (inaudible).

HP. Why Kleindienst has refused.

P. For two weeks the President has conducted—conducted a personal investigation. (Inaudible) about that. He has nothing more to say at this point. (Inaudible) add something.

HP. I think (inaudible) plusses in that.

P. Then at least you're covered. Would you mind if I got Ziegler over and you and I go over this?

HP. (Inaudible.) No sir not at all.

P. Have Ziegler come over please (Into phone) All right. Getting back to the nuts and bolts here. La Rue—did he testify today (inaudible)?

HP. He is coming in this afternoon (inaudible). He is coming without a lawyer.

P. But he is going to (inaudible) interrogatories to him. As I understand you are going to get him to (inaudible).

HP. We anticipate that's the reason he's coming without a lawyer—be we don't know. He'll be in this afternoon. And O'Brien, the lawyer, is coming in. He's very much concerned about the potential subornation charges. He's coming in this afternoon.

P. Subornation is the charge made by Magruder?

HP. Yes, sir.

P. Questions there is again (inaudible) want to prove (inaudible).

HP. Well I suppose that's right. He says Dean corroborates it to a certain degree.

P. How does Dean come out on this thing? Well—Oh, I see. If you—you can negotiate—you can negotiate him out by when he talks? Is that basically it? I mean—

HP. The decision isn't made. His counsel says we want a deal. This man was an agent. This man didn't do anything but what Halde—

P. Haldeman and Ehrlichman told him to do.

HP. and Mitchell, and if you insist on trying him we, in defense, are going to try Ehrlichman, Haldeman, Nixon and this Administration. That's going to be our defense.

P. He'd try it—the President too?

HP. It's a goddamned poker game. Yes, sir.

P. Yeah.

HP. (Inaudible) we spoke yesterday—it's just awful tough to offer John Dean immunity at this point. (Inaudible) both of his lawyers last night after you called.

P. The only point that I want to be sure we understood on that is that I don't claim to be his higher authority. Mitchell is his higher authority—I don't know who he is referring to.

HP. Oh I understand that.

P. But I just want to be damned sure that.

HP. When I use that term—Liddy's a nut you see.

P. I have never met the man. I don't know.

H. He's a—he's kind of a super patriot—

P. I understand.

HP. In a sense.

P. (Inaudible)?

HP. (Inaudible)—No—we called—I called Tom Kinnelly, who I know very well and told him—he's co-counsel—local counsel. Then Maroulis his principal lawyer, called me and I told him also, and told him in these terms. That a report had reached the government that Liddy out of a misguided sense of loyalty to the President of the United States was refusing to cooperate, and that I had been instructed by you—

P. Yeah.

HP. To inform his lawyer that the President wanted everybody to cooperate

P. Exactly

HP. Subject only to the qualification that no one of us wanted to be construed that the President was putting undue pressure on him, and—

P. Good. You told the lawyer that?

HP. I've got it written down. I've made memorandum for the file so that it protects you and—

P. Right—right (inaudible) influence?

HP. Yes sir.

P. You got that report. I guess Dean was the one who made it clear that I told him while you were—while he was here.

HP. I told you we'd received it but Dean also gave you the same report. Now, Maroulis, who's Liddy's lawyer, flew down from New York last night and we had Liddy brought over to the jail so that Maroulis could interview him and give him this information, and we will see what develops.

P. How did—now let's see—this would be your corroborating witness for Magruder?

HP. Basically. This man is crazy, Mr. President. He's burning his arms. He showed the prosecutor and said, I will stand up to anything. I've made myself endure this to prove to myself that I can take anything. Jail will not break me and what have you. You've got to be a crazy man to sit there and burn yourself to see if you can withstand the pain.

P. I feel, among others, I feel for the Cubans—they probably—they probably recruited them (inaudible) 'cause they were doing it for Castro or something.

HP. I think they did, I don't—

P. Do you see how anybody would do such a silly damn thing like that otherwise?

HP. Mr. President, the great mystery about this thing is—there's no rationalization for—

P. That's how (inaudible) puts it—I agree. I couldn't believe. I said (inaudible) got to be a joke—

HP. There's no rationalization at all.

P. When I heard it.

HP. Oh, incidently, I have—there's one other item that I wouldn't put down. That in the course the negotiations, in the course of trial preparations, it became clear that Hunt had received certain documentation from CIA. He also received the loan of a camera and what have you.

P. Yeah-yeah-yeah.

HP. We anticipated that they might—the defendants might—try and defend by attacking the CIA. We asked the CIA people—we were told that they were simply responding to a routine request from another government agency to help out Hunt who was on a special assignment, and they—

P. This was (inaudible) the White House?

HP. Yes sir.

P. That was perfectly proper. He was conducting an investigation from the national security area for the White House at that point.

HP. They also said—

P. That wasn't bugging equipment I trust that they got from the CIA.

HP. No—it—

P. Camera?

HP. Camera, a thing to disguise you voice, credentials.

P. Yeah.

HP. What have you. We are also told that the request for that came from Ehrlichman. First we asked what agency and they said the White House. Then that the request came from Ehrlichman.

P. Right. That is not involved in this case, is it? (Inaudible) This came before.

HP. Came in the course of trial preparation.

P. But—what I am asking is—is it relevant to this case? Is it a matter (inaudible)—

HP. Well it's relevant in this with respect to Ehrlichman.

P. Yeah.

HP. The question is did Ehrlichman—

P. Depends on what he was doing.

HP. facilitate Hunt's obtaining equipment that was used in conjunction with the Watergate caper?

P. That's right. Or was it—it's a question of time there as to when (inaudible). Do you know the time mode?

P. What else?

HP. Check that camera—they had some pictures developed for him. I'll have to check the dates for you. Mr. President.

P. Right—come in. (Ron Ziegler comes in.)

Z. Hi—how are you?

P. Henry Petersen.

Z. Yes indeed.

P. Let me tell you the problem, Ron, that we have here. You know a few weeks—now do you think Henry that you'll get—that you could—you don't know what—about the Dean thing— you don't know when you are going to negotiate that?

HP. No sir.

P. It seems to me

HP. The simple fact of the matter is the man has just agreed to plead. Now it's only a question of time.

HP. He's agreed to plead.

P. Plead what—guilty?

HP. Plead guilty—yes sir—Magruder has agreed to plead guilty.

P. No—no—no—Dean?

HP. Oh Dean. The negotiations on Dean are still wide open.

P. Dean isn't going to plead guilty?

HP. No sir.

P. He's got this defense of being an agent? Right?

HP. That's right.

P. Is that defense?

HP. Well it's a tactical defense—

P. It's tactical defense?

HP. Well, you know, the jury appeal unless you—in a sense jury notification of sympathy—that the jury will not convict because they think he's the fall guy.

P. Oh I see—well (inaudible)—the Cubans.

HP. Depends on how sympathetic an appeals is made.

P. That's my point.

HP. But Dean's appeal's much more sympathetic. Dean's out for anyone on instructions, and he hasn't gone out and committed an overt criminal act. He hasn't broken any thing the Cubans did—which is what detracted from their attempt to do this. Dean has done—performed neutral acts which in the circumstances they were performed take on the trace of criminality, and he excuses that with, one—he wasn't fully informed; two he was only an agent; three, he didn't have enough authority to countermand Mitchell—or he told Haldeman and Haldeman didn't countermand. Dean was impotent in the circumstance. That will be his defense.

P. I see.

HP. (Inaudible) try it—the jury—you believe—

P. Also told you that unless you grant him immunity he's going to attack everybody including the President. Is that right?

HP. But you can't use that.

P. Huh?

HP. You can't use that.

P. Who can't ?

HP. Because Dean didn't tell us that.

P. The attorney?

HP. His lawyer said it.

P. No I didn't—I didn't—I just thought—

HP. But his lawyer said that in the course of negotiations. And he doesn't say that as a threat. He says this is what I am going to do. This is my defense. You're taking unfair advantage of this man.

P. Oh I see. Going to go out as an agent?

HP. Yes sir.

P. No agent for the President that's for sure, because—

HP. He's agent for Haldeman and—

P. He hasn't testified that's he an agent for the President in any of this has he?

HP. No sir.

P. If he has, I need to know it.

HP. Yes sir—I know.

P. (Inaudible) see Dean until a month ago. Never even saw him.

HP. That has great significance on your executive privilege argument with the Congress. He said narrower construction and I'm told your construction—

P. Yeah.

HP. Is not necessarily narrow.

P. Yeah.

HP. It's the narrow construction of the doctrine which is applicable only to those who are agents for the President.

P. Yeah, So he, being an agent.

HP. That—and to the extent that it's invoked with Dean—he is per se an agent.

P. That wasn't what you just told me in that memo you gave me?

HP. That he is an agent for the President and Haldeman and Ehrlichman,

P. Yeah.

HP. And the court take judicial notice, for example, that the Chief Executive invoked executive privilege with respect to him. It's an argument that can be made with respect—your argument—

Z. I thought that was already done.

HP. Pardon?

Z. It's been done.

HP. (Inaudible), statements have been made in the press that it would be.

Z. Oh I see.

P. (Inaudible) basically this—they haven't made a (inaudible)—Dean—but you are trying to make a deal, aren't you?

HP. Yes sir.

P. And the problem is that what kind of a one you can make won't be a (inaudible). I would assume that we (inaudible) to Dean— all Dean wants is immunity from indictment.

HP. Yes sir.

P. You're prepared to give it to him? The judicial one?

HP. Yeah. We're not going to like it.

P. What?

HP. And only as a last resort. And only if—

P. (Inaudible) going to get

HP. Only if we have—

P. Other evidence?

HP. Other evidence that could be used to convict higher-ups. Now it may only be John Mitchell but if so, why a—

P. But you could use Dean on Mitchell—that's the point.

HP. Yes sir.

P. You see with Magruder you end up with one man—he's already lied once.

HP. That's right

P. I know a little of perjury—and with Dean—you've got two men.

HP. That's right.

P. Correct?

HP. That's right.

P. If you get Liddy you've got three.

HP. That's right.

P. That will be a tough (Inaudible) that's why you're considering giving him immunity?

HP. Yes sir.

P. You think it's a good decision.

HP. (Inaudible)—I haven't made it yet and I'm pondering it—and I don't want to make it. I think it's going to look terrible if we immunize Dean 'cause he is a ranking official and we're still bargaining for a plea. If we can get a plea, we won't do it. If we have to—

P. What kind of a plea would you be getting, Henry? I don't know the operation of it.

HP. Well I don't know—we might a—

P. Suspended? That sort of thing?

HP. Well.

P. He wants a plea that doesn't disbar him.

HP. He wants a plea that doesn't disbar him—he doesn't want to plead at all to be perfectly honest, but he'll want a plea that doesn't disbar him I'm sure.

P. Here's the situation. You see they're still bargaining with Dean. Second the Magruder thing—they're still bargaining with him. Is that correct?

HP. Yes sir—to determine a time.

P. But you think that might come—not today now with Magruder?

HP. Well I don't think that we can satisfy his counsel's concerns today. They may say, well you go see Senator Ervin first.

P. Well let's think about the Ervin Committee and—

HP. And Judge Sirica.

His counsel said he ought not go to jail before the others. And it's conceivable that they'll say you go to see Senator Ervin first. He's wrote the whole (inaudible).

P. Hhmm.

HP. OK.

P. So with Magruder you've got the (inaudible) then.

HP. That's it.

P. However, he suggests that we could say this for the—he says that—he said—and I would get from John Ehrlichman—the amount of time—the past—it's either two weeks—I think perhaps we could say for the past such and such in talking to—Remember when I first saw Dean—called him in and sent him to Camp David. I think that was before we went to (inaudible).

Z. It was March 21st

P. March 21st? All right—fine. March 21st. Since March 21st the President has been conducting a personal investigation into the entire Water matter. There have been as a result of that investigation (inaudible) significant developments. The purpose of that—I have been thinking—I have been talking with—he said—Henry agreed with me that the President should be out in front.

HP. Yes sir—that's the reason we were so insistent on seeing you again.

P. Yeah—

HP. Yesterday.

P. Second—and the result of that is that—that's going to—that's going to—that's going—that's why I run it by you in this—at least if Magruder or Dean are summoned by the Grand Jury today—go in or talk or something or we just don't know. But the Washington Post with all the stuff it has. Whenever they move we're a step ahead. How's that sound to you?

HP. Can we add to that Mr. President—

P. Yeah.

HP. In terms of your suggestion last night?

P. Yeah.

HP. That there had been some speculation that individuals involved in this thing are protecting, out of a misguided sense of loyalty the office of the Presidency, and that you want to make it clear and you asked members of your staff and everyone involved that you expect their full cooperation with the prosecutors.

P. (Inaudible) the problem is that we said that before you know and it never—I don't think it gets through. What do you think Ron about that? The President has again directed, I would say, has again directed that everyone, that all individuals on his staff and in the campaign committee, cooperate fully in this investigation with the U.S. Attorney's Office—with the U.S. Attorney—The United States Attorney. I think I would put in that and keep it out of the Ervin Committee—you see?

Z. Yes sir.

P. And that—and that—you see the misguided sense of loyalty thing—has there been an article in the newspaper?

HP or Z. (Inaudible).

P. You see I am afraid—afraid to throw that out there—I think you better leave it right there—has directed—the misguidance of loyalty we can handle in an individual (inaudible)—but this message will get through.

HP. All right.

P. I don't want to admit—dammit—that anybody's so dumb to say that the—which they are, of course. Now Ron, brainstorm that for us—what do you think—that's—

Z. First of all, the way to do this, and I think we should do this, but the way to do this—the feeling that something is happening in town and you (inaudible).

P. What you could say is that I'm not going to comment on developments because it could prejudice—it could prejudice the rights of—

HP. of the prosecution or defendants.

P. Well, shall we say, the (inaudible). They could prejudice the rights—it could prejudice the prosecution or the rights of defendants and innocent people. Cause you see they are not all defendants.

HP. Yeah.

Z. Doing this puts it (inaudible) that paragraph.

P. (Inaudible).

Z. (Inaudible).

P. Developments? That the major developments that are now being—can I say major developments that are now considered by the Grand Jury?

HP. Yes.

P. Major developments that are now being considered by the Grand Jury. As a result of this investigation there have been some major developments that are now being considered by the Grand Jury.

Z. (Inaudible) you said that? We face a situation where—

P. They'll run to—

Z. they will—have you said this?—we will face the situation number one (inaudible) conclusions about the scope of this (inaudible). Those people who are holding information will be under great pressure to move quickly with whatever they have.

P. Oh—then maybe you don't want to do that.

Z. Then— thirdly, doing this in this form, would very likely have—could have—a tendency to (inaudible) further to have McCord issue statements in behalf of others or

P. You're probably right.

Z. Anyone. That could be the result of a statement like this. Then fourthly, I suppose, we would receive extensive questioning in terms of well how was the President conducting this investigation? Is Dean involved in it? And you know—

P. Hhmhp. He was (inaudible) the time.

Z. Well I understand, but by a story of this sort

P. (Inaudible)

Z. You would have to cut Dean out of the pattern. We would almost be forced to, in response to questions, to cut Dean out of the pattern. We would have to say no Mr. Dean was not involved in this which would lead to substantial speculation with regard to Dean's role and I don't know that John's state of mind at this point could lead to an open production on his part. I think—what I am saying is there is a tendency—(Inaudible).

P. Maybe we should say nothing then—what do you think? (inaudible) asking public relations questions (inaudible) not your job.

HP. (Inaudible)—the only thing I'd want to do—

P. It crosses the line?

HP. There is an undercurrent going through this investigation now

P. Yeah.

HP. And it's getting through to the participants and potential witnesses. They've heard all the arguments and they are moving—there's a lot of movement—and nobody wants to be the last one in. They're all trying to get in first to talk and get the best deal they can. Those who have not been contacted are nervous and waiting.

P. Yeah.

HP. Something like this (inaudible) makes a good point, could precipitate them to run up there to Sam Dash and then we're in great difficulties.

Z. In other words, if there's a summons—

P. No—I don't think we can do it—we'll just have to cover it Ron in terms of—that the damn thing—we've also had this understanding, I do want to have this understanding, but—

HP. OK—but can't (inaudible) Mr. President?

P. And Magruder—but Magruder—what?

HP. Can't we go at it in another way?

P. How's that?

HP. Well an awful lot of your friends in the Congress are saying unkind things—

P. Yeah.

HP. About the Watergate investigation. How—how—if you have—maybe bring a half a dozen of them over here—from both sides and talk.

P. Ahh—no—they'd—that just breaks the story bigger—if we did—it would be the same story. I'd rather have it come out if we're going to do it—you see they'd go and say there have been some major developments.

Z. See, of course, what you're doing this for

will—of course, it does put the President immediately out in front.

HP. (Inaudible) have much more at stake in this than I have. I think that's terribly important. I don't want to exaggerate but it seems to me that the—

P. May—may be it's just as well to let the Washington Post and the rest (inaudible).

Z. (Inaudible)—I wanted to raise those factors to see what—

P. (Inaudible) put some pressures on and so forth but it isn't going to prejudice the prosecution is it, if I say this?

HP. No sir, (inaudible).

Z. I don't know—know who he is, but what if someone who's sitting there waiting for a phone call and sees this bulletin—

P. I lean to doing it and—I think I've got to get out in front and let's get out right today.

HP. Personally, I think you have to too.

P. Right—I've got to get out and I've got to get it out today.

Z. This would be (inaudible).

P. (Inaudible). Can I also say that I've—can I say that—we don't want to get into the business—for example, say that I met today with Henry Petersen and that—

Z. That would add an awful lot of questions.

P. I met yesterday—that he's—that—these—the—(inaudible) no, let me say this. First, on Friday the President—I think we should say which we have—that Ehrlichman and all—Friday the President gave the (inaudible) the Attorney General the results of his own investigation. Would that be a fair account of that?

HP. An overstatement.

P. It overstates it, because you see the Ehrlichman thing really states everything that Magruder (inaudible) corroborated the next day. We don't want to overstate a damn thing. All right—we'll just say this—that we have had discussions over the weekend—why don't we say that? Has had intensive discussions over the weekend with the Attorney General, Mr. Henry Petersen (inaudible) and has continued to have discussions over the weekend and today—extensive discussions.

HP. That's all right.

P. You better get out a.

HP. I do think it's important.

Z. Let me add to this sentence. The President was conducting personal (inaudible) into this matter and to see (inaudible). (Inaudible) press (inaudible) conducted a personal investigation of the Watergate matter.

P. A personal investigation—after all—that was after the—this was after the McCord—In other words, because of allegations that have been publicly made.

HP. I would say, "As a result of developments in the past several weeks the President has found it necessary to—"

P. Yeah—the President has—the President on March 21 has undertaken a personal investigation—you know, has undertaken his own personal investigation.—intensive investigation. Whose handling it? He is—done personally. I 'd just say he—just—let's say—all the facilities that are available to him. How's that sound to you Ron? And better say FBI (inaudible). say, over the weekend he has met extensively with the Attorney General, Mr. Henry Petersen. (Inaudible) Helpful (inaudible) it really (inaudible). It'll knock true—let me say this—I think—put it this way. I think maybe the fact that I finally—when we get Dean—let's face him—face the facts, that the very fact that I kept asking him what the hell is this? Go up to Camp David and write it. And Dean says I can't write a report. I think he then became convinced the moment of truth had arrived. And that's why he began to talk to you. That's what he told me yesterday. So you see that at least is something we can—the Dean thing is.—Now, as a matter of fact I—I must add that I didn't know he was not coming fully clean.

Z. Should we express concern?

HP. The questions are going to (inaudible).

P. What?

HP. Obviously the President was unsatisfied with the report he got from Dean.

Z. Is that correct?

P. That's correct—yes. It was all based on—based on what, you know, based on the information that has been—

Z. (Inaudible) concern (inaudible) White House.

P. I—just—you know—I'm not going to.

Z. Is the President's concern with the over all developments. Should we have a line that the President is conducting a personal investigation.

HP. The President is concerned with the evidence. The evidence will determine where we go.

P. Yeah—but I would say—gentlemen, any comments upon this would be harmful to the people—could jeopardize getting the truth—could jeopardize the prosecution—the rights of defendants or of innocent people. The rights of potential defendants—the potential defendants or of innocent people. And therefore, there can be no further comment upon it. I'd just (inaudible) it right out there and that puts a shot across the bow. Let (inaudible) scream out—let McCord go on—that doesn't help any. They don't have what we have. Let's put it this way, Ron. We know what we've done. We've got Magruder and Dean. There's also La Rue and a few others. I'd take that—and see whether—you want to run that by somebody and talk to Dick Moore or—

Z. (Inaudible) Moore and—

P. Yeah—okay fine—and then let me know right away. I want to finish with Henry—get him back to (inaudible). Fair enough?

Z. Yes sir.

P. It's my inclination to go with that today, though, I—

HP. We have no problem.

Z. I think I'll be inclined to handle this on the basis of providing it to, in other words, what has the activity been around the White House and so forth.

P. (Inaudible) saw me to leave the church service and I—

Z. Give it to a wire service story—the wire services can confirm it later instead of calling (inaudible).

P. No, no, no, no—I wouldn't call—I'd just give it to the wires.

HP. That's right—yeah.

P. Just give it to the wires. Say gentlemen you wonder what the President has been doing?—where is he today?—he's in the EOB. But I want them to know that since the 21st I've been working my tail off, which I have—I—I'm sick of this thing. —I want to get it done with and over, and I don't want to hear about it again. Well I'll hear about it a lot, but I've got to run the country too. (Ziegler leaves)

P. Come back can I, for a moment now, to our—our subjects of Haldeman and Ehrlichman. As I—let's be sure we understand (inaudible). As I understand it—and I don't (inaudible)—what we were saying last night—from a legal standpoint the case against them may be quite difficult to prove.

HP. That's certainly true with respect to Ehrlichman.

P. Yeah.

HP. But Haldeman and Dean are much more difficult position from the purely theoretical legal point of view.

P. Right—because of the money?

HP. If Strachan confirms that he

P. That he got the money?

HP. That he got the budget report.

P. Oh the budget report—yeah.

HP. If Strachan confirms that—

P. Strachan—Strachan's going to testify (inaudible) right?

HP. If he confirms then that he gave Ehrlichman or Haldeman a summary of—

P. Yeah.

HP. The intercepted conversations.

P. Right—right. —That shows that.

HP. And he.

P. That shows he had prior knowledge—right.

HP. and Dean testifies that he told Haldeman about the second meeting in Mitchell's office where these things were discussed.

P. Yeah—I asked Dean today. I said did Haldeman have any knowledge. He said No. Did Ehrlichman have any knowledge? He said No. I said did you have any knowledge? Dean said No. He said, "I went to the meetings."—Dean gave me the same story. He hasn't changed his story in that (inaudible). I went to the meeting but we thought we had it turned off. That was—that was his line. But he said that's before. But it's afterwards, he says, that both Haldeman and Ehrlichman have problems. That's what Dean tells me for whatever it's worth as to whether—Did he tell you something different?

HP. Well—that's perhaps what (inaudible). He said in Mitchell's office we ought not to be discussing this in the office of the Attorney General.

P. Yeah.

HP. All right—that's one thing. Now maybe he just figures that was turning it off. It didn't turn it off. He goes back to Haldeman and he says—we ought not to be involved in this —that's the way it was stated. And Haldeman says—right. But so far as we can ascertain nobody did anything.

P. So.

HP. So from a—

P. Pretty hard—pretty hard to convict—I was just going to say—just looking at Haldeman. In the public mind, in other words, I think as you said last night on the phone very perceptively—in the public mind—

HP. That's right.

P. But legally.

HP. That's right.

P. It's still tough.

HP. It's a very difficult case because it rests on inaction. But in any event with respect to Haldeman, that is a theoretical case, and with Ehrlichman next to nothing.

P. All except the deep six.

HP. O I wouldn't agree with that.

P. Huh?

HP. We'll have to go back to Gray—I'll talk to Fielding and I'll stop by and talk to Ehrlichman too.

P. Chance is you're going to hear that they—I don't know—you mean they turned it over—turned over a packet to Gray?

HP. Yes sir.

P. Ehrlichman I think you said, believes that? (Inaudible) include Gray? Let's don't get the Bureau back in this. One thing we talked about protecting—you know this—Gray is going to be leaving, as you know. I am trying to find the man whose beyond reproach—who can get a hundred votes in the Senate. Let's a—now we are not talking about protecting an individual. Gray is (inaudible) this weekend. (Inaudible) him out. Does this (inaudible) you?

HP. (Inaudible) remarkable man, Mr. President.

P. Huh?

HP. I think Pat Gray's remarkable man.

P. But you see his memory might be faulty on this. The point is—my point is I don't—if you feel this—his train has left the station you've got to (inaudible).

HP. Well I don't think—

P. I'm not telling you not to do anything stronger.

HP. I don't think that it's especially germane.

P. It's not relevant.

HP. That's right. But it's important to determine whether or not Dean's teling the truth. (Inaudible) of the fact—it's a neutral

fact but if it can be established that he's telling the truth.

P. All right. Suppose you find that Ehrlichman corroborates Fielding that they did turn this over to him—whatever it was—to Gray. Then what do you do? You call Gray in and ask him, where is it?

HP. Well I'll go see him again and then (inaudible) we will want to pursue it.

P. Yeah. You see Gray's—Gray's, if I can just suggest it, Gray's reaction, if he didn't get it, would be, in my opinion, (inaudible) didn't get it, or get something, and they told him this is political stuff. (Inaudible) I don't want it. That's what I would have said, wouldn't you? Not drag in the Bureau. Not Watergate. I don't know.

HP. Can't second-guess a man.

P. (Inaudible)

HP. The other (inaudible) if Kleindienst called me up and said, "look, there's this aspect of this investigation. I've got this stuff here. It's all co-mingled but it's clear that this doesn't relate. Why don't I just give it to you?" I'd probably take it. I think it's very understandable—what I can't understand is the denial. Well, (inaudible) to corroborate.

P. Well if he got it—you see—the point is he doesn't have it now. That's the point.

HP. Apparently hasn't.

P. So he's flushed it.

HP. Well there's a possibility that Dean threw it in the river (inaudible).

P. (Inaudible) I have a recollection myself. I say a recollection that Dean told me that unequivocally, and I believe Dean on that.

HP. We're going to go back to him again.

P. (Inaudible). I'll get you out of here. (Inaudible) yet.

HP. By the way Mr. President, I think that.

P. (Inaudible) evidence—not evidence (Inaudible) explain that the evidence was not evidence—is that right? The stuff out of his safe?

HP. Well—that's.

P. What would you get after him on this—destruction of evidence?

HP. Well you see the point of it is—there are two other items that—according to the defense—Hunt's defense—that were missing. Both of which were notebooks.

HP. And we can't find those notebooks. Dean says, Fielding says, and Kehrli says, they have no recollection of those notebooks.

P. Yeah.

HP. Hunt says they were there, and—

P. So—

HP. So only to the extent that the notebooks are missing which Hunt says they're germane.

P. (Inaudible) does he tell us very much, huh

HP. No sir.

P. Is he going to?

HP. Ah

P. Or is he?

HP. (Inaudible) before the Grand Jury.

P. (Inaudible) anything in it for him, I suppose that's the thing.

HP. He was testifying under compulsion. Came in immunized—we're going to have him back, particularly with respect to the fees. His testimony with respect to Dorothy Hunt was unbelievable—"We were once in trouble with the income tax bureau and ever since then we've been sticking hundred dollar bills in the top of our closet and that's where the ten thousand dollars came from."

P. You mean he gave to the Cubans?

HP. That he gave to his wife, Dorothy, which she had on her when the plane went down and she was killed. She's alleged to be the intermediary that was carrying—

P. Carrying the money to the (inaudible) that's what I heard—I read that in the paper.

HP. So that he lied on that issue. And we'll have to have him back.

P. Do you think you can break him?

HP. I think, his lawyer is very concerned, and the lawyer got a hundred and fifty six thousand dollars in fees.

P. Bittman—Bittman is his name?

HP. Yes sir.

P. I've heard of him—good lawyer?

HP. He's a good friend of mine, Mr. President, and a good lawyer. He prosecuted the Hoffa cases.

P. But Bittman's problem—his problem is (inaudible)

HP. He's very—he's very upset about it and—

P. Doesn't he know what the hell the (inaudible)? Does he think he was paid off?

HP. Does he think?

P. Does he, Bittman, think that his fees—Hunt's (inaudible) the purpose of getting his client to—

HP. Well I don't think he cares where his fee came from. That fee went in. He's concerned about the allegations that McCord makes based on (inaudible) Dorothy Hunt.

P. One thing that's got to be—one thing about Colson—wondering if—that I would be concerned with here—that is if—according to Hunt whether you've got a circumstantial problem as to whether Hunt may have told Colson. If what (inaudible) if Colson had not done a damn thing. According to Colson, he's sworn under oath that he didn't know anything about it. You would have him on perjury.

HP. Yes sir. And we don't have any evidence against him.

P. Well—the point here.

HP. It's—you know a very funny story.

P. If you crack Hunt.

HP. To come out of this.

P. About whom?

HP. The New York Times when they interviewed or the Los Angeles Times when they interviewed Baldwin and they took a taped statement from him. In the course of the interview. Baldwin told them that he had taken the logs and just labeled the envelope and delivered it down to 1700 Pennsylvania Avenue. Then as he told us he couldn't remember the name and they went through a whole series of names, you know, whoever they were, and each one he kept saying no. And finally they said Murray Chotiner? And he said no. So they, after they concluded all their questions and names and what have you they went back and then as just a flyer. Judge Sirica when he—in connection with the subpoena issue—hears part of the tapes and hears Chotiner's name. He says to Silbert, I want these people subpoenaed and that's Murray Chotiner and others. And Silbert says, well he's been to the Grand Jury and this name has nothing to do with it. He's been calling about it ever since—subpoena. Now the LA Times told me—

P. Chotiner?

H.P. that they had talked to Chotiner—

P. Doesn't know a damn thing.

HP. I know that.

HP. (Inaudible) item of evidence.

P. I know Murray like the back of my hand. He's too smart.

HP. Well, that's what he told the LA Times. He said if I had done it, it would have been done well.

P. Yeah, I know that, but he would never have done anything like that.

HP. No sir. And he—we have no evidence against him.

P. And I can assure you, I know that. I may not know other things but I know that.

HP. It's become a matter of principle with us. We will not subpoena him. We have no reason to subpoena him.

P. No, no, no.

HP. And Sirica wants us to subpoena him just I think for the hell of it.

P. Yeah.

HP. The ony way his name is mentioned is because they were trying to determine who, and I talked to the LA Times. We did go that far.

P. Yeah.

HP. And they say absolutely none.

P. Listen, if you are going to answer it at all (inaudible) the big fish start flopping around. Well—coming back to Haldeman—I digressed—we went off. La Rue potentially then today has confirmed the money thing from Strachan. So today you're putting the net on that money at least.

HP. Well Strachan (inaudible) and La Rue is due in this afternoon.

P. Who did you get this morning then?

HP. Oh we had Strachan in this morning.

P. But he didn't talk?

HP. But he didn't talk. I went through that earlier.

P. OK. All right come to the Haldeman/Ehrlichman thing. You see you said yesterday they should resign. Let me tell you they should resign in my view if they get splashed with this. Now the point is, is the timing. I think that it's, I want to get your advice on it. I think it would be really hanging the guy before something comes in if I say look, you guys resign because I understand that Mr. Dean in the one instance, and Magruder in another instance, made some charges against you. And I got their oral resignations last night and they volunteered it. They said, look, we want to go any time. So I just want your advice on it. I don't know what to do, frankly. (Inaudible) so I guess there's nothing in a hurry about that is there? I mean I—Dean's resignation. I have talked, to him about it this morning and told him to write it out.

HP. (Inaudible).

P. It's under way—I asked for it. How about Haldeman and Ehrlichman? I just wonder if you have them walk the plank before Magruder splashes and what have you or what not. I mean I have information, true, as to what Magruder's going to do. (Inaudible) nothing like this (inaudible).

HP. Or for that matter, Mr. President.

P. Yeah.

HP. Its confidence in the Office of the Presidency.

P. Right. You wouldn't want—do you think they ought to resign right now?

HP. Mr. President, I am sorry to say it. I think that mindful of the need for confidence in your office—yes.

P. (Inaudible) basis?

HP. That has nothing to do—that has nothing to do with guilt or innocence.

P. What basis—how would you have them submit their resignation then?

HP. Well—when we say they—I'm much more concerned about—about—

P. Haldeman?

HP. Ehrlichman than I am about Haldeman, because Ehrlichman, we have much less, you know, in terms of potential involvement.

P. Yeah. Yeah.

HP. (Inaudible) the deep six it (inaudible), it goes to the quality of the information. Maybe it was trash and he said, get rid of the damn stuff, it's no good.

P. And then maybe Gray did.

HP. That's right. And the other thing with respect to Hunt. That's a little more sensitive. That—

P. How does it seem so?

HP. Someone, you know, who's closely associated with you, who tells Hunt to get out of the country is I think a tremendously sensitive piece of information.

P. Did he? But he didn't go?

HP. But he didn't go because the—

P. They changed their minds.

HP. Countermanded—the orders were countermanded. Now—

P. Well I would think that his defense

on that if I—my guess would be—that he was trying to (inaudible) what happened (inaudible) maybe the best thing for him to get out of the country, you know what I mean? But your point—Dean tells it as if Ehrlichman ordered him to get him out of the country. Right? Is that what you have?

HP. That's right—and that's the way it comes through Liddy. Hunt tells us that's the way Liddy stated it—my principal.

P. My principals?

H.P. My principal said.

P. Tell you what?

HP. Get out of the country Hunt. It doesn't seem to me that if that fact reaches light of day that it can be anything else but (inaudible) impact on the White House.

P. (Inaudible) message.

HP. (Inaudible) nothing to do with justice or injustice.

P. I know that it's because of the Presidency which, of course,

HP. Yes sir.

P. Is what we are thinking about. I appreciate what you say, because, I'm thinking about that too. I'm trying to be fair.

HP. Well let me put it another way. If I were Ehrlichman I would feel like I had to go under the circumstances.

P. You would? Even Ehrlichman? Haldeman too?

HP. Both of them.

P. How do you feel about Haldeman (inaudible)?

HP. Well (inaudible).

P. You feel even more strongly?

HP. Yes, sir, assuming, now remember what we have,

P. Yeah.

HP. Dean says he discussed this with Haldeman.

P. And?

HP. Haldeman didn't say stop.

P. I see.

HP. I can tell you—if one of my prosecutors came in and said another prosecutor was out bugging somebody in organized crime, I would not say we ought not to be involved in it—

P. Dean told me.

HP. I'd go to him and say stop it.

P. Excuse me. Did Dean say he discussed the bugging with Haldeman?

HP. He discussed the substance of the budget proposals which included the bugging operation. Operation.

P. Haldeman or Strachan?

HP. With Haldeman. And said we ought not to be involved in this and Haldeman agrees but nothing happens. Neither one of them stopped it. Now, maybe they both *thought* they were outranked by John Mitchell. I don't know.

P. Dean now says that he discussed the bugging operation—that's what I want to know. I didn't understand he said that. I thought he said he did that with Strachan.

HP. Magruder—Magruder says.

P. I get it.

HP. (Inaudible) goes through Strachan. Dean says when he came back from the second meeting he told Haldeman, "This is terrible, we ought not to be involved in this."

P. Right—right.

HP. And nobody does anything about it.

P. He hasn't been too damn forthright has he?

H.P. Well.

P. I mean, he should have told me about Haldeman.

H.P. It's awful hard to debrief a man, Mr. President, in an hour or two as you know.

P. Yeah—when I asked him specifically did Haldeman know and so forth—and he said no. And I guess maybe he was being perfectly honest. Told me that just this morning. And I said, he had no knowledge before, and neither did Ehrlichman, and he said neither did he. But I guess what he meant was that—you could reconcile that only by saying—that he had told Haldeman about it and Haldeman did't know that it went forward. Maybe that's what he (inaudible).

H.P. That's—

P. That would not make Haldeman liable in this case—the very fact he didn't stop it. He didn't have the responsibility. I am looking at it just from a legal standpoint. Now understand, from a public standpoint it's devastating. You think he would be liable for not issuing an order to (inaudible). I suppose if Dean was his subordinate. (Inaudible.)

H.P. (Inaudible) a subordinate. It depends on who has authority to act with respect to the budget proposals?

P. Haldeman (inaudible).

H.P. He did not have any authority?

P. No sir—none, none—all Mitchell—campaign funds. He had no authority whatever. I wouldn't tell him (inaudible).

H.P. Then you're left with the fact that he has knowledge of.

P. That's right.

H.P. But he doesn't act upon.

P. Knowledge of a proposal?

H.P. That comes out as a misprision of a felony.

P. Huh?

H.P. That comes out to a misprision of a felony. Misprision is a statute that is hardly ever enforced. You could put everybody in jail I suppose if you tried to.

P. Knowledge and so on?

H.P. That's right.

P. Knowledge it's being considered.

H.P. That's right. (Inaudible) type of thing—

P. (Inaudible) say specifically that he discussed the budget proposal with Haldeman! Well I'll be damned!

H.P. I think I have in those notes there that Dean came back to the White House after the meeting, told Haldeman about the proposals that were being discussed in the office of the Attorney General, and said we ought not to be involved. And Haldeman agrees, but nobody stopped the operation.

P. Dean says—

H.P. (Inaudible) told him so the only thing I'm saying (inaudible).

P. Should we do it—should we do it from the top? Well, I'm going to talk to Bill Rogers a little later—I'll get his judgment about—on this—(inaudible) Haldeman. Dammit, I'm afraid that—I don't want Haldeman to go and then have to get (inaudible) and then have Ehrlichman go and get caught. Get my point? That's what I'm concerned about. I think they both—look if they're going to go they both got to go, don't they? They ought to go together?

H.P. I think so, yes sir. Mainly because I don't know how that looks to you, but from the outside, they are almost a team.

P. That's right.

H.P. But to let one go and the allegations with the other being (inaudible). The next day it might develop that (inaudible).

P. Well (inaudible) my judgment on this after I talk to Rogers. It's a very close call. The real question is to get—whether you let Magruder strike the blow and then they go. That's the point.

H.P. Great responsibility and I know how—

P. Oh, I'll move on it.

H.P. heavy it is.

P. Oh, I'll move on it. I'm just trying to think about whether—before Magruder strikes.

H.P. I'm bothered, you know because this may be a terrible injustice to both of those men.

P. I know that (inaudible) but my point is (inaudible) how it is (inaudible) whether they go before Magruder. Let me tell you—let me put it this way—I really am in a pretty poor position to have them go before Dean goes.

H.P. Well that's correct—I agree with that.

P. I can't announce Dean going today—that would jeopardize your prosecution. Or can I announce it? I am very seriously thinking.

H.P. You're your own agent on that. As long as I can say—

P. No—I'm going to get his—I'm going to get—but you don't want me to—you told me earlier you don't want me to make that public.

H.P. I don't want—want to be in a position to say to John Dean—John, I did not recommend that the President take your resignation.

P. Fine. All right.

H.P. As long as I could say that Dean's been here, he's talked to you. It's between the two of you. You're timing on that is okay with me.

P. I see. Even announce Dean today?

H.P. Yes sir.

P. That wouldn't jeopardize your prosecution?

H.P. Well, we still have to bargain with him. But I don't—I don't see that—he's trying to use that, but I don't see that. As long as I can say, the prosecution team can say, we did not recommend that.

P. How is he trying to use it? You mean—you say that—I'm a little concerned about Dean's or his lawyers—that he's going to attack the President and so forth. Other than that, I mean Dean above all else—

H.P. Well I don't think the President personally—the Presidency as an office as the Administration.

P. Because of?

H.P. Because of Ehrlichman and Haldeman.

P. It's Ehrlichman and Haldeman he's really talking about?

H.P. That may be his guts poker in the course of negotiations. That's what they say.

P. Try the Administration and the President, (inaudible) affairs, (inaudible) huh?

H.P. That statement that's made in the heat of argument. Charlie Shaffer, a very committed, emotional, able lawyer. Stand up and say, goddammit, I'm not going to plead him. If I have to do this, I'll do this in return. That's the way he comes out.

P. (Inaudible).

H.P. All right you ask him about that point specifically, about reporting to Haldeman on the—

P. Yeah.

H.P. On the budget proposal.

P. Yeah—I will. I need to know that. Dean this morning told me something I need to know (inaudible)—that he (inaudible) going to go testify to (inaudible). It seems to me the important thing that you should get your (inaudible) him as soon as you can.

H.P. That's right.

P. But I guess you got problems there. You got to go to Ervin, you got to go to the Judge, and with Dean, you've got to make a deal with his—isn't that what you feel you (inaudible). You've got to give him something don't you?

HP. Well

P. That's the problem you've got (inaudible), Henry, (inaudible) him off with the others.

HP. We can't give him too much because it will impair his credibility. That's another factor.

P. (Inaudible). Now—I can get any—I need to know if any further—I've got to keep on top of this thing, if any further breaks occur.

HP. Yes, sir.

P. And perhaps by tonight we will know whether Strachan did testify.

HP. Yes, sir.

P. I may call you around say eight o'clock—how's that?

HP. I would say not before eight.

P. I'll call you at nine—how's nine?

HP. Nine is fine.

P. Nine will be fine.

HP. That'll give me a chance to get my kids off the phone.

P. Yeah—nine o'clock. You (inaudible) Strachan and La Rue?

HP. Yes sir.

P. They both (inaudible) testify today?

HP. Yes sir. (inaudible). All right—thank you sir.

P. Thank you.

Appendix 35. Meeting: The President, Ehrlichman and Ziegler, EOB Office, April 16, 1973. (3:27–4:04 p.m.):

P. Yeah—did you make any progress on that thing? How does it stand? Fine.

E. I'd say that—

P. Gray denies to Petersen that he ever got the bundle. Oh, he's dumb. Well, Petersen tells me that he's told Haldeman—I mean Ehrlichman. He was very (unintelligible) Mitchel (unintelligible) this, Petersen being honest.

E. Dean informed Liddy that Hunt should leave the country.

P. (Unitelligible) the idea that Dean, you know. But you warned him didn't you?

E. Sure did. There (unintelligible) I was.

P. You didn't see it?

E. No, didn't know what was in it. Could have been shredded newspaper, as far as I know. So that, well it could be—

P. Well, Dean will say—

E. Dean will say what he put in it, I suppose. See, Dean arrived at my office with a scotch-taped, sealed big envelope and handed it to Gray. What—I said, "Well,

P. There's the contents of (unintelligible) safe?

E. No. Dean had told me that before Gray got there, I think—I can't be sure of this—but in any event, I knew what it purported to be.

P. Where—when was Gray told that it was not really the Watergate?

E. I don't know. I don't know. It may have been told him in my presence or not, I just—

P. But, you think he was told?

E. He says he was, and I don't have any reason to doubt it, but I can't swear that I heard that said. Ah—and ah—again, I can't.

P. (Unintelligible)

E. Could say, you know, it may be that his story is I opened it and it was full of paper napkins or, you know, some damned thing. But if he says I was not in Ehrlichman's office and I did not receive a big manila envelope from Dean, then I'm going to have to have to dispute that. (Unintelligible) there and then do that.

P. (Unintelligible)

E. Yeah.

P. Has he testified to that, John, or do you think—?

E. He's told the U.S. Attorney that.

P. That what?

E. That he gave him an envelope there that was the contents of the Hunt safe.

P. (Unintelligible)

E. Dick Howard just got a subpoena from the Grand Jury.

P. Yeah.

E. The FBI agent who called said, "I'm coming over to serve you with a subpoena from the Grand Jury, Mr. Howard. You may want to go and talk to Mr. Dean while I'm on my way over there in case you want to get any advice."

P. Did he talk to Dean?

E. No, fortunately, he talked to Colson. Colson—I had told him that Dean was over the hill, cautioned him, and then he told me and said, "Boy, you got an outpost over there. Well, U.S. Attorney's having the FBI agents send everybody a subpoena—go talk to Dean."

P. Because he was (unintelligible) the practice.

E. Well, I hope that's what they thought, but more probably they'd like Dean to sit there and listen to every guy's story and then call over and let them know what's going on.

P. (Unintelligible) Dean (unintelligible) talk to (unintelligible) apparently he's—

E. I must caution you about that because it's certainly improper for him to be counselling any of our people.

P. I've got to talk to him. He's got to quit counselling anybody right now.

E. Let me finish this.

P. Oh, sure, John. Did (intelligible) tell you about the other (unintelligible) that he's coming to ask you about it? I'm not asking you to make up any story, but I'm just simply saying, I just can't—damned dumb Gray, Director of the FBI in the position of having two White House people say he got an envelope and he doesn't remember it. I heard you talked to him. What did he say to you last night?

E. He said he can't say that.

P. What did he say to you though?

E. He said, I said—

P. After (unintelligible).

E. Dean say saying so and so, and he said he can't say that. And I said, he already has. But he said, I destroyed it. Well, that's it. You know, that's pretty tough (unintelligible) if he doesn't now. (Unintelligible) sure putting the best face on what they did to Strachan over there. Questioned by the prosecutors. Despite considerable fencing, he refused to discuss the matter and was excused by the prosecutor. According to Strachan—then they—you mustn't say anything to anybody about this because I suppose he wasn't supposed to call over here.

P. Yeah, I don't.

E. He called to get advice. He said they really worked him over, said stuff as, "Listen, Strachan, you're going to jail, think about your wife, think about your baby and how would you like to be disbarred, and—"

P. I know. I know.

E. You know, that kind of stuff.

P. I knew they were going to work him over. He asked for a lawyer?

E. No, they asked him to get a lawyer. They kept stressing it. They wanted him to get a lawyer and I think what they are doing is setting him up for (unintelligible).

P. Well. That safe John, something about the damned notebooks—he said, notebook.

E. Yeah, I know. He's said that right along.

P. And there were?

E. Oh, I don't know. I honestly don't. Now, Kehrli and the Secret Service agents were there when that safe was opened and (unintelligible). Never tried (unintelligible) appointments after that, so they are still on this.

P. That's your only vulnerability, John.

E. Deep six and the FBI business and Liddy. Well, that's interesting that Dean would take that remark and go out and act on it.

P. Deep sixing?

E. No, the Liddy deal.

P. Told (unintelligible).

E. Hunt, yeah, that it came through Dean.

P. But, apparently they didn't leave—in other words.

E. Oh, no. No, no.

P. You were discussing it. I told, I tried to tell Petersen, "Well, look, I can imagine them having a discussion—" he said, "He ought to leave the country—maybe we ought to deep six it."

E. Mmhuh.

P. And you didn't do any of those things. At least I think that's based on—Got any thoughts on this point?

(Ziegler enters.)

P. Who have you talked to?

Z. Yes, sir. I talked to Moore.

P. Yeah.

Z. Chappie Rose. Both of them are against it.

P. They're against it? All right. Because of the reasons you mentioned?

Z. Some of those. But Rose—their best lawyer is working on that—and—

P. OK.

Z. His concern.

P. We just won't try to get out in front. We got anything else you can say. Don't say, don't—we seem to, we've gotten into enough trouble by saying nothing so we'll say nothing today. You know, actually, thank God we haven't, thank God we haven't had a Haldeman statement. Believe me. (Unintelligible) thank God we didn't get out a Dean report. Right? Thank God. So, we've done a few things right. Don't say anything. (Unintelligible) made the point, looking at the statement, about comments and so forth that stampede.

P. Well, I (unintelligible). I've got an understanding, John, with Petersen, and he wants us to move first and a—but I said, "Well not before Magruder pleads." We've got to go out and—what I had in mind having you say quickly that—(unintelligible) statement. But in any event then, we're going to have to wait for the Magruder thing. The point is you've got the whole record. I just don't want to.

E. He wants to wait until Magruder talks? Is that it? Petersen? No, I mean the others who—

Z. Well, he didn't get into any discussion about Magruder talking. No.

E. What was his objection?

Z. His point is that, what Rose's point is, in the position of stampeding on (unintelligible) how this has been (unintelligible) this. But this point, the President is too closely tied in as an investigator and to closely tied in to the Grand Jury proceeding itself. In other words, he (unintelligible) in his view of this is to have the first (unintelligible) and suggests that the President is (unintelligible).

P. (Unintelligible). I don't.

Z. No, not affect. But the President is becoming as an investigator involved in knowledge and awareness of the Grand Jury proceedings.

P. Oh, yeah. Yeah.

Z. Which well could affect direction of those proceedings. He has contacted Petersen.

P. Well, all the facts are going to show just otherwise though when it comes out, but go ahead. But this (unintelligible)

Z. I think so.

P. He didn't. John, I asked about Magruder today and they haven't got the deal with him yet because Magruder's attorneys insist on something with Ervin and something with Sirica. Magruder wants to go to the D.C. Jail (unintelligible) in there. They haven't worked that out yet. I asked about the timing on Dean. They haven't got a deal on him because—in fact his lawyers made an interesting comment. He said Dean shouldn't do anything to upset the unmaking of Haldeman and Ehrlichman and Mitchell, and if they don't get immunity they're going to try this Administration and the President. His lawyer, Schaffer. Petersen says that's quite common. Everybody shouts to everybody. I'm getting (unintelligible) difficult (unintelligible). After all, the business of the—about the Dean report, why end it that way? Dean will stick to the position. John, you can see how he's going to (unintelligible) Ehrlichman. You know, he did make some movement on his own in this thing. I've asked Dean a specific question. "Haldeman/Ehrlichman, did they know in advance?" He said, "No," I said, "I've asked you again, I've asked you." He told me that (unintelligible). Well Dean said after a second meeting over there he went over and saw Haldeman and said, "We oughtn't to be in this. Haldeman said, I agree. I said, "Well what's wrong with that." He said, "Well, Haldeman, by failing to act—"

E. Yeah. That is true.

P. Yeah.

E. Dean states Haldeman agreed, but apparently no initiating of any instructions.

P. Right. By failing to act. And then I said, "Well how could he act? He wasn't in charge of the campaign and—(unintelligible) didn't he have (unintelligible) approval?" "Why," I said, "He certainly did not. He had no responsibility at all. The campaign was totally out of the White House." But I suppose what he meant by that, Haldeman should—should have called Mitchell and said, "Knock it off." Is that what they're saying? Well, what does Haldeman say to that sort of thing?

E. That's hard to get around, understand, because Dean's story, consistently, has been that at every one of those meetings, the plan was disapproved by Mitchell.

P. Yeah.

E. What's there to get out of?

P. By going to Haldeman—

E. Dean came back and said, "Well there was a proposal, and Mitchell disapproved it."

P. You think he's making that up?

E. I don't know. I—it doesn't make sense, in the context of those meetings, that everybody agreed on, that at all those meetings Dean attended it ended in disapproval.

P. Yeah. "Well, why did he go to Haldeman?"

E. So why? Yeah. Why is there a failure to act, when—

P. Oh, he might—

E. Everything is disapproved?

P. Yes, but that is Dean's problem, but—

E. Well, the suspenders.

P. Huh?

E. A guy says, I was thinking about going out—

P. Yeah.

E. and plugging a hole in your tire, but I decided not to.

P. Yeah the point is, I think you've got a very good point here. You say, "Well, look, what in the world is this? If the damn thing was disapproved, why does Haldeman get blamed for not disapproving it?"

E. Yeah. They need two disapprovals in order to make it stick?

P. That's what I was going to say, but—

E. Well, I don't know enough about it I guess. I'd sure like to see us come out sometime, and I suppose it has to be at a time that Magruder makes his deal.

P. Well, let me say, I'll—I've got Petersen on a short leash.

E. Ok.

P. Petersen or Dean. Keep that statement, regardless, and get this factual thing that John has worked up for you. You get that.

Z. I've had, I had that typed.

P. Fine. Because we've got to be ready to go on that instantly. We may go it today. We will survive it. I don't think it's very—

E. Not very appropriate news this morning.

P. Yeah, and that's it. They will get back to (unintelligible) I just think (unintelligible) their staff.

Z. (unintelligible).

P. It's obvious they will question him on this.

E. That's what matters though. The thing with the Ervin Committee, will, I don't know. A statement of rules, and the negotiations.

P. Right.

E. They adopted an awful lot of my stuff. Their rule on television is a very odd one. And it says "All still and motion picture photography must be discontinued before the witness commences his testimony. Television, however, may continue under the standing rules of the committee during the testimony of the witness."

P. So it must—that means what? It's live?

E. That my interpretation. Well, no. Tape would be motion picture.

P. Yeah.

E. Why not?

Z. That's electronic. See, the terminology is stills, motion picture or electronic.

E. That isn't the way they used it, and so I've got a call in for Baker to try and get a clarification.

P. Right.

E. Because it may be their intent that if the networks will go live, then let them go, but if they tape, then they can't tape the testimony. And, if that's the interpretation, I think we ought to go for it.

P. Right.

E. Don't you?

Z. At ten o'clock in the morning? Well, you know, just—

E. If they run it at ten o'clock. Anyway, I'll get an interpretation and I'll be back to you on it for instructions. Well, there isn't much point in me going through the whole thing until—

P. I think the Ervin Committee, who (unintelligible) a break in this (unintelligible). Do you believe it would be at all helpful to be forthcoming with Ervin then?

Z. Well, as we mentioned before, I think you have to have caution with the Ervin Committee (unintelligible), depends upon decisions. Whatever it is decided to check with (unintelligible) alternative here (unintelligible) or it may be to our advantage to analyze—

E. Well, my problem's Howard Baker goes to Russia tomorrow, so there's got to be action—or he goes Wednesday, excuse. There's got to be action tomorrow. The Ervin Committee's meeting up there now. Timmons thinks the thing they are meeting about is that somebody has pulled the plug on Dash, that he was nearly disbarred in Philadelphia—some unfortunate scandal—something about—He's been taken by surprise again and he's very unhappy and he's convened the Committee. The thing provides—well, they're kind of cute about this to. You can have a hearing in Executive Session. The Committee rules at the witnesses' request for the purpose of determining scope, in effect, what, where the witness should and should not testify.

P. Oh, I see. Well, that's good.

E. And that's good, I think. Then there's a lot of stuff in there about—they do prevail in making closing statements. They will.

P. What's your advice, John.

E. There's very little left to argue about except the television, and we could say we interpret this to mean that unless the television is live, there won't be any and that's satisfactory to us.

P. Yeah.

E. Now we might get the jump on them that way.

P. All right. Fine.

E. And then, let them come back and say, "No, that isn't what we mean. We mean it can be taped." And then we'll come back and say, "Well, that isn't satisfactory. By that time they're in a recess.

P. Right.

E. And the thing would be hung up until they get back.

E. Yeah. And the other thing—we had to, you know, before it comes from the Ervin Committee. But I don't think before it comes to the Ervin Committee it's going to amount to a damn in the next four weeks.

Z. The overall—

P. Yeah.

Z. decision, but—

P. Don't you think at the present time we ought to be forthcoming here?

Z. Yeah. I think—

E. What you say, Ron, is that we intend to avail ourselves fully of the ground rule that permits the use of executive session and that undoubtedly the majority of the White House witnesses will be the subject of a request to the Ervin Committee for an executive session.

P. That's right. Agree with that.

E. Then, what we've done is going to our high ground.

P. Right.

E. And let them pull us off.

Z. Of course, what really is the Ervin Committee investigating?

P. (Unintelligible.)

E. They—it's probably moot. It's probably moot, but what we can say is we feel we can live with these ground rules.

Z. Yeah.

E. You know it's very—well, it is obvious that the negotiations were very worthwhile. We think the Committee has come up with a fine set of ground rules that we can live with. We are going to fully cooperate and then, on the side you can say, "See this executive session provision."

P. Well why don't we—frankly (unintelligible) executive (unintelligible).

E. Maybe I ought to get them and have them for you, so that you can talk to Rogers about them.

P. Yeah. Later today you might just make your decision and go on that. We can settle the Ervin Committee.

E. Well, then, I'll have to get Baker's OK.

P. Well, why?

E. To make our announcement, because that's the way I have it set up with him. They've got a meeting tomorrow before we make any announcement.

P. Do you want to make an announcement tonight?

E. No, I thought that's what you meant, if you were going to go with the Ervin thing today.

P. Oh. We'll make it tomorrow then.

E. OK, well then I'll have a chance to talk to Baker tonight.

P. Baker, Baker will have left. He won't be at the meeting tomorrow.

E. Yes, he will. He won't go—he doesn't go until the next day. I misspoke.

P. Fine. You'll make the announcement tomorrow. OK, Ron?

Z. Yeah, but—

P. Gives me time to think about it, that's the point. Go ahead. What is it?

Z. Well, I—if we make the announcement tomorrow, we could tie it into something.

P. Yeah. We have a general announcement. We want to (unintelligible) and with Chappie Rose and those guys. Do they realize that I've got to make this general announcement before the Magruder thing comes up?

E. Well, does he fear the President will look like he's interfering with the Grand Jury?

Z. No, it's a quote. He said, to which he (unintelligible) much contact with the Attorney General, the Assistant Attorney General—the President being investigator.

E. Well, bless his heart, those contacts are a matter of record.

P. That's right. I don't agree with him on that point.

E. That point's moot, you know. That was the President's only recourse.

P. That was it. I wouldn't worry about that (unintelligible). See, he's thinking as a lawyer. They probably like to see the President (unintelligible) this damned thing.

Z. No, I agree with that.

E. (Unintelligible)

Z. Well, I'm not arguing. Again, you see, can't argue. I'm just passing this point to you.

P. What would be your view about this kind of a statement? You don't want it tonight?

E. I don't want it tonight, but I'd sure like to see you go full breast on it tomorrow. See, Wednesday is the energy message.

P. Yeah.

E. And, we're going to be sort of saturating the press Wednesday with that.

P. Will they write and use it?

E. I don't know. I mean we're having briefings and all that baloney. And so, if possi-

ble, it would be best to go either tomorrow or Thursday with this and I prefer tomorrow.

P. We'll see how they get along with their negotiations. I suppose they're—

E. Seems to me like they're hard-nosing these negotiations. Dean doesn't really give them all that much. He let me look at that piece of paper you've got there and then he said, "Well, gee, did Hunt go out of the country? No, Well, what else is there?" "Well," he says, "I don't know about (unintelligible)."

P. Dean isn't corroborating Magruder in any way?

E. Yes.

P. That's what it looks like.

E. But can't they get that out of him anyway? You know.

P. (Unintelligible)

E. Well, let's think about that. If you were the prosecutor, what the hell do you care? You know, if you were Glanzer, you were sitting over there,—

P. The White House threatened, the President—

E. But what is, what is that he can say? You stop and figure.

P. That he's informed the President and the President didn't act? He can't say that can he? I don't think, I've been asking for his damned report, you know.

E. The fact that he put the chronology all together—he comes up with a hell of a lot of egg on his face.

P. I think he blames—he would blame you and Haldeman.

E. Well, he's going to have a little trouble with that.

P. Is he? Good.

E. And I put together my log today. And I have seen him on the average of five times a month since the Watergate breakin. See, Bruce Kehrli (unintelligible) you know (unintelligible). I've seen none of his memos routinely. I don't supervise any of his work, so I think he's going to have a tough time making that stick. And some of those were on your estate plan.

P. Yes.

E. Some of them were on the Library.

P. Good.

E. Some of them were on the leak scandal. So, he's not seen me five times a month on Watergate.

P. Well, listen, I've got to run. Let this go tonight. Fair enough?

Z. Yes, sir.

E. All right.

Z. Did you want to meet Garment for five minutes before you see Rogers?

P. No. I'll have to put that off. I've got Rogers (unintelligible) Garment's views and—you don't agree?

E. I agree totally. It's (unintelligible) for Garment is the reason, you see.

P. No, tell him, tell him that I feel very personally, but I want to get a little—that I've had a long talk with the U.S., with Petersen. There is a reason. Give him a little bull and tell him (unintelligible) had a long talk. There are reasons we can't say today, that there will be developments during the day. Going to be public. Some things that I have in mind (unintelligible) piece of paper on that, and I'll see him before. Well, is it going to be that much of a problem? You think I should see him? Maybe, you know, I don't. Wait 'till I see Rogers. Tell him to stick around.

Z. All right.

P. Tie it in with Rogers. Why don't you do that? How's that?

Z. The only advantage of (unintelligible) you have in your possession.

P. Well no. The point is—well, go ahead.

Z. Fifteen minute session (unintelligible) and bounce that off of Rogers.

P. I know what he's going to do is—unintelligible) I mean the—this is a full court press isn't it?

Z. That's right, so you don't need to tell him.

P. I know what the hell a full court press is.

Z. I understand that.

P. The thing you told me this morning.

Z. Yes, sir.

P. Well, I followed that already. He wants to go out and what? He wants Haldeman, Ehrlichman and Dean to resign. Right?

Z. Or just (unintelligible). You know, he has several variations (unintelligible) and letters.

P. Yeah.

Z. Suggesting that (unintelligible) they would step down.

P. They would (unintelligible) and then they would, and I would accept that. However the case breaks?

Z. Yes, sir.

P. Do that today?

Z. No, not today. You know, after the timing of the decision.

P. I'd prefer.

Z. I think it's—you have enough of that.

P. I think I want it to be a little clear in my mind with Rogers here.

Z. No (unintelligible) I'll put him off.

P. Tell him, that, look, that I got it and I'm just in the middle of this thing and that I, I'm thinking along those lines. Just say that, and that I'll, because of the talk, I cannot act today. Just say that. I just finished this long meeting. Didn't want to act, I can't act today, because it would frankly jeopardize the prosecution.

Z. Right. OK.

P. And the right of the defendants. And that therefore, that I can't, that I've been told that by the Assistant Attorney General. That I cannot do that today. It will jeopardize the prosecution. (unintelligible) If the President (unintelligible) it will tip a lot of others off that they are working on at the present time, and that I had put the pressure on to get this so I can be (unintelligible). And I have in mind all of those options. Tell him that I have met with all three of them today. The President met with all three of them and discussed this problem.

Z. Well, you may not want to see him.

P. Now, be sure—

Z. Be thinking about it.

P. Sure. Ask him if—

Z. Yes sir.

P. Right (unintelligible). Tell him I want to think about it; then, I'd like to talk to him. I want him to get his things in shape. I want a firm recommendation.

Z. He apparently has a statement.

P. Well, bring it in and I'd like to have that statement, if I could, by six o'clock tonight. You deliver it at six. I'll be with Rogers at six o'clock and I'd like to have that statement.

Z. I'll bring it in.

P. Oh, no. Should I have it before I see Rogers, that statement? Tell him I'd like to have it, that I've just gotten tied up here. Tell him I've been meeting with Petersen. I cannot act today, but I'll be ready to do something quite soon.

Z. Good.

P. Don't tell him about it.

Z. No.

APPENDEX 36. MEETING: THE PRESIDENT AND DEAN, EOB OFFICE, APRIL 16, 1973. (4:07–4:35 PM)

P. Hi, John.

D. Mr. President.

P. Well, have you had a busy day?

D. Yeah, I have been—I spent most of the day on trying to put together a statement that I think you could come out—apparently some other people have done some work on—I haven't been working with them. Presumably we are all kind of driving at the same point. I was working on a draft when you called.

P. Listen, I've got to see Rogers in just a few minutes so let me have (unintelligible)

D. Well, I think—I was calling Dick Moore in on it, but Dick is working on it with these others.

P. That's good. What would be best? Rather than giving it to me piecemeal, why don't you put one together?

D. Its got a strong thrust which puts you—

P. (unintelligible)

D. There is a tough question here—the degree of biting the bullet right at this hour. Now there is one paragraph—

P. There is a question of timing—

D. It is a question of timing but it is also a question—I have one paragraph in here that says what you are doing as a result of what has come to your attention and some of the things that Petersen has told you.

P. Uh, huh.

D. And one of the points is that it provides that all members of the White House staff will be called before the Grand Jury effective immediately. They will be on administrative leave until such time as the Grand Jury completes its work. Now here is the tough paragraph thus far: "In this connection, I have not spared my closest staff advisers and included in this action are H. R. Haldeman, Assistant to the President, John Ehrlichman, Assistant to the President, and John Dean, Counsel to the President." Now you can do that or leave that out and let them guess who is on administrative leave.

P. Anybody called before the Grand Jury?

D. That's right. That means that no man—

P. You can bite the bullet on Dean, Haldeman, and Ehrlichman until then, huh? On the other hand, if (unintelligible) is lying—have you talked to (unintelligible)

D. No, I haven't.

P. I have a sensation that he is lying right now but the trouble with that is there might be some confusion. Petersen says, incidentally, on your letter—he thinks it is probably better to get a letter in hand and get the grievances out.

P. I said, "Well, what do you think about it? I was considering your returning and I don't want to do anything to jeopardize your rights. He feels (a) that he wants to clear it. But he is not recommending it—

D. Uh, huh.

P. He said—"Stand fast (unintelligible) However, public prosecution would not be harmful to an individual, you know, if we had the resignation in hand so we could act on it. (inaudible) other than let me say—let me see what you had in mind."

D. I have a letter—

P. I don't care about the letter but I thought it was fair—fair to everybody. (Inaudible)

D. I wrote: "Dear Mr. President: Inasmuch as you have informed me that John Ehrlichman and Bob Haldeman have verbally tendered their requests for immediate and indefinite leave of absence from the staff, I declare I wish also to confirm my similar request as having accepted a leave of absence from the staff." Well, I think there is a problem—

P. You don't want to go if they stay—

D. There is a problem for you of the scapegoat theory.

P. You mean making use of it.

D. That's right.

P. Like Magruder being the scapegoat for Mitchell?

D. That's right. You know, everybody is appearing before the Grand Jury. This does not impute guilt on anybody.

P. Let me put it this way I think rather (unintelligible) I could say that you, as Counsel—that you have been responsible for the investigation. We already have said that about this case haven't we?

D. That's right. The only man you are dealing with and the only role I have is to help fill in any information I can to deal with the Public Relations of the problem. You know—

P. You can say it that way John. You can

say the President sought your advice until it is cleared up.

D. That's right.

P. (unintelligible) I don't know that the letter (inaudible) and that goes out ahead, frankly, of the Magruder-Mitchell hitch doesn't it?

D. That's right. I wasn't counting on that—

P. We haven't made a deal with Magruder's lawyers yet. Magruder is turning from the Ervin Committee on Judge Sirica—

D. (Unintelligible)

P. I don't want you to talk to anybody else, understand? Except for (unintelligible)

D. I am not doing any investigative work or—

P. Well, that's right. (unintelligible)

D. Well, I turned that off three weeks ago.

P. Good. You haven't done any since three weeks ago?

D. That's right.

P. You haven't done any since March 21st?

D. Let me check back and see.

D. Necessity of the overall problems of the White House. Looks like we both talked to them about that.

P. Yes—yes it does. Tell me what you last talked with Haldeman about.

D. That Bob would like Dean to be the first to testify. It is very painful for me. (Inaudible.)

P. (Inaudible.) One thing you should all (inaudible)—Did Dean know? Did Haldeman know? Did Ehrlichman know? You may know. He said "Dean came over to Haldeman after that and told him about the plans for Gemstone."

P. (Unintelligible) says you're right. His point being that actually Haldeman then did know.

D. No sir, I disagree with that interpretation—

P. I didn't know, but if that was the case you see John then—I would have to—Dean would have told me something.

D. No, because I have always put it to you exactly that, way because Bob has told me he didn't know. Now I know I didn't know but I feel—

P. What about this conversation? (inaudible) If this had happened, wasn't Bob responsible for telling me?

D. I think what happened is probably this—everyone assumed that John Mitchell would never have approved anything like this. I told him I was not going to have further dealings with Liddy or anybody over there on this and I didn't. I didn't have the foggiest notion what they were doing.

P. That's what you told me, you know. (inaudible)

D. Well, Bob tells me he did not know. Now I know the question is—the other thing is—I cannot, I couldn't describe twenty minutes after the meeting what Liddy was presenting was the most spectacular sales pitch you have ever seen in codes and charts and (unintelligible) operations.

P. You mean Gemstone?

D. Well, that is what I am told now later after the fact they called it. I told Bob, "They are talking about bugging. They are talking about kidnapping. They are talking about mugging squads, taking people south of the border in San Diego, etc."

P. What did Bob say?

D. He said, "Absolutely NO."

P. You will so testify?

D. That is right—absolutely. I don't know—I assumed—Bob has never told me anything to the contrary so I thought that nothing happened from the time of that meeting where he told me, "Don't do anything about it. You are to stay away from it. Don't talk to Hunt and Liddy." I said to Liddy, "I am never going to talk to you about this again, Gordo." So what I thought was that inaction was the result—of their not having produced something reasonable. Second, I don't know—

P. You didn't get hold of Mitchell on it did you?

D. I don't have the record on that—

P. Magruder says that—but—(inaudible) Then I see. Your statement is consistent with what you told me before. I wish you would tell (unintelligible) that Haldeman said, "Absolutely not."

D. That's right. Bob and I have gone over that after the fact and he recalls my coming to the office and telling him about this crazy scheme that was being cooked up.

P. Do you want to go and get together—

D. I will work on this statement—they want to have something to (unintelligible) that they are going to go before the Grand Jury.

P. Bill Rogers. We are going to have him available. Everyone needs help. None of us can really help another I really believe.

D. That's right. All I am trying to think is how we can get you out from under.

P. That's right. I tried to talk today about social issues, etcetera, and everyone is just interested in the Watergate Issue. My days are too short—

D. Something about Magruder—they are going to take him to the courts.

P. I know—he has agreed to (inaudible)

D. I can't forsee what we would want to say about any investigation—

P. "You see I make my own" How about trying that? "Let the White House Staff (inaudible)"

D. Unfortunately it doesn't solve your problem. Mine bother me but (unintelligible) Mitchell was making heavy comments that Liddy and Hunt will make heavier problems for the White House than he will. (unintelligible)

D. Poor Bud Krogh is so miserable. Knowing what he knows—

P. Need any help with him?

D. There is no reason that he should be. The only evidence that they have (inaudible)

D. It just got forced on him. When I was first talking to him—"Run these guys through the Grand Jury—" To be very honest with you. I have talked about it around here before I got in to see you for many, many months. Then I thought I could not let it interfere with my work anymore so I thought I might as well forget it.

P. That's right. That's when you came in to see me. Finally, that is when I came in to see you and got some answers.

D. Now, they have their full investigation going—with subpoena power, investigative power, etcetera. It is all like a set of dominoes if one goes they will all go.

P. Secretaries, et cetera

D. I don't know (unintelligible) They are going to handle Ehrlichman and Haldeman. There is a potential prima facie situation right now (inaudible) which thereby makes it necessary for you to make a judgment that those people should leave the staff.

P. Make it necessary for me to relieve them from any duties at this state.

D. That's right.

P. I don't have to discuss it with him—but just say, "You are all out"

D. That is a tougher question because one that is putting you in the position of being the judge of the entire facts before all the facts are in necessarily.

P. That is really my problem in a nutshell. So those fellows say that—this fellow says that—

D. Maybe that is the way this ought to be handled. You say, "I have heard information about allegations about (inaudible) some publicly and some have not become public yet. I am not in a position to judge because all the facts are not in yet (inaudible)?

P. (Inaudible) But you agree, John, don't you that the statement is fair to everybody? And frankly—(Balance inaudible—door closes.)

APPENDIX 37. TELEPHONE CONVERSATION: THE PRESIDENT AND PETERSEN, APRIL 16, 1973.

P. Mr. Petersen please, Assistant Attorney General. Henry Petersen.

Opr. Oh, Henry Petersen.

P. Hello.

HP. Yes, Mr. President.

P. Did you get out with your kids?

HP. Sort of. We got together with them.

P. That's good.

HP. They all just hollered, the President is calling, right at the nose at nine o'clock.

P. Well, I wanted to get you in bed earlier tonight than last night, and I want to get to bed too. Let me say first, I just want to know if there are any developments I should know about and, second, that of course, as you know, anything you tell me, as I think I told you earlier, will not be passed on.

HP. I understand, Mr. President.

P. Because I know the rules of the Grand Jury.

HP. Now—LaRue was in and he was rather pitiful. He came down with O'Brien and said he didn't want private counsel at all. He just wanted to do what he did. He told John Mitchell that it was "all over."

P. He said he had told John Mitchell that?

HP. Yes, he, LaRue, admits to participating in the (unintelligible) and obstruction of justice. He admits being present, as Dean says he was, at the third meeting, budget meeting, but—

P. Who was present at that meeting Henry? I don't know.

HP. He and Mitchell.

P. He and Mitchell alone?

HP. And he says, ah—

P. LaRue and Mitchell? I didn't—that must be a meeting I seemed to have missed. Dean was not there at that meeting?

HP. Dean tells us about it. Now I am not quite certain whether Dean was present or not. That meeting was down in Florida.

P. Oh, some—oh, I heard about a meeting, but I think you told me about that.

HP. He is reluctant to say at this point that Mitchell specifically authorized the budget for the electronic eavesdropping at that point. But I think he is going to come around. He is just so fond of John Mitchell. He admits that it could have been activated without Mitchell's approval, however.

P. Uh, huh.

HP. O'Brien, they didn't get to. Strachan called back around five o'clock and said he was having difficulty in getting a lawyer. He finally got a lawyer. Colson's law partner.

P. Oh? Colson's law partner?

HP. The United States' Attorney's office took issue with this, and threatened to go to the Judge on a conflict, then he—

P. Got another one?

HP. Got another lawyer. He'll be back tomorrow.

P. All you got to today was LaRue?

HP. That's right. Now, the other additional information from—

P. LaRue said he had told Mitchell that it was all over?

HP. Yes.

P. When did he do that?

HP. Just recently. Today, yesterday or the day before.

P. I see.

HP. You know, he had thrown in the sponge.

P. I get it.

HP. We talked earlier today about Ehrlichman. Now a little additional detail on that.

P. Uh, huh.

HP. Liddy confessed to Dean on June 19th—Dean then told Ehrlichman.

P. Liddy confessed that he did the deal, or what?

HP. That he was present in the Watergate.

P. Uh, huh.

HP. Ah, then you also asked aobut Colson. Colson and Dean were together with Ehrlichman when Ehrlichman advised about Hunt to get out of town and thereafter—

P. Colson was there?

HP. Colson was there so he is going to be in the Grand Jury. With respect to Haldeman, another matter. In connection with payments of money after—

P. The fact.

HP. June 17th, Mitchell requested Dean to activate Kalmbach. Dean said he didn't have that authority and he went to Haldeman.

P. Uh, huh.

HP. Haldeman gave him the authority.

P. Uh, huh.

HP. He then got in touch with Kalmbach to arrange for money, the details of which we really don't know as yet.

P. Right.

HP. So Kalmbach is also a Grand Jury witness to be called. And I think those are the only additional developments.

P. Right. What is your situation with regard to negotiation with Dean and your negotiation with regard to testimony by Magruder?

HP. Well, the trouble is —

P. Trying to get the timing, you see, with regard to whatever I say.

HP. Magruder's lawyers are still waiting to get back to him.

P. I see.

HP. They are very much concerned about Judge Sirica and they are not so much concerned about Ervin. Now their immediate concern is Sirica and they want that ironed out first.

P. What do they want ironed out, that—

HP. That he won't go to jail before the rest of them.

P. Oh, I see, if he confesses?

HP. That's right. Thus, pending a meeting with Judge Sirica—

P. Which you've got to have, I suppose?

HP. Titus knows him better than any of us.

P. Sure.

HP. Probably Titus will handle that aspect of it.

P. Uh, huh.

HP. But that's got to be very delicately done. He is apt to blast us all publicly.

P. Sirica? Right.

HP. We'll see and then we will take up the Senator Ervin issue.

P. Doesn't seem to be the major issue, though. The main thing is Sirica, he is concerned about?

HP. Sure.

P. Sure, because the Ervin thing will become moot in my opinion.

HP. Now the other concern we have on that issue is how to charge.

P. How to charge?

HP. In terms of how we charge Magruder. In terms of the things we are concerned with, we don't feel like we ought to put Haldeman and Ehrlichman in there as unindicted coconspirators at this point, but we are afraid not to. If we don't and it gets out, you know, it is going to look like a big cover-up again.

P. Hmph.

HP. So we are trying to wrestle our way through that.

P. Whether you indict Handleman and Ehrlichman along with the others, huh?

HP. Well we would name them at this point only as unindicted coconspirators, but anybody who is named as an unindicted coconspirator in that indictment is in all probability going to be indicted later on.

P. So you have to make a determination as to whether—

HP. Secondary issue is of course is whether we are going to have enough corroboration to make those statements, and—

P. That statement would be made, as I understand it, as you were telling me, if—

HP. It would be in Open Court.

P. It would be made in Open Court, and then you would make a statement with the others. You would name them at that time?

HP. Well, we wouldn't do it in those terms. We would simply do it in terms of feeding the facts to the Court.

P. That would be done publicly. Would you name Mitchell then too?

HP. Well, we would have to. You see the problem is—

P. That would all be done in Open Court?

HP. That's right. Once we do that, or even if we don't, Sirica's habit in Court, and he certainly is going to do it in this case, is to interrogate the defendant himself.

P. Right.

HP. And—

P. The defendant who pleads guilty?

HP. That's right. If he interrogates Magruder, that brings out the Ehrlichman/Haldeman facts and if we haven't mentioned them or included them in the conspiracy charge, then we are all going to have a black eye.

P. I get your point.

HP. These are the things we are trying to work out.

P. You've got quite a plate full. You probably won't get it tomorrow then will you?

HP. I doubt it. I doubt it.

P. Uh, huh. What about Dean—in his case you are still negotiating, huh?

HP. Well, we are still tying down facts with him and we want to get as much as we can.

P. And basically with him, the point is you've got to get enough facts to justify giving him immunity? Right?

HP. Enough to make the decision, yes sir.

P. Depends on how much he tells you, is that it?

HP. Right. And more than that, how much of it we can corroborate.

P. If you can't corroborate enough then he doesn't get off, is that it?

HP. Well, if we can't corroborate it, that's right. We can't very well immunize him and put him head to head against a witness who is going to beat him.

P. I see. Well his people are playing it pretty tough with you then?

HP. Yes sir.

P. I guess we'd do that too, I suppose.

HP. Indeed so.

P. I prefer them to do that. Let me see if I get the facts? You will hear Strachan tomorrow, perhaps.

HP. We expect he will be in. He will come in with his lawyer again.

P. My second point is that—let me see about the 19th—Dean says that—

HP. On the 19th.

P. Yeah.

HP. Liddy confessed to Dean.

P. Dean says that?

HP. Dean says that.

P. Liddy confessed to him and that he told Ehrlichman?

HP. Right He told Ehrlichman.

P. Humph—that's new fact isn't it?

HP. It's at least—yes, sir, and that's a terribly important fact I think because there was no disclosure made by either one of them.

P. Either Dean or Ehrlichman?

HP. Yes, sir.

P. Humph. When did Dean say this?

HP. It got to me this evening. I am not quite sure when Dean said it. Silbert (unintelligible)

P. You see the point is, Dean didn't tell me that. That is the thing that discourages me.

HP. Well, Mr. President, you have to remember that we are debriefing him on what has transpired over the last eighteen months.

P. I see.

HP. It is very difficult, you know, to get it all in.

P. I know. I am not talking about you, but I am talking about what he didn't tell me, you see. That's a key fact that he should have told me, isn't it?

HP. Yes.

P. Uh, huh. Let's see, the 19th, and on the Haldeman thing what did you have there again so I get that in my mind.

HP. Let me go back over my notes. The principal thing that I wanted to point out to you on Haldeman is that Dean went to Haldeman to get authority to go to Kalmbach.

P. Oh yes, yes, yes. That was it. When Mitchell told him to go to Haldeman.

HP. Mitchell told Dean simply to activate Kalmbach to handle the money.

P. I see.

HP. Dean then went to Haldeman to get authority to contact Kalmbach. Thereafter, Kalmbach took care of the money. Now—details on the $350,000 which you indicated you knew about—

P. I knew about the fund. I don't know how it went—

HP. This is how it developed. It developed, as related to us, as money over which Haldeman exercised control. That money was delivered to LaRue to be used for payments, at least a portion of it.

P. Some of it. Right. I think Haldeman would say that's true. I think he would. I don't know, but we'll see. You should ask, I guess, Kalmbach.

HP. The point of it is that it went to LaRue instead of going to the Committee directly.

P. Uh, huh.

HP. LaRue apparently did not give a receipt and Haldeman had requested it.

P. Uh, huh. I think LaRue was loosely a member of the Finance Comittee. I think that was the point Haldeman—I said, who did this money go to? He said, it went to LaRue was a member of the Committee or something like that or of Stans' committee. I don't know what that is. Is that correct, or do you know that?

HP. I don't know that. All I know is that he worked for John Mitchell. I will check on that though.

P. The money went to Mitchell?

HP. No, I say all I know is LaRue worked for Mitchell.

P. Yeah. I think he worked on the Finance Committee, but I don't know. You ought to check that out.

HP. I will.

P. OK, the main thing I need, of course, is something—well, before, wait you are not going to have anything tomorrow in Court so I don't—

HP. I don't think so.

P. Tomorrow you just continue to develop the evidence.

HP. Yes, sir.

P. I think, therefore, no statement would be in order at the present time. We decided against one today. It just didn't seem to be—I thought it might—I just had to make my own determination. I thought it would jeopardize possibly the prosecution, you know. Who knows?

HP. Probably would raise more questions than it answered.

P. That's right. We don't want to say anything until—like if there has been a big break in the case and everybody starts—

HP. I will tell you one thing, Mr. President, that you ought to know. I had a call from (unintelligible) Ostrow of the L. A. Times, who is a decent man and a reasonably good acquaintance. A reporter of character, if there are any, and he said that they had a report out of the White House that—let me use his words—that two or three people in the White House were going to be thrown to the wolves. He asked if there was anything to it, and I said there is not a damn thing I can tell you about it. I just can't say anything about it one way or another. I don't want to confirm it and I don't want to deny it.

P. So they will probably write a story on that, huh?

HP. I don't know, but I mention it only because its—

P. It's beginning to get out. Yeah.

HP. Beginning to percolate.

P. It must have come from the U.S. Attorney's office you think?

HP. I doubt it, because I have not told them—unless they made their own conjecture.

P. U.S. Attorney—but they were thinking in terms of the Haldeman/Ehrlichman thing, and Dean, I suppose.

HP. I don't know what he was thinking about, and I don't—

P. Where does the Colson thing come in again? I want to get that one down too.

HP. Where does who fit?

P. Colson.

HP. Colson was present when Ehrlichman issued the order for Hunt to get out of the country.

P. I get it. Fine. O.K. So you will call him too?

HP. Yes, sir.

P. Right. OK. Well if anything comes up, call me even if it is the middle of the night. OK?

HP. I will indeed.

P. Thank you.

HP. All right, Mr. President, thank you.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON THE LIBRARY OF CONGRESS

A letter from the Librarian of Congress transmitting, pursuant to law, the report on the Library of Congress including the Copyright Office, covering the fiscal year ending June 30, 1973, together with the Quarterly Journal of the Library of Congress (with accompanying reports). Referred to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HARRY F. BYRD, JR., from the Committee on Armed Services, with amendments:

S.J. Res. 202. A joint resolution designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations (Rept. No. 93-844).

LEGAL SERVICES CORPORATION ACT OF 1974—REPORT OF CONFERENCE COMMITTEE (S. REPT. NO. 93-845)

Mr. NELSON submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7824) to establish a Legal Services Corporation, and for other purposes, which was ordered to be printed.

REPORT ENTITLED "DEVELOPMENTS IN AGING: 1973 AND JANUARY-MARCH 1974"—REPORT OF THE SPECIAL COMMITTEE ON AGING—(S. Rept. No. 93-846)

Mr. CHURCH. Mr. President, from the Special Committee on Aging, pursuant to Senate Resolution 51, 93d Congress, first session, I submit a report entitled "Developments in Aging: 1973 and January-March 1974."

The PRESIDING OFFICER. The report will be received and printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

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

Russell Jackson Hawke, Jr., of North Carolina, to be Federal Cochairman of the Coastal Plains Regional Commission.

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

By Mr. ROBERT C. BYRD, from the Committee on the Judiciary:

John T. Pierpont, Jr., of Missouri, to be U.S. marshal for the western district of Missouri; and

David G. Trager, of New York, to be U.S. attorney for the eastern district of New York.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CANNON (for himself, Mr. MAGNUSON, and Mr. COTTON):

S. 3481. A bill to amend the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation, and for other purposes. Referred to the Committee on Commerce.

By Mr. ERVIN:

S. 3482. A bill for the relief of the Monroe Garment Co., Inc. Referred to the Committee on the Judiciary.

By Mr. METCALF:

S. 3483. A bill to authorize the Federal Power Commission to enforce the antitrust laws. Referred to the Committee on the Judiciary.

By Mr. ABOUREZK (for himself, Mr. MCGOVERN, and Mr. YOUNG):

S. 3484. A bill to establish, within the Department of the Interior, the Earth Resources Observation Administration, and for other purposes. Referred to the Committee on Aeronautical and Space Sciences.

By Mr. WEICKER:

S. 3485. A bill to amend the Regional Rail Reorganization Act of 1973 to allow adequate time for citizen participation in public hearings, and for other purposes. Referred to the Committee on Commerce.

By Mr. BUCKLEY:

S. 3486. A bill to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button. Referred to the Committee on Armed Services.

S. 3487. A bill for the relief of Rose Minutillo. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CANNON (for himself, Mr. MAGNUSON, and Mr. COTTON):

S. 3481. A bill to amend the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation, and for other purposes. Referred to the Committee on Commerce.

Mr. CANNON. Mr. President, on behalf of Chairman MAGNUSON, Senator COTTON, and myself, I introduce for appropriate reference, a bill to amend the Federal Aviation Act of 1958, and for other purposes, which is designed to provide relief from certain of the more apparent discriminatory and unfair competitive practices to which our U.S. international air carriers have become subjected in their competition with foreign air carriers.

The bill is entitled "International Air Transportation Fair Competitive Practices Act of 1974" and should be considered as part of the necessary program to help assure that American business is not placed at an undue disadvantage in competing in world trade and commerce with foreign competition. I will ask the Aviation Subcommittee to give early consideration to it.

There is a greater need than ever before to strengthen U.S. air carriers abroad. With the proliferation of foreign air carriers in all areas of the world and their consequent intensification of competition with U.S. carriers, it is in the national interest to see that our own carriers are in the strongest possible posture to meet their foreign competitors.

I have previously pointed out to my colleagues the difficult and frequently inequitable atmosphere in which our U.S.-flag air carriers must operate in competing with foreign flag airlines. Excessive competition, wage rates which exceed those of the foreign carriers frequently by 50 to 200 percent, Government ownership or assistance to foreign-flag carriers, discriminatory practices against U.S. carriers and, more recently, fuel costs which have tripled and quadrupled over a year ago—these are some of the factors which make it difficult for U.S. airlines to conduct normal operations on a profitable basis. All of these factors have contributed to the extremely serious financial situation of our two largest international carriers, TWA and Pan Am.

Although facing the competition of almost 50 authorized foreign air carriers, our U.S. air carriers have done a remarkable job of competing for traffic on the North Atlantic. U.S. citizens constituted 68 percent of the total passengers between the United States and Europe in 1972 and the U.S. carriers carried almost 50 percent of the total.

In the face of high fuel prices and the discriminatory practices situation there is serious concern whether they can continue full competition.

It is not my contention that all countries discriminate against our U.S.-flag airlines. Many countries afford our carriers the even-handed treatment that we extend to their carriers. On the other hand, we frequently find open as well as subtle discrimination against U.S. carriers.

Last June, I described to the Senate how the executive branch had been derelict in its responsibility to our U.S. carriers in meeting a flagrant example of discrimination by extending additional operating rights to Aeroflot, the Soviet airline, despite massive discriminations practiced by Aeroflot and the U.S.S.R. against Pan American in violation of the bilateral agreement and of all standards of equity and fairplay.

On the other hand, the Civil Aeronautics Board is to be commended for its recent action in proposing rules which would expand the Board's present authority to order a foreign carrier to file its service schedules for Board review. This expansion will improve the Board's ability to appraise the full competitive picture in order to assure that U.S. carriers are not deprived of a fair and equal opportunity to exercise operating rights provided in a bilateral agreement. This action was taken under existing law and is wholly consistent with a provision in the bill I am introducing today which directs the Board and other Government departments and agencies to continually review discriminatory and unfair practices and take steps to eliminate them.

I also commend the Board for its survey report on how U.S. air carriers are placed at a competitive or cost disadvantage in international air transportation marketplaces. These actions are helpful but I believe it is time for the Congress to take some action in this matter because the existing statutory authority is inadequate to deal with many of the problems.

The bill I am introducing today does not deal with all of the problems of the U.S.-flag air carriers which I mentioned earlier. For example, it does not deal with excess competition, skyrocketing fuel costs and high wages.

Specifically the bill would direct Government agencies to review the different forms of discrimination and unfair competitive practices to which U.S. air carriers are subject and to act to eliminate such practices. Agencies would be directed to seek any additional legislation they may need from the Congress and the bill would assign specific responsibility to the Civil Aeronautics Board to report annually to the Congress on actions taken in this area.

It would set up machinery to deal with discriminatory, exorbitant, or unfair airport and airway user charges. It would deal with discrimination in payments for the international transportation of mail. It would require use of U.S.-flag carriers, when their services are available, if the travel or shipment is paid from U.S. Government funds, as is the practice of most foreign governments. It would direct the Secretary of Commerce, in carrying out his responsibilities under the International Travel Act, to encourage travel to and from the United States on U.S.-flag carriers as other countries do with their carriers.

I ask unanimous consent that the bill be printed in the RECORD at this point.

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

S. 3481

A bill to amend the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation, and for other purposes.

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

SHORT TITLE

SECTION 1. This Act may be cited as the "International Air Transportation Fair Competitive Practices Act of 1974".

DECLARATION OF POLICY

SEC. 2. (a) United States air carriers operating in foreign air transportation perform services of vital importance to the foreign commerce of the United States including its balance of payments, to the Postal Service, and to the national defense. Such carriers have become subject to a variety of discriminatory and unfair competitive practices in their competition with foreign air carriers. The Department of State, the Department of the Treasury, the Department of Transportation, the Civil Aeronautics Board, and other departments or agencies, therefore, each shall keep under review, to the extent of their respective functions, all forms of discrimination or unfair competitive practices to which United States air carriers are subject in providing foreign air transportation services and each shall take all appropriate actions within its jurisdiction to eliminate such forms of discrimination or unfair competitive practices found to exist.

(b) Each of these departments and agencies of Government shall request from Congress such additional legislation as may be deemed necessary at any time it is determined there is inadequate legal authority for dealing with any form of discrimination or unfair competitive practice found to exist.

(c) The Civil Aeronautics Board shall report annually to Congress on the actions that have been taken under subsection (a) and on the continuing program to eliminate discrimination and unfair competitive practices faced by United States carriers in foreign air transportation. The Secretaries of State, Treasury, and Transportation shall furnish to the Civil Aeronautics Board such information as may be necessary to prepare the report required by this subsection.

INTERNATIONAL USER CHARGES

SEC. 3. The International Aviation Facilities Act (49 U.S.C. 1151–1160) is amended by redesignating section 11 as section 12 and by inserting immediately after section 10 the following new section:

"SEC. 11. The Secretary of Transportation shall survey the charges made to air carriers by foreign governments or other foreign entities for the use of airport property or airway property in foreign air transportation. If the Secretary of Transportation determines at any time that such charges unreasonably exceed comparable charges for furnishing such airport property or airway property in the United States or are otherwise discriminatory, he shall submit a report on such cases promptly to the Secretary of State and the Civil Aeronautics Board, and the Secretary of State, in collaboration with the Civil Aeronautics Board, shall promptly undertake negotiations with the foreign country involved to reduce such charges or eliminate such discriminations. If within a reasonable period such charges are not reduced or such discrimination eliminated through negotiations, the Secretary of State shall promptly report such instances to the Secretary of Transportation who shall determine compensating charges equal to such excessive or discriminatory charges. Such compensating charges shall, with the approval of the Secretary of State, be imposed on the foreign air carrier or carriers of the country concerned by the Secretary of the Treasury as a condition to acceptance of the general declaration at the time of landing or takeoff of aircraft of such foreign air carrier or carriers. The amounts so collected shall accue to an account established for that purpose by the Secretary of the Treasury. Payments shall be made from that account to air carriers in such amounts as shall be certified by the Secretary of Transportation in accordance with such regulations as he shall adopt to compensate such air carriers for excessive or discriminatory charges paid by them to the foreign countries involved.".

RATES FOR TRANSPORTATION OF UNITED STATES MAIL IN FOREIGN AIR TRANSPORTATION

SEC. 4. Subsection (h) of section 406 of the Federal Aviation Act of 1958 (49 U.S.C. 1376) is amended to read as follows:

"PAYMENTS TO FOREIGN AIR CARRIERS

"(h) In any case where air transportation is performed between the United States and any foreign country, both by aircraft owned or operated by one or more air carriers holding a certificate under this title and by aircraft owned or operated by one or more foreign air carriers, (1) the Postmaster General shall not pay to or for the account of any such foreign air carrier a rate of compensation for transporting mail by aircraft between the United States and such foreign country, which, in his opinion, will result (over such reasonable period as the Postmaster General may determine, taking account of exchange fluctuations and other factors) in such foreign air carrier receiving a higher rate of compensation for transporting such mail than such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and the United States, or receiving a higher rate of compensation for transporting such mail than a rate determined by the Postmaster General to be comparable to the rate such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and intermediate country on the route of such air carrier between such foreign country and the United States, and (2) the Board shall not fix and determine for any air carrier a rate of compensation for transporting mail by aircraft between the United States and such foreign country which is lower than the rate of compensation payable by the Postmaster General to or for the account of any such foreign air carrier when such carrier transports such mail between the United States and such foreign country. Nothing in this subsection shall be deemed to authorize the Board to fix and determine for any air carrier a rate of compensation for transporting United States military mail higher than the rates set for such mail without regard to the provisions of this subsection.".

TRANSPORTATION OF GOVERNMENT-FINANCED PASSENGERS AND PROPERTY

SEC. 5. Title XI of the Federal Aviation Act of 1958 (49 U.S.C. 1501–1513) is amended by the addition of the following new section:

"TRANSPORTATION OF GOVERNMENT-FINANCED PASSENGERS AND PROPERTY

"SEC. 1114. Whenever any executive department or other agency or instrumentality of the United States shall procure, contract for, or otherwise obtain for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States, or shall furnish to or for

the account of any foreign nation, or any international agency, or other organization, of whatever nationality, without provisions for reimbursement, any transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof or between two places both of which are outside the United States, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is available. The Comtproller General of the United States shall disallow any expenditure from appropriated funds for payment for such personnel or cargo transportation on an air carrier not holding a certificate under section 401 of this Act in the absence of satisfactory proof of the necessity therefor. Nothing in this section shall prevent the application to such traffic of the antidiscrimination provisions of this Act.".

PROMOTION OF TRAVEL ON U.S. CARRIERS IN FOREIGN AIR TRANSPORTATION

SEC. 6. Section 2 of the International Travel Act of 1961 (22 U.S.C. 2122) is amended by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

"(6) encourage to the maximum extent feasible travel to and from the United States on United States carriers.".

By Mr. ABOUREZK (for himself, Mr. McGOVERN, and Mr. YOUNG):

S. 3484. A bill to establish, within the Department of the Interior, the Earth Resources Observation Administration, and for other purposes. Referred to the Committee on Aeronautical and Space Sciences.

Mr. ABOUREZK. Mr. President, when the Janssen brothers invented the microscope back in 1950, people around the world hailed the invention as perhaps the most significant breakthrough in science of all time. Through the microscope, they saw things they had never seen before. A whole new world of information opened up—information which became vital to progress in developing solutions to many of man's most basic problems.

Now, again, an event of this significance has occurred. The Earth resources technology satellite—ERTS—and its parent agency, the Earth resources observation system, has been developed which is allowing all of us to see things which we have never seen before. Like the microscope, ERTS is opening a whole new world of vital information which can not only improve the way we live but actually save lives.

Since the ERTS satellite was launched over 22 months ago, it has provided over 100,000 photographs of Earth, revealing much more of the true nature of man's home planet, and its global air-ocean-land systems that support life. ERTS has proven itself to be one of the most valuable unmanned objects ever sent into space.

It has performed so well that scientists from over 96 countries throughout the world have been using it as a working operational satellite rather than as just an experiment. The list of its achievements is almost too long to mention. However, I would like to submit for the record a summary of many of its major accomplishments, and I ask unanimous consent that the summary be printed at this point in my remarks.

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

A DIGEST OF SIGNIFICANT ACCOMPLISHMENTS FROM RESEARCH USING ERTS-1 DATA

1. AGRICULTURE, FORESTRY, AND RANGE MANAGEMENT

A. *Crop classification* accuracies of 80–90 percent have been recorded for:

Corn and soybeans—South Dakota, Illinois, Michigan;

Field corn and popcorn—Nebraska;

Winter wheat—Kansas; and

Rice, safflower, asparagus, corn, cotton—California.

B. *Timber and grassland inventory*—

Seward Peninsula, Alaska—color composite image plus 10 man-hours delineated 7 vegetation types of which only 4 types had been described on existing maps.

California Forest Fire burn areas mapped more accurately than previous estimates.

Bureau of Land Management moving into operational use of ERTS-1 data to monitor grassland growth in central California and parts of the Great Plains.

2. LAND USE MAPPING

A. *Land use change analysis*—

ERTS-1 application clearly demonstrated in Phoenix, Arizona.

State tax assessors and BLM land managers toward operational use of data.

Norfolk-Portsmouth, Virginia; 73% of all change mapped from high-altitude aircraft was identified in ERTS data and classified at Levels I and II.

Rhode Island—Eleven categories of land use identified in ERTS-1 data and confirmed by high-altitude photography. Cost efficiency of mapping land use with ERTS for Rhode Island is an order of magnitude greater than conventional aircraft mapping methods.

Joint Federal-State Land Use Planning Commission of Alaska—using ERTS-1 images for land-use inventory for aiding selection of 80,000 square kilometers of public domain for State, Indian and private use.

ERTS-1 image mosaics of western states—being used by BLM for updating private land ownership boundaries.

B. *Updating small-scale maps*—

ERTS-1 images have corrected and improved maps at 1:1,000,000, 1:500,000 and 1:250,000 scales. National map of Bolivia (1:1,000,000 scale) revised in 1973. States of Nevada and California produced as image mosaics at several scales. State of Delaware, New Jersey, Florida, Arizona, now in production.

ERTS-1 use in identifying change and assessing need for revision of large scale (1:24,000) map series clearly demonstrated—Lake Anna reservoir and nuclear power plant in Virginia.

US 95 misplotted on 1:250,000 scale Wilmington, Delaware sheet.

Changes of lakes and reservoirs in Florida and California clearly demonstrated on ERTS-1 images.

ERTS-1 photoimage mosaics of Antarctica have revealed previously unknown features, including blocks of mountains in Southern Victoria Land and at the head of Lambert Glacier.

Also identified needs for map revision due to changes in ice shelves and glaciers.

3. GEOLOGICAL ANALYSIS AND RESOURCES

A. *Synoptic view* provided by ERTS-1 image mosaics provide regional perspectives that permit mapping major lineaments; e.g., 1200 kilometer lineament across northern Nevada extending into California, Idaho and Montana may be a major structural break along which volcanism, geothermal areas and scattered ore deposits are localized.

B. *Surface composition* of large areas can be mapped by use of multispectral images. Absorption bands in near-infrared region appear to be a key in identifying limonite alteration zones related to mineral deposits.

C. *Volcano and earthquake monitoring*—Ground emplaced sensors and ERTS-1 data relay capability successfully demonstrated that increase of seismic events prior to eruption can be used in forecasting; e.g., February 17, 1973, eruption of Puego Volcano, Guatemala.

4. STATE AND QUALITY OF THE ENVIRONMENT

Air—Smoke plumes from industrial centers and fossil fuel plants have been mapped in Virginia, Chicago-Gary area, Pittsburgh, Seattle, San Francisco, Houston, and Four Corners Region.

B. *Water*—Paper plant waste effluent at Fort Ticonderoga, N.Y., mapped from ERTS-1 image of Lake Champlain is being used in law suit by State of Vermont.

Chemical and solid waste dumping in New York Bight mapper from ERTS-1 data taken several days after dump was made.

Turbidity patterns in Delaware Bay, as as seen in ERTS-1 data provide insight on tide dynamics and planning for deep port use.

Turbidity patterns and *algal concentrations* are being monitored in San Francisco Bay.

Oil slicks identified in ERTS-1 images near Baltimore suggests capability for spotting and tracking oil pollution.

C. *Land*—

Strip mine activities in Florida, Indiana, Kentucky, Ohio have been mapped using ERTS-1 images. Ohio found an 18% increase in stripped land area, surveyed at a cost of less than $20,000. In 1960 a similar study using conventional techniques cost $200,000. Feasibility of monitoring western coal stripping activities has been established.

Siltation from construction and floods in rivers, lakes and reservoirs has been proven through use of ERTS-1 data.

5. *Water Resources*

A. Flood plain and flood inundation mapping—

ERTS-1 application established on East and West Nishnabotna River, Iowa; Gila and Salt Rivers, Arizona; Mississippi River from St. Louis, Missouri, to Gulf of Mexico. This work demonstrated 1) that the effects of flooding could be mapped in the near-infrared band 7–12 days after peak stage, 2) that repetitive observations could track the flood crest at several locations along the Mississippi, and 3) that 87,000 square kilometers of the Mississippi Basin could be mapped for less than $20,000 to determine extent of inundation, assess regional effectiveness of flood control measures and identify areas where significant changes may be required to avoid future disasters.

B. *Snow cover mapping*—

ERTS-1 images coupled with ground emplaced snow pillows and stream gage data relays improved runoff forecasts of Verde-Salt River Watershed in time to lower reservoirs, increase power generation ($1,000,000 worth) and avoid floods in Phoenix, Arizona.

ERTS-1 images were used to estimate snow covered area within 4% at Thunder Creek Watershed, Northern Cascades, Washington.

C. *Glacier observation*—

Repetitive ERTS-1 images have been used to map unusual glacial surges (Bering Glacier and Yetna Glacier) in Alaska.

D. *Measurement of Water Quantity and Quality*—

Data collection platforms measuring quantity and quality of water have been relayed

via ERTS-1 from watersheds in Arizona, New England, Delaware, Pennsylvania, New Jersey, Florida, and San Juan Mountains, Colorado, in near real time. Coupled with ERTS-1 images columetric estimates can be made improving flood forecasting and reservoir management.

E. *Ground Water Resources*—

ERTS-1 image analysis of linear features, many related to fracture systems, have provided new insight into the exploration for and development of ground water resources in Arizona, Pennsylvania, Alabama.

F. *Reservoirs and dams*—

Impoundments as small as 4 acres can be identified on ERTS-1 images produced directly from computer compatible tapes (CCT's).

ERTS data now being used operationally to locate water impoundments under National Program for the Inspection of Dams (H.R. 15951).

6. MARINE RESOURCES

A. *Coastal Processes*—

River effluents, sediment transport, erosion of headlands have been maped from ERTS-1 images in the Great Lakes, on both coasts of the conterminous states and Alaska. This information can be used operationally to prospect for off-shore placer deposits, monitor rates of erosion and assess potential adverse effects of water pollution.

B. *Sea Ice*—

Ice type, size, concentration and direction of movement have been determined from repetitive ERTS-1 images in Beaufort Sea.

Presence of meltwater on sea ice as well as open leads have successfully been mapped.

Grounded ice along submarine ridges have been observed on north coast of Alaska.

Applications to shipping, offshore structures, ports and pipeline planning are significant.

C. *Biological information*—

Schools of menhaden and shrimp have been related to water depth, turbidity and other environmental conditions identified in ERTS-1 images of the Gulf of Mexico.

Mr. ABOUREZK. Mr. President, although all of these accomplishments have occurred under an experimental program, there are serious problems associated with EROS' present status. In a response to my inquiry earlier this year, the U.S. Geological Survey listed four serious disadvantages of the experimental status which are now hampering the program's operation.

First. It has discouraged operational use of data because of the danger of stoppage or radical change in data characteristics.

Second. It almost guarantees a significant delay in data flow to the user. Present response time for a request is over 2 months.

Third. It discourages foreign and domestic investment in equipment and supplies.

Fourth. It adds significantly to the program costs.

What is seriously needed is a program which will provide a continuing flow of EROS data so that information to users may be incorporated into decisionmaking processes with the assurance that data will not be suddenly denied because the program has terminated. In addition, the request response time must be drastically reduced to allow the EROS information a quick dissemination in a period of less than 40 to 72 hours.

Mr. President, the Earth Resources Observation Administration Act, which I am introducing today, will do exactly that and more. This bill would require the Department of the Interior to establish an Earth Resources Observation Administration with the primary responsibility of turning remote sensing technology into an operational reality.

To do so, the Administration will establish and carry out a program to develop an efficient and effective means to acquire and interpret information on the quality and quantity of our Earth resources by consulting with all interested agencies of the Government as well as State and local governments and foreign governments. In addition, the Administration will work closely with the National Aeronautics and Space Administration in planning, research, development and operation of the satellite systems associated with the program.

Mr. President, agreement is almost unanimous in governmental circles, in the scientific community, and in business that the present EROS program has earned the right to become operational. The U.S. Geological Survey has stated that—

The only stumbling blocks are approval of an operational program and adequate budget to carry out the program. The technology is available to implement the program.

The tremendous benefits which EROS has demonstrated in the last 2 years have convinced me that the time has come to remove these remaining stumbling blocks. Congress has already, in part, paved the way for an operational EROA program by authorizing the construction of a second ERTS satellite, ERTS-B, and by calling for research and development of a third.

This bill will complete this work and will allow for an even greater utilization of the vast number of benefits available to us and to the world through the use of Earth resources observation. It is extremely important that this be done soon. Like the invention of the microscope, the use of this new tool could offer solutions to many of man's most serious problems like no other invention before it.

Mr. President, I ask unanimous consent that the bill to establish the Earth Resources Observation Administration be printed in the RECORD.

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

S. 3484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as used in this Act, the term—

(1) "earth resources satellite system" means a combination of one or more earth orbital satellites and associated ground equipment for satellite command, control, data reception, and data analysis and interpretation, designed to provide information as to the quality and quantity of earth resources, except that such term does not include systems which have as their primary purposes acquisition of meterological information, or systems established primarily for purposes of national defense; and

(2) "space segment" means that portion of an earth resources satellite system which includes the satellites, their payload and associated ground equipment required for initial checkout, orbit determination and systems verification of the satellites. It includes the transportation system for satellite launch, recovery, repair and refurbishment.

SEC. 2. There is hereby established within the Department of the Interior the Earth Resources Observation Administration (hereinafter referred to as the "Administration"). The Administration shall be headed by an Administrator, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level V of the Executive Schedule pay rates (5 U.S.C. 5314). Under the supervision and direction of the Secretary of the Interior, the Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

SEC. 3. (a) The Administration, in order to carry out the purposes of this Act, shall establish and carry out a program to develop more efficient and effective means to acquire and interpret information on the quality and quantity of earth resources in order to assist the United States in earth resources management.

(b) The Administration shall be responsible for—

(1) consultation with all interested agencies of the United States, and other appropriate entities, including State and local governments, to ascertain the needs for information on the quality and quantity of earch resources; and

(2) on its own, or at the request of other agencies of the United States, planning research, design, development and operation of earth resources satellite systems, except that the planning research, designing, development, and operation of the space segment of the earth resources satellite systems shall be carried out in accordance with the provisions of section 4 of this Act.

SEC. 4. The Secretary of the Interior and the Administrator of the National Aeronautics and Space Administration are authorized to enter into an agreement or other arrangement pursuant to which the National Aeronautics and Space Administration shall undertake the responsibility for the planning, research, designing, development, and operation of the space segment of the earth resources satellite systems on a reimbursable basis.

SEC. 5. (a) The Administration, in order to carry out the purposes of this Act, shall provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof.

(b) In the performance of its functions, the Administration is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law;

(2) to appoint and fix the compensation of such officers and employees as may be necessary to carry out such functions, and, to the extent that it determines such action necessary to the discharge of its responsibilities, to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, scientific engineering and administrative personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but in no event in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code;

(3) to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its work and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory, or possession of the United States, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution;

(4) to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies, institutions, and instrumentalities in the use of services, equipment, and facilities. Each department and agency of the Federal Government is authorized to cooperate fully with the Administration in making its services, equipment, personnel and facilities available to the Administration;

(5) to appoint, in accordance with the applicable provisions of the Federal Advisory Committee Act, such advisory committees as may be appropriate for purposes of consultation and advice to the Administration in the performance of its functions;

(6) to establish within the Administration such offices and procedures as may be appropriate to provide for the greatest possible coordination of its activities under this Act with related scientific and other activities being carried on by other public and private agencies, institutions, and instrumentalities; and

(7) to enter into agreements with foreign countries for cooperative programs or reimbursable services when these agreements are deemed in the best interest of the United States and coordinated with the Department of State, and other appropriate agencies.

(8) to obtain services of experts and consultants in accordance with section 3109 of title 5, United States Code.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. WEICKER:

S. 3485. A bill to amend the Regional Rail Reorganization Act of 1973 to allow adequate time for citizen participation in public hearings, and for other purposes. Referred to the Committee on Commerce.

Mr. WEICKER. Mr. President, I am today introducing legislation to amend the Regional Rail Reorganization Act of 1973 to allow adequate time for citizen participation in public hearings.

The Rail Reorganization Act of 1973 established the Rail Services Planning Office—RSPO—within the Interstate Commerce Commission to, inter alia, insure that the interests of the public are adequately protected during key phases of the reorganization process. Multifarious provisions in the act reflect congressional concern over the safeguarding of the public interest:

First. Section 205(d)(1) requires the Rail Services Planning Office—RSPO—to conduct public hearings on the Secretary's Report[1] and present and future rail service needs in the region.

Second. Section 205(d)(2) requires the RSPO to secure the services of attorneys and other personnel to insure that the public interest is protected.

Third. Section 207(a)(1) requires the U.S. Railway Association—USRA—to afford interested persons an opportunity to comment upon the preliminary system plan.

Fourth. Section 207(a)(2) directs the RSPO to conduct public hearings on the preliminary system plan.

Fifth. Section 208(a) affords the public an opportunity to reject the final system plan through their Representative in Congress.

Notably, in order to achieve maximum and effective public participation at least four things are necessary: First, an opportunity for the public to gain access to pertinent data—for example, reports and various plans; second, sufficient time for members of the public to review and analyze the data; third, sufficient time for public counsel—provided for in section 205(d)(2) of the act—to inform members of the public of the nature of the proceedings and aid them in the preparation of testimony; and fourth, there must be enough time for the RSPO to select those hearing sites which will facilitate the greatest amount of public participation.

The fourth requirement, as stated above, entails many factors. The RSPO needs sufficient time to provide advance publicity of the hearings while concomitantly assembling the requisite personnel to conduct the hearings—for example, public counsel, presiding officers, contact coordinators, court reporters, bailiff, et cetera. Moreover, logistically, it takes time to select an appropriate location which is available for the requisite period of time—usually 3 to 5 days.

The current statutory timetable does not facilitate the satisfaction of the aforementioned prerequisites to effective public participation in the reorganization process. Information obtained during the initial stages of the reorganization process reflects the public's dissatisfaction with the current timetable as outlined herein. On February 1, 1974, the Secretary issued the report required by section 204. Since the RSPO was required to submit its analysis and recommendations concerning that report to the USRA by May 2, 1974, hearings were held during the first 2 weeks in March. An overwhelming majority of the approximately 2,700 witnesses who testified in 17 cities throughout the region complained that they: First, were unable to obtain the Secretary's report and other pertinent data—that is, the act; second did not have enough time to review and analyze the report even if they did have access thereto; and third, did not have enough time to accumulate necessary data for rebutting the report. Notably, because of the overwhelming public interest in the reorganization process and the inability of many to participate in the March hearings, additional hearings on present and future rail service needs are currently being conducted by the RSPO throughout the region.

With the promulgation of the preliminary system plan by the USRA on October 29 of this year—pursuant to section 207a of the act—the public will be presented with the proposed plan for their future rail service in the region. Unfortunately, the current timetable requires the RSPO to hold hearings and issue its report on the plan within 60 days after issuance. Notwithstanding the fact that such hearings would have to be held during the holiday season, the same aforementioned deficiencies of the initial stage will once again rise. Moreover, it is dubious that the goal enumerated by Congress in section 206(a) of the act can be achieved unless these deficiencies are overcome by extending the current time limits. In order to achieve these goals and the other purposes of the act, the public must be given the opportunity both to assimilate the vast amount of divergent data required and present the synthesized fruits thereof in cogent constructive testimony.

Therefore, the amendment I am introducing today, which would extend the period for public participation, following the issuance of the USRA's preliminary plan, from 2 to 5 months, will give the public the meaningful note which they are intended to have under the act.

Finally, with the other time limit extensions section 205(d)(3) should be extended by an additional 90 days in order to insure that the public has sufficient opportunity to participate in the rulemaking which would apply to them in seeking continued rail service over a line not included in the final system plan.

I will at this time compliment Congressman SARASIN of Connecticut for his initiative in introducing this legislation (H.R. 14260) in the House. I further ask unanimous consent that the text of a letter from Mrs. Barbara Boster, executive director of the Eastern Connecticut Development Council, in support of the legislative proposal, be printed at this point in the RECORD. Barbara Boster has been extremely active in ICC-Rail reorganization hearings in the northeast concerning DOF proposed abandonment of 175 miles of Connecticut rail track. I ask unanimous consent also that the text of the bill be printed in the RECORD.

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

CONNECTICUT DEVELOPMENT COUNCIL, INC.,
May 3, 1974.

HON. LOWELL WEICKER,
U.S. Senate, Russell Building,
Washington, D.C.

DEAR SENATOR WEICKER: As you know, the Eastern Connecticut Development Council is a private, nonprofit corporation organized for the purpose of maintaining the stability and enhancing the growth of the Eastern Connecticut economy.

Because transportation access is a critical determinant of economic viability, and because alternative transportation modes in the region are limited, the Council views the possibility of rail freight service abandonments under the Regional Rail Reorganization Act of 1973 as a serious threat to the current economic health and future development potential of Eastern Connecticut. Concern about this possibility was expressed by the Council at recent ICC public hearings, and in written economic impact and rail service continuation subsidy counterproposal statements submitted to the Rail Services Planning Office.

Through this involvement in the rail reorganization process, the Council has become acutely aware that the time allowed for public comment on the various aspects of the reorganization does not permit adequate public review and reaction. Therefore, we urge you to support any measures designed to extend the timetable mandated by the Act.

We believe that this issue vitally affects the public interest in Eastern Connecticut and throughout the Northeast and Midwest and therefore requires the widest possible

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[1] "Rail Services in the Northeast and Midwest," Report of the Secretary of Transportation (February 1, 1974).

public participation. Such participation is severely limited under the existing timetable.

Sincerely,

BARBARA R. BOSTER,
Executive Director.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that section 207 (a)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717(a)(1) be amended by striking out the words "60 days" and inserting in lieu thereof "150 days".

SEC. 2. Section 207(a)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717(a)(2)) is amended by striking out the words "60 days" and inserting in lieu thereof the words "150 days".

SEC. 3. Section 207 (c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717(c)) is amended by striking out the words "420 days" and inserting in lieu thereof "510 days".

By Mr. BUCKLEY:

S. 3486. A bill to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button. Referred to the Committee on Armed Services.

Mr. BUCKLEY. Mr. President, the bill I introduce today is designed to provide a more equitable standard for awarding the gold star lapel button. Since 1966 these buttons have been awarded to widows, parents, and next of kin of members of the Armed Forces who lost or lose their lives while engaged in military operations against an enemy force. However, different standards have been applied at different times in awarding the gold star. This bill will restore the pre-1966 wording of the law specifically to include the widows, and so forth, of those servicemen who lose their lives in the line of duty during any period of armed hostilities in which the United States is engaged, though they may not themselves be involved directly in the conflict. This would mean that the next of kin of the victims of the *Thresher* submarine accident, and the unfortunate victim of the *Pueblo* incident, would be eligible for the award.

The men and women who are drafted, enlisted, or commissioned, during a period of a national emergency, such as the Vietnam conflict, are all subject to the risk of being called into the arena of the hostilities, and are all at least indirectly engaged in the support of our military effort during the conflict. This is recognized by the Department of Defense, which awarded the National Defense ribbon to all those who entered or reentered the armed services during the Vietnam war. By accepting the risks of being in the Armed Forces during such a period, or the risks of serving "with friendly forces engaged in an armed conflict in which the United States is not a belligerent party" these servicemen certainly deserve special recognition.

Although this bill will expand the number of those widows, parents, and the next of kin, who will be eligible for the award, the dignity of the gold star will be upheld. The Department of Defense has a policy of withholding the award when the conditions under which the serviceman died were a result of his own misconduct; my bill will not affect this policy. Furthermore, a serviceman is actually on "active duty" and subject, to call, 24 hours a day, even when on official leave.

Mr. President, this bill will give a broader and more equitable recognition to our servicemen who make the greatest sacrifice—whether on the battlefield or behind a desk, during any period of armed hostilities in which the forces of the United States are engaged.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 950

At the request of Mr. ABOUREZK, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 950, a bill to amend the Clayton Act to provide for additional regulation of certain anticompetitive developments in the agricultural industry.

S. 2665

At the request of Mr. SPARKMAN, the Senator from California (Mr. TUNNEY) and the Senator from Ohio (Mr. TAFT) were added as cosponsors of S. 2665, a bill to authorize funds for the replenishment of the International Development Association.

S. 2789

At the request of Mr. MCGOVERN, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2789, a bill to amend title 38, United States Code, in order to increase the rates of educational assistance allowances and to establish a Vietnam Era Veterans Communications Center, and for other purposes.

S. 3311

At the request of Mr. CHILES, the Senator from Utah (Mr. MOSS) and the Senator from Wyoming (Mr. MCGEE) were added as cosponsors of S. 3311, a bill to provide for the use of simplified procedures in the procurement of property and services by the Government where the amount involved does not exceed $10,000.

S. 3339

At the request of Mr. HUMPHREY, the Senator from Minnesota (Mr. MONDALE) and the Senator from Rhode Island (Mr. PELL), were added as cosponsors of S. 3339, a bill to amend the program of supplemental security income for the aged, blind, and disabled—established by title XVI of the Social Security Act—to provide for cost-of-living increases in the benefits provided thereunder.

S. 3386

At the request of Mr. FONG, the Senator from Utah (Mr. BENNETT), the Senator from California (Mr. CRANSTON), the Senator from Michigan (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Idaho (Mr. MCCLURE), the Senator from Wyoming (Mr. MCGEE), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 3386, a bill to amend title II of the Social Security Act to increase the increment in old-age benefits payable to individuals who delay their retirement beyond age 65.

S. 3401

At the request of Mr. BAYH, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 3401, to include laboratory fees for routine cytological tests for the detection of uterine cancer within the coverage of Federal employee health insurance plans.

S. 3443

At the request of Mr. MONDALE, the Senator from Louisiana (Mr. LONG) was added as a cosponsor of S. 3443, the Petroleum Moratorium Act of 1974.

SENATE RESOLUTION 322—SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. ERVIN submitted the following resolution:

SENATE RESOLUTION 322

Resolution to refer the bill (S. 3482) entitled "A bill for the relief of Monroe Garment Company, Inc." to the Chief Commissioner of the United States Court of Claims for a report thereon

Resolved, That the bill (S. 3482) entitled "A bill for the relief of Monroe Garment Company, Inc.," now pending in the Senate, together with all the accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 84

At the request of Mr. MONDALE, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of Senate Concurrent Resolution 84, relating to opium production in Turkey.

WITHDRAWAL OF COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 74

Mr. SPARKMAN. Mr. President, I ask unanimous consent that, at the next printing of Senate Resolution 74, expressing the sense of the Senate with respect to the submission of U.S. territorial disputes to the International Court of Justice, the names of Mr. STEVENSON and Mr. BAYH be removed.

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

EDUCATION AMENDMENTS OF 1974—AMENDMENTS

AMENDMENT NO. 1300

(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. 1539) to amend and extend certain acts relating to elementary and secondary education programs, and for other purposes.

AMENDMENT NO. 1301

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

Mr. WILLIAM L. SCOTT. Mr. President, I send to the desk an amendment to S. 1539, the elementary and secondary education bill which will be before the Senate this week, ask that it be received and that the amendment be printed in the RECORD at this point.

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

At the end of the bill add the following new title:

TITLE IX—CLARIFICATION OF FEDERAL JURISDICTION; CLARIFICATION OF FEDERAL JURISDICTION WITH RESPECT TO PUBLIC SCHOOLS

SEC. 901. Notwithstanding any other provision of law, including any other provision of this Act or any Act amended by this Act, no court created by Act of Congress and having general jurisdiction, original or appellate, with respect to cases or controversies arising under the laws or Constitution of the United States, shall have any jurisdiction to hear or decide cases or controversies involving the public elementary or secondary schools of a local or State educational agency. The jurisdiction terminated by this Act shall be vested in the courts of the several States and, with respect to such cases and controversies arising in the District of Columbia or in any other territory or possession of the United States, in the Federal courts of an essentially local jurisdiction in such District, territory, or possession. In each such case or controversy, there is vested in the Supreme Court of the United States appellate jurisdiction by writ of certiorari to the highest State or territorial court exercising jurisdiction over such case or controversy.

On page 124, in the Table of Contents after Title VIII insert the following new title:

TITLE IX—CLARIFICATION OF FEDERAL JURISDICTION

"SEC. 901. Clarification of Federal jurisdiction with respect to public schools.".

Mr. WILLIAM L. SCOTT. Mr. President, the purpose of the amendment is to transfer jurisdiction over all issues and controversies involving the public schools from the Federal to the State courts. This is to assure that cases dealing with such a vital local institution as the public school be determined by judges attuned to the problems and the needs of the communities.

To resolve any doubts that might be in the minds of the membership with regard to the authority of the Congress to do this, I have a memorandum prepared by the Congressional Research Service of the Library of Congress on the question. Of course, we know that Congress, under the Constitution, has the power to constitute and to fix the jurisdiction of all our Federal courts inferior to the Superior Court.

I ask unanimous consent that this memorandum be printed in the RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., February 25, 1972.

To: Honorable William L. Scott

From: American Law Division

Subject: Power of Congress Over Jurisdiction of Inferior Federal Courts

This is in response to your request with regard to the power of Congress to provide that cases relating to the public schools shall not be heard in the lower federal courts but instead shall be heard in the state courts with appeals by petition for writ of certiorari to the United States Supreme Court. It would appear to be well settled that the distribution of federal judicial power is a matter of discretion entrusted by the Constitution to Congress; the Constitution specifically provides for this scheme and numerous Supreme Court decisions recognize it. All exercises of power under the Constitution are, of course, subject to constitutional restraints and it may well be that there is a point beyond which Congress could not go in restricting federal judicial power. But on the basis of precedent and the language of cases on point, it would not appear that to require litigation concerning public schools to be initiated in state courts with ultimate review in the United States Supreme Court approaches this point.

A brief historical survey will illustrate the general scheme. At the Constitutional Convention, the Framers first agreed to the proposition that "a national judiciary" consist of a supreme tribunal and "of one or more inferior tribunals." Then, upon the argument that state courts could adequately adjudicate all necessary matters while the supreme tribunal could protect the national interest and assure uniformity, the provision for inferior courts was struck. The next day the Convention adopted an amendment to authorize Congress "to appoint inferior tribunals," the use of the ambiguous word "appoint" being made to give Congress discretion either to "appoint" existing state courts to exercise federal jurisdiction, as was done under the Confederacy, or to "appoint" federal courts. First the Committee on Detail and then the Committee on Style rearranged and reconstituted the wording of the clause so that "appoint" first became "constitute," as it remained in Article I, § 8, cl. 9, and then became the present wording of Article III, cl. 1, to the effect that federal judicial power "shall be vested . . . in such inferior Courts as the Congress may from time to time ordain and establish." 1 Farrand, 21–22, 95, 104, 105, 118, 124–125, 127; 2 Ferrand, 38, 45, 186, 315, 422–423, 428–430, 600. The point of the metamorphosis would seem to be that Congress is under somewhat more hortatory influence to create inferior federal tribunals than it was when "appoint" was used but its discretion is left at large.

The first Congress exercised the power so granted when it enacted the Judiciary Act of 1789. 1 Stat. 73. Congress did not grant to the federal courts the full judicial power of the United States. Jurisdictional amount requirements kept many litigants from federal courts and sent them instead to state courts to adjudicate faderal claims. The 1789 Act contained no grant of "federal question" jurisdiction, so that suits arising, in the words of Article III, § 2, "under this Constitution, the Laws of the United States, and Treaties . . .", except where otherwise specifically and narrowly provided for, were required to be brought in the state courts until 1875. 18 Stat. 470. And a clause barring diversity jurisdiction where diversity had been created by the assignment of choses in action kept in state courts cases which the Constitution would have permitted Congress to assign to federal courts.

In a case involving the "assignee clause," the Court first announced the doctrine that Congress controlled much of its jurisdiction and all of that of the lower federal courts. In the words of Justice Chase: "The notion has frequently been entertained, that the federal courts derive their judicial power immediately from the constitution; but the political truth is, that the disposal of the judicial power (except in a few specified instances) belongs to Congress. If Congress has given the power to this court, we possess it, not otherwise; and if Congress has not given the power to us, or to any other court, it still remains at the legislative disposal. Besides, Congress is not bound, and it would, perhaps, be inexpedient, to enlarge the jurisdiction of the federal courts to every subject, in every form, which the constitution might warrant." *Turner* v. *Bank of North America*, 4 Dall. (4 U.S.), 8, 10 (1799). And in *Cary* v. *Curtis*, 3 How. (44 U.S.) 236, 245 (1845), it was said that "the judicial power of the United States, although it has its origins in the Constitution, is (except in enumerated instance, applicable exclusively to this court) dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating the tribunals (inferior to the Supreme Court), for the exercise of the judicial power, and of investing them with jurisdiction either limited. concurrent, or exclusive, and of withholding jurisdiction from them in the exact degress and character which to Congress may seem proper for the public good." For similar expressions, see, e.g., *Sheldon* v. *Sill*, 8 How. (49 U.S.) 441 (1850); *Plaquemines Tropical Fruit Co.* v. *Henderson*, 170 U.S. 511 (1898); *Kline* v. *Burke Const. Co.*, 260 U.S. 226 (1922); *Lockerty* v. *Phillips*, 319 U.S. 182 (1943); *South Carolina* v. *Katzenbach*, 383 U.S. 301, 331–332 (1966).

State judges under the Supremacy Clause, Article VI, cl. 2, are bound by oath to uphold the supremacy of the Constitution as well as constitutional federal laws and treaties. Today, all cases which might be brought under "federal question" and diversity jurisdiction in federal courts which do not involve the requisite jurisdictional amount must be brought in state courts. Litigants may on their own bring most cases in state courts which could be brought in federal courts, excepting only a few classes of cases in which Congress had made federal jurisdiction exclusive.

Constitutional difficulties could arise should, for example, such a proposal as this be conjoined with one purporting to regulate the Supreme Court's appellate jurisdiction to prevent it from hearing school cases on appeal. It may be that some access to Article III federal courts is required. But that is not an issue here. The history and the precedents appear to provide support for the constitutionality of this proposal.

JOHNNY H. KILLIAN,
Legislative Attorney.

AMENDMENT NO. 1304

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

Mr. McCLELLAN (for himself, Mr. HOLLINGS, Mr. TALMADGE, Mr. FULBRIGHT, Mr. LONG, Mr. BAYH, Mr. CANNON, Mr. CHILES, Mr. ERVIN, Mr. SPARKMAN, Mr. NUNN, Mr. HUDDLESTON, Mr. EASTLAND, Mr. STENNIS, Mr. JOHNSTON, Mr. FANNIN, Mr. TOWER, Mr. BENNETT, Mr. BROCK, Mr. GURNEY, Mr. THURMOND, Mr. BAKER, Mr. BELLMON, Mr. GOLDWATER, Mr. BIBLE, Mr. ALLEN, Mr. YOUNG, Mr. DOMENICI, Mr. HASKELL, Mr. HANSEN, Mr. MONTOYA submitted an amendment, intended to be proposed by them, jointly, to Senate bill 1539, supra.

AMENDMENT NO. 1305

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

STATEMENT IN SUPPORT OF AMENDMENT TO S. 1539 FOR EDUCATION FOR THE HANDICAPPED

Mr. MATHIAS. Mr. President, perhaps no other concept is as widely accepted by the citizens of our country as is the concept of equality of educational opportunity. If we believe, however, in the basic premise that equal educational opportunities must be provided to all handi-

capped children, then our Nation is a long way from achieving that most desirable goal. The amendment I am introducing is a modest step toward achieving equality of educational opportunity for 7 million handicapped children in America.

On April 9, 1974, Judge John Raine, Jr., in the Circuit Court for Baltimore County, Md., decreed in the case of the Maryland Association for Retarded Children against Maryland—a class action suit on behalf of all retarded children to require the State to provide a free public education for all—that "it is the established policy of the State of Maryland to provide a free education to all persons between the ages of 5 and 20 years, and this includes children with handicaps, and particularly mentally retarded children, regardless of how severely and profoundly retarded they may be."

It might be well to note some of the key facts which surfaced in the court's finding. The court, for instance, noted that:

A common estimate of the mentally retarded population is that the retarded constitute about 2.3 to 3 percent of the general population, and the severely and profoundly handicapped constitute one-half of one percent of the population. Application of 3 percent to Maryland public and nonpublic school enrollment, 1972–1973, kindergarten through grade 12, would indicate that there are about 31,000 school age mentally retarded persons in Maryland today, of whom about 5,000 are severely and profoundly retarded. These are only rough estimates, however. It is not known exactly how many retarded, or how many severely and profoundly retarded school age children live in Maryland today.

All persons, including mentally retarded persons, are capable of benefiting from a program of education; the greatest number of retarded persons, given such education, are capable of achieving self-sufficiency and the remaining few, with such education, are capable of achieving some degree of self-care; the earlier such education begins, the more thoroughly and the more efficiently a mentally retarded person will benefit from it; and, whether begun early or not, a mentally retarded person can benefit at any point in his life and development from a program of education.

There exist several tested curricula for the education of severely and profoundly handicapped children.

The facts further disclosed that:

Numbers of children with a variety of handicaps must find education outside the public schools in Maryland because there are no appropriate public school programs made available for them. That is true in each of the jurisdictions served by the defendant boards of education.

Children who are deemed to be too retarded or handicapped for admission to public school programs for the moderately retarded are frequently referred to as "severely" and "profoundly" retarded, although in fact severely retarded children who function on the moderately retarded level are sometimes admitted to public school programs for moderately retarded children.

Prior to the current school year public schools in Maryland did not provide public school programs designed for children who are deemed to be too retarded to be eligible for admission to public school programs for moderately retarded children.

Apart from the Baltimore City and Montgomery County programs, it remains true today that public schools in Maryland do not provide public school programs designed for children who are deemed to be too retarded to be eligible for admission to public school programs for moderately retarded children. Baltimore City Public School officials intend to make educational programs available for all handicapped children. However, that undertaking is limited to a per capita expenditure for such programs by the Baltimore City public schools not exceeding the per capita expenditure for nonhandicapped children.

All parties to the suit agreed that:

Private day schools are not available in Maryland for most severely and profoundly retarded children. Accordingly, the principal alternatives open to most such children are day care or institutionalization.

The Mental Retardation Administration operates three residential institutions that serve school-age children: Rosewood, Great Oaks, and the Third Floor of the Mason Lord Building, Baltimore City Hospital. Rosewood serves retarded persons of all ages from throughout the State.

Of the 321 at Rosewood in no regular educational program, only 3 were under age 5, 196 between 5 and 17, and 121 between 17 and 21.

The habilitation program at Rosewood is not a complete educational program. It is a program of recreation. As the Director of the Mental Retardation Administration testified, it is "adjunctive," a "support."

The principal reason why many children at Rosewood do not participate in school or cottage-based school programs is lack of resources, and more specifically lack of sufficient appropriations.

The ratios at Rosewood show that educational programs at Rosewood are grossly understaffed. The ratios at Rosewood compare unfavorably with the ratios prescribed by State Board of Education by-laws for public and nonpublic school programs and institutional programs for moderately retarded children. They compare most unfavorably with ratios in self-contained classrooms for severely handicapped children in public schools in the surrounding community. A majority of these children are not moderately retarded but instead are severely and profoundly retarded; the staff-pupil ratios at Rosewood compare most unfavorably with the ratio of one teacher for every 5 or 6 severely and profoundly retarded children suggested by Dr. Goldstein. They also compare most unfavorably with the ratios suggested by Dr. Sontage, a witness for the State. The addition of 36 new teachers' and aides' positions promised by defendants will improve the staffing ratios at Rosewood but those ratios nevertheless will continue to compare unfavorably with ratios prescribed by the State Board of Education.

Classes for severely and profoundly retarded children at Rosewood ranged from 45 minutes per week (39 hours per year) to 25 hours per week (1,300 hours per year).

In 1972 there were 1,189 school-aged children enrolled in day care centers for the mentally retarded in Maryland.

Day care centers for mentally retarded persons are licensed by the Mental Retardation Administration but are not presently approved or accredited by the State Department of Education under Sections 12 and 99 of Article 77 of the Maryland Code, nor are they evaluated by local school officials.

However, unlike the accreditation standards of the State Board of Education for nonpublic schools and institutional programs, the day care regulations do not provide minimum standards for curriculum and instructional content, techniques and materials, and thus do not allow for the denial, suspension or revocation of licenses for deficiencies in these aspects of the day care center operations.

Moreover, the qualifications for day care center teachers prescribed by the day care regulations fail to require any professional training. They require only that such teachers be high school graduates, evidence emotional stability, have had experience working with children, and hold a Red Cross First Aid Certificate or the equivalent. These sketchy requirements are very different from the qualifications prescribed by the State Board of Education for teachers in public and nonpublic school programs for handicapped children.

There are no day care centers for school-age children in a number of counties in Maryland.

The public schools rely on the local health departments and the Mental Retardation Administration to find programs for children who do not meet the current minimum standards for admission to public school programs for moderately retarded children.

Children referred by public schools to the local health department often must wait on waiting lists instead of being admitted promptly to a program.

Mr. President, my reason for citing these facts is not to publicize the shortcomings of education in my State or to discredit the sincere and dedicated Maryland educators and specialists who have been working in behalf of handicapped children over the years. Rather, my purpose in calling attention to these facts is to highlight a set of conditions which are replicated throughout the United States in virtually every school district. As the court noted:

In Maryland there have been great strides in recent years to serve the educational needs of the handicapped; new facilities have been opened, a data processing system has been initiated, more money has been spent, and more of the handicapped have been served. In 1965 the State assisted approximately three thousand children at a cost of $1,000,000. By 1973 approximately seventy-seven thousand were provided some service at a cost to the State of approximately $33,000,000. (These figures relate to the entire class of handicapped children and are not limited to the mentally retarded). Nevertheless, with the exception of a very limited number of pilot projects no school system has an appropriate program in the public schools for the most severely and profoundly retarded children.

As I suggested earlier, Maryland does not stand alone. Across this Nation, increasingly active parents, lawyers, and even educators are going to court to seek relief from the exclusion and inappropriate education of handicapped children. And, I might add, the courts are increasingly substantiating the right of handicapped children to an appropriate education with full rights of notice of due process in relation to their selection, placement, and retention in education programs.

In 1971, a U.S. District Court decree, in the case of PARC against Pennsylvania in Pennsylvania, stated specifically that no mentally retarded child could be denied admission to a public school program or have his educational status changed without first being accorded notice and the opportunity of a due process hearing. Moreover, the court ruled that the State could not apply any law which would postpone, terminate, or deny mentally retarded children access to a publicly supported education, including a public school program, tuition or tuition maintenance, and homebound instruction. Equally significant, the court ordered that local school districts providing preschool education

to any children are required to provide the same for mentally retarded.

Here in the Nation's Capital, the right to education was boldly extended to handicapped children almost 2 years ago. On August 1, 1972, in response to a class action suit against the Board of Education of the District et al. for failure to provide all children with a publicly supported education, the court issued a memorandum, opinion, judgement, and decree which in essence supported all arguments advanced by the plaintiffs. I would only, at this point, call attention to the court's response to the school board's argument that it would be impossible for them to afford the relief the plaintiffs sought unless the Congress appropriated needed funds, or funds were diverted from other educational services for which they had been appropriated. The court said, and I quote:

The defendants are required by the Constitution of the United States, the District of Columbia Code, and their own regulations to provide a publicly-supported education for these "exceptional" children. Their failure to fulfill this clear duty to include and retain these children in the public school system, or otherwise provide them with publicly-supported education, and their failure to afford them due process hearing and periodical review, cannot be excused by the claim that there are insuffcent funds. In *Goldberg* v. *Kelly*, 397 U.S. 254 (1969) the Supreme Court, in a case that involved the right of a welfare recipient to a hearing before termination of his benefits, held that Constitutional rights must be afforded citizens despite the greater expense involved. . . . Similarly the District of Columbia's interest in educating the excluded children clearly must outweigh its interest in preserving its financial resources. If sufficient funds are not available to finance all of the services and programs that are needed and desirable in the system then the available funds must be expended equitably in such a manner that no child is entirely excluded from a publicly-supported education consistent with his needs and ability to benefit therefrom. The inadequacies of the District of Columbia Public School System, whether occasioned by insufficient funding or administrative inefficiency, certainly cannot be permitted to bear more heavily on the "exceptional" or handicapped child than in the normal child.

Maryland, Pennsylvania, and the District of Columbia, however, do not stand alone. A number of other States are now confronted with the requirement to provide new educational services, whether as a consequence of court action, or new mandatory legislation, as in the case of Massachusetts, or executive action—or all three.

The national dimensions of the problem are gripping. According to the U.S. Office of Education, there are an estimated 7 million handicapped children in America. Of these 7 million, 6 million are school-aged and 1 million are preschoolers. Unfortunately, just about half of the school-aged handicapped children are receiving the special education services they need, and virtually none of the 1 million preschoolers are being served. I know that in my State of Maryland, only 60 percent of our handicapped children are receiving the required educational services. Moreover, figures reported in Compact, a publication of the Education Commission of the States, indicate that 35 States were providing less service than Maryland; 13 States were providing more service; 2 other States were providing an equal percentage; 12 States were reported as providing less than 30 percent of their children with services; 11 States provided between 30 percent and 40 percent, and 14 fell within the 50 to 60 percent range.

Mr. President, at this point, I ask unanimous consent that a table found in a 1973 Rand Corp. Research Report sponsored by the Department of Health, Education, and Welfare, which lists the percentage of handicapped children served by State and by disability, be inserted in the RECORD.

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

ESTIMATED PERCENT OF HANDICAPPED SERVED BY SPECIAL EDUCATION PROGRAMS, 1972-73

State	Mentally retarded	Hard of hearing	Deaf	Speech impaired	Visually impaired	Emotionally disturbed	Crippled and other	Learning disabled	Total all handicaps
Alabama	75.03	7.44	111.10	26.20	45.68	3.30	21.28	6.65	30.55
Alaska	41.95	29.69	61.85	1.86	32.47	7.70	16.70	37.11	18.75
Arizona	63.65	2.47	0	35.85	12.57	8.23	26.21	7.75	31.20
Arkansas	80.29	0	51.76	28.80	45.07	3.31	20.24	17.00	33.14
California	50.47	12.02	80.11	74.39	50.07	0	232.31	120.16	63.02
Colorado	63.51	58.40	102.33	112.72	39.65	53.10	60.68	0	71.98
Connecticut	46.58	41.00	0	48.52	60.46	58.93	63.17	123.81	57.82
Delaware	100.92	1.08	139.05	76.89	63.92	30.61	104.96	61.90	69.60
Florida	79.64	141.93	116.10	59.69	65.30	23.32	87.07	55.98	62.60
Georgia	125.71	17.75	68.71	65.98	89.97	14.23	67.20	20.91	62.76
Hawaii	67.02	14.92	115.14	55.51	25.02	4.73	25.02	65.70	45.59
Idaho	47.80	5.32	72.89	68.58	40.12	0	3.21	145.85	51.08
Illinois	68.26	63.67	115.67	96.95	56.56	46.37	90.39	43.60	72.58
Indiana	76.58	2.89	89.27	100.32	27.01	2.69	7.34	1.37	54.99
Iowa	54.71	11.59	12.58	78.64	37.75	63.80	49.18	18.87	58.41
Kansas	66.06	8.96	0	80.02	31.51	11.38	72.47	20.48	52.04
Kentucky	77.49	24.68	45.55	64.40	16.96	5.04	48.50	11.67	46.83
Louisiana	60.65	5.77	12.83	87.96	14.43	4.81	23.09	16.36	49.14
Maine	59.79	7.56	172.82	40.78	109.17	6.17	39.12	30.86	37.16
Maryland	102.05	12.21	59.39	61.80	43.19	6.30	104.61	66.46	59.87
Massachusetts	43.53	15.47	130.61	66.94	51.93	11.90	78.25	117.24	53.86
Michigan	95.80	19.61	45.12	106.83	74.30	12.63	61.62	0	67.26
Minnesota	69.52	0	152.42	77.74	38.11	130.99	17.15	0	71.96
Mississippi	65.19	3.72	65.18	43.05	30.28	.58	20.18	8.33	33.08
Missouri	73.13	11.03	0	81.60	10.92	3.42	31.71	7.72	49.20
Montana	49.01	5.41	40.80	43.72	52.53	15.30	81.09	88.39	43.74
Nebraska	92.99	14.51	105.01	125.77	63.52	11.79	26.54	33.62	74.79
Nevada	65.40	11.08	31.67	63.34	39.59	37.61	31.67	0	47.62
New Hampshire	60.27	27.85	150.38	76.40	57.19	12.26	31.13	69.05	54.74
New Jersey	64.66	7.70	122.82	97.10	104.42	73.16	287.40	32.01	83.62
New Mexico	79.08	4.85	114.14	27.50	124.37	4.46	17.77	20.19	34.04
New York	62.71	16.84	91.37	77.86	70.48	32.07	80.87	0	54.50
North Carolina	135.82	24.89	0	73.49	98.34	7.56	16.87	18.91	63.59
North Dakota	35.28	1.37	0	73.46	34.28	34.77	31.43	63.82	49.27
Ohio	104.94	0	115.29	94.35	38.65	0	58.40	66.18	68.12
Oklahoma	63.48	4.43	73.38	46.28	18.70	1.07	39.76	63.43	40.40
Oregon	45.28	12.18	99.45	77.64	46.85	6.09	42.88	131.18	56.03
Pennsylvania	73.56	10.27	27.38	78.72	70.16	3.76	28.52	0	48.19
Rhode Island	54.35	375.01	0	91.84	125.45	13.39	40.18	169.65	86.52
South Carolina	131.15	23.07	31.51	75.46	83.40	55.60	34.75	27.80	74.62
South Dakota	60.56	16.07	107.15	76.53	80.36	10.71	48.22	160.72	63.91
Tennessee	79.70	6.99	19.98	57.09	27.47	3.25	161.84	26.97	50.65
Texas	120.08	18.31	60.69	122.45	93.98	17.21	195.26	121.50	98.38
Utah	63.41	16.60	121.35	90.90	49.67	20.72	6.60	297.45	83.06
Vermont	55.47	40.30	99.05	35.13	73.44	18.36	63.53	89.58	44.46
Virginia	69.57	17.04	0	42.42	0	6.20	93.37	20.88	39.80
Washington	65.16	7.94	62.47	7.40	27.86	23.05	35.71	29.56	28.14
West Virginia	74.02	9.05	9.05	51.71	8.37	.51	13.48	1.02	36.70
Wisconsin	70.42	11.25	41.84	76.94	36.29	6.58	47.69	7.08	48.89
Wyoming	40.80	14.18	71.28	67.02	180.03	6.55	126.57	67.65	50.41
District of Columbia	96.57	34.41	154.84	97.80	68.71	22.98	63.48	7.78	68.73
Average percent served	80.45	21.38	71.61	76.66	54.76	19.27	86.65	44.65	59.23

Mr. MATHIAS. Mr. President, I hasten to point out that the national rate of 59 percent handicapped children served as shown in this table is based on the general population age cohort of 5 to 17, the age group served by the public schools. If we were to change the population base from ages 5 to 17 to include preschoolers, 0 to 17, or all youth, 0 to 21, then, according to the Rand report, the percent served declines to 44 percent and 36 percent, respectively. The Labor and Public Welfare Committee report accompanying S. 1539 tends to support the 36 percent figure. The essential point for us to remember is simply this: That millions of handicapped children in America are not being served either because they are too young or too old for public schools, or because they have been excluded from public schools, or because they have dropped out of school on their own or have been withdrawn by their parents out of sheer frustration with the educational system.

Education is the right of all children. The principle of education for all is based on the philosophical premise of democracy that each person is valuable in his or her own right and should be afforded an equal opportunity to develop to full potential. Unquestionably, progress has been made for some children in some communities but in the main, we have failed a significant portion of the handicapped children.

I hasten to point out that it would be unfair and untrue to contend that our State and local educational programs are neglecting handicapped children. During the school year 1972–73, for instance, State and local expenditures on education of the handicapped amounted to an estimated $2.4 billion. During that same period, the Federal share—which includes funds spent under the Education of Handicapped Act, ESEA titles I and III, Headstart, vocational education, the Higher Education Act, Federal schools for the deaf, research, and instructional support—reached $315 million or only 12 percent of the total annual special education expenditures of $2.7 billion.

But the sad fact is that, large though those amounts may be, where the handicapped are concerned, these funds are simply insufficient to meet the needs, particularly in the face of the increasing legal requirements of service to all handicapped children. A closer examination of the 1972–73 expenditures reveals that the Federal special education expenditures represented only 5 percent of the total Federal education budget. Likewise, State and local expenditures earmarked as special education were also about 5 percent of total State and local education budgets.

Moreover, when we compare Federal expenditures for handicapped youth by program areas it becomes clear that, percentagewise, special education ranks next to last. For example, in fiscal years 1970, 1971, and 1972, the Federal percentage of the total expenditures for the handicapped by program areas was as follows: vocational services, 83 percent; health, 65 percent; welfare, 55 percent; special education, 12 percent; mental health and retardation, 8 percent.

Mr. President, the crux of the problem faced by handicapped children in America is this: their needed programs are crippled by inadequate and uncertain funding, their needed classrooms are impaired by a shortage of trained staff, and because of the need to address both problems, many States are turning a deaf ear to the cry for pre- and post-school programs. Added to the State and local programs facing handicapped children is a federal education budget of which only 5 percent goes for special education.

Mr. President, the most compelling argument for my amendment can be found in the committee report on S. 1539. I quote:

There are 7 million (1 million of preschool age) deaf, blind, retarded, speech-impaired, motor-impaired, emotionally disturbed, or other health-impaired children in the United States who require special education programs. Although these children represent approximately 10 percent of the school age population (a conservative etsimate), and although the number of children receiving special help has grown from 2.1 million to nearly 3 million in the past 5 years, current data indicates that less than 40 percent are receiving an adequate education.

It is the committee's belief that good education programs are an investment rather than merely an expenditure of funds, for even the most severely handicapped child can be made less dependent through education. It costs taxpayers about $250,000 to support a totally dependent person over his lifetime in an institution. Given the opportunity, these children can become self-sufficient, productive members of society, rather than remaining dependent on society. Therefore, from both a humanitarian and an economic standpoint, it is obvious that an adequate education must be made available now for all handicapped children.

The inability of the states to provide for more than 40% of these handicapped children and the higher cost of education for the severely handicapped places a critical responsibility on the federal government to share costs with states and local communities and be the catalytic agent which stimulates activity for the handicapped. The committee feels a strong responsibility to see that these individuals receive the educational services they need, and it is satisfied that the Bureau of Education for the Handicapped is the agency which should help provide and coordinate these services. Every handicapped child has a right to an education, and legislation which provides specific research funds, support of graduate training programs, demonstrations, exemplary projects, and grants-in-aid to the states to develop their own priorities in improving educational services to handicapped children is vitally important.

Mr. President, my amendment will continue the present dominant role of the States and localities in education; however, it will spur the catalytic role of the Federal Government so that State and local programs will be stimulated to serve the estimated 4 million handicapped children who are now left out. The fact that the overwhelming majority of the States now have laws on the books mandating the provision of special education services to all handicapped children underscores the preeminent role of the States in this area, notwithstanding the fact that many are unable to put their money where their laws are.

My amendment would do the following:

1. Amend part B of the Education of the Handicapped Act to say that the maximum amount of the grant to which a State shall be entitled under part B shall be equal to the number of children in average daily attendance within the public schools as determined by the Commissioner of the Office of Education in the most recent fiscal year for which satisfactory data are available multiplied by $15.

2. Include a hold-harmless provision so that in any event, no State shall receive less money than it received in fiscal year 1974.

Mr. President, at this point I ask unanimous consent that a chart depicting the amount of funds each State might receive under my amendment if the school year 1973 were used in calculating the State allotment be included in the RECORD.

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

CALCULATION OF TOTAL COST AT $15 PER PUPIL, UNITED STATES, 1973–74

Area	Average daily attendance 1973–74	Cost at $15 per pupil
United States	42,058,975	$630,884,625
Alabama	724,864	10,872,960
Alaska	78,550	1,178,250
Arizona	453,810	6,807,150
Arkansas	410,330	6,154,950
California	4,280,000	64,200,000
Colorado	532,607	7,989,105
Connecticut	614,300	9,214,500
Delaware	122,396	1,835,940
Florida	1,537,022	23,055,330
Georgia	986,385	14,795,925
Hawaii	165,600	2,484,000
Idaho	176,670	2,650,050
Illinois	2,070,102	31,051,530
Indiana	1,089,500	16,342,500
Iowa	598,342	8,975,130
Kansas	433,666	6,504,990
Kentucky	652,000	9,780,000
Louisiana	770,000	11,550,000
Maine	230,900	3,463,500
Maryland	825,591	12,383,865
Massachusetts	1,167,000	17,505,000
Michigan	1,953,000	29,295,000
Minnesota	861,700	12,925,500
Mississippi	485,170	7,277,550
Missouri	905,500	13,582,500
Montana	157,930	2,368,950
Nebraska	306,846	4,602,690
Nevada	125,000	1,875,000
New Hampshire	158,800	2,382,000
New Jersey	1,433,688	21,505,320
New Mexico	263,363	3,950,445
New York	3,106,508	46,597,620
North Carolina	1,065,179	15,977,685
North Dakota	133,026	1,995,390
Ohio	2,180,797	32,711,955
Oklahoma	557,000	8,355,000
Oregon	428,258	6,423,870
Pennsylvania	2,173,100	32,596,500
Rhode Island	173,202	2,598,030
South Carolina	576,000	8,640,000
South Dakota	150,540	2,258,100
Tennessee	826,998	12,404,970
Texas	2,517,928	37,768,920
Utah	287,905	4,318,575
Vermont	97,732	1,465,980
Virginia	1,008,000	15,120,000
Washington	727,250	10,908,750
West Virginia	380,876	5,713,140
Wisconsin	896,045	13,440,675
Wyoming	79,000	1,185,000
District of Columbia	122,989	1,844,835

Mr. MATHIAS. By making per pupil allocations for every child in the public schools as proposed in my amendment, the Education of the Handicapped Act will support the developing trend toward normalization, and mainstreaming, and will underscore the interlocking nature of special education with regular education.

Additionally, accurate calculations can be made with respect to the cost of part

B because the formula will be calculated on a per pupil basis, as illustrated by the chart I have introduced in the RECORD.

One other important advantage of my amendment is that it avoids the danger of providing an incentive for schools to label children as "handicapped" in order to obtain more Federal funds, since the formula is based on regular school attendance rather than numbers of handicapped enrolled.

Moreover, school enrollment projections through 1980 indicate a gradual decline in total population figures. This means, therefore, that there would be a corresponding gradual but natural reduction in the Federal financial role which State and local programs should be able to gradually assume.

This amendment supports the Education of the Handicapped Act with respect to its focus on the initiation, expansion, and improvement of programs for the handicapped at the preschool, elementary, and secondary levels, to provide full educational opportunity to all handicapped children.

Mr. President, since my proposal amends the Education of the Handicapped Act, States are still required to:

First. Assure that the funds provided under my amendment must be used to meet the special needs of handicapped children;

Second. Assure the participation of handicapped children enrolled in private elementary and secondary schools;

Third. Guarantee that the control and administration of funds and title to property will rest with a public agency;

Fourth. Provide assurance that these funds are used to supplement and, when possible, to increase the level of State, local and private funds, but that in no case may Federal funds be used to supplant funds from non-Federal sources;

Fifth. Assure that procedures have been established for at least annual evaluation of the effectiveness of the programs;

Sixth. Provide that sole responsibility for administering or supervising the State's plan will rest with the State educational agency;

Seventh. Provide for the making of reports that the Commissioner may require and the maintenance of accessible records;

Eighth. Guarantee that fiscal control and fund accounting procedures will be adopted;

Ninth. Provide that funds available under this part will not be available to handicapped children who are eligible for assistance under title I of ESEA;

Tenth. Assure that there are procedures for acquiring and disseminating information to teachers and administrators about programs for the handicapped; and

Eleventh. Include a statement in their State plans which insures that all education programs for the handicapped in the State will be coordinated by the persons in charge of special education programs for handicapped children in the State educational agency.

Additionally, the requirements for public disclosure of the State plan by the State educational agency, with notice and opportunity for hearings and judicial review of actions taken by the Commission of Education regarding the State plans are untouched by my amendment.

I would also point out that the amendments added to the Education of the Handicapped Act by the committee will take on added significance if my amendment is adopted. With my amendment, States will truly be able to "provide full educational opportunity to all handicapped children," as the committee amendment suggests.

My amendment will enable States to identify, locate, evaluate, as well as establish realistic and meaningful goals and timetables for providing full training and educational opportunities for all handicapped children—particularly those presently excluded from schools—as outlined in the committee amendments to the bill before us today.

Mr. President, I commend the committee for adopting the amendment establishing the goal of full educational opportunity for all handicapped children. Reaching that goal, however, will be as difficult as abolishing poverty, or cleaning up the air we breathe, or solving the crisis in energy that we face, unless and until we begin to provide the means for reaching those great goals. Our failure to provide the "means" literally promises a denial of justice to handicapped children this year. Why must the Congress withhold desperately needed financial support? Why should the Congress stand idly by while court action is heaped upon court action? Why should we leave it up to the judicial branch to affirm the Constitution? The committee report states flatly:

> Every handicapped child has a right to an education. . . .

My amendment, if adopted, will affirm that right.

I recognize that there is considerable interest in another bill for handicapped children now pending in a subcommittee of the Labor and Public Welfare Committee. That bill, S. 6, must be reviewed as the total vehicle for insuring the rights of handicapped children. My amendment is neither in competition with that bill, nor is it designed to supplant the need for such legislation. The Mathias amendment is offered as a means of meeting a growing emergency and as a necessary first step in the eventual construction of a vehicle which will truly bring about the necessary reforms and improvements in the educational system with regards to handicapped children.

AMENDMENT NO. 1306

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

AN AMENDMENT TO S. 1539 TO LIMIT THE WITHHOLDING OF FEDERAL FUNDS UNDER CERTAIN CIRCUMSTANCES

Mr. BUCKLEY. Mr. President, within recent months two separate incidents have been brought to my attention concerning the increasing and dangerous intrusion of the Federal Government into the private lives of American schoolchildren. I believe that it would be useful to discuss exactly what occurred in each case so that the urgency and the gravity of the situation can more fully be understood. It would appear that social critics who have been warning us against invasion of privacy have neglected an important area: the invasion of the very minds and hearts of American schoolchildren by Federal bureaucrats.

The New York Times for November 21, 1973, carried a story headlined "HEW Questions Scored as 'Racist.'" The story stated that:

> The (New York) city's Board of Education accused the United States Department of Health, Education and Welfare yesterday of directing a number of schools here to administer pupil questionnaires that the board said were "racist," "highly inflammatory," and "polarizing."
>
> Dr. Seymour P. Lachman, the president of the board, said the Federal department had "once more shown its callous insensitivity to the needs of children and good intergroup relation."
>
> A statement by Dr. Lachman noted that the preface to the 23-item Federal questionnaire said: "To the student: These questions are to find out how you feel about students who are different from you. If you are Black, we want to know how you feel about students who are not Black. If you are White, we want to know how you feel about students who are not White. If you are Brown, we want to know how you feel about students who are not Brown. Whatever you are, we want to know how you feel about students who are different from you."
>
> Dr. Lachman said that the form then asked such questions as the following:
>
> "How do you think your parents feel about Black and White (or Brown and White or Black and Brown) students going to the same school together.
>
> "Do you think that Black (or White or Brown) students in this school cause more trouble than other kinds of students? "How do you think your principal feels about all different kinds of students going to the same school together?"
>
> Dr. Lachman said that it was inconceivable to him how such a questionnaire "could be administered in good faith to fourth- and fifth-grade students."

On Tuesday, May 7, 1974, the Washington Post carried a story headlined "Schools Balking at Pupil Quiz." The story stated, in part:

> District of Columbia school officials announced yesterday they will risk cancellation of $3.4 million in federal funds for educationally disadvantaged children rather than ask students and teachers 24 questions they consider "sociologically or psychologically damaging." . . .
>
> At a press conference announcing their objections to the questionnaires yesterday, Board President Marion Barry Jr. and Supt. Barbara A. Sizemore said they considered the questions to be invasions of privacy, and "sociologically or psychologically damaging."
>
> They cited these as examples:
>
> A question to elementary students that asks "What grownups do you live with?" and includes as a possible response, "I live with other grownups who aren't my relatives."
>
> A question to both elementary and secondary students that asks "what of the following do you have at home?" Possible responses are a daily newspaper, a telephone, a dictionary, a separate freezer, a color television, a tape recorder or cassette player, and books of fiction and nonfiction.
>
> A question to teachers: "Considering this student's present attitude and ability, how far do you think he or she will go in school? Note: Consider this student's attitude and abilities, not financial or family problems."

Mr. President, it seems clear that we have all but reached a point of no return in regard to disregard of the basic

right to privacy of American schoolchildren. I recognize that it is the duty and responsibility of those in the Federal Government to gather information in order to see to it that Federal money is being properly administered in education programs. I also realize that when a community accepts Federal money, the community knows—or should know—that there will be Federal strings attached. But when the school boards of two of the most liberally oriented cities in the United States both condemn Government questionnaires, it seems to me that the time has come for the Congress to do something about it. For a moment, however, allow me to emphasize what I believe to be at stake here by referring to the New York City School Board's refusel to administer the HEW questionnaire. The fact that HEW stopped using this particular questionnaire because of the furor it created in New York is really not relevant to the central issue which is the seemingly insatiable appetite of big Government for control over people's lives. Furthermore, the questionnaire involved in the District of Columbia case continues to be required of other school districts around the country.

In order that we can at least begin to set some limits to the claims of big Government, I am today introducing an amendment to S. 1539 which will allow any community school board or similar organization to reject any Federal Government questionnaire or project for reasons similar to those given by the New York City and Washington School Boards, without being subjected to a cutoff of Federal aid. I believe it is very dangerous to allow a unilateral decision by some bureaucrat in Washington to be the last word concerning the possibility that insensitive or inflammatory questions will be asked of schoolchildren.

Mr. President, at this time I ask unanimous consent that the following be printed in the RECORD:

"HEW Questions Scored as 'Racist,'" by Leonard Buder, New York Times, November 21, 1973.

"U.S. Drops Survey of Pupil Attitudes on Race Relations," by Leonard Buder, New York Times, March 19, 1974.

"Schools Balking at Pupil Quiz," by Richard E. Prince, Washington Post, May 7, 1974.

HEW Questionnaire.

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

[From the New York Times, Nov. 21, 1973]

HEW QUESTIONS SCORED AS "RACIST"

(By Leonard Buder)

The city's Board of Education accused the United States Department of Health, Education and Welfare yesterday of directing a number of schools here to administer pupil questionnaires that the board said were "racist," "highly inflammable," and "polarizing."

Dr. Seymour P. Lachman, the president of the board, said the Federal department had "once more shown its callous insensitivity to the needs of children and good intergroup relations."

Earlier this fall, the department canceled nearly $1-million in special Federal aid to Community School District 19 in Brooklyn because district officials refused to take part in what it regarded as a discriminatory testing program.

REPLY NOT COMPULSORY

In Washington, Dr. Michael J. Wargo of the United States Office of Education defended the questionnaire and said its purpose was to determine whether funds given to school districts under the Federal Government's Emergency School Assistance Act had helped improve race relations in those districts.

Dr. Wargo said the questionnaire was being given to a national sample of 30,000 pupils in 183 schools in 95 school districts. He added that if parents objected, their children would be excused from answering the questionnaire.

In this city, the Federal office sent questionnaires to six schools in three districts—Public School CG in District 12 in the Morrisania section of the Bronx; P.S. 128 and P.S. 192 in District 6 in upper Manhattan, and P.S. 84, P.S. 91 and P.S. 199 in District 3 on the West Side.

SUBSTANCE OF PREFACE

A statement by Dr. Lachman noted that the preface to the 23-item Federal questionnaire said: "To the student: These questions are to ask you how you feel about the students that are different from you. If you are Black, we want to know how you feel about students who are not Black.

"If you are White, we want to know how you feel about students who are not White. If you are Brown, we want to know how you feel about students who are not Brown. Whatever you are, we want to know how you feel about students who are different from you."

Dr. Lachman said that the form then asked such questions as the following:

"How do you think your parents feel about Black and White [or Brown and White or Black and Brown] students going to the same school together?"

"Do you think that Black [or White or Brown] students in this school cause more trouble than other kinds of students?"

"How do you think your principal feels about all different kinds of students going to the same school together?"

Dr. Lachman said that it was inconceivable to him how such a questionnaire "could be administered in good faith to fourth- and fifth-grade students."

[From the New York Times, Mar. 19, 1974]

U.S. DROPS SURVEY OF PUPIL ATTITUDES ON RACE RELATIONS

(By Leonard Buder)

Bowing to the objections of New York City school officials, the Federal Department of Health, Education, and Welfare has stopped using a national questionnaire that asked elementary school pupils how they and their parents felt about children of other races.

Last November, Dr. Seymour P. Lachman, the president of the City Board of Education, assailed the national questionnaire as "racist," "highly inflammatory" and "polarizing." He made the charges after learning that the Federal department had directed a number of city schools, as a condition of their receiving special Federal grants, to administer the racial-attitude questionnaire to fourth-grade and fifth-grade pupils.

The questionnaires were given last fall, apparently without any strong objections, to 27,000 pupils in 176 schools in 25 states. The same questionnaires were to have been given again this spring to these pupils to determine whether funds given to the schools under the Federal government's Emergency School Assistance Act had helped to improve race relations.

The earlier questionnaires, a Federal official said, will now probably be destroyed.

Announcement of the decision to scrap the questionnaire survey—not only for New York City but also nationwide—came in a letter received yesterday by Irving Anker, the City School Chancellor. In the letter, Charles B. Saunders, the department's acting assistant secretary for education, said:

"Although we do not fully agree with many of the objections you and your staff have raised and we are seriously concerned about the loss to the evaluation that removal of the attitude measurement portion will entail, we have decided to accede to your request because the objections still appear to be widespread and deeply felt."

COOPERATION EXPECTED

Mr. Saunders said that he has asked officials in the United States Office of Education to develop another instrument for measuring attitudes and that he was "counting" on Mr. Ankers cooperation and assistance.

Referring to the several controversies that have developed between city and Federal authorities during the current school year, Mr. Saunders told the Chancellor that "I am hopeful that we can put aside the posture of confrontation which has characterized the past several months."

According to a source within the Department of Health, Education and Welfare, officials of its civil-rights office were also critical of the pupil attitude questionnaire that was developed by the Office of Education

One civil-rights official, who asked not to be identified, said he learned of the questionnaire after New York City raised objections. He added that he, too, felt that the form was "racist" and "polarizing" and should be withdrawn immediately.

Dr. Michael Wargo, of the Education Office, who last fall defended the questionnaire, said yesterday that he did not want to comment on the matter now.

Dr. Lachman said the city board was "delighted that the Federal Government finally agrees with the position that my colleagues and I raised five months ago."

"I still think that this attitudinal questionnaire is unworthy of the objectives Health, Education and Welfare is trying to achieve," he declared.

He expressed regret that many other school boards in the country had passively gone along with the questionnaire.

The withdrawn questionnaire carried this explanation for students: "These questions are to find out how you feel about students who are different from you. . . ."

Among the 23 questions asked were the following:

"Who would you like most to have in your own class?" Answers: "(A) My classmates should be like me. (B) 1 or 2 classmates should be not like me. (C) About half my classmates should be not like me.

"How do you think your parents feel about black and white [or "brown and white" or "brown and black"] students going to the same school together?"

"Do you think the black [or "brown" or "white"] students in this school cause more trouble than other kinds of students?"

[From the Washington Post, May 7, 1974]

SCHOOLS BALKING AT PUPIL QUIZ

(By Richard E. Prince)

District of Columbia school officials announced yesterday they will risk cancellation of $3.4 million in federal funds for educationally disadvantaged children rather than ask students and teachers 24 questions they consider "sociologically or psychologically damaging."

The questions, part of a battery of tests one-and-a-half inch thick to be administered to 720 students and teachers, concern the students' home lives and expectations in school. The Office of Education administers the test nationwide to 176 schools in 82 school districts receiving the funds. Officials of the office said they consider the questions "innocuous."

Negotiations on the issue are continuing between the office and the school system

with a Friday deadline. The grant in question is already partly spent for this school year. In addition, $2.9 million has been requested for the program next year. The money comes from the Emergency School Aid Act, which provides for programs to aid school children who are disadvantaged by "minority group isolation."

The D.C. school system is 95 per cent black. The schools hope to receive $32.3 million in federal grants for the year beginning July 1 to supplement its operating budget request of $177.4 million.

Officials at the Office of Education said the District was chosen by lot to administer the tests, although all school districts must agree to do so as a condition for receiving the money.

In Washington, four schools are to receive the tests; two participating in the program and two to serve as "control" schools. Money from the grant helps pay for staff in bilingual, environmental or career education at all schools in the city except the control schools, Powell Elementary and Cardozo *High School*. The two other schools to be tested were to be H. D. Cooke Elementary and Ballou High School.

At a press conference announcing their objections to the questionnaires yesterday, Board President Marion Barry Jr. and Supt. Barbara A. Sizemore said they considered the questions to be invasions of privacy, and "sociologically or psychologically damaging."

They cited these as examples:

A question to elementary students that asks "What grownups do you live with?" and includes as a possible response, "I live with other grownups who aren't my relatives."

A question to both elementary and secondary students that asks "which of the following do you have at home?" Possible responses are a daily newspaper, a telephone, a dictionary, a separate freezer, a color television, a tape recorder or cassette player, and books of fiction and nonfiction.

A question to teachers: "Considering this student's present attitude and ability, how far do you think he or she will go in school? Note: Consider only this student's attitude and abilities, not financial or family problems."

"The debate over the questionnaires between the school system and the Education Office dates back to March. In a March 28 letter to the office, Mrs. Sizemore expressed concern about questions "which ask students to divulge information about matters internal to their homes" and said it would take 193 hours of administrative and teacher time and 360 hours of student time to administer the tests.

The Office of Education agreed to develop a system that would ensure "complete anonymity" to the students and for school system "control" over the collection of data.

There still remained, however, a disagreement over the specific questions to be used, and last Friday Herman R. Goldberg, associate commissioner of equal educational opportunity, threatened to terminate the program if no resolution was reached by yesterday.

The school board then voted 7 to 0 to support Mrs. Sizemore's request that "the tests not be administered unmodified."

Late yesterday, the school system and the Education Office agreed to continue discussions until Friday.

"We're not looking for any confrontation; we want the thing to work," Goldberg said yesterday. Goldberg said that while he was willing to eliminate some of the questions in places the school system wants his office to eliminate whole sections of the questionnaire, which he said he would not do.

He said the survey was needed because it is important for his office to evaluate its programs and to have some measure of the characteristics of the students receiving the funds. School officials say facts about socioeconomic status are beyond the scope of the program.

District officials compared their situation to that of New York City, where in March the school board succeeded in having an Office of Education test asking students about their racial attitudes withdrawn nation-wide.

ELEMENTARY SCHOOL QUESTIONNAIRE

To the student:

These questions are to find out how you feel about students who are different from you.

If you are Black, we want to know how you feel about students who are not Black.

If you are White, we want to know how you feel about students who are not White.

If you are Brown, we want to know how you feel about students who are not Brown.

Whatever you are, we want to know how you feel about students who are different from you.

DIRECTIONS

Don't write anything until the question is read to you. The words will be explained as we go along.

This is not a test. There are no right or wrong answers. All you have to do is put an X in the box that says how you really feel. You should put an X in only one box for each question.

Nobody in your school or in your city will ever be told how you answered the questions.

Now, everybody raise your pencil until it is time to write.

(A) I am Black.
(B) I am White.
(C) I am Brown.
(D) I am not any of these. (If you check this box, print in the space below what you are.)

2. Are you Mexican-American, Cuban, or Puerto Rican?
(A) No, none of these.
(B) Yes, Mexican-American.
(C) Yes, Cuban.
(D) Yes, Puerto Rican.

3. If you could choose the kind of school you could go to, would you pick one with:
(A) All White students.
(B) All Black students.
(C) All Brown students.
(D) A mixture of different kinds of students.
(E) It doesn't matter to me.

4. Think now, who you would most like to have in your own class. How many students would be not like you?
(A) All my classmates should be like me.
(B) 1 or 2 classmates should be not like me.
(C) About half of my classmates should be not like me.
(D) Most of my classmates should be not like me.
(E) It doesn't matter to me if my classmates are like me or not like me.

6. How do you think your parents feel about Black and White students going to the same school together? If both kinds of students don't go to your school, how to you think your parents feel about the idea of Black and White students going to the same school together?
(A) They like it.
(B) They don't like it.
(C) It doesn't matter to them.

6. How do you think your parents feel about Brown and White students going to the same school together? If both kinds of students don't go to your school, how do you think your parents feel about the idea of Brown and White students going to the same school together?
(A) They like it.
(B) They don't like it.
(C) It doesn't matter to them.

7. How do you think your parents feel about Black and Brown students going to the same school together? If both kinds of students don't go to your school, how do you think your parents feel about the idea of Black and Brown students going to the same school together?
(A) They like it.
(B) They don't like it.
(C) It doesn't matter to them.

8. Now, I want to ask about your teacher. How do you think your teacher feels about Black and White students going to the same school together?
(A) My teacher likes it.
(B) My teacher doesn't like it.
(C) It doesn't matter to my teacher.

9. How do you think your teacher feels about Brown and White students going to school together?
(A) My teacher likes it.
(B) My teacher doesn't like it.
(C) It doesn't matter to my teacher.

10. How do you think your teacher feels about Black and Brown students going to the same school together?
(A) My teacher likes it.
(B) My teacher doesn't like it.
(C) It doesn't matter to my teacher.

11. Now, I want to know about your principal. How do you think your principal feels about all different kinds of students going to the same school together?
(A) My principal likes it.
(B) My principal doesn't like it.
(C) It doesn't matter to my principal.

12. Now, I would like you to think about your three best friends in this school. Are they all the same as you, or is at least one of your best friends not the same as you?

That means, if you are Black, are your best friends Black; if you are White, are your best friends White; if you are Brown, are your best friends like you; or, whatever you are, are any of your friends not the same as you?
(A) All of my three best friends are the same as me.
(B) At least one of my best friends is not the same as me.

13. Think of your friends outside of school. How many of them are different from you?
(A) None.
(B) 1 or 2.
(C) About half.
(D) Most of my friends.
(E) All of my friends.

14. Have you ever invited a friend who is different from you to your house?

This means if you are Black, have you had a friend who is *not* Black over; or, if you are White, have you had a non-White friend over; or, if you are Brown, have you had a friend who is different from you visit at your home?
(A) Yes, once or twice.
(B) Yes, often.
(C). No.

15. Do you think Black students in this school cause more trouble than other kinds of students?
(A) Yes.
(B) No.
(C) All students in this school are Black.

16. Do you think Brown students in this school cause more trouble than other kinds of students?
(A) Yes.
(B) No.
(C) There are no Brown students in this school.

17. Do you think White students in this school cause more trouble than other kinds of students
(A) Yes.
(B) No.
(C) There are no White students in this school.

18. Do you think White teachers in this school are unfair to students who are not White?
(A) Yes.
(B) No.
(C) There are no White teachers.

19. Do you think Black teachers are unfair to students who are not Black?
(A) Yes.
(B) No.
(C) There are no Black teachers.
(D) All students are Black.
20. Do you think Brown teachers are unfair to students who are not Brown?
(A) Yes.
(B) No.
(C) There are no Brown teachers in this school.
21. Do you think Black people are smarter than other people?
(A) Yes.
(B) No.
(C) You can't tell how smart a person is by his color.
22. Do you think Brown people are smarter than other people?
(A) Yes.
(B) No.
(C) You can't tell how smart a person is by his color.
23. Do you think White people are smarter than other people?
(A) Yes.
(B) No.
(C) You can't tell how smart a person is by his color.

AMENDMENT NO. 1307

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

Mr. ALLEN (for himself and Mr. SPARKMAN) submitted amendments, intended to be proposed by them, jointly, to Senate bill 1539, supra.

AMENDMENTS NOS. 1308 AND 1309

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

Mr. ERVIN (for himself, Mr. ALLEN, Mr. TALMADGE, and Mr. MCCLELLAN) submitted two amendments, intended to be proposed by them, jointly, to amendment No. 1144 to Senate bill 1539, supra.

EXEMPTION FROM DUTY THE REPAIRS TO CERTAIN VESSELS—AMENDMENT

AMENDMENT NO. 1302

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

Mr. TUNNEY submitted an amendment intended to be proposed by him to the bill (H.R. 8217) 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, 1972.

Mr. TUNNEY. Mr. President, the Commerce and Government Operations Committees recently concluded 3 days of hearings on the problem of material and commodity shortages. These hearings revealed a disaster of disarray in our Government's policies for anticipating and ameliorating shortages. In addition, a recently released General Accounting Office study reports that policy is often made on an ad hoc, uncoordinated basis in which different agencies work at cross purposes. The Commerce and Government Operations Committees are now at work on badly needed remedial legislation.

In the meantime, the Senate has an opportunity to correct one of the most striking failures of policy coordination in the executive branch. Despite severe shortages of certain commodities, the Treasury Department continues to subsidize the export of these commodities under the Domestic International Sales Corporation (DISC) provisions of the 1971 Revenue Act. Even after the Commerce Department imposed short-supply export controls on a range of commodities, the DISC subsidy remained in effect.

Mr. President, Congress never intended for the Treasury and Commerce Departments to work at cross purposes at the expense of consumers and taxpayers. In fact, the 1971 Revenue Act specifically allows the President to find that the supply of any DISC-subsidized commodity is insufficient and then to suspend the DISC subsidy.

The amendment I will offer to H.R. 8217 directs the President to determine which commodities are in short supply, to invoke the provisions of the 1971 Revenue Act, and to report back to Congress within 90 days on findings made and actions taken to correct the present bureaucratic anomaly.

This amendment does not require the President to suspend DISC benefits on any particular commodity. It does, however, require him to take a close look at the current shortage situation and to report the results of that assessment to the Congress. Should the President choose to exercise his discretion under existing law or should the current shortage picture improve, no further congressional action will be required in the immediate future. If the results of the President's review indicate the need for selective suspension of DISC benefits and if the President does not exercise his present authority to order such suspension, Congress will be equipped to act with knowledge and expedition.

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

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

H.R. 8217

The President shall immediately undertake a review of the supply of all commodities manufactured, produced, grown or extracted in the United States for purposes of determining, pursuant to section 993(c)(3) of the Internal Revenue Code of 1954, whether the supply of any such commodity is insufficient to meet the requirements of the domestic economy, and, by Executive order, designate any such commodity as in short supply for purposes of section 993(c) of the Internal Revenue Code of 1954. The President shall submit his findings and a report on actions taken pursuant to this section to the Congress no later than 90 days following the date of enactment.

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT OF 1974—AMENDMENT

AMENDMENT NO. 1303

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

Mr. MUSKIE (for himself, Mr. RANDOLPH, Mr. BAKER, Mr. BURDICK, Mr. BUCKLEY, Mr. BIDEN, Mr. CLARK, Mr. DOMENICI, Mr. GRAVEL, Mr. MCCLURE, Mr. MONTOYA, and Mr. STAFFORD) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 14368) to provide for means of dealing with energy shortages by requiring reports with respect to energy resources, by providing for temporary suspension of certain air pollution requirements, by providing for coal conversion, and for other purposes.

Mr. MUSKIE. Mr. President, today the Committee on Public Works approved a proposed substitute amendment to H.R. 14368, a House-passed bill which is pending at the desk and which amends the Clean Air Act.

The Committee on Public Works' substitute deals with four issues:

First, the committee proposes to modify the coal conversion proposal of the House to narrow its application to assure, at a minimum, protection of public health.

Second, the committee proposes to limit exceptions to Clean Air Act to coal conversions in areas where public health-related primary ambient air quality standards are not now exceeded. Further, no coal conversions could take place where the conversion itself would cause public health standards to be exceeded.

Third, the substitute proposes to adopt an identical provision to the House bill relating to auto emissions to end any doubt as to what auto emission standards will be required for the 1976 model year vehicle.

Fourth, the committee proposes to clarify the relationship between the National Environmental Policy Act and the Clean Air Act.

In order to provide Senators an adequate opportunity to review the proposal, I ask unanimous consent that the text of the entire amendment be included at this point in the RECORD.

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

H.R. 14386

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; PURPOSE.

(a) This Act, including the following table of contents may be cited as the "Energy Supply and Environmental Coordination Act of 1974".

TABLE OF CONTENTS

Sec. 1. Short title; purpose.
Sec. 2. Suspension authority.
Sec. 3. Implementation plan revisions.
Sec. 4. Motor vehicle emissions.
Sec. 5. Conforming amendments.
Sec. 6. Protection of public health and environment.
Sec. 7. Reports.
Sec. 8. Coal conversion and allocation.
Sec. 9. Extension of Clean Air Act authorizations.

(b) The purpose of this Act is to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

SEC. 2. SUSPENSION AUTHORTIY.

Title I of the Clean Air Act is amended by adding at the end thereof the following new section:

"ENERGY-RELATED AUTHORITY

"SEC. 119. (a)(1)(A) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before the earlier of June 30, 1975, or one year after the date of enactment of this section, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will

be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under paragraph (3) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law; except as provided in subparagraph (B).

"(B) The Administrator shall give notice to the public of a suspension and afford the public an opportunity for written and oral presentation of views prior to granting such suspension unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before granting such a suspension he shall give actual notice to the Governor of the State, and to the chief executive officer of the local government entity in which the affected officer of the local government entity in which the affected source or sources are located. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B), (2) (C), or (2)(D) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) or 307 (b) and (e) of this Act.

"(2) In issuing any suspension under paragraph (1) the Administrator is authorized to act on his own motion without application by any source or State.

"(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available to that person (as determined by the Administrator). For purposes of clause (C) of this paragraph, availability of natural gas or petroleum products which enable compliance shall not make a suspension inapplicable to a source described in subsection (b)(1) of this section.

"(4) For purposes of this section:

"(A) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation plan (other than a requirement imposed under authority described in section 110(a)(2)(F)(v)), and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type or grade or pollution characteristic thereof.

"(B) The term 'stationary source' has the same meaning as such term has under section 111(a)(3).

"(b)(1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source—

"(A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 8(a) of the Energy Supply and Environmental Coordination Act of 1974, or

"(B) which the Administrator determines began conversion to the use of coal as fuel during the ninety-day period ending December 15, 1973, and, consistent with the criteria established in this section should use coal after the expiration of any suspension approved pursuant to section 119(a) of the Clean Air Act,

and which is located in an air quality control region in which applicable national primary ambient air quality standards are not being exceeded and which converts to the use of coal as fuel, shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source. For purposes of this paragraph, the term 'began conversion' means action by the owner or operator of a source during the ninety-day period ending on December 15, 1973 (such as entering into a contract binding on the operator of the source for obtaining coal, or equipment or facilities to burn coal; expending substantial sums to permit such source to burn coal; or applying for an air pollution variance to enable the source to burn coal) which the Administrator finds evidences a decision (made prior to December 15, 1973) to convert to burning coal as a result of the unavailability of an adequate supply of fuels required for compliance with the applicable implementation plan, and a good faith effort to expeditiously carry out such decision.

"(2) (A) Paragraph (1) of this subsection shall apply to a source only if (I) the Administrator finds that emissions from the source will not cause or contribute to concentrations of air pollutants in excess of national primary ambient air quality standards and (II) if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentation of views). A plan submitted under the preceding sentence shall be approved only if it (i) meets the requirements of regulations prescribed under subparagraph (B); and (ii) provides that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not cause or contribute to concentrations of air pollutants in excess of national primary ambient air quality standards. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

"(B) The Administrator shall prescribe regulations requiring that any source to which this subsection applies submit and obtain approval of its means for and schedule of compliance. Such regulations shall include requirements that such schedules shall include dates by which such sources must—

"(i) enter into contracts (or other enforceable obligations) which have received prior approval of the Administrator as being adequate to effectuate the purposes of this section and which provide for obtaining a long-term supply of coal which enables such source to achieve the emission reduction required by subparagraph (C), or

"(ii) if coal which enables such source to achieve such emission reduction is not available to such source, enter into contracts (or other enforceable obligations) which have received prior approval of the Administrator as being adequate to effectuate the purposes of this section and which provide for obtaining (I) a long-term supply of other coal or coal derivatives, and (II) continuous emission reduction systems necessary to permit such source to burn such coal or coal derivatives, and to achieve the degree of emission reduction required by subparagraph (C).

"(C) Regulations under subparagraph (B) shall require that the source achieve the most stringent degree of emission reduction that such source would have been required to achieve under the applicable implementation plan which was in effect on the date of enactment of this section (or if no applicable implementation plan was in effect on such date, under the first applicable implementation plan which takes effect after such date). Such degree of emission reduction shall be achieved as soon as practicable, but not later than January 1, 1979; except that, in the case a source for which a continuous emission reduction system is required for sulfur-related emissions, reduction of such emissions shall be achieved on a date designated by the Administrator (but not later than Januray 1, 1979). Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable including requirements described in clauses (A) and (B) of subsection (a)(3) and requirements to file progress reports.

"(D) The Administrator (after notice to interested persons and opportunity for presentation of views, including oral presentations of views, to the extent practicable) (i) may, prior to the earlier of June 30, 1975, or one year after the date of enactment of this section, and shall thereafter prohibit the use of coal by a source to which paragraph (1) applies if he determines that the use of coal by such source may cause or contribute to concentrations of air pollutants in excess of national primary ambient air quality standards; and (ii) may require such source to use coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Nothing in this subsection (b) shall prohibit a State or local agency from taking action which the Administrator is authorized to take under this subparagraph.

"(3) For purposes of this subsection, the term 'air pollution requirement' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this Act (except for any requirement prescribed under this subsection, section 110(a)(2)(F)(v), or section 303), and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels). A conversion to coal to which this subsection applies shall not be deemed to be a modification for purposes of section 111(a) (2) and (4) of this Act.

"(4) A source to which this subsection applies may, upon the expiration of the exemption under paragraph (1), obtain a one-year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 110(f).

"(c) The Administrator may by rule establish priorities under which manufacturers of continuous emission reduction systems necessary to carry out subsection (b) shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution. No rule under this subsection may impair the obligation of any contract entered into before enactment of this section. To the extent necessary to carry out this section, the Administrator may prohibit any State or political subdivision from requiring any person to use a continuous emission reduction system for which priorities have been established under this subsection except in accordance with such priorities.

"(d) The Administrator shall study, and report to Congress not later than six months after the date of enactment of this section, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that con-

tinuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

"(3) the number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of continuous emission reduction technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources including time schedules, priorities analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of continuous emission reduction systems which do not produce solid waste to sources which are least able to handle solid waste byproducts of such systems; and

"(9) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the availability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a)(3)).

"(f)(1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a)(1) to violate any requirement on which the suspension is conditioned pursuant to subsection (a)(3).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for the owner or operator of any source to fail to comply with any requirement under subsection (b) or any regulation, plan, or schedule thereunder.

"(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (1)(3).

"(g) Beginning January 1, 1975, the Administrator shall publish at no less than one-hundred-and-eighty-day intervals, in the Federal Register, the following:

"(1) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (b) applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsection.

"(2) Up-to-date findings on the impact of this section upon—

"(A) applicable implementation plans, and

"(B) ambient air quality.

"(h) Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

"(i)(1) In order to reduce the likelihood of early phaseout of existing electric generating facilities, any electric generating powerplant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on January 1, 1974) of the operator of such plant, (B) for which a certification to that effect has been filed by the operator of the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

"(2) Prior to the date on which any plant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such source may apply (with the concurrence of the Governor of the State in which the plant is located) to the Administrator to postpone the applicability of such requirement to such source for not more than one year. If the Administrator determines, after balancing the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for such costs, and other appropriate factors, then the Administrator shall grant a postponement of any such requirement.

"(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

"(j)(1) The Administrator may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and after consultation with the Federal Energy Administrator, designate persons to whom fuel exchange orders should be issued. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (a) of this section or conversion to coal to which subsection (b) applies or of any allocation under section 8 of the Energy Supply and Environmental Coordination Act of 1974 or the Emergency Petroleum Allocation Act of 1973.

"(2) The Federal Energy Administrator shall issue exchange orders to such persons as are designated by the Administrator under paragraph (1) requiring the exchange of any fuel subject to allocation under the preceding Acts effective no later than forty-five days after the date of the designation under paragraph (1), unless the Federal Energy Administrator determines, after consultation with the Administrator, that the costs or consumption of fuel, resulting from such exchange order, will be excessive.

"(3) Violation of any exchange order issued under paragraph (2) shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973."

SEC. 3. IMPLEMENTATION PLAN REVISIONS

Section 110(a) of the Clean Air Act is amended in paragraph (3) by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) For any air quality control region in which the Administrator determines the applicable primary air quality standard is being exceeded, the Administrator shall review the applicable implementation plan and no later than ninety days after such determination report to the State on whether such plan can be revised in relation to fuel burning stationary sources without interfering with applicable national primary ambient air quality standards which the plan implements. If the Administrator determines that any such plan can be revised he shall notify the State that a plan revision may be submitted by the State within three months after the date of notice to the State of such determination. Any plan revision which is submitted by the State after notice and public hearing shall be approved or disapproved by the Administrator, after public notice and opportunity for public hearing, but no later than three months after the date required for submission of the revised plan."

SEC. 4. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b)(1)(A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b)(1)(B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b)(5)(A) of such Act is amended to read as follows:

"(5)(A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within sixty days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977."

(d) Section 202(b)(5)(B) of the Clean Air Act is repealed and the following subparagraphs redesignated accordingly.

SEC. 5. CONFORMING AMENDMENTS.

(a)(1) Section 113(a)(3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "(hazardous emissions)" the following: ", or 119(f) (relating to energy-related authorities".

(2) Section 113(b)(3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112 (c), or 119(f)".

(3) Section 113(c)(1)(C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119 (b), (c), and (e)," before "209".

SEC. 6. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in

section 8 of this Act or in the Emergency Petroleum Allocation Act of 1973 shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal to which section 119 of the Clean Air Act applies, the Department of Health, Education, and Welfare shall, through the National Institute of Environmental Health Sciences and in cooperation with the Environmental Protection Agency, conduct a study of chronic effects among exposed populations. The sum of $3,500,000 is authorized to be appropriated for such a study. In order to assure that long-term studies can be conducted without interruption, such sums as are appropriated shall be available until expended.

(c) No action taken under the Clean Air Act, or under section 8 of this Act for a period of one year after initiation of such action, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1939 (83 Stat. 856). However, before any action under section 8 of this Act that has a significant impact on the environment is taken, if practicable, or in any event within sixty days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a thirty-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under section 8 of this Act which will be in effect for more than a one-year period or any action to extend an action taken under section 8 of this Act to a total period of more than one year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any provision of this Act.

SEC. 7 REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 2 through 6 of this Act.

SEC. 8. COAL CONVERSION AND ALLOCATION.

(a) The Federal Energy Administrator shall, to the extent practicable and consistent with the purposes of this Act, by order, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall not be prohibited from using petroleum products or natural gas unless the installation is located in a region described in the first sentence of section 119(b)(1), and the Administrator has made the finding specified in section 119(b)(2)(A)(I) with respect to emission from such installation. A prohibition on use of nautral gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Federal Energy Administrator may require that fossil-fuel-fired electric powerplants in the early planning process other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Federal Energy Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Federal Energy Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objective specified in this section.

(c) It shall be unlawful for any person to violate any provision of this section, or to violate any rule, regulation, or order issued pursuant to any such provision.

(d)(1) Whoever violates any provision of subsection (c) shall be subject to a civil penalty of not more than $2,500 for each violation.

(2) Whoever willfully violates any provision of subsection (c) shall be fined not more than $5,000 for each violation.

(3) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to subsection (b). Any person who knowingly and willfully violates this paragraph after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to subsection (b) shall be fined not more than $50,000 or imprisoned not more than six months, or both.

(4) Whenever it appears to any person authorized by the Federal Energy Administrator to exercise authority under this section that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of subsection (c), such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by subsection (c).

(5) Any person suffering legal wrong because of any act or practice arising out of any violation of subsection (c) may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this paragraph shall authorize any person to recover damages.

(e) Authority to issue orders or rules under subsections (a) and (b) of this section shall expire on midnight, June 30, 1975, but the expiration of such authority shall not affect any administrative or judicial proceeding pending on such date which relates to any act or omission before such date.

SEC. 9. EXTENSION OF CLEAN AIR ACT AUTHORIZATIONS

(a) Section 104 of the Clear Air Act is amended by striking "and $150,000,000 for the fiscal year ending June 30, 1974" and inserting in lieu thereof ", $150,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975."

(b) Section 212 of such Act is amended by striking "three succeeding fiscal years." and inserting in lieu thereof "four succeeding fiscal years.".

(c) Section 316 of such Act is amended by striking "and $300,000,000 for the fiscal year ending June 30, 1974" and inserting in lieu thereof ", $300,000,000 for the fiscal year ending June 30, 1974 and $300,000,000 for the fiscal year ending June 30, 1975."

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1241

At the request of Mr. BEALL, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of Amendment No. 1241, intended to be proposed to the bill (S. 1539), the Education Amendments of 1974.

AMENDMENT NO. 1265

At the request of Mr. DOLE, the Senator from California (Mr. TUNNEY) was added as a cosponsor of Amendment No. 1265, intended to be proposed to the bill (S. 3267) to provide standby emergency authority to assure that the essential energy needs of the United States are met, and for other purposes.

AMENDMENT NO. 1282

At the request of Mr. BIDEN, the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MANSFIELD), the Senator from Oregon (Mr. HATFIELD), and the Senator from Indiana (Mr. BAYH) were added as cosponsors to amendment No. 1282, to S. 3000 the fiscal year 1975 Defense Department authorization bill.

CORPORATE DISCLOSURE HEARINGS SCHEDULED FOR MAY 20 AND MAY 21

Mr. METCALF. Mr. President, hearings on corporate disclosure by Senator MUSKIE and my Government Operations Subcommittees will resume on May 20.

These hearings, conducted jointly by the Subcommittee on Budgeting, Management and Expenditures and the Subcommittee on Intergovernmental Relations, will be held in room 3302, Dirksen Senate Office Building, beginning at 10 a.m.

On Monday, May 20, we will hear Chairman Lewis A. Engman of the Federal Trade Commission, accompanied by Director James T. Halvorson of the Bureau of Competition.

On Tuesday, May 21, we will hear Representative LES ASPIN, Democrat of Wisconsin and Commissioner A. A. Sommer, Jr. of the Securities and Exchange Commission.

Additional information regarding the hearings may be obtained from the subcommittees' staff on 225-1474, 225-4718 or 225-1481 (minority).

ANNOUNCEMENT OF HEARING ON INFLATION—DR. JOHN DUNLOP TO TESTIFY

Mr. HUMPHREY. Mr. President, I am pleased to announce that on Tuesday,

May 14, the Consumer Economics Subcommittee of the Joint Economic Committee, which I chair, will receive testimony from Dr. John Dunlop, Director of the Cost of Living Council.

We have asked Dr. Dunlop to appear before the subcommittee to give us his assessment of where the Nation stands in its efforts to deal with the problem of inflation.

I am concerned that inflation will be worse this year than the administration and many economists have predicted. The food and fuel price increases of last year have yet to fully work their way through the economy; and we can expect workers hard hit by inflation to try to regain eroded living standards.

I am even more concerned that the Federal Government's policies to deal with inflation are inadequate. I fear that the abandonment of any permanent institution to focus on inflation will be a signal that the lid is off and now is the time for everyone in the economy to grab for as much as they can get.

Dr. Dunlop is extremely knowledgeable on both of these questions and the subcommittee is anxious to hear from him.

The hearing will be held in room 1114 of the Dirksen Office Building, beginning at 10 a.m. on Tuesday, May 14, 1974.

ANNOUNCEMENT OF PUBLIC HEARINGS BEFORE THE WATER AND POWER RESOURCES SUBCOMMITTEE OF THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. CHURCH. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of 2 days of hearings before the Water and Power Resources Subcommittee of the Senate Interior and Insular Affairs Committee.

The first day of hearings is scheduled for June 12, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding S. 325, a bill to expand the Boulder Canyon project to provide for the construction of a highway crossing of the Colorado River immediately downstream from Hoover Dam and Senate bills 767 and 1261, bills to facilitate the incorporation of the reclamation townsite of Page, Ariz.

The second day of hearings is scheduled for June 13, also beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding S. 2403, a bill to authorize the Secretary of the Interior to construct, operate, and maintain a larger and adequate spillway and to improve the upstream slope protection on Belle Fourche Dam, in South Dakota, and S. 3223, a bill to provide for the rehabilitation of a road relocated by the Bureau of Reclamation in the vicinity of Glendo Dam and Reservoir in Wyoming.

Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Water and Power Resources Subcommittee, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

ADDITIONAL STATEMENTS

U.S. INVOLVEMENT IN SOUTH VIETNAM

Mr. GOLDWATER. Mr. President, 2 or 3 weeks ago I received a written report from American Security Council, under the hand of Philip C. Clarke, pertaining to our country's present involvement with South Vietnam. I found the article to be a vigorous reminder to all of our people of the resolute responsibility we have to South Vietnam in the face of what I believe to be a great national faltering in that responsibility. I, therefore, request that these remarks of Mr. Clarke be printed in their entirety in the RECORD.

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

WASHINGTON REPORT OF THE AIR

(By Philip C. Clarke)

The world is being treated these days to a strange, Alice-in-Wonderland-like spectacle. As the U.S. Congress is busy slashing away at aid to embattled South Vietnam, Soviet and Chinese leaders are assuring Communist North Vietnam of greater than ever support for their objective of total conquest of Indochina. As some U.S. Senators call for the total abandonment of Saigon, Cuba's Fidel Castro wines and dines the visiting Premier of North Vietnam, Pham Van Dong, and dispatches another 351 Cuban construction workers to Hanoi to help rebuild that Communist ally. And as two of the most influential newspapers in the U.S., the New York Times and Washington Post, furiously denounce the U.S. Ambassador to Saigon, Graham Martin, for his outspoken defense of U.S. commitments to South Vietnam, the celebrated American actress-activist, Jane Fonda, and her equally activist husband, Tom Hayden, are toasted in Hanoi as they prepare to do a motion picture extolling the virtues of that Communist society. Amid such reversed values, one can be excused for wondering: What goes on here? It is particularly hard to understand how the Congress of the United States, despite its preoccupation with Watergate, the economy and the fuel shortage, can so soon forget the heavy investment this country has made in the freedom and independence of South Vietnam—namely 55,000 American lives and 130 billion dollars. Nor is it easy to comprehend how responsible American political leaders, much less the media, can so easily ignore the reality of what our abandonment of South Vietnam would mean, namely, a Communist takeover and enslavement of 19 million people who have placed their trust in the U.S. and the ensuing Communist conquest of all remaining free nations in strategic Southeast Asia.

In a recent telegram to Secretary of State Kissinger, Ambassador Martin warned of a decision taken last fall in Hanoi to mount an all-out campaign this winter and spring to persuade the Congress to drastically reduce the magnitude of both economic and military aid to the government of South Vietnam. The Ambassador said that the Communists' so-called Provisional Revolutionary Government in Paris was to be the principal channel, using remnants of the American "peace movement" to bring influence to bear on selective, susceptible, but influential elements of the American communications media, and, particularly, on susceptible Congressional staffers. As Congress votes to cut deeper and deeper into U.S. aid for South Vietnam, one can almost hear the Communists cheering. It is as if the U.S. Congress is following Hanoi's script, to the letter. All thoughtful Americans, especially the more than two and a half million who served with the armed forces in Vietnam, should demand of Congress a full explanation of its retreat from responsibility—before it's too late. On the eve of the Bicentennial, Americans should also ask what might have happened had *our* ally, France, turned *its* back as we struggled for freedom and independence two hundred years ago.

POLICE RESPONSE TO DISASTER

Mr. HARRY F. BYRD, JR. Mr. President, I just received a copy of the May 1974 issue of "FBI—Law Enforcement Bulletin," which was personally directed to my attention by FBI Director Clarence M. Kelley.

That issue contains an excellent article, entitled "Police Response to Disasters," written by Lt. Col. Richard A. King, of the Fairfax County Police Department. Colonel King writes with an understanding of one who has been personaly involved in the public response to four recent tragedies in Fairfax County, Va.: the March 24, 1972, natural gas explosions; Hurricane Agnes in June 1972; the building collapse at Skyline Towers on March 2, 1973; and, the tornado which touched down in six separate parts of the county on April 1, 1973.

Colonel King emphasizes the importance of local planning and local readiness. His comments deserve the attention of communities across our Nation. I commend to my colleagues this article which shows the value of local initiative as a primary means of assistance to the public in times of need.

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:

POLICE RESPONSE TO DISASTERS

(By Lt. Col. Richard A. King)

The role of the police in today's society has been a much-discussed topic in recent years. That role—as viewed by most police agencies—is the traditional one of protecting life and property, suppressing criminal activity, and performing public services. Although this statement of mission is very general, the context in which it is normally viewed is that which relates to criminal matters. Another important, though generally unrecognized, role of the police in public safety is that of providing services in disaster situations. Most police administrators would agree that disaster response is germane to the police role, but because these events are of limited frequency, disaster countermeasure response is not always considered in the planning process.

Disasters, either natural or manmade, are events which cannot be foreseen. The occurrence of a criminal act can be reasonably anticipated by the police, even though its time and place of occurrence may not be known. With this expectation, and the analysis of criminal offense data, police departments can deploy manpower resources in a reasonably efficient manner to cope with the problem. Disaster response, on the other hand, is a much more problematic situation. Because certain areas of the country are not considered disaster-prone, local government officials responsible for public safety may become complacent with respect to disaster planning. Effective planning may take place only after a disaster strikes and people realize that it can happen again.

A case in point is Fairfax County, Va.

With virtually no history of natural or man-made disasters, Fairfax County experienced four tragedies during the 13-month period from March 1972 to April 1973. Two of the disasters were natural: the floods generated by Hurricane Agnes in June 1972 and a tornado which struck parts of the county in April 1973. The other two disaster situations—a natural gas explosion in a residential area and the collapse of a high-rise apartment building under construction—were man-made.

In order to appreciate the impact of these situations on a police department, it is necessary to describe in some depth the sequence of events and the scope of operations in these specific instances.

GAS EXPLOSION

On March 24, 1972, what proved to be the first in a series of natural gas explosions in the Washington, D.C., metropolitan area occurred in a residential subdivision in the Annandale area of Fairfax County. A gas line was ruptured accidentally by a backhoe operator digging for the installation of a sewer line. Natural gas seeped into two houses near the break in the gas line and an explosion occurred, completely demolishing both homes. Three persons were killed, and two were injured by the explosion. The immediate consideration of the responding public safety agencies in such a case is the prevention of further death or injury.

Even though this tragedy was limited in geographic scope, the initial impact on public safety resources was substantial. Adequate police manpower had to be dispatched immediately to the disaster scene to evacuate residents and cordon off the area to facilitate movement of emergency vehicles. Coordination between the police department and fire department is essential in such an incident. Response must be rapid and in sufficient numbers to control effectively the situation.

Fairfax County has the ability to achieve effective control and coordination by having both police and fire resources controlled through a single Emergency Operations Center. This arrangement facilitates the dispatching of police or fire units by dialing one emergency telephone number. Calls received in the Emergency Operations Center are routed to either a police or fire dispatcher who then coordinates the appropriate response. The operations center becomes the command post for the county government during disaster situations unless the situation dictates the establishment of a field command post. Control and coordination can be adequately achieved in most instances through the Emergency Operations Center, provided the disaster situation is of limited duration.

HURRICANE AND FLOOD

Natural disasters, of course, are generally more widespread than the man-made variety and, consequently, create a greater impact on the public safety agencies of local government.

Hurricane Agnes, which struck many parts of the country during June 1972, affected portions of Fairfax County, primarily during the weekend of June 23 and 24. The immediate impact of this situation was substantial because the Northern Virginia area rarely experiences any extremes in weather conditions. The primary concern for the area was the projected flooding caused by the Potomac River overflowing its banks. Although the flooding never became as serious as originally feared, it nevertheless caused the death of six persons and left considerable damage in its wake.

The primary role of the police department during this disaster was the evacuation of residents from the threatened areas and the security of property. The police are not equipped for rescue operations, per se, but they play an important role by acting as the "eyes" for the county government. Information gathered from field units is vital to the decisionmaking process and the deployment of appropriate resources to combat the disaster.

An important consideration for any public safety agency in a situation such as a major flood is the isolation of field units created by the topography of the area coupled with the disaster at hand. In the case of the floods, several major roads were cut off, creating several separate spheres of activity with respect to disaster operations. This seriously disrupts the element of coordination, and each isolated unit is forced to cope with the disaster situation under conditions of limited mobility and resources.

The disaster countermeasures employed in the flood situation exemplify the involvement necessary by many agencies of local government in order to adequately cope with the situation. In addition to the police and fire departments, which are, of course, the first line of defense in disasters, the schools, public works, health department, social services, public affairs, and county planning department all play key roles in the countermeasure effort.

During the floods, for example, a significant portion of the water supply for the county became unavailable because of damage to the pumping facilities. The water shortage necessitated not only close coordination among agencies within the Fairfax County government, but also cooperation from neighboring jurisdictions and the Federal Government. Potable water was brought in from nearby Fort Meade, Md., and the Virginia National Guard also provided a quantity of water in mobile tanks. Local governments adjacent to Fairfax County provided additional assistance with respect to water supplies.

The health department provided tetanus and typhoid shots for persons who became exposed to contaminated water. The county school system served as the nucleus for relocating families which were displaced by the flooding. A high school centrally located within the county served as an evacuation center for persons who were unable to obtain shelter near their homes. Several of the 23 fire stations throughout Fairfax County also provided temporary shelter for displaced families. The police department played a major role in the evacuation process, particularly in the southeastern part of the county where some 8,000 residents were notified of flood dangers.

Although the danger period of the floods lasted only 2 days, the aftermath of the disaster necessitated sustained response by many county agencies in restoring the area to a situation of normalcy.

BUILDING COLLAPSE

Fairfax County experienced another major disaster on March 2, 1973, which required the mobilization of a significant number of police department personnel in addition to fire and rescue services and other county public service agencies. At approximately 2 p.m. on that date, a large section of a high-rise apartment building under construction collapsed. This occurred at the Skyline Center, a high-rise complex at Baileys Crossroads in the eastern part of Fairfax County. Fourteen construction workers were killed and 34 injured as a result of this disaster.

The immediate impact of such a situation in the police department is substantial. Patrol response to the scene of the disaster must be rapid and in sufficient number to provide for emergency assistance and crowd control. In addition, vehicular traffic must be diverted from the area to relieve congestion and facilitate movement of emergency equipment.

The initial difficulty with response to disaster scenes is that the patrol force is geared toward response to calls for service and crime deterrence. When disaster strikes, sufficient resources must be diverted to the disaster scene, but without seriously hampering response to the normal workload. The fact that police must continue to respond to calls for service, notwithstanding the scope of a disaster, required the swift mobilization of additional manpower resources. Immediate coordination is necessary between the various agencies which might play a role in the disaster operation.

The initial response to a disaster is carried out by the two main public safety agencies—the police department and the fire department. Immediate assessment of the scope of the disaster and the potential need for additional resources and equipment must be accomplished by key field personnel from these two organizations.

In the Skyline Center building collapse, two construction workers were stranded atop a section of the building left standing after the collapse. Because of the structural damage and the possibility of the remaining section collapsing, the stranded men had to be brought to safety immediately. A military helicopter from nearby Fort Belvoir was dispatched to the scene and successfully lifted the men from the building.

The preservation of human life is of prime concern to those participating in the disaster operation. Efforts must be directed toward preventing further escalation of the disaster. The attainment of this objective is premised on a rapid yet methodical coordination between all operational entities participating in the disaster countermeasure effort. Coordination is best achieved through the establishment of a command post to serve as the focal point of all decisionmaking relative to disaster operations.

In the Skyline tragedy, a temporary command post was established at a church near the construction site. One of the first tasks confronting the police department was the determination of how many people may have been victims of the building collapse. Investigators were assigned to each of three local hospitals to determine the identity of injured persons admitted. The parking lot at the construction site was also checked to identify the owners of the vehicles which remained after workmen left the scene.

Within 2 hours after the building collapse, a meeting was held to determine the nature and scope of the disaster operation to follow. It was determined that a 24-hour-a-day effort would proceed to locate the workmen listed as missing.

A special crane was called to the scene to conduct a search operation, and personnel from nearby military bases provided searchlights to aid in the night operations. The rescue effort was sensitive due to the fact that the remaining uncollapsed portion of the building represented a serious hazard to anyone working in debris removal near the building. Large concrete slabs were left hanging by steel support rods after the collapse, and these could fall at any time. Before any attempt was made to remove debris, all equipment in the area was turned off, and a silent search was conducted in an attempt to locate persons trapped beneath the rubble. The only noise heard during this period was that caused by settling debris.

A member of the rescue party was transported in a bucket by the special crane in order to conduct a floor-by-floor search of the remaining portion of the 24-story building. None of the missing workers were located as a result of this phase of the search. By 6 p.m. on the date of the disaster, it had been determined that 34 persons were injured, 4 were known dead, and 10 were missing and presumed dead.

Demolition of the remainder of the building and removal of debris had to proceed with two major considerations. Care had to be exercised in the event that any of the missing workers were still alive, and the removal

of debris had to be slow and methodical to ensure the safety of the men in the demolition operation. The hanging slabs of concrete were carefully removed with cutting torches, and the major task of debris removal began.

Throughout the disaster operation the police department was faced with the problem of security and crowd control. The major roadway passing through the area was blocked to all normal traffic, and additional manpower was used to augment on-duty personnel for traffic control. A system of issuing passes was instituted to restrict the area of operations to authorized personnel only. Telephone and radio communications were established in the police department's mobile command post which served as the focal point for all decisionmaking and information dissemination.

From March 2 through March 11, 1973, a 24-hour-a-day operation was conducted for debris removal and recovery of bodies. Operations were reduced to a 12-hour period from 6 a.m. to 6 p.m. from March 12 until the operation was terminated. On March 17, the body of the final missing worker was recovered, bringing the death toll to 14.

TORNADO

At approximately 2 p.m. on April 1, 1973, a quiet Sunday, a tornado struck parts of Fairfax County without warning. This disaster, of a type previously unknown to Fairfax County, injured 34 persons and caused nearly $14 million of property damage. Miraculously, no one was killed.

The immediate problem caused by the tornado was that of identifying the scope of the disaster. Reports of damage came into the Emergency Operations Center, but because of the lack of experience with this condition, it was at first not known that a tornado had actually developed. The tornado touched down in six separate areas of the county while moving in a northeasterly direction from its starting point just southwest of the city of Fairfax, centrally located in the county. Several residential areas were damaged in addition to a high school, two shopping districts, and segments of an apartment complex.

Approximately 270 persons were displaced because of structural damage to homes and apartments. Once again several county agencies were called upon to provide services; however, the public safety agencies' role was limited to problems caused by the initial impact of the tornado. The fact that the tornado struck on Sunday lessened the impact compared to the situation which would have existed had it occurred during the week. The damaged school was, of course, unoccupied at the time as were most of the damaged stores in the business districts. Highway traffic densities, too, are fortunately lower on Sunday afternoon as compared with a typical weekday.

Notwithstanding the limited history in Fairfax County of disaster situations, the tornado which struck in April 1973 was the fourth major disaster, either natural or man-made, suffered by the area in a 13-month period. In these disasters, the county executive of Fairfax County worked at the scene, coordinating the required interface with other local governments, Federal agencies, and military support services. This coordination was vital to the success of public service agencies in coping with disasters of this magnitude.

IMPORTANCE OF PLANNING

There are several valuable lessons to be learned as a result of situations such as those described in this article. The first is the realization that catastrophic events often take place without warning, imposing extraordinary demands on public safety agencies. Unfortunately, it often takes the occurrence of such disasters to generate the development of adequate disaster planning. The experience gained by responding to a disaster situation is invaluable in the determination of tactical plans for future response.

While the police department had well-planned measures for civil disasters, the disasters served as a catalyst to develop a comprehensive disaster plan. The Fairfax County government has published a disaster preparedness plan which outlines the nature and level of response to be carried out by all county agencies which have a potential role in disaster countermeasure operations. This document was generated as a result of experiences gained throughout the four disaster situations previously described.

The Fairfax County Police Department's annex to the disaster preparedness plan describes the role of the police department in disaster situations in relation to the other county government agencies. The decision to mobilize additional manpower resources is discussed as well as the procedures to follow in effecting such a mobilization. One of the most important features of the plan is the delineation of responsibilities of key command personnel within the police department. The importance of establishing a command post with adequate lines of telephone and radio communication is also stressed.

Familiarization with the plan gives the appropriate commanders the basic knowledge necessary to apply effective decisionmaking should a disaster strike. The first few hours following a disaster are critical and often determine the ultimate outcome of the situation. It is, therefore, essential that the initial police response be swift, adequate, and coordinated.

Local governments should seriously consider the development of comprehensive disaster plans, irrespective of their past history or probability of disaster occurrence. Aircraft, rail, and other transportation accidents, as well as major fires, power failures, and similar events could potentially occur anywhere in the country. The development of well-defined plans can be translated into savings of life and property when disaster strikes. Adequate planning allows for a more rapid response to meet crisis situations and ensures that the delivery of disaster countermeasure services will be timely and adequate.

The local governing body must assess its capability to effect service delivery under a variety of hypothetical situations. No agency of local government should be overlooked in the planning process. Virtually every unit can potentially play a role in the disaster countermeasure effort. The Fairfax County plan, in addition to police and fire department response, covers services by the School Board, Public Works, County Development, Health Department, Social Services, Public Affairs, Red Cross, Water Authority, Management and Budget, General Services, and the Park Authority. The involvement of some or all of these agencies depends on the severity of the disaster with respect to scope and duration. Five alert stages are specified, each subsequent alert calling for the mobilization of additional agencies and resources. Police and fire personnel are the first to be involved in any disaster situation, and other county departments enter the situation as dictated by the particular circumstances at hand.

The planning process must identify which agencies have services to offer, how they will function with other local units, and which key individuals will assume responsibility when a disaster occurs. Government leaders at the local level must determine what resources are not available and take steps to seek assistance from neighboring jurisdictions, State agencies, and the Federal Government. Mutual aid agreements developed with the cooperation of the various political subdivisions will assist in eliminating bureaucratic stumbling blocks which might occur in the midst of a disaster.

It should be recognized by police officials that the development and existence of a disaster plan is no assurance of success. The plan must be subjected to periodic review to ensure its viability. No plan articulates the types of action to take in every specific situation. It is impossible to cover all contingencies. Because of the unpredictable nature of disasters, the plan should be viewed as a basic overview of response, with enough flexibility to instill in the minds of police commanders the potential need for deviation from the plan in actual operations. Recognition of certain limitations is an important prerequisite of any realistic plan. These issues should be recognized and steps undertaken to avoid an atmosphere of complacency.

SENATOR JACKSON CALLS FOR DEMILITARIZATION OF THE SUEZ CANAL

Mr. HELMS. Mr. President, on April 25 I discussed on this floor my grave concern that the United States, in its rush to gain Egypt's support for a Middle East peace settlement by offering extensive American aid in clearing the Suez Canal, very likely was adding to the potential for future turmoil in the area by not insisting that any U.S. aid be contingent on a demilitarization of the canal for a period of 5 years.

As I pointed out on April 25, there is no doubt in my mind that the prime beneficiary of an unrestricted reopening of the Suez Canal would be the Soviet Union, a fact recently acknowledged by the administration. The strategic benefits which the Soviet navy will reap by having a considerably shortened route to the Indian Ocean are great. The result of any unrestricted opening of the canal will be the creation of a strong Soviet military presence in an area of the world which is the petroleum lifeline to Europe and Japan. Such a large presence well could upset the delicate equilibrium in the Middle East. Because the situation is so tense there today, I am at a loss to understand a recent State Department statement against such a demilitarization.

Mr. President, I am not alone in my opinion that a true and lasting peace in the Middle East cannot come about until the Suez Canal is demilitarized and the strategic advantage to the Soviet Union of unrestricted military use of that waterway nullified. In the May, 1974, issue of Seapower, the noted journal dealing with military and strategic aspects of naval policy, there appeared an article written by our distinguished colleague from Washington, Senator JACKSON, in which we called for the demilitarization of the Suez Canal. In his article, Senator JACKSON points out that the United States, by insisting on demilitarization of the Suez Canal as a major condition to the U.S. aided clearing of the waterway, has a "propitious opportunity to stop an arms race in the Indian Ocean before it starts"; and further, that any proposal for demilitarization "would be in keeping with efforts to defuse the dangerous situation in the Middle East."

Senator JACKSON is exactly right. If the nations in the Middle East are going

to have a chance to live in peace among themselves, if they are to implement any peace settlement that is worked out without the threatening influence of outside powers, then the Suez Canal must be demilitarized, and the soft underbelly of the area protected from foreign pressures.

Mr. President, so that my colleagues may have the benefit of Senator JACKSON's timely and perceptive analysis, I ask unanimous consent that the Seapower magazine article by him, entitled "The Suez Canal and International Stability," be printed in the RECORD at the conclusion of my remarks.

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

THE SUEZ CANAL AND INTERNATIONAL STABILITY

(By Senator HENRY M. JACKSON)

Recent reports that the United States has dispatched scores of military specialists to Egypt to aid in clearing the Suez Canal indicate how committed the Administration has become to reopening this strategic waterway. Indeed, reopening the Canal seems to be a principal focus of the Administration's Middle East diplomacy.

With substantial American resources—diplomatic and technological—already committed to restoring the usefulness of the Canal, we must insure that we do not further squander important bargaining leverage or continue to miss a major opportunity to enhance stability in both the Near East and South Asia.

On many occasions since 1967 I have expressed my belief that the opening of the Canal should be considered only in the context of an overall peace settlement negotiated by the parties involved and establishing defensible borders for Israel. As I wrote in a report to the Congress in December 1970:

"The opening of the Canal . . . must be considered a trump card in any forthcoming settlement of the Arab-Israeli dispute. As such, agreement on this point should be withheld until a settlement of the fundamental issues is reached."

It was and is my conviction that the reopening of the Canal is a principal objective of the Soviet Union; and because of the considerable Soviet interest in bringing this about we ought to have held this trump card in the Western hand until issues of comparable interest to us had been resolved. The Administration has played it prematurely and unwisely.

TIME FOR DEMILITARIZATION?

It is not too late, however, to propose and negotiate the demilitarization of the Canal. The Administration should now insist that the Suez Canal be closed to the warships of all outside powers including naval vessels of the United States and the Soviet Union.

The nearly total dependence of Europe and Japan on energy produced in the Persian Gulf has been dramatically emphasized by the events since October 6, 1973. The strategic importance of the gulf is now undeniable. And Soviet interest in establishing primacy over the oil-producing states of the gulf, so evident in Russian policy toward Iran in the past and Iraq at present, is a matter of utmost concern to our national security.

In the mid-1950s Soviet strategy in the Middle East, which had for centuries focused on Persia with only occasional forays beyond into Egypt—as in 1788 when Catherine the Great offered military assistance to the Bey of Egypt—took on a "leapfrogging" quality founded on efforts to exploit the differences between Arabs and Israelis. Directing their attention to Egypt and Syria, the Soviets hoped to gain a position in the Middle East that would have encircled Iran, Saudi Arabia and the smaller sheikdoms skirting the Indian Ocean.

More recently, Soviet policy has focused on Iraq, on Iran's neighbors to the north and east and on Somalia, Yemen, and Aden on the Red Sea and the Gulf of Aden. In this strategy the Suez Canal occupies a central position.

SEVENTY PERCENT SHORT CUT

The principal, and rapidly growing, Soviet military fleet is deployed in the Black Sea where it is supported by the industrial and military resources of European Russia. The reopening of the Suez Canal—unless it is demilitarized—will substantially reduce the transit time and distance that the Black Sea Fleet must cover for deployment or operations in the Persian Gulf—not by a few percentage points, not by a few miles, but by over 70 percent, from 11,500 down to 3,200 nautical miles.

The principal effect of this reduction in time and distance is this: with the Canal in operation the Soviet Black Sea Fleet can be quickly sent into the Persian Gulf where it would rapidly outnumber anything that we could deploy in that vital region. The handling capacity of the Canal is on the order of 50–60 ships per day. In the event of a crisis in the gulf—and it is not difficult to imagine such conflicts as the recurring exchange between Iran and Iraq reaching crisis proportions—the very considerable navy that the Soviet Union keeps on station in the Mediterranean could be quickly redeployed in the gulf, while the Black Sea Fleet could be sent south into the Mediterranean.

Moreover, recent development in Somalia clearly suggest that the Soviets are likely to be in a position to provide air cover from operating bases at the southern access of the Canal.

We, for our part, cannot expect to make comparable use of the Canal. The sailing distance from the east coast of the United States to the Persian Gulf, now in excess of 11,000 nautical miles, would only be reduced to 8,000 nautical miles if the Canal were available to the U.S. Navy—a doubtful proposition at best.

In any event, the carrier task forces on which our naval power depends are, for the most part, unable to use the Canal—which is neither deep nor wide enough to accommodate our carriers. Nothing comparable to available Soviet facilities on the Gulf of Aden will be available to us to support fleet operations in the Indian Ocean.

The net effect of these facts is this: The power vacuum that developed with the withdrawal of British forces from the Persian Gulf and Indian Ocean—a vacuum that provided an interim measure of stability so long as it remained unfilled by the Soviet Union—can be expected to give way to the very great and dangerous instabilities that would result from Soviet predominance in this area.

TO PRESERVE A TENUOUS STABILITY

Vital sources of energy at the disposal of weak and potentially unstable governments would come under increasing Soviet influence even in the best of times; and in crisis situations only the Soviet Union would be in a position to bring substantial power to bear.

This evolving situation is highly disadvantageous to the United States and its allies and prejudicial to the stability of the gulf and to our national security. The tenuous stability that now prevails in the gulf must be preserved, not only in the near term but for years to come.

Neither the American nor the Soviet navy presently deploys in force in the Indian Ocean. Thus, the opening of the Suez Canal could turn out to be a stimulus to an arms race in that pivotal ocean.

We have a propitious opportunity to stop an arms race in the Indian Ocean before it starts; and the place to begin is at the gateway to the region, at Port Said. To accomplish this, the Administration should press for the closing of the Suez Canal to the warships of all outside powers including naval vessels of the United States and the Soviet Union.

From time to time opportunities for regional restraint present themselves; and in my judgment the region is the Indian Ocean and the opportunity is now.

A proposal to demilitarize the Suez Canal would be in keeping with efforts to defuse the dangerous situation in the Middle East. It could have a salutary effect on the potential volatility of Soviet-Chinese relations. Because keeping the Canal closed to outside military vessels would limit the size of the naval force the Soviets can deploy there, we could hope to avoid a long term requirement for a comparable deployment capability of our own.

As one looks ahead to the potential sources of international instability the Indian Ocean and its approaches loom large. One need only recite the countries that are affected: Egypt, Ethiopia, Somalia, Saudi Arabia, Kuwait, Iraq, Iran, the sheikdoms of the Persian Gulf, Pakistan, India and so on. If we fail now to move to limit a potential stimulus to arms competition in this area we will look back on this moment with regret.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it has been a full quarter-century since President Truman submitted the Genocide Convention to the Senate for ratification. At that time he stated that ratification "will demonstrate that the United States is prepared to take effective action on its part to contribute to the establishment of principles of law and justice." Those sentiments remain true today as well.

Since President Truman's days, every administration has indicated its support for this humanitarian treaty. President Kennedy stated that "there is no society so advanced that it no longer needs periodic recommitment to human rights." And, finally, President Nixon has urged that the Senate "delay no longer in taking the final convincing step which would reaffirm that the United States remains as strongly opposed to the crime of genocide as ever."

Mr. President, this treaty was the product of a post-war world, outraged at the barbarism of Nazism to the German Jews. It was the United States which took the lead in the drafting of this treaty and in securing the unanimous approval of the United Nations. It is unbelievable that the United States should delay so long in ratification. Respect for human rights, as expressed by the 78 nations which have ratified the treaty so far, demands that we delay no longer.

AFRICAN DROUGHT AND INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. BROOKE. Mr. President, every American with a sense of compassion must be shocked and saddened by the graphic portrayal of famine and utter human misery in the countries of the Sahel region of Africa that appears in this week's issue of Time magazine. While a broad belt of Equatorial countries exists dangerously close to the starvation line, the six countries of the Sahel, together with Ethiopia further east, have

long since crossed that line and thousands of their inhabitants have succumbed to hunger and hunger-induced disease.

International relief efforts have not been adequate, and transportation difficulties have prevented available supplies from being promptly distributed.

As if the agony of starvation were not enough, several states of the Sahelian region, which embraces Chad, Mawi, Mauritania, Niger, Senegal, and Upper Volta, are also afflicted with river blindness—a parasitic disease that debilitates and causes loss of sight in over 1 million persons representing 10 percent of the affected area.

I am happy to say that the United States is among the countries that has been providing emergency assistance to help ease in some measure the devastating impact of the drought on middle Africa. Our efforts, however, have been largely of a relief nature and have not addressed the somewhat longer-term problems that follow in the wake of such massive dislocations of population and economy.

I have been heartened to learn that the World Bank and its soft-loan affiliate, the International Development Association, is mounting a program that will yield immediate economic benefits for the unfortunate inhabitants of the Sahel and at the same time contribute to the longer-term economic reconstruction in the wake of the disaster that has occurred.

To give some idea of the economic impact of the drought on the largely grain-and-livestock economies of the Sahel region, the World Bank estimates that 1972 grain production was 25 percent below normal and 20 to 30 percent of the livestock population either perished or was distress-slaughtered. All the evidence is that the situation further deteriorated in 1973.

In this situation the International Development Association—IDA—last November made a special drought relief credit of $14 million to the six countries of the Sahel. The project aims at helping people in drought-affected areas to reestablish their self-sufficiency through the redevelopment and improvement of their farms and herds. Typical subprojects would include construction of wells and earthdams, livestock disease control facilities, village warehouses and grain storage facilities, and establishment of livestock watering facilities. In addition to these special activities under the drought credit, IDA is continuing its regular lending programs for a broad variety of projects. IDA credits to the Sahel region since 1970 totaled $134 million, and a further $20 million is expected in the next several months.

The World Bank and IDA are also administering a 20-year program costing $120 million to eradicate river blindness. As areas with adequate water but infested with the fly that transmits this disease are treated and cleared beginning in about 18 months, persons displaced from the drought areas will be able to move in safely and resume useful economic activity. The river blindness program in this way complements and helps relieve efforts directed to the drought-stricken areas.

Mr. President, IDA's role in helping to alleviate the effects of the tragedy of the Sahel would be, in my judgment, sufficient reason alone to justify U.S. support for this important arm of the World Bank. In fact, IDA's activities are worldwide. They address the problems of the poorest of the poor countries—countries whose annual per capita incomes are frequently $120 per year or less. Without IDA assistance, many of these countries have little hope of breaking out of their present cycle of poverty.

The U.S. Senate will have an opportunity in the very near future to vote on the crucial question of whether or not the United States will continue to give its support to as worthy an enterprise as IDA. We will shortly have before us S. 2665, a bill providing for U.S. participation in a 25-nation round of contributions to provide for IDA's resource requirements in the next several years. I believe this legislation deserves the overwhelming support of the Senate. Moreover, I hope our support in this body will serve as encouragement to the other body of the Congress to reconsider its opposition of last January to further U.S. support of IDA. From the viewpoint both of humanitarianism and practical international economics, IDA effectively serves objectives sought by the United States.

Mr. President, I ask unanimous consent at this point to print in the RECORD the text of the Time article to which I have referred, as well as the text of an IDA press release announcing a $14 million credit to the six countries of the Sahel region.

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

FAMINE CASTS ITS GRIM GLOBAL SHADOW

Girdling the world at its equatorial bulge is a belt of hunger. Above it live the 1.4 billion inhabitants of the northern developed nations whose advanced industry and agriculture permit them the luxury of worrying about reducing diets instead of calorie deficiencies. Below it are potentially prosperous lands of the Southern Hemisphere's temperate zone. Along the belt live many of the 2.5 billion citizens, nearly all of them ill-fed; at least 60% are malnourished, and 20% more are starving.

Today, famine is rampant in Ethiopia, the African nations of the Sahel (Chad, Mali, Mauritania, Niger, Senegal and Upper Volta), Gambia and in areas of Tanzania and Kenya. Near famine also plagues Bolivia, Syria, Yemen and Nigeria. One poor harvest could bring massive hunger to India, the Sudan, Guyana, Somalia, Guinea and Zaire. In two dozen other nations, the populace faces chronic food shortages. Among them: Bangladesh, Iran, Indonesia, the Philippines and Haiti.

BOUNTIFUL DAYS

Gone are the bountiful days of the 1960s, when the United Nations' Food and Agriculture Organization worried about how to dispose of a glut of food, and the U.S. Government paid its farmers not to plant crops. Now the world's food reserves are at their lowest since World War II, amounting to a mere 27 days of consumption. "We're just keeping our heads above water," observes FAO Official John Mollett. "But the margin of safety is decreasing. One big crop failure anywhere and it could be every country for itself." For most countries in the hunger belt, that could mean mass starvation.

In the Sahel, that time has already come. For the past six years, the 25 million farmers and nomads fatalistically accepted each dry season, expecting that rains would soon follow. They never did. Crops withered, grazing land turned barren, and lakes and wells dried up. Many Africans became so hungry that they ate their breeding cattle and seed grain, thus condemning themselves to total dependence on outside help. Unless they receive aid, they will be unable to plant new crops or raise new herds even if the rains do come. The Sahel's flat savannas, which once supported the blue- and black-robed Tuareg and Fulani warriors, are now empty, save for the thousands of reddish brown mounds that mark the graves of those who starved. At least 100,000 have died.

Shantytown refugee camps have risen like festering sores throughout the region, providing the barest relief to half a million people. Their individual monthly ration is only 26 lbs. of flour and 4.4 lbs. of dried milk, the nutritional equivalent of about one-third of the average American's diet. In their weakened condition, disease has spread quickly. Typhus, dysentery, measles and gastroenteritis are rampant. At the teeming Lazaret camp near Niamey, Niger's capital, cholera threatens the 15,000 refugees. In Chad, some emaciated nomads begged a U.N. official not to send them medicines, pleading that death from diphtheria was quicker and hence easier than the slower death from starvation.

The drought has claimed an equally grim toll in parts of Ethiopia. Provincial bureaucrats kept the horrific dimensions of the catastrophe secret from Addis Ababa, fearing that bad news would anger and embarrass Emperor Haile Selassie and perhaps lead to their own dismissal. Finally, last spring, the number of deaths grew so great that the bureaucrats had to admit their existence and ask for international aid. At first the drought seemed confined to eastern Ethiopia. But a new government survey uncovered big pockets of famine to the south and southeast of the capital. In Bale province alone an estimated 27,000 cattle, 25,000 sheep and goats and 500 camels have died. This study only hints at the true extent of Ethiopia's problems. Remarked an Ethiopian relief worker: "The farther east you go, the worse it gets." Ethiopian deaths are estimated at 100,000, but no one knows definitely because there are no reliable population records.

Drought is not the only enemy. Rain can be just as devastating. When the spring rains came to Ethiopia this March, they broke all known records. Ten inches fell in some sections in three day (compared with one-tenth inch last spring). The torrents washed away vital crops and thousands of tons of top soil. In Wallo province, worst hit by the famine, the deluge swept away villages and roads, overturned supply trucks and dangerously delayed relief efforts.

CONSPICUOUS ABSENCE

An emergency worldwide aid program was launched last year and has already saved more than 1 million Africans from starvation. Private and national agencies, coordinated by the FAO, delivered about 518,000 tons of grain to the Sahel and Ethiopia. This year 770,000 tons have been pledged, nearly half of it by the U.S. and significant amounts by the Common Market, Canada, the Soviet Union, Sweden and China. Conspicuously absent from the ranks of the generous are the newly rich Middle East oil exporters. So far they have contributed less than 1% of the total aid.

Though the aid has been lifesaving, it has not been as effectively used as it could be. Inefficiency and corruption of local bureaucrats have slowed the distribution of the emergency supplies. In Mali and Niger, officials have diverted some of the donated grain

to commercial channels for sale at enormous profits. Much of the donated food remains heaped high on the docks where where it is prey to rats, locusts and thieves. The major problem, however, is logistics. U.N. Secretary-General Kurt Waldheim, after inspecting the famine areas in February, reported: "I saw piles of foodstuffs in the capitals of the drought-stricken countries, but the governments told me they cannot ship it to the areas most afflicted. Because of the lack of roads—it is just sand, everywhere you look you have sand—after a relatively short time, the trucks are not usable any more."

DONKEY CARAVANS

With almost all of the drought area far away from the few railways, navigable rivers and paved roads, relief trucks have had to crawl along sand and dirt paths in desert heat. In Ethiopia, some of the neediest areas are so deep in the countryside that only caravans of donkeys and camels have been abel to reach them.

The weather is a continuing threat. Rains, if they come at all this year, are due to arrive in mid-June. They could transform the dusty Sahel into a muddy bog, making vehicle traffic impossible. FAO officials had hoped that most of this year's aid would be prepositioned in remote regions by June. However, red tape and a lack of urgency by the donor countries made shipments late. Most of the grains should have arrived at African ports by March, but only 266,000 tons had been received by April. An additional 170,500 tons arrived last month, and 333,000 tons are still due. Even without local inefficiencies, it now will be difficult to get the food into the needy areas before the rains.

When the world first discovered the dimensions of the crisis last year, there was no time to truck in most of the supplies. The FAO mobilized an airlift costing more than $30 million or nearly half of what the food was worth. Now FAO chiefs fear that an airlift may again be needed. But increased fuel prices could double the cost of the operation, a cost that the FAO may find the donors unwilling to underwrite.

Even if this year's relief effort forestalls mass starvation, the long-term outlook for Africa's hunger belt is at best grim. A ministerial-level committee of the Sahelian nations is seeking foreign grants of $700 million to fund 126 longrange projects, such as dams, reforestation, transport networks and rebuilding of decimated herds. But the only certain means of guaranteeing that the present catastrophe will not repeat itself lies with population control rather than with food supplies.

Every day the world's population jumps 200,000 persons—or some 75 million per year. By the end of the century, it could total 7 billion—up from the present 4 billion. To feed these new mouths, the world must produce an additional 30 million tons of food each year—an increase of at least 2.5%—just to maintain present per capita consumption levels. For the developing countries, that is like walking on a treadmill. Although the African nations in the hunger belt have boosted their food production 22% since the early 1960s, per capita consumption has actually fallen 5% because of increased population. By contrast, Americans during the same period went from eating 118% of their basic energy requirements (in terms of protein) to 123%, Soviets and East Europeans from 116% to 126%, and China from 86% to 100%.

The lines on the Malthusian chart are *ominous: if* the present birthrate continues, someday—perhaps as early as 2025—there will be more people than the earth can feed, given its present technology. Photos by earth satellites reveal that the world's most productive land is already cultivated, convenient water sources already tapped and nearly all grazing capacity already in use. Marine biologists worry that the sea, once regarded as a nearly unlimited source of cheap protein, has been over-fished. To bring marginal farmland into use round the world would require a massive investment beyond the means of the underdeveloped nations and probably beyond the generosity or administrative cooperation of the developed nations.

The "Green Revolution," which only a few years ago brought hope of agricultural self-sufficiency to India and other countries of Asia, has already lost much of its promise. The increase in oil prices has nearly trebled the cost of nitrogen fertilizers and of fuel for irrigation pumps upon which the crops of high-yield rice and wheat rely. Hundreds of thousands of Asia's small farmers who once enthusiastically sowed their fields with the Green Revolution's hybrid strains are now reverting to more traditional methods of cultivation. The harvests are smaller but much less dependent on fertilizers, pesticides and irrigation.

ONE MEAGER MEAL

India, which had been one of the major success stories of the Green Revolution, is now seeking commodity aid from the U.S. because inadequate rains coupled with fertilizer shortages reduced recent harvests. With perhaps half of its 600 million people living at or below the subsistence level—eating no more than one meager meal daily—even a slight drop in food production can have an enormous impact. If drought returns to India this year, tens of millions of lives will be threatened.

Some climatologists believe that the earth is experiencing a basic change in its weather, which could cause prolonged droughts throughout the hunger belt. About ten years ago, scientists began noting that the high-altitude winds that ring the North Pole have shifted south, changing weather patterns throughout the world. Part of India's monsoon rains are now dropping uselessly into the ocean. In the past six years, the Sahara has expanded 100 miles southward in some places. Scientists are baffled by the phenomenon, but some suspect it may be caused by sun spots or increased carbon dioxide and dust in the atmosphere, or a combination of both.

If vast parts of the globe are actually doomed to such drastic weather changes, then the outlook is bleak indeed. Political unrest and even civil wars will become more likely as whole countries go hungry. In the past year, discontent spurred by food shortages contributed to the sudden changes of government in Niger and Thailand, and it threatens the reign of Haile Selassie in Ethiopia.

Only long-range multinational planning can cope with the problem. For example, there could be a United Nations-sponsored international birth control program, an expansion of fertilizer production, and the storing of adequate food reserves as a buffer against periodic poor harvests. Members of the United Nations hope to consider those proposals when they gather in Bucharest during August for a conference on population, and in Rome in November for a conference on food. Their task is formidable. Between now and the time they begin their deliberations, the world's population will have increased by 30 million.

FOURTEEN MILLION DOLLARS IN IDA CREDITS FOR DROUGHT RELIEF IN SIX SAHELIAN COUNTRIES OF WESTERN AFRICA

The International Development Association, an affiliate of the World Bank, has approved six development credits totaling $14.0 million to help finance a project for drought relief in the Sahelian countries of Western Africa. The individual credits will be to the Republic of Chad for $2.0 million, to the Republic of Mali for $2.5 million, to the Republic of Mauritania for $2.5 million, to the Republic of Niger for $2.0 million, to the Republic of Senegal for $3.0 million and to the Republic of Upper Volta for $2.0 million.

The project aims at helping people in drought-affected areas to reestablish their self-sufficiency through the redevelopment and improvement of their farms and herds. With this objective in mind, IDA will extend lines of credit to each of the six countries for the purpose of implementing subprojects. There will be no limitation on the type of activity or subproject provided they meet the following basic criteria: be of a drought-affected area to reestablish their productive base of areas seriously affected by the drought, generate benefits quickly, benefit a relatively large number of people and be demonstrably needed and supported by the local community.

The sub-projects are likely to fall within 10 broad categories: (1) rural water supplies and stock water supplies; (2) construction of wells and tube wells as well as earth dams and dugouts; (3) hydrogeological investigations; (4) land and water development; (5) livestock disease control; (6) afforestation and firebreaks; (7) village warehouses and grain storage facilities; (8) technical assistance, surveys and studies; (9) project management and (10) repair of feeder roads.

Government development banks will be chosen in five of the six countries as the agencies responsible for financial administration of the IDA credits. In the sixth country, Mauritania, the government's fiscal disbursement and audit agency will as as financial channel.

Excluding Upper Volta, where the arrangements existing at present under an IDA-financed Rural Development Fund Project will be used, management responsibility for the projects will be split between the financial institutions which will retain financial control, the government's technical agencies and departments responsible for executing the investments, and a National Coordinating Committee which will serve as the link between the financial institution and the technical agencies.

The World Bank and the International Development Association have already made 41 loans and credits to the six Sahelian countries for a total of about $250 million, of which $46 million has been directed to the support of agriculture and livestock development, $15 million to education, $100 million to transport, $15 million to telecommunications, $66 million to a mining operation in Mauritania and $9 million for various projects in Senegal.

The IDA credits are for a term of 50 years including 10 years of grace. A service charge of ¾ of 1% will be added to cover IDA's administrative expenses.

NOTE.—Money figures are expressed in US dollar equivalents.

BAPTISTS FOR LIFE ATTACK DISTORTION OF MOTHERHOOD

Mr. HELMS. Mr. President, we have just had the observance of that beautiful day devoted to an appreciation of the dignity of motherhood, Mother's Day. It has become one of the cliches of politics that every politician must come down foursquare for motherhood as one of the key planks of his political platform, for, as everyone knows, no one is against motherhood.

But lately, a false view of motherhood has taken root, a view that looks upon large families as undesirable in any case. This was brought to my attention by a

group called Baptists for Life, a national organization devoted to providing resources for those interested in a Christian concern for human life, whether unborn, handicapped, or aged. I am a Baptist and I am proud to serve on the advisory board of Baptists for Life. And I was amazed when Baptists for Life pointed out that the latest attack on motherhood was coming from the Southern Baptist Convention Christian Life Commission. A recent pamphlet on the so-called population explosion recommends abortions and contraceptives to the unmarried as Christian practice. The pamphlet even goes on to recommend—

That mothers with large families should not be singled out for praise on Mother's Day.

This astonishing position has been roundly denounced by Baptists for Life in a statement issued over the weekend. It says, in part:

Baptists for Life challenges this position as an insult to every Baptist mother whom God has blessed with a large family . . .

The coordinator of Baptists for Life, the Reverend Bob Holbrook, says that it assigns—

Second-class status to millions of Baptist mothers.

Mr. President, I ask unanimous consent that the statement by Baptists for Life 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:

SOUTHERN BAPTIST ATTACK ON MOTHERS CHALLENGED

Citing a Southern Baptist Convention Christian Life Commission proposal to eliminate mothers of more than two children from recognition for Mother's Day honors, Rev. Robert Holbrook, Coordinator of Baptists for Life, and several of his advisors called on Baptists across the nation to reaffirm their tradition of high regard for family life and the value of the mother on Mother's Day, Sunday, May 12.

The proposal to downgrade large families surfaced in a pamphlet of the *Issues and Answers* series issued by the Christian Life Commission, headquartered in Nashville, Tennessee. The pamphlet, entitled "Population Explosion", calls on churches to depart the traditional Christian observance of Mother's Day by recommending "that mothers with large families should not be singled out for praise on Mother's Day". Baptists for Life challenges this position as an insult to every Baptist mother whom God has blessed with a large family. "This is a most un-Christian study guide-line recommendation for churches" said Rev. Holbrook. "Not only does it assign second-class status to millions of Baptist mothers, but it calls for the Federal government to regulate family size. It recommends that abortion be recognized as a legitimate method of birth control and population regulation."

Calling the pamphlet "scare rhetoric about population growth", Mrs. Judy Fink of Pittsburgh, Pennsylvania, pointed out that *The National Center for Health Statistics* reported that the 1973 birth rate was the lowest in the nation's history. "Already, American families produce on the average of 1.9 children", she stated. "This Christian Life Commission proposal is simply another case of male chauvinism, and my husband, my five children and I deeply resent it."

"This is an insulting piece of propaganda to a vast majority of Baptist women", said Mary Ellen Felps, Austin attorney. Miss Felps asserted "I hope the Christian Life Commission will issue an apology, not only to mothers, but to all Baptist women who are seemingly expected to accept the notion that family life will be improved by violating God's laws."

Rev. Holbrook, who testified in support of a Human Life Amendment before the Senate Sub-Committee on Constitutional Amendments in Washington on March 7, said: "I am sure most Baptist pastors and laymen are not aware that their congregations are being used to promote the killing of unborn children, contraception for the unmarried and governmental control of family size. Proposals such as those advocated in this pamphlet are similar to measures advocated for population control by Edgar Chasteen, a sociologist on the faculty of William Jewel College, a Southern Baptist institution in Liberty, Missouri. Chasteen, in his book, *Compulsory Birth Control for All Americans*, recommends mandatory sterilization if families do not limit themselves to two children. "Baptists will never allow their freedom to be taken away like that."

Noting the pro-family, pro-life view was omitted from the pamphlet, Rev. Morton Oliver, pastor and advisor from Newport, Kentucky, asked, "who is responsible for this one-sided presentation?"

Rev. Holbrook has requested Dr. Foy Valentine, Executive Secretary, Christian Life Commission, "in the spirit of fairness and search for truth" to issue another pamphlet using Baptist for Life advisors as resource people. "This distorted picture must be cleared up and, if not, the reasons why investigated. All sides of legalized abortion, family size and the value of motherhood deserve in airing. It serves no good purpose to stifle a healthy interchange of ideas."

Mrs. Fink, who served as an appointee of Governor Schaff of Pennsylvania on the only all-women panel ever seated to study the abortion question, commented: "Obviously, someone in the pro-abortion camp has gotten to the Christian Life Commission and indoctrinated the members. This is a common finding among protestant church bodies. Our pro-life, pro-family message reflects the opinion of the people in the pew, however."

FIFTIETH ANNIVERSARY OF VIRGINIA STATE CHAMBER OF COMMERCE

Mr. HARRY F. BYRD, JR. Mr. President, on May 9, 1974, the Virginia State Chamber of Commerce celebrated the 50th anniversary of its founding. Over 500 members, friends, and distinguished guests were on hand to bear witness to the passing of the first half-century of the chamber's outstanding efforts—and to rededicate themselves to the pursuits of a free enterprise system.

An impressive array of dignitaries, including former Governor of Virginia and former Congressman from the 5th District William M. Tuck, former Governor of Virginia J. Lindsay Almond, Jr., and former Governor of Virginia and present Justice of the Virginia Supreme Court Albertis S. Harrison, Jr., saw the Honorable Mills E. Godwin, Jr., Governor of Virginia, accept on behalf of the people of Virginia two tokens of esteem presented by the State Chamber's Executive Director Richard S. Gillis, Jr.: the chamber's collection of over 60,000 photographic negatives and a framed facsimile of the earliest known share of stock in the Virginia Co., as issued to the Earl of Salisbury in 1613. They were equally fortunate to hear the Governor respond in praise of the work of the State chamber of commerce and in defense of private enterprise.

I believe this event—though symbolic—is most noteworthy. It represents a recognition of the wholesomeness of free enterprise in Virginia—a recognition by outstanding community and business leaders of our Commonwealth of the gains their labors and the labors of countless thousands like them have made for the people in Virginia. And it represents, too, a reaffirmation of the sound principles by which our future social and economic growth must be guided.

I ask unanimous consent that the text of Governor Godwin's address be printed in the RECORD and I commend to the attention of my colleagues the message they contain.

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

REMARKS BY GOV. MILLS E. GODWIN, JR.

Mr. Drewer, Mr. Davis, Mr. Bryan, The Incomparable Mr. Gillis, Ladies and Gentlemen:

I am delighted to accept these priceless gifts from the State Chamber of Commerce on behalf of the people of Virginia.

I am certain that nowhere in the Commonwealth could there be found a collection comparable to the 60,000 photographic negatives tracing the history of business and industry in Virginia through the past one half century.

If I had any regrets they would revolve around the fact that this share of stock in the London Company, issued originally to the Earl of Salisbury in 1613, is only a copy.

Certainly if this were an original share, and still valid, its value today would be beyond any calculation.

As a matter of fact, I understand that even if this were an original stock certificate, it would be impossible to place a value on it, because it is written in longhand the amount of its face value is undecipherable.

I am sure this was not deliberate on the part of the original London Company, although it might have been somewhat convenient as things turned out.

Win Luther reminds me that all of the stock certificates in the London Company were voided in 1623 when Virginia became a crown colony.

The truth of the matter is that the king had found that the tobacco industry in Virginia was so profitable, he thought he had better take it over.

My own feeling is that if the amount of this certificate cannot be deciphered, it is probably a matter of the handwriting of the original scribe. I am advised by some of my staff members that they have the same problem with some of the Governor's memoranda.

In any event, I know that the certificate will be a welcome and a most interesting addition to the display of early Virginiana in the Old World Pavilion at Jamestown Festival Park.

I suppose if we put the Chamber's statisticians to work they could come up with a dollar value figure representing the accumulated contributions to the Commonwealth by the Virginia State Chamber of Commerce over the past fifty years. But, again, the figure would really be meaningless, because there is no way we can measure in dollars the initiative, the energy and the persuasive powers the staff and the membership of the Chamber over the years have brought to bear on behalf of progress here in the Commonweath.

And I am personally delighted that the

Chamber has underlined in these two gifts, and in its multimedia presentation to us tonight, the contribution of private enterprise as a concept and its individual representations here in Virginia.

It is not very popular in many quarters today to sing the praises of business and industry. It seems to be more popular to criticize the profit motive and to chastise our incomparable technology for violating our environment.

And strangely enough, many who are singing this song of criticism are themselves the beneficiaries of the privat enterprise system in so many ways.

I don't think we need to apologize in any way for our praise of business and industry in Virginia. They provide the basis of our entire economy.

They provide the jobs that finance our families and our homes and apartment houses, and our variety of material goods.

They support the entire service segment of the economy on which so many more homes and families depend.

The technology that some of our critics scorn has provided a standard of living that is the envy of the world, and technological advancement that has been exported generously to every industrialized nation on this earth.

Business and industry have provided the basic support for our entire system of taxation, which has made possible the multiplicity of public services available to all our citizens.

And private enterprise has also demonstrated, I believe, a great deal of responsibility with respect to preserving the environment which is our common heritage.

Certainly it will be the engineers and the technicians of industry who finally provide the means for cleaning up our streams, and the air around us, and provide a reasonable harmony between factories and our business enterprises and the countryside in which they find themselves.

I am reminded so often as I confront the problems of Virginia how many times I find businessmen and women, and particularly Chamber of Commerce members, volunteering their services in helping to find solutions.

Quite frankly, I can think of no more exciting half century for Virginia and the South than the one which the State Chamber of Commerce brings to a close this year.

As your staff so ably pointed out, the Chamber began with its effort to get Virginia out of the mud. Looking today at Virginia's highway system, we can hardly imagine that such a time ever was.

In this half century, Virginia and the South have ceased to be the nation's Number 1 economic problem and have become the nation's Number 1 area of economic growth.

And just as important in my judgment, Virginia and the South have managed to preserve, through an unprecedented prosperity, the principles of living that have been associated with our area since Colonial times.

As I say to the many couples I am asked to congratulate on fifty years of marriage, in this day and age it is a major accomplishment for any institution to merely exist for half a century.

But, at the same time, its growth in stature and in influence and on compiling a record of progress on which we can look back with pride, is indeed worthy of our recognition and our respect.

I thank you, on behalf of the people of Virginia, for these magnificent gifts and for the opportunity to express once again my admiration for your organization and the men and women who have contributed so much to its success over the years.

SOLID WASTE DISPOSAL

Mr. HUGH SCOTT. Mr. President, recently, the Senate of Pennsylvania adopted a resolution calling for action at the Federal level to meet the growing problems of solid waste disposal. The resolution calls for the ICC to reduce freight rates for the shipment of scrap iron and steel as an incentive to recycle these materials. Also, the resolution calls for action by the U.S. Congress to legislate programs to encourage the recycling of scrap iron and steel.

I have sent this resolution to the ICC, the Federal Energy Office, and the Department of Commerce. During this time of energy and material shortages, the advantages, not only economically, but in savings of materials in short supply, of an effective recycling program are great. Senator MANSFIELD and I are drafting legislation to establish a National Commission on Domestic Needs and Economic Foresight. This Commission would, in evaluating various segments of our economy, make recommendations to correct existing or forecasted imbalances in our system. This Commission would comment on situations such as that described in the resolution. This, I believe, would be preferable to dealing with several agencies on the same subject.

I commend this resolution of the Senate of Pennsylvania to the Members of Congress for consideration in the development of related legislation. Mr. President, I ask unanimous consent that the text of this resolution be printed in the RECORD.

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

In the Senate Pennsylvania recognizes the rapidly growing problem of solid waste disposal. It also recognizes that much of what is termed waste could be reclassified as recyclable material. In this category is scrap iron and steel.

Major steps have already been taken to recycle many paper products. Too little has been done, however, toward scrap iron and steel because of freight rates set by the Interstate Commerce Commission that are considerably higher than the rates set by the same commission for hauling virgin ore.

Many regions in the Commonwealth are plagued by unsightly and troublesome auto graveyards, Thousands of rusting car bodies and other scrap items are ignored as potential sources of recyclable iron and steel because freight rates and depletion allowances favor the mining of virgin ore.

The development of recycling programs to use available resources and preserve others is imperative to the future well-being of this Commonwealth, but Federal recognition of the discriminatory imbalance in favor of continued depletion of natural resources is a necessary first step; therefore be it

Resolved, (*The House of Representatives concurring*), That the General Assembly of the Commonwealth of Pennsylvania memorialize the Congress of the United States to pass legislation encouraging the recycling of scrap iron and steel and, further, memorialize the Interstate Commerce Commission to re-evaluate its policies regarding freight rates of all recyclable materials which could be used in lieu of raw materials; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each House of Congress of the United States and to each Senator and Representative from Pennsylvania in the Congress of the United States, and to the members of the Interstate Commerce Commission.

NATIONAL NUTRITION POLICY

Mr. McGOVERN. Mr. President, the Senate Select Committee on Nutrition and Human Needs is presently studying the question of national nutrition policy. The committee's initial preparation for its hearings on this subject on June 19, 20, and 21 will be published this week. They are working papers entitled "National Nutrition Policy," and "Guidelines for a National Nutrition Policy."

Each day it becomes more apparent to me that the development of a national nutrition policy is of immediate importance to the United States. Today we face hard choices regarding our food supply; choices that will affect all Americans and literally billions of people throughout the rest of the world. We can only hope to be wise in reaching these decisions, and our wisdom is dependent upon our knowledge of the components of our own and the world's nutritional needs. To properly compile and evaluate the facts of these needs, we must have a coordinated and far reaching national nutrition policy.

The need for such a policy is clearly demonstrated by a report in the New York Times of Monday, May 13, 1974, by Edwin L. Dale, Jr. I ask unanimous consent that this article be printed in the RECORD.

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

FOREIGN APPEALS FOR FOOD RAISE PRICE SPECTER HERE

(By Edwin L. Dale Jr.)

WASHINGTON, May 12.—The United States Government is slowly approaching an agonizing decision on whether to give away more food to nations approaching starvation at the risk of starting a new surge of food prices at home.

Secretary of Agriculture Earl L. Butz recognizes that there are problems involved in increasing aid, but does not believe they are imminent because of the enormous American harvest in prospect for this year.

Mr. Butz said in an interview that the larger crops would permit some increase in food aid in the coming 12 months, above what had been planned, without any important impact on domestic prices. Other officials are less confident, particularly in the light of the possibility of large requests for food from India.

In the background is Secretary of State Kissinger, who favors more food aid, for foreign-policy as well as humanitarian purposes. No immediate decisions are expected.

"There's no doubt that the situation poses a grave potential dilemma," said Gary L. Seevers, the member of the President's Council of Economic Advisers who deals with agricultural matters, and who emphasized the crucial importance of food prices to the general level of consumer prices this year and next.

Mr. Seevers supports Mr. Butz's view that some additional aid will be possible above

what had been planned, but adds, "It all depends on the magnitude."

There have been some estimates that India alone may need to import five million tons or more of food grain, mainly wheat, because of a poor crop and, now, in additon, a shortage of fertilizer for the new crop. This would amount to nearly 10 per cent of the expected record wheat crop here, though this country would presumably not be the only source of the food.

BUTZ REMAINS CONFIDENT

Mr. Butz, while confident for the year ahead, does not dismiss the problem, particularly in the light of the continued growth of the world population.

"Food tugs at your heartstrings," he said. "I am positive that our body politic is not going to permit starvation any place on earth, no matter what people may think about other aspects of foreign aid."

The problem arises because of a radical change in the United States agricultural situation in the last two years. It was relatively easy in 1966 and 1967 to give vast food aid to India because there were large Government stocks of wheat and other foods. Now those stocks have disappeared. For the first time in more than two decades, there are virtually no Government held reserve stocks.

This means that any additional food aid above the relatively modest amount of $1-billion planned for the fiscal year beginning July 1 would require the Government to go into grain markets as a buyer. The effect would be to raise prices, or at least to check a downward movement of prices.

PRICES HAVE SLID

There has been a dramatic decline in the prices of all the main farm crops and products since late February. Wheat, for example, has dropped from above $6 to less than $3.50 a bushel in trading in the commodity markets, in anticipation of the huge 1974 harvest. These declines—which include corn, soybeans, cattle and hogs—hold out the major hope for a slowing of the nation's inflation later this year.

Any nation can buy United States food for dollars at any time. The problem is that some are running out of dollars and other hard currencies, in part because of the jump in the price of the oil they import. Some 30 countries with a population of nearly one billion—newly termed the fourth world—have been identified by the World Bank and others as particularly hard hit by higher prices for oil, food and fertilizer.

Mr. Butz will be a hard bargainer if some of these nations ask for food on what amounts to a giveaway basis. He pointed out that "hunger is relative—if your larder is empty, you cut back some." He and the Agency for International Development, which administers foreign aid will also take a close look at how a requesting nation is spending its available dollars.

"Perhaps some of these countries might consider cutting back, for example, on their imports of our motion pictures," Mr. Butz said.

BURDEN-SHARING SUGGESTED

Mr. Butz also emphasized strongly his view that other wealthy nations, even if they are not themselves food exporters, should share part of the burden through such devices as the world food program of the Food and Agriculture Organization, a specialized agency of the United Nations.

More food aid, if it is decided upon, would be provided under 20-year-old Public Law 480—also known as Food for Peace—and would not require additional authorization or appropriation by Congress this year. It was originally enacted as a way of getting rid of the huge American farm surpluses.

Andrew J. Mair, who coordinates food aid for the Agency for International Development, illustrated how drastically things have changed. Last winter, it was necessary to purchase soybean oil in the market to meet some Food for Peace commitments; he said in an interview that "we agonized" as the market prices jiggled up and down, knowing that the Government's purchases would influence the already high price. But this was no problem when there were surplus stocks.

WHEN CUTBACKS HELPED

Last year, Mr. Mair said, the problem was so acute that when disasters arose in Bangladesh and Pakistan, scheduled food-aid shipments to such countries as South Korea and Indonesia were cut back so that the total shipments—and hence the market pressure at home—would not be increased. That was the way the Pakistani and Bengali needs were met without running up domestic prices even further.

This year, according to Mr. Butz, there will be more flexibility because of the likelihood of the huge crops, which, in turn, are the result of a Government decision to release all available acreage for planting.

Mr. Kissinger pledged, in a speech in the United Nations last month, a "major effort" to increase United States food aid this year, but he gave no specific figures. Actually, there will be some increase in tonnage terms in any event, because of the lower grain prices.

The dollar amount of the program for fiscal 1975, as currently set at $1-billion, is almost the same as in fiscal 1974, but if current prices continue, this money will buy more wheat and rice and vegetable oil than last year.

NOMINATION OF MRS. DOROTHY DEVEREUX TO THE FEDERAL COUNCIL ON AGING

Mr. FONG. Mr. President, the recent nomination by President Nixon of Mrs. Dorothy Devereux to the Federal Council on Aging brings great honor to the State of Hawaii. Having known Mrs. Devereux for many years, I am aware of her extensive service in our island community as a volunteer worker in many organizations and as an elected legislator in the Hawaii Territorial and State Legislature. Because of her considerable experience, she is eminently qualified as a member of this Council and will contribute substantially to its effectiveness in determining future national policies in Aging.

The House of Representatives of the Seventh Legislature of the State of Hawaii recently adopted a resolution congratulating Mrs. Devereux and commending her for past services and her appointment to the Federal Council on Aging.

I offer Mrs. Devereux my own warm congratulations and ask unanimous consent that the text of the resolution be printed in the RECORD.

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

H.R. No. 476

House resolution congratulating Mrs. Dorothy L. Devereux upon her appointment to the new Federal Council on Aging.

Whereas, Mrs. Dorothy L. Devereux has recently been appointed to the new Federal Council on Aging; and

Whereas, Mrs. Devereux was one of fifteen persons throughout the nation who were named to the Council on Aging by President Nixon; and

Whereas, Mrs. Devereux is a registered nurse, having matriculated at the California Lutheran Hospital School of Nursing and the University of Chicago Lying-in Hospital; and

Whereas, Mrs. Devereux has a wealth of experience in caring for the physically handicapped and aged as well as an understanding of human needs and emotions, which are essential for the position; and

Whereas, she has served on numerous councils and committees dealing with public health, the handicapped and vocational rehabilitation, which include serving as the past president of the Women's Auxiliary of the Hawaii Medical Association, membership in the Oahu Society for Crippled Children and Adults, the Oahu Health Council, the National Advisory Council on Vocational Rehabilitation, chairwoman of the Advisory Committee to the Hawaii Division on Vocational Rehabilitation, the President's and Governor's Committees on the Employment of the Handicapped, and the State Comprehensive Health Plan Advisory Council; and

Whereas, Mrs. Devereux has served in the political arena as a member of the Territorial House of Representatives in 1958, the State House of Representatives from 1959 to 1972, and the Constitutional Convention in 1968; and

Whereas, the Federal Council on Aging is fortunate in acquiring a member with such a wide range of experience; now, therefore, be it

Resolved by the House of Representatives of the Seventh Legislature of the State of Hawaii, Regular Session of 1974, that it hereby congratulates Mrs. Dorothy L. Devereux upon her appointment to the new Federal Council on Aging, and does wish her Aloha and best wishes in her new position; and be it further

Resolved that duly certified copies of this Resolution be transmitted to Mrs. Dorothy L. Devereux and to the Senior U.S. Senator from the State of Hawaii, the Honorable Hiram L. Fong.

NO AID FOR SAIGON

Mr. CHURCH. Mr. President, A most sensitive and sensible observer of political and economic events in South Vietnam is Diane M. Jones who spent, along with her husband, Michael, 2½ years in South Vietnam as the American Friends Service representative. She also associated with the Quaker rehabilitation project in Quong Ngai in central Vietnam. After returning from her last stay in South Vietnam, she testified before the Senate Appropriations Subcommittee on Foreign Operations. She made a detailed and eloquent plea for the United States to stop subsidizing the Thieu regime.

She concluded:

American economic aid is doing very little to help the common people, but is doing much towards maintaining a politically intransigent and domestically unresponsive government in Saigon.

I ask unanimous consent that Diane Jones' testimony be printed in the RECORD.

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

TESTIMONY OF DIANE M. JONES ON SOUTH VIETNAM ECONOMIC AID, MARCH 28, 1974

My name is Diane M. Jones. I am testifying today on behalf of the Friends Committee on National Legislation, whose policies are made by Friends appointed from twenty-two Friends' Yearly Meetings and ten other Friends' organizations, but which does not purport to speak for all Friends.

I wish to thank the Subcommittee for this opportunity to share my experiences and

views as you consider the Administration's request for supplemental funds of $54 million for economic aid to South Vietnam for fiscal year 1974.

Along with my husband, Michael Jones, I have spent 2½ years in South Vietnam, serving as Saigon representative for the American Friends Service Committee, associated with the Quaker rehabilitation project in Quang Ngai, in central Vietnam. We have lived in Vietnam for two periods: first, from August 1970 through October 1972, and more recently from October 1973 until early February 1974. While in Vietnam I learned to speak Vietnamese, which I believe helped me immensely in understanding the people and the extremely complex situation there.

As a result of my experiences in Vietnam, in particular my most recent post-"ceasefire" experience, I wish to testify to this committee against an increase or even a continued high level of American economic aid to the Saigon government.

The principle of substantial economic aid for South Vietnam is supported by many well-intentioned Americans as a way of helping to repair a society which has suffered the ravages of twenty-five years of bloody warfare. However, my own observations and my conversations with Vietnamese people during my recent visit have led me to conclude that, for the most part, American aid is not humanitarian, that it does not reach the people, and furthermore that no economic aid administered solely through the government in Saigon can have the effect of healing the wounds of war in Vietnam.

Today I will limit my remarks solely to the largest portion of aid that USAID labels as strictly "humanitarian," namely, aid to refugees. I will attempt to relate to the subcommittee only my direct personal experiences in this regard.

The American-supported program for refugees in South Vietnam now has basically two major components, both aimed at removing refugees from refugee camps: (1) moving them back to their home areas, under the "Return to Village" program, and (2) moving them to new areas under the "Resettlement" program. Last December and January I was able to visit a number of both "Return to Village" and "Resettlement" sites in a number of provinces.

"Return to Village." The conditions I found in the Return to Village camps I visited were appalling. In the first place, despite the name, these camps looked nothing like villages, but like concentration camps, some of them totally surrounded by barbed wire or bamboo stake fences, with tall military watchtowers on the perimeters. In camps in Quang Tri, Quang Nam, and Quang Ngai provinces, I learned that people were not allowed beyond the camp boundaries, except during certain hours of the day, for example, between 7 a.m. and 5 p.m. The inhabitants of these camps had to register with camp officials when they left and when they returned.

In Xuyen Phuoc camp in Quang Nam province, I talked extensively with a government official, who told me his job was political control of the population. This official was a member of the "Rural Development" Corps, which is also an American-funded and advised program. He showed me stacks of pictures, one picture of each family in the camp, posing in front of an anti-communist slogan and a portrait of President Thieu. He said that he had to check *daily* each family against their family portrait to see if anyone had entered or left the camp without registering with the camp officials. He told me that any resident who desired to move away from the camp must have written permission from the camp authorities and must report again to the local police upon reaching his or her destination. If anyone disappeared without asking permission he said, the person's family could be arrested.

The political control in the Return to Village camps I visited has a strong impact on living standards. Because inhabitants were allowed outside the camp only between fixed hours of the day, because in some cases they had to walk a long way to reach their farm land, or in other cases had no farm land available to them, they could not support themselves adequately. For example, at Cam Thanh Return to Village camp in Quang Nam province, villagers told me that they could not grow anything because all of their farmland was on the other side of the "ceasefire" line, and that the Saigon government troops guarding the camp would not allow them to go back and farm their land, even during the daytime. At the time I visited, people in that camp were eating chopped banana tree stalk and were fearful of starvation in the coming weeks. We interviewed the village chief of that camp and he acknowledged that the camp residents all wished to go back to their original farm land, but "They cannot," he told us, "because the communists are out there." We asked him why the villagers were brought to such a miserable camp in the first place. His straightforward answer surprised me: "The reasons for setting up this camp were more strategic than humanitarian," he said.

"Strategic" seemed to me a very apt description for the "Return to Village" campsites I saw. A close friend of mine described to me a "Return to Village" camp on the Batagnan peninsula in Quang Ngai province, where his elderly parents now live. When the Paris peace agreement was signed, his parents were living in their home village area, which was at the time under the control of the Provisional Revolutionary Government. Two months later Saigon government troops shelled the area, moved in, rounded up the people into a barbed-wire enclosure, and called it a "Return to Village" camp. A Saigon government outpost was established concurrently with the camp.

THE RESETTLEMENT PROGRAM

The second thrust of the U.S.-aided Saigon government program to deal with refugees is the "Resettlement" program. Refugees from areas which are contested or controlled by the Provisional Revolutionary Government are being encouraged by the Saigon government to resettle in new areas, in camps or new villages which are controlled by Saigon. Under this program large numbers of refugees are now being moved from central Vietnam to provinces in the South, including Binh Tuy and Long Khanh. Governmental promises to the new settlers are many but they often fall short of fulfillment. We met settlers in Binh Tuy province who had been waiting seven months for the government to dig the wells it had promised to dig and clear the farmland it had promised to clear. We met women settlers in Dong Den camp, also in Binh Tuy, who, despite government promises, had had to clear by hand the plots of land for their own houses. Like the government's representative at the camp, they had no idea when their future farmland would be cleared out of the thick jungle.

Stories of large-scale corruption in the system are widespread and believable when one sees the conditions in those camps and talks with the inhabitants. The American adviser in Binh Tuy, whose main duty was to advise the resettlement program, told me, for example, that corruption was one reason why land was not being cleared for the settlers. He said the Saigon Resettlement office was paying out 110 thousand piastres per hectare to VECCO Corporation, a U.S.A.I.D.-supported organization, for clearing. They were then subcontracting the job to someone else, who was in turn subcontracting the job again. When the contract got down to the actual people who were clearing the land, there was only 45,000 piastres per hectare left, and the bulldozer operators did not feel it was worth their while. The same American adviser reported finding corruption in rice distribution. The Saigon headquarters was paying top market prices for good rice, but the people were receiving the lowest quality—that which is usually used as animal feed. A Catholic priest who has worked with new settlers told me that in a well-digging operation with which he was familiar, fully 90% of the funds from Saigon were raked off the top before they reached the diggers. One of the women we spoke with in Dong Den camp, sitting sadly on the dirt floor of her half-finished bamboo house, said, "You foreigners send a lot of money to Vietnam for programs like this one, but we people get only what trickles through the fingers of the government officials."

In the Resettlement plan, as in the Return to Village program, questions of military strategy often seem to take priority over consideration for the welfare of the refugees. The American adviser in Binh Tuy told me in January, 1974, that the area for the Dong Den resettlement camp was taken over from the "V.C." after the Peace Agreement was signed. Saigon government troops newly encamped near the resettlement site confirmed his statement. He added that he hoped for the settlers' sake there wouldn't be any fighting but he wouldn't be surprised if the "V.C." tried to retake the area, which they considered theirs.

I would like to bring to the attention of the Committee a report dated January 27, 1974, to the Senate Subcommittee on Refugee Affairs. On page 16 is reprinted a letter by a U.S. embassy officer describing the "Resettlement" program in the area which I have just been referring to. He writes: "The people will move into areas that were previously considered marginal, thus secure the area, improve movement and security along major routes of communication, develop the agriculture and economic situation in the province and bring economic viability to the country as a whole." This letter clearly indicates the importance which strategic considerations are given in the administering of our "humanitarian" aid programs for refugees.

In summary, I would like to emphasize to this subcommittee the overwhelming weight of opinion among Vietnamese people, including religious and political leaders with whom we spoke, that *American economic aid is doing very little to help the common people, but is doing much toward maintaining a politically intransigent and domestically unresponsive government in Saigon.* I would like to share with you what was to me an extremely impressive conversation I had with a Buddhist monk in January. I had just been on a visit with two American friends to two of the Return to Village campsites I mentioned above, places where people were living in conditions of near starvation. Returning that evening to the pagoda, which was a center for gathering emergency food supplies for the camps, I said to the head monk: "If these two friends of mine were members of the U.S. Congress and saw the conditions in those camps they would probably go back to Washington and recommend an increase in U.S. economic aid." The monk became visibly agitated when I said this. He glared at me and asked: "Are you planning to go back to America and ask for *more* American aid for Vietnam?" I threw the question back to him and asked what he would recommend. "I am a Buddhist monk," he said, "and my first concern must be for the welfare of my followers—the people who live in those camps. If American aid is continued, they will continue to live in those camps. If it is stopped, eventually the government will be forced to allow them to go back to their homes. They will be hungry for a few months until their first rice crop comes in, then they will be all right. The only truly *humanitarian* thing the U.S. Congress can do is to stop the support that keeps those camps in operation."

I acknowledge, and I am sure that most

members of this subcommittee share the concern, that the United States has a responsibility to offer help to millions of Vietnamese civilians who have suffered so much through the endless years of war. However, I believe that most Vietnamese would agree with me that our highest priority at this point should be in committing ourselves to making a working peace in Vietnam, that is, committing ourselves to use the only tool for peace at our diposal, the Paris Peace Agreement. As long as we continue pouring vast amounts of economic and military aid into the South (up to 86% of total Saigon costs), thereby maintaining one of the two South Vietnamese parties to the complete exclusion of the other, we are, by any reasonable interpretation, violating Article 4 of the Peace Agreement, which prohibits U.S. intervention in the internal affairs of South Vietnam. We are also making it much harder for the two South Vietnamese parties to come to any understanding with each other.

I urge this committee to consider all aid requests—this supplemental request as well as the $474 million increased ceiling for South Vietnam military aid and the upcoming and very large Fiscal Year 1975 military and economic aid requests—in the light of what should be our principal objective in South Vietnam, namely, implementing the Paris Peace Agreement.

GASOLINE SHORTAGES—1920 AND 1973

Mr. BROCK. Mr. President, we have all heard the old expression "There is nothing new under the sun." Wayne Sargent, the publisher of the Nashville Banner, recently used this title on a very interesting article. It traced the history and progress of the energy crisis—not the one we have just experienced, but the one in 1920. I think my colleagues will find some very interesting parallels between the episode of the 1920's and those of 1973 and 1974.

Mr. Sargent goes a step further to also mention how that energy crisis was solved—through allowing the marketplace to determine what was needed, and what was desired. I think we can all learn something from this excellent piece of work, 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:

GASOLINE SHORTAGES—1920 AND 1973

For the past six months, we've been reading a lot of discouraging news about the energy crisis.

It is therefore somehow reassuring to learn from Richard N. Farmer, writing in the February issue of "Business Horizons", that it happened before, albeit not on as widespread a national basis.

Farmer went back to the year 1920, to quote from another publication called "Automotive Industries". The parallels with today's news are amazing. There were stories about the extent of the gas shortage; backgrounders why the shortage had been known to be coming for some time; arguments and doubts whether the shortage was contrived or real; scapegoats blamed from the President, to Congress, to major oil companies; rationing was suggested; government investigations were launched; substitutes for gasoline were sought; the automotive industry was blamed for wasteful engines; Oregon, hardest hit now was hardest hit then because it was at the end of the distribution line.

Here are selected quotes by Farmer from "Automotive Industries" in 1920:

June 17, page 1,419: "The first official note of warning that oil demand was overtaking supply was sounded a dozen years ago, but only within the last few months has that note swollen into a chorus. Rising prices have led to the rediscovery of the law of supply and demand . . . the heavy draft now being made upon our accumulated stores of oil—more than 10 per cent gone in nine months—tells the story that we are living beyond our means."

June 17, page 1,436: "All of Oregon is suffering from a gasoline shortage. In some parts of the State it has become so acute that business is crippled and food production is threatened. Passenger car operation has ceased entirely or motor fuel is sold in one and two gallon lots. Even dealers and garages are on a 10-gallon a day allowance.

"The situation is not quite so acute in Portland but strict rationing measures have been adopted. Commercial cars are given only 75 per cent of tank capacity and passenger cars only 10. Some dealers and motorists have been inclined to scent a plot to increase gasoline prices."

June 24, page 1,444: "W. E. Lay, of the University of Michigan said the statement that more than 250,000 gallons of gasoline are wasted every day through leaky and badly adjusted carburetors is under the truth."

August 5, page 296: "The time has come . . . to build engines that instead of making from 7 to 12 miles a gallon of gasoline will make 20 to 30 miles on the same amount.

June 24, page 1,479: "The Secretary of the Interior has endorsed the bill introduced in the Senate for the promotion of worldwide search for oil under Government supervision. His letter points out that the authorization of a special corporation for exploration of oil fields abroad will supplement the diminishing supply in this country."

July 8, page 94: "Charges that the oil companies are responsible for the gasoline shortage with specific instances of alleged discrimination in distribution of gasoline, are contained in a report just made to the Dealers Motor Car Association of Oregon by a special committee named to investigate and take steps to relieve the shortage."

July 22, page 195: "A. V. Storer, Secretary of the Citrus Belt Automotive Trades Association (California), is sending letters to all members embodying his views on the subject of placing gasoline under commission supervision. 'No country in the world today,' he says, 'is so motorized and so dependent upon gasoline as is the United States. This necessary commodity should be in the hands of commissions with power to regulate its sales and profits.' "

July 22, page 195: "After an exhaustive investigation of the gasoline shortage in this state (California), Robert W. Martland, secretary of the California Automobile Trade Association, declares he has found no evidence to substantiate the statements made at the annual meeting of the association, June 5, that the shortage was a fictitious one."

Aug. 25, page 443: "It is alleged the investigation (in California) also revealed that the shortage of gasoline was fictitious and due to manipulation. Allegations are made that the refineries created the shortage by shipping gasoline from Los Angeles to northern parts of the state and then, after waiting until the price advanced, bringing it back again for sales purposes."

Aug. 19, page 306: "Further promise of an increased gasoline supply is contained in the statement of Clay Tallman, commissioner of the General Land Office, Department of the Interior, that more than 5,000 applications for leases under the new oil leasing act have been filed. Pioneers in the oil industry who were loath to take advantage of the new legislation have manifested a change of mind with prices of gasoline climbing."

Sept. 2, page 494: "Through development of the Devonian shale with its crude oil content and valuable by-products, the Falls Cities of Ohio possess a means of becoming one of the leading industrial centers of the United States, according to Prof. H. A. Buerk, New Albany, Ind., superintendent of schools."

Oct. 12, page 504: "Assurances have been given by the Bureau of Mines that the fanciful tales concerning ultimate failure of the automobile industry through exhaustion of gasoline supplies will be undertaken in an effort to stimulate production, encourage economy and restore confidence."

Nov. 4, page 496: "Kansas, now the greatest wheat producing state, may become the greatest manufacturer of motor fuel from wheat straw, thus adding to the farmer's income and utilizing a product of the soil which is now virtually wasted, according to J. C. Mohler, secretary of the State Board of Agriculture."

What happened after 1920? Researcher Farmer went on to 1921 to find out:

1. A recession developed. Income dropped, prices fell, and demand for all commodities diminished. Auto sales stayed up the first half of 1920 then plunged and there was less demand for gasoline.

2. Technology came to the rescue. Catalytic cracking of crude oil was developed and the yield per barrel of crude doubled.

3. Higher prices brought more production. Marginal operators produced as gasoline prices hit 37 cents, which 1920 figure converts to about a $1 a gallon, 1974 price levels.

4. The product mix changed. Kerosene, a big seller, declined. Gasoline production went up 21 per cent. Crude production went up 18 per cent. Gasoline quality declined for a while, but the 1920 car couldn't tell the difference.

5. Imports doubled from 1919 to 1920, most of it from the Tampico field in Mexico.

6. Inventories dropped from a 34-day supply in October, 1919 to a 23-day supply in 1920, same month.

Finally, Mr. Farmer speculates how 1920 relates to today's problems:

Another technological breakthrough is not likely, but possible; prices will go up; we face government investigations; the oil shale still is there and the Alaskan north shore pool is new; buyers are more keenly interested in cars that get 20–30 miles a gallon; the total demand in 1920 was one-twelfth of today's demand, thus solutions must be 12 times as potent; crude oil from the cheap and easy places has been exploited so future production will be tougher.

Still, it all provides a hint that as the nation outlasted goldfish eating and will outlive streaking, it has coped with a gasoline shortage before and will do so again.

SOLID WASTE—A NEGLECTED NATIONAL RESOURCE

Mr. DOMENICI. Mr. President, on March 28, I introduced S. 3277, a bill designed to encourage full recovery of energy and resources from solid waste. This goal is of ever increasing national importance for a number of reasons.

Of prime concern over the past year, the energy shortage which has so threatened our Nation could be assuaged if municipalities would manage their solid waste more economically and more efficiently. Electricity can be produced and resources such as steel and aluminum—both of which require large amounts of energy in their manufacturing—may be recovered if our cities utilize modern day solid waste treatment technology.

In short, incineration and land-fill disposal techniques are antiquated, wasteful solutions to our Nation's solid waste problems. Sensible management of our national resources, and a responsible attitude toward energy conservation de-

mand that we take a closer look at how we are handling solid waste, which is in fact a very important neglected national resource.

Mr. President, I ask unanimous consent that an article in the May 13 issue of U.S. News & World Report which illustrates these points be printed in the RECORD.

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

THE UNITED STATES FINDS A RICH RESOURCE: THE NATION'S TRASH PILE

For cities that find there's no land left for garbage dumps, there's an answer: Recycling plants that produce reusable materials and energy, too.

Cities from Baltimore to San Diego are racing to exploit one of the nation's most plentiful, yet neglected resources—trash.

Within the 130 million tons of municipal solid waste generated in the U.S. last year, there was enough unused energy to light the country for a year. If all the waste paper, aluminum, steel and glass had been recycled, it would have saved millions of trees and billions of tons of other virgin resources, from iron to oil.

After years of ignoring this potential, urban bureaucracies are swinging into action. This has touched off a "resource recovery" boom that promises to alter America's traditional ways of looking at what it throws away.

A MATTER OF NEED

Why the big interest now? Simple: Cities are faced with a two-way squeeze that can only get worse. On the one hand, energy supplies are increasingly tight, and on the other, there is a growing lack of cheap land needed to bury refuse.

To ease both these problems, innovative waste-disposal alternatives are being explored.

Trash heaps are becoming sources of fuel for sale to hard-pressed utilities. As prices of materials rise, recycling efforts are turning out to be an attractive way to defray skyrocketing costs of disposal. What's more, every ton of refuse that is recycled is one less ton that somehow must be disposed of by the local sanitation department.

Says Arsen Darnay, the Environmental Protection Agency's top expert on solid waste:

"No city is going to get rich doing this, but it sure can cut down on disposal costs. In addition, it just happens to be environmentally sound . . . using every bit of potential in the waste stream before resorting to land fill."

Of the variety of technologies now being rushed into operation, probably the most widely adopted approach makes use of solid waste as a fuel..

These systems range from old-style incinerators that use waste heat to air-condition or heat nearby buildings, to high-technology projects that break down the molecules of organic material, producing oil or synthetic gas as the end product.

This is how one increasingly popular system operates: Trash is passed through a shredder, reducing the flow to small pieces. By using forced air or water, the heavier materials—usually the metals, glass, rocks and clay—are separated from the rest of the refuse.

What is left becomes the new "fuel from trash," composed of shredded paper, textiles, wood, plastic, food scraps, rubber, and yard wastes such as grass and leaves. It is a low-cost, low-polluting fuel with a heat value roughly half that of coal. It can be stored, shipped or burned at will.

From the heavier materials, which make up 20 per cent of the average weight of trash, most advanced systems will separate at least the ferrous metals. These can be picked out with an electromagnet. More sophisticated systems envision still further separation, pulling out and sorting glass, as well as such nonferrous metals as aluminum.

ST. LOUIS LEADS

The Environmental Protection Agency, along with Union Electric and the city of St. Louis, is operating one of the nation's most successful projects using this approach.

This 3.3-million-dollar system handles about 200 tons of refuse daily. Shredded trash is burned with pulverized coal to generate electricity.

After two years' experience with the demonstration plant, Union Electric has decided to feed trash from the entire city and six nearby counties in Missouri and Illinois into a similar plant with 40 times the capacity.

Capable of handling 7,000 to 8,000 tons of refuse per day, the new St. Louis project will cost nearly 70 million dollars and is expected to be ready for its first load in mid-1977. Officials estimate that the processed trash will generate roughly 6 per cent of the utility's power output.

The city of Chicago plans to build a 13.5-million-dollar facility that will handle about 2,000 tons of trash a day. The plant is expected to produce sufficient shredded refuse to replace 5,300 tons of low-sulphur coal per week, generating enough electricity to serve 50,000 homes.

REGIONAL SOLUTION

Many smaller towns are joining together for a regional solution to their waste-disposal problems. Combustion Equipment Associates has built a plant near East Bridgewater and Brockton, Mass. The company has contracted with communities in a 10 to 25-mile radius to bring their garbage to the new 10-million-dollar disposal facility. The towns pay a dumping fee.

Combustion Equipment shreds the trash, separates it, and sells the lighter material as fuel. Ferrous metals are sold as scrap and the rest is disposed of in a land fill. This plant has been operating since last autumn, handling 1,200 tons of trash daily.

Connecticut is trying to regionalize waste disposal for the entire State. The first of its facilities, near Bridgeport, will be able to handle up to 1,800 tons of trash a day and should be operating in less than two years.

By 1980, if all goes according to plans, Connecticut officials estimate that the State and local governments will have saved up to 100 million dollars in capital expenditures and that 60 per cent of the refuse generated will be recovered as energy or materials. Air pollution in Connecticut—caused by open dumps and old incinerators—will be cut by 80 per cent and land needed for sanitary-fill operations will be reduced by 80 per cent.

TAILORED SOLUTIONS

More and more of the waste-disposal solutions being planned are products of local expertise, tailored to the needs of a particular city.

Memphis, Tenn., for example, called upon the civil-engineering department of Memphis State University for help with its problems.

Says Dr. John W. Smith, associate professor of engineering:

"It's not so much for the resource recovery potential that we're going to one of these systems, but because we don't have land fill any more. It, of course, has tremendous side benefits, but that's not why we've adopted this approach."

The Memphis plant is expected to handle 1,600 tons of refuse a day, which is about 95 per cent of the city's load. Trash will provide Memphis with an estimated 8 per cent of its electrical needs. Dr. Smith says the plant should be ready by 1977 and will cost about 10 million dollars.

Using still more advanced technology, the Monsanto Enviro-Chem Systems, Inc., with backing from the Environmental Protection Agency, is building a 1,000-ton-per-day plant in Baltimore to turn trash into synthetic gas. "Pyrolysis" involves putting organic material under heat and pressure in a near-vacuum. It creates rapid decomposition of the waste into gas. Revenues from sale of scrap metal, glass and the synthetic gas will amount to 1.5 million dollars a year for Baltimore, according to preliminary estimates. The plant is to go into operation this autumn.

A 200-ton-per-day facility, also using pyrolysis, is under construction in San Diego County, Calif. This plant—a joint venture of the EPA and the Garrett Corporation—will produce fuel oil to generate electricity.

It is this type of technology, plus the number of large corporations that are getting involved with their own research and development efforts, that has experts in the field excited.

Says one consultant in resource recovery: "When you've got big companies like Union Carbide, Raytheon, Grumman, Continental Can, Browning-Ferris, and Black-Clawson all working to put out new systems that recover energy and recycle materials—you know they've spotted what promises to be a huge market."

The fact that a growing number of cities will be extracting energy from their trash is good news for those working to recycle steel, aluminum and glass. It may, however, create problems in the business or recycling paper, one of the best established methods of reclaiming a basic resource.

PAPER

Energy-recovery systems depend on paper to keep heat output as high as possible. If more and more cities burn old newspapers and cardboard, instead of selling it to a secondary materials dealer, then recycling of paper may continue to decline as it has been doing since World War II.

The Environmental Protection Agency says that in pulling newspapers and cardboard from an average load of refuse, 10 per cent of the heat potential will be lost. But even this small reduction could make waste fuel—a marginal economic proposition to begin with—a less appealing option for many cities.

Officials at the American Paper Institute say their member firms can save energy and virgin materials, as well as cut down on pollution of air and water by recycling as much paper as they can get. They fear the surge in these new waste-disposal systems will only hurt efforts to step up recycling and ease the paper shortage.

Today more than 100 U.S. cities require their citizens to separate and bundle newspapers and cardboard for special pickup, but these are not cities that depend on trash to generate electricity.

STEEL

For those striving to recycle metals and glass, the energy-recovery approach is ideal. These heavier, noncombustible materials have to be separated from the trash anyway.

At this point, it is a relatively simple second step to extract the ferrous metals with an electromagnet. These can be sold as scrap.

Only about 20 cities in the U.S. now have a system for collecting this scrap, but as the high-technology plants go into operation in the years ahead, greater recycling is expected.

About 70 percent of the ferrous metals in trash are steel cans and the recovery rate for reuse has been poor. Of the 5 million tons of steel cans that enter the nation's dumps each year, only about 70,000 tons are now saved for recycling.

ALUMINUM

Nearly all the aluminum that is recovered from consumer use is the result of industry programs that encourage people to bring aluminum cans to recycling centers. More than 2,000 of these collection centers are operating today, recovering roughly 10 percent of the aluminum heading for the trash heap.

Environmentalists regard recycling of alu-

minum and steel as especially important. The use of virgin resources in producing these materials consumes far greater energy than when they are made from secondary sources.

GLASS

Recycling of glass also depends almost entirely on volunteer collection efforts. Once the 12 million tons of glass—mostly bottles—reaches the dump, little can be done to pull it from the waste sream and sort it by colors in preparation for use in making new bottles. The technology exists, but the economics are unfavorable.

Some of the most successful volunteer recycling programs for glass, aluminum, and paper have been in towns and small cities. These often are communities that have no need for high-technology disposal systems because they still have lots of land in which they can bury their trash.

Local officials are realizing that source separation of trash results in savings to the city either in sale of the materials or simply because the garbage trucks have to haul less trash.

The most dramatic progress in utilizing the potential of refuse is expected to be in major metropolitan centers. Looking ahead, Mr. Darnay summarized the views of the Environmental Protection Agency:

"In the next five years, peoples' garbage [disposal] bills are going up. And if you plot that trend next to what fuel prices and materials prices are likely to be, I'd say we're going to see a lot of cities turning to resource-recovery systems in the years ahead. It just makes sense."

OF THEE I SING

Mr. MONDALE. Mr. President, at a time when the political and economic problems of our Nation have drained the optimism of many an American, I believe we ought to take a moment to regain spirit and strength to meet these challenges. We ought to recount the many blessings we enjoy and be thankful for the wealth that is part of our country's heritage.

Today's New York Times carries an article written by Msgr. Vincent A. Yzermans, who is pastor of the St. Rose of Lima Church in Freeport, Minn. This column, entitled "Of Thee I Sing," in an almost poetic fashion captures the essence of that vitality and confidence that have enabled the American people to survive and prosper in the face of war and povcrty.

I commend this article to my colleagues in the Senate, and I ask unanimous consent that it be printed in full in the RECORD.

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

OF THEE I SING

(By Vincent A. Yzermans)

FREEPORT, MINN.—I am a poor little rich boy. I didn't grow up in the slums of Chicago or the ghetto of New York. I was a poor boy without even knowing that I was poor. I grew up on the west side of St. Paul, Minn., not too far from the home of F. Scott Fitzgerald and across the Mississippi from the mansion of James J. Hill, the financier and railway promoter.

I was poor and so were all my friends. But we really didn't know it. When you come to think of it, however, we were rich in so many ways. I suppose today we would have qualified for relief. Father, however, would never accept so humiliating an offer. We caddied at the Somerset Country Club and earned sixty cents for eighteen holes from some tight old skinflint and seventy-five cents from the president of the First National Bank.

So we lived and grew and enjoyed every moment of it. There were the sneak swims in Lake Pickerel along the Mississippi, picnics at Antler's Park in nearby Lakeville, and a game of "kick the can" on an early spring evening. When we were reckless and daring we would snitch apples from a neighbor's backward. We were poor, but we never realized how poor we were.

Going to the market was like going to the state fair. There, mother would buy peaches and pears, cabbages and potatoes. We were always embarrassed when she haggled with the farmer over an extra dime or quarter. We really didn't realize in those days how much a quarter meant.

We lived through Prohibition and the Depression without knowing what was going on. Uncle Walter, Uncle Charlie and Dad were always brewing up something in the basement, but it was a mystery to us. We lived through the Second World War and sang about Rosie the Riveter and Fighting G.I. Joe.

We rejoiced at the Truman victory in 1948 and smiled at the grandfather image of the Presidency in the nineteen-fifties. We went to school and did our homework. We didn't protest or march or carry placards. Work and study were part of the American ethic that we were expected to live by.

We listened to Guy Lombardo playing at Jones Beach and Tommy Dorsey from the Aragon Ballroom. We were glued to the radio to hear Franklin D. Roosevelt's fireside chats and were frightened by the rantings of Father Charles E. Coughlin.

We were Midwesterners and proud of it. Anything the other side of Chicago was "East" and Gordie Wangler was the hero of the neighborhood because he went all the way to Chicago for the 1933 World's Fair. We were not Establishment; in fact, we had a deep suspicion of Easterners. We were Irish, German, Polish, Italian, French-Canadian, Jewish and Swedish. We were Protestants of so many varieties that not even Heinz could keep up with us. We were Roman Catholics with all the traditional markings, Catholic schools, fish on Friday. And then there was the social outcast; he didn't belong to a church, he couldn't tell you when his parents or grandparents came to the United States and he liked going to school. But we were Americans and proud of it.

We created a new spirit, a new culture, a new way of life. We were populists without knowing it, and only in later life did we learn about William Jennings Bryan and Bob LaFollette. With all our sins and all our faults, we were still a religious people. We did not cotton to the loose living of the "gangster" cities of the East. We suffered, of course, but we were a proud people. We never hung our dirty linen on the front lawn.

America lives. It is in your heart, my heart. It is in the schools, the homes, the neighborhoods, the churches, the institutions that we, and most of all our parents, created.

America lives. It is found in a poor boy with a piece of homemade bread, a young girl squeezing a nickel for the Saturday Matinee. It is found in the farms, the small villages, the great cities that have made our nation exceptional in the pages of history.

America lives. Go to Germany. Go to Italy. Go to Greece. Go anywhere. Then come home. Then you know the meaning of "Home, Sweet Home."

SAFEGUARDING SPECIAL NUCLEAR MATERIALS

Mr. RIBICOFF. Mr. President, the Library of Congress recently completed a survey on all aspects of the problem of safeguarding commercial nuclear matetrials from theft and subsequent manufacture into terrorists' bombs. The survey, "Safeguarding Special Nuclear Materials," by Warren H. Donnelly, Senior Specialist in Conservation—Energy—is intended as an "issue brief" for the new computer system being developed by the Library to speed the flow of vital information to Congress.

At present, few offices in Congress are linked to the new computer system. Because of the timeliness and importance of the nuclear safeguards problem, I ask unanimous consent that this report be printed in the RECORD at the conclusion of my remarks so that Congress and the public can be kept currently informed.

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

(See exhibit 1.)

Mr. RIBICOFF. Mr. President, I wish to comment on one item in the report. It is a reference to an article in the May 6, 1974, issue of Weekly Energy Report reporting that AEC Commissioner Kriegsman has recommended that the Atomic Energy Commission establish an office to develop safeguards policy, including 5-year plans for safeguarding special nuclear materials held by AEC contractors and licensees. The same article quotes an AEC official as viewing safeguards as a "phony issue" and reports that some individuals in the nuclear industry view the safeguards problem as "not serious" and the threat posed by theft of weapons-grade materials as "slight." I ask unanimous consent that this article also be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. RIBICOFF. Mr. President, I believe that the problem is serious, that the risk of theft grows each day as the nuclear power industry grows, and the establishment of an AEC policy office is clearly inadequate.

What is needed is the establishment of a new Federal organization to deal with all aspects of safeguarding nuclear materials—protecting shipments, security plants, writing regulations, conducting inspections, developing contingency plans, even providing armed guards, if necessary.

As chairman of the Subcommittee on Reorganization, Research, and International Organizations, I have offered an amendment to S. 2744, the Energy Reorganization Act of 1974, to establish such a unit—a Bureau of Nuclear Materials Security in a new Nuclear Safety and Licensing Commission. The Bureau will provide a total response to the safeguards problem—not be simply a policy advisory unit, as Commissioner Kriegsman suggests.

Nuclear safeguards is not a "phony issue". It is as real as the thousands of pounds of weapons grade plutonium that exists in storage or circulates in the private sector today and as ominous as the 1 million pounds that will be generated annually by the year 2000.

It takes only 20 pounds of plutonium to make a crude bomb—and far less to make a deadly dispersal device—each capable of producing thousands of casualties and billions in property damage.

The time to act is now before it is too late.

EXHIBIT 1

SAFEGUARDING SPECIAL NUCLEAR MATERIALS

(By Warren H. Donnelly)

The adequacy of measures to prevent the theft or robbery of special nuclear materials (SNM)—enriched uranium and plutonium—is being questioned. Diverted materials might be made into atom bombs or other devices for blackmail and terror. While the risk is now small, the anticipated growth of nuclear power and use of these materials is causing some concern, particularly if the breeder reactor is widely used. The adequacy of AEC safeguards measures has received recent attention from the General Accounting Office, the AEC, critics of nuclear energy, and the Congress. This interest and possible controversy is likely to grow as the Nation approaches a point of no return for its reliance upon nuclear power.

Since November 1973 a series of reports and statements and other publications have highlighted the issue of nuclear safeguards. In chronological order these include the following:

November 7, 1973. The Comptroller General reports to the Congress on improvements needed in the AEC's program for the protection of special nuclear materials. According to the General Accounting Office, potentially dangerous consequences could result from a single theft from or loss by authorized possessors of fissionable uranium or plutonium. About 600 organizations are authorized to possess such materials, of which 95 are required to comply with AEC requirements for keeping such materials secure from unauthorized possession. The AEC has recognized, said the GAO report, that the probability of the material being stolen, unexplainably or accidentally lost, diverted from authorized use, or used or disposed of in unauthorized ways increases as the quantity and number of organizations authorized to hold such materials increases. The report recommended that the AEC strengthen the in-plant physical protection over these materials and provide a better basis for assessing the adequacy of the protection. In particular, the GAO recommended that the AEC:

—Expedite changes in its safeguards regulations.

—Define in greater detail the expected capability of a system designed to prevent, detect, and effectively respond to a possible diversion or diversion attempt and strengthen protection requirements.

—Impose the same protection requirements on both licensees and contractors holding such materials, or justify the differences.

—Improve inspection practices.

March 12, 13, 1974. Senator Ribicoff, as chairman of the Subcommittee on Reorganization, Research and International Organizations, Senate Committee on Government Operations, holds two days of hearings on the role of the AEC in nuclear safety and in safeguarding fissionable materials against theft and sabotage. Dr. Theodore B. Taylor a leading expert and advocate of stronger safeguards, appeared as a witness and warns that without effective safeguards there will be substantial risks to the American people from theft of nuclear weapons materials and their subsequent use in nuclear blackmail by either threatening to explode a crude bomb, or to disperse toxic plutonium to the environment. In addition to technical measures, he recommends special containers and vehicles for shipment of these materials, provision of on-site and in-transit guard forces and provision of on-call law enforcement forces to intervene in attempted thefts. Mr. L. M. Muntzing, a key regulatory official of the AEC, explained present AEC safeguards requirements for licensees and Mr. E. B. Giller explained AEC safeguards requirements for contractors. (The statements of these witnesses appear in the Congressional Record of March 21, 1974 at pp. 7744–49.)

April 1974. Thomas B. Cochran's book on the liquid metal fast breeder reactor is published in which the author disputes the decision to proceed with the expedited demonstration of the breeder reactor. He argues in part that one of the greatest hazards, or risks, associated with a civilian nuclear power economy arises from the possible diversion of plutonium and enriched uranium to unauthorized use and asserts that the potential value of plutonium will result in a worldwide black market. The problems of safeguards comprise for him reason to phase out nuclear power from the U.S. energy economy and for the U.S. to provide the leadership to eliminate nuclear power on a worldwide basis.

April 7, 1974. The Energy Policy Project of the Ford Foundation releases a study on nuclear theft: risks and safeguards, made for it by Mason Willrich and Theodore B. Taylor. The possibilities of nuclear theft, the violence that could result, and the safeguards measures to prevent it are examined. The years ahead, warn the authors, provide the last chance to develop long-term safeguards that will deal effectively with the risks of nuclear theft. They see the AEC as moving in the right direction, but much remains to be done, especially in development of standards for the physical protection of nuclear materials. They recommend that the AEC consider forming a special federal security service, whose only responsibility would be to protect nuclear materials throughout the nuclear power industry. They also propose that the AEC design detailed safeguards for each kind of nuclear powerplant and its supporting industrial services and set up uniform criteria for approving security plans of those possessing nuclear materials. Finally, they recommended that the U.S. Government take the initiative in discussing the nuclear theft problem with other countries, with a view to further development worldwide safeguards. (The International Atomic Energy Agency has a safeguards function but it has not developed in step with world use of nuclear power).

April 12, 1974. The Comptroller General reports to the Joint Committee on Atomic Energy on protecting nuclear materials in transit. The GAO sees weakness in the AEC's system for transporting plutonium and enriched uranium and concluded that the protection afforded to shipments of nuclear materials was inadequate to prevent or quickly detect a diversion or a diversion attempt, "AEC has been slow to strengthen the protection of SNM in transit."

According to GAO, an AEC decision not to license carriers of SNM and not to establish a Government-operated transportation system were made without a formal study. "If AEC finds that its new requirements do not result in the protection considered necessary, AEC should . . . undertake a detailed study of the feasibility of using a Government-operated or Government-controlled (licensed) transportation system.

The GAO also suggested that the Joint Committee on Atomic Energy might wish to consider amending the Atomic Energy Act to give the authority to predetermine the trustworthiness of the drivers and guards for shipments. "This authority would provide AEC with what it considers a principal element for safeguarding SNM in transit."

April 30, 1974. Senator Ribicoff places in the Congressional Record the text of a special safeguards study report made to the AEC's director of licensing. This internal report warns of the potential harm to the public from the explosion of an illicitly made nuclear weapon is greater than that from any plausible powerplant accident; and that because of the widespread dissemination of instructions for processing special nuclear material remains the only substantial problem facing groups which desire to have such weapons. The seriousness of the problem demands, according to the study, a clear commitment by the AEC to bring the risk to the public from safeguard problems down to the level of public risk associated with the operation of nuclear powerplants. By far the most important recommendation of the group was that the AEC adopt the same framework for safeguards safety as is normally used in examining the safety of nuclear powerplants. The study group also recommended a Federal organization that would:

Carry and protect all shipments of significant quantities of licensed nuclear materials.

Approve the prysical protection plans for fixed sites handling significant quantities of special nuclear material.

Provide armed guards for such sites.

Make prior standing arrangements to get an adequate response team to the site of any attempted diversion in a timely manner.

Include a special response force that would respond to incidents of diversion.

All protection functions which could require the use of force should be a direct federal responsibility.

Summarizing its review of recent AEC changes in safeguards regulations, the study group reported:

"Even though safeguard regulations have just been revised and strengthened, we feel that the new regulations are inadequate and that immediate steps should be taken to greatly strengthen the protection of special nuclear materials."

Senator Ribicoff also placed in the record an AEC comment of this safeguards report which said that the Commission was taking a hard look at the study to determine what additional measures should be taken.

In response to the safeguards problem, the Subcommittee has adopted an amendment to S. 2744, the Energy Reorganization Act of 1974, which would establish in the proposed Nuclear Safety and Licensing Commission a Bureau of Nuclear Materials Security, and the setting up of a security force within the Bureau to protect commercial nuclear materials in transit and in storage. (The text of the safeguards study, the AEC comment, the amendment to S. 2744 and several related articles appear in the Congressional Record of April 30, 1974 at pp. 12353–62.)

May 6, 1974, *Weekly Energy Report* reports that AEC Commissioner Kriegsman has recommended that the Commission develop five-year plans for the safeguarding of SNM held by contractors and licensees. The plans should contain specific objectives, milestones, and a schedule of action, and should be published. Also the Director of Regulations should: (1) create an office to develop safeguards policy; (2) draft regulations prohibiting licensees from shipping more than 25 percent of the amount of SNM needed to make a nuclear device; (3) draft regulations for more stringent physical security for their storage; and (4) investigate means of reducing transportation of SNM.

AEC funding for nuclear materials security is proposed at $5 million for fiscal year 1975 which includes funds for research and development related to accountability for nuclear materials, physical containment, surveillance, transportation and protective communications studies.

Summing up, some experts and critics hold that safeguards can never sufficiently protect society against nuclear blackmail from stolen materials and so urge a moratorium on further use of nuclear energy, particularly the commercial demonstration of the breeder reactor which would produce large amounts of plutonium. Others believe that safeguards can be made to work, if certain measures are carried out; but these would substantially affect the U.S. nuclear industry and its operating costs, and probably require establishment of a national para-military force to protect these materials.

Some people in the nuclear industry believe that safeguards is not a serious problem and one AEC officials is quoted as characterizing safeguards as a "phony issue." In the Industry it is generally believed that in relation to other hazards, such as unlicensed hand-guns, the threat posed by theft of SNM is slight.

Some policy issues are:

(1) The adequacy of recent AEC revisions to its safeguards regulations.

(2) The need for improved safeguards, some of which would require Federal legislation.

(3) The cost-benefit ratio between the greater protection of society through increased security for nuclear explosives materials on one hand and the increased costs paid by users of nuclear power on the other.

(4) The implications of establishment in a Federal system without a national police force of a national protective force authorized and equipped to use armed force in protection of nuclear materials;

(5) The implications of proposals for a national intelligence operations to anticipate or discover planned attempts to seize such materials.

(6) Whether or not the difficulties and limitations associated with safeguards are so great as to give reason to slow down or to stop the commercial use of nuclear power.

An amendment by Senator Ribicoff and his subcommittee adds Sec. 204 to S. 2744, the Energy Reorganization Act of 1974. Sec. 204 would establish within the Nuclear Safety and Licensing Commission of S. 2744 a Bureau of Nuclear Materials Security responsible of safeguarding nuclear materials.

U.S. Congress. Senate. Committee on Government Operations, Subcommittee on Reorgnization, Research and International Organizations. S. 2744, The Energy Reorganization Act of 1974. Hearings, 93rd Cong., 2nd Sess., 1974 (not yet in print).

U.S. Comptroller General of the United States. Improvements needed in the program for the protection of special nuclear material. Washington, D.C.: General Accounting Office, Nov. 7, 1973, 51 p. (Rept. no. B-164105).

Protecting special nuclear material in transit: improvements made and existing problems. Washington, D.C. General Accounting Office, April 12, 1974, 19 p. (Report no. B-164105).

Hosmer, Craig. International special fissionable materials safeguards symposium. Remarks in the House. Congressional Record, vol. 117, pt. 29, pp. 37470-472.

Price, Melvin. Safeguarding nuclear materials shipments. Remarks in House. *Congressional Record,* April 24, 1974, pp. 11764-65.

Ribicoff, Abraham. Nuclear safety and safeguards. Remarks in Senate. *Congressional Record,* Apr. 30, 1974, pp. 12353-62.

Ribicoff, Abraham. Nuclear theft and homemade bombs. Remarks in Senate. *Congressional Record,* May 2, 1974, pp. 12906-07.

7/1/68.—President Johnson signs the Treaty on Nonproliferation of Nuclear Weapons (NPT) and offers to voluntarily place nuclear materials for commercial nuclear power in the United States under safeguards of the International Atomic Energy Agency.

3/5/70.—The Treaty on Nonproliferation of Nuclear Weapons enters into force.

9/25/72.—President Nixon establishes a Cabinet Committee to combat terrorism.

8/10/73.—CBS News Correspondents Marely Safer and Mike Wallace put on one-hour presentation on possibilities of theft of nuclear materials and their cousequences.

11/7/73.—GAO releases report on improvements needed in the program for the protection of special nuclear materials.

4/7/74.—Energy Policy Project of the Ford Foundation releases Willrich-Taylor book on Nuclear theft: risks and safeguards.

4/12/74.—GAO releases report on protecting special nuclear materials in transit.

4/24/74.—Mr. Price of Illinois announces the intention of the Joint Committee on Atomic Energy to constitute a special panel to look into the matter of shipments of nuclear materials and to report to the committee on safeguards and health and safety aspects.

4/26/74.—Senator Ribicoff releases text of special safeguards study report to the AEC's director of Licensing.

4/30/74.—Senator Ribicoff places the text of the special safeguards study and related materials in the *Congressional Record.*

4/24/74.—The Washington Post quotes AEC Commissioner Kriegsman as suggesting that certain types of uranium and pollution never be shipped in quantities that could be stolen and made into an atomic bomb.

BOOKS

Leachman, Robert B. and Phillip Althoff, eds. Preventing nuclear theft: guidelines for industry and government. New York, Praeger Publishers, 1972. 377 p.

Willrich, Mason, ed. International safeguards and nuclear industry. Baltimore, Johns Hopkins University Press, 1973. 307 p.

Willrich, Mason and Theodore B. Taylor. Nuclear theft: risks and safeguards. A report to the Energy Policy Project of the Ford Foundation. Cambridge, Ballinger Publishing Co., 1974. 252 p.

ARTICLES

Barnaby, Dr. Frank. Safeguards—with or without strings? New Scientist. and Science Journal, Feb. 25, 1971: 430-432.

De Nike, L. Douglas. Radioactive malevolence. Science and public affairs, Feb. 1974: 16-20.

Gillette, Robert. Nuclear safeguards: holes in the fence. Science, v. 182, Dec. 14, 1973: 1112-1114.

Industry inundated by proposed new safeguards rules. Nuclear industry, Feb. 1973: 45-47.

Ingram, Timothy H. Nuclear hijacking: now within the grasp of any bright lunatic. Washington monthly, Jan. 1973: 20-28.

McElheny, Victor K. Antitheft rules defended by A.E.C. New York Times, Sept. 30, 1973: 23.

Kinderman, E. M. Plutonium: home made bombs? Presented at the Conference on Nuclear Public Information, organized by the Atomic Industrial Forum, Mar. 5-8. 1972. 9 p.

O'Toole, Thomas. Railroad unit urges special A-fuel trains. Washington Post, May 2, 1974:A5.

Shapley, Deborah. Plutonium: reactor proliferation threatens a nuclear black market. Science, v. 172, Apr. 9, 1971: 143-146.

Taylor, Theodore B. The need for a major AEC program to provide for physical security of special nuclear materials. Washington, International Research and Technology Corp., 1971. 4 p.

U.S. Atomic Energy Commission. AEC announces new restrictions on special nuclear materials. News release of Jan. 30, 1973. 3 p.+

EXHIBIT 2

KRIEGSMAN PROPOSES SAFEGUARDS SCENARIO BASED ON 5-YEAR PLAN

William Kriegsman, the AEC commissioner charged with overseeing nuclear safeguards, has recommended a plan of action to the commission to beef up the AEC's safeguards program. The central focus of Kriegsman's recommendation is that the commission should direct the general manager and the director of regulation to develop five-year plans for their respective safeguards programs. Kriegsman said: "These plans should contain the specific objective of the programs, individual milestones, and a schedule for action on the milestones. Upon approval by the commission, these plans should be published."

Kriegsman recommended, also, that the Director of Regulation: a) create an office to develop safeguards policy; b) draft regulations prohibiting licensees from shipping more than 25 percent of the quantity of pure metallic plutonium, highly enriched uranium or uranium-233 needed to make a nuclear device; c) draft regulations for more stringent physical security for the storage of the more dangerous elements; d) investigate the means of reducing the transportation of plutonium, highly enriched uranium, and uranium 233.

As a result of environmental pressure, largely channeled through Sen. Abraham Ribicoff of Connecticut, there has been increased interest lately in the question of safeguards. Knowledgeable people in the industry continue to believe that safeguarding nuclear materials is not a serious problem and is, in the words of one AEC official, "a phony issue." In the industry it is generally believed that in relation to the other hazards faced by society, such as unlicensed hand-guns, any threat posed by the theft of nuclear materials is very slight indeed. They point to the high degree of expertise that would be required to manufacture a nuclear device and the immediate danger to the thief. A Washington nuclear engineer told *Weekly Energy Report:* "If anybody is ever misguided enough to try and raid a nuclear plant to procure nuclear materials, the blame could probably be laid on the environmentalists who have done so much to put the idea into people's heads."

AMERICAN BAR ASSOCIATION ENDORSES CONSUMER PROTECTION AGENCY

Mr. PERCY. Mr. President, as I have pointed out in previous remarks on the floor, a priority of the 93d Congress must be to provide consumers adequate protection against faulty goods and services, misleading advertising, and unfair trade practices. Legislation to create a Consumer Protection Agency—a permanent, institutional advocate for consumer interests within the Federal structure—has already passed the House. Similar legislation, cosponsored by Senators JAVITS, RIBICOFF, MAGNUSON, MOSS, COOK, and myself, is pending before the Senate Government Operations Committee, having been reported by the Commerce Committee.

The American Bar Association has been an avid and long-time supporter of the Consumer Protection Agency. In an April 4, 1974, letter to me, Marion Harrison, the acting chairman of the ABA, emphatically reiterated the association's advocacy of the CPA. The letter stressed that CPA be empowered to intervene as a full party, rather than merely an amicus in relevant proceedings before administrative bodies, and that CPA have an unrestricted right to initiate judicial review of final Agency actions on consumer concerns.

The Senate bill, S. 707, provides the CPA with these powers. It is my strong belief that the two powers are essential to effective consumer protection by the proposed Agency. I fervently hope that the Senate will expeditiously enact S. 707 with these provisions intact.

Mr. President, because I feel that the ABA's support and suggestions are so clearly in the best interests of the American consumer, I ask unanimous consent that the full text of Mr. Harrison's letter be printed in the RECORD as a part of my remarks.

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

AMERICAN BAR ASSOCIATION,
Chicago, Ill., April 5, 1974.

Re Consumer Protection Agency
Hon. CHARLES H. PERCY,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: The purpose of this letter is to reiterate the American Bar Association's support for the enactment of legislation creating a Consumer Protection Agency with adequate intervention and judicial review authority. The position of the Association was set forth in detail in the testimony of John T. Miller, Jr. and Joel E. Hoffman before the Committee on October 11, 1973, and I shall not burden you with needless repetition. Permit me, however, to stress the most important principles which the ABA believes should be reflected in legislation of this kind.

First, in our view it is essential that the Consumer Protection Agency be empowered to intervene as a full party in appropriate proceedings before other administrative bodies. As we stated in our testimony, "If the Administrator of the Consumer Protection Agency determines in a particular case that the effective representation of consumer interests requires him to act as a party rather than merely as amicus, he should be given the procedural tools to do his job."

Second, as we also stated, participation at the agency level "would be of little value without the complementary right to judicial review of the final agency action." We believe that to represent the consumer interests effectively, the Consumer Protection Agency must have the right to initiate proceedings for judicial review (or to intervene as a party in review proceedings initiated by others), regardless of whether the CPA participated in the administrative proceeding to be reviewed. And, in our view, that right should not be restricted by uncertain criteria such as "required by the interest of justice" or the like, which in practice would impose new burdens on both the Consumer Protection Agency and the courts while adding nothing to the latter's ample existing authority to prevent abuses of the judicial review process.

We hope these brief comments will be of assistance to the Committee in considering the legislative proposals pending before it.

Respectfully submitted,
MARION EDWYN HARRISON,
Acting Chairman.

PROBLEMS FACED BY JEWS IN THE SOVIET UNION

Mr. BUCKLEY. Mr. President, on April 23, the State senate of the State of New York passed a resolution taking note of the problems faced by Jews in the Soviet Union and urging the Congress to continue pressing for the rights of those who wish to emigrate freely from the Soviet Union.

I ask unanimous consent to print the text of this resolution in the RECORD.

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

SENATE RESOLUTION No. 62

Senate resolution memorializing the President and the Congress of the United States to consider the plight of Soviet Jews prior to granting favored nation status to the Soviet Union and calling upon the Governor to proclaim April 28, 1973 as solidarity day

Whereas, In the Soviet Union men and women are denied freedoms recognized as basic by all civilized countries of the world and indeed by the Soviet Constitution; and

Whereas, Jews and other religious minorities in the Soviet Union are being denied the means to exercise their religion and sustain their identity; and

Whereas, The government of the Soviet Union is persecuting Jewish citizens by denying them the same rights and privileges accorded other recognized religions in the Soviet Union and by discrimination against Jews in cultural activities and access to higher education; and

Whereas, The right freely to emigrate, which is denied Soviet Jews who seek to maintain their identity by moving elsewhere, is a right affirmed by the United Nations Declaration of Human Rights, adopted unanimously by the General Assembly of the United Nations; and

Whereas, These infringements of human rights are an obstacle to the development of better understanding and better relations between the people of the United States and the people of the Soviet Union; and

Whereas, The State of Israel, now celebrating its 26th Independence Day, has expressed its solidarity to freedom-loving people everywhere; and

Whereas, An attempt was made to destroy the State of Israel on October 6, 1973; and

Whereas, The State of Israel continues to remain a symbol of the strength of the democratic system and has earned the respect and admiration of all people who champion the cause of freedom; now, therefore, be it

Resolved, That the Senate of the State of New York express its solidarity in asking that the President and the Congress of the United States consider the plight of Soviet Jews when granting most favored nation status to the Soviet Union, and to call upon the Soviet government to end its persecution of the Jews and other minorities and to permit the free exercise of religion by all its citizens in accordance with the Soviet Constitution; and be it further

Resolved, That the Senate of the State of New York, in the interest of justice and humanity, express its solidarity in requesting that the President and the Congress of the United States call upon the Soviet government to permit its citizens to emigrate from the Soviet Union to the countries of their choice as affirmed by the United Nations Declaration of Human Rights; and be it further

Resolved, That the Senate of the State of New York express its solidarity, in urging that the United States government use all appropriate diplomatic means to engender the fullest support possible among other nations for such a request to the Soviet Union; and be it further

Resolved, That the Senate of the State of New York express its solidarity with the people of Israel on its 26th Independence Day; and be it further

Resolved, That the Honorable Malcolm Wilson, Governor of the State of New York, be and he hereby is respectfully requested to issue, publish and declare to the people of the State of New York an appropriate proclamation designating April 28th, 1974 as Solidarity Day; and be it further

Resolved, That in order to effectuate the purposes of this resolution, copies of this resolution be transmitted to the President, Vice President and Secretary of State of the United States, to the Secretary of the Senate and the Clerk of the House of Representatives of the United States, and to each member of the Congress of the United States from the State of New York.

STEPPED-UP SOLAR RESEARCH NEEDED—NOW

Mr. HUMPHREY. Mr. President, on May 7 and May 8, the Joint Committee on Atomic Energy held hearings on my Solar Energy Research proposals—S. 2819 and S. 3234.

The committee heard 18 witnesses from the executive branch, U.S. industry, the academic community, and private research organizations, testify on the future of solar energy.

Mr. President, I was privileged to be the leadoff witness for these hearings. In my statement to the committee, I outlined my proposal and called for quick action to implement an expanded program of solar energy research and development.

Mr. President, I ask unanimous consent that my testimony on May 7, before the Joint Committee on Atomic Energy, be printed in the RECORD.

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

TESTIMONY OF SENATOR HUBERT H. HUMPHREY

Mr. Chairman, I am pleased to testify on S. 2819, the Solar Energy Research Act of 1973, which I authored. And I am gratified that the Joint Committee on Atomic Energy will devote two full days and hear eighteen witnesses testify on my proposals for an expanded program of solar energy research and development.

Following introduction of S. 2819, I solicited the views of the solar energy community. I received hundreds of comments from individuals and organizations, for which I am most grateful. They represented a wide range of expertise and perspectives relevant to solar energy. Comments were received from private and government sources who discussed technical, social, environmental and economic aspects of solar energy research.

These comments were incorporated into my new bill, S. 3234, the Solar Energy Research Act of 1974, which I introduced in the Senate on March 26 of this year.

I have been joined in this proposal by twenty-two Senate colleagues. These cosponsors are; Senators Jackson, Fannin, Bible, Tower, Williams, Brock, Metcalf, Dole, Mondale, Cook, Nelson, Case, Church, Haskell, Johnston, McGovern, McGee, Packwood, Clark, Gravel, Pell, Hatfield, and Montoya. I am particularly pleased to report such strong bi-partisan support for this proposal.

I do appreciate, Mr. Chairman, your efforts to consider, though unofficially, S. 3234 along with S. 2819, during your hearings this week.

While many of us have recognized the potential of this greatest and cleanest of all sources of energy, and for years some of us have called for stepped-up efforts to tap it, the total Federal effort specifically directed toward solar energy research and development has been and remains inadequate. This is particularly true in view of the urgency of our Nation's energy crisis and the important researchable projects that are available for funding.

In addition to the need for carrying on a vigorous solar energy research and development program, we must also assure that the resources are available for the full utilization of the results of solar energy research by the ultimate users—the utilities, the housing contractors, the home owners, and private industry—at the earliest practical date. This is imperative if we are to approach energy self-sufficiency within the next decade.

In reviewing funding requirements, I direct the Committee's attention to Section 4C of S. 3234. It requires the Office of Solar Energy Research, in conjunction with the Solar Energy Research Council, to return to the Congress for authorizations to proceed into the solar energy demonstration phase.

In view of the rapid progress in solar technology development in recent months, the

Committee may wish to consider authorizing funding in fiscal year 1975 to allow the immediate start-up of not only a major demonstration program, but also of a program to support a full range of efforts to assist the "developers," that is industry, and the "users", that is utilities, housing contractors, home owners, among others. This would certainly help achieve the earliest practical contribution from solar energy to our nation's energy self-sufficiency. Beyond fiscal year 1975, funding for such activities could be authorized on an annual basis.

With respect to the $600 million funding authorization level which I have recommended for the next five years, I provided considerable technical support for this level in the addenda to my March 26, 1974 introductory statement to the Senate.

The technical materials include the "Overview" section of the Sub-Panel IX Report, which was prepared by the Solar Energy Technical Review Panal as a basic input to Dr. Dixy Lee Ray's report to the President—"The Nation's Energy Future."

Included in the Sub-Panel IX Report is a chart which lists the funding requirements for a "minimum viable" and an "accelerated orderly" solar energy research program. The funding level I have proposed is almost $200 million more than the "minimum" program but $450 million less than the "accelerated" program.

Prepared during a similar time frame was the Mitre Corporation's voluminous solar energy research report. In its "Summary and Discussion of Alternatives" section, and addendum to my March 26 statement, a similar five-year funding requirement for solar energy research and development is recommended.

Yet, both of these studies were prepared before the demands for energy production increased, due to the energy crisis experienced this winter. The Committee should, I believe, give consideration to an increased funding level and new goals based on energy developments in the last few months and the requirements of "Project Independence." The Committee may wish to consider establishing a specific goal for solar research and development. Such a goal might be to make as many of the various forms of solar energy economically competitive at the earliest practical date. Funding would then be determined in light of that objective.

This bill establishes an "Office of Solar Energy Research" to provide the administrative structure and central focus needed to assure the realization of the full potential of solar energy—from the solar heating and cooling of buildings in the near term, to the mid-term solar production of electricity.

The Office is established in the Federal Energy Research and Development Administration, (ERDA), or any other permanent energy research and development organization established by Congress, not to be confused with the Federal Energy Administration approved last week by the Senate.

This is the major departure in S. 3234 from the original bill, S. 2819, which put the office permanently in the Atomic Energy Commission. Given the support for ERDA in the Administration and Congress, I believe this revision makes sense. Should the energy research and development administration for any reason not be established at the time of passage of this bill, the Office would be located, on an interim basis, within the Atomic Energy Commission. Since the AEC has been designated, by both the Administration and Congress, in various legislative proposals, as the core of ERDA, this arrangement would seem to be appropriate.

The cooperation among the various federal agencies called for in my proposal was not done as an afterthought. I believe it is central to the success of any federal solar research effort. The "Office of Solar Energy Research" should not be permitted to become part of any "empire building" strategy. With the great in-house talent at the AEC laboratories, keeping all solar work "in house" when they become part of ERDA, will be a real temptation. However, industry talent and other "participating" agency talent must be fully used, to do otherwise would seriously waste our resources.

In particular, the National Science Foundation should be commended for its excellent work in solar energy. And I am proud to say that Minnesota companies and communities are fully involved in their programs. The NSF should maintain its capability in the areas of advanced energy research and technology including solar. Fundamental science in the area of solar energy can best be served if the Office of Solar Energy Research fully utilizes the experience and expertise of the National Science Foundation.

NASA, in performing its important mission in the area of aeronautical and space research and development, has developed an impressive expertise in many areas pertinent to solar. To name a few areas, wind energy can benefit from NASA's experience in aeronautics and rotating machinery. NASA's work with new materials, special materials coating, heat transfer, and the like, can contribute to solar thermal and solar heating and cooling work. And, of course, work in the area of photovoltaics can benefit from NASA's long years of experience on this technology.

And, the AEC itself has begun to develop an impressive solar energy program, since instructed to do so by the Congress. Five present AEC and future ERDA laboratories have been identified, so far, as having capabilities and enthusiastic interest in solar energy—Sandia, Berkeley, Livermore, Los Alomos, and Argonne.

Sandia is developing a "Total Solar Energy Community"—supplying the community with solar thermal produced electricity and utilizing the waste heat for the heating and cooling of homes. Through this process of cascading energy use it is achieving unusually high efficiencies.

Argonne is developing a novel solar thermal concentrator. Los Alamos is developing a low-cost manufacturing process for flat plate solar collectors. Berkeley is conducting research in such areas as: photovoltaics; photosynthesis; and solar radiation measurements.

Besides close cooperation with and utilization of other agencies, including substantial inter-agency sub-contracting through participating agency service agreements, the Office of Solar Energy Research should especially utilize the great talents and capabilities to be found in the private sector.

It was a government-industry team that got us to the moon; it will be an industry-government team (with the emphasis on industry) that will achieve energy self-sufficiency for America.

But America, in achieving energy self-sufficiency, as we ultimately will, must not then assume that it can turn its back on the world and adopt an isolationist policy. We are merely 6% of the world's people; 94% of the world is out there striving to achieve the standard of living we enjoy with all the energy and materials consumption that such a standard entails. We cannot be blind in our efforts at energy self-sufficiency to the aspirations of other nations, for their consequences are profound for our nation.

Today, the world's energy importing nations rely heavily on the Arab nations, with their demonstrated willingness to use energy resources for political purposes.

Tomorrow, an additional major exporter of energy may well be the Soviet Union, whose vast resources of coal and oil in Siberia are just now beginning to be tapped in a major way.

During the recent embargo, the decision of the Netherlands to stand fast for an independent foreign policy cost them dearly. Also, Iceland—which provides a strategic base for the American military—became very concerned over the possible loss of its prime source of energy, the Soviet Union. Can we really be politically independent if our friends, allies, and sources of raw materials, are dependent?

Achieving the capability of energy self-sufficiency for America is a must. However, in a world where we still depend on cooperation with others for our security, for our markets, and, increasingly, for our raw materials, our definition of national energy self-sufficiency must be extended to include the ability to provide some assistance to our friends and allies who are particularly vulnerable to energy "blackmail."

Thus, every effort must be made to increase our ability to produce energy, particularly clean, nonpolluting energy, along with our ability to store and transport such energy.

Achieving energy self-sufficiency might wreak havoc on our environment and on our limited conventional fuel resources unless we turn to clean, inexhaustible sources of energy such as solar energy and fusion.

Most experts agree that fusion will not have an impact on our energy needs until well into the next century. Some even go so far as to contend that it is not a certainty that fusion will be harnessed in the foreseeable future.

Your Committee is particularly well aware of the potential benefits of fusion. That potential requires that we continue to fully support fusion research.

The other possible source, solar energy, does not present the same technical problems. It can begin making a contribution within a few years in the area of solar heating and cooling. And, if we choose to do so, it can begin to have an impact on the production of electricity by the early part of the next decade. The great potential of solar energy certainly warrants our full support. However, as I said before, adequate support for solar energy has heretofore been lacking.

No doubt, there are improvements that you will be able to make in this legislation, as a result of your intensive scrutiny. I do hope, however, that the Committee will soon report a bill.

The need for an expanded solar energy research and development program is obvious and the time to act is at hand. I believe Congress can take this initiative now and demonstrate to the American people the kind of leadership in the energy field that they expect of us.

Finally, I thank the Chairman for this opportunity to testify on behalf of my proposal for a vigorous solar energy program.

CALL FOR RESTRAINT IN PUBLIC STATEMENTS

Mr. BROCK. Mr. President, the country is facing one of the most difficult decisions that we as a nation may ever have to face. We know that the President of the United States is being investigated for possible impeachment by the House Judiciary Committee. This is a very important issue to the health and well-being of our country. It needs to be handled with the utmost care.

Howard Flieger, in an article in the U.S. News & World Report of April 22, expressed an opinion which all Members of Congress should heed—it is a call for restraint in public statements. I could not agree more with Mr. Flieger's observation. I ask unanimous consent that his editorial be printed in the RECORD for my colleagues to read.

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

[From the U.S. News & World Report, Apr. 22, 1974]

IT'S TIME TO BE QUIET

(By Howard Flieger)

Now is the time for all members of Congress to stop sounding off for or against the impeachment of the President.

In fact, the time to keep quiet arrived many weeks ago.

Both Senators and Representatives should have silenced themselves on the subject the instant the House Judiciary Committee began studying the matter of impeachment.

This is not being written in defense of Richard M. Nixon.

Rather, it is simply to point out something a lot of people tend to overlook: The President is not now a defendant in anything.

There are no articles of impeachment before the House. As a matter of record, the Judiciary Committee will not begin hearing sworn testimony until May 7, though its staff has been doing preparatory work for weeks.

Nobody who isn't directly involved could possibly know what the evidence will show.

The point to all this: When and if articles of impeachment emerge from the Committee, it will be up to the members of the House of Representatives—every last one of them—to decide whether the accusations are of substance sufficiently serious to be placed before the Senate for trial.

In simpler terms, the members of Congress are the persons who at some point will be required to sit in judgment on Mr. Nixon.

Under the circumstances it is unseemly, to say the very least, for Senators and Representatives to be making guesses now on the number of votes one way or the other, to be publicly discussing the President's guilt or innocence, to engage in head-counts to try to predict the outcome far in advance of the fact.

Several members and their staffs have been doing just this, and talking about it openly—though sometimes anonymously. "Will he be impeached?" has become a commonplace topic of conversation in Washington, and the question too often brings forth a publicized answer.

You'd think anybody could see that this popular guessing game does violence to justice. It is basic in our society that everybody—of high station or low—is presumed innocent of any wrongdoing or misconduct until proved otherwise beyond all reasonable doubt.

So what is all this loose-tongued chatter, verbally batting the grave issue of impeachment back and forth like a badminton bird?

In a way, it is the same as members of a jury pronouncing a defendant guilty or not guilty without waiting to hear the case.

It reminds one of the old, unfunny joke about the vigilantes who collared a suspected horse thief and announced they would "give him a fair trial and hang him."

As Rep. John J. Rhodes of Arizona, the Republican leader in the House, said recently on NBC's "Meet the Press":

"It is necessary for each member to make up his mind after the evidence is in, and not before. If he were to do otherwise—as some have, I think, injudiciously done—it would be similar to the situation in which a judge might mount the bench and say, 'Order in the Court. The plaintiff is going to win.' "

Aside from the blatant injustice, there is a matter of practical politics involved here that no politically sensitive member of Congress can afford to ignore.

According to the polls, this Congress is not held in very high esteem by the voters who elected it. If the idea becomes widespread that it is playing party politics with the fate of a President, a lot of incumbents could be in for a shock, come November.

The following campaign bumper sticker arrived in the mail the other day:

"DON'T RE-ELECT ANYBODY

It's a gag, of course. But in the present atmosphere there is something unnerving about it—like an ominous tap on the shoulder.

WINYAH INDIGO SOCIETY

Mr. HOLLINGS. Mr. President, as we approach the 200th anniversary of the Nation, our attentions are increasingly focused on the history and heritage of this great land. My own State of South Carolina has always had great interest—and pride—in its past. And I would note that as the United States approaches its Bicentennial, we in South Carolina have already celebrated our tricentennial.

One of the oldest continuing philanthropic societies in America can be found in Georgetown, S.C. It is the Winyah Indigo Society, and it traces its origins back to the middle of the 18th century. Tradition dates its beginnings to the establishment of a social club in 1740. Public-spirited at the outset, the society soon turned its energies to the education of the young. It established a school, principally for those who were poor and otherwise unable to obtain the benefits of formal training. Although the Civil War seriously disrupted the work of the school, it built itself up again and continued its good works until it was merged with the public school system in the early part of the 20th century.

Over the years, the Winyah Indigo Society has engaged in many other community activities, always with the goals of elevating public ideals and contributing to the public interest. The society has been of valuable service to South Carolina and, indeed, to the Nation.

Mr. President, the history of the Winyah Indigo Society demonstrates once again what public-spirited community activities can accomplish. The work of such groups is a proud chapter in the annals of America, and their contributions ought to be more widely known. I ask unanimous consent that a brief history of this illustrious society be printed in the RECORD.

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

BRIEF HISTORY OF THE SOCIETY

All of the records of the "Winyah Indigo Society" were lost or destroyed during the War between the States when Georgetown fell into the hands of the Federal forces. The Academy Building, with here and there a volume of what was once a very large and valuable library, is about all that is left of the property of which it was possessed as the capital upon which it did its noble deeds for charity. Few of its living members became such more than forty years ago, and its early history is, therefore, simply the tradition of the past.

As tradition hath it: the planters of Georgetown District, about the year 1740, formed a convivial club, which met in the town of Georgetown on the first Friday of each month, to talk over the latest news from London, which was never less than a month old, to hold high discourse over the growth and prosperity of the Indigo plant (then and for a long time after spelt, in the invoices to London, Indico,) and to refresh the innerman, and so keep up to a proper pitch the endearing ties of social life by imbibing freely of the inevitable bowl of punch. The Old Oak Tavern which stood on Bay Street, not far from its intersection with Broad street, was the place of this monthly re-union. The first Friday in May of each year, was the anniversary meeting, and on these occasions anecdote and song (speechmaking was not yet in vogue) added to the good cheer of the punch bowl, and many a staid and solid old planter became as blue as the residum of the plant he cultivated. Indeed, tradition says, it always required great skill for these jolly old fellows to sit their prancing steeds, after one of these anniversary festivals, for a spur in the head always equals two in the heel, and master and horse became so mobile and agile that the ground and lofty tumbling was generally equal to a small sized circus.

There was an initiation fee and an annual contribution from each member, which went to defray the expenses of the meetings. These were always paid in Indigo. In those good old days, when there was no protective tariffs or license to sell poison under the euphoneous names of Bourbon and Summerdine, and no Maine Liquor Law to stop the trade in wholesome beverages; when there were no revenue inspectors prowling about under the guise of land speculators; when each man was permitted to sit under his own vine and fig tree and imbibe the best and purest Old Jamaica for fifty cents a gallon; the appetite did not grow upon what it fed on, and the brain did not reel under the maddening influence of narcotic poison; but our forefathers, with their peach and honey and genuine Old Rum, rose to the height simply of genial gentlemen and liberal benefactors. And so it came to pass that about the year 1753, the exchequer became plethoric of gold, and the hearts of our founders overflowed with the milk of human kindness.

"But what avails this wondrous waste of wealth?
This gay profusion of luxurious bliss?
Ill-fated race! the softening arts of peace,
What'er the humanizing Muses teach;
The God-like wisdom of the temper'd breast;
Progressive truth, the patient force of thought;
Investigation calm, whose silent powers
Command the world; the light that leads to Heaven;
Kind equal rule, the government of laws,
And all protecting freedom, which alone
Sustains the name and dignity of man:
These are not theirs."

And hence it became the question of the hour, to what good purpose shall we devote our surplus funds. As the tale runs, the discussion was brief, pertinent and solid. At the close of it the Presiding Officer called on the members to fill their glasses, he wished to close the debate by a definite proposition, if it met their approbation, each member would signify it by emptying his glass. He said: "There may be intellectual food which the present state of society is not fit to partake of; to lay such before it would be as absurd as to give a quadrant to an Indian; but knowledge is indeed as necessary as light, and ought to be as common as water and as free as air. It has been wisely ordained that light should have no color, water no taste, and air no odor; so, indeed, knowledge should be equally pure and without admixture of creed or cant. I move, therefore, that the surplus funds in the Treasury be devoted to the establishment of an Independent Charity School for the Poor." The meeting rose to its feet. The glasses were each turned down without soiling the linen, and the Winyah Indigo Society was established.

Such, in brief, was the origin of a Society whose school has been *the* School for all the country lying between Charleston and the North Carolina line for more than one hundred years. In its infancy, it supplied the place of Primary School, High School, Grammar School and Collegiate Institute. The rich and the poor alike drank from this fountain of knowledge, and the Farmer, the Planter, the Mechanic, the Artisan, the General of Armies, Lawyers, Doctors, Priests, Senators and Governors of State, have each looked back to the Winyah Indigo Society as the grand source of their success or their distinction. To many it was the only source of education. Here they began, here they ended that disciplinary course which was their only preparation for the stern conflicts of life.

The Society received a royal charter from King George II in the year 1758. Some other privileges have been since granted to it by the Legislature of the State. Its Constitution still contains the imprint of the wisdom of its founders, few changes having been made to adapt it to the changed circumstances of the times. It lived through the rugged "times that tried men's souls," and came out of that contest with royalty, still clinging to its royal charter and cherishing with the recollection of a favored child the good old laws and customs and practices of England, but yet not unmindful of its new duties in its new relation to Carolina, "the land of the free and the home of the brave." It has never suffered politics to enter its doors. In the wildest periods of political excitement it has kept its gaze undeviatingly fixed on its true—its only mission. Its cardinal rule was, never to close its door against any worthy, honorable citizen who desired to become a member, and never to dismiss from office any officer who was capable and willing to serve. The consequence was: its membership was of the best men of the county; its duties in every respect were discharged promptly and efficiently; it had grown rich, it had enlarged its operations, it had become the central object of the affection of all our people; and it was nobly doing its work in enlighening the minds, improving the morals, and imparting tone, dignity and practical wisdom to generation after generation of our children. It was the offspring of the rollicking liberality of the Cavalier and the inflexible spirit of the Huguenot, beautifully mingled and blended into harmonious action. It continued, as it had commenced, the foster mother of all that is good and commendable, personating the blindfolded Goddess in the distribution of her favors.

But the "civil war" came, and with it that disastrous result, which has swept away the accumulation of more than a century. And now when its charitable deeds are more than they were in 1753, now when the descendants of its founders are heavily taxed to support free schools, whose doors are virtually closed against their children, the Winyah Indigo Society finds itself without funds, without school apparatus and without means to soothe its poverty-stricken children by the rich endowment of knowledge, the enduring heritage of learning. Is there no kind Maecenas who will consent to lift us out of the mire and place us once more on the plane of usefulness?

The Academy Building was occupied by the military as long as the Town of Georgetown was garrisoned by the Federal forces, and the building and premises were very much abused by the soldiers. The best and most valuable works in the library were appropriated and carried off, including Audubon's great work on ornithology, which cannot be replaced except at an enormous price. By dint of great efforts the members have raised among themselves money to repair the building and fences, and have during the past year once more employed a competent teacher and started their school, but have been compelled to charge a small sum for tuition to aid them in raising the salary of the preceptor. The school is entirely without apparatus of any kind, so useful and essential in teaching the sciences. In fact, the interior arrangement and appearance of the school with its rough benches and uncouth desks, resemble the traditional "old field" school that followed the first settlement of the State. The members are thoroughly alive to the importance of nurturing the school into something like its former brilliant success, but without aid from abroad, it must necessarily progress slowly, with probably many halts before it again reaches the summit of its great usefulness, and again scatters its steady gleam of light to dispel the shadows that are daily thickening over this once favored district, then the abode of princely wealth and courtly refinement. There are, however, no vain regrets, no gloomy brooding over the past. Trustful of the present, hopeful of the future, knowing that in the long run blood will tell, let us learn to "labor and to wait."

RICHARD DOZIER,
BENJAMIN H. WILSON,
Committee.

November 7, 1873.

The late Mr. Wm. D. Morgan, for many years an honored member of the Society was requested to bring this sketch up to date; he wrote as follows:

GEORGETOWN, S.C.,
June 1938.

A review of the records of the Society from 1873, at which time a history of the Society was written by the Hon. R. Dozier and the Hon. B. H. Wilson, to the year 1938, discloses the fact that the aims and purposes of this honorable body have been well preserved by its officers and members.

In preparing this report the minutes of all meetings from the year 1853 through the May meeting of 1938 have been carefully read and checked for items of interest. The earlier records of the Society are missing.

With the information thus obtained, I shall briefly relate the story of the Society, taking up the narrative where the charming account referred to above leaves off.

Since the main object of the Society was the education of the children of the county, principally those who were poor and unable to otbain an education elsewhere, I shall first outline the work of the Society's school from the time it was re-established in 1872, with Mr. A. McP. Hamby, as principal, to the date of its closing. From 1872 to 1887, under Mr. Hamby's able management, a number of pay pupils and many beneficiaries received their education. Many of them have distinguished themselves in after life. In 1887, in accordance with an act of the Legislature passed in 1885, authorizing the establishment of the Winyah Graded School District, the Society's school was merged with the graded school. Of the seven trustees of the Winyah Graded School District, four were appointed by the Winyah Indigo Society. Messrs. Benj. Allston, S. S. Fraser, B. A. Munnerlyn and Walter Hazard were the first four appointed. Mr. Hamby was appointed superintendent of the whole school and principal of the high school department, his salary being paid by tuition of $40.00 a year paid by each pupil in the high school and $300.00 paid by the taxpayers in exchange for the use of the Society's building. The Society reserved the right to hold its meetings and annual banquets in the building. This condition prevailed until the handsome brick school building was erected corner of Cleland and Highmarket Streets in 1908 to which the school was removed. A new board of Trustees was formed with Mr. E. W. Kaminski as Chairman. Mr. Hamby died in 1895 and in 1902 the Society passed a resolution providing for a beautiful gold medal to be given in his memory, as a token of their appreciation of his magnificent work for the school, to the honor graduate of the high school. The medal was first awarded in 1903 and is still being presented each year.

In 1853, Mr. Francis Withers bequeathed the sum of $5,000.00 and the lot corner Prince and Cannon Streets, on which the Winyah Indigo Society Hall now stands, to the Society for the erection of a suitable building for a school and meeting place for the Society. The following year a committee was appointed to solicit funds to be added to this bequest. The minutes do not show how much money was raised by the committee or the names of the subscribers, as they made no report. Mr. E. B. Rothmahler, the Treasurer, reported at the May meeting in 1853 that $14,640.00 has been received from the sale of stocks and other securities. The building was completed in the summer of 1857. From 1865 to 1868 it was used by the Federal forces as a hospital for Union soldiers.

The Society made several attempts to obtain from the United States Government some compensation for the use of the hall, but these attempts failed completely and the Society was obliged to make repairs which were absolutely necessary at their own expense. In 1915, the building being again in need of repairs, a committee was appointed to make all necessary repairs, improvements, repainting, etc. The committee not only repaired the building throughout, but also enlarged the upstairs assembly or ball room, removing the old plaster ceiling and replacing with the present metal ceiling; improved the ladies' dressing room, constructing a gentlemen's room on the first floor and installing in the cellar a large furnace heating plant. The building was painted throughout. This was all done at a cost of $4,442.14. In addition to Mr. Withers' handsome legacy, there were no doubt numerous other gifts, bequests and subscriptions made to the Society's fund, the following being the only ones of record: Jonah Horry—$1,453.00; George T. Lathrop—$500.000; Richard Lathers, who lived in New Rochelle, N.Y.—$100.000 and a bequest from Mrs. M. I. Dealy, a former beneficiary, in grateful acknowledgement of the education she had received—$200.00.

The room in which the meetings are held was fitted up as a library in the year 1858 and in 1859 the surviving members of the old Georgetown Library Society, which had been chartered in 1800, transferred all of their books to the Winyah Indigo Society. These books were classified at that time and according to this early record many valuable volumes are missing from the shelves today, some having been removed, no doubt when the building was used by the Union soldiers. Audubon's valuable work on ornithology was among those missing. An autographed letter written to the citizens of Georgetown and vicinity by President Washington, on the occasion of his trip through the South in 1791, was taken from the library room by a Union soldier. It was originally presented to the Society in 1860 by E. B. Rothmahler, Jr., having been found among the papers of his deceased father, E. B. Rothamahler, who was chairman of the committee appointed to welcome President Washington to Georgetown.

In 1884 the letter was returned to the Society by Lieut. Manning of the U.S. Army garrisoned here in 1865. It is now framed and hangs on the walls of the library room. Here also are framed photographs of past presidents of the Society: Benjamin Allston, Walter Hazard, Savage Smith, Anthony White Dozier, B. H. Wilson, Richard Dozier, W. T. R. Prior, B. A. Munnerlyn and Thomas Lynch, first president of the Society and one of its charter members. There are also pictures of Marquis de Lafayette and Baron DeKalb. In the minutes of July 6, 1888 is the following: "On motion of Mr. S. S. Fraser: *Resolved* That the two original charters of the Society . . . be framed and hung up in

the library and that the Secretary be instructed to have this done." There is only one charter in the Library room today. This is framed and is headed: "At the Court of St. James, the 27th day of January 1758", and after the main body of the charter, the words "Assented to—William Henry Lyttleton", followed by a royal confirmation of the Act.

The books in the library have been catalogued recently and a complete record made of them. They are no longer taken from the room, but are a source of great interest to many visitors to Georgetown who request the privilege of searching among them for data of interest.

The social life of the Society is kept alive by the annual banquet. Many distinguished personages have been entertained at these banquets. On May 5, 1905, Ex-President Grover Cleveland, Governor D. C. Heyward, Commodore E. C. Benedict of the N.Y. Yacht Club and other distinguished gentlemen were guests of the Society. While President, in 1894, Mr. Cleveland had came to Georgetown to enjoy the sport of duck hunting and was tendered a reception in the Winyah Indigo Society Hall and an elaborate luncheon by the Palmetto Club. This Palmetto Club was a very patriotic and public spirited organization. In 1925, when it was going out of existence, it made a generous contribution of $1,000.00 in cash and all of its glassware, silverware and crockery to the Winyah Indigo Society. In this same year, 1925, the Winyah Indigo Society entertained Rear Admiral Samuel McGowan with a lavish repast.

On April 30, 1930, Mr. Wingate, as Chairman of the Rules Committee, made a report on amendments to the Constitution and By-Laws, which are herewith submitted and form a part of this report, also herewith submitted are sundry other amendments to the By-Laws which I discovered in the back of the old minute book containing the minutes from 1865 to 1916.

Accompanying this report, which contains some historical matter and other data which should be printed in the proposed pamphlet, is the roll of membership from 1873 to the present time; all of which should prove of value to the present members and also to the future historian. In conclusion, permit me to say that the present members of the Society should feel proud in belonging to an association organized 183 years ago, one of the oldest organizations in the United States, a society with a philanthropic object in view, which has survived wars, panics, depressions and the conditions prevailing for several years following the close of the Civil War. Partisan politics, sectional or religious differences of opinion have never been allowed to enter the portals of the Society. We should invite and encourage the young men of Georgetown and Georgetown County to join the Society and take an active part in its proceedings and to perpetuate for all time to come the magnificent heritage which the Fathers of the Winyah Indigo Society passed down to the present generation. We should always bear in mind in grateful remembrance the memory of those old, distinguished members of the Society whose philanthropic and public spirited high ideals should be emulated as closely as possible, now and in the future—living up to the motto of the Society: *"Esto Perpetua"*.

Respectfully submitted,

WILLIAM D. MORGAN.

THE HUMAN ELEMENT OF OIL PRICES AND PROFITS

Mr. BROOKE. Mr. President, I am pleased that the Senate has begun consideration of S. 3267, the Standby Energy Emergency Authorization Act. Certainly much of the debate on this measure will concern itself with the oil industry. Specifically, we will be discussing what legislative steps, if any, would be appropriate in light of the continuing increases in both oil prices and oil profits.

In the past debate on this matter has tended to focus almost exclusively on the mechanics of oil production, while ignoring the human element involved. We forget that many Americans are increasingly burdened by higher heating oil costs, higher electricity costs, and higher gasoline costs. This is particularly true of our elderly who live on fixed incomes.

The Massachusetts State Senate and the Massachusetts House of Representatives have not forgotten the human element. In a recent resolution, both Houses memorialize the Congress to act swiftly in enacting legislation to establish more effective price controls on oil. I would hope that our concerns reflect their concerns and that we will take into account the human element of oil prices and profits throughout our deliberations.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD.

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

RESOLUTION MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION ESTABLISHING MORE EFFECTIVE OIL PRICE CONTROLS IN THE UNITED STATES

Whereas, The energy crisis has drastically increased the price of oil in the United States; and

Whereas, Many Americans face an increasing financial burden to heat their homes; and

Whereas, The increasing costs on already financially burdened Americans will endanger their health and well being; therefore be it

Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact legislation establishing effective oil price controls in the United States; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth.

NIXON ADMINISTRATION HOUSING POLICY—LATE, INADEQUATE, AND PIECEMEAL

Mr. HUMPHREY. Mr. President, today I am releasing a major study on "The Housing Outlook for 1974," prepared for the Consumer Economics Subcommittee of the Joint Economic Committee by Dr. Henry B. Schechter, of the Congressional Research Service.

Coupled with my own perceptions of what has been happening in the housing market in the last several years, this study has convinced me that the housing policy of the Nixon administration is a national disgrace.

While the housing measures announced by the President on Friday are a step in the right direction, they will do virtually nothing to lower exorbitant home loan interest rates or assist American workers and their families in the face of soaring housing costs. In sum, they are late, inadequate, and piecemeal.

Mr. President, American home building is now in the grip of a serious depression, after a recession of well over a year, which could force a 20-percent drop in housing starts during 1974. And, the growing weakness of the housing market will not only further aggravate the present economic situation, but it will directly affect the American consumer by pushing the price of housing to even higher levels.

The administration's February forecast that "Housing starts should reach bottom soon and begin to rise * * *" is clearly "inoperative." It is simply one more in a long line of nearsighted economic projections that have been made by this administration and quickly disproved by the hard facts. In March the annual starts rate was down to 1.46 million, an incredible 900,000 below the number of housing starts in 1972.

Mr. President, as I see it, there are several factors that continue to undermine any significant recovery in housing starts and sales.

For one thing, there is an unusually large inventory of unsold new homes. At the end of February 1974, the number of new homes up for sale was 459,000. This is almost equal to what the total number of new homes sold throughout 1974 would be at the seasonally adjusted rate of new home sales in February.

The slowdown in new home sales also is due in large part to rising prices for homes. In February, the median price of a new one-family home was about $35,000, 18 percent above the 1973 figures, and far out of the financial reach of most families.

Most important, however, the slowdown in housing continues to be the result of a lack of mortgage funds and rising mortgage interest rates.

Soaring interest rates, scarce mortgage money, and rapidly rising housing prices have combined to put home ownership beyond the reach of most Americans.

As a result of these factors, it is likely that housing starts will total a mere 1.60 million units in 1974.

The Nation cannot afford such an underutilization of its housing industry resources, particularly while we are in recession. Nor can we fail to recognize the tremendous increase in housing requirements during the remainder of this decade. Recent studies project a 33-percent jump in new households established by 1980 and the need for 23 million new housing units by that time.

Congress and the administration must give urgent attention to developing some way of assuring that mortgage money at reasonable interest rates is available to our people. The approach outlined by the administration last week is simply inadequate.

While the solutions are not obvious, we can make progress if we give this problem the attention it deserves. And there are several additional specific steps that the President could take immediately to boost the housing market.

Implement the unused contract authority for the section 235 home owner-

ship program, which would support some 200,000 additional housing units;

Reactive the section 202 loan program for housing for the elderly, which could support the creation of an additional badly needed 25,000 to 30,000 units with authorized funds;

Reallocate authorized rural housing loan funds, so that the Farmers' Home Administration could utilize more of the funds to provide new housing.

Mr. President, I ask unanimous consent that Dr. Schechter's excellent analysis of "The Housing Outlook for 1974" be printed in the RECORD. Because of its timeliness and outstanding quality, I commend this study highly to the attention of my colleagues.

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

THE HOUSING OUTLOOK FOR 1974

During January and February, easing conditions in financial markets and improved housing starts rates led to optimism. It was hoped that housing construction was on the upswing and would contribute significantly to general economic recovery. At the beginning of March, there was still a large unsold inventory of new houses, however, a sharp upward movement of interest rates occurred in March and April, and March housing starts dropped back to January level. The housing outlook, therefore, has become more pessimistic.

BACKGROUND

There were 2,045,000 private new housing units started in 1973. The 1973 total was about 13 percent or 312,000 units below the 1972 total. The decline consisted of 166,000 non-subsidized units, and 146,000 units under federally subsidized programs.

During the fourth quarter of 1973, the seasonally adjusted starts rate was 1,584,000. During the first quarter of 1974 it was 1,662,000, primarily due to a one-month spurt in February, generally attributed to unusually good weather for that month. The last monthly figure, for March, was 1,460,000.

Several factors have contributed to a declining starts rate since early 1973. Most directly related was a slowdown of new home sales and an increase in the unsold new homes inventory. At the end of February 1974, the number of new homes for sale was 459,000, equivalent to about 11 months of home sales at the February sales rate, seasonally adjusted. A year earlier the comparable monthly inventory was equivalent to 7 months of sales.

Data on market absorption of newly completed nonsubsidized rental units for the fourth quarter of 1973 showed that 75 percent of such units (completed in the third quarter) had been rented within three months, significantly above the comparable year-earlier rate of 69 percent. In subsequent months, a large volume of rental unit completions would come on the market, however, since some 975 thousand multifamily units in structures of 5 or more units were under construction at the end of September, about 150,000 more than a year earlier. The high rate of completions in early 1974 has been reflected in a first quarter national rental housing vacancy rate of 6.2 percent, up from 5.8 percent in the preceding quarter and 5.7 percent in the comparable 1973 quarter.

The slowdown in new home sales is attributable in large part to two more basic factors. One is rising prices. In February the median price of new one-family homes was $34,900, 18 percent above the comparable year-ago figures. Only part of this increase was due to inflation. One measure of the inflationary element is the Census Bureau's price index for new one-family homes sold which are the same in basic characteristics. This index increased 9 percent during the first three quarters of 1973, or about 12 percent on an annual basis. This suggests that one-third of the 18 percent rise in the new one-family home median sales price was due to a higher quality mix of new homes being produced. Such a change in the quality mix would be expected as there was a substantial decrease in new homes being built for sale under the subsidized home ownership programs.

A second factor leading to a slowdown in new home sales was the change in mortgage financing conditions which developed during 1973. There were strong demands for funds from the business sector of the domestic economy and overseas. The Federal Reserve Board exercised a restrictive monetary policy to combat inflation. A high interest rate financial climate developed. The prime rate charged by commercial banks on their best business loans rose from 6 percent at the beginning of the year to a peak of 10 percent by mid-September. Treasury bill rates reached levels of between 8 and 9 percent. One reaction was a slowdown of savings inflows at mortgage lending thrift institutions (the savings and loan associations and mutual savings banks) as household savers invested funds in market securities. In July and August of 1973, the thrift institutions actually suffered a combined net savings outflow of $2.5 billion.

As a consequence of these developments, the supply of mortgage loan funds became short and mortgage interest rates rose. By June, effective interest rates on new home mortgage interest rates were above 7¾ percent, and the maximum FHA and VA mortgage interest rates were raised from 7 to 7¾ percent. The competitive escalation of interest rates continued, however, and in August the FHA and VA mortgage interest rate was raised to 8½ percent in an attempt to keep it competitive in the capital market.

The mortgage situation began to change during the last two months of 1973. Economic growth was slowing significantly and market interest rates began to recede from peak levels. The average secondary market discount on 8½ percent FHA insured mortgages also began to decline in December and January.

THE 1974 HOUSING POLICY AND MORTGAGE MARKET CHANGES

Against the background of events that have been described, Secretary of Housing and Urban Development Lynn on January 21, 1974, announced two immediately effective actions.

The first action was a reduction of the maximum FHA and VA housing mortgage interest rates from 8½ to 8¼ percent.

The second action was a change in the Tandem Plan of the Government National Mortgage Association, or GNMA, with respect to non-subsidized new housing financed with FHA-insured and VA-guaranteed mortgage loans. Under the Tandem Plan, GNMA would issue a commitment to purchase a mortgage at 96, that is at a 4-point discount which the builder has to absorb. The builder has the option of delivering the mortgage to GNMA at the stipulated price after the house has been completed and the mortgage to the homebuyer or owner-developer has been insured by FHA or guaranteed by VA. GNMA will then sell such mortgages, either to FNMA at the prevailing FNMA purchase price, or to private investors at periodic auction sales. If the price obtained by GNMA is lower than 96, that is, entails a discount of more than 4 points, the government, through GNMA, absorbs the additional discount costs.

Important conditions of the newly announced Tandem Plan were that to be eligible under the new program, mortgages must bear an interest rate of 7¾ percent and be for new construction or units started or completed by January 22, 1974 which had never been owner-occupied.

THE CURRENT OUTLOOK

Declining interest rates, increased January and February housing starts rates and the new Tandem Plan had raised hopes that housing construction would "bottom out" during the first quarter, improve thereafter and end up with a 1974 annual starts total equal to or better than 1973. The outlook has again become pessimistic, however, in the last month or two.

After reaching low points in February of this year, interest rates began to move up rapidly. Yields on 3-month Treasury bills and new Aa corporate bonds, which had declined to about 7 percent and 8.2 percent, respectively, in February rose to 8.5 and 9 percent during the first two weeks of April.

Gross yields on mortgages at purchase prices at which FNMA issues four-month commitment prices rose from about 8.4-8.5 percent in early March to about 9 percent in early April. On April 15, the maximum interest rate on FHA-insured and VA-guaranteed mortgages was raised back to 8½ percent from 8¼ percent.

A primary factor in the recent upward movement of the interest rates was a shift by the Federal Reserve Board to a more restrictive monetary policy. As Federal Reserve Board's Chairman Burns has indicated in April statements, a restrictive monetary policy will be maintained in order to counter "double digit" price inflation. The 10.8 percent rate of price inflation during the first quarter of 1974 provides a basis for continuation of the restrictive monetary policy.

At the same time, there has been a strong demand for business loans which caused the prime rate to move up from 8½ percent a few months ago to 10 percent. In the week ending Wednesday, April 17, leading New York banks reported a substantial rise in business loans. On April 25 the Federal Reserve Banks discount rate was raised from 7½ to 8 percent. This was followed by further increases in the prime rate to 11 percent, and some individual banks have gone to a higher rate. Such a high prime rate will tend to sustain high levels of other interest rates.

Federal Home Loan Banks have recently raised the interest rates charged on advances to member savings and loan associations from about 10 percent to about 12 percent.

Preliminary indications, reported by their association, point to large net deposit losses at mutual savings banks in New York City during April and a mixed pattern of savings outflows in some other major savings bank areas. On April 19, the Federal Home Loan Bank Board cited a slowdown in savings inflows to savings and loan association deposits as a reason for abandoning plans to raise liquidity reserve requirements. Adverse effects upon savings inflows may also follow a rise in Treasury bill rates to a record high of over 9 percent.

As a result of these developments, mortgage loan availability can be expected to decline and mortgage interest rates to rise. The first adverse impact would be on sales of existing homes for which there are no outstanding advance financing commitments. This, in turn, would retard new home sales to potential buyers who are existing home owners. A decrease in availability of funds for new home advance commitments and higher mortgage interest rates will directly retard the volume of new starts by builders.

In addition, to the adverse financing developments, the price distribution of an unsold inventory of 459,000 new homes at the end of February is not conducive to a rapid recovery in homebuilding. Price distribution data on homes for sale, as of the end of 1973, showed only 8 percent at under $20,000, another 32 percent in the $20,000 to $29,999

range, 31 percent in the $30,000 to $39,999 range and 29 percent to be sold for $40,000 or more.

To carry homes with 30-year, 8½ percent mortgages of $25,000 or $30,000, monthly payments of $231 and $192, respectively, are required only for principal and interest. If expenditures required for taxes, insurance, maintenance and repair and utilities are added, total monthly housing expenses would be about $347 and $286, respectively. At a 25-percent housing expense-to-income ratio, incomes of about $16,650 and $13,700 would be required. Only families in about the top one-fourth and one-third of the income distribution could afford such homes. Since a high proportion of upper income families are owners of decent homes with mortgages bearing interest rates well below 8½ percent, they will not be ready buyers of new homes.

The Tandem Plan for 7¾ percent mortgages on new homes will probably be helpful and encourage some builders to start new homes in coming months. As homes with such financing come on the market, however, they will make it harder to sell homes from the large unsold inventory of conventionally financed homes being offered with 8 to 9 percent mortgage financing. The retardation of sales and of subsequent new starts by builders who have the unsold inventory will offset some of the new construction that will take place with support of the 7¾ percent mortgage Tandem Plan will be to add far less than the projected 200,000 units under that plan to total housing starts.

Preliminary data for subsidized housing production in the first few months of the year show a continuing decline, reflecting the depletion of a commitments pipeline under the suspended HUD programs. The Farmers Home Administration programs, which are not suspended, are also operating at a very low level of new housing production, with most of the available funds allocated for rehabilitation. Total federally subsidized housing production is producing about 7 to 8 thousand units per month, and probably will not increase seasonally as the commitment pipelines for some of the HUD programs become depleted, and the Farmers Home Administration program is limited as to new construction.

A revised Section 23 public housing leasing program, intended to spur new construction, is contained in the housing bill already passed by the Senate and in the House version now under consideration. HUD has also been preparing regulations for such a program. It will probably take a few months, however, before such a program can become operative, and new federally supported programs take months to gain momentum as developers have to make plans, arrange financing and obtain HUD approval, as well as—in this instance—local housing authority agreement. Consequently, it is doubtful whether the new program can compensate for the decline in present subsidized housing programs in 1974.

Given the mortgage financing and housing market situation, and assuming that total subsidized housing starts decline only moderately from present levels, it is difficult to see a strong short-term recovery in homebuilding. Although there may be some decline from present high levels of interest rates during the second half, it would only be helpful to housing in the last quarter of the year. Some effects of the new Section 23 program may also be felt in the fourth quarter.

Despite a generally weak short-term housing market outlook, there are underlying factors which will tend to prevent a long continued decline in residential construction. The net increase in the number of households in 12 months ending March 1973 was 1,575,000. Marriage rates for the first 10 months of 1973 were slightly greater than in the comparable 1972 period. They would remain high as a reflection of 3.5 to 4 million births annually in the early fifties. Marriages are by no means the only factor in increases in households, but the figures suggest strong support for a current net annual household formation rate in the neighborhood of 1.5 million. In addition, an estimated 0.7 million housing units are lost from the inventory each year. With allowances for vacancies, migration and second home absorption, there are basic shelter needs for about 2.5 million units, representing strong underlying demand factors.

Bearing in mind the balance of adverse market and favorable demographic factors, the record for the first quarter and the March starts rate of 1,460,000, a reasonable quarterly projection for the year would appear to be as follows:

I. 1,662,000.
II. 1,500,000.
III. 1,600,000.
IV. 1,750,000.

Such a pattern would produce an annual starts total for 1974 of between 1.60 and 1.65 million, representing about a 20 percent decline from 1973.

RESCUING AMERICA'S FAILING RAILROADS

Mr. PERCY. Mr. President, I have long been concerned with the steadily worsening plight of America's railroads. I spoke extensively on the subject during our Senate debate on the Penn-Central financing and have commented as well on the employee ownership plan of the Chicago & North Western Railway. Recently I came across a proposal for restructuring failing railroads prepared by a former member of my staff, John McClaughry, who now heads the Institute for Liberty and Community in Concord, Vt. While I do not necessarily endorse every provision of his proposal, I think it is innovative and worthy of discussion. I thus ask unanimous consent that it be printed in the RECORD.

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

RESCUING AMERICA'S FAILING RAILROADS

(By John McClaughry)

Since the bankruptcy of the Penn Central railroad in 1970, the question of the future of America's railroad system has been an increasingly prominent public issue. In the Northeast alone, six Class I carriers are in bankruptcy, along with several smaller lines. Proposals for action have come from the Interstate Commerce Commission, the Department of Transportation, the Association of American Railroads, and numerous members of the Congress.

This proposal for rescuing America's failing railroads has these basic objectives:

1. Strengthening and modernizing the nation's rail system, so vital to the economy and to national defense.

2. Preserving the private ownership of railroads and forestalling nationalization.

3. Expanding opportunities for railroad employees to share in the profits and growth of the rail industry.

4. Creating incentives for efficiency and productivity by eliminating artificial obstacles.

5. Protecting employees and low-traffic areas against sudden changes in rail employment or service.

The following proposal would apply to all railroads in bankruptcy as of the operative date, and to all railroads electing to accept its terms as of five years after the operative date. The specific items constitute an inseparable package, and should not be considered as necessarily viable standing alone.

It is proposed:

1. Abolish ICC abandonment jurisdiction, thus permitting railroads to abandon unprofitable branch lines after 120 day notice to shippers and the public. At the same time, however, the ICC could require the railroad to maintain a specified level of essential service on these "surplus" lines on a nonprofit basis (operating costs plus modest allowance for depreciation of fixed plant). The cost of this service would be paid according to an assessment plan presented by those parties petitioning the ICC to require the service on the surplus line, matched 50–50 by the Federal government for the first three years. This procedure would also apply to the abandonment of passenger service. This proposal puts the cost of operating unprofitable lines and service on those who feel such lines should be operated, not on the railroad.

2. Abolish all work rules and craft distinctions which constitute artificial barriers to railroad profitability. This includes crew consist laws, yard crew service limits, yard interchange restrictions, and communications operation pay differentials. The ICC would establish reasonable industry wide rules to protect the actual safety of employees. All operating employees would be classified by proficiency ratings, based on the skills required to perform various tasks. After performing a higher-proficiency task for a specified period, an employee would continue to receive pay at that rate despite subsequent employment at a lower-proficiency task. No employee would receive low-proficiency pay for work at a higher proficiency rating, even for a short period. The safety rules would be fixed for the industry by the ICC, but the classifications of proficiency pay and the rates therefor would be subject to collective bargaining.

3. All employees no longer needed to operate the railroad, allowing for curtailed branch line and passenger service and removal of work rules that inflate employment requirements would be eligible for income protection until retirement age. Those within five years of normal retirement would be placed on early retirement at the expense of the railroad. All others would either be retrained and placed in other suitable jobs at public expense, or offered public service employment, or given lump sum severance pay in lieu of further eligibility. The income protection level would be that as of the date of filing bankruptcy proceedings. Surplus employees would be entitled to earn $10,000 per year above their guaranteed income level without losing any income protection payments. Aside from the five year early retirement benefits, the costs of this income protection program would be met entirely from public funds.

4. In any recapitalization of a bankrupt railroad, railroad employees and retired employees should be given the right of first refusal to acquire the railroad's equity ownership from the previous shareholders at a price deemed fair and reasonable by the bankruptcy court or negotiated among the groups involved. To make sale to such a group more likely, the Federal government should agree to supply one third of the purchase price by buying fixed-dividend, nonvoting preferred stock, with the provision that such stock would be regularly retired by a fixed percentage of future profits.

5. The Federal government should also guarantee stock purchase loans by lending institutions to any employee of the railroad with the common stock of the railroad as collateral. The amount of stock purchased subject to a loan and loan guarantee could

not exceed $20,000, and the guarantee-to-value ratio would range from 90% for employees earning less than $10,000 a year to 10% for employees earning more than $42,000 per year.

6. The reorganized company would be required to install a profit sharing plan, with payment in cash and/or stock, and a payroll deduction stock purchase plan following the initial recapitalization; operate a no-fee company exchange for company stock; and provide a bonus dividend on the first $20,000 par value of stock owned by a railroad employee. The company would also be prohibited from diversifying into nontransportation ventures.

In addition to these proposals, efforts should continue to modernize the haphazard ICC-imposed rate structure and to promote the general deregulation of the transportation industry except for genuine safety matters and perhaps retirement plan protection.

If such a set of proposals were adopted, the railroads of the United States should at once show vital new signs of life; attract new investment capital and railroad-oriented management; achieve new efficiencies in customer service; avoid vast government capital infusions and ultimate nationalization; and once again become businesses to be run for profit through efficient service to the public, instead of enterprises subsisting subject to the whims of politically inspired regulation and pressure from unions for protection of noneconomic practices.

Those employees necessary to the operation of the railroad would be helped to take advantage of a real opportunity to invest in the future of their enterprise and share in its benefits in proportion to its success. Those employees no longer required would be protected in maintaining their standard of living.

And the trend toward increased governmental regulation, control, and ownership of business, so unfortunately and mistakenly championed by many of the railroads themselves in bygone years, would be dramatically reversed.

STETSON UNIVERSITY MODEL SENATE PROGRAM

Mr. HOLLINGS. Mr. President, recently Stetson University in DeLand, Fla., held its annual Model Senate program. It was my pleasure to attend part of this year's session, and I can testify firsthand to what a fine learning experience this is for the students of that distinguished university.

The work that went into the Model Senate—the research on the issues of the day, on parliamentary procedure, and on the views of the individual Senators—was impressive by any standard, and doubly so given all the other pressures and deadlines of busy university life.

One of the resolutions passed by the Model Senate paid tribute to a man with whom we are all very familiar, our learned and distinguished Senate Parliamentarian, Dr. Floyd M. Riddick. Dr. Riddick was in attendance for the Model Senate program, and his presence was one reason why it was such a success. The knowledge that he brought to the Stetson University community, and the willingness to share it and to offer assistance, earned him the immediate respect and admiration of all who participated. The resolution of the Model Senate mirrors the esteem in which Dr. Riddick is held in DeLand—and in which he is always held by his colleagues here in the Senate who are so fortunate in having the benefit of his wise council as we deliberate the questions coming before us.

Mr. President, I ask unanimous consent that the text of the Stetson University Model Senate Resolution be printed in the RECORD.

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

Resolved by the Stetson United States Model Senate in Session, That

SECTION 1. Whereas, Dr. Floyd M. Riddick has served as Parliamentarian of the United States since 1965 after serving as Assistant Parliamentarian for thirteen years, and

SEC. 2. Whereas Dr. Riddick holds a Ph. D. from Duke University and has published many articles as well as four books on Congress, and

SEC. 3. Whereas Dr. Riddick is a well known scholar and educator and is the foremost expert on Senate Procedures.

Be it resolved, That the Model Senate of Stetson University as well as the Senators of the Third Session, express the utmost gratitude of those present. We declare that The Twenty-Eighth day of April, Nineteen Hundred Seventy Four, as Dr. Floyd M. Riddick Day.

NATIONAL PUBLIC RADIO'S THIRD ANNIVERSARY MAY 3

Mr. BROCK. National Public Radio, now celebrating its third anniversary, has just recently inaugurated a unique reporting service. The network is feeding to its member stations across the country a daily "Report on the Arts." Where Americans have long grown accustomed to ample radio news and sports spots, there is now a place for daily coverage of what is happening in the arts. And that place is public radio.

The Tennessee Arts Commission is among many State commissions and art supporters around the country who are well aware of the significance of NPR's art reports. In a letter to Mr. Charles C. Mark, host of public radio's "Report on the Arts," Mr. Norman Worrell, executive director of the Tennessee Arts Commission, wrote that—

> The survival and expansion of the arts is dependent upon an informed citizenry. Your daily report on the arts is helping make this possible.

This service offered by NPR is partially funded by a grant from the National Endowment for the Arts.

In similar efforts, NPR also provides its member stations each week with approximately 15 short art features on a variety of topics from book discussions to musical portraits to cameo studies of artists to reviews and critiques of films, architecture, and music. A good part of the material distributed through the system comes from member stations such as ours in Tennessee.

Tennessee has six stations which are members of the National Public Radio network. Two stations are connected with State universities, one with a denominational college, one is licensed to a private nonprofit corporation and the other to a public library. They are located around the State, and each is responsive to the community it serves. I believe Tennessee is a good example of the diversity of public radio stations. But one factor which unifies the stations is their common membership in the NPR interconnected system. Tennessee public radio stations contribute to nationwide programing, and they draw from a large variety of network programing.

Public stations are often active in their communities, providing services unavailable elsewhere. In Nashville WPLN-FM provides live broadcast of local concerts bringing an artistic performance into homes throughout the community as the event happens. In some parts of the country, public radio stations broadcast city council meetings or local sports events. In Florida, five public stations are now in the process of providing 1½ hours each weeknight of reports, actualities, and documentaries on the activities of the Florida State Legislature. The stations are using the NPR interconnected system for the distribution of the programing. This is public radio in action.

There are many examples of live or live-on-tape programing bringing important events to the people, and I think it is significant to note that such events often could only be done by noncommercial media. People in Tennessee were able to hear 3 days of live broadcasting from the Ann Arbor Blues and Jazz Festival in Michigan last fall. Live jazz, blues, and folk festivals as well as classical concerts taking place all over the country provide weekly programing content from NPR. Through these festivals, which often resound with local color, the South meets the North, the West the East, in a sharing of the American adventure into art and music.

I am proud of the strength of public radio in Tennessee and in the South, and I commend the NPR interconnected system for its effectiveness in production and distribution of unique programing.

FILING FINANCIAL DISCLOSURES AND OTHER STATEMENTS

Mr. CANNON. Mr. President, the attention of all Senators, employees of the Senate whose salary was paid by the Senate in excess of $15,000 a year, and all employees who engage in outside employment is invited to the disclosure requirements of Senate Rules 44 and 41.

The disclosure statements must be filed with the Secretary of the Senate and the Comptroller General, respectively, prior to May 15. Thus, these statements must be filed by midnight tomorrow.

Statements of personal service activity or employment should be made by employees to advisory Senators on May 15, itself.

Inquiries may be addressed to the Committee on Standards and Conduct at its office in room 1417 or on telephone extension 52981.

NATIONAL HISTORIC PRESERVATION WEEK—PART V

Mr. BEALL. Mr. President, during the past few days, I have discussed various approaches the Congress and the Federal Government could take to stimulate the preservation of our historic heritage. I have thoroughly discussed the merits of

the Historic Structures Tax Act (S. 2347) which I introduced last August. This legislation has now been cosponsored by 13 of my colleagues who represent both political parties and a wide range of political philosophies. As I demonstrated in part III of this series, S. 2347 has received the support of numerous national organizations whose goals are to promote the cause of historic preservation. In addition, I introduced a series of letters into the RECORD representing the views of various State and local officials relative to this matter. It is interesting to note that these endorsements came from officials representing urban, suburban, and rural subdivisions throughout Maryland. These responses also covered the whole range of governmental agencies: education, planning, zoning, housing, recreation and parks, and so forth.

Part IV addressed itself to the reactions of Federal officials, including the President, to the growing movement for historic preservation. I do not want to belabor the point, Mr. President, but I do believe that this is an idea whose time has come. The approach of the Bicentennial celebration; the environmental movement; and the growing realization that we must conserve, recycle, and preserve all of our resources has helped to alert Americans to the pending change in our lifestyle.

In introducing S. 2347 and its companion bill, S. 3184—a bill to amend the Internal Revenue Code of 1954 to provide a Bicentennial celebration contribution tax credit for small donations to officially sanctioned Federal, State, and local Bicentennial projects—I was looking to the long-range impact the historic preservation movement could have on our Nation. I personally believe that a knowledge of and respect for our Nation's history is vital to maintaining our sense of national unity. On the eve of our Nation's Bicentennial celebration, we find our Nation deeply divided and troubled by internal dissension. Now more than ever we need to strengthen the bonds which unite all Americans, which maintain our esprit de corps as a nation, and which will enable us to weather our current adversity as we have done so often in the past.

One of the great unifying elements in this Nation is our common historical experience. Since 1776, our Nation has demonstrated its ability to endure the rigors of a Valley Forge, the invasions of 1812, a bloody civil war, the First World War, the Great Depression, World War II, Korea, Vietnam, and the sometimes oppressive burden of world leadership which has devolved onto us since 1945.

A heightened awareness of and appreciation for our historical heritage will strengthen our sense of national unity and purpose, preserve our history, reinvigorate our communities, and hopefully help to protect our environment. We can do this by constructively utilizing our Federal tax system so as to encourage the long range and highly desirable socioeconomic and environmental goals which we as a Congress have set for our Nation.

Mr. President, if we are to preserve historic sites we must go beyond the current Federal, State, and local programs designed to preserve our Nation's past. At the rate we are going a very large number of historically significant structures are being destroyed for the sake of modernization. Approximately 25 percent of the buildings recorded by the Historic American Buildings Survey of 1933 have since been destroyed. Our tax system does not favor the restoration and rehabilitation of such buildings, especially those that are privately owned. The incentive, as it currently exists in our Federal tax structure, actually encourages the demolition rather than the retention of older structures. This produces increasingly less diversity in our urban centers, destroys buildings of historical significance, and I believe makes our cities increasingly less pleasant and desirable places in which to live.

Last year, I had the opportunity to visit Brussels as a member of the Senate Commerce Committee. It is almost impossible to visit the Belgian capital without seeing "The Grand' Place." This medieval town square contains the Hotel De Ville (town hall), a ducal palace (the Dukes of Brabant) and various guild halls. Although the buildings of this square date largely from the 15th century "The Grand' Place" has not been converted into a sterile museum. It remains instead a living, vital part of a great modern city. Shops and restaurants and other places of business continue to occupy these historic structures and the town square is almost always full of people, not just tourists, which attest to the vitality of this living monument.

Because of the shortness of our national history, I believe it is doubly important for us to protect, preserve, and restore those sites that have historical significance. But it is not enough for us to preserve our history in remote battlefield monuments and sterile museums which are primarily utilized by history buffs and scholars. If the truisms of our history are going to have an impact on our Nation in the last quarter of the 20th century, we must make them an integral part of our lives today, teach them accurately and in detail in our schools, and adhere to the principles they teach us in our daily lives.

Mr. President, our Nation is held together by the commonality of our historical experiences and the consciousness of our national unity. Queen Elizabeth II can trace her family line, as the rulers of Britian, back for a thousand years. The Chinese, the Egyptians, and others can trace their national origins back for thousands of years; but the common historical experiences of the United States are of relatively recent origin. We are truly a nation of immigrants and our 210 million people comprise a varied mixture of racial, religious, and cultural backgrounds.

I believe that a knowledge of and respect for our Nation's history, and the principles it teaches us, is vital to strengthening the bonds which united all Americans and it will enable us to weather our current adversity as we have done so often in the past.

Mr. President, several articles have recently appeared with regard to historic preservation projects in the State of Maryland. I ask unanimous consent that an article entitled "Maryland Celebrates Historic Preservation Week" which appeared in the May 3, 1974 edition of the Daily Record; another entitled "On Saving Historic Sites" which appeared in the May 8, 1974 edition of the Prince Georges County Sentinel; and one entitled "Cecil County Preservation Efforts Applauded" which was printed in the April 1974 edition of S.W.A.P., the publication of the Maryland Historical Trust be printed in the RECORD at the conclusion of my remarks.

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

MARYLAND CELEBRATES HISTORIC PRESERVATION WEEK

May 6 through 12 has been proclaimed Maryland Historic Preservation Week by Gov. Marvin Mandel. For the first time in the state's history, a week has been set aside to call attention to thousands of historic sites in the state and the importance of preserving them for future generations. The Maryland Historical Trust, an agency of the Department of Economic and Community Development, and its local committees are sponsoring this week-long program to encourage historic preservation throughout the state. Maryland Historic Preservation Week will officially begin with ceremonies on Monday, May 6, on the grounds of the State House in Annapolis.

The preservation of Maryland's historic resources is a comparatively recent concern. In answer to a popularly recognized need, the Maryland Historical Trust was created in 1961 by the General Assembly to foster preservation throughout the state. The Trust is currently involved in the recognition and preservation of Maryland's historic resources through survey, local assistance, architectural easements, acquisition of property and education. The Trust administers the National Register of Historic Places program of the U.S. Department of the Interior for the State of Maryland.

Maryland's preservation philosophy encompasses far more than simply saving old mansions and turning them into museums. Primary emphasis is placed on adapting the state's historic sites to modern uses that will be an economic advantage. The 212 Maryland properties now included in the National Register enjoy the protection provided by their inclusion on the federal list. Maryland has thousands of properties of great historical importance which are threatened with destruction. They could be preserved, as a number have been, and put to sound economic use in either the private or public sectors.

In Baltimore City, Baltimore and Ohio Railroad's renowned Mount Royal Station when no longer feasible for passenger use was adapted by the Maryland Institute for use as an annex to its art school.

In St. Mary's County, an eighteenth century home was converted into the county library when it was threatened by demolition.

The Indian Queen Tavern in Charlestown, Cecil County, was restored to its appearance as an eighteenth century inn and transformed into a comfortable home.

In Annapolis, the Gov. William Paca House and Garden are presently being restored for use as a retreat for the U.S. State Department.

On the Eastern Shore imaginative investors turned an eighteenth century granary with its waterfront setting into a restaurant.

The first police headquarters and jail in

Cumberland, the Bell Tower, is being adapted for use as professional offices.

Numerous other projects are now being considered which would incorporate a historic structure into modern use thus retaining the aesthetic and taxable value of such structures.

The Baltimore City Committee of the Maryland Historical Trust is a half-way house between the professionally staffed, state wide organization of the Maryland Historical Trust and the many active City oriented groups such as the Baltimore City Commission for Historical and Architectural Preservation, Baltimore Heritage, Inc. and The Victorian Society. In addition, in Baltimore there exist vigorous and vocal neighborhood organizations for Fells Point, Federal Hill, Seton Hill, Union Square, Bolton Hill and Dickeyville, to name only a few.

The Baltimore City Committee tries to bring together among its members representatives of as broad a spectrum of these many City organizations as possible. From these the committee learns of immediate preservation problems and can help coordinate City wide preservation goals. From the trust's staff, the committee members learn of state and Federal tools such a grants-in-aid, the uses of covenants and revolving funds. It also learns from the example of the other county committees across the state how others are fighting the same problems we find here in Baltimore.

The committee is referred to as a "blue ribbon committee" composed as it is of eminent professional men and women who are recognized as among the most knowledgeable about Baltimore's history and most concerned about the future of the City's historic structures, streetscapes, public squares and other open spaces.

The Baltimore City Committee of the Maryland Historical Trust is scarcely a year old. It has passed its organizational phase and now expects to assume an active, energetic role in the City-wide efforts to ensure that future generations can enjoy Baltimore's historic buildings and amenities of life.

[From the Prince Georges County (Md.) Sentinel, May 8, 1974]

ON SAVING HISTORIC SITES

(By Mrs. Byron P. Warren)

Mrs. Warren is chairman of the Prince George's County Committee of the Maryland Historical Trust.

Many Prince George's Countians have read or heard about, or perhaps witnessed the destruction of ancient or noteworthy architectural gems—structures that possessed inimitable or unique attributes that would have fully warranted their retention.

The more thoughtful have probably wondered just what we as individuals could do to slow down, or better yet, stop dead in its tracks, this waste of irreplaceable examples of handiwork from previous eras. And so, coincidental to calling attention to the fact that May 6–12, is National as well as Maryland Historic Preservation Week, the following paragraphs will point out concrete ways in which everyone can help preserve our heritage.

The Prince George's County Committee of the Maryland Historical Trust is made up of 15 preservation-minded people from all sections of the county. And our County Committee is joining hands with similar committees in the other 22 counties of Maryland in alerting our citizenry to the fact that the Free State has an energetic, efficient, and knowledgeable agency in Annapolis that is constantly striving to identify, protect, and preserve the best of our historic buildings and sites. This agency, which is the parent group of the 23 county committees, is known as the Maryland Historical Trust.

Our own Prince George's County Committee, in order not to scatter its shots or dilute its energies, is currently focusing its attention on two highly worthwhile restoration projects already underway in the County. One is the Mary Surratt House in Clinton, an old tavern closely associated with the death of President Lincoln, not only because the murderer, John Wilkes Booth, stopped there after his "One Mad Act" at Ford's Theater, but also because it was owned by the unfortunate Mrs. Surratt who was put to death (some think unjustly) for complicity in the crime. The other project is the George Washington Inn that continues to stand so forlornly but in such great dignity on Rte. 1 at Bladensburg near the Peace Cross. The time will come, and soon, when appeals will go out to Prince Georgeans to provide authentic period furnishings for those two restored structures.

But to restate the question that has already been asked—is it possible for a single individual to do anything that would cause the wheels to turn faster and smoother in the machinery that has been set up to save our threatened landmarks? And the answer is emphatically, "yes!" Initially, any Prince Georgean can lend assistance to the overall effort by joining the County Historical Society that meets once a month, on a Saturday afternoon, at Montpelier Mansion near Laurel. To obtain an application blank and a statement as to membership dues, one may address a post card to Paul T. Lanham, Membership Committee Chairman, Box 371–1, Huntingtown, Md. 20639.

If one is already a member of the society, he can easily ally himself with one or more of the other effective groups, such as the remarkable cluster of stalwarts in our capital city who are trying and, on balance, succeeding, in keeping colonial Annapolis from being defaced by high-risers, aluminum and glass store fronts, and modernistic lighting. The address of this Association, which goes by the name of Historic Annapolis, is 18 Pinkney Street, Zip Code 21401.

So far as our national capital is concerned, an aggressive outfit aptly termed "Don't Tear It Down," may be communicated with at P.O. Box 14043, Ben Franklin Station, Washington, D.C. 20044.

And then, finally, there is the incomparable National Trust for Historic Preservation, with headquarters in the Decatur House (catercornered across from the White House), 740 Jackson Place, N.W., Washington, 20006, whose concern encompasses the entire nation whose clout is strong enough to be felt in the most appropriate circles and places.

Here's a bit of food for thought: 120 years ago, in 1853 developers wanted to convert Mount Vernon into a holiday resort!

[From SWAP, April 1974]

CECIL COUNTY PRESERVATION EFFORTS APPLAUDED

(By Nancy Miller)

South Chesapeake City has escaped the notice of preservationists and most Marylanders for a century. The town was founded in the 1830's at the western terminus of the Chesapeake and Delaware Canal, one of the nation's early lock canals. The town grew because of the commerce generated from loading and unloading barges at the locks. Then in 1919 the United States Army Corps of Engineers purchased the entire canal and removed the locks. The town is so unchanged (except for the construction of Md. 213 bridge over the canal) that a 1870's map presents virtually as accurate a picture of the area today as it did when it was published.

This historic district remained unnoticed until just last year. A non-local syndicate recognized the potential of this community's waterfront location and proposed the construction of a large-scale marina. An asphalt parking lot was to replace at least one of the town's historic structures.

Meanwhile Cecil countians, led by the Reverend James O. Reynolds, Cecil County Committee of the Maryland Historical Trust, decided to preserve South Chesapeake City. The Reverend Reynolds prepared an outstanding National Register Nomination Form for an historic district which was forwarded to the Maryland Historical Trust with photographs. The nomination of the district received approval from the Governor's Consulting Committee. Pending the completion of unexpected technical requirements for the National Register staff, the district will probably be entered on the Register.

Not content with National Register designation, the town government has enacted historic area zoning providing the best protection currently available for a group of historic buildings. The local historic district commission is fortunate to have as a volunteer consultant a former head of the New Castle County (Delaware) government who is also an architect.

The parking lot-marina threat was halted by a group interested enough in the town to buy the property the syndicate was considering. The historic structure on the proposed parking lot, the Masonic Hall, is now the property of the civic association and will be restored for adaptive use.

In less than a year a small group of preservationists have turned around the future of South Chesapeake City. Its historic character is becoming its greatest commercial asset. Through restoration and citizen interest, South Chesapeake City is headed for a revival.

All preservationists have a lesson to learn from South Chesapeake City. Preservation is possible and potentially lucrative. Success is *not* predicated on the government's pocketbook. Individual initiative can and will make the difference if individuals are concerned enough to put their words into action.

MEDAL OF HONOR SOCIETY VISITS SOUTH CAROLINA

Mr. HOLLINGS. Mr. President, recently the Congressional Medal of Honor Society came to South Carolina to pay homage to one of our State's most famous sons. The society held its annual national patriot's award banquet in Columbia on May 4—the first time it has ever held this annual meeting outside New York City.

In coming to South Carolina, the Medal of Honor Society did our State great honor. Furthermore, the society bestowed the net proceeds from its banquet upon the Citadel, the military college of South Carolina. For this, we are also grateful.

This year's national patriot's award was presented to my senior colleague in the U.S. Senate, the Honorable STROM THURMOND. It is a well-deserved award, because over his years of public service, STROM THURMOND has worked long and hard to keep American patriotism flourishing. The distinguished senior Senator from South Carolina has been second to no man in his determination to keep America safe and secure, and in his efforts to promote appreciation for the freedom which took America to greatness.

On the day of the patriot's award banquet, the Columbia Record printed a timely and moving editorial on the meaning of patriotism and on the need to rekindle the fires of devotion to country. This editorial gives good insight into what the Congressional Medal of Honor Society is laboring so hard to build. It is

a column which deserves a wide audience.

South Carolina has within its borders six living recipients of the Congressional Medal of Honor. We are proud of those men—proud of what they did to receive the honor initially—and proud of what they continue to do to keep duty, honor, and country guidelines to action rather than just words of hollow rhetoric. For in the last analysis, freedom and patriotism are what America is all about. And if it is to continue its greatness, it will be because of that freedom and because of that devotion to country which the Medal of Honor Society reflects.

Mr. President, I ask unanimous consent that there be printed in the RECORD a concurrent resolution of the general assembly of the State of South Carolina thanking the Congressional Medal of Honor Society for the honor it did Senator THURMOND and for the gift it made to the Citadel. In addition, I ask unanimous consent that the editorial from the Columbia Record which I cited above also be printed in the RECORD.

There being no objection, the concurrent resolution and editorial were ordered to be printed in the RECORD, as follows:

H. 3024 Introduced by the Medical, Military, Public and Municipal Affairs Committee.

A CONCURRENT RESOLUTION

Resolution extending the appreciation and hospitality of the State of South Carolina to the Congressional Medal of Honor Society of the United States on the occasion of its annual National Patriots Award banquet to be held at Columbia, South Carolina, on May 4, 1974

Whereas, the Congressional Medal of Honor Society is composed of 299 living recipients of the Nation's highest award for valor, the Congressional Medal of Honor; and

Whereas, the State of South Carolina is proud to note that 6 of the living recipients of the Congressional Medal of Honor are residents of this State; and

Whereas, the Congressional Medal of Honor Society annually hosts a banquet at which the Society presents the National Patriots Award to an American who best exemplifies the spirit of Americanism, patriotism and devotion to our Nation; and

Whereas, the National Patriots Award Banquet for 1974 will be held at Columbia, South Carolina, on May 4, 1974, being the first such banquet held outside the City of New York; and

Whereas, the recipient of the award to be presented at the 1974 banquet is the Honorable Strom Thurmond, Senior Senator from South Carolina; and

Whereas, the Society presents the net proceeds of its annual banquet to an American college or university of its choice; and

Whereas, the net proceeds of the 1974 banquet will be presented to the Citadel, the Military College of South Carolina. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

That the General Assembly, on behalf of the people of this State, hereby expresses its appreciation to the Congressional Medal of Honor Society for the high award to be presented to one of its outstanding native sons, the Honorable Strom Thurmond, Senior Senator from South Carolina, and for the monetary gift to be presented to the Citadel, the Military College of South Carolina.

Be it further resolved that the General Assembly, on behalf of the people of this State, hereby expresses its pleasure that the annual National Patriots Award Banquet for 1974 will be held in this State, and hereby extends to the members and guests of the Congressional Medal of Honor Society the hospitality of the State of South Carolina and all of its citizens.

MEDALS OF HONOR

Is there anything worth dying for anymore? Anything? Country? Religion? An idea of ideas?

Sometimes you wonder, amidst the current malaise in this enduring nation of free men. Nowadays, often, you wonder whether some people can even find something worth living for.

Not always has it been so. Thank goodness. Else this most wonderful country, our United States, could not and would not have emerged from a troubled infancy and struggled along into our decades of growing maturity.

As a babe among some of the older countries of our interdependent globe, we had men who were willing to die for something. These men declared some "self-evident truths," among them that all men are created equal; that they are endowed by their Creator with inherent and inalienable rights; that among these are life, liberty and the pursuit of happiness.

For these truths, and for their declaration, these men were prepared to die. "For the support of this declaration (of independence), we mutually pledge to each other our lives, our fortunes and our sacred honor."

Our lives. Pledged. Ready to forsake.

Among us in Columbia today are a group of men, recipients of the highest award for valor this nation can bestow—The Congressional Medal of Honor. There are 287 living recipients.

Tonight, they honor South Carolina generally and U.S. Senator Strom Thurmond particularly as they give to the Senator the society's 1974 Patriot's Award.

These men have recognized, by their deeds, that men who are unwilling to defend freedom do not deserve freedom. They also know that for our emergent democracy to persist, there must also persist the kind of people who established it, with their mutually pledged lives.

Men who wear the Congressional Medal, and those who preceded them, know that sacrifices have been made for liberty and sacrifices—of varying sorts—are still demanded.

Liberty is a glittering jewel beyond price and the thieves of depraved humankind are always present, eager to rob individuals of that gem.

The thieves are with us always. And free people who cherish their independence, their rights espoused in a Declaration, a Bill of Rights, a Constitution recognize that the right of sacrifice is reserved to all people.

Is there anything worth dying for? Living for? We think so. The United States, with all that its self-sacrificial history means and will mean as we fulfill, each to the other, the bold pledges of distant years.

FAMINE STALKS ABROAD

Mr. HUMPHREY. Mr. President, the May 13 issue of Time included a compelling article on world hunger, entitled "Famine Casts Its Grim Global Shadow."

The article outlines the bleak hunger picture at the world's equatorial belt. Central Africa has been particularly hard hit by severe drought and spot flooding. There has been a strong response to the emergency with an estimated 1 million Africans having already been saved from starvation.

The world is groping for the answer to this crisis. Some experts believe that weather patterns have changed, thereby increasing the problems of food production.

Mr. President, it is clear that we need to face up to these serious developments. 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:

FAMINE CASTS ITS GRIM GLOBAL SHADOW

Girdling the world at its equatorial bulge is a belt of hunger. Above it live the 1.4 billion inhabitants of the northern developed nations whose advanced industry and agriculture permit them the luxury of worrying about reducing diets instead of diet deficiencies. Below it are the potentially prosperous lands of the Southern Hemisphere's temperate zone. Along the belt live many of the 2.5 billion citizens of the underdeveloped world, nearly all of them ill-fed: at least 60% are malnourished, and 20% more are starving.

Today, famine is rampant in Ethiopia, the African nations of the Sahel (Chad, Mali, Mauritania, Niger, Senegal and Upper Volta), Gambia and in areas of Tanzania and Kenya. Near famine also plagues Bolivia, Syria, Yemen and Nigeria. One poor harvest could bring massive hunger to India, the Sudan, Guyana, Somalia, Guinea and Zaïre. In two dozen other nations, the populace faces chronic food shortages. Among them: Bangladesh, Iran, Indonesia, the Philippines and Haiti.

BOUNTIFUL DAYS

Gone are the bountiful days of the 1960s, when the United Nations' Food and Agriculture Organization worried about how to dispose of a glut of food, and the U.S. Government paid its farmers not to plant crops. Now the world's food reserves are at their lowest since World War II, amounting to a mere 27 days of consumption. "We're just keeping our heads above water," observes FAO Official John Mollett. "But the margin of safety is decreasing. One big crop failure anywhere and it could be every country for itself." For most countries in the hunger belt, that could mean mass starvation.

In the Sahel, that time has already come. For the past six years, the 25 million farmers and nomads fatalistically accepted each dry season, expecting that rains would soon follow. They never did. Crops withered, grazing land turned barren, and lakes and wells dried up. Many Africans became so hungry that they ate their breeding cattle and seed grain, thus condemning themselves to total dependence on outside help. Unless they receive aid, they will be unable to plant new crops or raise new herds even if the rains do come. The Sahel's flat savannas, which once supported the blue- and black-robed Taureg and Fulani warriors, are now empty, save for the thousands of reddish brown mounds that mark the graves of those who starved. At least 100,000 have died.

Shantytown refugee camps have risen like festering sores throughout the region, providing the barest relief to half a million people. Their individual monthly ration is only 26 lbs. of flour and 4.4 lbs. of dried milk, the nutritional equivalent of about one-third of the average American's diet. In their weakened condition, disease has spread quickly. Typhus, dysentery, measles and gastroenteritis are rampant. At the teeming Lazaret camp near Niamey, Niger's capital, cholera threatens the 15,000 refugees. In Chad, some emaciated nomads begged a U.N. official not to send them medicines, pleading that death

from diphtheria was quicker and hence easier than the slower death from starvation.

The drought has claimed an equally grim toll in parts of Ethiopia. Provincial bureaucrats kept the horrific dimensions of the catastrophe secret from Addis Ababa, fearing that bad news would anger and embarrass Emperor Haile Selassie and perhaps lead to their own dismissal. Finally, last spring, the number of deaths grew so great that the bureaucrats had to admit their existence and ask for international aid. At first the drought seemed confined to eastern Ethiopia. But a new government survey uncovered big pockets of famine to the south and southeast of the capital. In Bale province alone an estimated 27,000 cattle, 25,000 sheep and goats and 500 camels have died. This study only hints at the true extent of Ethiopia's problems. Remarked an Ethiopian relief worker: "The farther east you go, the worse it gets." Ethiopian deaths are estimated at 100,000, but no one knows definitely because there are no reliable population records.

Drought is not the only enemy. Rain can be just as devastating. When the spring rains came to Ethiopia this March, they broke all known records. Ten inches fell in some sections in three days (compared with one-tenth inch last spring). The torrents washed away vital crops and thousands of tons of top soil. In Wallo province, worst hit by the famine, the deluge swept away villages and roads, overturned supply trucks and dangerously delayed relief efforts.

CONSPICUOUS ABSENCE

An emergency worldwide aid program was launched last year and has already saved more than 1 million Africans from starvation. Private and national agencies, coordinated by the FAO, delivered about 518,000 tons of grain to the Sahel and Ethiopia. This year 770,000 tons have been pledged, nearly half of it by the U.S. and significant amounts by the Common Market. Canada, the Soviet Union, Sweden and China. Conspicuously absent from the ranks of the generous are the newly rich Middle East oil exporters. So far they have contributed less than 1% of the total aid.

Though the aid has been lifesaving, it has not been as effectively used as it could be. Inefficiency and corruption of local bureaucrats have slowed the distribution of the emergency supplies. In Mali and Niger, officials have diverted some of the donated grain to commercial channels for sale at enormous profits. Much of the donated food remains heaped high on the docks where it is prey to rats, locusts and thieves. The major problem, however, is logistics. U.N. Secretary-General Kurt Waldheim, after inspecting the famine areas in February, reported: I saw piles of foodstuffs in the capitals of the drought-stricken countries, but the governments told me they cannot ship it to the areas most afflicted. Because of the lack of roads—it is just sand, everywhere you look you have sand—after a relatively short time, the trucks are not usable any more."

DONKEY CARAVANS

With almost all of the drought area far away from the few railways, navigable rivers and paved roads, relief trucks have had to crawl along sand and dirt paths in desert heat. In Ethiopia, some of the neediest areas are so deep in the countryside that only caravans of donkeys and camels have been able to reach them.

The weather is a continuing threat. Rains, if they come at all this year, are due to arrive in mid-June. They could transform the dusty Sahel into a muddy bog, making vehicle traffic impossible. FAO officials had hoped that most of this year's aid would be prepositioned in remote regions by June. Red tape and a lack of urgency by the donor countries made shipments late. Most of the grains should have arrived at African ports by March, but only 266,000 tons had been received by April. An additional 170,500 tons arrived last month, and 333,000 tons are still due. Even without local inefficiencies, it now will be difficult to get the food into the needy areas before the rains.

When the world first discovered the dimensions of the crisis last year, there was no time to truck in most of the supplies. The FAO mobilized an airlift costing more than $30 million or nearly half of what the food was worth. Now FAO chiefs fear that an airlift may again be needed. But increased fuel prices could double the cost of the operation, a cost that the FAO may find the donors unwilling to underwrite.

Even if this year's relief effort forestalls mass starvation, the long-term outlook for Africa's hunger belt is at best grim. A ministerial-level committee of the Sahelian nations is seeking foreign grants of $700 million to fund 126 long-range projects, such as dams, reforestation, transport networks and rebuilding of decimated herds. But the only certain means of guaranteeing that the present catastrophe will not repeat itself lies with population control rather than with food supplies.

Every day the world's population jumps 200,000 persons—or some 75 million per year. By the end of the century, it could total 7 billion—up from the present 4 billion. To feed these new mouths, the world must produce an additional 30 million tons of food each year—an increase of at least 2.5%—just to maintain present per capita consumption levels. For the developing countries, that is like walking on a treadmill. Although the African nations in the hunger belt have boosted their food production 22% since the early 1960s, per capita consumption has actually fallen 5% because of increased population. By contrast, Americans during the same period went from eating 118% of their basic energy requirements (in terms of protein) to 123%. Soviets and East Europeans from 116% to 126%, and China from 86% to 100%.

The lines on the Malthusian chart are ominous, if the present birthrate continues, someday—perhaps as early as 2025—there will be more people than the earth can feed, given its present technology. Photos by earth satellites reveal that the world's most productive land is already cultivated, convenient water sources already tapped and nearly all grazing capacity already in use. Marine biologists worry that the sea, once regarded as a nearly unlimited source of cheap protein, has been over-fished. To bring marginal farmland into use round the world would require a massive investment beyond the means of the underdeveloped nations and probably beyond the generosity or administrative cooperation of the developed nations.

The "Green Revolution," which only a few years ago brought hope of agricultural self-sufficiency to India and other countries of Asia, has already lost much of its promise. The increase in oil prices has nearly trebled the cost of nitrogen fertilizers and of fuel for irrigation pumps upon which the crops of high-yield rice and wheat rely. Hundreds of thousands of Asia's small farmers who once enthusiastically sowed their fields with the Green Revolution's hybrid strains are now reverting to more traditional methods of cultivation. The harvests are smaller but much less dependent on fertilizers, pesticides and irrigation.

ONE MEAGER MEAL

India, which had been one of the major success stories of the Green Revolution, is now seeking commodity aid from the U.S. because inadequate rains coupled with fertilizer shortages reduced recent harvests. With perhaps half of its 600 million people living at or below the subsistence level—eating no more than one meager meal daily—even a slight drop in food production can have an enormous impact. If drought returns to India this year, tens of millions of lives will be threatened.

Some climatologists believe that the earth is experiencing a basic change in its weather, which could cause prolonged droughts throughout the hunger belt. About ten years ago, scientists began noting that the high-altitude winds that ring the North Pole have shifted south, changing weather patterns throughout the world. Part of India's monsoon rains are now dropping uselessly into the ocean. In the past six years, the Sahara has expanded 100 miles southward in some places. Scientists are baffled by the phenomenon, but some suspect it may be caused by sun spots or increased carbon dioxide and dust in the atmosphere, or a combination of both.

If vast parts of the globe are actually doomed to such drastic weather changes, then the outlook is bleak indeed. Political unrest and even civil wars will become more likely as whole countries go hungry. In the past year, discontent spurred by food shortages contributed to the sudden changes of government in Niger and Thailand, and it threatens the reign of Haile Selassie in Ethiopia.

Only long-range multinational planning can cope with the problem. For example, there could be a United Nations-sponsored international birth control program, an expansion of fertilizer production, and the storing of adequate food reserves as a buffer against periodic poor harvests. Members of the United Nations hope to consider those proposals when they gather in Bucharest during August for a conference on population, and in Rome in November for a conference on food. Their task is formidable. Between now and the time they begin their deliberations, the world's population will have increased by 30 million.

RESTRAINING THE GIANT—BUDGET REFORM

Mr. PERCY. Mr. President, the recent flourish of events which we have come to know as Watergate have made elected officials as well as the citizens whom they represent acutely aware of the need to reestablish the balance of power among the various branches of our Government as originally provided for in our Constitution. We have witnessed the consequences of allowing one branch—the executive—to become too much an independent agent, free to act and determine national policy in some cases without the consent or even the knowledge of Congress.

In an article which appeared in the New York Times, Sunday, May 5, Mr. Tom Wicker writes about some of the legislative measures presently pending in Congress which if enacted will restore to the Congress some of its lost powers. Mr. Wicker in his inimitable and eloquent style relates the urgency of congressional action on these legislative proposals so as to insure "a system of checks and balances against abuse of the inevitable power of the Chief Executive of one of the world's most powerful nations."

Mr. Wicker notes that my distinguished colleague, Senator JAVITS, was instrumental in developing the first essential step toward reestablishing the constitutional responsibilities of Congress in the War Powers Act.

"But if Congress really wants to regain anything like equal status with the

Presidency," Mr. Wicker concludes, "the first order of business ought to be the Budget Reform Act. In the fight against inflation, as well as in the effort to restore balanced government in America, no single reform is more important."

Mr. President, I cannot agree more.

I ask unanimous consent to have printed in the R53*84 Mr. Wicker's article entitled "Restraining the Giant."

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

RESTRAINING THE GIANT

(By Tom Wicker)

Watergate, Senator Jacob Javits of New York said the other day, was "a symptom of political decadence" predictable by Lord Acton's dictum that "power tends to corrupt and absolute power corrupts absolutely." The power of the American Presidency is not absolute but it is great, and too nearly unchecked, and it has greatly corrupted the office. As Mr. Javits put it, "The death and maiming of tens of thousands of our young in Vietnam, the Watergate scandals and the shadow of impeachment are expressions of an almost grotesque imbalance of power." (He might have added "the deaths of hundreds of thosuands of their young and old.")

What is to he also about that "grotesque imbalance of power" now residing in the Presidency? The departure of Richard Nixon from that office, however it occurs, will not restore the balance; nor can any election guarantee that the victor will not succumb to the temptations of power in ways more dangerous than any yet seen.

In this context, even impeachment punishes transgression, and that is better than letting it go unpunished. But the problem is how to prevent the transgression—how to provide a system of checks and balances against abuse of the inevitable power of the chief executive of one of the world's most powerful nations.

Mr. Javits was instrumental in development of an essential first step already taken—passage over Mr. Nixon's veto of the War Powers Act, limiting Presidential ability to commit troops abroad by executive action. Now Mr. Javits has proposed a package of further reforms, the most notable of which is as follows:

Congress would require the President to report to it annually what steps he had taken to carry our Congressional laws and resolutions passed in the last session; he and his Cabinet heads then would submit to questioning by a new Joint Select Committee of both houses; and Congresss later would vote itself satisfied or not with Presidential actions. If not satisfied, it would direct what further steps it wished taken.

Such a procedure would give Congress—as Mr. Nixon's staff types might say—greater "stroke" on executive policy and administrative oversight, and—perhaps more important—a means of directly and personally challenging a President and his Cabinet. That question-and-answer session surely ought to be carried on the television networks.

Senator Lloyd Bentsen of Texas has made an interesting proposal that might largely remove politics from the Department of Justice, without removing that department from the reach of Presidential policy. He would bar the appointment of anyone who had held a paid or unpaid position in any Presidential candidate's campaign, or in any national or state party organization, to the offices of Attorney General, Deputy Attorney General, Assistant Attorney General or Solicitor General. The Attorney General, not the President, then would appoint U.S. Attorneys and U.S. Marshals. The Hatch Act, prohibiting partisan political activity, would be extended to everyone in the Department of Justice, from the Attorney General on down.

Senator Javits echoed a proposal of Senator Gaylord Nelson of Wisconsin to ban any form of wiretapping or bugging without a court order; and Senator Henry Jackson has put in a bill to require complete accounting to Congress by any agency engaging in any kind of political surveillance. Such surveillance would have to be specifically justified by the agency involved. Tighter Congressional oversight of the F.B.I. and the C.I.A. and a thorough review and, if necessary, reorganization of those agencies ought to be undertaken. The possibility of a seven- or nine-year fixed term for the F.B.I. director, to remove him from direct Presidential political control, should also be studied by Congress. Such steps might well make secret police tactics all but impossible.

The legislators should not again permit a President to create, as Mr. Nixon did, super-Cabinet officials not subject to Senate confirmation, and thus not subject to Congressional questioning. The Gray and Richardson hearings, in 1973, are examples of the value of the confirmation process; while John Ehrlichman as chairman of the Domestic Council, to whom several Cabinet officers were made subordinate, exemplifies the kind of powerful official a President now can create entirely on his own authority.

But if Congress really wants to regain anything like equal status with the Presidency, the first order of business ought to be the Budget Reform Act. Passed in differing versions by both houses, and awaiting reconciliation in Senate-House conference, this measure would at last provide the administrative machinery necessary for Congress to play an effective part in putting together a coherent Federal budget—the very engine of the Government.

The essential idea of both budget reform bills is that Congress would establish its own annual budgetary ceilings, with more-or-less self-enforcing provisions for keeping its appropriations within them, or providing the additional revenues to cover excess spending. In the fight against inflation, as well as in the effort to restore balanced government in America, no single reform is more important.

EDUCATION ASSISTANCE PROGRAMS FOR VETERANS

Mr. HOLLINGS. Mr. President, education assistance programs for veterans have been among the most successful and productive ever enacted by our Government. After World War II and the Korean conflict educational benefits received by returning GIs were a major force behind the economic recovery of the fifties and dividends from this postwar investment continue to be reflected in today's society

Today, Vietnam era veterans face an extremely difficult problem of readjustment and education benefits often determine the difference between success and failure for them. The Veteran's Affairs Committee is currently working on a comprehensive bill to update veterans education benefits to put them on par with benefits which were available to World War II vets. As a cosponsor of S. 2784, I know that time is needed to allow proper consideration of such a comprehensive bill. But thousands of veterans who might benefit from this bill do not have time—because on May 31, 1974, their eligibility for benefits will expire. To prevent this from occurring, I urge the Senate to vote for S. 3398 and extend eligibility for education benefits from 8 to 10 years.

PRAISE FOR DR. RIDDICK

Mr. BIDEN. Mr. President, I want to add my appreciation to the many expressions of deserved praise to Dr. Riddick, the Senate Parliamentarian, for the new edition of "Senate Procedure" that he developed.

His is an honorable tradition stemming from the efforts of Thomas Jefferson. Jefferson, as Vice President, developed a set of rules of procedure, still known as "Jefferson's Manual."

In preface to his seminal work, Mr. Jefferson wrote:

> I have begun a sketch which those who come after me will successively correct and fill-up till a code of rules shall be formed for the use of the Senate, the effects of which may be accuracy in business, economy of time, order, uniformity and impartiality.

Dr. Riddick's work is consistent with Mr. Jefferson's guidelines. As a newcomer to the Senate, I feel an extra dimension of appreciation for the new edition.

Thank you, Dr. Riddick.

THE CONSUMER INTERESTS TRANSPORTATION ACT OF 1974

Mr. BROCK. Mr. President, on Thursday, May 9, I introduced the Consumer Interests Transportation Act of 1974. I ask unanimous consent that this bill, S. 3470, be printed in the RECORD.

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

S. 3470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Interests Transportation Act of 1974".

TITLE I—RATE MATTERS

INDEPENDENCE OF ACTION ON RATES

SEC. 101. Paragraph (6) of section 5a of the Interstate Commerce Act (49 U.S.C. 5b) is amended to read as follows:

"(6) The Commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration, unless it finds that under the agreement—

"(A) there is accorded to each party the free and unrestrained right to take independent action either before or after any determination arrived at through such procedure;

"(B) single line rates may not be the subject of voting or joint determination;

"(C) only carriers physically participating in a particular joint line movement may agree or vote on the rate to be charged for such movement; and

"(D) any conference, bureau, committee, or other organization established to perform joint consideration is not authorized to enter any Commission proceeding in opposition to the rate actions of a member or members of such organization.".

DISPOSITION OF CERTAIN RATES WITHIN SPECIFIED TIME PERIOD

SEC. 102. Section 5a of the Interstate Commerce Act (49 U.S.C. 5b) is further amended by adding the following new paragraphs:

"(11) Within one hundred and twenty days after a rule, rate, or charge is docketed with a conference, bureau, committee, or other organization, established or continued pursuant to any agreement approved under this section, such rule, rate, or charge shall

finally be disposed by said conference, bureau, committee, or other organization.

"(12) All meetings (including conference, bureau, committee, or other organization established or continued pursuant to an approved agreement) at which official action of any kind is taken or proposed shall be open to the public. No resolution, rule, act, regulation or other official action shall be effective unless taken, made, or enacted at such a meeting. A written transcript shall be kept for all such meetings and shall be made available to the public during normal business hours. Copies of such written transcripts shall be available upon request to the public at reasonable cost.".

COMPETITIVE AND COMPENSATORY RATES

SEC. 103. Sections 15(1), 216(e), 218(b), and 406(b) of the Interstate Commerce Act (49 U.S.C. 15(1), 316(e), 1006(b)) are each amended by adding at the end thereof the following: "The Commission shall in no case require that a carrier subject to this part furnish service at a rate lower than the marginal cost of the particular traffic to which the rate applies. The Commission shall not determine that a present or proposed rate is unreasonably low unless it finds such rate is less than the marginal cost of the particular traffic to which the rate applies. The Commission is authorized to determine and find that the practice of independence of action in establishing single line rates outside any organization established pursuant to section 5a of this Act, taken together with the number of independent, competitive offerings by common and contract carriers (considering both carriers within a given mode of transportation and carriers within different modes), is such that a defined user or group of users of transportation services has or have competition available sufficient effectively to restrain unreasonable rates, fares, and charges as to defined movements or types of movements of passengers or freight. In making such a determination, the Commission shall take into account the transportation characteristics of the commodity or commodities involved, the degree of participation of carriers of the same and different modes of transportation in the movement or movements involved, the level of profit obtained in the particular transportation service involved, and such other circumstances as may be relevant. Upon such a finding becoming final, the Commission shall have no further responsibility to regulate maximum rates for the defined movements or types of movements, or transportation service involved. Such a finding may be vacated or modified by reason of changed circumstances, or the discovery of substantial relevant information not previously available, including information indicating that absent maximum rate regulation profits and rates, fares, and charges on the movements involved have become unreasonably high, and market forces appear unlikely to effect corrective action by the carriers involved.".

MODERNIZING ACCOUNTING UNDER THE INTERSTATE COMMERCE ACT

SEC. 104. Section 20(3) of the Interstate Commerce Act (49 U.S.C. 20(3)) is amended to read as follows:

"(3)(a) The Commission shall, for the purpose of enabling it to better carry out the purposes of all parts of this Act, prescribe a uniform system of accounts applicable to any class of carriers subject thereto, and a period of time within which such class shall have uniform system of accounts, and the manner in which such accounts shall be kept.

"(b) The Commission shall within one year following the date of enactment of the Consumer Interests Transportation Act of 1974, establish and promulgate rules and regulations prescribing uniform cost accounting methods for the determination of abandonment of nonproductive facilities under paragraphs (18) through (32) of section 1 of this Act, as amended by such Act of 1974 and for establishing minimum compensatory rates under this Act as amended by such Act of 1974. Nothing in this paragraph is intended to prevent the Commission from establishing for any or all additional purposes a uniform system of accounts applicable to any class of carriers subject to this Act.

(c) Accounting methods, established pursuant to this Act shall be designed to facilitate the determination of costs of individual carriers on individual services. In formulating such accounting systems, the Commission shall recognize modern, generally accepted accounting principles, and shall consult with and solicit the views of other agencies and departments of the Federal Government, representatives of carriers, shippers, national accounting societies, public accounting firms, and the public. The Commission is authorized to retain the services of persons and firms skilled in the formulation of cost concepts, and in modern generally accepted accounting practices, to assist in the formulation of the accounting practices required under this section.

"(d) Pending the establishment of the revenue, cost, and accounting standards required by subparagraph (b) of this paragraph, the Commission shall use such information and techniques as it deems appropriate for determining costs and revenues required by this Act."

TITLE II—ENERGY SAVINGS AND EFFICIENCY UNDER OPERATING AUTHORITIES

REPEAL OF CERTAIN RESTRICTIONS WITH RESPECT TO THE PROVISION OF MOTOR CARRIER SERVICE BY CARRIERS BY RAILROAD

SEC. 201. Section 5(2)(b) of the Interstate Commerce Act (49 U.S.C. 5(2)(b)) is amended by striking out all beginning with the colon preceding *"Provided,* That" to the period at the end thereof.

PROVISION OF COMPETITIVE AND EFFICIENT SERVICES

SEC. 202. Sections 207(a) and 309(c) of the Interstate Commerce Act (49 U.S.C. 307(a) and 909(c) are each amended by inserting at the end thereof the following: "The Commission shall, within two years after the date of enactment of the Consumer Interests Transportation Act of 1974, promulgate regulations pursuant to which it shall—

"(1) consider cost and rate advantages, if any, reasonably to be expected to result from the granting of any application;

"(2) so construct grants of authority as to permit efficient, flexible service under such authorities, and in markets to be served by the proposed operations;

"(3) utilize the forces of competition to encourage efficiency, economy, and innovation in transport;

"(4) not deny an application solely or in substantial measure on the grounds that carriers operating under certificates issued under this section prior to the application under consideration have the physical capacity to carry, or an entitlement to carry, all or substantially all the traffic which does, could or might move in the markets affected by the proposed service; and

"(5) make a final decision within 90 days of the filing of any application for permanent operating authority, absent a finding of compelling circumstances requiring more extended consideration, and, in the event of such a finding, make a final decision within 180 days of the filing of any such application;

all to the end of minimizing necessary costs to transport users; avoiding unnecessary pollution, energy consumption, and burden on federally funded transport facilities; and maximizing the value which carriers subject to this part add to the national economy.".

ELIMINATION OF IMPEDIMENTS TO EFFICIENT OPERATIONS IN OPERATING AUTHORITIES

SEC. 203. Sections 208(a) and 309(d) of the Interstate Commerce Act (49 U.S.C. 308(a) and 909(d) are each amended by inserting at the end thereof the following: "Within twelve months of the date of enactment of the Consumer Interests Transportation Act of 1974, the Commission shall identify terms, conditions, or restrictions on existing certificates issued under this part of a sort which do or may inhibit flexible, efficient, and economical operation, and shall establish appropriate procedures providing for expedited consideration and action upon applications to eliminate or alter such restrictions. The Commission shall thereafter, in specifying terms, conditions, and limitations of certificates, permit efficient, flexible and economic service utilizing the inherent advantages of transportation subject to this part. The Commission shall, in its annual report to the Congress, include a report on the total number, ownership, format, terms and conditions of, and discernible effects on service, including any limitation or inhibitions on service, of certificates issued subject to this part.".

EXPEDITING ACTION IN IMMEDIATE SERVICE NEEDS

SEC. 204. Subsection (a) of section 210a of the Interstate Commerce Act (49 U.S.C. 310a(a)) is amended by deleting "having no carrier service capable of meeting such need" in the first sentence, and by deleting all after the word "valid" in the second sentence, and inserting in lieu thereof the following: "until such time as the Commission's consideration of an application for permanent authority is complete, or if no application for permanent authority is made, until such emergency need shall be deemed to have terminated.".

MODERNIZING CONTRACT CARRIAGE

SEC. 205. Effective after two years following the date of enactment of the Consumer Interests Transportation Act of 1974, subsection (b) of section 209 of the Interstate Commerce Act is amended to read as follows:

"(b) Applications for such permits shall be made to the Commission in writing, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon such interested parties as the Commission may, by regulation, require. Subject to section 210, a permit shall be issued to any qualified applicant therefor authorizing in whole or in part the operations covered by the application, if it appears from the application or from any hearing held thereon, that the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle, and to conform to the provisions of this part and the lawful requirements, rules, and regulations of the Commission thereunder, and that the proposed operation, to the extent authorized by the permit, will be consistent with the public interest and the national transportation policy declared in this Act. In determining whether the issuance of a permit would be consistent with the public interest, and consistent with the National Transportation Policy, the Commission shall consider the number of shippers to be served by the applicant, the nature of the service proposed and the effect which denying the permit would have upon the applicant and/or its shipper and the changing character of that shipper's requirements. The Commission shall specify in the permit the business of the contract carrier covered thereby and the scope thereof, and, it shall attach to it at the time of issuance, and from time to time thereafter, reasonable terms, conditions, and limitations necessary to carry out with respect to the operation of such carrier the requirements established by the Commission under section 204 (a) (2) and (6), *Provided:*

"(1) that the tests to be applied to new applications shall in no event be more stringent than those applied to applications under section 207 of this part;

"(2) that within the scope of the permit and any terms, conditions, or limitations at-

tached thereto, the carrier shall have the right to substitute or add to its equipment and facilities as the development of its business may require;

"(3) that no terms, conditions or limitations shall be imposed in any permit issued on or before the effective date of this proviso which shall restrict the right of the carrier to substitute similar contracts within the scope of such permit, or to add contracts within the scope of such permit unless upon investigation on its own motion or petition of an interested carrier the Commission shall find that the scope of the additional operations of the carrier is not confined to those of a contract carrier as defined in section 203(a)(15), as in force on and after the effective date of this proviso; and

"(4) that terms and conditions shall not impose substantial empty truck movement or other operating inefficiencies in the carrier.".

ACHIEVING BETTER UTILIZATION OF THE PRIVATE TRANSPORTATION FLEET AND FACILITATING GREATER EFFICIENCY IN USE OF TRUCKS TO AND FROM RURAL AREAS

SEC. 205. (a) Section 203(b)(5) of the Interstate Commerce Act (49 U.S.C. 303(b)(5)) is amended by the deletion of the following: "and shall in no event exceed 15 per centum of its total interstate transportation service in any fiscal year, measured in tonnage".

(b) Section 203(b) of the Interstate Commerce Act is further amended by inserting before the period at the end thereof a semicolon and the following: "or (11) transportation for hire incidental to private transportation, defined by section 203(a)(17) of this part for the purpose of avoiding empty movement, light loading or inefficient use of vehicle otherwise used in such private transportation: *Provided*, That any private carrier engaging in such for hire transportation shall notify the Commission of its intent to perform such transportation prior to the commencement thereof, and report annually to the Commission the tons carried and total revenues attributable to such transportation: and *Provided further*, That in no event shall the total quantity of goods transported for compensation by any such private carrier, measured in tonnage, exceed the quantity of goods transported in private carriage; or (12) transportation for hire by carriers engaged in carriage exempt from regulation pursuant to paragraphs (4a), (5), and (6) of this subsection of commodities or movements other than *movements* exempt from regulation pursuant to those paragraphs if such transportation is incidental to such non-regulated transportation, for the purpose of avoiding empty movement, light loading, or inefficient use of vehicles used in such non-regulated transportation: *Provided*, That any carrier engaging in for hire transport pursuant to this paragraph shall notify the Commission of the intent to perform such transportation prior to the commencement thereof, and report to the Commission annually the tons carried and the total revenues attributable to such transportation: and *Provided further*, That in no event shall the quantity of goods transported for compensation by any carrier pursuant to this paragraph, measured in tonnage, exceed the quantity of goods transported exempt from regulation pursuant to paragraphs (4a), (5), and (6) of this subsection".

TITLE III—REVISED STANDARDS FOR RAIL SERVICE ABANDONMENT

AMENDMENT TO SECTION 1 OF INTERSTATE COMMERCE ACT

SEC. 301. Section 1 of the Interstate Commerce Act (49 U.S.C. 1) is amended by striking out paragraphs (18) through (22) and inserting in lieu thereof the following:

"(18) No carrier by railroad subject to this part shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension of its line of railroad, or shall engage in transportation under this part over or by means of such additional or extended line of railroad, unless and until there shall first have been obtained from the Commission, a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line of railroad. Nothing in this paragraph or in section 5 shall be considered to prohibit the making of contracts between carriers by railroad subject to this part, without the approval of the Commission, for the joint ownership or joint use of spur, industrial, team, switching, or side tracks.

"(19) The application for an issuance of any such certificate shall be under such rules and regulations as to hearings and the provisions of this part shall apply to all such proceedings. Upon receipt of any application for such certificate, the Commission shall cause notice thereof to be given to and a copy filed with the Governor of each State in which such additional or extended line of railroad is proposed to be constructed or operated, with the right to be heard as hereinafter provided with respect to the hearing of complaints or the issuance of securities; and said notice shall also be published for three consecutive weeks in some newspaper of general circulation in each county in or through which said line of railroad is proposed to be constructed or operated.

"(20) The Commission shall have power to issue such certificate as prayed for, or to refuse to issue it, or to issue it for a portion or portions of a line of railroad, or extension thereof, described in the application, and may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. From and after issuance of such certificate, and not before, the carrier by railroad may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction or operation covered thereby.

"(21) The Commission may, after hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier by railroad subject to this part, party to such proceeding, to provide itself with safe and adequate facilities for performing as a common carrier its car service as that term is used in this part, and to extend its line or lines: *Provided*, That no such authorization or order shall be made unless the Commission finds, as to such extension, that it is reasonably required in the interest of public convenience and necessity, or as to such extension or facilities that the expense involved therein will not impair the ability of the carrier to perform its duty to the public. Any carrier subject to this part which refuses or neglects to comply with any order of the Commission made in pursuance of this paragraph shall be liable to a penalty of $100 for each day during which such refusal or neglect continues, which shall accrue to the United States and may be recovered in a civil action.

"(2) No carrier by railroad subject to this part shall abandon all or any portion of a line of railroad, or the operation thereof, except in accordance with this paragraph. A carrier or carriers may file with the Commission a notice to abandon a line of railroad, or the operation thereof, which notice shall be under such rules and regulations as the Commission may from time to time prescribe, and the provisions of this part shall apply to all such proceedings. Abandonments pursuant to such notice shall be governed by the provisions of this paragraph, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. The carrier or carriers filing notice with the Commission pursuant to this paragraph shall file simultaneously with the Commission a certificate of service of the notice by mail upon the Governor of each State in which all or any portion of the line of railroad, or the operation thereof, is proposed to be abandoned, and a certificate of posting of notice in every station on such line and a certificate that notice has been published for three consecutive weeks in a newspaper of general circulation in each county in or through which said line of railroad operates. Notice shall also be given to all shippers and receivers who have used the line in the preceding eighteen months. All notices provided for in this paragraph shall be filed with the Commission at least ninety days in advance of any abandonment of any line of railroad or operation thereof pursuant to such notice and to this paragraph. Upon the filing of any notice pursuant to this paragraph, the Commission shall during said ninety days' notice period upon complaint of an aggrieved party, or may upon its own initiative, enter upon an investigation of the action proposed in the notice. If no such investigation is instituted, the Commission shall issue a certificate at the expiration of the ninety days' notice period that public convenience and necessity permit the abandonment proposal in the notice. If an investigation is instituted, the Commission, by order served upon the carrier or carriers affected thereby at least ten days prior to the day on which the abandonment proposed in the notice would otherwise become effective, shall postpone the abandonment in whole or in part, pending hearing and such investigation, but not for a longer period than six months beyond the date when such abandonment would otherwise have become effective. Any investigation instituted under this paragraph shall include full public hearings at a point or points on or reasonably adjacent to the line proposed to be abandoned. The abandonment proposed in the notice shall become effective sixty days after the Commission shall have issued an order finding such abandonment consistent with public convenience and necessity. The Commission may, in such order, and subject to the other provisions of this paragraph, authorize the abandonment of a portion or portions of the line of railroad, or the operation thereof, described in the notice, or the partial exercise only of such privilege, and attach to the issuance of the certificate of abandonment such terms and conditions as, in its judgment, the public convenience and necessity may require. In determining whether to make such finding the Commission shall consider the following: Losses in operating the line proposed to be abandoned, as measured by costs of service including maintenance cost and such repairs or improvements necessary to continue the line at a physical standard necessary to provide safe, reliable, and efficient service; extent of actual use of and need for the line by shippers or receivers; and the development of an efficient and economical transportation system: *Provided, however*, That no such finding shall be made unless continued operation of the line proposed to be abandoned will produce sufficient revenue to cover the relevant variable costs of handling traffic to, from, and beyond the line: And *Provided further*, That said finding shall be subject to the provisions of paragraph (26) of this section. Partial changes in operation or service shall be treated in accordance with paragraph (4) of this section. In any investigation hereunder, the burden of proof shall be on the carrier.

"(23) Any construction, operation, or abandonment contrary to the provisions of paragraph (18), (19), or (22) of this section may be enjoined by any United States district court of competent jurisdiction at the suit of the United States, the Commission, any commission or regulating body of the State or States affected, or any party in interest; and any carrier which, or any director, officer, receiver, operating trustee, lessee,

agent, or person, acting for or employed by such carrier, who, knowingly authorizes, consents to, or permits any violation of the provisions of paragraph (18), (19), or (22) of this section shall be fined not more than $5,000 or imprisoned not more than three years, or both.

"(24) The authority of the Commission conferred by paragraphs (18) to (22) of this section, both inclusive, shall not extend to the construction, acquisition, or abandonment of spur, industrial team, switching, or side tracks, located or to be located wholly within one State, or of street, suburban, or interurban electric railways, which are not operated as a part or parts of a general railroad system of transportation.

"(25) (a) Within one hundred and twenty days after enactment of this paragraph, each railroad shall prepare and file with the Commission and publish in accordance with regulations promulgated by the Commission a full and complete diagram of its transportation system describing in particular those rail lines on which less than one million gross ton-miles have been transported or revenues attributable to which have not been sufficient to cover the relevant variable costs of handling traffic for one year prior to filing. A railroad shall amend its diagram annually, and its statement or intent to abandon lines annually, or as the Commission shall require, to reflect any changes in its system.

"(b) After eighteen months after enactment of this paragraph, no carrier shall abandon all or any portion of a line of railroad (or operation thereof), the abandonment of which is opposed by any person who has used the service provided thereon during the eighteen months preceding the date of filing of the abandonment application or is opposed by any State, county, or municipality served by that line, unless such railroad line has been identified on the diagram provided for in subparagraph (a) of this paragraph for at least one year.

"(26) In the event the Commission shall during the six months provided for in paragraph (22) make a finding that the public convenience and necessity permit abandonment, it shall also make a determination sixty days after such decision whether revenues attributable to the line, lines, or operations in question may become sufficient to cover the relevant variable costs referred to in paragraph (22) as a result of improved operating efficiencies, rate adjustments, or direct financial compensation from users and/or any State or political subdivision thereof, or changed circumstances. In the event the Commission shall determine that circumstances referred to in this paragraph warrant an additional suspension of the certificate, then the Commission shall not issue the certificate but shall retain jurisdiction for an additional six months to determine if the paragraph (22) standards have been met. If the paragraph (22) standards have still not been met during the additional six-month period, then the certificate of abandonment shall be issued between the revenues attributable to such line and the relevant variable costs of handling traffic on such line.

"(27) Within one hundred and eighty days following the date of enactment of this paragraph and as required thereafter, the Commission shall determine, pursuant to section 553 of title 5, United States Code, and shall publish standards for determining the 'relevant variable costs of handling traffic' and 'revenues attributable to the line' as those terms are used in this section.

"(28) In any instance in which the Commission shall have found that the present or future public convenience and necessity permit the abandonment of any line of railroad, the Governor of any State in which all or a portion of such line is located may, prior to the effective date of the Commission's order, notify the Commission, the Secretary of Transportation, and the railroad performing the service involved if it is the State's intention to provide operating subsidies for the railroad in order to assure continuance of service found by the State to be essential. Upon such notice, the Commssion shall order an additional six-month postponement of the abandonment pursuant to paragraph (26) in order to permit arrangements for subsidy to be made."

"(29) In any instance in which the Commission finds that the present or future public convenience and necessity permit the abandonment of any line of railroad, the Commission shall impose as a condition of such abandonment that tracks and other structures or facilities be removed so as to return the land held in conjunction with the operation of such abandoned line to a safe condition suitable for other use. The Commission shall also impose as a condition, where appropriate, an opportunity for acquisition of such land by any governmental body for use as a part of recreational area or otherwise. The Commission shall further ascertain whether the carrier may have forfeited its interest in such land by reason of the terms of the original conveyance of such interest to the carrier.

"(30) (a) The Secretary of Transportation is authorized to reimburse a State or a local or regional authority for 70 per centum of the amount paid by such State, local, or regional authority as operating subsidy to continue service on a rail line or lines that would otherwise have been abandoned. In determining whether to make such reimbursement the Secretary shall consider the need for such service and the impact of the abandonment of such service on the communities affected, the practicability of the plan of operating subsidy, the amount of subsidy in relation to the benefits to be derived therefrom, and the availability of alternative transportation at reasonable cost.

"(b) Within three months from the date of enactment of this paragraph, the Secretary shall prescribe regulations governing the procedure for application by a State, or a local or regional authority for reimbursement of operating subsidies, criteria to be used in deciding upon such applications, and terms and conditions required in contracts or other arrangements for operating subsidy.

"(c) If the Secretary finds that an operating subsidy contract or other arrangement as submitted fails to comply with his regulations, he shall advise the State, or local or regional authority, and afford it a period of not to exceed fifteen days within which to bring such contract into conformity with such regulations.

"(d) An operating subsidy contract made pursuant to this paragraph may not exceed a term of three years.

"(e) The Secretary shall not reimburse a State, or a local or regional authority for operating subsidy paid to the corporation or a railroad unless requisite legislation has been adopted extending authority to the Governor or other appropriate State, local, or regional official or agency to perform its obligations in accordance with the terms of this paragraph and regulations issued by the Secretary.

"(f) Upon approval of an operating subsidy contract or other arrangement by the Secretary, the United States shall become obligated to pay out of sums not otherwise obligated in the general fund of the Treasury, an amount equal to that proportion specified in the contract or arrangement of moneys paid to the railroad pursuant to such contract or arrangement, upon the receipt of proof satisfactory to the Secretary that the payment for which reimbursement is sought has been made by the State or a local or regional authority. Such payments shall be made to the Secretary pursuant to regulations prescribed by him. The Secretary may pay up to 70 per centum of any operating subsidy provided for by this paragraph in the first year of such contract, up to 50 per centum of such subsidy in the second year of such contract, and up to 30 per centum of such subsidy during the third year of such contract. The Secretary shall not be authorized under this paragraph to obligate the United States for amounts in excess of $50,000,000 in any fiscal year.

"(g) The initial cost of restoring or upgrading rail properties to such condition as necessary for the provision of service may not be included in an operating subsidy contract or other arrangement pursuant to this paragraph, but such capital costs may be prorated over the life of such line or facilities and such prorated cost may be included as part of the cost of such an operating subsidy contract or other arrangement.

"(h) Nine months prior to the end of the first contract entered into for operating subsidy reimbursement under this paragraph, the Secretary shall report to Congress on whether legislation should be enacted to extend the Secretary's authority for operating subsidy reimbursement, and, if so, what specific segments of rail tracks, areas of the country, system-wide transportation benefits not otherwise available, and funds outlays are involved in any continuation of Federal participation in operating subsidies.

"(31) In the event of any abandonment of rail service authorized pursuant to this section, it shall be presumed that additional competitive service to and from points and areas reached by means of the abandoned service, by carriers subject to part II, and, if conditions permit, part III, of this Act would serve the public convenience and necessity, notwithstanding any other provision of law. Competitive service shall not be authorized only if shippers moving goods by means of the abandoned service fail to request such competitive service, or no more than one carrier seeks authority to serve operating rights. Operating authorities granted pursuant to this paragraph shall permit carriers receiving such rights to conduct common or contract carrier operations to solicit and transport movements which will contribute to a reasonably balanced transportation service both to and from points and areas as to which local rail service has been abandoned.".

RALPH HARDING SPEECH ON 20TH CENTURY TECHNOLOGY

Mr. BIDEN. Mr. President, the petrochemical industry is vital to my State of Delaware. And for the future, synthetic materials, made from petrochemicals, will become evermore necessary to replace our dwindling natural material resources worldwide.

The increasing need for synthetic materials is inextricably interwoven with the energy crisis. For the energy crisis cannot be separated from the problems of the planet itself, whose cargo of nonreplenishable resources is dwindling as population increases and technologically-intensive societies multiply.

The business community has representatives capable of seeing the scope of the challenges contained in this duality. One of these is Ralph L. Harding, Jr., president of the Society of the Plastics Industry, Inc., who spoke last month in Los Angeles at the Town Hall of California on the subject of "The Life Expectancy of 20th Century Technology."

I recommend his talk to my colleagues. In a significant passage, Mr. Harding says:

The public, I fear, will not much longer tolerate the confusion—believed by some to be deception—which has aggravated the energy crisis and has needlessly increased the

sacrifices which the people have been asked to make during the past months. When the needs of "national security" itself have now become so widely suspect, I cannot see much prospect for a comfortable continuation—at or near the highest levels of government or industry—of close-to-the-vest confinement of information vital to the public welfare.

Furthermore, what we are talking about: development of new technology which will minimize our country's dependence on imports and end our vulnerability to international blackmail—will clearly require expensive research and development which may well be beyond private industry's ability or inclination to afford. And any distribution of public funds demands adequate public—that is, governmental—knowledge of the capabilities and requirements of the private sectors involved.

Mr. President, I ask unanimous consent to have the text of Mr. Harding's remarks printed in the RECORD.

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

THE LIFE EXPECTANCY OF 20TH CENTURY TECHNOLOGY

I have given considerable thought—including a few second thoughts—to the title I chose for this address. I work very close to this subject. I feel very strongly about it, and it is my hope that a title of this sort—presumptuous as it may sound—will help me to reach open minds.

The charge of presumption often comes as the swiftest penalty for challenging another man's assumption. The assumption I am now challenging is the automatic identification of this century—as an era of material progress, crowned by affluence—with the technological mechanisms of the past six or seven decades; so that it becomes unclear whether this century produced this technology or is itself this technology's chief product.

My case for this presumption is based on the facts, events and trends of our time. In support of my case, I want—first—to touch upon the political and economic environments into which Twentieth Century technology was born. Then I would like to comment on the changes—first in politics and now in economics—which demand a new, more viable technology for the remainder of this century and for a strong beginning of the next. Then I shall describe what could become the single greatest threat to our current technology, and finally some steps that we can take, to preserve the health of our nation during this time of transition.

Neither the Twentieth Century nor its technology can be understood without some recognition of the differences between technology before and after the start of World War I. It was the First World War that gave, through urgent national policies and governmental directives, unprecedented organization to the Nineteenth Century heritage of scientific innovations. As Peter Drucker notes, in his essays on *Technology, Management & Society:*

"Generally . . . the relationship between scientific work and its technological application, which we today take for granted, did not begin until *after* the turn of the twentieth century . . . such typically modern devices as the automobile and the airplane benefitted little from purely theoretical scientific work in their formative years. It was World War I that brought the change: in all belligerent countries scientists were mobilized for the war effort, and it was *then* that industry discovered the tremendous power of science to spark technological ideas and to indicate technological solutions."

In that sense, what we now call "Twentieth Century technology" was actually born in 1914 and—if we are to relate the two—the Twentieth Century was born at the same time. If we count the true ages of these twins as 60 years come August, our reckoning will agree exactly with the calculations of historians who hold that the Nineteenth Century did not really end until the outbreak of the First World War.

That outbreak signalled the final collapse of Metternich's system of international understandings which had permitted the leading powers of Europe, at least, to enjoy decades of general peace and so to make unprecedented material progress—largely by developing and utilizing their colonies and client states as sources of cheap raw materials. After the war, our European Allies set to work building a new cartel of industrial nations, excluding the defeated, and inviting the United States to take a piece of the action.

The dependence of the West on cheap supply sources continued, and high on the list of vital materials was placed one that had proven its importance during four years of combat: petroleum. Essentially, these industrial nations had simply organized the findings of science into a technology which they then expanded and applied with new vigor, fueling it at an ever increasing rate with petroleum and other cheap hydrocarbons. This statement could serve as a working definition of what we call "Twentieth Century technology"—with all its strengths and weaknesses.

Chief among those weaknesses, as we have learned by the experiences of the past six months, is our technology's dependence on cheap and abundant energy in the forms of crude petroleum and natural gas, the two most convenient sources of hydrocarbons.

As a spokesman for the plastics industry, I am painfully aware of this dependence, since plastics are derived from petrochemicals. I see a special irony in the current situation, in which plastics—one industry which points the way to the technology of tomorrow—is now so deeply affected by the shortcomings of the traditional technology and of economic concepts on which we still rely today. Our industry has been seriously but not permanently hurt both by the resultant shortages and by associated misunderstanding of the real priorities.

I know I cannot make any claim for plastics' unique status in tomorrow's technology without offering some authority besides my own. As I have confessed on a previous occasion, "I am, after all, an industry association president, a salaried spokesman, a predictable advocate." So, now as then, I offer the testimony of an expert who, you may now suspect, is one of my favorite authors.

Writing in *The Age of Discontinuity*, Peter Drucker observed:

"All around us there are new industries and new technologies. But as the economist defines 'importance'—that is, by contribution to gross national product, personal income, and employment—these new industries are still almost negligible, at least to the civilian economy.

* * * * *

"Of all the new industries only one has, so far, attained major economic importance. It is plastics.

"Even plastics were looked upon until a very few years ago as "substitutes"—ersatz—rather than a major new industry and technology in their own right. And even the plastics industry today is only a faint premonition of what the "materials" industry of tomorrow is likely to be, both economically and technologically."

Since I offer Dr. Drucker as my authority, I would not want you to assume that he has overlooked such other new industries as pharmaceuticals or aviation. He carefully states that "in terms of employment or of direct contribution to national product—the pharmaceutical industry is still hardly visible to the naked eye. . . ." And, admitting that "the freight plane may well, within a few years, make obsolete the oceangoing cargo ship," he adds, "So far, however, air freight is still a lesser factor in world transportation than bullock or burro."

Of course, Dr. Drucker was describing the aviation industry as it was five years ago. I'm afraid the past few months have seen the bullock and the burro *increasing* their lead.

Rereading Drucker with the hindsight of the energy crisis confirms, for me at least, my original impression of his thoughtfulness, his balanced view. Reconsider his description of the plastics industry as a "premonition of what the materials industry of tomorrow is likely to be." At first that sounds simply optimistic—almost a bit of boosterism. But a premonition can bring, with its encouragement, a warning. It can go either way, depending on what we make of it.

What remains essentially unchanged in Peter Drucker's evaluation is the fact that plastics are "riding the point" of our technological future. This industry is a unique, a precocious child of Twentieth Century technological progress; but it is not an only child. If we cannot establish and maintain political and economic environments in which the plastics industry can prosper, the outlook is also grim for other members of the rising technological generation.

Take, for example, the fact that—even when petroleum feedstocks were abundant—plastics of all kinds in this country accounted for less than one and a half percent of total domestic usage of oil and natural gas. And yet, plastics are one of the best, if not *the* best value-related use of hydrocarbons. This can be seen by charting the cumulative product values of hydrocarbons as they move through the petrochemical industry, into and out of the plastics industry and on to other industries which depend on plastics for their materials and components, finally reaching the consumer.

In this progression, a dollar's worth of basic petrochemical feedstocks becomes two dollars' worth of monomers, the universally useful "building blocks" of our synthetics, produced in the organic chemical industry. This new value is doubled again by the conversion of monomers into polymers. Finally, the processing of polymers into the plastics industry's end products increases their value, on the average, by a multiple of at least 2.5. The total result: an average value-added multiple of *ten*—and, in some industries, as high as 20 or 30.

A similar progression takes place, of course, for such other synthetics as the man-made fibres, tires and other rubber products, paint and coatings, antifreeze, aspirin and a vast number of other sophisticated materials and products, which are widely used.

As the Shah of Iran perceptively stated, some weeks ago, oil is too valuable to burn. Its most intelligent use is in petrochemicals, an industry of which plastics constitute one quarter and for which the plastics industry provides the best avenue for delivering the benefits of petrochemical production to other industries and to the consuming public.

In centuries to come, men may look back on our time and find it difficult to believe that the leadership of this century—the political, industrial and commercial administrators of Twentieth Century technology—actually permitted widespread destruction of this planet's precious store of fluid hydrocarbon sources, simply to produce heat and light and power. Men of future centuries, enjoying a practically limitless abundance of solar or nuclear energy, but bequeathed by us a beggarly inheritance of petroleum and natural-gas feedstocks, may condemn our short-sighted consumption of these resources, which nature needed millions of years to prepare.

Neither will they easily understand our slow and feeble efforts to utilize our coal reserves for anything better than a source of cheap fuel. The fact that similar observations could be made for other irreplaceable resources only broadens this threat to the technology of the future.

Long thoughts such as these, unfortunately, should have been thought through long ago—years before we maneuvered ourselves, optimistically accelerating till the last, into the time-trap where we now find ourselves, unable to go back and faced with the prospect of crawling painfully ahead, paying an unprecedented price for the energy to make each crippled move.

This is the reduction-to-absurdity of our almost mindless confidence in Twentieth Century technology, a rich banquet of delusions for which we are now finally getting the inflated check, a reckoning without artificial discounts.

If this was a banquet for all industrial nations, we Americans certainly sat at the head table: six percent of the world's population—consuming one third of the world's energy and comfortably expecting that our insatiable demand could be indefinitely served, at an annually increasing rate—an endless affluence based on inexhaustible resources.

We cannot continue to ignore present reality—*or* to neglect our present obligation to future generations. Our errors can be counted in the percentages of world resources we consume; our correction must now be calculated in the percentages of our needs which we import. In 1972, the latest year for which complete data are available, we imported 87 percent of the bauxite and alumina used in producing our aluminum, 90 percent of our nickel, 92 percent of our cobalt, 93 percent of the platinum group, 95 percent of our manganese, *all* of our chromium and *all* of our tin. These deficiencies are more than incidental to our nation's future; they are strategic.

Writing in *Foreign Policy* magazine before the Arab oil embargo, C. Fred Bergsten, a senior fellow of the Brookings Institution, warned:

"Four countries control more than 80 percent of the exportable supply of world copper, (Chile, Peru, Zambia and Zaire) have already organized, and have already begun to use their oligopoly power. Two countries (Bolivia and Malaysia) account for more than 70 percent of world tin exports, and four countries raise the total close to 95 percent. Four countries combine for more than 50 percent of the world supply of natural rubber. Four countries possess over one-half the world supply of bauxite, and the inclusion of Australia (which might well join the 'Third World' for such purposes) brings the total above 90 percent."

Bergsten's last sentence reminds me to mention that the title of his article was "The Threat from the Third World." He uses the term "Third World" because, in his own explanation, "it is widely understood as meaning all countries outside the 'industrialized West' and the 'Communist Empire.'" The "Threat" in Bergsten's title refers to the potential clout which Third World countries could inflict on the industrialized West, eminently including the United States, by acting singly or in combination to raise prices or to deny supplies outright, supplies which we have grown to take for granted, in abundance and at bargain prices. And built into that smug expectations was the inherent folly of making confident projections of larger and larger imports, even though the very size of those projections made their reliability less and less credible.

When Bergsten wrote, last summer, of this developing situation, there was still room to escape his conclusions about potential supply embargoes. Writing again, this January, he recalled:

"As recently as a year ago, it was conventional wisdom that 'the oil countries could never get together;' it was believed that they could not risk retaliation from a 'united Western world.' But, today, through the Organization of Petroleum Exporting Countries (OPEC), the oil nations have quintupled their price. They have cut back production. They have raised fears of global depression. And they have left the consuming countries, particularly in Europe and Japan, in disarray, and alliances such as the Common Market and NATO, in peril. Indeed, Europe's every scramble for a "special deal" has strengthened the confidence of the oil cartel.

"But oil is just the beginning. . . . (The) lesson of this startling reversal of power seems obvious for other countries with key primary products: Band together and your revenues can rise dramatically. . . . OPEC itself appears ready to support the formation of other cartels, as one way to avoid opprobrium for bankrupting the 'developing countries.'"

In summation, Bergsten notes, "Those who support the producing countries in this central new issue of world economics and politics . . . (say) it is no more immoral for a few countries to produce the lion's share of a particular product than for a few countries to consume the lion's share, as the industrialized world has become used to doing."

If these emerging attitudes do not undermine the economic foundations of Twentieth Century technology, they certainly invalidate the optimistic projections which formerly guided it. Although the oil embargo may be lifted, oil *prices* will remain extremely high. If the Arab embargo and the OPEC successes become models of action for other Third World nations, we must—as rational observers—anticipate future supply crises. The deep and spreading difficulties which economists now experience in revising their projections in the aftermath of the Arab oil embargo are, in my opinion, traceable to the fact that we are passing from our old economics of demand to a new economics of supply. Gradually at times, abruptly at others—but with a generally accelerating pace—we are moving into an era of scarcities, potential and actual, threatened or imposed.

This fact is central to this address, and it is pivotal for this century; this finally enforced transition from the economics of demand to the economies of supply. Indebted, as they all are, to Nineteenth Century science, the industrial nations must recognize that material prosperity is no longer available on the cheap, and that they must build for the Twenty-first Century within the parameters of the new and unforgiving economics of supply.

I have described the present crisis, of which the energy emergency is the start, as a reduction-to-absurdity of our blind confidence in Twentieth Century technology. Whatever our emotional attitudes toward the Arab embargo or our personal reactions to its uncomfortable consequences, we must give first priority to the intellectual task which this emergency has laid upon us. We must, as any logician would, work back from this absurdity to a re-examination of our now discredited assumptions. The open-ended, lavish and prodigal economics of unending abundance will no longer serve to financ our technology. The old and comfortable margins for error are narrowing day by day. Whatever capital is not consumed by rising import prices must hereafter be prudently applied to meet the real needs of our populace, whose confidence in their established leaders has been badly shaken in the past year.

As I have stated on another occasion, management's right to manage is unassailable, to the extent that it is based on management's *duty* to manage, to serve the community as steward of its resources, to implement the public purpose under the directive authority of government. And the directive authority of government, to which the people turn when other leaders fall, is based on conscientious and effective care for the people's needs. Both government and industry, in the final analysis, depend on the consent of the public, on varying degrees of public acquiescence and on public approbation of their efforts.

Each of us is currently entitled to his own evaluation, but we all have sensed a gathering storm of indignation and disillusionment in this country during the past twelve months. Most evident now is the dismay of those Americans whose jobs have been destroyed by the energy crisis. This is the situation for far too many in the plastics industry.

Less acute much more widespread is the suspicion felt by those who see a public inconvenience, even a hardship, turned to quick and tidy profit. The motorist who cuts into line at the gas pumps finds himself the object of erupting angers that can reach no better targets.

The public knows what is lacking: at the moment, petroleum, petroleum products, petroleum-based energy and petroleum-powered transportation, for goods and services and passengers alike. Succeeding weeks have brought new shocks, new disillusionments for the public mind. Government moves uncertainly and late. Industry, if not the villian, looks too much like an accomplice.

Neither industry nor government has time to waste. Both must turn to more effective alleviation of this crisis and to the prevention of those crises threatening in other areas dominated by uncertainties of materials supply. Both industry and government must set to the urgent task of technological innovation. Where old technology has failed or priced itself out of consideration, new technology must be developed and applied.

Out of their common responsibility to the people, out of their shared vulnerability to public criticism, government and industry must work as partners, to recruit and mobilize the best thinking available for these public purposes. Despite the all-too-evident examples of personal risk, businessmen must now be willing to take a more active role in advising, assisting and participating in the tasks of government.

Outside of actual wartime emergencies, as we all recognize, government directed mobilization of the private sector's potential for meeting public crises has seemed alien to our democratic republic. Nevertheless, today we must recognize that not only the energy shortage but continuingly threatening shortages of other vital materials must be systematically evaluated and successfully met, by our national leadership, both governmental *and* industrial, with maximum support from labor and the academy.

The exigencies of the energy crisis have moved us rapidly into areas of official control which seemed, to say the least, improbable one year ago. The future requirements of what is already being called "resource diplomacy"—to prevent or alleviate price and supply strictures arising from Third World forces—cannot be predicted at this date. But it seems incontrovertible, to me at least, that some adequate response must be prepared, some permanent authority must be given institutional form, preferably founded on industry-government cooperation, concern and—may I emphasize this quality—*candor*.

The public, I fear, will not much longer tolerate the confusion—believed by some to be deception—which has aggravated the energy crisis and has needlessly increased the sacrifices which the people have been asked to make during the past months. When the needs of "national security" itself have now become so widely suspect, I cannot see much prospect for a comfortable continuation—at or near the highest levels of government or industry—of close-to-the-vest confinement of information vital to the public welfare.

Furthermore, what we are talking about: development of new technology which will minimize our country's dependence on imports and end our vulnerability to international blackmail—will clearly require expensive research and development which may well be beyond private industry's ability or inclination to afford. And any distribution of public funds demands adequate public—that is, governmental—knowledge of the capabil-

ities and requirements of the private sectors involved.

The bitter experience of the energy shortage suggests that we consider anew the advice given us four years ago by a man whose credentials as an industrial leader can hardly be impugned. Speaking to the Bond Club of New York on January 7, 1970, Thomas J. Watson, Jr., as chairman of the board of IBM, stated:

"I believe that the complexity of our modern economy demands national goal setting and planning closely paralleling that which is commonplace in industry."

Subsequent events have made Mr. Watson's recommendation more urgent than ever. What I propose is commonplace in private industry: the gathering of information and projections for supplies of strategic materials. Individual industries regularly take inventory of stocks required for their future operations, and I propose that a similar inventory function be performed regularly for the appropriate national economy, along with recommending and fostering related development, as required, in technolgy.

Whether this task be taken up by an expanded form of the Federal Energy Office, by the Department of the Interior or perhaps by a greatly strengthened Office of Technology Assessment serving the Congress, it seems essential to our future security and prosperity that some national institution be assigned the task of charting our economic and technological future, for fear that this nation may drift again into the shallows of shortage, there to sit—an object of derision and a target for hostile opportunists.

It seems equally essential that businessmen participate in this vital task, this crucial public service.

If you feel as I do, your concern for this republic moves you in two ways: anxiety about its future prosperity and uneasiness about an increase of governmental influence on decisions which shape the private sector. Though I am proposing, in effect, nothing more than a national clearinghouse for economic and technological information, I know that official evaluations of that information will affect choices that must be made by nongovernmental decisionmakers—by industrialists, labor leaders, marketers, consumers, all of us. But balance that uneasiness against the danger that our people—in some future crisis—may despair of private enterprise, of its competence to serve as steward of our national resources, and turn abruptly to government, not for information merely, but for *relief*, for sweeping measures of alleviation through unprecedented allocations and controls.

The energy emergency has opened a new and critical era for our economy, our technology and our society. Important steps must be taken—in time—sure steps taken in the open light of day, illuminated by the best available information, gathered with care and publicized with candor—so that we can *all* go forward together, in security *and* freedom.

CONSUMER PROTECTION AGENCY: A RESPONSIBLE BUSINESS ATTITUDE

Mr. PERCY. Mr. President, I anticipate that the Government Operations Committee, on which I serve as ranking minority member, will be taking up legislation next week to create a Consumer Protection Agency. S. 707, principally sponsored by Senators RIBICOFF, JAVITS, MAGNUSON, COOK, MOSS, and myself, and now reported out of the Senate Commerce Committee, would create an advocate for consumers in the day-to-day deliberations of Government agencies which so vitally affect consumer health, safety, and economic interests.

It is all too readily assumed that the bill is antibusiness. It is not. Indeed, several major companies, among them Marcor—parent company to Montgomery Ward and Container Corp. of America—and Zenith Radio Corp.—both outstanding Illinois firms—have come out in support of the kind of agency envisioned by this legislation. A recent editorial by that granddaddy of business publications, Business Week, April 6, 1974, comes out strongly and responsibly in support of precisely this kind of measure. Entitled "A Consumer Spokesman," the editors of Business Week reason:

There is a danger, of course, that another agency would simply multiply the red tape and increase the delays that already frustrate businessmen when they deal with the government. But it is also possible that the new agency could help speed the regulatory process by improving input and clarifying issues.

Beyond that, a consumer agency could improve the level of debate between business and the consumerists. By putting a sharp focus on the vague charges the consumer groups now feel free to make, it could show business where its real problems are. And by equalizing the balance between well-financed, well-organized business groups and the often disorganized consumer spokesmen, it could help restore public confidence in the regulatory process.

I believe that the dispassionate logic of the Business Week position and its forthright recognition of the need for redressing the balance in the Federal regulatory process to permit consumers to have a voice, in the final analysis, is an affirmation that what is best for the consumer is best for responsible business. And it is the responsible firms which make up better than 95 percent of the American business scene.

On the other hand, those firms which set out to gyp the consumer in the products or services they produce, or which create unreasonable risks for the consumer in marketing products which are unfit for the purpose intended, or which otherwise callously ignore the best interests of the consumer—it is those firms which have the most to worry from the creation of a Consumer Protection Agency. Hence, it is beyond my understanding why such other noteworthy business groups as the U.S. Chamber of Commerce, and the National Association of Manufacturers, and the Grocery Manufacturers of America continue to direct weighty mail campaigns against this legislation with scare language which only creates an air of distrust and confusion over this measure.

The message that the CPA would be good for business is conveyed in an outstanding recent speech on the subject by Virginia Knauer, Special Assistant to President Nixon for Consumer Affairs. Mrs. Knauer noted:

Some of the opponents of the CPA legislation have portrayed the proposed agency as a monster dreamed up by consumerists to torment business. Such wild allegations are destructive because they obscure and confuse debate on the merits of the issues involved in this legislation.

Mrs. Knauer proceeds to address herself to several of the wild myths which have been bandied about by various opponents of the bill with an eye toward creating a climate of confusion. She succeeds brilliantly.

The President's Special Assistant then goes on to point out:

The debate in Washington over the CPA may seem remote. Or, on the other hand, you may be deluged with distress signals from Washington lobbyists asking you to contact your Senators to oppose the CPA. The CPA legislation is too important to ignore and it is also too important for knee-jerk reactions from those who are tapped by Washington trade groups.

Business leaders need to examine the CPA legislation without bias. I am convinced that those who approach the bill without prejudice will find that the Consumer Protection Agency can work to the benefit of business as well as consumers. Three nationally known firms with the courage of their convictions have already reached this conclusion. . . . And I know of some firms that are privately admitting that they made a serious mistake in adopting a strategy of all-out opposition to the bill in earlier years. Now they realize that this strategy cost them the opportunity to take a constructive part in shaping the bill which they expect to see enacted this year.

Mr. President, I ask unanimous consent that the full text of the Business Week editorial, together with significant excerpts from Mrs. Knauer's April 26th remarks in North Carolina on the subject, be printed in the RECORD.

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

A CONSUMER SPOKESMAN

Businessmen understandably are somewhat nervous about the drive to create a federal agency charged with looking out for the interests of the U.S. consumer. But the legislation taking shape this week in the House deserves the support of business as well as the various groups that now speak for the consumer.

Basically, the bill would create an "ombudsman" to represent consumer interests before Congress and most federal regulatory agencies, including the Federal Trade Commission, the Food & Drug Administration, the Interstate Commerce Commission, and the new Product Safety Commission. Consumer interest as defined in the bill would include everything from quality to availability and adequacy of choice.

There is a danger, of course, that another agency would simply multiply the red tape and increase the delays that already frustrate businessmen when they deal with the government. But it is also possible that the new agency could help speed the regulatory process by improving input and clarifying issues.

Beyond that, a consumer agency could improve the level of debate between business and the consumerists. By putting a sharp focus on the vague charges the consumer groups now feel free to make, it could show business where its real problems are. And by equalizing the balance between well-financed, well-organized business groups and the often disorganized consumer spokesmen, it could help restore public confidence in the regulatory process.

The chances of getting a fair and workable bill adopted may be better now than they will be after election. There is no telling what part consumer unrest will play in next November's voting. But as Representative Frank Horton (R-N.Y.), a co-sponsor of the bill, says, "Prudence dictates moving when the situation is stable and the factors understood."

REMARKS BY VIRGINIA H. KNAUER, SPECIAL ASSISTANT TO THE PRESIDENT FOR CONSUMER AFFAIRS

Government, both at the federal and state levels, has a perspective on consumer problems that can be extremely valuable to business. But too often, businessmen fail to see

how much they stand to gain by promoting the government's consumer efforts.

The National Association of Hosiery Manufacturers has demonstrated its readiness to work with our office in the past. Today I would like to call on you as an association, and as individual member companies, to give your support to legislation that, in my view, could do more to promote a constructive working alliance between government, the consumer and business than any law yet on the books.

The proposal I am asking you to support is the Consumer Protection Agency bill now before Congress. This bill would create an independent agency to serve as the consumer's advocate before other Federal agencies. The agency would also respond to consumer complaints and would be a source of consumer information.

I recognize that it takes courage for a company—or for an industry association—to come out in favor of a consumer bill. It also takes wisdom and foresight to see that the legislation will benefit business as well as the consumer.

The debate on this legislation has been emotional and in some cases irrational. Some of the opponents of CPA legislation have portrayed the proposed agency as a monster dreamed up by consumerists to torment business. Such wild allegations are destructive because they obscure and confuse debate on the merits of the issues involved in this legislation. What we need now is a constructive effort to create a legislative framework for an effective Consumer Protection Agency that is fair to both consumers and business.

The Consumer Protection Agency bill has a long and turbulent history. At the outset, back in the 1960's and even in the early 1970's, consumers, Members of Congress, Administration officials and businessmen could not agree on what form a consumer protection agency should take, although many agreed that consumers were sorely underrepresented before the policy makers in Washington. There were proposals, and counter proposals and much name calling and, as a result, no bills made it over all the legislative hurdles.

In the past year, the mood has changed. Last September President Nixon renewed his request to Congress for a Consumer Protection Agency. All of us who favored an agency recognized that the time was ripe to reach an agreement on legislation that would win broad support. My staff and other Administration officials worked very closely with Members of Congress from both sides of the aisle to develop a workable bill that would have bi-partisan support. Consumer leaders also had their say.

Although there were, and still are, some differing views on the details of the legislation, I believe that the breadth of the consensus we achieved was amply demonstrated by the House vote on the Consumer Protection Agency bill on April 3rd. The House voted in favor of the legislation by an overwhelming 293 to 94—a three to one margin. That vote attests to the magnificent work of the House Government Operations Committee Chairman, Chet Holifield, and the ranking minority member, Frank Horton, and the members of the Committee.

There is only one missing ingredient in the consensus we have achieved—and that is the business community. Although a few companies recognize that the moment has come for a Consumer Protection Agency, the vast majority are still fighting a mythical monster.

Today I would like to examine with you some of the myths that are still obscuring rational, constructive debate on the Consumer Protection Agency bill.

The first myth is that the consumer is already well enough represented in Washington. I am sometimes asked why we even need a Consumer Protection Agency when we already have the Office of Consumer Affairs which I head. There are two reasons. First of all, it would be ludicrous to pretend that my small office could advocate the consumer's case and cause before all other government agencies to the extent needed and therefore envisioned by the CPA bill. Secondly, I think it is fairer to the consumer, to business and to the Federal regulatory agencies if the consumer advocate is an independent agency whose position is presented simply as the consumer's position.

At present business representation in Washington far outweighs consumer representation. Anyone who looks at a list of organizations headquartered in Washington will see that hundreds of trade associations are at work representing their members but that there are only a handful of consumer organizations, none of which have equivalent financing. What is more, companies and their trade associations usually can afford to hire Washington's most prestigious law firms to represent their position before Federal regulatory agencies while the funds of consumer organizations are very limited. The fact of the matter is that the proposed Consumer Protection Agency would provide consumers with an advocate who could represent their interests in federal proceedings with the same degree of sophistication that business viewpoints are now expressed.

While some complain that the consumer is already over-represented others say that the consumer cannot be represented at all because there is no such thing as an identifiable consumer viewpoint. One group went so far as to say that the Agency would be pitting what it describes as the largely undefined interests of professional consumer activists against the interest of taxpayer, farmers, workers, and all other citizen groups. This too, is a myth.

Business spends millions of dollars a year on market research to find out what consumers want. They would not be spending that money if there was no such thing as a consumer viewpoint. However, very little of this research has been directed towards finding out what consumers want in the way of regulation or voluntary industry action to resolve consumer problems. In fact, I know of only one case of an industry using market research techniques to find out the consumer's view on a regulatory issue. When the Food and Drug Administration was considering regulations for the labeling of diluted fruit juice drinks, the Florida citrus industry took their case to the consumer and found that consumers were willing to back the regulations the industry sought for full disclosure on diluted drink labels.

I believe that one of the strongest reasons for business to support the creation of an independent Consumer Protection Agency is that the CPA can give focus to the consumer viewpoint. The agency will have the expertise and the resources to find out what consumers really want and need. There will be no place for the emotionalism and conjecture that some businessmen accuse consumer activists of.

Just as your association found it helpful to have my office give focus to a consumer problem in your industry. I believe that many industries will benefit from the existence of an agency that can accurately assess the consumer's position. This point was made strongly by *Business Week* in a recent editorial calling for business support of the CPA bill. *Business Week* said of CPA, "A consumer agency could improve the level of debate between business and the consumerists. By putting a sharp focus on the vague charges the consumer groups now feel free to make, it could show business where its real problems are."

Another perennial myth is that the Consumer Protection Agency would duplicate the work of existing Federal agencies and that all business would get out of it is more red tape.

This myth is rooted in a misunderstanding of the role of the Consumer Protection Agency. It will not be a regulatory agency like the Federal Trade Commission, the Food and Drug Administration or the Consumer Product Safety Commission, to name just a few. The CPA will advocate the consumer's position before the Federal regulatory agencies, just as business now advocates its own position before these agencies.

The regulatory agencies at present seek to consider the consumer's viewpoint, but all too frequently there is no one to tell them what consumers want. In the great majority of cases, they hear only from the business side. The other chair, the one for the consumer, is vacant. Government officials want to hear from all sides on the issues they must decide, but only the creation of the Consumer Protection Agency can ensure that federal regulators have the information they need to make fair decisions in the best interests of everyone. At present, there is no agency which has the needed staff with the required expertise to give the consumer viewpoint on the many complex issues which come before the government.

We expect the relationship between the CPA and other Federal agencies to be a cooperative one, contrary to some of the talk around Washington about how the CPA will terrorize the other agencies and obstruct their work. The CPA will be able to present the consumer viewpoint in an orderly fashion that will give a broader base to the decisions that the Federal agencies make in carrying out their missions.

Far from creating red tape, the CPA has the potential for cutting red tape. As the *Busines Week* editorial pointed out, "the new agency could help speed the regulatory process by improving input and clarifying issues." The CPA, in monitoring the effectiveness of the alphabet soup collection of government agencies, is in an excellent position to recommend the consolidation of consumer programs or the elimination of overlapping or ineffective programs.

The emotional opposition to the Consumer Protection Agency is preventing businessmen from seeing that in many instances the consumer shares their interest in eliminating red tape. For example, the Administration has already sent to the Congress several de-regulation measures which have consumer support. While a few businesses prefer the safety of government regulation to the vigor of competition, I can see the CPA acting as an advocate of de-regulation and competition, with the support of a large segment of the business sector.

Another myth that is used by the CPA's opponents to alarm the business community is the myth that the CPA is, by definition, antibusiness because it is pro-consumer. This kind of reasoning is a throwback to earlier days of consumerism. In the five years I have been in Washington I have seen a dramatic shift in the attitude of progressive businessmen towards consumerism. Many business leaders have come to see that the consumer can be the businessman's best ally in gaining an edge over the competition. For example, Del Monte adopted nutritional labeling for its products months before the Food and Drug Administration came out with nutritional labeling regulations because Del Monte was determined to be the first in the industry to respond to the consumer's wishes. Because industry has made such strides in opening communications with consumers, I am particularly disappointed to see some in industry revert to such backward thinking on the CPA legislation. Instead of searching for ways to bridge the gap between business and consumers, the bill's opponents seem to be trying to create a chasm.

The CPA will be of greatest benefit to those firms which are doing the best job of meeting consumers' needs. Businesses that are interested in providing quality goods and services will be the first to recognize a new ally on the Washington scene. In fact, on such issues as labeling, the manufacturer of a traditional food product, for example, may

side with the CPA on improved labeling in opposition to the manufacturer of a fabricated food who would just as soon not have consumers know too much about what is in his product.

The responsive business would also benefit from provisions of the CPA legislation which open the agency's consumer complaints and business responses to public inspection after a given time period. The press or the public could easily evaluate which company is doing a good job of responding and which is the cause of a number of complaints. I know that those businesses with a good track record would welcome public inspection, just as they do now with the complaints that come into my office. American Motors, for example, is very pleased with its very low complaint rate, and Ford can be proud of the fact that since it instituted a new 90-day guarantee on repairs the number of Ford complaints coming into my office has dropped sharply.

Opponents of the CPA seem to suffer from a persecution complex. Some have gone so far as to say that the prime sponsors of the legislation are motivated more by a desire to attack business than to protect the consumer. They paint a picture of business being hounded and harassed by the CPA in its dealings with the agencies and in the courts.

I believe that the existence of the CPA can help protect business from frivolous suits and the delays and uncertainties that arise when agency decisions are challenged in the courts. This is so because if the consumer's view is adequately expressed in the development of a federal regulation, the chance of subsequent challenges from consumer organizations will be greatly diminished.

The debate in Washington over the CPA may seem remote. Or, on the other hand, you may be deluged with distress signals from Washington lobbyists asking you to contact your Senators to oppose the CPA. The CPA legislation is too important to ignore and it is also too important for knee-jerk reactions from those who are tapped by Washington trade groups.

Business leaders need to examine the CPA legislation without bias. I am convinced that those who approach the bill without prejudice will find that the Consumer Protection Agency can work to the benefit of business as well as consumers. Three nationally known firms wtih the courage of their convictions have already reached this conclusion. They are Montgomery Ward, Motorola and Zenith.

I am aware of a number of other firms which are considering coming out in support of the principle of a strong Consumer Protection Agency, although they may disagree with some of the specific provisions of the legislation before Congress. And I know of some firms that are privately admitting that they made a serious mistake in adopting a strategy of all-out opposition to the bill in earlier years. Now they realize that this strategy cost them the opportunity to take a constructive part from the beginning in shaping the bill which they expect to see enacted this year.

However, the proposed legislation also has an impressive array of opponents who would like to see the CPA defeated. They include the Chamber of Commerce of the United States, the National Association of Manufacturers, and the Grocery Manufacturers of America.

Looking over the frustrating course of this consumer legislation, it should be as obvious to you as it is to me that more than a little business credibility is on the line. The time for constructive business support of the CPA legislation is now. A bill has already been passed by the House and a similar one has been reported out by the Senate Commerce Committee.

Today I am calling on you to speak up and I am asking you and all members of the business community to speak up for the CPA on the basis of the facts not the myths. In asking you to speak up for the consumer on this issue, I am also asking you to speak up for business because I believe that business has more to gain than to lose from a Consumer Protection Agency.

Thank you.

ECONOMIC ANALYSIS

Mr. BROCK. Mr. President, the great economist, John Maynard Keynes said in reply to an implicit question about longrun effects of a policy, "in the longrun, we are dead." We have been paying too much attention to this kind of advice. Consider our monetary policy.

We have been increasing the money supply at a fast rate for many years, a few periods of holding the supply constant notwithstanding. We seem to forget that the shortrun and longrun effects of monetary policy have nearly opposite effects on interest rates. To reduce interest rates we turn on the money faucet, and interest rates decline for a time. Then they rise.

What actually occurs when you increase the supply of money, as with any commodity, its price goes down. And interest rates are the price of money. But an increased money supply, when the economy reaches near full employment, has the longer run effect of increasing the price level in general and interest rates in particular. In sum, the shortrun effect on supply is to decrease prices, but the longrun effect on demand is to increase them.

As interest rates have risen, we have tended to respond by looking to the short run only, perhaps hoping for a deus ex machina to save us later. We increase the money supply very rapidly and interest rates drop for a time. This occurred twice late last year, for example. But then the longrun effect takes hold again and interest rates rise more quickly than ever.

By now, we have pursued such myopic practices too long to have left ourselves with any easy way out. We have to keep the rate of increase in the money supply at a reasonable level. It should increase at an annual rate of between 2 and 5 percent each quarter. We will have to suffer the shortrun hardships if we are to have any hope of longrun stability. And let us face it, we have to have the old-fashioned American guts to tell the people the hard truth. At least we can say that there is not reason to have to go through all this again. If we would institute a policy of keeping the growth rate of the money supply steady and not be panicked into ill-considered actions by temporary difficulties, we could go a long way to stabilizing the economy in the future. I have already introduced the required legislation, S. 3101. Unfortunately, until we act we will continue to pay for implementing Keynesian policies without discrimination.

INFLATION

Mr. CHILES. Mr. President, last week the Senate was unable to pass the Muskie-Stevenson-Johnston Cost of Living Act which would have provided stand-by price control authority, inflation monitoring capacity and enforcement provisions to keep commitments of producers as price controls are lifted. These in my view were and are of vital importance to controlling inflation which is so obviously the major domestic policy problem we have.

I think there is every reason for grave concern about what future economic developments will be now that price and wage controls have expired. We were all tired of the controls. But that is a little bit like getting tired of taking medicine before you have gotten rid of the flu. If we just look at the inflationary pressure in the economy—the pressure in those industries that have been under controls, the rise in the wholesale price index, the pressure for an increase in wages—all this seems so evident and to so obviously argue for some selective but firm anti-inflationary policy. And now, we simply do not have a policy.

I was very interested to read some testimony before the Joint Economic Committee on Friday, which just bears out my concern. The Wharton economic forecasting model at the University of Pennsylvania is well recognized among economists as being as credible a prediction of future economic developments as any we have. The testimony of Prof. F. Gerard Adams on the Wharton predictions and that of Herb Stein Chairman of the President's Council of Economic Advisers before the JEC both confirm the seriousness of our economic situation. Mr. Stein's testimony is notably more optimistic in tone but in it is the same message as in the Wharton forecast:

Output is sluggish and will recover at a fairly slow rate;

Unemployment will increase;

Inflationary pressures continue to be high, with the likelihood that they will transform into a wage push inflation if prices are not brought into line; and

A turnabout in the trade balance to a substantial deficit in 1975 according to the Wharton forecast.

All this seems to confirm what one feels is happening. The economy is in very serious shape from every point of view—growth, employment, inflation, and trade. These serious conditions warrant some serious economic policy measures. I see none on the horizon. My feeling is that the next year is crucial in bringing under control what was an unusual spurt in inflation brought on basically by rises in food and fuel prices and bringing it to equilibrium without allowing it to transform itself into the same old kind of inflation we have always had where prices pull wages and then wages push prices. The only way to stop this from happening that I can see is to have an antiinflation policy which can assure workers and consumers that their money incomes are not going to be further eroded by still another round of price increases. Monetary policy alone will not do the trick and is already shot its strength. A balanced budget is necessary but is no panacea. What is needed is a policy which focuses on the inflationary pressure points in the economy and brings the restraint of the public's interest to bear on them. The absence of a policy, with economic conditions being as serious as they are, is begging trouble further down the road.

I ask unanimous consent to have the testimony of Mr. Adams and Mr. Stein printed in the RECORD.

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

TESTIMONY OF F. GERARD ADAMS

The latest Wharton Quarterly Model Forecast continues to show the United States economy in a recessionary period though moderate recovery is clearly in prospect. After the very sharp decline in real output in the first quarter (at a 5.8% annual rate), the economy will be essentially flat in the second quarter. The end of the oil embargo has lifted the threat of further significant downward movement. It is immaterial whether we formally call this period a recession. There may not be two consecutive quarters of absolute decline in real GNP, but output has fallen substantially below potential.

The resurgence of economy activity will take place at a fairly modest pace. Further increases in unemployment can be expected as output expands at less than the long run potential growth rate of near 4% per year. Real GNP can be expected to increase at an annual rate of approximately 2% during the next four quarters while unemployment will approach 6%, and capacity utilization will decline to 89% (Wharton index). The recent tightening of monetary policy will limit the stimulus expected from residential construction.

Inflation will continue at above a 10% annual rate in the current quarter as price controls are lifted. Later in the year inflation will ease somewhat, but the price increase during 1974 will be over 9% and in 1975 prices will continue to rise at annual rates near seven percent, as measured by the GNP deflator. Profits are well maintained, but in large part this represents continued high levels of inventory profits attributable to rapid inflation.

From the point of view of demand, recent economic trends present a paradox. This is a most atypical economic slowdown. There is considerable strength in investment. Business fixed investment is held in check largely by capacity limitations and this makes it most unlikely that expansion plans reported in recent business investment anticipation surveys will be met. On the other hand, consumer demand has been weak. While automobile sales have improved somethat recently, we cannot expect a stimulus to demand from the consumer. Surveys indicate very low levels of consumer sentiment. Unfortunately, the growth of prices has outstripped wages. Householders have been squeezed. Real per capita purchasing power (disposable income) has been declining (the decline between 1973 and 1974 will be approximately one-half percent compared to normal growth of 2.5%).

Housing has, of course, been another element of weakness. The probable resurgence in this area is now threatened by the sharp change in the Federal Reserve's monetary posture. Since the lags in the housing area are fairly long, the impact of tighter money will be principally in delaying and slowing the expansion of residential construction. The extent of the impact of the change in policy depends on how tight money will be and how long this posture will be maintained. On the assumption of monetary growth of just over six percent per year (a figure which should be compared with projected growth of current dollar GNP of 9 to 10 percent) short term interest rates will remain near current high levels for several months. They decline somewhat late in the year as the post-freeze inflation bulge subsides, and as monetary policy eases slightly. With seven percent inflation, however, any dramatic drop in interest rates appears unlikely.

Inflationary pressures remain at a very high level, despite some easing of agricultural prices in recent weeks in expectation of a plentiful harvest. The rate of inflation is being augmented by a flurry of price increases as the dismantling of price controls becomes effective throughout the entire economy. It is not clear at this time how many firms may use this opportunity to scale up their prices, but we expect to see perceptible increases during the next two quarters in several sectors. Moreover, labor agreements in major industries—such as steel for example—have substantially outstripped wage guidelines. It has been difficult recently to place a value on complex labor agreements. Most of them call for price escalator clauses, at least 3% annual productivity increases and substantially liberalized pension benefits. In the light of recent consumer price trends these wage increases are in excess of last year's experience and will surely call for higher product prices. In spite of the anticipated rise in unemployment, wages of low income workers will also be marked up as a result of the May 1 increase of 40 cents per hour in the minimum wage. On balance, compensation per hour for the non-farm private economy is expected to increase at 8.5% to 9% annual rates during the next two years.

In view of the sluggish economy, there will not be substantial offset from improvements in productivity. Unit labor costs will be rising sharply. Inflationary forces are shifting from demand pull to cost push! In the absence of an effective system of price and wage controls, the wage-price spiral accounts for continuation of inflation at rates over 7% annually in 1975 despite the expected easing of demand pressures.

The foreign balance is another area of concern. In current prices, the trade balance is beginning to be significantly affected by the increase in world petroleum prices. Moreover, the value of the dollar has declined sharply in recent months—some five percent on a trade weighted basis from January to April—and this too has an unfavorable impact on the trade balance in the short run. We are experiencing a sharp turnaround of the trade balance from the heartening surpluses of the past few quarters to a substantial deficit position. By 1975 the deficit on trade may be of the order of $7 billion. Real trade flows are not as seriously affected, though the resumption of oil shipments and the general slowdown of world markets will tend to reduce the real trade surplus.

The current economic situation for the United States poses some serious policy issues. Important policy alternatives have been precluded by decisions made in recent weeks. The rapid dismantling of the wage and price controls will have a perceptible impact on the pace of inflation over the course of the next few months. The lack of significant counter-inflationary policy was no doubt a major factor in the decision of the Federal Reserve Board to tighten monetary policy. But this tightening will maintain high interest rates and will hamper economic expansion. The real economic cost of stern one-sided policy measures can be very high.

Realistically, we must recognize that many of our economic problems stem from earlier miscalculations and from factors which were beyond our control. No manner of policy manipulation in 1974 can resolve many of these difficulties! But this is no excuse for simply throwing up our hands in despair!

Many of us are disenchanted with the operation of detailed price and wage controls. Yet this is not the time once again to establish "open season" for price increases, particularly since inflation is originating increasingly from the cost push side. There is ample basis for guidelines for wages and prices. The key to such proposals must be balance. Wage earners can be expected to limit their wage demands only so long as they can be sure that prices will not rise out of hand and that excessive profits are prevented. Continuation of the Cost of Living Council remains a high priority. The Council should have broad authority to establish equitable price and wage targets, to measure the pace of inflation, and to call the nation's attention to those price and wage decisions which are inflationary.

Moderate stimulus may be appropriate on the side of demand, particularly in housing and consumption where there is ample capacity. One proposal discussed in recent weeks has been a tax cut to offset the recent decline in consumer purchasing power. Personal income tax reduction, amounting to perhaps $6 billion, could be coupled with revision of the withholding schedules to eliminate some of the large overwithholding. An alternative run of the Wharton Model which incorporates these tax reductions shows that such action would provide a moderate stimulus to real economic activity when it is most needed in the second half of 1974 and early 1975. It would create only moderate additional inflationary pressure.

Finally, since the consumer and the small saver is least able to protect himself against inflation, we must move full-speed ahead to develop new means to protect consumer saving and income from the onslaught of inflation.

WHARTON MARK III QUARTERLY MODEL—MAY 1, 1974, PREMEETING CONTROL SOLUTION

TABLE 1.—SELECTED MAJOR ECONOMIC INDICATORS

Item	Lagged 1974.1	1974.2	1974.3	1974.4	1975.1	1975.2	1975.3	1975.4	Annual 1973	Annual 1974	Annual 1975
Gross national product	1,351.8	1,387.2	1,420.0	1,457.1	1,491.1	1,524.8	1,561.5	1,603.3	1,289.1	1,404.0	1,545.2
Percent change	4.4	10.9	9.8	10.9	9.7	9.3	10.0	11.1	11.6	8.9	10.0
Real gross national product	832.0	832.9	835.7	840.9	845.0	849.4	855.7	863.7	837.4	835.4	853.5
Percent change	−5.8	.4	1.4	2.5	2.0	2.1	3.0	3.8	5.9	−.2	2.2
Implicit price deflator, gross national product	1.6	1.7	1.7	1.7	1.8	1.8	1.8	1.9	1.5	1.7	1.8
Percent change	10.8	10.4	8.3	8.1	7.5	7.1	6.8	7.1	5.4	9.2	7.7
Percent change real private output per man-hour	−3.4	1.4	.5	1.3	.9	.9	1.5	1.6	3.0	−.7	1.1
Percent change private compensation per man-hour	7.9	8.3	8.6	8.8	9.3	8.8	8.6	8.5	7.4	7.8	8.8
Unemployment rate (percent)	5.2	5.4	5.6	5.8	5.9	6.0	6.0	6.0	4.9	5.5	6.0
Capacity utilization: Manufacturing and mining	.9	.9	.9	.9	.9	.9	.9	.9	1.0	.9	.9
Personal savings rate (percent)	6.5	5.9	5.8	5.6	5.4	5.4	5.7	6.0	6.2	5.9	5.6
Percent change in money supply	5.8	6.0	6.0	6.3	6.2	6.2	6.3	6.4	7.4	5.6	6.2
4- to 6-mo commercial paper rate	8.3	10.1	10.0	9.7	9.4	9.2	9.2	9.3	8.2	9.5	9.3
Moody's total corporate bond rate	8.2	8.5	8.7	8.8	8.8	8.8	8.8	8.8	7.8	8.5	8.8
Corporate profits before tax	138.5	148.5	145.2	144.9	145.6	146.4	149.8	155.3	126.3	144.3	149.3
Federal surplus, NIA basis	4.9	−9.0	−4.8	−5.7	−3.9	−3.4	−6.7	−7.0	−.9	−3.7	−5.2

STATEMENT OF HERBERT STEIN

We are pleased to appear before you today to present our views on economic developments thus far during 1974 and our expectations for the balance of the year.

Despite the obvious economic difficulties that we have been passing through, output and employment in the American economy have held up well in the face of last winter's energy crisis. It is true that during the first quarter of 1974 we suffered from a sharp decline in total production, that unemployment is now higher than it was at the end of last summer and that some of the effects of the needed adjustments to our changed energy situation are still to be felt. But we believe that by the middle of the year overall production will once again be on the rise.

Although real GNP declined by 1½ percent or at an annual rate of 6 percent in the first quarter of this year, the decline was a reflection of the energy crisis particularly as it affected the motor vehicle industry. Automobile production as measured in *the national* accounts fell by 29 percent from the fourth quarter level and by itself accounted for almost all of the decline in total GNP. In addition consumers reduced their real spending on electricity, natural gas, fuel oil and gasoline as well as for tires, auto-accessories, recreational vehicles and the like. If we make allowance for these and reduced business outlays for such things as trucks we more than account for the first quarter decline in real GNP. Of course, not all of the first quarter decrease in auto production was caused by the crisis since prior to last fall there was a common expectation of a moderate decline in auto demand and output in 1974. But as an offset against this one should also take account of the reduced spending of laid-off automobile workers, automobile salesmen, filling station attendants and others who lost their jobs because of the embargo.

I do not mean to suggest that aside from energy-related production the economy was robust. Indeed, before the onset of the energy crisis we foresaw very slow growth in the economy in the first half of 1974 reflecting some reduction in demand as well as limitations on supply. In the early part of 1973, amidst a process of very rapid expansion in demand the economy encountered significant supply limitations so that as far back as a year ago some slowdown and readjustment was inevitable. It is not surprising that the picture was mixed in the first quarter. Activity was in the midst of a pronounced decline. In contrast, demand in some sectors, like capital goods, was quite strong and shortages of basic materials were very common. Apart from energy-related items real consumer spending showed a fairly good rise in the first quarter.

We do not foresee much change in overall production in the second quarter since we see many cross currents which are approximately offsetting. While we believe that we will wind up with a small plus, the change in real GNP could just as easily be a small minus, and let me emphasize that no significance should be attached to the difference between a small increase and a small decrease. In April we saw a good recovery in automobile production from the very depressed levels of the first quarter. Dealer sales of domestically-produced cars were running at a seasonally adjusted rate of 8 million *units* in April as compared to about 7⅔ million in the first quarter. Dealers' stocks are in fairly good shape. We should not be surprised to see some further decreases in automobile inventories in the current quarter, but not as much as occurred in the first quarter.

We expect a good recovery of the economy in the second half of 1974 and a resumption of the rise in real consumer spending that came to a halt late last year. We believe that the improvement in gasoline supplies will bring back into the market increasing numbers of purchasers of large cars who held back from buying last winter. Also buyers of smaller cars should find greater supplies of such cars because of increased production capacity. The reduction in auto inventories should come to a halt. All told we are projecting moderate increases in auto production from the April level.

CHANGE IN REAL GNP (IN 1958 PRICES) AND IN SELECTED COMPONENTS OF GNP AFFECTED BY THE ENERGY CRISIS

[In billions of dollars]

	1973 IV	1974 I	Difference
Total real GNP	844.6	832.0	−12.6
Auto GNP	41.3	29.3	−12.0
Trucks and buses	14.8	13.2	−1.6
Auto accessories including recreational vehicles [1]	12.6	11.6	−1.0
Consumer energy outlays:			
Gasoline and fuel oil	27.9	24.8	[2] −.9
Electricity and gas	15.2	14.1	−1.1
Total selected energy items			−16.6

[1] Includes mobile homes.

[2] The decrease in gasoline and fuel oil shown here is smaller than actually occurred in order to make allowance for the reduction in imports. Calculations by CEA.

Source: Basic data from Department of Commerce.

The capital goods sector is the strongest sector of the economy at present and we expect it to remain strong for the rest of the year. Although the rate of capacity utilization in manufacturing has edged down, it is still very high by historical standards. Capacity is inadequate to satisfy demand in many industries producing basic materials. Backlogs are very high and waiting times for many types of capital goods are very long. The Commerce Department survey of anticipated plant and equipment expenditures published in early March—which was essentially confirmed by the McGraw Hill survey published in early May—points to rising outlays for new plant and equipment through the year. A good-sized advance remains after allowance is made for higher prices for equipment and construction.

We do not expect changes in inventory demand to have much of an effect on changes in total production for the rest of 1974. Some industries have been accumulating stocks of raw materials which have been in short supply and inadequate to sustain current levels of output. There are also reports of hoarding of raw materials in anticipation of price increases but we have no hard information on this activity. So far we have not seen a backing up of finished goods inventories in the hands of manufacturers and trade firms. Relative to GNP the physical volume of total nonfarm inventories in the first quarter of 1974 does not appear high even though this ratio (based on constant dollar figures) has risen somewhat from the very low ratio of 1973.

The sharp decline in housing starts that began in early 1973 seems to have come to a halt in the first quarter of this year. That decrease was influenced mainly by the tightness in mortgage markets that developed last summer although the extent of the decline was also affected by some earlier overbuilding of single-family homes and by last winter's energy crisis. The greater availability of mortgage funds late last year and early this year has provided the groundwork for a recovery in housing. However, the sharp rise in interest rates that began in March has slowed down the flow of funds into thrift institutions—which are the main source of funds for mortgage lending—and indeed threatens a repetition of last summer's disintermediation. Because we consider a continued recovery in housing to be important for itself as well as for the overall recovery of the economy the Administration is taking steps to insure a recovery in housing starts. We considered the possibility of asking the Federal Reserve System to pursue an easier money policy but we do not consider that to be appropriate during this period when prices are rising so rapidly. Since we believe that a monetary policy of moderate restraint is now called for, the Administration is taking steps to support the housing market. These steps will be announced later today.

In the year preceding the onset of the energy crisis—from October 1972 to October 1973—employment as measured in the survey of households had shown a strong and nearly continuous upsurge. Civilian employment had increased by 3¼ million persons (an annual rate of growth of 3.9 percent) while the number of unemployed persons decreased by 770,000 to 4.1 million. The unemployment rate declined from 5.6 to 4.6 percent. The rate decreased sharply for all demographic groups and reached a low of 2.1 percent for married men (spouse present). An unprecedented peacetime labor force participation rate of 61.8 percent was attained.

We knew last fall that these trends could not continue nor was it desirable that they should. The labor market was tight. The high labor force participation rate and the low unemployment rate meant that the scope for further employment increases was limited. Large increases in demand and output would mean similar increases in the demand for labor and under the conditions of last fall this could only intensify pressures on wages. In fact, we expected a tapering off in the rise in economic activity and labor demand, bringing with it a levelling off or a period of slow growth in employment and probably a slight upward tilt in unemployment. The oil embargo changed these earlier anticipations.

The impact of the oil embargo began to appear in November and increased in severity over the next 2 months at a time when labor force participation rates continued to edge up. From October to January the number of persons unemployed rose by 600,000 on a seasonally adjusted basis, while the unemployment rate rose to 5.2 percent. Over the same period total civilian employment increased by 160,000 persons, seasonally adjusted, because the demand for labor was still growing outside of the energy-affected sectors.

An examination of payroll employment shows that non-agricultural jobs grew by 160,000, seasonally adjusted, from October to January. Important employment increases were experienced by the government, the services, and the mining sectors of the economy. Employment declines were large in a few sectors, particularly transportation equipment (105,000), retail trade (95,000) and to a lesser extent contract construction.

The softening in the demand for labor over this period was also reflected in a shortening of the workweek. From October to January the average workweek of private nonfarm payroll workers decreased by 0.3 hour to 36.7 hours. Although the declines were widespread, they were particularly large in transportation equipment, primary and fabricated metal industries, and contract construction. Except for contract construction, where homebuilding was declining, the large declines in hours worked appear to be primarily a consequence of the decline in the production of motor vehicles.

Since January 1974 the unemployment rate measured in household surveys has been essentially on a plateau averaging 5.1 percent. Total civilian employment has hovered around 85.8 million. The levels of employment and unemployment of adults taken as a whole have changed little. The April decline of 0.2 percentage points in the labor force participation rate and the dip in the unemployment rate to 5.0 appear to reflect largely a sharp decrease in teenage employ-

ment and unemployment. The teenage data are very erratic and the April dip could be due to an imperfect seasonal adjustment for April inasmuch as the survey was taken during the week containing Good Friday. The fact that the total civilian labor force showed a slight dip from January to April may be primarily a reaction to the extremely sharp rise from last October to January.

The payroll series gives a somewhat different employment picture, showing a seasonally adjusted rise of 385,000 from January to April. The April figure is now 230,000 above last November. Manufacturing employment fell in February and March but rose in April while outside of manufacturing employment showed a strong increase over the 3-month period.

The average number of hours worked per week by private nonfarm payroll workers fluctuated around 36.8 hours from January to March. The decline to 36.6 hours in April appears to be related in part to the incomplete seasonal adjustment for a survey week containing Good Friday.

We believe that the continuing high level of employment since last fall attests to the fact that there is still considerable strength in the U.S. economy. Although we look forward to rising demand and output in the second half of this year we will probably see some further increases in unemployment as the labor force once again begins to grow.

In our view the rate of price increase in the U.S. economy peaked in the first quarter of 1974 and we expect improvement from here on out. But we must recognize that improvement is relative—in this instance relative to the first quarter increase of 12.2 percent at an annual rate in the CPI and of 10.8 percent in the GNP deflator. As we said in our latest Annual Report "Whoever undertakes now to fight inflation must be prepared to stay the long course." But it is always encouraging, when pursuing such a long run goal, to see some results quickly. And this we expect.

Retail food price increases, which accounted for about one-third of the 12.2 percent rise in the CPI in the first quarter, should slow substantially in the April–May period and contribute importantly to a slower rate of rise in the CPI.

Increases in prices of refined petroleum products will diminish. This will be reflected in smaller increases in prices of fuels purchased directly by consumers; in the first quarter such increases accounted for another third of the entire CPI rise. Of course the lagged effect of the rise in crude oil prices on substitute fuels, electricity generation costs and petrochemical based products will continue to be felt but the impact will be smaller.

The behavior of the prices of goods and services other than food and directly purchased fuels will be central to the future course of inflation. Prices of these nonfood commodities and services other than fuels in the CPI rose at an annual rate of 6.1 percent in the first quarter and accounted for the remaining third of the CPI increase.

Prices of the nonfood commodities are influenced by developments in the industrial commodities component of the WPI. As is well known, prices of these commodities have risen at a rapid pace in the past several months through April and are likely to continue to advance rapidly for another couple of months. These increases in turn reflect the large rises in prices of raw industrial commodities and of unit labor costs. The latter are influenced by the rate of wage increase and the slowdown, and decline in the first quarter of the year, in output per manhour.

Given the likely pattern of developments with respect to the factors determining the prices of goods and services other than food and fuel it is likely that prices of these items will accelerate during the year from the 6.1 percent rate of the first quarter of 1974. Most of the acceleration will occur in the fall when new goods come to market. But food and fuel prices are likely to be rising much less rapidly at that time than they are now and will provide some offset to the acceleration in prices of the rest of the consumer's market basket. Thus, on balance we should see a rate of inflation substantially below recent rates.

While such an outcome will indeed be encouraging we will still have considerable distance to go to achieve acceptable price behavior. This underscores the need to maintain proper policies of demand management. In a setting of rapid price increases, continued shortages of many items and the prospective recovery from the first-quarter decline of output induced by the energy crisis we do not think that policy should turn in a more expansive direction. To do so would jeopardize the improvement in prices that we expect during the balance of this year. It should be our goal to slow price increases further in 1975 and continued prudent fiscal and monetary policies will be required to achieve that.

ENERGY AND POLITICS

Mr. HANSEN. Mr. President, I was invited recently to address a group who call themselves the Society of Independent Professional Earth Scientists.

The foreword of their directory describes their organization as an organization of self-employed Earth scientists whose members have been certified by the governing body of the society as to professional competence and professional ethics. The membership includes engineers, geochemists, geologists, geophysicists, and paleontologists. A requirement of the society is that members who practice as consultants have freedom of choice of clients and are not in the employ of another individual or company. Persons on the faculty of a college or university, however, may be admitted to membership if they are otherwise qualified. Members who practice for their own account, rather than as consultants, must be independent in business activities related to their professions.

At their annual meeting in Houston, one of their members, Leslie Bowling, of New Orleans, presented a paper proposing a public education plan as an action program for the society.

In view of the attitude in Congress toward the oil industry in general and the major oil companies in particular, I believe it is important that those who can decide the future energy course of America may fully understand the problem.

The punitive and even vindictive legislation now under consideration both here and in the other body, could reverse the gains already made in domestic exploration and development and in increased recovery of oil that would be left in the ground but for the higher prices allowed for newly discovered and stripper well oil.

The summary of the action program for SIPES is one of the best and simplest arguments I have heard for continuation of tax and price incentives as the surest and quickest way to bring on the additional supplies this Nation must have to prevent recurring embargoes and price blackmail.

Mr. President, I ask unanimous consent that the summary of Leslie Bowling's analysis of our energy situation in relation to the politics of energy be printed in the RECORD.

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

COOPERATE, ACT AND CONTRIBUTE—AN ACTION PROGRAM FOR SIPES

There is an energy shortage that will become increasingly acute with time unless immediate and proper steps are taken.

We are now a dependent nation from an energy point of view in that we must import 20–30% of our total oil requirements, and this dependency will continue to increase with time until such time as domestic exploration can replace part or all of our present shortage. Our domestic gas reserves are insufficient to meet demands, decrease daily and will continue to do so until domestic reserves can be exploited and injected into our energy stream. Even with maximum development our domestic gas reserves will never meet the long-term demand. Natural gas will have to be phased out in time and replaced by other fuel sources.

We submit that uninhibited exploration will require a lead time of 3–10 years to find, develop and market the domestic oil and gas reserves yet undiscovered and undeveloped.

An uneconomical climate, unnecessary prohibitions, restrictions and regulations that would delay this lead time could be catastrophic. During this 3–10 years lead time period, we must develop all other energy resources—coal, oil shales, tar sands, thermal, solar and nuclear energy—and bring them into the energy stream as rapidly as possible. Oil and gas must be relied upon to furnish the major part of our energy requirements until the others can be brought on stream. This same lead time of 3–10-years of uninhibited effort will be required to make energy from these other sources available and to make us an independent nation energywise.

Oil and gas will play an ever decreasing role in the total energy picture as the other sources become available.

True enough, foreign reserves will continue to be developed; but we have learned—the instability of our economy and the terrific economic burden when dependent upon foreign sources for even part of our critical energy needs.

The Oil Industry has admirably served this nation and the world through several critical periods and crises—World War II, the Korean war, Suez crisis and others—and up to this time has supplied our peacetime economy with plentiful and cheap fuel.

What happened? Why our present predicament?

Let us not waste time and words making accusations and criticisms. It is worthwhile to analyze past history to determine the cause of our present situation in order to take the proper steps to resolve the problem.

The economy of this country is based on the capitalistic system; that is, free enterprise under the fundamental law of supply and demand. Attempts to control or regulate this law only accelerate or delay its operation. The ultimate results are inevitable.

I quote from the report of the Energy Resources Committee to the National Resources Committee, dated January, 1939, titled "Energy Resources and National Policy":

"Although discovery has more than kept pace with production of these resources;" (oil and gas), proven reserves are so small in

comparison with annual consumption that these energy producers must be considered as strictly limited. With the Nation so dependent on liquid fuels particularly, it would certainly seem to be the part of wisdom to proceed cautiously in the use of this resource. Yet, today we are depleting our reserves of oil faster than the rest of the world. We must consider the possibility of being first among the oil-producing nations to feel the pinch. We must consider whether to use more wisely our available supply, to manufacture high-cost substitutes, or to depend on foreign oil for our motor cars and airplanes, our tractors, and our battleships. After our natural reservoir oil is exhausted or after the shortage becomes serious, we can turn to oil produced from coal, to oil-bearing rock or shale, or to alcohol from vegetable matter. But these processes make a liquid fuel available only at much higher costs. Consequently, although we need not be alarmed over the possible breakdown of our motorized civilization, we may well concern ourselves over the higher costs that we should have to pay after exhaustion of natural reservoir oil.

As of this date, not a word needs to be changed. Beginning in 1952 the warnings of impending oil and gas shortages ever increased until the recent embargo crystallized our true energy position. During the interim 1939 to date, price controls, regulations, restrictions, increasing costs and taxes and other inhibitions gradually debilitated the economic climate of the Oil Industry to the point where the industry—men, money, materials and equipment—had to seek other shores for an economic climate in which to explore. The industry has performed admirably in developing reserves for other countries. During the period 1952 to date the warnings of industry of impending shortages increased and were ignored.

During the period 1939–1974, our then *major energy source*—coal—became noncompetitive and was forced out of the energy stream. Other equally important sources—shale oil, tar sands and others—were not able to compete with cheap and regulated oil and gas. The economy of this nation has been built on a single, price controlled and regulated source of energy: oil and gas. The auto industry became the dominant industry in the nation, an intricate system of highways was built and the railroads forced into a state of oblivion as they could not compete. As a result of the highway system, trucking became the dominant means of distribution at the expense of the railroads. As the dominance of the trucking industry increased, the economy of the country came under the *control of* a relative handful of men—the truck drivers. Witness the result of their recent strike and its immediate effect on the national economy.

We must conclude that our political representatives, particularly in Washington, have failed to heed the warnings and continually increased regulations, taxes, inhibitions and price controls between 1939 and the embargo of 1974. Even today there are strong efforts in Washington to further tighten controls, roll back prices and further penalize the Oil Industry. There have been accusations that our political representatives have subrogated the nation's best interest to their personal and/or party political aspirations. We believe the present critical energy shortage is a result of political errors. We believe that our political representatives are thoroughly aware of the energy problem but hesitate to act properly because to do so would probably be tantamount to personal political suicide.

We urge that they also become aware of and give consideration to the critical shortages in the available supplies of our other primary raw material needs, such as iron, zinc, lead, copper, etc. We could become severely short of iron, aluminum and other primary materials in the foreseeable future unless proper steps are now employed. We now import virtually all of our needs for platinum, mica, chromium, strontium, and others, and more than 70% of cobalt, aluminum, magnesium, fluorine, titanium, asbestos, tin, bismuth, nickel, etc. Our dependency increases yearly as well as our vulnerability.

We appreciate the requirement of those in politics that they must heed the will of the majority of their constituents if they are to remain in the political field. We think it timely, urgent and mandatory that our political representatives heed the national need if we are to be independent from an energy point of view and maintain our viable role as one of the dominant nations of the world.

We believe that a true understanding of the problem by the people and their encouragement of their political representatives to take proper procedures would facilitate the proper action being taken.

We advocate de-control of prices and a minimum of regulations and inhibitions—a free market in all commodities. Delays in taking proper steps will only result in unnecessary higher prices to the consumer and could be national suicide. A free market will allow the other energy sources to take their proper place in the energy stream. At such time as all energy sources have taken their proper place in the energy stream and the railroads and other transportation means developed, the stranglehold of a handful of men on the national economy will be relieved and energywise we will again be independent.

S.I.P.E.S. is an organization of professional earth scientists: independents primarily in the petroleum field. We submit that we are qualified to express this opinion; that we have no mercenary motives or political aspirations, and that we are paying all costs for this program out of our own pockets. We are a tax exempt organization and, hence, pay our taxes and are free to speak without fear of losing a tax-free status. We believe in a strong, free and independent America. To reobtain and maintain this position we must have a free market and free enterprise system for all business and commodities.

Thirty-five years of federal regulation of the Oil Industry has proved the effects of regulations and price controls—it only postponed the inevitable. Would you like to imagine our future if the oil and other critical industries were fully federally controlled and operated?

Your immediate question is: what about oil and gas prices? The answer is: they will probably increase for the short term unless domestic supply can meet demand. But as other energy sources come into the stream the demand for oil and gas will decrease and competition between the energy sources will keep all energy costs at a competitive level over the long term.

We warn you—the days of cheap energy are gone. The practical solution is to learn our lesson, face facts and evolve a practical solution—free enterprise. We must gauge the limits of these nonregenerative resources to live within these limits, to protect our environment, and to pay the cost.

We urge that you give this analysis of the problem your serious consideration; and, if you are in accord, to express your views to your local and national political representatives.

Mr. HANSEN. Mr. President, as a further example of what is already being accomplished and in answer to those who say they have seen no evidence that higher prices are bringing on new supplies, I offer several concrete examples.

I ask unanimous consent that a few of the many telegrams and letters I have received that offer such evidence be printed in the RECORD as proof that more realistic crude oil prices have indeed already begun to reverse the downtrend of U.S. domestic oil production.

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

CASPER, WYO., *May 8, 1974.*

Senator CLIFFORD P. HANSEN,
Washington, D.C.

As an independent for over 25 years I assure you that we will expand our exploration and development programs by at least the dollars represented by the increased value of crude oil. Through secondary recovery programs, reactivated stripper well productions and wildcat drilling our production the first three months of 1974 was 546,858 barrels of oil and 1,033,025 MCF of gas compared to 469,838 barrels of oil and 254,109 MCF of gas in the first quarter of 1973. A rollback in crude prices or the removal of the stripper well exemption will be counterproductive to our and the nation's effort to increase domestic energy supplies. Any such amendments to S 3267 will unquestionably cut back exploration in the Rocky Mountain States where individuals and small companies do 83 percent of the total drilling.

H. A. TRUE, Jr.

CASPER, WYO., *May 8, 1974.*

Senator CLIFFORD P. HANSEN,
Capitol Hill, D.C.

As an independent oil man I would like to state my opposition to S 3267 and the several proposed amendments to this bill. The stripper well exemption has allowed continued operation of a great many stripper wells in which I have an interest. These wells would become uneconomical under lesser prices. Prices currently paid for "new and released" crude oil must be maintained. Rig activity in Wyoming is currently 92 drilling rigs in operation vs only 34 at this time last year. 83 percent of the total drilling in the Rocky Mountains area is being done by independents like myself. This could not be accomplished without the current economic incentive to the independent oil producer.

My exploration and development programs are the most aggressive yet undertaken by myself and is due to the increased wildcat drilling, reactivation of stripper well production that would otherwise be uneconomical, and secondary recovery programs. I can assure you that I will extend my exploration and development program by at least the dollars represented by the increased value of crude oil. Such amendment to control prices, roll prices back or remove the stripper well exemption will only retard my efforts and the nation's efforts to increase domestic energy supply.

HANK TRUE.

NEW ORLEANS, *May 9, 1974.*

Hon. CLIFFORD P. HANSEN,
U.S. Senate,
Capitol Hill, D.C.:

McMoran Exploration Co., independent, publicly owned, highly successful, and dedicated domestic oil and gas exploration company, funded privately, and building equity by selling our expertise and participating in the oil and gas we discover, is pledged to plow back into domestic exploration excess funds from increasing production runs in order to increase the company's percentage of participation in our future exploration programs. We have never paid a dividend, nor do we anticipate paying a dividend in the foreseeable future. We prefer building equity by larger participation of the company in our own ability to find oil and gas reserves. Our last full exploration program resulted in the drilling of some 56 wildcat wells with an expenditure on wildcat drilling of some $10.7 million, predominantly in the

onshore and inland bays and marshes of coastal Louisiana and Texas, also in the States of Alabama, Mississippi, Arkansas, Colorado, Wyoming, Montana, North Dakota, New Mexico, and we anticipate some drilling activity in the States of Florida, Utah and Illinois. McMoran, in spite of unprecedented activity, high prices, and success in finding oil and gas reserves, has shown a loss in the first three quarters of this fiscal year.

We know and have proven we can find reserves but we are gravely concerned that ill conceived legislation, and agency regulation is undermining our free-enterprise system, killing incentive and proving once again that the more the Federal Government intervenes in the private business sector through legislation, agency regulation, and control, the worse the problems become.

In the short period of 6 months since the upward adjustment of domestic oil and gas prices, every statistic available depicts increased domestic exploration activity and would, given time, overtake and exceed the all time record of activity of middle fifties—when the beginning of the decline in activity coincided with the Federal regulation of gas prices at the wellhead.

We, therefore, firmly are opposed to S-3267, the standby Energy Emergency Authorities Act, and ask that you, as one of the responsible and influential leaders of this greatest nation in history, founded on the free enterprise system, reflect on the long range direction of this nation and her people, who this legislation is bound to vitally affect.

W. K. McWilliams, Jr.,
Chairman of the Board.

Casper, Wyo., *May 9, 1974.*

Senator Clifford P. Hansen,
Capitol Hill,
Washington, D.C.

The proposed amendment to S3267 which would rollback crude oil prices and remove the stripper well exemption are not in the best interests of the State of Wyoming or the Nation. The increased value of crude oil must be maintained to allow industry to develop domestic energy supply. Furthermore these amendments would literally bankrupt Wyoming's public schools.

The contention that the increased price of crude oil has not increased exploration activity is incorrect. For example the number of rotary tools operating in Wyoming has increased 171 percent over one year ago.

Wyoming is an energy warehouse for the United States but we cannot contribute to the national good when punitive action is taken by the national congress such as the rollback of crude oil prices and the elimination of the stripper well price exemption. We urge the defeat of any such amendment to S3267.

Senator Robert Kimbell of Natrona county Senater L. V. Stafford of Campbell and Johnson county representatives James Mockley of Big Horn county representative Walt Oslune of Weston County Representative Jacques Sidi of Natrona county Representative Diemer True of Natrona county Representative Rex Arney of Sheridan county Representative Russ Donley of Natrona county.

McCulloch Oil Corp.,
May 8, 1974.

Re Senate bill No. 3267.
Hon. Clifford P. Hansen,
Senate Office Building,
Washington, D.C.

Dear Senator Hansen: I have been reading with extreme concern the proposed Senate Bill No. 3267 entitled "The Standby Energy Emergency Authorities Act". We are unalterably opposed to establishing price controls or price ceilings on crude oil and repeal of the Stripper Well exemption contained in the TransAlaska Pipeline Act. We have been spending a great deal of money on Stripper Well leases in an effort to increase crude oil production because of the Stripper Well exemption. At the higher prices, we can afford to improve production; whereas, under the old prices we could not.

Likewise, we have spent a great deal of money on old leases because of the elimination of price ceilings for new and released oils under the FEO price regulations. We intend to spend $5,700,000 during the year 1974 for the drilling of 45 new wells which are directly influenced by the FEO price regulations and the Stripper Well exemption. Drilling of these wells will produce an anticipated 2,700,000 Bbls. of new reserves. It is expected that McCulloch's share of production from this drilling activity will exceed 100,000 Bbls. of oil during 1974 although many of the wells will not be completed until later in the year.

It would be economic disaster for a small producer such as ours to have the rug pulled out from under us by this unwise regulation. At a time when we are so short of crude oil and gas, Bill No. 3267 would clearly make shortages worse.

Kindest personal regards,

W. James Saul,
Vice President.

Mapco, Inc.,
April 24, 1974.

Hon. Senator Clifford P. Hansen,
U.S. Senate,
Washington, D.C.

Dear Senator Hansen: I regard you as one of the few friends of the petroleum industry left in the United States Senate. Because of this, I thought you might be interested in a news release covering our first quarter earnings and related capital expenditures. As shown in the release, our capital expenditures were more than double the amount of our earnings.

It is also interesting that on increased earnings of about 50%, our state and federal tax accruals almost doubled.

MAPCO is not a large oil company but an independent with growing oil, gas and coal production. As set forth in the release, our oil production in the quarter increased 360%—approximately 4,000 b/d. Our coal production was up almost 45%. We are doing a great deal to improve energy supplies in the United States relative to our size.

I hope these facts might be useful to you in countering some of the arguments made by critics of the oil industry.

Sincerely,

Robert E. Thomas.

News Release

Tulsa, Okla., April 22, 1974.—MAPCO Inc. (NYSE) today announced record sales, revenues and earnings for the first quarter of 1974.

Robert E. Thomas, Chairman and President of MAPCO, said sales and revenues were up 60.5% to $54,879,358 over the $34,191,684 reported for the same period in 1973.

Net income climbed 50.4% to $8,686,731 from $5,777,318 a year ago. Earnings per share on MAPCO's common stock in the first 1974 quarter rose 48.4% to 46 cents compared with 31 cents a year ago, adjusted for a two-for-one stock split effective February 1, 1974.

Noting that many politicians currently maintain a jaundiced view of such a profits performance, Mr. Thomas pointed out: "MAPCO's capital expenditures for the first 1974 quarter were $17,632,000, more than twice MAPCO's earnings in the quarter. Further, MAPCO's tax accruals for the quarter almost doubled despite the much criticized so-called 'tax loopholes' available to the petroleum industry." Continuing, he pointed out: "the proposed punitive taxation will only slow down the drive for energy self-sufficiency in America and maximize the dangers of energy blackmail from abroad. The Congress cannot have its cake and eat it too!"

MAPCO's Chairman and President noted: "the effective tax rate being used in the 1974 first quarter is about 4 percentage points higher than in 1973." At the moment, it is the Company's best estimate for the full year "taking into account the three major factors lowering MAPCO's effective tax rate; namely, investment tax credit, intangible drilling expense and percentage depletion on the basis of our best estimate of these amounts for the year as a whole."

Commenting on the first quarter, Mr. Thomas said: "Considering the generally warm weather as well as the general country-wide lowering of thermostat settings, results were quite satisfactory. Barrel miles, crude oil production and coal sales were all higher, with crude oil production, particularly, up about 360%. Propane, natural gas, and gas liquids sales were down reflecting conservation moves by consumers and the warmer temperatures generally prevailing."

MAPCO is an integrated energy and pollution control company operating the nation's largest liquefied petroleum gas (LPG) common carrier pipeline system and the world's first anhydrous ammonia pipeline. The company also produces and markets oil, gas, gas liquids, coal, liquid plant foods and aerobiology systems for water pollution control.

MAPCO INC.—CONSOLIDATED STATEMENT OF INCOME

	3 mo. ended Mar. 31—		12 mo. ended Mar. 31—	
	1974	1973	1974	1973
Sales and operating revenues	$54,879,358.00	$34,191,684.00	$165,763,004.00	$116,222,112.00
Pretax income	13,035,994.00	8,143,907.00	31,092,782.00	21,384,939.00
Provision for Federal and State income taxes	4,349,263.00	2,366,589.00	8,585,315.00	7,310,966.00
Net income	8,686,731.00	5,777,318.00	22,507,467.00	14,073,973.00
Average shares outstanding [1]	18,708,440.00	18,651,633.00	18,701,553.00	18,625,739.00
Earnings per common share	.46	.31	1.20	.76

[1] Adjusted for 2-for-1 stock split in 1974.

Dallas Production, Inc.,
May 8, 1974.

Senators Floyd K. Haskell and Henry Jackson,
Capitol Hill,
Washington, D.C.:

The Standby Energy Emergency Authorities Act S3267 is in complete opposition to the President's request for energy self sufficiency in 1980. Any law or regulation which calls for a roll back of current FEO price regulations and the repeal of stripper well exemption will immediately stop or cause a major reduction of my company's proposed expenditures for the exploration of oil and gas, during the first quarter of this year. As a direct result of the current prices being paid for petroleum products, we have had eight rigs continuously drilling wells for oil and gas.

In 1974 alone, Pitts Oil Company and its Associates plan to drill approximately 100 wells at a cost near 5 million dollars plus an additional 2 million to 3 million for completion of successful wells. This activity and expenditure will not be forthcoming if puni-

tive legislation is enacted to place price ceilings on crude oil or reduces or eliminates current tax incentives.

If this country is to become energy self-sufficient I believe it necessary that Congress do all within its power to keep government control out of the industry and allow the free enterprise system on which the United States is built to solve the energy problem. It takes the drilling of wells by people with know how and money to find oil and gas, and this would not be accomplished if S. 3267 is passed.

I urgently ask that you use your influence as a national leader to defeat the Standby Energy Emergency Authorities Act, S. 3267.

L. FRANK PITTS.

PROLIFE TESTIMONY

Mr. BUCKLEY. Mr. President, on April 25, 1974, two distinguished physicians testified before Senator BAYH's Subcommittee on Constitutional Amendments concerning the human life amendments. Dr. Andre E. Hellegers is among the world's most knowledgeable experts on the subject of the medical aspects of abortion. His testimony, I think you will agree, speaks for itself, so I will not prolong my introductory remarks except to say that the logical, informed and, above all, humane argument of this advocate of human rights for the unborn is among the finest presentations of the prolife position I have encountered.

Mr. President, I ask unanimous consent that the testimony be printed in the RECORD.

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

TESTIMONY OF DR. ANDRE E. HELLEGERS

Mr. Chairman and Members of the Committee:

For purposes of identification, I am Dr. Andre E. Hellegers, Professor of Obstetrics and Gynecology at Georgetown University Hospital, Director of the Joseph and Rose Kennedy Institute for the Study of Human Reproduction and Bioethics, past President of the Society for Gynecologic Investigation and of the Perinatal Research Society. I welcome the opportunity to testify at these hearings, but I want to make it quite clear that I am testifying only on my own behalf, and not on behalf of any group with which *I'm affiliated.*

The abortion issue has been discussed at all sorts of levels. The issues of population expansion, of women's liberation, of adoption, of maternal and infant mortality, of religion, of public health and of morbidity have all been brought into it and all sorts of statistics have been bandied about.

Of course, these are all issues of interest to various groups, but fundamentally there would be no national debate of the present magnitude, if it weren't for one issue. The issue is whether, in abortion, human life is killed. That is the one key issue.

Now, I believe it is necessary to state that issue more clearly. Usually the question is put in the form of, "When does human life begin?" That may be putting the question in a form which confuses things rather than clarifying them.

I *do not* think there is any question when biological human life begins. It is at conception, by which I mean a sperm fertilizes an ovum. To say that it begins at any other time is biological nonsense. Sperm alone do not lead to the birth of babies, nor do ova alone. It is when the two are fused that the process of human development starts and it ends at death. I will only add that with in vitro fertilization the truth of this statement is even clearer than it ever was before.

But I suspect that this undoubted fact is not what the abortion debate is about. That the fetus is alive and not dead is undoubted. If it were dead, abortions would not need to be performed and there would be no child to raise. That the fetus is biologically human is also clear. It simply puts it into a category of life that is different than the cat, the rat or the elephant. So the human fetus represents undoubted human life and genetically it is different than any other animal life.

But I think what those who do not oppose abortion mean to actually convey is that this life is not sufficiently valuable to be protected. It has no value, no dignity, no soul, no personhood, no claim to be protected under the Constitution.

That is not a biological question. That is a value issue. The issue is hidden under such language as "meaningful" life or "potential" for life, or "quality" of life. What is at stake goes far beyond the issue of abortion. The question is this: are there to be live (not dead) humans (not rats, cats, etc.) who are to be considered devoid of "value", "dignity", "soul", "meaningfulness", "protection under the Constitution" or whatever phrase or word by which one wants to describe the inclusionary or exclusionary process.

This is fundamentally why I am opposed to abortion. It is because it attaches no value to live biological human entities. I am not among those who believe that all human life must be kept alive by machines at all costs, but I am opposed to a philosophy that proceeds to actively kill existing human life for utilitarian purposes. This cheapens all covenants existing among men.

Furthermore, I am puzzled by the selectivity with which some would apply abortion. If the fetus does not constitute truly human life, I do not see why so many would deny abortion on demand. It is sometimes said we do so because after the 13th week, or at some other arbitrary time, it becomes dangerous. But we do not prevent women from becoming trapeze artists for financial reasons, we don't prevent men from becoming football players or boxers for financial reasons. I frankly don't see why we should prevent women from incurring mortality or morbidity risks in abortion if they thought it was financially advantageous to them. But the problem is, of course, the fetal killing.

I also don't understand why genetic counsellors would approve of abortion of fetuses if they are abnormal, but 96% would not if the fetus is of the wrong sex. If a fetus of the wrong sex does not represent human life, why shouldn't one abort it? I don't understand those who say they don't like abortion and would only use it as a last resort. If abortion does not kill human life, why should it be a last resort and not a first resort? Some might feel better with one abortion per year than a pill per day. So I see this constant ambivalence about abortion, but I understand the ambivalence, because I think the vast majority of people now know how babies are produced and they can't quite avoid the issue of the fetus all of the time.

So the fundamental question is whether we shall assign no value to certain categories of human existence.

Inevitably physicians are also asked to address themselves to other health issues in abortion, although compared to the massive loss of life, I personally think they are peripheral, although obviously important in their own right.

The first claim made is usually that free abortion reduces maternal deaths. Perhaps it does, but one should look at the figures carefully for they are usually presented in terms of percentages. The absolute numbers are much more revealing. Table I (see next page) gives the deaths from abortion and the total number of maternal deaths from 1942 through 1972. The figures for 1973 are not yet available. You will see that in 1942 there were 1,231 deaths from abortion. By 1968 this had come down to 133. Fairly consistently since 1961 the number of deaths decreased by 20 to 30 per year. Since then the decrease has pretty much stopped. The percentage of all maternal deaths which are due to abortion was 16.9% in 1942 and 17.8% in 1972.

I have also appended, for his own information, the figures through 1967 for every Senator's state on this subcommittee. Again, you will see you cannot hope to go much further in the control of death from abortion. Moreover, these abortion deaths include all spontaneous and truly therapeutic abortions.

What these figures clearly show is that the percentage of maternal deaths which are due to abortion have remained constant since 1942, and the number of both has steadily decreased. This has happened in every country in the world regardless of its abortion laws.

Since 1962, the time of the proposed A.L.I. law, the average decrease in abortion deaths per year was 22. The greatest decrease has been between 1965 and 1966 when the decrease was 46. Between 1968 and 1969 abortion death decreased by 1, between 1969 and 1970 by 4. In other words, the decrease in abortion deaths has slowed down markedly in recent years. Now one can make anti-abortion hay with such figures but I don't think it would be quite fair. The fact of the matter is that abortion deaths were quite rare before the law was changed and as a condition becomes rare it becomes difficult to reduce the numbers even further.

The other claim which is made glibly is that abortion decreases infant mortality. That, of course, is absurd. No infant's life can be saved by aborting another fetus. Obviously, also, if one does one million abortions none of those fetuses will ever become infant deaths. Since they'll never live to be infants. And, of course, like the maternal mortality figures, the infant mortality figures have also been coming down for years. To the extent that by abortion or contraception or anything else women do not have 7th or 8th children, who have a greater chance of dying than 2nd or 3rd children, this also will improve mortality figures. But what I think needs to be clear is that no abortion saves an infant's life. It simply prevents fetuses from becoming infants and even having a chance to die as infants. It is somewhat like saying that Vietnam deaths were good because they prevented a lot of cancer which might have occurred at a later age in all the people who were killed. If, then, the fetus is not a member of the human race, it is clear that the whole abortion debate would change. If the fetus does represent human life then it is hard to see how one can justify killing 1,000,000 lives or more for the questionable saying of a few pregnant women.

But I think the analysis should not cease there. Legalized abortion is said to have decreased morbidity from illegal abortion. I strongly suspect this is true. However, it also causes morbidity and the troubling fact is that about half of all abortions in the United States are done in the unmarried, who are at greatest risk of such morbidity. Swedish and Norwegian figures cite an incidence of sterility following abortion of about 4%. We have no U.S. figures. If we are to do one million abortions per year, and 500,000 of them are to be on the unmarried, it would leave 20,000 women per year sterile, and this would happen every year. This strikes me as a serious figure. The problem is, of course, that in the abortion debate one only hears about its immediate hospital effects and the subsequent sterility does not occur in the hospital. I doubt many women are given this information in abortion counselling.

To my mind, an equally serious problem is the increasing evidence that aborting a pregnancy yields a considerable increase in the birth of prematures in subsequent pregnancies. Prematurity has long been known to be associated with an increased incidence in Cerebral Palsy, mental retardation and lesser forms of damage to the Central Nervous System, like learning disabilities. The more serious the prematurity the more serious the consequences. I am glad to know that federal funds are now being spent to study this matter. Again the data imply that first pregnancies aborted yield the greatest damage, and the later in pregnancy the abortion is done, the worst the consequences. It is difficult to assess the precise damage which may be incurred in human or financial terms. In women who have the abortion in the first twelve weeks (the most favorable group) the data are still highly disturbing. In a studied group of 143 such women, 30 percent subsequently delivered prematurely, compared to 11.2 percent in 143 women who had not had a previous induced abortion. Even more seriously, 8.5% of the aborted women delivered prior to 32 weeks, compared to 2.1 percent of women in the non-aborted group. It is in this gestational age group that the severe mental damage occurs. Between 32 and 35 weeks, the previously aborted group produced 5% of its children, and the non-aborted group 1.4% of its children. It is in this group that the lesser cerebral damage occurs. If, conservatively estimated, only 10% of these infants developed central nervous system damage, we would still be faced with a problem of major proportions.

Let us assume 1,000,000 legal abortions per year for the United States as a desirable public health aim. Assume that one-fourth be 250,000. If 8.5% were to deliver before 32 weeks, again a conservative figure, that yields 20,000 such deliveries. If 10% of these were to acquire Cerebral Palsy or mental retardation that would be 2,000 per year, again a conservative figure. Again I know of no abortion counselling service which informs its clients of these odds while seeking their full, free and informed consent for these procedures. Indeed, I also know of none which, in addition, informs them that abortion may kill live human beings, and even the Supreme Court does not deny that possibility since it prescinded from making a judgment on the matter.

The Committee can receive testimony from others about such matters as uterine perforations, blood clots, guilt feelings, ectopic pregnancies infection—in brief, such things as modern medicine can largely solve through surgery, transfusions, tranquilizers, antibiotics, etc.

My own major concerns are threefold: the relatively small numbers of maternal lives allegedly saved—if any—and at the expense of the hundreds of thousands of fetal lives destroyed; the subsequent sterility and the emerging problem of prematurity and mental damage in subsequent children. But of all of these, obviously the key one is the massive destruction of fetal life and the profoundly disturbing issue of denying a share in our humanness and its dignity, value and protection to an entire class of human, living, biological entities, to put it as coldly as I can.

Obviously the problem is a major one. Obviously, it is humanly and therefore politically explosive. I would therefore like to end with an expression of my personal puzzlement at the actions of the Congress and of the Administration.

It is crystal clear to me as an obstetrician that with modern obstetrics and pediatrics a married couple is capable of producing 10-15 live, surviving children. It is obvious that for almost all this is an unmanageable emotional and financial proposition—not even mentioning societal population growth problems. Therefore it is obvious we have good methods of fertility control. How do we develop these? What is the fundamental process? I have already testified that new life starts with the fusion of a sperm and an ovum. That may not be where some would have its value or dignity start, but that is where it starts biologically.

We are usually asked to bring sperm and ovum together in those who have sterility problems—whether in the 10% of the population who have the condition to start with, or the 4% who acquire it from induced abortion. It is the sterile who will pay the future price of any perfect method of birth control since they will have no babies for adoption. We need to have control over sperm development and action if we hold that it is the men's duty or right to regulate fertility. We need to have control over ovum production and action if we hold that it is the woman's duty or right to regulate fertility. We need, by timing of intercourse, to know how to make the sperm avoid the ovum, if we hold that some form of periodic continence is the way to regulate fertility. Yet all such knowledge can only be obtained by fostering basic research in reproductive biology.

What does one see when one examines federal expenditures in biomedical research? One sees enormous increases in expenditures in cancer and heart research, designed to prevent deaths. I have yet to hear Z.P.G. or those who object to population density, or growth, or numbers, object to this. Yet also, there is at least half the American population alleging that abortion kills human life. Yet the level of support for research into reproductive biology, which can prevent such deaths—or even putative deaths—is not, to my knowledge, ever presented as research into death prevention. So if I could today make one positive, constructive suggestion it would be that on this divisive issue of abortion, we all join in fostering the basic reproductive biological research which could make the entire subject moot.

Surely, the issue is whether under the Constitution we want to introduce the motion that biological and socioeconomic problems should be resolved by procedures which kill, or even may kill, human life. As an immigrant to this country, I would hope the United States, of all countries, could do better than that. What seriously bothers me about the Supreme Court decision is that it did not have the courage to decide when life starts—which we all know biologically. It was faced with the problem of when life starts as a value. I am deeply disturbed that it took the decision that when you don't know whether in performing an abortion you will kill a human life you may proceed, instead of saying you must desist. That decision marks a watershed which I believe neither medicine, nor law, nor government should accept.

Again, as an immigrant, I have always had the notion, but perhaps it is an illusion, that in the United States, of all countries, men and women might be considered equally worthy of protection under the Constitution, regardless of their age, race, color, creed or size. Obviously such a notion presents enormous emotional, economic, logistic, legal and medical problems. But I also, intuitively, hold to the notion that the American Experiment in Human Living should be inclusionary and not exclusionary, and that the issue at stake in the proposed constitutional amendment is whether the fetus, as a first prototype of "meaningless" life, shall be excluded or included.

Year	Total abortion deaths			Other maternal deaths			Total maternal deaths		
	White	Non-white	Total	White	Non-white	Total	White	Non-white	Total
1942	917	314	1,231	4,598	1,438	6,036	5,515	1,752	7,267
1943	853	312	1,165	4,610	1,422	6,032	5,463	1,734	7,197
1944	695	201	986	3,953	1,421	5,473	4,468	1,622	6,369
1945	602	286	888	3,520	1,260	4,780	4,122	1,546	5,668
1946	535	225	760	3,272	1,121	4,493	3,807	1,346	5,253
1947	385	200	585	3,170	1,223	4,393	3,555	1,423	4,798
1948	321	175	496	2,432	1,194	3,626	2,753	1,369	4,122
1949	236	158	394	1,863	959	2,822	2,099	1,117	3,216
1950	193	123	316	1,680	964	2,644	1,873	1,087	2,960
1951	170	33	303	1,608	901	2,509	1,778	1,034	2,812
1952	196	124	320	1,428	862	2,290	1,624	986	2,610
1953	162	132	294	1,317	774	2,091	1,479	906	2,385
1954	156	131	287	1,124	694	1,818	1,280	825	2,105
1955	150	116	266	984	651	1,635	1,134	767	1,901
1956	138	83	221	880	601	1,481	1,081	684	1,702
1957	126	134	260	871	615	1,486	997	749	1,746
1958	136	123	259	802	520	1,322	938	643	1,581
1959	138	146	284	789	515	1,304	927	661	1,588
1960			289			1,290			1,579
1961			324			1,249			1,573
1962			305			1,160			1,465
1963			272			1,466			1,738
1964	117	130	247	634	462	1,096	751	592	1,343
1965	106	129	235	550	404	954	656	533	1,189
1966	96	93	189	509	351	860	605	444	1,049
1967	76	84	160	495	332	827	571	416	987
1968			133			726			859
1969			132			669			801
1970			128			675			803
1971			120			610			730
1972			140			640			780
1973[1]									

[1] Not yet available.

RUMANIAN NATIONAL HOLIDAY

Mr. TAFT. Mr. President, last Friday, the 10th of May, Rumanians all over the world were observing the national holiday of the Rumanian people, recalling the achievement of the Nation's past independence and the founding of the Kingdom of Rumania.

Now, in their homeland, the traditional observance of this holiday has been suppressed by the Communist regime, with the obvious intent to weaken the people's will for freedom. Therefore, this commemoration has the added meaning of protest against Rumania's enslavement and to help keep alive the hope of liberation and freedom.

So, with the express purpose of strengthening the hearts of all Rumanians at home and abroad, let us take this time to join our Rumanian friends in their annual rededication to the cause of liberty and to assure them of America's *abiding* interest in their fate.

OIL PRICE INCREASES AND THE ECONOMY

Mr. HART. Mr. President, we are faced with the problem of an economy that is suffering from inflation and threatened by recession at the same time. That means that some segments of our economy are operating at less than capacity and would be aided by a boost in consumer buying power.

Also, increases in the size of take-home paychecks might help ease pressure for wage and salary hikes. The trick is to accomplish that goal without adding to inflationary pressures.

In searching for ways to accomplish that goal, attention has been directed toward cutting Federal income taxes for individuals and generating new Federal revenues through various other changes in the tax code.

However, I think we should also look at the sharp increases in prices for oil company products as source of funds which might be redirected to rather than away from consumers.

A study by the staff of the Senate Anti-Trust and Monopoly Subcommittee estimates that price increases in those products since January 1973 are costing consumers a conservatively estimated $35.5 billion extra a year.

I ask unanimous consent that a table breaking down the price increase by product, along with explanatory notes, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HART. Mr. President, the price increases used were conservatively estimated on the basis of reported prices, basically from Platt's Oilgram. Where price ranges were indicated, the midpoints of ranges were used.

It should be noted also that only the gasoline price increase is a retail figure. The others are refiner or terminal prices. That means by the time those products reach the consumer, final price increases, due to pyramiding, could be even higher.

If you consider the added costs of oil products as a "$35.5 billion energy crisis tax" which does not do much to increase Federal tax revenues, then a price rollback offers a quick, noninflationary way to put some additional dollars in the hands of consumers.

For example, a rollback to May 15, 1973, prices could save consumers around $9 billion a year. I will vote to add such a rollback provision to the Standby Energy Emergency Authorities Act.

Let me add that I also favor a cut in individual Federal income tax bills and closing certain tax loopholes to increase Federal revenues.

The obvious place to start would be the oil depletion allowance, which if ended completely would pick up $2.5 billion a year. It is hard to argue convincingly that oil companies enjoying very high profits need that depletion allowance to encourage exploration.

Further, I urge prompt congressional action on a series of Democratic initiatives designed to assist unemployed workers.

These items include:

Authorization for $500 million in grants to States for unemployment compensation payments to workers who lost jobs because of the energy crisis;

Increased funds for public service employment; and

Increased funds for Neighborhood Youth Corps summer job and recreation programs.

The Senate provided a total of $835 million for public employment and of $456 million for NYC programs in a supplemental money bill being considered by a Senate-House conference. The unemployment compensation authorization is included in the energy act.

These items are particularly important to Michigan where the unemployment rate remains about 10 percent.

Exhibit 1 follows:

EXHIBIT 1

COST OF OIL PRICE INCREASES, JANUARY 1973 TO APRIL 1974

Selected products [1]	1973 demand [2] (thousand barrels)	Estimated increase per barrel [3]	Added cost to buyers (billions)
Motor gasoline	2,435,501	$6.00	$14.6
Jet fuel (kerosene)	304,135	7.61	2.3
Distillates	1,124,308	6.72	7.6
Residual	1,019,934	8.00	8.2
LPG	409,116	4.02	1.7
Lubricants	59,037	8.40	.5
Kerosene	78,919	7.45	.6
Total			35.5

[1] Products shown accounted for 86 percent of 1973 demand. If other products (e.g., asphalt, petrochemical feedstocks, etc.) rose in the same proportion, the total would exceed $40,000,000,000.

[2] Bureau of Mines.

[3] Roughly, but conservatively, estimated from prices reported in "Platt's Oilgram."

NOTES ON PRICE INCREASES

The price increases used were conservatively estimated on the basis of reported prices, basically in Platt's Oilgram, at various points. Where price ranges were shown, the midpoints of the ranges were used. Note that only the gasoline price increase is retail—the remainder are refiner or terminal prices. The latter could be pyramided considerably by the time the consumer pays for them.

Gasoline ($6.00 a barrel): Based on an increase of 14.3c/gal., excluding taxes, in Platt's 55-city average for major brand regular from early January 1973 to "mid-April" 1974. This understates the true increase. It understates widespread price wars at the earlier date, and it does not include price increases of independent marketers, which appear to have been generally in excess of 20c/gal.

Jet fuel (kerosene-type): Price increase of 18.125c/gal. in Gulf Coast cargoes, Jet Grade kerosene, from Jan. 3, 1973-late April.

Distillates (No. 2 diesel): Increase estimated at 16c/gal., approximately between the midpoints of the ranges shown for Chicago, Gulf Coast cargoes, Southeast pipeline terminals, Oklahoma Group 3, and the high of the ranges for New York harbor.

Residual fuel: A very conservative guess at an average. Midpoints of Platt's ranges increased $7.50 for Gulf Coast Bunker C cargoes, $9.72 at N.Y. Harbor, $10.12 at Chicago, and $7–$10 at East Coast terminals from Florida to Maine.

LPG (propane-butane): For fuel and petrochemical use. Contract quotations at various points vary all over the lot. I've taken 10c/gal. as a conservative guess, even though we know from consumer complaints that increases have probably been in the range of 20c or more.

Lubricants: Based on approximate 20c/gal. increases reported for lube stocks.

Kerosene: Based on 17.7c/gal. increase in midpoints of ranges, Gulf Coast cargo prices.

THRESHOLD TEST BAN IS NOT THE BEST ANSWER

Mr. KENNEDY. Mr. President, I have mixed reactions to press reports that finally there is concerted attention by both Secretary of State Henry Kissinger and Foreign Minister Andrei Gromyko, directed toward conclusions of an agreement on limiting nuclear tests.

As the chief sponsor of Senate Resolution 67, which urges a treaty to ban all nuclear tests, I want to commend Secretary Kissinger for his attention to an area of potential agreement on arms control which has been ignored for 11 years.

This resolution is now cosponsored by some 36 Senators, and has been reported favorably by the Senate Foreign Relations Committee.

After returning from the Soviet Union, I am more convinced than ever that the time now is ripe for the conclusion of the comprehensive test ban treaty, a treaty banning all nuclear tests.

Unfortunately, reports from Geneva indicate that discussion is centering on a threshold test ban treaty, a treaty permitting continued nuclear testing below a certain level of magnitude. Of course, I will welcome any real progress toward ending the nuclear arms race. However, a threshold treaty could both create new problems and could sacrifice many of the benefits that a comprehensive test ban would offer.

The rationale for a threshold approach apparently was disclosed by Secretary of Defense Schlesinger, in testimony before the Senate Foreign Relations Committee on March 4, 1972. He stated then:

> I do not think that the arguments against a comprehensive treaty relate primarily to strategic forces. One has to get into the issue of to what degree the United States wishes to improve its tactical nuclear weapons. The constraint with regard to strategic weaponry would probably be beneficial to both sides.

Since most strategic weapons tests are high-yield tests, they would be halted under a threshold ban; however, the low yield tests, for the refinement of tactical weapons—testing to create a new family of mini-nukes—could go on.

That rationale represents a step backward from the commitment this Nation made—both in the nonproliferation treaty and in the partial test ban treaty concluded by President Kennedy in 1963—a commitment to seek a halt to all nuclear tests.

It also raises a new threat of an arms race at the level of tactical nuclear weaponry, a race whose end result could be to blur the distinction between nuclear and nonnuclear weapons. Instead of making it more difficult to exercise

the nuclear option, a conscious effort to conclude a treaty permitting unlimited refinements of our tactical weapons could make them easier and more likely to be used. The administration apparently is gambling that conflicts could be fought with tactical nuclear weapons without an escalation to strategic weapons. This is a dangerous roll of the dice, in which the outcome could affect the future of all nations. Nor are we without tactical options today. We have deployed in Europe 7,000 tactical nuclear weapons with yields in the range of a kiloton to a thousand kilotons and with some 25 different designs. Even Secretary Schlesinger has stated that the number of tactical weapons can be reduced.

Yet in some quarters of the administration, a major reason offered for not moving to a comprehensive test ban treaty appears to be a desire to permit the perennial development of more modern tactical nuclear weapons.

Thus, I challenge the validity of the rationale for choosing a threshold teaty, and I further argue that serious additional problems are presented.

First, it is all too likely that some nonnuclear nations would not see a threshold treaty as sufficient to justify their continuing adherence to the nonproliferation treaty, which comes up for review next year. The United States and the Soviet Union once again would be stating to the rest of the world the conditions under which testing is to be continued—conditions most congenial to the weapons developers of the major powers.

It should be noted that Pakistan and Indian, both among the nuclear-capable nations which have not yet ratified the nonproliferation treaty, spoke out last August on the occasion of the 10th anniversary of the partial test ban treaty. They urged fulfillment of that treaty's pledge that its signatories would seek to "achieve the discontinuance of all test explosions of nuclear weapons for all time." Clearly, if we seek to encourage other nations to join the nonproliferation treaty, the suferpowers cannot go haflway in their own willingness to restrain nuclear weapons development.

Second, the threshold ban, which presumably would depend on an averaging of seismic readings to see that the explosion fell under the permissible level, would be most difficult to monitor. It could produce new tensions as nations tested up to the limit of the agreement.

Finally, as long as some nuclear tests are allowed, nuclear weapons development will continue to be pressed with full vigor.

The Soviet Union—whose weapons testing always has been focused on warheads with greater megatonnage than our own—might view a threshold treaty as providing fewer restrictions on us than on them. They may, therefore, delay any agreement or press for a high threshold. The result could well be a threshold set just high enough to permit virtually unfettered testing by either side.

We could well find ourselves repeating the history of the aftermath of the partial test ban treaty. Instead of reducing nuclear testing and nuclear weapons development, the rate of testing actually went up in the years following the treaty, as the superpowers simply shifted their testing underground. While it virtually ended atmospheric testing with its radioactive fallout, it did not place real restrictions on the nuclear arms race.

These are some of the problems that come with a threshold test ban treaty, problems which we do not face with a comprehensive test ban treaty, a treaty that I believe is in our interests and in the interest of all peoples.

A comprehensive test ban treaty today can be negotiated, with far greater confidence in our ability to detect violators without onsite inspections than our proposed seven onsite inspections would have provided over a decade ago. We have upgraded not only our seismographic capabilities but also our aerial photography through the use of satellites.

Also, we have the precedent of the verification procedure established under the ABM treaty and Salt I on which to base our actions. Finally, with regard to verification, it is important to note that the Soviet Union has specifically agreed to cooperate in the area of seismic research and development.

While I would accept a threshold treaty that would make real progress in halting the arms race, I believe all of these reasons suggest strongly that the time is now more than ripe to negotiate a final halt to testing. Our resolution urges a mutual moratorium by both nations while we undertake these negotiations. I hope that a CTB would be one product of the forthcoming summit talks—if it cannot be concluded at Geneva before then. And I urge our negotiators not to be satisfified with a threshold test ban treaty, but to pursue instead a permanent end to all nuclear testing.

I support the administration's belated decision to explore the possibility of restricting testing of nuclear weapons as part of the effort to limit the qualitative arms race. However, I believe that a comprehensive test ban is far more in our interests.

From my discussions with Soviet leaders, I believe that they would be willing to move forward in this area, and to join with us in fulfilling the decade-old pledge to end all testing of nuclear weapons. The partial test ban treaty sent a brief shaft of light into the darkness, sending a vision to all nations of an end to the nuclear arms race. It is time once more to light the darkness, to set our children on the path to a world free of the threat of nuclear destruction.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for the transaction of routine morning business has expired.

UNANIMOUS-CONSENT AGREEMENT ORDER OF BUSINESS TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 3398, the veterans bill, today, the Senate then resume the consideration of the unfinished business, the education bill, and that Mr. HANSEN be recognized to call up an amendment to the education bill.

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

STANDBY ENERGY EMERGENCY AUTHORITIES ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 3267, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 3267) to provide standby emergency authority to assure that the essential energy needs of the United States are met, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. FANNIN. Mr. President, there has been a great deal of discussion, and, in fact, it has been going on for months, about the energy crisis. I would like to refer to a talk made by John D. Emerson, energy economist for the Chase Manhattan Bank, at Kearney State College, Midwest Conference on World Affairs, on April 2 of this year:

He covered the history of our country's energy problems most explicitly. I think that his remarks will be invaluable to our analysis of just what has taken place in this country and what we might project will happen. Mr. Emerson said:

For more than twenty years after the end of World War II, new supplies of oil were created throughout the world at a faster rate than the growth in the consumption of oil. Because of surplus capacity, competition enabled increases in demand in the market place to be met with no increase in price. This was a very comfortable situation for consumers. Petroleum product prices showed little change during these years either in the U.S. or in other large consuming areas. In fact, relative to other consumer items, they actually declined. This state of affairs did not, however, meet the needs of producing countries.

We became so accustomed to cheap energy that when it ran out, we were caught off guard. Habit is a very powerful force, and habit led many people to believe that the standard of living that our economy had provided was enshrined in the Bill of Rights. It is not, of course. To a large extent, consuming nations achieved their high standard of living by buying commodities, including oil, very cheaply from producing countries. Instead of paying the producing countries a fair price for their oil, we imposed import quotas, and the Europeans imposed high taxes to protect domestic energy.

These conditions have now changed. And we should access the changes soberly. There is no cause for panic, and wild accusations, and hunting for scapegoats. Neither should we go to the other extreme and pretend that today's energy problems are just a nightmare, and when we wake up, all will be well again.

Today, the oil producing nations have come of age. They are no longer minors under our tutelage. They will try to make decisions from the point of view of their best interest rather than ours. From time to time, they will make mistakes, just as Washington has been known to make mistakes. We must give up the idea that we have a right to their oil as well as to our own. That is not to say that we cannot buy some foreign oil and import it on the best terms available. But if we don't like the terms, then we

must make do with whatever energy we can produce in our own country—Project Independence, in fact.

A conference such as this one provides an excellent opportunity for us to examine thoughtfully what has happened to the economic system that for so many years we took for granted. It provides an opportunity to consider solutions to our present problems. In looking backwards as well as forwards, we must remember that important though the United States is, it is still a part of a much larger world. And what goes on in that world has helped shape our own destiny and will continue to do so.

In the years immediately following World War II, the United States was still a net exporter of oil. Europe relied mainly on coal for its energy. And Japan's energy needs were quite small. There were predictions of shortage in those days too. But with the lifting of wartime price controls, the free enterprise system went to work, and within a few years, there was a surplus of oil both in the U.S. and overseas. American companies were encouraged by the State Department to invest in the Middle East. And this was a wise policy since it gave the United States direct access to the large reserves in that part of the world, on favorable terms.

No policy is good for all time, however. By the middle fifties, so much foreign oil was entering the United States at prices far below domestic prices that the domestic industry was placed in jeopardy. In those days there were many advocates of importing cheap foreign oil. Had their voices been heeded, we would have had several years of very low prices. Domestic production would have dropped sharply, and our dependence on imports would have risen very rapidly. We would have entered this present crisis with a moribund domestic petroleum industry and an import level representing 60 to 70 percent of our needs. Such a situation would have been far worse than the one we now face. It would have been most explosive politically.

We might have paid the producing countries more. We decided, however, on an oil import control program instead. The purpose of this program was to share the growth of demand between imports and domestic production. The program worked reasonably well, except that the threat of higher imports was used to prevent domestic prices from rising. It kept the domestic oil producing industry alive, even though it could not be described as bursting with health. The consumer had nothing to complain about. Competition helped to keep prices down. In those days producing country governments received less than one dollar a barrel for their oil. OPEC was in existence, but had not yet achieved the cohesiveness necessary to control supply and thereby to influence price.

The free enterprise system has for years been providing the people of this country with the highest standard of living ever achieved by mankind, and energy has been an important part of this achievement. But we could not let well alone. In our desire to live better at even lower cost, we upset the system.

Twenty years ago this year, we acquiesced in a decision to allow the Federal Power Commission to control the wellhead price of natural gas. For twenty years politics instead of the market has controlled natural gas prices. OPEC until recently was unable to control supply and influence price. But for twenty years, the Federal Power Commission controlled price and influenced supply. They influenced demand too, not only for natural gas, but also for other sources of energy. The low controlled price of natural gas stimulated demand, but impaired the incentive to search for new reserves. Because of its controlled price, natural gas was such a successful competitor that other sources of energy—oil and coal—withdrew from many of the markets served by gas, which by the end of the sixties, was the leading industrial fuel across the nation. Oil refiners spent millions of dollars to convert their unsaleable fuel oil into products like gasoline, that did not compete with natural gas. Coal mines simply closed down.

This was not wise policy. It was political expediency. A few voices, crying in the wilderness, protested that the distortions created by controlled prices would cause us to run out of gas. Well, we have not actually run out of gas, but we reached the point several years ago when gas supplies could not be expanded in line with demand.

The end of an era was in sight. Domestic oil production peaked at about the same time as domestic gas production. The coal industry was beset by difficulties as a result of the new Mine Safety Law and the Environmental movement, and was in no position to expand. The nuclear electric power program has also been slowed down by environmental challenges.

Within the space of two or three years, the entire growth of our energy supply, which used to rest upon the broad base of domestic oil, gas, and coal, has become dependent upon imported oil. Oil imports rose from 22 percent of consumption in 1970 to 35 percent in 1973. This happened at a time when coincidentally other large oil users around the world increased their demand for oil to the point where the world oil supply/demand balance, which for so long had been tilted in favor of oil consumers, finally swung the other way, putting the producers in the driver's seat.

Economic conditions, thus, were finally right for OPEC to make its moves. Sporadic price increases occurred in the latter part of 1970. These were followed by general price increases that were agreed in Teheran in early 1971. A year later the Geneva agreement protected the oil producing governments against devaluation of the dollar. This agreement was later revised to make it more sensitive to currency changes. All of these agreements affected the posted or tax price of oil. Meanwhile, however, the market price, which was the economic rather than the negotiated price, was increasing even more rapidly than the posted price. In other words, from 1971 on, the price of oil would have risen whether OPEC had been in existence or not. It is fair to say that by and large until October 16, 1973, the price of oil was an economic price.

At that time, and as a direct result of the Middle East War, oil prices became political prices. The cutback in production by Arab nations reduced the available world supply and caused the price to skyrocket. Because today's foreign oil prices are political prices, not economic prices, they are unlikely to last. For the time being, however, world oil markets are chaotic. No one should expect, though, that foreign oil prices will go back to the low levels of the good old days. Unless they are distorted by price controls, domestic crude oil prices will move in phase with foreign prices.

And so, in the United States today, we find ourselves in a period of transition. This is an uncomfortable time for all of us. The old days of abundant supplies and low prices are over. The future is still something of a question mark.

It is natural enough that the loss of a way of life that was very pleasant should disturb us. Since we are all very human, it is natural enough that in our distress we should try to affix blame for our problems, while we encourage our politicians to try to distort economics to preserve the old ways for us. The result is that most discussions of energy generate more heat than light. It is easy to write cheap rhetoric. But cheap rhetoric and preconceived ideas will not secure the future for us. Let us examine our problems dispassionately and plan intelligently for the years ahead. Our problems are not insoluble by any means. They will yield to time and money. How much time and how much money depends upon the way we tackle them.

We should understand quite clearly that solving our energy problems does not mean going back to the good old days of wasteful energy use. Those days are gone, if not forever, at least for the next two generations. Sometime in the future, we may hit upon another source of cheap energy. In the meantime, our energy problems should be tackled from both ends. We must economize in our use of energy, and we must plan to increase our supplies of domestic energy. Much can be done on both accounts.

Relative to the total production of goods and services, we use 25 percent more energy than West Germany or Japan. Our energy input per dollar of Gross National Product is 25 percent higher. The difference represents far greater quantities of energy going into the non-business sector in this country. It represents our uses of energy to achieve greater convenience. And it is in these uses that we need to make economies.

Let us start with gasoline. Gasoline is used to move vehicles, and vehicles are used to move people and goods. In the United States, we use five times as much gasoline per person as in Germany and nearly ten times as much per person as in Japan. Granted that people travel longer distances in the United States, the disparity between these three developed nations suggests that economies can be made. And, of course, they can. We can continue and accelerate the trend to smaller cars. We can slow down the proliferation of cars by making it more expensive to own and operate second and third cars. We can encourage the development of more public transportation—not a few grandiose schemes, each of which takes ten years to accomplish, but a substantial increase in surface transportation.

The supply/demand/price mechanism of the market place will help us accomplish substantial savings if we do not keep trying to thwart it. Gasoline will be in short supply for some time, and this should lead to higher prices. So we will have considerable incentive to economize.

In the past we have solved problems and bought convenience by using cheap energy. In the future we will have to find other solutions to the problems and do without some of the conveniences. If we can limit our energy growth to rates far below the past, a large part of the problem would be solved.

However, let us not underestimate the difficulties of energy conservation. There has been for many years a close relationship between the input of energy and the output of goods and services. In conserving energy, therefore, we have to find ways that will not slow down our economic growth. Otherwise, we will be exchanging energy problems for unemployment problems. In the technical sense, only about half of the energy input to our economy is usefully employed. The proportion varies with different uses. For example, in the production of electricity, only about one-third of the input of energy reappears as electricity. The rest represents heat lost to the atmosphere. For many years we have had the technology to recover much of this waste heat and put it to work. What was lacking was the incentive. High energy costs will give us that incentive. Although oil and gas space heating equipment is very efficient, we can make economies in this field by much closer attention to insulation—that is to retaining the heat once we have produced it. Improving the efficiency of utilization is the most important aspect of our energy conservation program,

and it is not a goal that can be achieved quickly. But its importance can be gauged from the fact that if we are able to improve the overall efficiency of energy utilization from 50 percent to 60 percent in ten years, this would reduce the rate of gross energy input from 5 percent a year to 3 percent a year without sacrificing economic growth.

We must distinguish between improving the efficiency of energy use and eliminating waste. Waste is the product of thoughtlessness and carelessness. The fear of shortage and high prices will do much to eliminate waste. Industry will inspect its plant to eliminate leaky valves. Families will plan the use of their automobile more carefully to avoid unnecessary trips. The economies to be made by eliminating waste are more of a one shot deal however. They should result in about one year of no growth in energy input, but obviously their impact cannot be repeated every year.

The same market forces that should lead us to economize in the use of energy should also encourage the development of new energy supplies. Let me emphasize again that we can either work towards the attainment of our objectives, or we can work against these goals by clinging to the past. Legislation to roll back prices is totally at cross purposes with Project Independence. Our new energy supplies will come largely from areas and processes in which we have little experience—offshore drilling in untried areas, conversion of coal to liquids and gas, and the development of shale are a few examples.

These will be high risk, capital intensive operations. Whether or not they flourish depends upon the climate for investment that is created in this country. Private capital must be induced to invest in these operations by the possibility of high profits. Please note that I said possibility, not guarantee.

The private enterprise system is a profit and loss system. If an operation is unsuccessful, it is a private loss, not a public loss financed by the taxpayers.

The search for new supplies will be a high risk operation in the early stages. As we gain more experience in these areas, the risks will lessen, investors will be satisfied with lower rates of return, and prices will tend to move down. But all this is a long way in the future, and it will take a great deal of money.

This is perhaps the right time to talk about the role of profits. We have heard a great deal recently about "windfall profits," which is just the politicians name for economic rent. There is no doubt that the economic rent of domestic producers has been increased substantially as a result of the actions of the cartel of foreign producing nations. But these "windfall profits" represent the funds we need to finance Project Independence. If we legislate them away through price controls, rollbacks, or higher taxes, our chances of funding Project Independence become much slimmer. We really must decide what we want.

What is the situation today? Crude oil prices and intrastate gas prices are high enough to provide the incentive for investment in the search for and development of new supplies. And the industry is responding. It is hampered somewhat by the straight jacket of price controls which create shortages of things the industry needs. But all over the country, there are signs of increased activity. High bonuses are being paid for attractive acreage, including shale oil acreage. These are encouraging signs. But we must be patient, and not expect results in a few weeks. The age of transition should be measured in years. We can hold it to a minimum, however, by closing ranks and working with industry rather than against it.

Mr. President, I would like to repeat that statement:

We can hold it to a minimum, however, by closing ranks and working with industry rather than against it.

Energy self-sufficiency is not an easy goal. But I believe that most of us have learned in the past few months that it is a goal worth working and sacrificing for. We owe it to our children to plan for their future as well as our today.

Mr. President, this talk by John D. Emerson illustrates better than any other talk I have heard just exactly where we stand today, why we are in that position, and what we should do about tomorrow. I hope, as we discuss the bill under consideration, that we will look carefully into the need for this increased exploration policy.

Yes, we want conservation, and I have brought out, certainly, through Mr. Emerson, that conservation is the most immediate way of helping to achieve a balance. But conservation alone will not solve the problem.

We must have increased production of petroleum products. We must have increased production of coal. We must go into shale oil; we must go into coal gasification; we must go into solar energy. Certainly we have great opportunity in that field.

We must do more to expedite leasing of geothermal resources and to encourage the development of geothermal power.

Mr. President, we have many opportunities, and we should not neglect any of them. But unless we allow companies to make profits so that they can undertake projects, we are going to lose many of those opportunities. As the studies made by the Chase Manhattan Bank have brought out, we need vast amounts of capital, and much of that capital must come from the industry. It is estimated that they need $1,350,000,000,000. Chase studies have also indicated that about $650 billion of that amount must come from private industry.

So, Mr. President, I trust that the Members of this body will carefully analyze exactly what is involved in providing the energy Americans are going to require.

Mr. DOLE. Mr. President, on Wednesday, May 8, I discussed in some detail amendment No. 1265. I ask unanimous consent that the distinguished Senator from New Mexico (Mr. DOMENICI), the distinguished Senator from North Dakota (Mr. YOUNG), the distinguished Senator from California (Mr. TUNNEY), the distingished Senator from Rhode Island (Mr. PELL), and the distinguished Senator from Michigan (Mr. HART) be made cosponsors of that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

On page 118, between lines 21 and 22, insert the following new section:

SEC. 108A. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end of such section the following new subsection:

"(j) (1) Upon a finding that there are significant shortages and dislocations in the distribution of petrochemical feedstocks and petrochemicals, the Administrator is authorized to compel, by rule or order on a national, regional, or case-by-case basis, consistent with paragraph (2) of this subsection, the allocation of such feedstocks and such petrochemicals in amounts specified in (or determined in a manner prescribed by) such rule or order.

"(2) Any rule or order for allocation of petrochemical feedstocks and petrochemicals promulgated or issued under this act or under any other Federal law shall be consistent with the objectives of subsection (b) and to the maximum extent practicable, shall contribute to the—

"(A) preservation of an economically sound and competitive petrochemical industry and for the preservation of the competitive viability of all processors, distributors, and users of petrochemical feedstocks and petrochemicals; and further the

"(B) equitable distribution of petrochemical feedstocks and petrochemicals among all regions and areas of the United States and among all sectors of the petrochemical industry, including processors, distributors, and users thereof.

"(3) For purposes of this subsection—

"(A) the term 'petrochemical feedstocks' means petroleum oils and natural gas liquids which are processed or otherwise converted into petrochemicals; and

"(B) the term 'petrochemicals' means derivatives of petroleum oils and natural gas liquids used for nonfuel purposes.".

Mr. DOLE. Mr. President, I think that merely for a quick review, I should point out that the amendment is permissive only; it is not mandatory. It is different in this respect from the bill I initially introducd on March 4, 1974, concerning plastic materials. The amendment I offer today simply authorizes the Administrator of the Federal Energy Administration to apply the rule or order on a national, regional, or case-by-case basis of allocation. It does not require allocation; it is permissive. It does, I think, fill a major, loophole in existing authority.

TOTAL ALLOCATION DIFFICULT

As vast and complex as the petrochemical industry is, it is difficult to imagine any program where the distribution and allocation of all petrochemicals and their feedstocks could be accomplished. However, when we stop to consider that some of our most vital industries are severely affected by the shortage of petrochemicals, it is clear that some priorities must be established and that action needs to be taken. The dairy industry, the fertilizer industry, the pharmaceutical manufacturers and the producers of medical devices are examples of those that should undoubtedly be considered for a priority under any allocation program which might affect them.

Other industries using petrochemicals may need an allocation program because of the extreme economic dislocations, financial hardships, and unemployment taking place. Plastic processors have been especially hard hit by the shortage and should receive consideration in this regard. The Federal Energy Office has released an estimate that the shortage of some petrochemicals may exist for several years to come. The Administrator clearly should have the authority to act on severe problems resulting from the inequitable distribution of the petrochemicals as well as take steps to increase the level of their production.

FLEXIBILITY PROVIDED

Although this amendment is limited in scope to those materials in short supply, it also provides the flexibility for the Ad-

ministrator to redirect his allocation efforts. The particular petrochemicals in short supply undoubtedly will change. Some currently in short supply may become more abundant and those presently in more adequate supply may become scarcer. Since it appears unfeasible to allocate all petrochemicals, the Administrator has the discretionary authority to determine where allocation is most needed.

I hope the Federal Energy Administrator will use this authority in keeping with the basic intent to expand the production of petrochemicals. Obviously, the shortage will not end until output is expanded. It has been called to my attention that uncertainty about Government action has had an inhibiting effect on industry. Industrial managers cannot be expected to risk multimillion dollar investments if possible Government action threatens to deprive them of a fair return. *So, hopefully*, the authority provided under this amendment will be used to reduce disruptions, not aggravate them.

Mr. President, the amendment has been discussed with the ranking minority member of the committee. I have also discussed it briefly with the chairman of the committee.

I do not believe there is any objection to the amendment in its present form. I ask the distinguished Senator from Washington if the committee might not accept the amendment.

Mr. JACKSON. Mr. President, the distinguished Senator from Kansas has pinpointed a very difficult and complex problem. Indeed, it is one of the most complex problems we have had to face in connection with the energy shortage. Petrochemicals have become the basic input of a number of major industries, including plastics, synthetic rubber, textile, and chemicals. Shortages of petrochemical feedstocks and petrochemicals have thus had an impact on industries using these materials—phonograph records, packaging, boat building, fiberglass—the list is almost endless. Petrochemical-related industries account in all for $100 billion in commerce each year.

On the other hand, to allocate petrochemical feedstocks and petrochemicals is an incredibly complex task. I do not think that the Congress now could legislate an equitable allocation program to cover all the various petrochemical-related commodities. Recognizing this problem, a provision was included in the recently enacted Federal Energy Administration Act to require a study of this problem. I would hope that any petrochemical allocation program would be held in abeyance until the results of that study are available. However, since the authority provided by the Senator's amendment is discretionary and could be implemented after the appropriate studies are made, I see no problem in accepting it. I am, therefore, prepared to vote.

Mr. FANNIN. Mr. President, I thank the distinguished Senator from Kansas for offering his amendment. The petrochemical industry is very important to our country. It is one that has received a great deal of attention in recent months regarding the problems they have had in supplies. I feel that the amendment is very much in order, and I support it.

Mr. JACKSON. Mr. President, over the past 9 months profits in the oil industry have gone up beyond any oilman's wildest dreams. Oil companies around the world are unintended beneficiaries of action taken by the Organization of Petroleum Exporting Countries—OPEC—to quadruple their oil prices. A Business Week industrywide composite shows first quarter profits increased 82 percent over last year's.

Mr. President, figures prepared by the Federal Energy Office show that the average price of domestic crude has gone from $3.90 in August 1973 to $7.19 this March. As a consequence, domestic oil companies will at least receive an additional annual $12 billion in oil revenues with no comparable increase in costs. Profit margins on foreign crude have also increased. The higher oil prices are of special concern because they are in large measure responsible for the latest inflationary pressures on the U.S. economy. More serious yet, the higher oil prices will continue to create widespread dislocation as their effects percolate through the economy. There are many examples of this and they include, among many others, the electric utilities, the airlines, the transportation industry, and the agricultural sector.

I am submitting for the record a table of figures from Business Week of May 11, 1974, which are representative of the increase in oil company profits for the first quarter of this year over the first quarter of last year, as well as two tables from the Oil and Gas Journal of May 6, 1974, that summarize the 1973 financial data of 42 U.S. oil companies.

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

NATURAL RESOURCES (FUEL)—CRUDE, INTEGRATED DOMESTIC AND INTERNATIONAL OIL, COAL

[Dollar amounts in millions]

Company	Sales		Profits		Margins		Ratios			10-year growth		Market value shares O/S year end	12 months earnings per share
	1st quarter 1974	Change from 1973 (percent)	1st quarter 1974	Change from 1973 (percent)	1st quarter 1974 (percent)	1st quarter 1973 (percent)	Ret. inv. cap.	Ret. com. eqy.	P-E 4-30	Com. eqy. (percent)	EPS (percent)		
Amerada Hess	$983.2	143	$49.9	36	5.1	9.1	24.1	35.8	4	NA	NA	$826	6.96
American Petrofina	213.0	189	13.1	176	6.1	6.4	18.7	21.4	8	14	24	332	4.57
Apco Oil	51.1	67	3.0	240	5.9	2.9	NM	−5.5	NM	22	13	33	−1.29
Ashland Oil (3)	672.6	53	19.4	22	2.9	3.6	11.3	18.9	6	9	6	556	4.02
Atlantic Richfield	1,559.8	56	93.9	87	6.0	5.0	8.9	9.2	16	18	6	5,072	5.52
Belco Petroleum	65.1	112	6.1	104	9.4	9.7	12.2	16.6	6	17	10	114	2.42
Charter	286.0	181	17.5	559	6.1	2.6	NA	36.3	3	NA	NA	75	9.16
Cities Service	703.2	34	68.8	87	9.8	7.0	9.5	11.5	7	9	3	1,581	6.52
Clark Oil & Refining	108.5	89	13.3	175	8.4	5.8	28.0	40.6	3	17	18	121	5.48
Commonwealth Oil Refining	298.5	228	15.6	489	5.2	2.9	17.7	27.5	4	11	−4	145	3.22
Continental Oil	1,600.0	72	109.2	130	6.8	5.1	12.7	17.6	6	10	7	2,753	6.03
Creole Petroleum	1,211.7	215	43.3	16	3.6	9.7	26.0	26.0	6	−3	−4	1,698	2.88
Crown Central Petroleum	76.9	81	4.3	NM	6.3	0.7	16.2	24.5	3	10	7	26	8.48
Eastern Gas & Fuel Associates	119.7	23	8.6	33	7.2	6.6	7.0	11.1	12	11	12	218	2.06
Exxon	9,278.0	61	705.0	39	7.6	8.8	16.1	20.3	7	5	6	21,071	11.79
Getty Oil	617.9	71	73.6	173	11.9	7.5	10.9	12.0	13	13	8	2,987	9.65
Gulf Oil	4,516.0	115	290.0	76	6.4	7.8	12.8	16.9	5	5	5	4,598	4.77
Kerr-McGee	238.7	37	23.6	99	9.9	6.8	11.3	14.0	22	16	8	2,249	3.00
Mapco	54.9	61	8.7	50	15.8	16.9	13.2	23.0	18	27	15	482	1.20
Marathon Oil	755.7	84	30.6	52	4.1	4.9	13.0	16.2	8	6	7	1,470	4.53
Mesa Petroleum	42.5	143	1.1	−75	2.7	26.5	10.9	17.1	15	NA	16	262	1.39
Mississippi River	212.4	−1	10.6	47	5.0	3.3	12.5	18.1	7	5	4	187	2.58
Mobil Oil	4,400.0	58	259.0	66	5.9	5.6	14.7	17.4	5	6	10	5,398	9.35
Murphy Oil	200.9	86	25.5	233	12.7	7.1	16.0	31.9	6	11	13	472	11.46
Natomas	65.4	261	15.3	NM	23.4	1.9	NA	19.0	8	13	−18	288	6.50
North American Coal	40.5	28	1.6	132	3.8	2.1	7.6	15.1	10	4	6	69	2.93
Occidental Petroleum	1,334.9	96	67.7	716	5.1	1.2	NA	14.0	5	31	19	455	2.15
Pennzoil	215.8	62	34.7	211	16.1	8.4	9.8	15.8	8	31	12	641	2.85
Phillips Petroleum	1,148.3	69	108.6	150	9.5	6.4	12.2	15.6	13	5	3	5,186	3.91
Pittston	278.7	45	14.6	96	5.2	3.9	10.4	14.7	18	14	13	408	1.88
Quaker State Oil Refining	62.2	38	5.3	48	8.6	8.0	16.1	21.8	14	14	19	347	1.48
Shell Oil	1,697.2	56	121.8	52	7.2	7.4	9.7	12.4	9	8	2	4,572	5.56
Skelly Oil	214.3	40	19.7	97	9.2	6.5	8.7	9.3	13	6	5	783	4.53
Standard Oil (Indiana)	2,053.4	66	219.0	81	10.7	9.8	12.3	15.4	10	5	9	7,242	3.73
Standard Oil Co. of California	3,528.8	108	292.9	92	8.3	9.0	15.6	17.8	5	8	7	5,944	5.79
Standard Oil (Ohio)	482.9	27	22.6	29	4.7	4.6	6.5	7.2	19	16	4	2,096	2.89
Suburban Propane Gas (3)	67.4	37	5.3	38	7.8	7.8	10.9	16.5	6	8	8	73	2.59

NATURAL RESOURCES (FUEL)—CRUDE, INTEGRATED DOMESTIC AND INTERNATIONAL OIL, COAL—Continued

[Dollar amounts in millions]

Company	Sales: 1st quarter 1974	Sales: Change from 1973 (percent)	Profits: 1st quarter 1974	Profits: Change from 1973 (percent)	Margins: 1st quarter 1974 (percent)	Margins: 1st quarter 1973 (percent)	Ratios: Ret. inv. cap.	Ratios: Ret. com. eqy.	Ratios: P-E 4-30	10-year growth: Com. eqy. (percent)	10-year growth: EPS (percent)	Market value shares O/S year end	12 months earnings per share
Sun Oil	$842.1	65	$90.8	85	10.8	9.7	11.4	12.8	7	1	7	$2,104	6.37
Tesoro Petroleum (3)	129.3	107	18.9	343	14.6	6.8	30.9	38.7	5	47	56	241	4.06
Texaco	4,924.0	97	589.4	123	12.0	10.6	16.3	21.3	5	9	7	7,987	5.95
Union Oil Co. of California	987.1	56	73.0	91	7.4	6.0	10.5	12.3	6	9	6	1,438	6.71
United Refining	62.8	162	1.7	155	2.7	2.8	15.5	22.0	4	25	18	33	3.93
Industry composite	46,451.5	76	3,597.0	82	7.7	7.5	13.6	17.3	8	6	6	92,635	6.16

Source: Business Week, May 11, 1974.

HOW 27 LARGE U.S. COMPANIES FARED FINANCIALLY LAST YEAR

[Dollar amounts in millions]

Rank by assets	Net profits [1] 1973	Net profits [1] 1972	Net profits [1] Percent change	Gross operating revenue [2] 1973	Gross operating revenue [2] Percent change	Percent net profit to gross operating revenue 1973	Percent net profit to gross operating revenue 1972	Working capital 1973	Working capital Percent change	Funds from operations 1973	Funds from operations Percent change	Capital and exploratory expenditures 1973	Capital and exploratory expenditures Percent change	Percent return on stockholders equity 1973	Percent return on stockholders equity 1972	Percent return on total assets 1973	Percent return on total assets 1972	Total assets 1973	Total assets 1972	Total assets Percent change
1. Exxon	$2,443	$1,532	+59.5	$25,724	+26.7	8.7	7.5	$3,486	+45.7	$4,079	+43.0	$2,235	+12.7	17.8	12.5	9.7	7.1	$25,079	$21,558	+16.3
2. Texaco	1,292	889	+45.3	11,407	+31.2	11.3	10.2	1,723	+80.2	1,926	+46.0	1,334	+11.8	16.2	12.4	9.5	7.3	13,595	12,032	+13.0
3. Mobil	849	574	+47.9	10,160	+24.7	8.4	7.1	564	−11.7	1,363	+30.9	1,334	+13.0	14.9	11.2	7.9	1.2	10,690	9,217	+16.0
4. Gulf	800	447	+79.0	8,417	+34.8	9.5	7.2	1,514	+4.8	1,560	+43.1	979	+14.0	14.4	8.3	7.9	4.8	10,074	9,324	+8.0
5. California Standard	844	547	+54.3	7,762	+33.2	10.9	9.4	1,271	+60.3	1,250	+35.3	1,217	+16.9	14.5	10.5	9.3	6.8	9,082	8,084	+12.3
6. Indiana Standard	511	375	+36.3	5,416	+20.3	9.4	8.3	775	+13.5	971	+22.0	1,100	+16.9	12.4	9.9	7.3	6.1	7,018	6,186	+13.4
7. Tenneco	230	203	+13.3	3,910	+19.4	5.9	6.2	333	−8.8	499	+15.8	392	+13.6	12.0	11.1	4.3	4.1	5,427	4,838	+12.2
8. Shell	333	260	+28.1	4,884	+19.8	6.8	6.4	752	+12.6	785	+17.3	581	−1.7	10.7	8.9	6.2	5.0	5,381	5,172	+4.0
9. Atlantic Richfield	270	193	+39.9	3,983	+19.9	6.8	5.8	718	+53.4	573	+19.6	500	+37.4	8.7	6.5	5.3	4.2	5,109	4,629	+10.4
10. Continental	243	170	+42.9	4,224	+23.2	5.8	5.0	483	+44.6	554	+39.2	476	−11.7	13.4	10.4	6.6	5.2	3,693	3,250	+13.6
11. Phillips	230	148	+55.4	2,990	+19.0	7.7	5.9	612	+17.7	469	+27.8	329	+24.2	11.7	8.2	6.4	4.5	3,607	3,270	+10.3
12. Sun	230	155	+48.4	2,286	+19.2	10.1	8.1	357	+77.6	463	+34.6	284	+5.2	11.9	8.8	6.8	5.2	3,382	2,980	+13.5
13. Union	180	122	+47.5	2,552	+21.6	7.1	5.8	357	+6.3	479	+18.0	391	+24.5	10.5	7.6	6.2	4.5	2,909	2,696	+7.9
14. Cities Service	136	99	+37.4	2,035	+9.3	6.7	5.3	277	+3.4	305	+17.3	402	+53.4	8.9	6.9	5.1	4.1	2,660	2,406	+10.6
15. Getty [3]	135	76	+77.6	1,601	+14.0	8.4	5.4	228	−14.0	362	+32.6	437	+60.1	8.5	5.2	5.7	3.5	2,355	2,182	+7.9
16. Pennzoil United	84	59	+42.4	1,059	+19.4	7.9	6.7	91	−43.5	189	+21.9	293	+125.4	13.3	11.7	4.2	3.2	2,001	1,837	+8.9
17. Ohio Standard	74	60	+23.3	1,482	+8.5	5.0	4.1	327	+11.6	158	+6.0	193	+55.6	6.5	5.6	3.8	3.3	1,964	1,802	+9.0
18. Amerada Hess	246	46	+434.8	1,896	+42.1	13.0	3.5	417	+112.8	354	+100.0	242	+70.4	31.8	8.3	12.8	3.4	1,922	1,378	+39.5
19. Marathon	129	80	+61.3	1,578	+23.5	8.2	6.2	105	+156.1	246	+33.0	169	−12.0	14.6	10.1	8.2	5.3	1,572	1,514	+3.8
20. Ashland [4]	85	68	+25.0	2,053	+15.3	4.1	3.8	298	+7.1	177	+14.9	176	+43.0	15.5	13.4	5.9	5.3	1,437	1,170	+13.1
21. Kerr-McGee	63	51	+23.5	728	+7.1	8.7	7.4	204	+3.0	125	−1.6	113	+48.7	11.2	10.0	7.2	6.3	867	807	+7.4
22. Skelly	44	38	+15.8	580	+10.5	7.6	7.2	91	−20.9	136	+18.3	175	+7.3	7.4	6.7	5.5	5.0	803	748	+7.4
23. Murphy	48	14	+242.9	499	+32.0	9.6	3.8	99	+47.8	111	+94.7	118	−7.8	20.2	7.6	6.9	2.5	704	568	+23.9
24. Superior	33	5	+560.0	152	+5.6	21.7	3.6	43	+59.3	53	+29.3	30	−6.3	9.0	1.5	4.9	0.9	660	572	+15.4
25. Louisiana Land	70	63	+11.1	180	+23.3	38.9	43.1	93	+93.8	106	+17.8	79	−26.9	27.5	28.4	15.4	15.5	455	406	+12.1
26. American Petrofina	37	18	+105.6	448	+57.2	8.3	6.3	72	+38.5	57	+62.9	135	+440.0	13.4	12.3	8.2	6.9	451	264	+70.8
27. Clark	30	8	+275.0	397	+35.8	7.6	3.0	42	+61.5	42	+100.0	15	+15.4	27.9	10.1	11.6	4.1	263	206	+27.7
Total	9,669	6,300	+53.4	108,403	+23.5	8.9	7.2	15,332	+29.8	17,392	+34.2	13,729	+21.2	14.2	10.0	7.9	5.8	123,160	109,196	+12.8

[1] Excludes nonrecurring gains and losses.
[2] Excludes nonoperating income and excise taxes.
[3] Getty data includes interest in Skelly.
[4] Fiscal year ended Sept. 30, 1973.

Source: Oil and Gas Journal, May 6, 1974.

HOW 15 SMALL COMPANIES FARED

[Dollar amounts in thousands]

Company	Net profits 1973	Net profits 1972	Percent change
Coree	$34,117	$3,113	+995.9
Tesoro	19,874	13,047	+52.3
Mapco, Inc	19,598	13,065	+50.0
Quaker State	19,202	15,207	+26.3
General Crude Oil	17,013	14,177	+20.0
Pioneer Natural Gas	12,397	9,852	+25.8
Crown Central Petroleum Corp	8,441	1,317	+540.9
Helmerich & Payne, Inc	6,368	4,449	+43.1
Inexco Oil Co	5,811	4,519	+28.6
Apco Oil Corp	5,717	6,186	−7.6
Woods Corp	5,190	3,891	+33.4
Barber Oil & Gas Co	3,221	2,648	+21.6
Western Co of North America	2,372	1,744	+36.0
Forest Oil Corp	(1,037)	771	−234.5
White Shield Corp	(2,750)	981	−380.3
Total	155,534	94,967	+63.8

Source: Oil and Gas Journal, May 6, 1974.

IMPACT OF OIL PRICES

Mr. JACKSON. Mr. President, for several months now, oil prices have been rising at an alarming rate: since October of 1973, imported crude oil prices have quadrupled, uncontrolled domestic crude oil has tripled, and product prices in most instances have doubled. In themselves, these price increases would have a serious impact on the economy, since petroleum comprises such a vital commodity in all sectors of an industrial society such as ours. Price rises in the petroleum sector have bid up the price of alternative fuels and electric power. The American Public Power Association, for example, has reported that the electric power generating industry has experienced fuel cost increases of 300 to 400 percent, resulting in electric bills three and four times higher than a year ago. However, perhaps even more significant than these direct price increases, is the ripple effect that will be felt throughout the economy, in all industries where fossil fuels are used directly or indirectly as an input to production.

Hardest hit by these cost increases will be the energy-intensive manufacturing industries, which unfortunately tend to be our most basic industries, as indicated in the tables.

An example of the extent to which these fuel-related price increases will reverberate throughout the economy, are the recent announcements by major metal manufacturers of cost increases of more than 20 percent in the past few months, because of increased fuel prices and electric rates. As a result, the price of aluminum has jumped more than 25 percent a pound in the last 6 months, while steel prices rose 9 percent this past month. According to spokesmen for the steel and aluminum industries, as well as the titanium and magnesium, no end is in sight to the fuel-related inflationary spiral which they now face.

The escalating costs of these basic industries are being reflected in consequent price increases to their immediate industrial consumers, such as the automobile, aircraft, and aerospace industries, who must now pay more for both fuel and basic metal inputs. These intermediate consumers have experienced cost increases of 9 to 25 percent in recent months.

Consequently, these industries have also announced product price increases: automobile price increases up to $200 have been announced by two of Detroit's

big three auto makers; Congress has been told to expect aerospace cost hikes up to 16 percent and defense-related cost overruns up to 36 percent.

The Cost of Living Council has projected that, if current prices persist, basic industries will experience fuel-*related cost* increases as high as 43 percent in 1974. Already, in March 1974, the wholesale oil price index for all industrial commodities rose by 2.9 percent of which fully one-fourth was directly attributable to increased fuel prices. By the time these increases have been passed on through the economy, through secondary and tertiary levels of manufacturing, and finally to the ultimate consumer, they will be multiplied by several orders of magnitude. Americans will be paying more not only for metal goods, for machine-tooled goods, and for petroleum-based plastic goods, but for gasoline, heating oil, and electricity, and even na*tional defense.*

Disposable consumer income will be drastically reduced. The noted economist Walter Heller has reported that in 1974, if fuel prices remain at present levels, the inflation rate will be about 7.5 percent, virtually all of which will be related to fuel price increases.

If the administration is serious about curbing inflation, and finding a way out of the recession we are now experiencing, one of the first places to start is by curbing the unwarranted and inflationary increases in prices of such basic commodities as petroleum which, if left unchecked, will permeate the entire econ*omy. Without* such restraints, all other efforts at economic stabilization will be futile.

Mr. President, I ask unanimous consent that the reports and articles referred to in my remarks be included in the RECORD at this point.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. JACKSON. Mr. President, I would also like to note at this time, that a number of amendments proposed for this bill deal with amendments to the Allocation Act. This is neither the appropriate time nor context in which to deal with this complex problem. The Interior Committee has begun oversight hearings on the Allocation Act with a view to determining needed amendments. I would therefore respectfully suggest that Senators with amendments dealing with changes in the allocation program withhold those amendments and submit them to the committee for proper and timely consideration.

EXHIBIT 1

AMERICAN PUBLIC POWER ASSOCIATION,
Washington, D.C., January 31, 1974.

Mr. DICK GRUNDY,
New Senate Office Building,
Washington, D.C.

DEAR DICK: In connection with your hearings on S. 2885 to control escalating oil prices, I thought you might find of interest the enclosed results of a survey of APPA members. The survey shows that price increases *to local* public power systems for residual fuel oil have amounted to as much as 300% to 400% during the past 12 months. For distillate fuels, the increases have been as much as 260% since January, 1973. Some price increases over just the past three months have been more than 150%.

Sincerely,

LARRY HOBART.

REMARKS BY ALEX RADIN, GENERAL MANAGER, AMERICAN PUBLIC POWER ASSOCIATION, WASHINGTON, D.C., AT CONSUMER ASSEMBLY, STATLER HILTON HOTEL, WASHINGTON, D.C., JANUARY 25, 1974

To an audience which has been inconvenienced by gasoline shortages and had its pockets picked by exorbitant prices, it is not pleasant to be the purveyor of more bad news. I regret, however, that I must warn you that more bad news seems to be well on the way. The news is that what has already happened with regard to oil is beginning to happen in coal.

I make this prediction on the basis of a survey which our organization has just completed of the consumer owned electric utilities which are members of the American Public Power Association.

Skyrocketing oil prices will drive up electric rates unmercifully in those areas where utilities are heavily dependent upon oil as a source of fuel. Electric consumers are only now beginning to feel the severe impact which these high oil prices will have on electric rates.

Unfortunately, coal price increases will have a much more pervasive effect on electric rates. That is because only about 15% of the Nation's electricity is generated from oil, whereas coal is the source of fuel for about 44% of the Nation's electricity. In view of the pleadings by government officials to electric utilities to switch from oil to coal wherever possible, coal is likely to provide an ever greater share, proportionately, of electric utilities' fuel supply.

Before I recount what appear to be rather dismal short-term prospects for coal availability and price, I believe it would provide a useful backdrop for our discussions to indicate what the local publicly owned utilities have reported as to their oil situation. I know you are becoming accustomed to hearing scare stories about the price of oil, but here are a few more facts that indicate just how sharply oil prices have been raised during the past year.

A recent survey of APPA members showed that price increases for residual fuel oil have amounted to as much as 300% to 400% during the past twelve months. For distillate fuels, the increases have been as much as 260% since January 1973. Some price increases over just the past three months have been more than 150%.

Federal government officials have repeatedly claimed that their hands are tied in attempting to control oil prices, because the Federal government has no control over prices of foreign oil. However, the enormous price increases being reported by our member utilities are not just from coastal utilities which traditionally depend on imported fuel. Many of these reports come from utilities in Minnesota, Missouri, Iowa, Nebraska and Kansas which are being supplied by domestic fuels.

Keeping in mind what has been happening to oil supplies and prices, now listen to a few reports on the coal situation from the consumer owned municipal electronic utilities:

From Iowa—". . . unless conditions change, I would fully expect to see coal allocations for 1976. . . . We have recently been attempting to line up our coal supply for the next three years, but have found only one coal company who will give us a three year contract. Some of the companies say they have no coal available and this includes low sulfur western coal. We have been able to get a tentative commitment for next year but not on the basis of a contract, and no one will give us a firm price but rather they say the price will be subject to negotiation at the time of shipment."

From South Carolina—"Production and availability of coal was off in December 1973 due to holidays, bad weather, car shortages, roof bolt shortages, and a lack of diesel fuel and ammonia nitrate. We scheduled delivery for a total of 142,000 tons and received 103,000 tons for a short-fall of 39,000 tons. Needless to say, our stockpiles are down. Uncontracted coal is presently being 'auctioned off' on a day to day or week by week basis and we feel that all utilities are actively bidding for the available 'spot' coal. The fuel oil shortage and conversion of oil to coal by industries and utilities is greatly aggravating an already 'festered' situation."

From Kansas—A major municipal electric utility reported that its only firm coal contract was for 100,000 tons per year shipment, but that the supplier notified the utility a month ago that it was exercising a clause in its contract and would be cancelling it in 60 days. "We found that the reason for this notification was to obtain a higher price for the coal. We since have negotiated a three-year contract which increased the base price for coal by approximately 82¢ per ton. We also had to agree to remove the penalty clause in the contract for Btu content of coal below the nominal 12,500 Btu per pound. Our main worry as far as the future is concerned is the availability of coal since we have to buy most of our coal on the spot market . . . We sent inquiries out to 19 or 20 coal companies, and as of today have received no quotations for coal."

From Ohio—"In 1972 we had approximately 15 sources of spot purchase coal, 5 in 1973 and 1 as of this date for 1974. Our increases, although significant, are minor compared to some quotes we have received. For example, a Kentucky coal we purchased in March 1973 for $7.35 mine price was quoted at $18.50 mine price on 1/2/74. Another Kentucky coal we bought in 1972 for $6.00 mine was quoted at $10.00 in November 1973 and $18.00 on 1/10/74. Neither of these sources have any coal available at these prices, due to recent commitments to eastern utilities. The story is similar with our previous Ohio sources; prices doubled, no reserves available."

From a Wisconsin utility which had just received a small coal price increase and which was anticipating another increase "at any time": "There seems to be a pattern which has repeated itself over the years; just prior to a price increase in coal, shipments fall well short of our requirements so that our stockpile is depleted to a near-panic level. At that point, coal shipments are resumed or exceed our daily 'burn' with an attendant substantial increase in price. This situation occurred in 1970, again in late 1972, and again in the summer of 1973 just prior to the new contract date of October." The utility said it feared that increased pressure on coal suppliers will make it increasingly difficult for small generating utilities to obtain adequate supplies and "some kind of allocation program for coal may be needed to prevent this from happening."

From a Michigan utility which reported steady coal price increases in 1973, and an expected increase again in January, 1974: "One supplier, about 20% of our requirements, is trying to cancel contract. It is felt by us that this is based on higher prices prevalent in open market."

The Nation's largest single utility user of coal—the Tennessee Valley Authority has also reported problems in obtaining sufficient coal supplies. TVA had not yet reached the precarious situation in which it found itself several years ago, when coal supplies at some major steam plants were down to three to five days. But TVA, which normally has about a 90 days' supply on hand at this time of the

year, found that its coal stocks were dwindling, and were down to about 50 days at full burn. Prices also were rising rapidly.

Our survey is not the only indication of danger signals in coal availability and price. A little-noticed report presented on January 16 to the Federal Power Commission Executive Advisory Committee by Paul D. Martinka, chairman of the Technical Advisory Committee on fuels availability of the FPC National Power Survey also sounded warnings. Mr. Martinka, who is Vice President—Coal Supply, of the American Electric Power Service Corp., estimated that 1974 coal production would fall 14-million to 30-million tons short of the amount needed to meet the Federal Energy Office's projected conversion of 46 power plants from oil to coal. Mr. Martinka also reported on some of the factors which inhibit the expansion of coal production.

Among the factors he cited are the present high cost of capital, the high risk of rapid obsolescence, State and local restrictions on mining and the delays in the securing of mining permits.

He said that coal producers face shortages of essential materials such as diesel fuel, ammonium nitrate for explosives, roof bolts, mine structural material, earth-moving machinery and conveying equipment. There is also an acute shortage of labor to man the mines.

"Coal produced in the western states is of limited benefit for generating plants in the east because the relatively low heating value of a large part of such coal makes it unacceptable for use in these plants, and there is a very difficult transportation problem," he continued. "Long distance transportation ties up railroad cars and river barges, which are presently in short supply, for longer periods of time. Some of the respondents to our survey pointed out that movements of export coal have the same effect."

Although one can appreciate the many serious problems besetting the coal industry, it is my personal belief—shared by a number of others—that there is another factor which accounts in large part for the very sharp escalation that seems to be in prospect for coal prices. That factor is the increasing degree of ownership of coal production (and especially reserves) by the oil industry, and the expectation by the oil companies that return on coal investment should equal that of oil. With prices for oil skyrocketing, is it little wonder that the oil companies are likewise pushing up coal prices? The goal of the oil ("energy") companies seems to be to obtain the same price for a Btu, or unit of energy, whether it is produced from coal, oil, uranium, natural gas, shale or other sources of energy which are gradually coming under the control of the energy companies.

If coal prices follow the recent trend in oil prices, we already have clear indication of how much consumers are likely to be soaked.

The Federal government is by no means powerless to act in the face of a fuel situation which holds such dangerous consequences for the future of our Nation. The problem thus far has been that Jack the Ripoff has been running wild and governmental police are doing nothing about it. Here are a few steps that should be taken:

1. Effective price controls must be imposed immediately. Thus far, price controls have been a farce—as witness the record profits of the oil companies and the skyrocketing prices for oil and oil products. We must have effective price controls on fuels, and we must have such controls this winer. A "freeze" on current prices would be a fraud—prices have already been run-up to extortional levels and, if allowed to stand, they threaten to generate seriously disruptive price ripples throughout the economy. Fuels prices must be rolled back to levels justified by reasonable costs. If the Federal Energy Office doesn't believe that it already has the power to take this action, then it should lose no time in requesting such authority from Congress.

I cannot emphasize too strongly the need for immediate action on price controls on fuels. High fuels prices have an inflationary effect on the entire economy. Moreover, the blow falls hardest on low income people, because the cost of energy is proportionately greater for those having low incomes than it is for the more affluent.

In view of the seriousness of the fuels price problem, it is disappointing, to put it mildly, that the President's energy message earlier this week did not address itself to this question.

2. Consumers must have better access to better data regarding our energy situation. The only lasting protection for consumers is better information. The government has an obligation to dig up the facts and make them known. This includes such information as the complete details of corporate ownership, corporate interrelationships, fuel reserve ownership, and detailed production cost information. This kind of information could help us get on with the long overdue job of applying the anti-trust laws to energy companies, and stopping further concentration of ownership control of the nation's natural resources.

3. One of the most promising long-term solutions to the problem of assuring a competitive energy industry is a proposal by a number of Senators and Congressmen to establish a Federal Oil and Gas Corporation (I would prefer a Federal Fuels Corporation—why exclude coal?).

The Federal Oil and Gas Corporation Act would establish a Federally-owned corporation, similar to TVA, with the primary purpose of discovering and developing oil and gas deposits on publicly held lands. The largest share of undeveloped domestic oil and gas reserves is beneath Federal lands, so the Federal government has ready access to these resources.

There are four essential purposes to be achieved by the establishment of such a Federal corporation. First, the corporation would develop publicly owned oil and gas resources with the aim of meeting national energy needs rather than maximizing private profit. Second, it would develop public resources in ways calculated to stimulate maximum economic competition in all facets of the petroleum business. Third, and very important, it would provide the public and the government with knowledge of the actual cost of production data which would serve as an invaluable guide to public policy. Fourth, the corporation would produce additional fuel supplies so as to alleviate shortages.

I believe that the "yardstick" competition which could be provided by such a federal fuels corporation, and the direct access to data which it would provide the public and the government, would serve as a tremendous competitive spur to private energy producers. The establishment of such a corporation would not mean the nationalization of the petroleum industry; far from it. The Federal corporation would act to resuscitate competition and could obviate the need for detailed government controls.

Experience in the electric industry, where publicly and privately owned electric utilities have been operating side by side since the beginning of central station electric service, provides a clear example of the benefits to be obtained from the institutional competition that would be provided by a Federal fuels corporation.

4. Federal tax laws relating to oil must be drastically overhauled. Among the many other reforms that are needed is the elimination of the foreign tax credit, whereby oil companies are permitted to deduct from their Federal income taxes, on a dollar-for-dollar basis, royalties that they pay to foreign governments. This device, among other things, tends to distort the earnings of the oil companies.

5. And finally, the Federal government should take positive action to break up monopoly control in the energy industry and ventilate the atmosphere by the fresh air of competition—competition not only between diverse private owners, but also from a Federal fuels corporation.

Having concern for fuels prices and calling for effective action in controlling runaway prices is consistent with the history of consumer owned public power. From the beginning, our segment of the industry has attempted to provide energy at as low a cost as possible. In times past, energy may have been priced too low to cover all of the social costs associated with production. To the extent that prices have not covered those costs, they should be increased. But the impact of energy is too important to society for us to sit back and let prices rise to unconscionable levels. To do so would not only harm our consumers—to whom we owe our primary allegiance; exorbitant prices also threaten the very existence of some local public power systems. The demise of these consumer owned utilities would only tend to increase monopoly control in the energy industry, and would bring with it the many ills that flow from such a monopoly.

EXAMPLES OF FUEL PRICE AND SUPPLY PROBLEMS OF ELECTRIC UTILITY MEMBERS OF THE AMERICAN PUBLIC POWER ASSOCIATION

LOS ANGELES DEPARTMENT OF WATER AND POWER

Prices paid for low-sulphur, residual fuel oil have steadily increased during the past year with a sharp increase during the last three months, largely due to spot purchases of foreign oil. The weighted average delivered price for low-sulphur oil purchases for February 1974 delivery is $16.96 per barrel. This price represents a 108% increase over the weighted average price paid in December 1973, a 200% increase over the weighted average price paid in June 1973, and a 256% increase over the weighted average price of January 1973.

JACKSONVILLE, FLA.

The Jacksonville Electric Authority purchases both residual oil and distillate oil. One year ago No. 2 oil was purchased for 11.72¢ per gallon, and three months ago the price was 15.82¢ per gallon. Spot purchases during the past three months have been made at prices of 24¢, 29¢ and 42¢ per gallon. The 42¢ per gallon price represents an increase of 258% over the price of one year ago, and an increase of 165% over the price of just three months ago. The January 1974 price for No. 6 residual oil with a sulphur content of 1.8% has been as high as $12.52 per barrel, or 365% higher than the $2.69 per barrel price of Sept. 1973.

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

The average delivered price of coal was $15.60 per ton in December 1973, or 26% higher than in June 1973 and 32% higher than one year earlier in December 1972. This average price includes both contract and spot market coal purchases. The average delivered price of spot market coal only during December 1973 was $17.52 per ton. SCPSA has had spot market coal offered during the first weeks of January 1974 at prices as high as $26.00 per ton f.o.b. mine and with no guarantee of quality or quantity—an increase of over 250% since Dec. 1972.

JAMESTOWN, N.Y.

The Jamestown Board of Public Utilities purchases about 75% of its coal requirements from mines in Pennsylvania. The de-

livered price for this Pennsylvania coal for the week ended January 7, 1974, was $19.89 per ton, a 13% increase over the highest December 1973 price of $17.61, and a 59% increase over the January 1973 price of $12.49 per ton. While the price has been rising the quality of the coal declined. It is believed that the east coast utilities which are reconverting back to coal are contributing to *the pressure for* rising prices as well as creating a serious shortage of railroad hopper cars.

MEMPHIS, TENN.

The Memphis Light, Gas and Water Division is concerned about gasoline supplies with which to fuel its construction and service vehicles. The allocation regulations indicate that the utility is entitled to 100% of its 1972 base period supply volume, but the base period supplier is offering only 80% of that volume. The utility will run out of gasoline sometime in February should it be restricted to the 80% figure. The utility has sought relief from the State fuels allocation office in accordance with the regulations, but the State office states that it is not equipped to deal with the problem. Other publicly-owned utilities in the Tennessee Valley are concerned about the adequacy of gasoline allocation procedures.

ARIZONA

Salt River Project, No. 2 oil and residual oil: Have experienced extreme difficulty in securing distillate fuel not previously under contract. Residual oil is available, but not in required quantities from normal California supply area. Salt River Project is now purchasing residual from areas as far away as Texas, Oklahoma, and Wyoming. Between 1/1/73 and 1/1/74 price of distillate fuel purchased from Standard Oil Company has increased by 55% to $7.10 per bbl. F.O.B. refinery; price from Powerine Oil Company has *increased* by 19% to $5.138/bbl. Atlantic Richfield, 108% to $10.120/bbl.; MacMillan Ring-Free, 81% to $8.170/bbl.; Edgington Oil Co., by 21% to $5.596/bbl. and Douglas Oil Company, by about 6% to $5.40/bbl. The low price for a spot purchase of residual oil in October 1973 was $4.50/bbl. and the high price thus far in January 1974 has been $10.54/bbl.

ARKANSAS

Conway, diesel oil: Conway runs its generating plant only for peaking during the summer months. In October 1972 paid 13.97¢/gal. for diesel, in June of 1973 it cost 20.55¢/gal., and if we were to buy today it would cost 28.5¢/gal.

CALIFORNIA

Los Angeles, residual fuel oil: Weighted average price of low-sulphur oil (0.5% sulphur) purchases for February 1974 delivery is $16.96/bbl. This is a 108% increase over the weighted average price for December 1973, a 200% increase over the price for June 1973, and a 256% increase over the weighted average price for January 1973.

Pasadena, residual: Unable to locate low sulphur oil which they are required to burn under the regulations of Air Pollution Control District. Have contract for high sulphur residual oil at $6.20 per bbl. but haven't received a variance which allow them to burn it. Have been quoted prices of up to $28.00 per bbl. for low sulphur residual by various "brokers", but all such offers have proved to be bogus; the oil was such that couldn't be burned, or delivery logistics could not be arranged. Neighboring utility, Los Angeles Dept. of Water and Power has paid as much as $25.00 per bbl. for low sulphur oil; if Pasadena must pay that much they will have to increase electric rates as much as 100%.

Burbank, residual and jet fuel: Top quoted prices for residual have increased by 350% from January 1973 to January 1974; during same period quoted prices for jet fuel have increased by 233%. During the first week of 1974 all offers of residual fuel have been in excess of $20 per bbl. FOB Los Angeles harbor. Prices quoted to Burbank:

Residual—Dollars per barrel

January 1973, 4 to 6.
July 1973, 6 to 8.
December 1973, 14 to 27.

Jet fuel—Cents per gallon

January 1973, 9 to 15.
July 1973, 16 to 20.
December 1973, 20 to 50.

COLORADO

Trinidad, No. 2 diesel: Due to curtailment of natural gas supplies, have been burning more fuel oil—deliveries have been adequate. Price has increased 63% during the period January 1973 to January 1974. Price per gallon has increased as follows: 1/1/73—12.49c, 9/1/73—14.40c, 11/1/73—15.90c, 11/9/73—17.40c, 1/1/74—20.40.

La Junta, natural gas and No. 2 diesel: Rely primarily on natural gas to fire internal combustion engine, with No. 2 as alternate fuel. Proposed contract for 1974 increases natural gas price by 36%. Diesel fuel price has increased by 100% in past year.

Lamar, No. 2 diesel: Natural gas is primary fuel and No. 2 diesel is alternate fuel. Haven't experienced any long-term difficulty in buying gas but expect to in future. In January 1974 the delivered price paid for No. 2 diesel fuel was 28.6 cents per gallon, or 85% more than highest price paid in January 1973, and 47% more than the price in October 1973.

CONNECTICUT

Norwich, No. 2: Price increased from 13.36 cents per gallon in January 1973 to 23.50 cents per gallon in January 1974, an increase of 76%. From October 1973 to January 1974 the price increased by 31%.

Wallingford, coal: Under EPA requirements Wallingford is charged with burning the lowest sulphur coal available. Able to acquire only 500 tons per week which just meets needs. Delivered cost of coal from Toms Creek, Virginia was $28.49 in January 1974, up 7.5% from December 1973 and 18% from June 1973. Cost of coal from Pikeville, Kentucky was $23.18 in January 1973. The cost of coal from Virginia delivered in January 1974 was 23% higher the cost of the Kentucky coal delivered one year earlier.

FLORIDA

Gainesville, residual and No. 2: Unable to attract bids on low sulphur No. 6 and concerned over allocation of No. 2. (attachment misplaced)

Jacksonville, residual and No. 2: One year ago No. 2 was purchased for 11.72 cents per gallon; three months ago it was 15.82 cents; spot purchases during the past three months have been made at prices of 24 cents, 29 cents, and 42 cents per gallon. The 42 cents per gallon price represents an increase of 259% over the price of one year ago, and an increase of 165% over the price of just three months ago. For No. 6 with a sulphur content of 1.8% the January 1974 price has been as high as $12.52 per bbl. or 365% higher than the $2.69 per bbl. price of one year ago and 77% higher than the price of about $7.07 per bbl. of three months ago.

Lakeland, residual and No. 2: Have contract for No. 6 with a ceiling price of $3.80 per bbl. which was reached in September 1973. The contract expires on February 14, 1974. Current price without ceiling would be $5.90 per bbl. If Lakeland must pay the $5.90 price it will mean an increase of 55%. Lakeland uses approximately 1,500,000 gallons of No. 2 oil per year. In January 1973 they paid 11.2 cents per gallon, in August 1973 the price rose to 13.01 cents per gallon, and on November 1973 to 14.45 cents per gallon. The January 1, 1974 price is 15.95 cents per gallon, an increase of 42% over the price of one year ago, and of 23% over the price of August 1973.

Kissimmee, diesel oil: Average cost of diesel fuel oil in December 1973 was $20.71¢/gal., an increase of about 7% over the average cost in July 1973, and an increase of about 54% over the price of January 1973.

Tallahassee, residual oil and No. 2 diesel: Delivered cost of residual oil in January 1974 was $6.14/bbl. or 58% more than the average price in August 1973, and 77% higher than the one year earlier price of $3.47/bbl. paid in January 1973.

New Smyrna Beach, residual and No. 2: Price of No. 2 oil in January 1973 was 14.13¢ per gallon, it increased to 18.02¢ per gallon in June 1973, to 20.52¢ per gallon in November 1973 and to 21.65 cents per gallon by December 31, 1973. The December 1973 price was 6% higher than the November price and 53% higher than the January 1973 price. Prices paid for No. 6 oil in 1973 were: 7/6/73—10.81 cents per gallon; 8/5/73—11.31 cents; 9/12/73—11.55 cents; 10/6/73—12.22 cents; 11/14/73—15.92 cents; and 11/28/73—16.47 cents. The 11/2/73 price was 52% higher than the 7/6/73 price.

IDAHO

Donners Ferry, diesel oil: January 1974 price was 29.2¢/gal. up from the September 1973 price of 19¢/gal. by 54% and from the April 1973 price of 15.48¢/gal. by 89%.

ILLINOIS

Carlyle, diesel oil and coal: Price of diesel fuel oil one year ago was 11.225¢/gal., two months ago it was 18.8¢/gal., and in January 1974 it was 28.8¢/gal., or 157% higher than the one year earlier price. One year ago coal was $7.85/ton at the mine, six months ago it was $8.75/ton, three months ago $9.50/ton, and in January 1974 the coal price rose to $9.90/ton, or 26% higher than the January 1973 price.

Rochelle, coal and No. 2 oil: Coal prices (FOB mine) have increased by 10% from the 1/1/73 price of $8.25 per ton to the 1/1/74 price of $9.10 per ton. The price of No. 2 oil has increased by 52% from 1/1/73 to 1/1/74, and by 26% between 7/1/73 and 1/1/74. The 1/1/74 price was $18.57¢ per gal. and the 1/1/73 price was 12.20¢ per gallon.

Rantoul, No. 2 oil: No problem of availability so far. January 1974 price of 20.52¢ per gallon is 37% higher than the December 1973 price of 15.02¢, 61% higher than the July 1973 price of 12.72¢, and 78% higher than January 1973 price of 11.52¢ per gallon.

IOWA

Montezuma, No. 2 oil: 1973 fuel contract was at 12.35¢ per gallon. A new contract was signed in December 1973 at a price of 16.40¢ per gallon with an ad clause. The adder was used to raise the price of 18.60¢ on 12/8/73 and to 22.80¢ on 12/31/73. The December 31 price was 39% higher than the December 1 price and was 85% higher than the 1973 contract price.

New Hampton, No. 2 oil: December 31, 1973 price of 25.20¢ per gallon was 34% higher than the November 30 price of 18.80¢, 52% higher than the November 7 price of 16.60¢, and 105% higher than the July 31, 1973 price of 12.27¢ per gallon.

Cedar Falls, coal, natural gas and No. 2 oil: Fuel availability good for 1974 due to adequate stocks on hand. Present coal price of $15.91 per ton is 16% higher than $13.74 price of six months ago, and 16.5% higher than $13.66 price of one year ago. Having trouble attracting bids for new three year coal contract—concerned about future supply. Gas price of 50¢/MCF is up 16% over 43¢/MCF price of one year ago. Anticipate severe curtailment of natural gas supply. No. 2 oil price currently 26¢/gal. and increase of 37% over six months ago and of 136% over the 11¢/gal. price of one year ago.

Spencer, No. 2 oil: January 1974 price of 30.921¢/gal. is 36% higher than December 1973 price, 72% higher than the July 1973 price, and 151% higher than the January 1973 price of 12.33¢/gal.

Osage, No. 2 oil: Price from Standard Oil has risen from 12.58¢/gal. in October 1973 to 25.78¢/gal. by January 3, 1974, an increase of 105%. Osage cannot generate power at this price and finds it cheaper to purchase power from Dairyland Coop.

Estherville, No. 2 oil: Supply has been adequate but price has risen from 11.64¢/gal. in January 1973 to 19.39¢/gal. in November 1973 and to 32.2¢/gal. on January 10, 1974. The increase since November has been 66% and since one year ago has been 177%.

Waverly, No. 2 diesel oil: January 1974 price from 25.68¢/gal. to 29.75¢/gal. up 94–125% from December 1973 price of 13.23¢/gal.

KANSAS

Belleville, natural gas and No. 2 diesel fuel: Price for No. 2 was 14.84¢/gal. in October 1973 but had increased 19% to 17.64¢/gal. by November 30, 1973. Natural gas price increased by 21% in one year's time to current price of 33.38¢/mcf.

Chanute, No. 6, No. 2, and natural gas: Local refinery continues to supply No. 6 and No. 2 oil and keep storage tanks topped off. Natural gas was 100% curtailed for first two weeks of year but has now been restored to 100% of need. Price of natural gas increased by 45% from December 1973 price of 31¢/mcf to January 1974 price of 45¢/mcf. No. 6 oil price increased 125% from July 1973 price of 12¢/gal. to current January 1974 price of 27¢/gal. No. 2 oil price increase from 11¢/gal. in December 1972 to 30.75¢/gal. in December 1973 and to 34.5¢/gal. in January 1974, an increase of 94% from July 1973 to January 1974.

Erie, No. 2 oil: Current price is 27.5¢/gal. or 28% more than the price thirty days ago when it was 21.5¢/gal., and 132% more than the price of one year ago which was 11.85¢/gal.

Hugoton, No. 2 oil: Have had to buy fuel from available sources to keep adequate supply on hand. January 1973 price was 11.51¢/gal.; it rose to 17¢/gal. by July 1973 and to 19.6¢/gal. by January 1974. Have also paid as much as 23.9¢ for small supplemental purchases. Supplier has notified that new price will be 29.5¢/gal. The 29.5¢ price represents and increase of 51% over the January 1, 1974 price, an increase of 74% of the July 1, 1973 price, and an increase of 156% over the price of January 1, 1973.

McPherson, No. 2 oil and residual oil: Purchase No. 2 for from 18.45 to 21.50 cents per gallon—estimated cost for next year's needs is 60 cents per gallon, or from 125 to 179 percent higher. Price of No. 6 oil from local refinery was 8 to 12 cents per gallon prior to January 1, 1974—as of January 1, 1974 the price was increased to 19 cents a gallon, a 58 to 138 percent increase. Not all of utility's 1,000,000 gallon needs are available from local refinery so have been obliged to purchase from other Midwest refineries at prices ranging from 24.9 cents a gallon to 28 cents a gallon.

Kansas City, coal and No. 2: Use No. 2 for boiler light-up only (about 2,000 gallons per month) but price has gone from 12.3 cents a gallon in January 1973 to 19.5 cents in June 1973, and 23.9 cents in December 1973—an increase of 94 percent over the year. Have been offered No. 2 at a price of 65 cents a gallon but did not purchase. January 1973 delivered price of coal ranged from $8.75 a ton to $11.14 a ton. This rose by 16 percent at the low end and 24 percent at the high end, to a range of $10.16 a ton to $13.80 a ton in December 1973. Coal storage is currently at 60–70 days' supply but have been notified by only contract supplier (Peabody) that contract will be terminated in 60 days in order to increase price. New contract has now been negotiated at an increase in the base price of 82 cents per ton and removal of the penalty clause for low Btu coal.

Herrington, No. 2 oil: Price of No. 2 was 18 cents a gallon, at beginning of 1973, increased to 23.5 cents a gallon December 1, 1973 and again to 30.5 cents a gallon on January 1, 1974. January to January increase was 69 percent, December 1973 to January 1974 increase was 30 percent. Supply no problem so long as asking price is met.

KENTUCKY

Owensboro, coal and No. 2 oil: No price with price or supply of coal. Price is firm for another 12 months of a three-year contract. No. 2 oil is used for start-up and flame stabilization of 265 MW coal unit. January 1974 price of 19.07 cents a gallon represents an increase of 46 cents over the June 1973 price of 13.09 cents a gallon, and an increase of 60 percent over the one year earlier price of 11.95 cents a gallon.

LOUISIANA

Lafayette, No. 2 fuel oil: December 1972 prices ranged from 11.050 cents a gallon to 15.9 cents a gallon, for purchases from three vendors. Purchases from two vendors during June, July and August ranged from 11.05 cents a gallon to 20.1 cents a gallon and December 1973 purchases from three different vendors ranged in price from 20.49 cents a gallon to 30.5 cents a gallon.

Ruston, No. 2 oil: Oil is supplementary fuel to natural gas. During the past twelve months price rose by 50 percent from 11.6 cents a gallon to 17.5 cents a gallon.

MARYLAND

Easton, No. 2 oil: The January 1974 price of 27 cents a gallon is up 34 percent from the December 1973 price of 20.1 cents a gallon, is 59 percent higher than the 17 cents a gallon price of October 4, 1973, and is 111 percent higher than the price paid in January 1973 of 12.8 cents a gallon.

MASSACHUSETTS

Braintree, residual fuel oil: January 1974 price of $17.80 per bbl. is 142% higher than the 11/8/73 price of $7.37 per bbl., 242% higher than the 10/1/73 price of $5.21 per bbl., and 330% higher than the June 1973 price of $4.14 per bbl. Oil received so far is 1% sulphur but have been notified that in future it will be 2.4% sulphur—at the nearly $18.00 per bbl. price.

Hudson, No. 2 oil: January 1974 price of 23.18c/gal. is 25% higher than the December 1973 price of 19.065c/gal., 40% higher than the November 1973 price of 16.9866c/gal., and 101% higher than the August 1973 price of 11.8485c/gal.

MICHIGAN

Sturgis, No. 2 oil: Allocation has been adequate. January 1974 price is 19.76c/gal., 11% more than the December 1973 price of 17.76c, 18% more than the November 1973 price of 16.76c, 53% higher than the July 1973 price of 12.91c, and 73% higher than the January 1973 price of 11.4c/gal.

Lansing, residual oil, No. 2 oil, and coal: Residual price of 22.75c/gal. is 102% higher than one year ago price of 11.25c/gal. Haven't experienced difficulty in obtaining requirements. Price of No. 2 oil has increased every month since August 1973. December 1973 price of 18.15c/gal. is 57% higher than price of six months or one year ago (11.54c). December 1973 price of coal was $14.06 per ton, or 13% higher than six months ago and 17% higher than $12.04 price of one year ago. Coal prices are expected to rise substantially in January 1974. Supplier who provides about 20% of coal requirements is trying to cancel contract because open market prices are much higher than contract price.

Marshall, No. 2 oil: December 28, 1973 price of 24.4c/gal. was 32% higher than 11/15/73 price of 18.55c, 44% higher than September price of 16.90c, and 104% higher than 2/5/73 price of 11.98c/gal.

MINNESOTA

Detroit Lakes, residual oil and coal: Delivered price for No. 6 on 12/18/73 of 27.5c/gal. was 31% higher than the November 1973 price and was 72% higher than the June 1973 delivered price of 16c/gal. Semi-bituminous Mont. coal was delivered up to December 31, 1973 at $3.20 per ton plus $6.38 freight. On January 1, 1974 the price went up to $4.20 per ton plus $6.38 freight. The increase in the coal price only was 31%. There have been no supply problems.

Austin, coal, natural gas, and No. 2 oil: Delivered cost of coal in January 1973 was $15.42/ton. In January 1974 the price was $19.94/ton and then went to $20.52/ton. The delivered price increased 33% from 1/73 to 1/74. The increase in coal price exclusive of freight was 49%. Natural gas was 45.2c/MCF in January 1974, 18% higher than the June 1973 price and 43% higher than the January 1973 price of 31.5c/MCF. The January 1974 delivered price of oil was 47% higher than the June 1973 price and 69% higher than the January 1973 price. Austin has had to institute a fuel adjustment clause in its retail rate schedules because of the extreme increases in fuel costs.

Hutchinson, No. 2 fuel oil: Signed a new contract with Standard Oil on November 15, 1973 at a price of 17.18¢/gal. subject to escalators. By January 21, 1974 the price had increased by 50% to 25.78¢/gal.

Glencoe, natural gas and No. 2 oil: Paying 25.43¢ gal. for no. 2 oil from Standard Oil our regular supplier. A year ago the price for the same fuel was less than 12¢/gal. Natural gas on an interruptible basis is 68.5¢/mcf, a year ago it was 42–44¢/mcf. Have purchased some black market oil at prices up to 35¢/gal.

Blue Earth, No. 2 oil, natural gas, and coal: Contract with Gustafson Oil Co. terminated October 8, 1973. Advertised for bids to furnish 300,000 gallons of No. 2 fuel oil for year 10/8/73 to 10/8/74 but didn't receive any bids. Old contract price was 12.32¢/gal. but supplier refused to fill new 90,000 storage tank at that price; they did fill tank for a 38% higher price of 16.98¢/gal. January 4, 1974 price for No. 2 oil was 31.35¢/gal. or 154% higher than the old contract price of any three months earlier. Have been notified that there will be no natural gas for electric power generation after 10/26/74. Summer gas price is up 36% in just over 2 years, and winter gas price is up 103% in the same period. Price of Southern Illinois coal from Sahara Coal Company is up from delivered price of $14.34 ton in June of 1972 to $16.88/ton in November 1973.

Fairmont, natural gas, coal, and No. 6 oil: Price of natural gas has not increased over 44¢/MCF level of January 1973 nor have current deliveries been curtailed beneath the delivery levels of the past several winters. Coal is purchased from Sahara Coal Co. and from Peabody. Peabody has made fuel deliveries but Sahara has been delivering less than 50% of order. Peabody coal was $7.80/ton in January 1973 and has increased by 27% to $9.94/ton in January 1974. Sahara coal was $9.00/ton in January 19 and has increased by 9% to $9.85/ton in January 1974. The price for No. 6 fuel oil was 10.65¢/gal. in January 1973 and has increased by 89% to 20.16¢/ gal. in January 1974.

North Branch, No. 2 oil: On contract ending 10/15/73 price was 12.58¢/gal. Contract beginning on 10/15/73 price was 14.83¢/gal. but is increased based on the market on day of delivery, if available. Price has increased as follows: 10/22/73—16.03¢; 11/22/73—16.83¢; 12/8/73—18.83¢; 1/3/74—25.22 cents. The 1/3/74 price is 57% higher than the 10/22/73 price and is 100% higher than the 12.58¢ price which obtained prior to 10/15/73.

Wells, No. 2 oil: January 1974 price of 22.98¢/gal. is 19% higher than 12/7/price of 19.38¢ 34% higher than 11/7/73 price of 17.18¢, 37% higher than the 10/1/73 price of 16.58¢ and is 87% higher than the 12.29¢ price which obtained at the beginning of 1973.

MISSISSIPPI

Clarksdale, residual and No. 2 oil: January 1974 price of No. 6 oil is 19.9c/gal. which is 11% higher than December 12, 1973 price and 73% higher than January 1, 1973 price of 11.53c/gal. January 1974 price of No. 2 oil is 24.32c/gal. which is 36% higher than 12/1/73. 53% higher than 11/1/73, and 116% higher than the January 1, 1973 price of 11.28c/gal.

MISSOURI

Fulton, natural gas, No. 2 oil and coal: Gas is being severely curtailed but availability of other fuels has not been a problem. Natural gas price has increased by 17% in past year. No. 2 oil has increased from 11.15c/gal. in June 1973 to 16.97c/gal. or 52%. Missouri coal has gone from $10.10 per ton on 6/1/73 to $12.93 per ton as of 12/1/73, an increase of 28%. During the same period Illinois coal has gone from $11.35 per ton to $15.86 per ton, an increase of 40%.

Springfield, coal and No. 1 and 2 oil: Coal is purchased under 10-year contract which began on 1/1/71 on a cost-plus basis. Current delivered price is $16.36 per ton subject to retroactive adjustment to 1/1/73 based upon actual cost in 1973. It is anticipated that when costs are known the delivered price will be in excess of $18.00 per ton. There have been no delivery problems. Have not been able to attract bids on No. 1 diesel fuel contract since 3/73 despite repeated attempts. Have made a number of purchases on the open market ranging in price from 18.9c/gal. on 3/73 to 26.9c/gal. in September 1973. Most recent purchase in October 1973 was at the much higher price of 45.9c/gal. Most recent open market purchase No. 2 oil in December 1973 was at 44.61c/gal., up 97% from the price paid in October 1973, and up 313% over the last contract purchase made in March 1973 at 10.8c/gal.

Carrollton, No. 2 oil: January 1974 price of 25.15c/gal. is 50% higher than December 1973 price, 99% higher than October 1973 price of 12.64/gal, and 94% higher than the January 1973 price of 12.94c. With natural gas severely curtailed, supply under historically based allocation system is a serious problem.

Independence, natural gas, coal and No. 2 oil: From 12/72 to 12/73 the natural gas price increased by 10.3% from 28.2c/MBTU to 31.1c/MBTU. During the same period the price of coal rose from 45.7c/MBTU to 64.0c/MBTU, an increase of 40%. The 12/73 price paid for No. 2 oil was 150.0c/MBTU and increase of 10.3% over the 5/73 price of 136.0c/MBTU and an increase of 91.6% over the 12/72 price of 78.3c/MBTU.

Columbia, coal, natural gas, and distillate: On 10/1/72 switched from 3–4% sulphur coal to a blend of southern Illinois coals with 1.75% sulphur which caused a doubling of the delivered price to $16.10/ton. By 1/1/73 the price had increased to $16.80. The 1/1/74 price was $17.98/ton an increase of 8% over 1/1/73 and 1.7% over 10/1/72. The price paid for natural gas has gone from the February 1, 1973 level of $3.234/mcf demand and $0.35564/mcf commodity, to a December 1, 1973 price of $3.322/mcf demand and $0.41272/mcf. There does not seem to be any distillate available in the area, last purchase was at 14.5c/gal., current price if available is about 30.0c/gal.

NEBRASKA

Fremont, natural gas and coal: Natural gas price recently increased by 20%. Price of coal has increased by 38% in the past four months.

Sidney, No. 2 diesel: Fuel situation is very critical. Last fuel from regular supplier (Standard Oil) was October 1973. Natural gas has been curtailed and oil storage is down to about nine days supply. February 1973 price paid for oil was 12.34c/gal., January 1974 quoted price is 24.96c/gal., an increase of 102% over February 1973 and an increase of 58% over the last price paid of 15.76c/gal. for fuel delivered in October 1973.

Lincoln, No. 2 oil, No. 6 and coal: Contract price for No. 2 under contract which expired 12/31/72 was 10.8c/gal. The 12/10/73 price of 23.9c/gal., was 60% higher than the January 1973 price of 14.9c/gal. and 121% higher than the December 1972 price of 10.8c/gal. The most recent price paid for No. 6 oil was $4.82/bbl. on 12/26/73, this was an increase of 12% over the November 1973 price and a 55% increase over the August 1973 price of $3.10/bbl. Price paid for coal at mine in Pittsburg, Kansas was $7.96/ton for deliveries made in August and September 1973; $4.90/ton at mine in Edna, Colorado for coal purchased in November and December; and $6.50 for coal at mine in Craig, Colorado for purchases made in November.

David City, No. 2 oil: January 1974 price of 24.24c/gal. was 36% higher than November 30, 1973 price of 17.84c/gal., 55% higher than November 5, 1973 price, 75% higher than October 2, 1973 price of 13.84c/gal., and 82% higher than 13.30c price of June 18, 1973.

Nebraska Public Power District, No. 2 oil, No. 6 residual, and coal: Purchasing coal from five suppliers and not having much trouble getting adequate deliveries. The 1/8/74 delivered price for coal of $13.12/ton was 14% higher than the 7/1/73 price and 15% higher than the 1/1/73 price of $11.43/ton. Residual oil is used as standby fuel for one small steam plant that normally burns gas. Gas has been 100% curtailed in recent weeks and it has been very difficult to purchase No. 6 oil. On 1/8/74 paid $6.40/bbl. for No. 6 of Nebraska origin and $10.12 for some No. 6 of Wyoming.

Grand Island, No. 6 residual oil and No. 2 oil: Price of No. 6 oil delivered has increased from 12.96c/gal. in January 1973 to 20.22c/gal. in December 1973 and to 28.62c/gal. in January 1974. An increase of 121% from January 1973 to January 1974. No problems were encountered in purchasing the fuel and only slight problems in arranging delivery. Problems have been encountered in obtaining large quantities of No. 2 oil. The only oil available in January 1974 has been imported No. 2 oil at a price of 59.2c/gal. which represents an increase of 117% over the October 1973 price of 27.3c/gal. and an increase of 366% over the December 1972 price of 12.7c/gal.

No No. 2 oil was used prior to April 1973. Signed contract in June 1972 was Farmland Industries for 8,000,000 to 20,000,000 gallons annually. Farmland says that with implementation of mandatory fuel allocation program contract is void, and they haven't delivered fuel since October 1973. Also signed contract with Champlin Petroleum in June 1972 for 5,000,000 to 10,000,000 gallons annually, and Champlin has continued to deliver. Price has gone up 107% from 7/1/73 price of 12.402¢/gal. to 1/8/74 price of 25.661¢/gal.

CENTRAL NEBRASKA

Public Power and Irrigation District, natural gas and residual oil: 100 MW, single unit plant burns natural gas with residual oil as back up fuel. Gas is being increasingly curtailed, supplier has notified to expect less gas each year down zero in 1979. Oil costs about 150% as much as gas. No trouble securing oil so far, cost from storage is about 8.3¢/gal. and new oil received under a 3-year contract (which has 1 year left to run) is 9.83¢/gal.

NEW YORK

Rockville Centre, No. 2 oil: Price for 12 months ending 5/31/73 was 12.15¢/gal. Price rose to 17¢ on 6/1/73, 18¢ on 11/5/73, 22.4¢ on 12/5/73, and to 29.4¢/gal. on 1/3/74. The January 1974 price was 135% higher than the one year earlier price.

Jamestown, coal: The January 7, 1974 delivered price of the 75% of total coal purchases which come Pennsylvania was $19.89 per ton, a 13% increase over the highest December 1973 price of $17.61, a 52% increase over the October 1, 1973 price, and a 59% increase over the January 1973 price of $12.49 a ton. While the price has been rising, since October the quality of the coal has declined from an average 12,800 Btu to about 11,500 Btu. The 25% of Jamestown's coal which is purchased from small truck operations has also increased in price but the delivered price still averages out to about 80% of the Pennsylvania coal. Believe that the east coast utilities which are reconverting back to coal are driving up the price in the Pennsylvania market as well as creating a shortage of railroad cars.

Greenport, natural gas and No. 2 diesel: Plant is dual fuel gas and diesel oil. Gas supplier has notified that there may not be any gas available in 1974. Oil supplier has allocated 95% of base year consumption (1972). An additional allocation has been requested from FEO but no action has yet been taken on request. January 3, 1974 oil price of 32.2¢/gal. is 28% higher than December 1973 price, and 125% higher than the January 1973 price of 14.29¢/gal. Price of natural gas has risen from $0.59198/mcf in March 1973 to $1.14504/mcf in December 1973, an increase of 93%.

Freeport, residual oil and No. 2: Experienced difficulty in obtaining residual oil during past two months and stocks have dwindled from 2 month supply to a 5 week supply. Price has risen from January 1973 level of 10.45¢ gal. 11.21¢ in June 1973, 18.46¢ in November and 20.40¢ in December. The one-year increase was 95%. Did not use No. 2 until May 1973 when gas turbine went on line. No difficulty in obtaining supply until two months ago. Have since filed with FEO requesting an allocation. Price has increased from 12¢/gallon in March 1973 to 35¢/gallon, or by 192%.

OHIO

Piqua, No. 2 oil and coal: No No. 2 oil use in 1972 base period as gas turbine went into commercial operation December 29, 1972. 1973 contract was with Sohio at price of 12.55¢/gallon for maximum of 2,000,000 gallons. Sohio submitted bid in November 1973 for 1974 requirements but only for 108,971 gallons and at whatever price they might have in effect at time of delivery; their January 1974 price was 23.8¢ or nearly 90% higher than the old contract price. Coal delivered under contract has increased in price from $11.80/ton in January 1973 to $13.19/ton in November 1973, or by about 12%. All increases have been justified by the terms of the contract on mine benefits, mine safety, etc. Made 5 spot purchases in 1973 and 1 so far in 1974. Price increases for spot coal purchases have been significant although minor compared to some of the bid prices received. For example, Kentucky coal purchases in March 1973 for a mine price of $7.35 was quoted at $18.50 on January 2, 1974. A second Kentucky coal source from whom coal was purchased in 1972 at a mine price of $6.00, quoted prices in November of $10.00 and $18.00 on January 10, 1974. Neither of these sources has coal available even at these prices due to recent commitments to eastern utilities. Story is similar with previous Ohio coal sources, doubled prices and no reserves available.

Oberlin, No. 2 oil: December 1973 price of 21.8¢/gal. was 33% higher than July 1973 price and 91% higher than January 1973 price of 11.43¢/gal.

SOUTH CAROLINA

South Carolina Public Service Authority, coal, No. 6 oil, and No. 2 oil: About 80% of generation is with coal.

The average delivered price of coal in December 1973 was $15.60/ton, or 26% higher than in June 1973 and 32% higher than one

year earlier in December 1972. This average price includes both contract coal and spot market coal. Average delivered price of spot market coal during December 1973 was $17.52/ton and the anticipated January 1974 price is $22.80. Have had spot coal offered during first week of January 1974 at prices ranging from $16.00 to $24.00 per ton F.O.B. mine with no guarantee of quality or quantity. January 1, 1974 price of No. 6 fuel oil is $7.32 per barrel, up 21% from the December 1973 price of $6.03, and up 119% over the December 1972 price. Price increase is despite fact that 1972 oil was 2.1% sulphur and current oil is 2.8% sulphur. December 1973 price of No. 2 fuel oil was 18.9¢/gal., an increase of 52% over the one year earlier price of 12.50¢/gal.

TEXAS

Robstown, natural gas and diesel oil: Experiencing problems obtaining diesel fuel and are awaiting response from FEO to request for allocation. Prior to September 1973 were paying 10¢/gal. for diesel. Supplier, Phillips Petroleum, has since increased price to 18.9¢/gal. Experiencing natural gas curtailments. Present contract expires in May 1974 and are uncertain if it will be renewed. Price has increased by 320% from September 1973 level of 14¢/mcf to December 1973 price of 58.9¢/mcf.

Lubbock, No. 2 oil and natural gas: No. 2 oil price has increased 100% from 12.96¢/gal. price in January 1973 to 26.02¢/gal. in January 1974. Natural gas price has increased by 23% during same period.

Tulia, natural gas and diesel oil: Increasing curtailment of natural gas is causing depletion of diesel stores and threatens to run storage to zero. Major oil supplier has increased price from 11.88¢/gal. to 16.88¢/gal. as of January 1, 1974 and secondary supplier has increased price from 12.90¢/gal. to 30.5¢/gal. Natural gas price has increased from 25¢/mcf to 34¢/mcf.

VERMONT

Burlington, coal and oil: Average cost of coal has increased by 29% from January 1973 price of $17.29/ton to December 1973 price of $22.28/ton. Oil price has increased by 85% during the same period.

WISCONSIN

Cedarburg, No. 2 oil: Price increased by 140% between December 1972 when it was 11.74¢/gal. and December 1973 when it was 28.14¢/gal.

Richland Center, coal: Only problem other than price are occasional railroad car shortages and wildcat strikes. December 1973 delivered price of $16.18/ton was 8% higher than one year earlier price of $15.00.

TWENTY LARGEST ELECTRICITY CONSUMING SECTORS—1970 [1]

Rank, sector, and consumption amount

1. Electric utilities, 11.044.
2. Personal consumption (households), 1.210.
3. Retail trade, 0.413.
4. Primary steel, 0.360.
5. State and local governments, 0.324.
6. Paper and allied products, 0.288.
7. Primary nonferrous metals, 0.249.
8. Medical and educational services, 0.243.
9. Industrial chemicals, 0.220.
10. State and local government enterprises, 0.207.
11. Miscellaneous nonferrous metals, 0.166.
12. Federal Government, 0.150.
13. Wholesale trade, 0.099.
14. Petroleum refining, 0.091.
15. Food and kindred products, 0.090.
16. Motor vehicles and equipment, 0.077.
17. New construction, 0.072.
18. Business services, 0.069.
19. Plastics and synthetic mats, 0.068.
20. Real estate and rentals, 0.068.

Projected total 1970 electricity consumption, 16.9.

[1] Kilowatt-hours converted to BTU's at 3412 BTU/Kwhr and all heat losses assigned to Electric Utilities (Sector 86).

20 LARGEST OIL CONSUMING SECTORS—1970

Rank and sector	Consumption: Amount (10^{15} Btu)	Consumption: Cumulative (percent)
1. Personal consumption (households)	8.149	29.80
2. Petroleum refining	2.226	38.05
3. Truck transportation	1.830	44.71
4. Air transportation	1.497	50.19
5. Railroad transportation	1.219	54.66
6. Electric utilities	1.000	58.32
7. Real estate and rental	.903	61.63
8. Local passenger transportation	.863	64.79
9. Wholesale trade	.857	67.93
10. Retail trade	.656	70.33
11. Other farm products	.545	72.33
12. Water transportation	.505	74.18
13. Food and kindred products	.466	75.88
14. Exports	.447	77.52
15. New construction	.443	79.14
16. Paper and allied products	.432	80.73
17. State and local governments	.411	82.24
18. Federal Government	.411	83.75
19. Hotel, personal, and repair services	.320	84.92
20. Business services	.301	86.02
Projected total 1970 oil consumption	27.3	100.00

20 LARGEST COAL CONSUMING SECTORS—1970

1. Electric utilities	8.554	51.53
2. Primary steel	3.066	70.00
3. Exports	1.695	80.21
4. State and local governments	.399	82.61
5. Industrial chemicals	.332	84.61
6. Business services	.318	86.53
7. Personal consumption (households)	.249	88.03
8. Paper and allied products	.169	89.05
9. Federal Government	.156	89.99
10. Cement	.138	90.82
11. Food and kindred products	.119	91.54
12. Gross investment (inventory charge)	.115	92.23
13. Coal mining	.110	92.89
14. Plastics and synthetic materials	.107	93.54
15. Auto repair and services	.100	94.14
16. Real estate and rental	.090	94.73
17. Motor vehicles and equipment	.081	95.22
18. Primary nonferrous metals	.070	95.64
19. Rubber and plastic products	.063	96.02
20. Fabric, yarn, and thread mills	.059	96.38
Projected total 1970 coal consumption	16.6	100.00

20 LARGEST NATURAL GAS CONSUMING SECTORS—1970

1. Personal consumption (households)	5.463	21.68
2. Natural gas utilities	4.339	38.90
3. Electric utilities	3.764	53.83
4. Petroleum refining	1.608	60.21
5. Primary steel	1.461	66.01
6. Retail trade	.920	68.66
7. Industrial chemicals	.905	73.25
8. Paper and allied products	.503	75.25
9. Food and kindred products	.403	76.85
10. Stone and clay products	.321	78.12
11. Glass and glass products	.295	79.29
12. Exports	.289	80.44
13. Rubber and plastic products	.287	81.58
14. Primary nonferrous metals	.264	82.63
15. Wholesale trade	.240	83.58
16. State and local government enterprises	.236	84.52
17. Miscellaneous nonferrous metals	.226	85.41
18. Real estate and rental	.219	86.28
19. Cement	.212	87.12
20. Medical and educational services	.194	87.89
Projected total 1970 natural gas consumption	25.2	100.00

[From the Wall Street Journal, May 3, 1974]

UNITED STATES STEEL RAISES MOST OF ITS PRICES AVERAGE OF 5.7 PERCENT—BOOSTS TRAIL PREDICTIONS; NEW LEVELS SAID TO EQUAIL RIVALS' PREVALING QUOTES

(By Michael Drapkin and Byron Calame)

PITTSBURGH.—Two days after the end of economic controls, U.S. Steel Corp. moved to offset sharply higher labor and material costs by raising prices on "a broad range" of products.

But the boosts, averaging 5.7%, were somewhat smaller than most industry observers had expected and seemed to reflect the fragmented state of steel pricing that had developed during the final stages of the federal economic controls program.

Only a week ago, Robert E. Lauterbach, chairman of Wheeling-Pittsburgh Steel Corp., said after that steelmaker's annual meeting: "In a market as screwed up as this one, it'll take more than one price move to straighten things out."

Mr. Lauterbach might be proven prophetic. While nearly all steel executives have in recent weeks called for sharply higher product prices, U.S. Steel's price announcement said that its higher quotes represent merely "a movement of U.S. Steel's prices to levels already being charged in the market by other major domestic producers."

Several industry sources confirmed U.S. Steel had matched the going prices being charged by its major competitors. But the uniquely strong demand for steel may enable other steelmakers to push their price levels above U.S. Steel's in the days ahead.

Wheeling-Pittsburgh Steel Corp, and Youngstown Sheet & Tube, a unit of Lykes-Youngstown Corp., appeared to be doing just this yesterday. Both apparently decided the demand for steel is strong enough to continue supporting a multitiered price structure as they boosted quotes above the new levels U.S. Steel had just established.

Under the controls program, steelmakers were free to allocate pricing authority in any manner they chose. U.S. Steel and Bethlehem Steel Corp., the second biggest mill, chose higher quotes on construction-related steels, where they are major market factors. Several other mills moved on the lighter- big-volume flat-rolled steels.

Over the life of the program, several moves of that nature helped create a multitiered pricing structure in an industry that traditionally has followed the pricing lead of its two biggest mills.

Wheeling-Pittsburgh, the ninth-largest producer, said that effective today it is posting an average of 6% across-the-board price boost. This appeared to put it out ahead of the price levels U.S. Steel had just established.

Youngstown Sheet & Tube outlined the specifics of its two-day old announcement of higher prices on its line of tubular products. The Ohio steelmaker said its increases range from 10% to 25%, depending on product. It said well casing is boosted 18%; drill pipe 25%; seamless and standard line pipe, 20%; continuous weld pipe 16%, and rigid conduit and electric tubing 10%.

U.S. Steel's original price announcement didn't detail any specific boosts, but the big steelmaker, when asked, offered some representative increases. It said, for example, that cold-rolled sheet, the steel industry's largest volume item, is boosted to $20 a ton, or 3.0% to a new base price of $226 a ton. Hot rolled sheet more up $17.50 a ton, or 10% to $191 a ton. Hot- and cold-rolled sheet is used extensively in the automotive, appliance and durable-goods industries.

Among other products, semi-finished steels rise $10.50 a ton, or 6.4% to $174; hot-rolled bars, $3.50, or 1.7% to $207; rods $9, or 4.9%, to $192; carbon and high-strength plates $7, or 3.8% to $190 a ton, and alloy plates $10, or 3.5%, to $294 a ton.

Industry sources said these prices were "pretty close" to the going rates that other steelmakers—except for Bethlehem—had been charging. One source says that U.S. Steel is "basically accurate" when it says that its boosts merely bring it into line.

But some industry sources cautioned that U.S. Steel's move yesterday mightn't be the whole story. One suggested that U.S. Steel's strategy may be: "Instead of one big bite, you nibble."

U.S. Steel also said that extra charges on a number of products are being "adjusted to reflect present cost-price relationships." The revised extras are effective May 20 and, the company said "in most cases, are at levels already charged by other domestic producers." It added, however, that the overall increase in extra charges, for such processes as pickling (cleaning, heat-treating) and the addition of alloying and coating materials, could be as much as 3.5%. It asserted that "some (of the charges) can be avoided by customers changing their ordering practices."

The big steelmaker said the boosts cover only cost increases incurred since Jan. 31 of this year which hadn't previously been reflected in price. Chairman Edgar B. Speer called the action "responsive to the nation's need for moderation in its fight against inflation."

Other steelmakers were cautious in their appraisal of the U.S. Steel move. Bethlehem, in fact, hadn't any immediate comment.

The president of one big mill said, however, in response to the 5.7% average increase: "It ain't nearly enough." And a spokesman for another producer warned: "All the shoes haven't dropped yet." Referring to public opinion, he added that "a 20% price increase is possible—the market would stand it, but it would be foolish."

One financial analyst specializing in metals said he understands that U.S. Steel recently conducted an "extensive product-by-product price study" and found itself to be from 5% to 15% below the prices of most other domestic mills and from $50 to $100 a ton below foreign mill prices in the U.S.

"They said they're going to ship as much steel this year as they did last, even though total industry shipments will be down by 10%," he said. "This increase will help their profits—and bang home a point to a lot of customers over who really is the pricing leader in the country," according to the analyst.

Basic carbon steel prices weren't the only one affected yesterday. Allegheny Ludlum Industries Inc., the largest of the specialty steelmakers, posted an average 3.4% boost on its line of specialty flat-rolled items, effective yesterday. In addition, a scrap surcharge on silicon-electric steel will be boosted $20 a ton to balance continuing increases in scrap costs, the mill said.

[From the Wall Street Journal, May 6, 1974]

SIX STEEL FIRMS POST PRICE RISES OF AS HIGH AS 9 PERCENT—BOOSTS BY MAJOR PRODUCERS UNDERLINE PRICE MUDDLE; RIPPLE EFFECT EXPECTED

(By Michael K. Drapkin)

PITTSBURGH—Six major steelmakers posted wide-ranging price boosts of up to 9% that served to underscore the current confusion in steel pricing.

At the same time, producers claim that consumers continue to clamor for as much metal as the mills can make and ship, thus buttressing the likelihood that the current multitiered pricing structure won't fade away soon.

What's more, the latest round of increases in the cost of the basic metal seems certain to send a ripple of price boosts across the rest of the economy in coming weeks. General Electric Co. for example, warns the steel cost increases mean its appliance prices probably will be boosted "substantially."

Three of the four biggest steelmakers Friday followed the lead of U.S. Steel Corp. by posting increases, though all three put through larger average boosts than the 5.7% average increase on a broad range of products instituted by the nation's largest steelmaker last Thursday.

Second-ranked Bethlehem Steel Corp. announced a 9% average increase on rolled steel products, which make up the vast bulk of steel industry shipments. National Steel Corp., third-biggest, put through a 6.7% boost—which it said "brings these base prices into line with those of other steel companies"—and No. 4 Republic Steel Corp., announced increases averaging 8.1% on its full line of products.

Meanwhile, Youngstown Sheet & Tube Co., the eighth-largest mill and a unit of Lykes-Youngstown Corp., said it is raising prices an average of 5.8% on its flat-rolled and bar products. Earlier, Sheet & Tube posted boosts of 10% to 25% on its tubular line of products.

And Armco Steel Co., the fifth-biggest steelmaker, merely said it is increasing prices, effective last Saturday, "generally in line" with those announced earlier by other producers.

Inland Steel Co., in Chicago, joined the current round of steel price increases by boosting the base quotes of all its products an average of 6.1%. Inland said the boosts, effective with shipments today, would have been allowable under guidelines of the Cost of Living Council.

Sheet & Tube also said that with respect to flat-rolled and bar products, where it isn't a pricing leader, its new quotes "generally follow those previously announced by major competition."

At the same time Sheet & Tube took a step that indicates the depth of the current confusion in steel pricing. The mill said that it expects "to retain material and energy surcharges on some product lines. These surcharges will remain in effect until further clarification of competitive prices, including newly announced extras."

Bethlehem, National and Republic wouldn't comment on prices beyond their brief announcements of the effective date and amounts. However, it appeared Bethlehem and U.S. Steel, which had lagged behind some of the other big mills on certain big-volume products had moved to catch up to the prevailing market price. The U.S. Steel and Bethlehem moves coupled with the time being at least a continuation of the fragmented pricing levels. The other development included the subsequent action by National and Republic and an earlier boost by Wheeling-Pittsburgh Steel Corp., plus inaction by at least one other big producer—LTV Corp.'s Jones and Laughlin Steel Corp.

One steel industry source suggested these maneuverings on hot- and cold-rolled sheets, two key flat-rolled steel products used heavily in the manufacture of auto and appliances, illustrates the current situation. He said the four biggest mills are said to have similar prices for two products—$191 a ton for hot-rolled and $226 a ton for cold-rolled sheet—but with the rest of the big producers offering the products at somewhat lower levels. At the same time, National Steel is said to have continued a $7-a-ton scrap surcharge on these items, while the others of the top four have either dropped it or incorporated it into the new base.

And on those two high-volume products, U.S. Steel is said to be dropping its long-standing custom of paying part of the freight from its producing mill to the customer's plant, even though the other three producers are retaining it.

The U.S. Steel move, of course, effectively boosts its prices more than the average 5.7% base price increase it formally announced.

SOME STEELMAKERS UNCERTAIN

The rash of price announcements following the end of price controls last Tuesday left even some steelmakers cautious and uncertain. One steelman, surveying the situation, said his company has temporarily "suspended invoicing until we can determine what our proper price should be." This means the company is shipping steel, but holding up sending the bill until it decides on the price.

One government official in Washington said, "there's a big (pricing) battle brewing" between the mills. "It should be fun to watch." He indicated U.S. Steel had intended to raise its prices more than 5.7%, but took a more cautious route because of the Senate's consideration last week of a possible continuation of some monitoring of prices. But the official cautioned that further price jockeying is an almost-certain prospect in steel. "Just wait a week," he said.

The steel industry's pricing machinations is creating instability elsewhere in the economy. One source in the metal office-furniture industry complains some of his competitors are advising customers their prices may change on a daily basis, depending on the size of steel price boosts.

A spokesman for GE's big Appliance Park complex in Louisville, Ky., noted that "our purchases of steel exceed a half million tons a year. Therefore, any increase in the cost of this basic material will add still another sizable increment to our total manufacturing costs." He declined to speculate on the size of possible product increases that may result, but did say that "we anticipate that our appliance prices will have to be adjusted upward, and probably substantially."

Customers are certain to feel eventually the bite of the latest round of increases. U.S. Steel's $20-a-ton boost in the price of cold-rolled sheet for example, adds $25.40 to the cost of making a $4,000 standard-sized car, according to one steel industry rule of thumb. Such an increase in the price of steel would also raise the cost of manufacturing a $400 refrigerator $2.40 and push up the cost of making a $15,000 grain combine $48.

The increases will likely start showing up in the government's wholesale price index for May. U.S. Steel has indicated the wholesale price index increases 0.1 percentage point when steel price boosts average 3%. Indeed, higher metals prices accounted for 28% of the overall rise in the industrial-price component of the wholesale price index for March.

The steel market easily is strong enough to absorb practically whatever increases the mills find politically palatable. Steelmakers uniformly characterize the market as "very strong"; one says "everything is tight, just everything."

All the big producers say they will continue their current customer allocation programs at least through the third quarter, and probably until the end of the year. One Midwestern mill says it is so fully booked that for it July most likely will be "a catch-up month" in which almost no new orders will be booked.

Mills project shipments in the current quarter at 27 million to 28 million tons, with a seasonal falloff in the September quarter to a still-robust 25 million or so.

The level of deliveries will depend greatly on the availability of adequate raw materials. Mills say they are continuing to experience some problems in getting enough coal for making coke in the blast furnaces that turn out steel and such coating materials as zinc. "Everything is so tight, any little disruption could have a significant impact," one producer says.

Shipments to the auto industry continue to hold up rather well in the face of a decline in auto production and sales. Mills say the ship in deliveries to Detroit ranges from 5% to 20% off the pace of a few months ago. Some steel executives speculate a fall in the level of foreign steel coming in via the Great Lakes ports, due in part to continued very heavy world-wide demand for steel, accounts for the domestic auto-related strength.

One big steelmaker says it believes the auto companies "aren't running down their (steel) inventories. We think they're hedging on the optimistic side. If anything,

they're buying a little more than they actually need."

PRODUCTION COSTS ARE UP BY $1.5 BILLION—RISING FUEL PRICES HIT THREE KEY METALS

(By Thomas O'Toole)

* * * * *

Rockwell International has raised the estimated delivery price of each of 241 B-1 bombers from $45 million, then to $56 million and now to $61.5 million (in 1935 dollars), at least partly because of soaring titanium and aluminum prices. There are 27,000 pounds of titanium and 54,000 pounds of aluminum in each B-1 bomber.

Grumman Aircraft Corp. said it has been particularly hard hit by rising metal prices, declaring that it is now paying 25 percent more for both titanium and aluminum that it did a year ago. Gruman has as many as six types of airplanes in production, including the F-14 fighter for the Navy that uses more titanium than any plane in the air.

Part of the price increases for aerospace metals is due to wage increases and metal shortages, but most of the boosts have come from soaring fuel costs, which mean higher electrical rates.

The Bonneville Power Administration in the Pacific Northwest has said it will raise its electric rates by 25 percent before the year is out, and by another 25 percent in 1975. One third of the nation's aluminum producing industry is located in the Northwest, where power historically had been cheap.

Titanium has risen even higher in price than aluminum, mostly because it requires more power.

Rockwell says it now pays $8.16 a pound for titanium, up from $7 a pound less than a year ago. The raw form of the metal (called titanium "sponge") has gone from $1.32 a pound to $1.73 a pound in the last six months. One company said its energy costs to make the sponge are now 45 cents a pound.

Magnesium prices have risen at about the same rate as aluminum. Historically, it sold for 35 cents a pound, then moved to 42 cents last year and to 47 cents last month.

The nation's largest maker of magnesium is Dow Chemical Co., which blamed the latest price increase on the rising cost of natural gas and electricity in Freeport, Tex., where it produces most of the nation's magnesium. The metal goes into aluminum as an alloy and is also used in the electrical process that makes titanium.

THE U.S. ECONOMIC OUTLOOK FOR 1974

(By Walter W. Heller and George L. Perry)

Oil permeates the 1974 economic outlook. Soaring oil prices and the Arab oil embargo (even if it is eased or lifted soon) will materially alter the shape of things economic in 1974:

Inflation: The "oil factor" adds about 2 points to pre-embargo projections of a 5½% rise in the GNP deflator and 3 points to a 5½% rise in the cost of living in 1974.

Jobs: Some 600,000 persons will lose their jobs as a result of the skyrocketing prices and limited supplies of petroleum products.

Profits: An 8% to 10% shrinkage in 1974 corporate profits in the rest of the economy will be more than offset by the oil-gotten gains of the petroleum industry.

Production: The energy shortage will cost the U.S. economy about $20 to $25 billion of GNP in 1974 that "might have been."

Net exports: What once promised to be a $10 to $12 billion net export surplus this year will be cut to perhaps $5 billion because of the ransom that we and others will have to pay foreign suppliers of oil.

Coming at a time when the energy shoe was already beginning to pinch, and when economic boom was already succumbing to restrictive policies both here and abroad, the Arab oil embargo and price run-up set off economic alarms all over the world. But as of today, the U.S. outlook is gloomy, not desperate. We face recession, not depression. And the odds are good that the economy will begin to expand at a healthy rate in the second half of 1974 rather than continuing in a downward spiral of receding economic activity and rapidly rising unemployment.

Underlying this fairly favorable prognosis is a rather broad assumption concerning the management of national economic policy to cope with the oil crisis. That policy has two vital jobs to do:

First, having at last gotten off the launching pad, energy policy must move swiftly toward its short-run goal of cutting the fat out of our oil diet without starving industry and commerce of the petroleum they need to maintain output and employment. Measures like turning down thermostats will help. But most of the shortfall has to be absorbed through cutbacks in recreational driving.

Second, with job-protecting needs for oil met and with other supply bottlenecks easing as demand ebbs and investment flows, economic policy must be geared to fight recession. Stimulative monetary and fiscal policies should be the order of the day in 1974.

Not long ago, Arthur Burns noted that the economy was suffering from a shortage of fuel, not of money. If we engineer a proper response to the petroleum shortfall, the economy's key problem by late spring or summer will be a shortage of money, not of fuel. And that we know how to deal with.

THE PETROLEUM SITUATION

Even though the initial shock of the Arab oil cutbacks and price explosion has begun to wear off, the exact dimensions of the petroleum shortfall and price upsurge remain unclear. More oil seems to be flowing (or leaking) out of the Persian Gulf than the tough Arab rules and rhetoric would seem to allow. Even more should flow now that astronomical (and perhaps unsustainable) price levels may have made oil in the sand worth less than oil in the barrel. But as long as oil politics prevail over oil economies, one cannot predict with confidence how the world oil market will operate in 1974. As the basis for our current forecast, we regard the following petroleum price and quantity assumptions as reasonable for the U.S. economy in 1974:

Price

Domestic crude oil, $7.00 per barrel.

Imported crude oil, $8.50 per barrel.

Domestic petroleum product prices (retail), up 50% over summer, 1973.

Quantity

Imports, 4.9 million barrels per day.

Domestic production, 11.2 million barrels per day.

Total available production, 16.1 million barrels per day.

Reduction from 1973, 1.4 million barrels per day.

Shortfall from trend growth in 1974, 2.7 million barrels per day.*

The foregoing import price projection recognizes that other nations are following the shahs and sheiks in demanding spectacular increases in their oil revenues. While such price fixing may fail over a longer time horizon, it will probably hold reasonably well during 1974. For domestic crude, the White House has cearly implied that $7.00 per barrel for both "old" and "new" oil is acceptable.

These increases will add about $20 billion to our national crude oil bill (with about two-thirds of the proceeds going to domestic oil producers). Applying the principle of the dollar-for-dollar pass-through, we project a matching rise in petroleum prices, which will push final product prices 50% above their levels of last summer. Given reduced 1974 supplies of energy, this average price increase would not by itself be enough to clear the market, to match supply and demand, for petroleum products. One has to assume that the gap will be closed,

First, by voluntary restraint, increased efficiency, flight cutbacks, some switching to other fuels, and a slowdown in industrial production;

Second, by cutbacks in recreational use of gasoline by semi-voluntary or compulsory rationing.

Given the foregoing pattern of oil supplies and prices, the impact on the U.S. economy will range from "sizable" for output, prices, and jobs to "impressive" for our import bill, to "spectacular" for the profits of the petroleum industry.

Output, prices and jobs. The first big impact on demand and output is already underway as the oil scare cuts back the demand for cars and trucks. We expect sales this winter to fall 25% below last year's levels, with consumers channeling most of this cutback into savings rather than re-directing it to other goods. The second big impact will result from the siphoning of consumers' dollars away from other goods and services as more of their income is used to buy high-priced petroleum products and by-products—a process that represents an effective reduction in real income. The 50% rise in the price of petroleum products will add about 3½% to consumer prices, most of it during 1974. Together, these two impacts of zooming oil prices will have taken some $20 billion out of consumption spending by mid-year. The resulting slowdown in production (after taking multiplier effects into account) will add about two-thirds of a point to the expected rise in the rate of unemployment.

Imports. Although the volume of U.S. oil imports will shrink somewhat in 1974, leaping crude oil prices will at least double the $7.5 billion we paid for foreign oil in 1973. The bulk of this bonanza will find its way into the coffers of foreign oil potentates and their governments—that's the purpose of the exercise—so that only a minor part will show up as a balance-of-payments offset in the form of higher profits for the U.S. international oil giants.

Profits. But the overall jump in petroleum profits will be breathtaking. The arithmetic is illuminating:

Given the 50% product price increase over last summer, the petroleum industry will realize a $20 billion rise in sales proceeds for 1974.

This increase in yield will be realized on a lower sales volume representing an implicit cost saving of $4 billion.

Of the resulting $24 billion differential, about $8 billion will go to foreign governments, while $3 billion will go to the U.S. government if the Administration's windfall excise tax is enacted.

The remainder, about $13 billion, would be an increase in cash flow to the petroleum industry.

With the aid of sharply higher depletion, exploratory, and current development charge-offs, petroleum accounting will very likely be inventive enough to keep a considerable part of this windfall from showing on the bottom line. But the GNP accountant will be hard-pressed to avoid finding it.

GNP IN 1974

For the year as a whole, GNP will advance by just about $100 billion. Almost all of the increase will represent higher prices as the GNP deflator, propelled by oil, rises by about 7½%. Real output will decline in the first half of the year. But given a strong lift from expansionary policy measures, it will resume its advance during the second half. A sector-by-sector analysis of expected demand components brings out several unusual as-

pects of the expected 1973 recession and recovery.

* Trend based on normal growth before price increases, allocations, voluntary conservation measures, and relaxation of environmental standards.

CONSUMPTION

A severe retrenchment of consumer spending is one of two main forces pushing downward on the 1974 economy, especially in the first half. The oil crisis, which will cut auto sales and undercut real incomes, is the main culprit. But other durable goods spending will also flatten out as a result of the sharp drop in housing completions and the slowing of income growth. As uncertainties about the fuel situation clear up and Detroit shifts its production increasingly to smaller cars—the capacity for which should be substantially greater in 1974 than 1973—sales should recover and contribute to renewed expansion by year's end. Thus consumption spending will lead the decline in economic activity early this year, an exact reversal of its role in 1973, when it led the expansion in the early months of the year. Because of sharply higher prices and slowing income growth—and in spite of the slump in durable goods purchases—the saving rate in 1974 will be little changed from the 6 percent rate of 1973.

HOUSING

Residential construction is the other main depressant in the first-half outlook for 1974. The rate of new housing starts was sliding by late summer and plummeted sharply the fall as high money-market interest rates drained funds from mortgage lending institutions. Homebuilding activity is now headed for a decline well into the spring, by which time the financing for a renewed rise in starts should be available. One risk on the horizon is that the fuel shortage will continue to depress starts either through uncertainty about commuting problems or through a reluctance of utilities to assure hook-ups to new housing. It is imperative that policymakers protect new construction from the fuel shortage by assuring sufficient allocation of fuel to utilities. Otherwise, in exchange for a trivial saving of petroleum, we would be sacrificing the output and jobs that go with each housing unit. If this problem can be avoided, a healthy upturn in housing can be expected later in 1974, helping to cut short the recession and, indeed, fueling expansion later in the year. For all of 1974, residential construction spending will decline by 10% to 15% and housing starts will decline by 20% from their 1973 levels.

BUSINESS INVESTMENT

Somewhat lower profits in the non-petroleum sector, declining output, and uncertainties about energy availability will tend to curb business outlays for plant and equipment. But these adverse factors will be far outweighed by others on the plus side:

The need for more capacity that was thrown into bold relief by shortages in industry after industry in 1973's boom will not be forgotten if the recession is brief.

The development of domestic energy supplies will be sharply accelerated. Spurred by higher current prices, by the longer-run commitment to achieve greater national self-sufficiency, and by soaring profits in the petroleum industry, an energy investment boom is in the making.

For the year, business fixed investment is expected to increase by 12 percent, less than in 1973 but still providing an important cushion to the recessionary forces in the economy.

INVENTORIES

Because inventories remained low in relation to sales in most industries during 1973, business investment in inventories should not be the strong downward force that it has been in most past recessions. Many firms had trouble maintaining adequate stocks and will welcome the opportunity to add to investories this year. Although the decline in final sales will be sharp in the first half, inventory decumulation is not expected in any quarter of 1974. For the year as a whole, accumulation should about match the $6 billion now estimated for 1973.

GOVERNMENT SPENDING

Federal spending will rise substantially in 1974 to an estimated level of $292 billion (NIA basis) for the calendar year compared with $265 billion in 1973. As military procurement expands and fuel costs rise sharply, purchases of goods and services will rise by $7 billion. Transfer payments will increase exceptionally fast as a result of rising unemployment compensation, expanded support to the aged and disabled, and social security benefit increases scheduled for April and July. Spending by state and local governments will rise this year by about the same 13 percent as in 1973.

NET EXPORTS

With turbulent forces buffeting international trade flows in 1974, one cannot assign a high probability to any given point estimate of net U.S. exports. An assessment of the cross-currents suggests that the surge in net exports has come to an untimely end but that surplus will not turn into deficit during 1974.

The doubling of our import bill, the worldwide economic slowdown, the huge drain of oil payments on the foreign exchange resources of Europe and Japan, the possible formation of other raw materials cartels (copper, coffee and bauxite come to mind) and the weakening of foreign currencies against the dollar—all these will be working against our trade balance.

But the boom in our agricultural and capital goods exports, the slowdown in our own economy, and the direct or indirect purchases by flush primary producing countries will be strong offsets.

The result should be a standoff that holds the net export surplus at about last year's $5 billion level.

EMPLOYMENT, INFLATION, AND PROFITS

As the downturn in real GNP stops employment growth during the first half of 1974, unemployment will climb steadily to 6% or so by next summer. The number of unemployed workers will pass 5½ million, and many workers will drop out of the labor force in discouragement. For 1974 as a whole, the unemployment rate will average just under 6%, a whole point above the 1973 average rate.

The consumer price index will rise by about 8½% in 1974, roughly the same distressing rate of inflation experienced during the past 12 months. The one-time explosion of food prices in 1973 will be supplanted by the one-time explosion of petroleum prices in 1974. In the absence of another unanticipated "future shock," the upsurge in consumer prices will be ebbing in the second half of the year. The GNP deflator (which does not include the price increases coming from imported products, including petroleum imports) is expected to rise by 7.4%.

Wage increases will quicken in 1974 as labor seeks to recoup some of the loss in real earning power that it has suffered in 1973. Hopes that a wage explosion of the 1969–70 variety will be averted rest on (a) the moderation that seems to be built into the new bargaining procedures in the steel, aluminum, and can industries; (b) the hope that labor will view the food and petroleum price jumps as non-recurring rather than chronic hikes in the cost of living; and (c) the likelihood that even after Phase IV is dismantled, some meaningful method of monitoring big business and big labor under reasonable wage-price guidelines will be developed.

With wages rising briskly and productivity tapering off, profits outside the oil sector will decline by 8%–10% for the year. But the spectacular rise in oil industry profits will (at least in national income accounting terms) more than offset the decline in the rest of the economy.

MONETARY AND FISCAL POLICY

Federal Reserve policy seems poised, as it should be, to shield the economy against the cold winds of recession. The federal funds rate has been gently eased off of its high peaks above 10% and can be expected to move sedately toward the 7% level or so in the next few months. Long before the funds rate drops that far, the market will have gotten the message; commercial paper rates, prime rates, and even the bill rate can be expected to react sharply downward during the first quarter of the year.

Given the softness of the economy, given the fact that tight money can kill jobs and output but can't quench the fires of oil inflation, and given better management of the oil shortfall from here on out, monetary authorities can afford to loosen the reins. It will take substantial increases in the money supply—in the neighborhood of 7%–9% at annual rates—to override the anticipated inflation offset and provide net stimulus to the economy. Once expansion is rolling smoothly and the force of oil inflation fades, the Fed can afford to draw back to its 5% or 6% growth targets.

It is in the field of fiscal policy, however, that the greatest opportunity lies for creative action to stimulate the economy while redressing some glaring grievances. The combination of runaway food and fuel prices has been especially harsh on the lower income groups:

Last year's upsurge of nearly 25% in food prices cut heavily into the real income of the poorer families who have to spend as much as 40% or 50% of their income on food.

Though petroleum products represent a much more modest proportion of their budgets (perhaps 5% or 6%), the price movements have been astonishing. After 20 years in which price increases in refinery products averaged 1% a year, they have nearly doubled in the past 12 months.

The implication for 1974 fiscal policy seems clear. Last year, one could reasonably applaud the Administration's fiscal policy—its swing from a full-employment deficit toward full-employment balance in the context of an overheated economy—while deploring its social policy—its choice of merciless slashes in social services over tax increases as its budget weapon against inflation.

But this year, at a time when price and job developments have conspired against the poor, recession calls for an expansionary budget.

In 1974; then, the Administration can safely put sound fiscal policy into harness with humane social policy on both the expenditure and the tax side of the budget.

A new national welfare initiative, a meaningful public service jobs program, and a restored community action program would serve the cause of both economic justice and economic expansion.

On the tax side, the time is ripe for a major effort to close the unfair and uneconomic escape hatches for the rich and at long last do something meaningful for the poor and near-poor. Reform of social security payroll taxes to remove the poor from the taxrolls and allow for family obligations is an overdue first step. If economic slack and excess

unemployment persist, temporary income tax cuts focused on the middle and lower income group would be in order.

Mr. HUGH SCOTT. Mr. President, I welcome this opportunity to join with the distinguished Senator from Kansas (Mr. DOLE) in urging favorable action on the amendment which we have sponsored to authorize the Federal Energy Administrator to allocate petrochemical feedstocks and petrochemicals, including plastic resins, when he finds that there are significant shortages and dislocations in the distribution of these materials. Authority to allocate petrochemicals does not presently exist but is, in my opinion, badly needed. In fact, I believe that the failure to adopt this amendment could have a severely adverse impact on a great many segments of the nation's economy.

Mr. President, one area of immediate concern is the plastics processing industry. In the Commonwealth of Pennsylvania alone, there are today some 600 plastics processors. Nationwide, some 6,500 of the country's more than 8,000 plastics processors can be classified as independent; that is, they are not subsidiaries of the major chemical and oil companies and therefore must buy feedstocks on the open market.

Unfortunately, many of these independents have been faced with increasing shortages of basic plastic feedstocks, primarily polyvinyl chloride, polystyrene, high and low-density polyethylene, polypropylene and phenolic. These and other materials essential to plastics processing are not covered under any existing allocations provisions; yet, several hundred independent plastics processors have already been forced out of business because of shortages, and others are threatened with collapse because they are generally small businesses and lack the diverse economic base that might otherwise make it possible to sustain protracted financial losses.

Plastics processors produce a wide variety of parts which are vital to industries throughout the Nation's entire economy. I have recently had called to my attention a study by the Arthur D. Little Co. of Cambridge, Mass., which indicates that a 15-percent cutback in feedstocks to plastics producers could have a domino effect which, for American industry as a whole, could result in the loss of 500,000 jobs and a reduction of up to $23 billion annually in the total value of finished products nationwide.

Obviously, Mr. President, the ramifications of this amendment are many, not only for plastics processors, but for other industries as well. Shortages of petrochemicals needed for the production of manmade fibers, for example, threaten the vitality of the textile industry, while agriculture is equally threatened with potential shortages of needed fertilizers and irrigation equipment made of integrated plastic components. The delivery of health care can be equally affected when medical equipment made of plastic parts, and in some cases even certain pharmaceuticals themselves, are in short supply. Employment cutbacks in the fiber glass boat industry, already a fact of life, serve as still further evidence of the potential economic harm that can result when petrochemical feedstocks and petrochemicals are not equitably available.

In urging the adoption of this amendment, however, I believe it is worth noting that it differs significantly from a separate bill which we proposed earlier this year as S. 3098. That bill, which dealt exclusively with plastic feedstocks, also called for an automatic, mandatory allocations program. The amendment we are offering today has been broadened to encompass petrochemicals and petrochemical feedstocks so as to recognize to a greater degree the multi-industry nature of the problem we are attempting to meet. Of equal importance is the fact that we have made the proposed allocations program contingent upon a specific finding by the Federal Energy Administrator that "significant shortages and dislocations" of these materials do, in fact, exist. Thus, while preserving the initial intent of S. 3098, our amendment has been rewritten to recognize and accommodate objections to the earlier proposal.

Mr. President, I have talked with a great many representatives of business and agriculture, for whom potential or real shortages of petrochemicals and petrochemical feedstocks are a matter of the deepest concern. I am convinced that their problems are real and must be dealt with on a basis that is fair and yet recognizes the urgency of this situation. I hope the Senate will do so by adopting this amendment.

Mr. TUNNEY. Mr. President, I am pleased to cosponsor an amendment to the energy emergency bill which provides for the allocation of petrochemicals and petrochemical feedstocks in a time of significant shortages and dislocations.

The petrochemical industry is experiencing considerable hardship arising from the shortage of petrochemicals and the inequities in distribution of available supplies. These shortages are causing high and rising unemployment, destruction of entire segments of the industry, wholesale ruin of small businesses, elimination of competition, severe economic and market dislocation and widespread loss of confidence in Government action.

I had hoped that rational export controls and removal of phase IV controls would have improved the distribution of available supplies. However these measures coupled with Federal Trade Commission recommendations for temporary voluntary allocation have not succeeded in increasing supplies to a level promoting competition and curtailing the closing of small business.

Although petrochemicals represent only a small fraction of the petroleum use in the Nation, the petrochemical industry is being disastrously affected by the present energy crisis. Farmers are confronted with severe shortages of fertilizer and irrigation pipes, which could mean extended food shortages. According to the Cost of Living Council the plastic fabrication industry has experienced raw material shortages in the range of 20 to 40 percent concurrently with employment reductions ranging up to an estimated 15 to 20 percent. Estimates of job losses range from one to one and a half million nationally in the plastics, pharmaceutical and textile industries.

An allocation program is essential to maintaining an economically sound and competitive petrochemical industry. This amendment provides a genuine effort to distribute available supplies equitably and avoid further economic dislocations.

Mr. SCHWEIKER. Mr. President, I am a cosponsor of amendment No. 1265 offered by the Senator from Kansas (Mr. DOLE) to the Standby Energy Emergency Authorization Act. This amendment provides for the allocation of petrochemicals and petrochemical feedstocks which are vital raw materials for many of our Nation's industries. This includes manmade fibers for the textile industry, synthetic rubber products, organic chemicals for the pharmaceutical and fertilizer industries, and plastic raw materials for the Nation's plastic processing industry. It is similar to S. 3098 introduced by the distinguished Senator from Kansas which I also cosponsored.

These industries are vital to our economy, and particularly essential to Pennsylvania. The plastics industry alone is the fourth largest in the United States. Unlike many other large industries, the plastics industry is not dominated by a few large firms but is composed of over 6,000 small, independent plastic processors. Many are located in Pennsylvania employing thousands of people. These producers manufacture everything from clothing to health and transportation needs. For example, there is a shortage of the materials needed to produce false teeth and vital prosthetic devices in the medical field.

Moreover, the plastic industry produces a component part for nearly every commodity in the United States, from pens and telephones to automobiles and jet aircraft. While many of these producers are relatively small, in the aggregate they are responsible for much of the production of our economy. Already, many of these small independent processors have been forced to curtail production and lay off workers due to dislocations and shortages in the petrochemical market. I, therefore, urge speedy consideration and passage of this amendment to provide the authority to allocate raw materials to these industries on an equitable basis.

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

The amendment was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. JACKSON. I yield to the Senator from Vermont.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Victor Maerki, Hal Brayman, and Kathy Cudlipp of my

staff and the staff of the Committee on Public Works have the privilege of the floor during the consideration and vote on the Dole amendment.

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

AMENDMENT NO. 1266

Under the previous order, the hour of 2 p.m. having arrived, the Senator from Kansas (Mr. DOLE) is recognized to call up his amendment (No. 1266), which the clerk will state.

The assistant legislative clerk read as follows:

AMENDMENT No. 1266

At the end of the bill add the following new section:

SEC. . Section 2 of the Emergency Highway Energy Conservation Act is amended by inserting at the end thereof a new subsection as follows:

"(g) Notwithstanding the provisions of subsection (b), after the sixtieth day after the date of enactment of this subsection, the Secretary of Transportation shall not approve any project under section 106 of title 23 of the United States Code in any State which has (1) a maximum speed limit on any public highway within its jurisdiction in excess of sixty miles per hour, and (2) a speed limit for all types of motor vehicles other than sixty miles per hour on any portion of any public highway within its jurisdiction of four or more traffic lanes, the opposing lanes of which are physically separated by means other than striping, which portion of highway had a speed limit for all types of motor vehicles of sixty miles, or more, per hour on November 1, 1973, and (3) a speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using such portion of highway, if on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon. Clauses (2) and (3) of this section shall not apply to any portion of a highway during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway.".

SEC. 2. Subsection (d) of section 2 of the Emergency Highway Energy Conservation Act is amended by striking out "reduction in speed limits to conserve fuel" and inserting in lieu thereof "change in speed limits pursuant to this section."

The PRESIDING OFFICER (Mr. ABOUREZK). Time for debate on this amendment is limited to 1 hour with the vote to occur at 3 p.m. today.

Mr. DOLE. Mr. President, before discussing my amendment, I ask unanimous consent that my amendment No. 1266 be modified on page 2, by striking the material beginning with " a speed limit for" on line 1 through "and (3)" on line 8, and on line 16 by striking "clauses (2) and (3)" and inserting in lieu thereof "clause (2)."

The purpose of this modification is to give States discretion in raising their speed limits from 55 to 60 miles per hour. Rather than create a mandatory situation in a State where the 55-mile limit is not a great problem, this modification would allow States to decide—whether because of the expense of making the change, the need for a special session of the legislature or whatever reason—to retain the 55-mile limit.

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

Mr. DOLE. Mr. President, I have previously discussed in some detail my amendment, No. 1266, to raise the national speed limit to 60 miles per hour. Therefore, I shall not restate all the considerations and reasons for proposing this amendment. In summary, however, I would note the principal factors which lead me to believe that such a change is appropriate and necessary.

MAJOR FACTORS

First, the Arab oil embargo has ended, and America is not facing the same grave supply crisis as existed when the 55 miles per hour limit was imposed.

Second, in areas of the country—such as Kansas—where distances between towns and cities are great and alternatives to automobile transportation are few, 55 miles per hour is an unreasonably and frustratingly low speed to travel.

And third, the 55 miles per hour limit is having serious economic consequences for the trucking industry and through it to the other industries and businesses—especially the beef industry—which depend on truck transportation.

These are the major points in my argument in favor of a nationwide 60 miles per hour speed limit on our Nation's highways. I feel that such a change is justified in light of increased supplies, is warranted in view of the relief from inconvenience and frustration it would provide to longer-distance mortorists, and is necessary to the economic health and well being of the American trucking industry—and to those individuals and businesses which depend on truck transportation.

DISCRETIONARY CHANGE

Mr. President, there is one point in my amendment which has given rise to some concern, and which I believe can be dealt with in a way which meets my original goals.

As I pointed out last week, those who live in Kansas and other less urbanized areas frequently must travel great distances by car on personal and business matters, while those who live in the great metropolitan regions of the country generally do not need to travel these long distances so frequently and by car.

Thus the 55 limit creates much more of a burden for someone who has to travel from Kansas City to Wichita than for a person traveling from, say, Washington to Philadelphia.

The Kansan has almost no choice other than his car, while the Washingtonian, or New Yorker or Bostonian and millions of their neighbors can go by Metroliner, air shuttle, or even express bus.

The point has been made that, perhaps, since the 55-mile limit is not so much of a problem in metropolitan areas, why require that it be raised to 60? I believe this is a valid point. For this change should grant a measure of flexibility to the States in this area. Therefore, I have modified my amendment to make the 60-mile-per-hour limit discretionary, so that a State which wishes to keep its limit at 55 can do so.

SMALL IMPACT OF FUEL CONSUMPTION

Of course, I realize that a 5-mile-per-hour increase in the speed limit will produce some increase in gasoline consumption. Last week the congressional reference service provided me with an estimate that the increase would be in the range of 3 percent or about 8⅓ million gallons per day. But I believe it is important to recognize that this estimate is based on a limit of 60 in every State, so my change, allowing States to retain the 55-mile limit if they so choose, would mean that the net impact of a 60-mile limit could be expected to fall below this 3-percent estimate. And I believe this point further demonstrates the reasonableness of making this change, and other fuel useage estimates should be viewed in this perspective.

As a means of providing some illustration of the general effects of speed and other factors on automobile fuel economy, I ask unanimous consent that two tables from a Department of Transportation speed versus fuel economy study be printed in the RECORD.

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

TABLE 1.—EFFECT OF SPEED ON FUEL CONSUMPTION RATES

[Without use of air-conditioning]

Test car No. and net weight (pounds)	Miles per gallon at selected speeds					Percent increase in gasoline consumption caused by increase in speed[1]				
	30	40	50	60	70	30 to 40	40 to 50	50 to 60	60 to 70	50 to 70
1 (4,880)	17.12	17.20	16.11	14.92	13.13	−0.05	6.76	7.97	13.63	22.70
2 (3,500)	19.30	18.89	17.29	15.67	13.32	2.17	9.25	10.34	17.64	29.80
2A (3,500)	21.33	21.33	18.94	17.40	15.36	−.01	12.64	8.85	13.28	23.31
3 (3,540)	23.67	24.59	20.46	14.83	13.42	−3.74	22.67	37.96	8.96	52.46
4 (3,975)	18.25	20.00	16.32	15.77	13.61	−8.75	22.55	3.49	15.87	19.91
5 (2,450)	31.45	35.19	33.05	30.78	22.82	−10.63	6.47	7.37	34.88	44.83
6 (3,820)	22.88	19.41	20.28	17.78	14.88	17.88	−4.29	14.06	19.49	36.29
7 (3,990)	15.61	14.89	16.98	13.67	11.08	4.84	−12.31	24.21	23.38	53.25
8[2] (2,050)	(24.79)	(27.22)	(26.80)	(24.11)	(3)	−8.93	1.57	11.16	(3)	(3)
9 (2,290)	21.55	20.07	19.11	17.83	16.72	7.37	5.02	7.18	6.64	14.29
10 (2,400)	22.72	21.94	22.22	21.08	17.21	3.56	−.13	5.41	22.49	29.11

Footnotes at end of table.

TABLE 1.—EFFECT OF SPEED ON FUEL CONSUMPTION RATES—Continued

[Without use of air-conditioning]

Test car No. and net weight (pounds)	Miles per gallon at selected speeds					Percent increase in gasoline consumption caused by increase in speed[1]				
	30	40	50	60	70	30 to 40	40 to 50	50 to 60	60 to 70	50 to 70
[1]1 (5,250)	18.33	19.28	15.62	14.22	12.74	−4.93	23.43	9.85	11.62	22.61
[1]2 (4,530)	20.33	20.00	17.50	16.17	14.86	1.65	14.29	8.23	8.82	17.77
Average (unweighted)	21.05	21.07	19.49	17.51	14.93	0	8.11	11.31	17.28	30.53

[1] Changes in this section marked with a minus (−) sign were decreases.
[2] Since vehicle No. 8 could not be operated satisfactorily at 70 miles per hour, its miles per gallon performances were omitted from the averages. They are, however, given in parentheses.
[3] Not available.

TABLE 2.—EFFECT OF SPEED ON FUEL CONSUMPTION RATES

[With air-conditioning in use]

Test car No.	Miles per gallon at selected speeds					Percent increase in gasoline consumption caused by increase in speed				
	30	40	50	60	70	30 to 40	40 to 50	50 to 60	60 to 70	50 to 70
1	16.29	16.56	15.56	14.42	12.74	−0.16	6.43	7.91	13.19	22.14
3	18.42	18.22	15.69	13.83	10.89	1.08	16.12	13.45	27.00	44.08
4	16.16	16.82	16.30	14.07	13.14	−3.92	3.19	15.85	7.08	24.05
6	21.04	17.41	17.22	17.33	13.42	20.86	1.10	−.06	29.14	28.32
7	16.06	13.17	14.22	12.40	10.89	21.94	−7.38	14.68	13.86	30.58
9	18.55	18.29	17.78	17.33	16.26	1.42	2.87	2.60	6.58	9.35
10	22.77	21.93	20.42	18.67	16.92	3.83	7.39	9.37	10.34	20.69
11	17.17	18.39	14.53	12.43	10.89	−6.63	26.57	16.89	14.14	33.43
12	16.83	16.78	16.04	14.56	13.35	.03	4.61	10.16	9.06	20.15
Average (unweighted)	18.14	17.51	16.42	15.00	13.17	3.60	6.64	9.47	13.90	24.68

Mr. DOLE. Mr. President, as can be seen by these charts, air-conditioning causes a much sharper drop in fuel economy than even a 10 mile per hour increase in speed. The average mileage for all cars in the test dropped 1.98 miles per gallon as their speed increased from 50 to 60 miles per hour, but there was a loss of 3.07 miles per gallon at 50 miles per hour and a loss of 2.51 miles per gallon at 60 miles per hour when the vehicles' air-conditioners were turned on.

I am not proposing that drivers be given a choice driving at 60 or using their air-conditioners this summer. But, I believe the study points out that there are other ways to save fuel beside the imposition of lower speed limits.

I also ask unanimous consent that the full text of this DOT study be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

IMPACT ON TRUCKING INDUSTRY

Mr. DOLE. Mr. President, the impact of the 55 miles per hour speed limit on the trucking industry is substantial. The lower limit means longer trip times for drivers, fewer trips per month, lower paychecks, and increased truck fuel consumption. For the outset of the fuel pinch, the trucking industry urged that if lower limits were necessary, 60 miles per hour was the appropriate choice.

The reasons for preferring this speed were illustrated by Teamsters Union President Frank Fitzsimmons when he testified before the Transportation Subcommittee of the Public Works Committee on the original speed limit bill in December 1973.

During that testimony, the following exchange took place:

Senator DOMENICI. Mr. Fitzsimmons, you recommend 60, as I understand it, for everyone as the maximum. Is that your testimony?

Mr. FITZSIMMONS. That is my recommendation.

Senator DOMENICI. Is your recommendation based upon information regarding the saving of gasoline? What goes into the recommendation?

Mr. FITZSIMMONS. My recommendation comes on basic facts, from tests that have been made with some of the companies and some of the other people in both the East and West and the central area. We can show you that on a trip from Asheville, N.C., to Little Rock, Ark., conservatively will save better than 32 gallons of fuel operating at the posted speed limits before they were cut back.

We can show you that the same trip operated at 50 or 55 miles an hour takes better than 3½ hours to make at that speed.

This is not somebody's theory; this is actuality. I presented it to both Brinegar and Simon.

Senator DOMENICI. Therefore, with reference to the trucks and the savings of gasoline, you are saying you believe the evidence is that at 60 rather than at 50, you would save diesel fuel for the truckers?

Mr. FITZSIMMONS. I say that, and I think Mr. Sassi, while he says 65, and I can appreciate his concern, would say it.

Mr. President, this demonstrates again, as indicated by a great many people in the trucking industry and the independents who are at least in part on strike since 12 o'clock midnight last night, that one of their major grievances is they are required to drive at 55 miles an hour when their trucks are geared and equipped to operate at 60 miles an hour and, they say, use less fuel.

Continuing to read the remainder of the excerpts of the testimony:

But by the same token, he being a trucker I think will verify what I said about getting our trucks into that speed where, for want of a better word—we used it in the old sense before we had these highly technical advances in equipment—there was freewheeling; freewheeling, running at 2,200 revolutions per minute at that speed conserves fuel.

When it drops below that then we are running and it takes more fuel to maintain the 2,220 revolutions per minute.

Other witnesses were in substantial accord with Mr. Fitzsimmons on these points. I ask unanimous consent that a statement submitted to those same Public Works Committee hearings by the Committee hearings by the American Trucking Associations, Inc., also be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

KANSAS FAVORS 60 MILES PER HOUR

Mr. DOLE. In conclusion, Mr. President, I would like to say that I have believed that most Americans, especially Kansans, feel that 60 miles per hour is the best speed limit. Taking into consideration the acknowledged need to practice fuel conservation and the lives which have been saved by lower highway speeds, I have felt that many people think 60 is a good, reasonable compromise.

To test this theory, in my most recent constituent questionnaire I asked respondents to choose between 55, 60, 65, and 70. A few very early responses have been returned. And while they are far from being significant statistically, they show that people favor 60 miles per hour overwhelmingly. Fifty-two percent favored 60 miles per hour, compared to 12 percent for 55, 32 percent for 65, and none for 70.

So I believe the American people are reasonable. They recognize the need to slow down, save fuel and spare lives. But they want things to be sensible, and in large measure they think that a 55-mile limit is not sensible or necessary.

Therefore, Mr. President, my amendment would permit States to raise their speed limits to 60 miles per hour. Again, it is discretionary with the States. If they do not want to raise it, they do not have to. It would provide a measure of flexibility and would ease the burden imposed by a 55-mile-per-hour limit, which is no longer essential or in the best interests of the country.

I emphasize again that we are in the

throes of what could be another nationwide truck strike. I recall in December and January spending many hours, as did many other Members of this body, with independent truckers and others, trying to resolve some of their difficulties. Some were real and genuine. The one, as I recall, that bothered the truckers most was the imposition of the 55-mile-per-hour speed limit.

They claim, and I think with justification, that in addition to the added time to their trips, there has been less profit for them, and they indicated time after time that their trucks could operate more efficiently and more effectively and consume less fuel when traveling at 60 than at 55.

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

EXHIBIT 1

THE EFFECT OF SPEED ON AUTOMOBILE GASOLINE CONSUMPTION RATES, OCTOBER 1973

PREFACE

In a period of imminent fuel shortages, the amount of gasoline used by automobiles and the efficiency of its use are coming under critical examination. For this, it was desired to have data for a series of automobiles of recent year models, of different weights and other characteristics. It was also desired that the information be taken, if possible, from records of vehicles actually operating on the highways, rather than from tests made with laboratory equipment.

The information in this report meets those requirements.

A word of caution on the use of this report seems warranted here. While the data were carefully gathered, the sample is relatively small, and the staff and instrumentation were limited. The report has the sole purpose of determining the effect of speed on gasoline consumption rates under highway operating conditions, and it appears to do that conclusively. It is hoped that if this report is used for other purposes, its limitations will be borne in mind.

This also seems to be an appropriate place to thank the automobile industry, and particularly the dealers of the Northern Virginia suburbs of Washington, D. C., for their kindness and willing assistance to the staff that made the study.

(NOTE.—The United States Government does not endorse products or manufacturers. Trade or manufacturers' names appear herein solely because they are considered essential to the object of this report.)

(By E. M. Cope)

(NOTE.—Figures not included in RECORD.)

The fact that automobiles operating at high speeds use more fuel per mile than those operating at lower speeds is universally accepted. It is not controversial, but it is a vague and elusive concept. It was the purpose of this study to measure, as nearly as possible under practical operating conditions, how much operating speeds do affect gasoline usage.

The cars used in the study were selected to cover a range of weights, but except air conditioning, no effort was made to measure the effect on fuel consumption of other features or equipment. All of the cars were 1970 or later year models. Each had been operated more than 3,000 miles; and with one exception, none were specially "tuned" or intercepted below the driver's seat, the gasoline was run through an auxiliary line from there to a meter in the passenger compartment, and after passing through the meter, back to the point of interception.

Although it would have been relatively simple to make the series of tests of a dynamometer, such tests would have lacked some of the factors present in actual highway operation. Most notable among these are wind resistance on the moving vehicle, the effect of rapidly moving air on the car's cooling systems, and the minor irregularities of any highway surface.

At one time, automatic transmissions were considered to be accessories; but in recent years, they have come into such universal use that they are treated as standard equipment; and except for the very light cars, the clutch drive is now almost in the class of special equipment. The general public is probably unaware of the fact that automatic transmissions may be responsible for as much as one gallon or more in ten of a car's gasoline consumption; and it probably would make little difference in car purchases and usage even if it were generally known. Power brakes and power steering also increase gasoline consumption, although not nearly as much; and here again, safety factors and increased ease of driving appear to be well worth their cost. In any case, it is unlikely that those who have become accustomed to power brakes and steering would be willing to turn back to the old "standard" brakes and steering.

The general public is, of course, aware of the tremendous roadway improvements that have been accomplished in recent years. The Interstate highways, in particular, have made substantial contributions to traffic safety and economy of vehicle operation. There is no way of knowing precisely the amount of fuel saved on the free-flowing Interstate and turnpike routes, but it is known to be substantial, even after offsetting it against, the fuel consumed by the excessively high speeds frequently encountered. Extremely low speeds, stop-start driving, and the inconveniences of crawl speeds in congested areas are probably more wasteful of fuel than excessive speeds.

The energy problem is already serious, and almost certain to be a growing cloud over the Nation in the future. The years of plentiful fuels are behind us, and we are entering an age when the sharp reality of the total fuel situation will have a heavy impact on our daily lives.

It cannot be overemphasized that this study was made solely to determine the effect of speed on fuel consumption rates. The results are not even put forth as "typical," because each test consisted of timing an uninterrupted run of a vehicle at a carefully controlled speed, a situation not likely to occur in normal operation. Furthermore, since the vehicles were not specially tuned for the tests (with one exception, discussed later in this report), it was agreed with the cooperating automobile dealers that the names of the vehicles would not be used in the report.

However, the tests do accomplish what they were intended to do—they give a clear and conclusive picture of the existence of very substantial increases of fuel consumption in the upper speed ranges, i.e., above 50 miles per hour; and they give a strong indication of the magnitude of those increases.

There follows a brief discussion of the equipment used in making the tests, and a description of the method followed.

EQUIPMENT

1. Systems Gasoline Fuel-O-Meter, manufactured by the Columbia Systems Company, 5805 S.E. Gladstone, Portland, Oregon 97206.

2. Fifth Wheel speedometer, assembled at the Federal Highway Administration's Fairbank Research Laboratory. Included were a General Motors Fifth Wheel and bumper clamps and electronic instrumentation devised by the Laboratory's engineers. (Several of the speedometers of the vehicles tested were also cross-checked with a Maxwell All-Electric Dynamometer, and the Fifth Wheel and Dynamometer readings were in complete agreement.)

3. Bendix Gasoline Pump, manufactured by the Bendix Corporation, South Bend, Indiana. This is a 12-volt pump, in general automotive use.

4. Stop watches, of the type used to time athletic events. Several were used. The most satisfactory were those with large "sweep" second hands that made a complete revolution in 10 seconds, and that had smaller hands to record elapsed time.

5. Signs reading test vehicle. The ones used were on white paperboard strips 27 inches long and 3 inches high. They bore the Department of Transportation triskelion symbol and the words test vehicle in heavy 2-inch high block letters.

METHOD

This test was intended to cover, in a group as small as practical, cars in different weight groups, and of different characteristics with respect to air conditioning versus no air conditioning, and automatic transmissions versus manual transmissions. All vehicles were to be 1970 or later model years, and to have been operated for at least 3,000 miles prior to the test.

Numerous vehicles owned by individuals were volunteered for the gasoline consumption tests, but only two were used. The remainder were supplied by dealers, and were either officials' cars, demonstrators, or cars from their used car stock.

The Fifth Wheel speedometer, shown in Figure 1, was used in most cases to determine the accuracy of the vehicle's speedometer, and in some cases, both the Fifth Wheel and the dynamometer were used to cross-check for accuracy. No differences between the Fifth Wheel and the dynamometer were found. For each car, the speedometer reading of the vehicle was recorded for true speeds at 30, 40, 50, 60, and 70 miles per hour. If for instance, the vehicle speedometer showed 52 miles per hour at a true speed of 50 miles per hour, and the vehicle was later operated during the tests at 50 miles per hour, it was done at a vehicle speedometer reading of 52 miles per hour when the speedometer of the vehicle was used, which was the procedure in most cases. In some instances the Fifth Wheel was used during the tests; but it proved to be difficult for the driver to transfer his eyes between the instrument box on the seat beside him and the road while holding the car at a constant speed.

Generally speaking, the speedometers of the cars were surprisingly accurate. Despite the common belief that most speedometers are "fast," that is, that they give a margin of safety by indicating speeds greater than the vehicles are actually traveling, most were within 1 mile of the true speed. Nearly all of the inaccurate readings were "fast" by only 1 or 2 miles per hour; but the greatest error found was a speedometer reading of only 66 miles per hour when the vehicle was actually traveling 70 miles per hour.

The gasoline meter was installed in the passenger compartment of each vehicle. Because of the effect that engine heat could have on gasoline volumetric measurements and on meter performance, it was necessary to avoid engine heat before the gasoline passed through the meter. For all except two cars, this required intercepting the tank-to-carburetor gasoline line, as shown in Figure 2, beneath the driver's seat, installing a flexible hose from the line to the filter-meter-pump assembly seen in Figure 3, then installing a hose from the assembly back to the line. Nearly all cars have plates or access holes of one kind or another through the floor that can permit the hoses to and from the gasoline meter to go through the floor. The pump was not used at first, but was added to the assembly when the flow through the meter seemed to vary on some of the cars with vacuum pumps. The inclusion of the electric pump in the assembly seemed

to eliminate any variations in the rate of flow. The gasoline pump was fitted with an electric cord which had a socket similar to those of ordinary automobile trouble lamps, so the power could be taken from the cigarette lighter socket. In short, this arrangement simply detoured the gasoline from the regular feed line, through the assembly, and back to the feed line.

One problem was encountered that should have been—but wasn't—anticipated. Quite a few cars in recent years have a fuel supply system that circulates gasoline, i.e., it pumps more gasoline to the motor than the motor needs, and the excess is returned by a separate line to the gasoline tank. The primary purpose of this system is to prevent "vapor lock" that causes a distressing stalling of motors, particularly in urban low-speed stop-and-go traffic. A meter, apparently correctly installed, was indicating that the vehicle was using an outrageously large amount of gasoline. Investigation soon revealed, of course, that the meter was recording the total amount of gasoline passing through the line, including that which returned to the tank.

Experimentation soon proved that the "return" lines could be blocked with no apparent ill effects; and this was done in several cars. (It probably would be inadvisable to block the return lines on cars to be operated in urban traffic, particularly in warm weather.)

Satisfactory driving courses for this series of tests had to meet the following requirements:

1. Reasonable accessibility
2. Straight and level roadway
3. Good roadway surface
4. Low traffic volume

Two stretches of highway meeting these requirements were found; Virginia Route 28, between Interstate Route 66 and Virginia Route 50; and Maryland Route 301 north of Waldorf, between Surratt's Road and Maryland Route 381. Both routes were used.

The gasoline used in each vehicle was of the type recommended by the manufacturer, and was bought at regular gasoline filling stations. No special fuels were used.

Each test run was made with both a driver and an observer. Although some experimenting was done, it proved to be impossible for one person to drive a car at a constant speed, use a stop watch and record the times. Efforts to achieve "one-man-operation" resulted in uncertainties as to precise times, and in difficulties holding vehicles at precise speeds. Consequently, someone "rode shotgun" every test run used in this study, to attend the meter and record speeds and times.

The driver and observer each carried, and used, a stop watch. This was to ensure against watch error or failure (there were none) and to afford occasional double-checks on readings, as well as to permit the driver to make supplementary time observations while the observer was recording and reviewing the timings.

For the cars with air conditioners, the test runs were made separately at each speed with the air conditioner in use and not in use. The results are given and discussed in this report.

All except three of the cars tested are equipped with air conditioning, and all of the air conditioners were in good operating order. The test runs were made at each speed (30–40–50–60, and 70) in each direction of the road segment enough times to assure that the times were consistent.

The gasoline meter used gives six clearly audible "clicks" per tenth of a gallon, i.e., 60 clicks per gallon.

In operation, if the driver was, for instance, to drive at 50 miles an hour, when the car had come to that speed, he would simply say "on it" and hold the car at that speed; then at the first meter click, the stop watches would be started. On the third following click, the observer would stop his watch and record the speed, direction, and number of seconds. The driver would usually call out the reading on his watch at the fourth, fifth, and sixth clicks and so on until the car came to the end of the selected course; and the observer would make a record of them. Any use of the brake aborted the run. At times this resulted from unforeseen hazards such as a car entering the highway from a side road, careless pedestrians, or for other reasons, such as a wild animal crossing the road (and, embarrassingly enough, a sneezing driver!).

It was found best to pull off the road at the end of each run, and to make any records and notes on the spot. This minimizes the possibility of errors of observation or recordings; it eliminates the problem of the faulty memory; and it affords, after a little experience, the chance to catch on the spot any timings or performances that seem inconsistent.

Every car being tested carried the test vehicle sign fastened on the inside of the rear window with clear adhesive tape. The large black block letters were clearly legible from at least 100 feet. Although every effort was made to time the runs so that there would be ample room in front and to the rear without encountering vehicles moving in the same direction, it was not always possible to do so. The sign seemed to convert any possible displeasure of occupants of other vehicles into curiosity. Faster-traveling cars with unlimited opportunities to pass the test cars frequently fell in behind and trailed them for a while, apparently trying to figure out what was being tested.

When the test runs were completed for a vehicle, the meters and hose were removed, the two ends of the gasoline line pulled together and clamped inside a short piece of gasoline-proof hose, and the car was returned to its owner.

The results of the test were generally in line with what could have been expected but there were some small surprises, a few unexplained inconsistencies, and a few developments probably of greater interest to technicians than to most others. Table 1, for instance, shows that 7 of the 13 cars tested operated more miles per gallon at 40 miles per hour than at 30; and 3 operated more miles per gallon at 50 than at 40. For the lower speed ranges, this seems to destroy the "Slow down—save gas" admonition. But no car operated more miles per gallon at 60 than at 50, nor at 70 than at 60; and the increases in consumption in going above 50 miles per hour were substantial and consistent.

(Prior to further discussion, it should be noted that Vehicle #2 and Vehicle #2A were the same, except that the latter had been completely "tuned up" and had been operated about 300 miles between the "untuned Number 2" test and the "tuned Number 2A" test. The tuning made a substantital difference, and its inclusion in this report was greatly facilitated by treating it as an additional vehicle in the statistics and summaries.)

TABLE 1.—EFFECT OF SPEED ON FUEL CONSUMPTION RATES

[Without use of air-conditioning]

Test car number and net weight (pounds)	Miles per gallon at selected speeds					Percent increase in gasoline consumption caused by increase in speed[1]				
	30	40	50	60	70	30 to 40	40 to 50	50 to 60	60 to 70	50 to 70
1 (4,880)	17.12	17.20	16.11	14.92	13.13	−0.05	6.76	7.97	13.63	22.70
2 (3,500)	19.30	18.89	17.29	15.67	13.32	2.17	9.25	10.34	17.64	29.80
2A (3,500)	21.33	21.33	18.94	17.40	15.36	−.01	12.64	8.85	13.28	23.31
3 (3,540)	23.67	24.59	20.46	14.83	13.42	−3.74	22.67	37.96	8.96	52.46
4 (3,975)	18.25	20.00	16.32	15.77	13.61	−8.75	22.55	3.49	15.87	19.91
5 (2,450)	31.45	35.19	33.05	30.78	22.82	−10.63	6.47	7.37	34.88	44.83
6 (3,820)	22.88	19.41	20.28	17.78	14.88	17.88	−4.29	14.06	19.49	36.29
7 (3,990)	15.61	14.89	16.98	13.67	11.08	4.84	−12.31	24.21	23.38	53.25
8[2] (2,290)	(24.79)	(27.22)	(26.80)	(24.11)	NA	−8.93	1.57	11.16	NA	NA
9 (2,290)	21.55	20.07	19.11	17.83	16.72	7.37	5.02	7.18	6.64	14.29
10 (2,400)	22.72	21.94	22.22	21.08	17.21	3.56	−.13	5.41	22.49	29.11
11 (5,250)	18.33	19.28	15.62	14.22	12.74	−4.93	23.43	9.85	11.62	22.61
12 (4,530)	20.33	20.00	17.50	16.17	14.86	1.65	14.29	8.23	8.82	17.77
Average (unweighted)	21.05	21.07	19.49	17.51	14.93	0	8.11	11.31	17.28	30.53

[1] Changes in this section marked with a minus (−) sign were decreases.

[2] Since vehicle No. 8 could not be operated satisfactorily at 70 mi/h, its miles per gallon performances were omitted from the averages. They are, however, given in parentheses.

This test makes no allowances for special advantages of small cars. These include lower investment, economy in highway space occupied, greater ease and lower cost of parking, simplicity of maintenance (due at least in part to the absence of refinements, accessories, and special features), and perhaps other advantages in special situations. Similarly, this test is not concerned with the greater comfort, safety, capacity, and other advantages of larger vehicles.

Table 1 includes all of the vehicles, both with and without air conditioners, used in this study. The data show miles per gallon for each at various speeds, without the use of air conditioning. The greatest number of miles per gallon, 35.19, was achieved by Vehicle 5. This was a subcompact with a 4-cylinder engine, manual transmission, and regular steering. It had the highest miles per gallon of all the cars tested, and at every test speed. However, its fuel consumption at 70 miles per hour was 44.83 percent greater than at 50; and the car seemed to be nearing the limit of its capability. The owner observed, in good humor, that it was a car that encouraged operating at reasonable speeds.

Although the heavier "luxury" cars consumed more fuel per mile than other cars at most speeds, the differences between heavy and lighter cars were greatly diminished in the upper speed ranges. The heavier cars were able to achieve the higher speeds with ease.

The bottom line of Table 1 shows the 21.07 unweighted average miles per gallon at 40 miles per hour to have been above the 21.05 miles per gallon at 30 miles per hour. Even though the difference is only two-hundredths of 1 percent, it will be a surprise to many that there was a difference at all in this direction. Similarly, three of the cars operated more miles per gallon at 50 than at 40. Although this would not normally have been expected, it can easily be explained by differences in gear ratios, timing settings, and other purely mechanical factors. At least for the vehicles tested, it is clear that slowing vehicles from speeds under 50 miles per hour to lower speeds would perhaps waste as much fuel as it would save.

At 60 miles an hour and above, it is a different story. The average miles per gallon (for vehicles not using air conditioning) was 19.49 at 50 miles per hour, and 14.93 at 70 miles per hour. This 20 miles an hour increase in speed increased fuel consumption 30.53 percent. The greatest increment, of course, was the move from 60 to 70, which accounted for an increase of more than 17 percent in fuel consumption.

The data in Table 2 are similar in form and concept to those in Table 1, except that those in Table 2 include only cars with air conditioners in operation. The cars in Table 2 are given the same numbers they had in Table 1; thus cars 2, 2A, 5, and 8 are omitted. These tended to be lighter than the cars with air conditioning, so their omission from Table 2 tends to reduce the miles per gallon figures that Table 2 would otherwise have presented. The effect of speed and air conditioning are readily evident, however, in comparing Tables 1 and 2; and Table 3 gives a brief summary and digest of the effect of air conditioning on miles per gallon.

The effect of air conditioning on miles per gallon proved to be less than expected, at least less than the power requirements of air conditioners might lead one to believe. Since it was the purpose of this study to determine the fact rather than find the reasons, the matter was not pursued. However, some reflection on the matter suggested that some of the car windows may have been open during some of the test runs without air conditioning, thus increasing turbulence (and therefore fuel consumption). This would, of course, have decreased the air-no-air differences. It should also be noted that the miles-per-gallon comparisons do not reflect the fact that cars equipped with air conditioners are carrying equipment weighing approximately as much as an extra adult passenger, even when the equipment is not in use.

TABLE 2.—EFFECT OF SPEED ON FUEL CONSUMPTION RATES

[With air-conditioning in use]

Test car number	Miles per gallon at selected speeds					Percent increase in gasoline consumption caused by increase in speed				
	30	40	50	60	70	30 to 40	40 to 50	50 to 60	60 to 70	50 to 70
1	16.29	16.56	15.56	14.42	12.74	−0.16	6.43	7.91	13.19	22.14
3	18.42	18.22	15.69	13.83	10.98	1.08	16.12	13.45	27.00	22.14
4	16.16	16.82	16.30	14.07	13.14	−3.92	3.19	15.85	7.08	24.05
6	21.04	17.41	17.22	17.33	13.42	20.86	1.10	−.06	29.14	28.32
7	16.06	13.17	14.22	12.40	10.89	21.94	−7.38	14.68	13.87	30.58
9	18.55	18.29	17.78	17.33	16.26	1.42	2.87	2.60	6.58	9.35
10	22.77	21.93	20.42	18.67	16.92	3.83	7.39	9.37	10.34	20.69
11	17.17	18.39	14.53	12.43	10.89	−6.63	26.57	16.89	14.14	33.43
12	16.83	16.78	16.04	14.56	13.35	.03	4.61	10.16	9.06	20.15
Average (unweighted)	18.14	17.51	16.42	15.00	13.17	3.60	6.64	9.47	13.90	24.68

TABLE 3.—THE EFFECT OF THE USE OF AIR-CONDITIONING ON FUEL CONSUMPTION RATES[1]

Operating speed	Air-conditioning (miles per gallon)		Effect on fuel consumption caused by use of air-conditioning	
	In use	Not in use	Reduction in miles per gallon	Percent saving with air-conditioning "off"
Miles per hour:				
30	18.14	20.05	1.91	5.29
40	17.51	19.71	2.20	12.56
50	16.42	18.29	1.87	13.89
60	15.00	16.25	1.25	8.33
70	13.17	14.18	1.01	7.67

[1] *All cars included* in the averages in this table were equipped with air-conditioning in good operating condition.

The principal reason, however, for the narrowness of the gap between miles per gallon with air conditioning in use and not in use is that wind resistance, friction, and other power requirements for the movement of the vehicle tend to increase at a rate equal to or greater than the increase in vehicle speed, whereas the power required to operate air conditioning remains more nearly constant. Thus, as the vehicle speed increases, the power required to operate the air conditioning becomes a decreasing percent of the total power output of the motor. This is supported by the figures in Table 3, which show air conditioning reducing miles per gallon by 2.20 miles at 40 miles per hour, by 1.87 miles per gallon at 50, and 1.25 and 1.01 miles per gallon, respectively, at 60 and 70 miles per hour.

Generally speaking, the heavier cars tended to increase fuel consumption rates percentagewise less than lighter cars as speeds increased. However, a 30-percent increase in fuel consumption for a lighter car could easily be less, in number of gallons, than a 25 percent increase for a heavy car.

Although the operating condition of motors was outside the scope of this study, the test results for the one car tested before tuning and after tuning are sufficiently related to the overall subject of fuel conservation to merit inclusion. The performance comparisons, given in Table 4, even though for only one vehicle, strongly suggest a good place to look in the effort to save fuel.

TABLE 4.—COMPARISON OF MILES PER GALLON FOR 1 CAR BEFORE AND AFTER TUNING

Operating speed	Miles per gallon		Improvement after tuning	
	Before tuning (car No. 2)	After tuning (car No. 2A)	Miles per gallon	Percent
Miles per hour:				
30	19.30	21.33	2.03	10.52
40	18.89	21.33	2.44	12.92
50	17.29	18.94	1.65	9.54
60	15.67	17.40	1.73	11.04
70	13.32	15.36	2.04	15.32

A Nation entering an era of uncertainty as to its energy sources and reserves must consider carefully what it can, and what it cannot do. The energy problems already on the horizon seem certain to have tremendous impact on motor vehicles and the patterns of their use. Automobile fuel consumption rates will play an important part in the decisions to be made.

EXHIBIT 2

STATEMENT OF EDWARD V. KILEY, VICE PRESIDENT, AMERICAN TRUCKING ASSOCIATIONS, INC.

Mr. Chairman, and members of the Committee, my name is Edward V. Kiley. I am Vice President, Research and Technical Services of the American Trucking Associations. The organization is a federation with affiliated associations in every state and the District of Columbia, plus 13 affiliated conferences. In the aggregate, we represent every type and class of truck operation in the country, both for-hire and private.

We appreciate this opportunity to appear before your Committee and discuss the nation's energy crisis, particularly as it affects the trucking industry.

Our industry has been deeply involved in the many problems arising from the inadequacy of petroleum supplies beginning with reports from our industry toward the end of 1972 when they were being told by their suppliers that they could not depend on receiving adequate supplies of diesel fuel. They were told that contracts of long standing could not be renewed and no assurances whatsoever could be made as to what the future might hold.

As the year went by and we appeared before various Congressional Committees, and before independent government agencies, we stressed in the strongest language possible the dire economic consequences that were arising, and would arise at an increasing pace, if the supply of diesel fuel became inadequate.

The trucking industry, together with the other forms of surface transportation, is almost completely dependent on diesel fuel in its operations. There is no substitute for diesel fuel and, in our opinion, there is no luxury or non-essential use of diesel fuel in transportation. The transportation of freight in the country, as far as surface movements are concerned, will function or not function in direct proportion to the amount of diesel fuel that is available.

A shortage, or inadequate supply of diesel fuel, cannot help but have serious economic consequences throughout our entire economy. The carriers do not create the demand for freight service. We merely fill the demand that is created by the level of the country's economic activity. This demand has been very great, for forms of transportation, and is continuing to grow.

In 1972, 33% of all intercity tons of freight moved by motor truck and to this must be added all local freight tonnage which moves entirely by truck. Trucks handle 51% of the tonnage of all manufactured products and 85% of shipments under 10,000 lbs. move by truck. Thus, the 33% ton-mile statistic tells only part of the story and is in no way realistically relevant to the industry's fuel needs.

Within the trucking industry we are doing everything possible to conserve fuel. To the maximum possible extent, our carriers are practicing conservation measures and exploring new operating efficiencies. Such practices as tightening pickup and delivery schedules, adjustments to fuel systems to minimum specifications, reductions in engine warm-up time and many others. It should be pointed out, however, that these measures do save some fuel but involve undesirable trade-offs in terms of increased maintenance expenses and decreased service.

The reduction of existing state speed limits presents no difficulties to the vast majority of motor vehicles but for the motor carriers it presents serious operational problems of the most complex nature.

Many trucking companies in line-haul service operate over regular routes between fixed terminals. Therefore, they have necessarily designed their operations in terms of existing speed limits.

The drivers of interstate trucks are limited by existing Federal regulations promulgated and enforced by the Bureau of Motor Carrier Safety in the Department of Transportation. These regulations, which are strictly enforced, limit a driver to ten hours of continuous driving (with rest stop breaks). After such a ten hour operation the driver must have no less than eight hours rest before resuming another run.

Operating within these parameters the carriers have developed their routing systems, terminal locations, relay points and equipment interchange points. Even a detail such as the selection of the driver's home is determined in many cases by the operational circumstances.

A severe reduction of truck speed limits would throw these operations into a state of confusion and disrupt the carriers scheduling. Many drivers would be unable to reach the destinations in the evening and thus delay the freight by at least 8 hours. Further, the driver would find his run completed short of his home and be faced with the inconvenience of a "night on the road", with the carrier incurring the extra cost involved, and the shipper suffering a long delay.

When the question of a mandatory lowering of speed limits first became a matter of issue, we indicated that the limit at which the least disruption in motor carrier service would occur would be at 60 miles per hour—even though many state speed limits for trucks were set above this and many operations are geared to these higher limits. This position was set forth in a letter of October 26 to Senator Henry M. Jackson, Chairman of the Committee on Interior and Insular Affairs of the United States Senate with a similar letter sent to Chairman Harley O. Staggers of the Committee on Interstate and Foreign Commerce of the United States House of Representatives on November 12, 1973. We respectfully request that these letters be received for the record.

The question of speed limit reductions as related to fuel savings deserve a long hard look by the Congress, particularly in the area of the studies that indicate savings in gasoline by reducing passenger car speeds to 50 miles per hour. For example, as indicated by E. N. Cole, President of General Motors Corporation, in a letter to Senator Randolph, dated November 7, 1973, the 20% fuel savings passenger car operations results in a reduction of from 70 miles per hour to 50 miles per hour. However, as pointed out by Mr. Cole a saving of this sort applies only if all cars were operating at 70 miles per hour and were dropped down to 50 miles per hour. He elaborated further by pointing out that most cars already operate at less than 50 miles per hour because of local speed limits and traffic conditions within city and suburban limits. Data submitted with Mr. Cole's letter showed that the big saving in passenger car fuel was in the drop from 70 miles per hour to 60 where a 12% saving could be achieved whereas, by comparison, the difference between 50 miles per hour and 60 represented a saving of 2.5%.

We point this out, Mr. Chairman, only to suggest that the closest kind of examination be given studies on alleged fuel savings in the area of passenger car operations before any action is taken that would seriously impair the ability of the nation's trucking industry to continue to provide the necessary transportation services without greatly increased costs that inevitably must be passed on to the consumer.

We further request that whatever action is taken that it be of a temporary nature, limited to the period of the emergency created by the fuel, or energy crisis.

On the question of current policies and programs, we believe we can best respond to this by summarizing briefly the basic position we are taking with the Energy Policy Office on the Proposed Mandatory Allocation Program for Middle Distillate Fuels. We filed our response to the Energy Policy Office proposals on Friday of last week.

Under the proposed allocation program, transportation other than public passenger transportation and the transportation of fuel is to receive only 90% of the amount of fuel used in the base year, which is set as 1972. This 90% allocation applies to "cargo, freight and mail hauling." Such an allocation to the trucking industry, in fact to all forms of surface transportation, will be woefully inadequate in terms of need. The most reasonable, and qualified, estimates of anticipated freight traffic for the year ahead indicate clearly that 90% of what we received in 1972 would leave us far short of adequate fuel to enable our industry to meet the demands for truck service. We are, therefore, requesting a revision in the proposed allocation formula to provide for motor freight transportation to receive 100% of actual needs.

In the trucking industry, as in other forms of transportation, we respond to the need placed upon us by the producers of the nation's goods. If we do not have the fuel to move our vehicles, the goods will not move, and if they cannot be moved, they will stop being produced. Here, then, is a great energy waste—producing that which cannot be brought to the marketplace.

We believe the needs of the trucking industry, as well as other forms of freight transportation, can be met if the programs currently being discussed are brought to reality as quickly as possible. One is action, within prudent and reasonable limits, to halt the drain on middle distillate fuel for nontransportation purposes in those areas where alternate sources of fuel are feasible. Second, re-evaluation of the entire petroleum refining process for the purpose of maximizing the amount of middle distillate that can be extracted from each barrel of crude oil.

Diesel fuel is the lifeblood of our transportation system—and our transportation system is the essential framework that holds up our entire economic structure.

Mr. JACKSON. Mr. President, I yield to the Senator from Maryland for the purpose of clarifying the legislative history of section 106.

Mr. BEALL. I thank the distinguished manager of the bill, the Senator from Washington.

Mr. President, section 106, headed "Materials allocation" in the Standby Energy Emergency Act empowered the Federal Energy Administration to allocate "scarce, critical and essential" materials and equipment that are necessary to maintain "required transportation of energy supplies" and for the construction and maintenance of energy facilities."

In my judgment, this wording would mean that the continuing construction and repair of our Nation's maritime fleet would be assured even under emergency circumstances. As we all know, tankers and merchant ships are vitally necessary to transport a significant proportion of energy producing materials.

However, the Senate report on this legislation does not specifically mention this vital component of the energy transportation system. I, therefore, think that it is necessary to complete the legislative history of this legislation by making it quite clear that section 106 would indeed be available to assure the continuous availability of not only drilling rigs, but tankers and LNG carriers. The phrase "such things" in this section should be understood to include materials and equipment for the construction, conversion and/or repair of oil drilling rigs, their support vessels, tankers, LNG carriers, deepwater port facilities and other items needed to maintain "required transportation of energy supplies."

I ask the managers of the bill if they agree that I have correctly interpreted this section as it would pertain to the maintenance component of energy transportation.

Mr. JACKSON. The Senator is correct in his legislative interpretation. Rather than spelling out in detail what we meant by "required transportation," we made it purposely very broad. Energy is an all-pervasive subject. It moves over all systems, and it does include tankers and LNG carriers—every mode of seaborne transportation.

This does not exclude other forms of transportation. We deliberately made it general, so that we did not run into the old legal doctrine: If you specify and fail to generalize, you are limited to the specific.

Therefore, the Senator's interpretation of the legislative history is correct. I think I can speak for the committee as a whole when I say that we intended to include all modes.

Mr. FANNIN. Mr. President, I concur with the statement of the distinguished Senator from Washington, the floor manager of the bill, and I commend the Senator from Maryland for clarifying this part of the legislation. The flexibility was intended, and I think it is better clarified now that the Senator from Maryland has brought up this subject and asked for a clarification. I agree that the intent is to give the flexibility which I think will be more desirable.

Mr. BEALL. I thank the Senator from Arizona and the Senator from Washington for their assurances on this point. I can understand the need for flexibility. I fully appreciate the willingness to agree that we should, for the record, specify that oceangoing vessels are included.

Mr. JACKSON. Mr. President, I believe we have made an unequivocal record on this point. I know that the Senator from Arizona concurs in everything I have said. This is indeed a part of the legislative history of section 106.

I yield 4 minutes to the distinguished Senator from Vermont.

Mr. STAFFORD. Mr. President, I wish to express my opposition to amendment 1266, which is offered by my good friend, the distinguished Senator from Kansas (Mr. DOLE). As the Senator from Kansas has explained, the amendment would, in effect, raise the maximum national highway speed to 60 miles per hour, even as modified, an increase from the present 55 mile per hour established by the Emergency Highway Energy Conservation Act.

Senator DOLE has pointed out the many differences in the driving habits and patterns of persons living in Kansas and other areas of the Midwest and West, compared with persons residing in the great metropolitan areas of the East. I recognize that difference and I recognize the temporary assistance this amendment would have for the trucking industry and others. But I must state my strong opposition is based on two factors: The higher speeds require more energy; the higher speeds will kill more people.

Our Nation has obtained significant improvement in gasoline mileage by limiting highway speeds. And while a 5-mile-per-hour difference may seem slight, it would have a damaging effect on safety and energy conservation.

According to estimates by the Highway Users Federation, holding the maximum highway speed limit to 55 miles an hour will save 5,300,000 gallons of gasoline every day, compared with the gasoline needed for a national 60-mile-per hour limit.

The Department of Transportation ran a test fleet of cars and found that it obtained an additional mile per gallon by dropping the maximum speed to 55 mile per hour from 60 mile per hour. As a society, we cannot ignore that difference when we confront real energy shortages.

Obviously, the situation prevailing earlier this year has been ameliorated. Gas lines no longer extend for blocks and blocks. But gas supplies remain relatively short, raising the possibility of long lines and short vacations this summer. I believe it would be foolhardy to return to our old wasteful, high-speed way.

Even more significant in my mind is the drastic—almost unbelievable—drop in traffic deaths that has occurred since the imposition of the national maximum speed limit of 55 miles per hour. There have been 3,700 fewer persons killed on our highways from last November through March, compared with a year earlier.

Dr. James B. Gregory, Administrator of the National Highway Traffic Safety Administration, recently made this observation:

> March marked the first month that all states were observing a 55 m.p.h. speed limit, and the impact on highway safety is clear—more than a thousand lives saved in one month.

The example set during February was particularly striking in the 33 States enforcing a 55-miles-per-hour maximum, there were 30 percent fewer traffic fatalities than there had been in February 1973. But in the 17 States that had not yet lowered driving speeds to a maximum of 55 miles per hour, traffic deaths declined only 2 percent from 1 year earlier. That modest decline apparently grew from voluntary compliance with lower speeds and less travel due to the unavailability of gasoline.

Such saving in lives, particularly when viewed with the need for fuel conservation, demonstrates in the most compelling way the need to continue the 55-mile-an-hour national maximum.

The distinguished Senator from Kansas (Mr. DOLE) has used the example of the many Kansans who must drive from Kansas City to Wichita, a distance of 209 miles. At a constant 55 miles an hour, that trip would require 3 hours and 48 minutes. At a steady 60 miles an hour, the same journey would take about 3 hours and 29 minutes, or 19 minutes less. Frankly, I do not believe that a 19-minute savings is worth the cost—the cost in lost energy and lost lives.

Mr. President, I urge that the Senate reject the Dole amendment.

Mr. President, I regretfully urge that the Senate reject the amendment of the Senator from Kansas (Mr. DOLE).

Mr. JACKSON. Mr. President, I commend the Senator from Vermont, not only for a fine statement but also a sensible statement. This is a time when we had better stop, look, and listen and think about what we are doing. We are only a few weeks away from what was a critical situation and I do not feel that necessarily we are a few weeks away from the solution.

Mr. President, I yield 10 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. JACKSON. Mr. President, will the Senator yield for the purpose of requesting the yeas and nays?

Mr. RANDOLPH. I yield.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, the amendment offered by the able Senator from Kansas (Mr. DOLE) is surely another indicator that Americans are rapidly forgetting the lessons that were painfully learned just a few months ago. I recall that some 11½ months ago I offered legislation on this floor to lower the speed limit. That legislation was a sense of the Congress proposal and was passed by the Senate without a rollcall vote. There was unanimity of thought and action. We are returning to our old ways of reckless, and I use the word advisedly, energy consumption.

We forget that the fuel shortage was not a midwinter hallucination but rather a permanent fact of life in this country. When the shortage became a personal matter for most Americans we were only too willing to institute conservation measures of one type or another. We were eager to commit ourselves to a lifetime of fuel saving.

In recent weeks we have seen growing evidence that our resolve to conserve energy was, indeed, short lived. There are reports that traffic is returning to its preembargo levels in many places and I anticipate that air-conditioners will be operating in full blast when the first warm weather arrives.

Even though the President may have declared the energy crisis at an end, the United States is far from resolving its fuel supply problems. The energy shortage is real and it is persistent. It remains a central factor in our lives to which we should give continuous attention.

In our efforts to cope with last winter's emergency many productive measures were instituted. Foremost among these was the establishment of uniform speed limits on a national basis. The 55 miles per hour maximum was set by Public Law 93–239, which was enacted on January 2 of this year.

Mr. President, the reason for the uniform speed limit was the conservation of scarce fuel. It has played a successful part in our conservation effort. It is estimated by the Department of Transportation that the 55-miles-per-hour speed limit is resulting in daily savings of between 130,000 and 160,000 barrels of fuel.

There is a second and very substantial benefit to slower driving, and I think it has been mentioned by the able Senator from Vermont (Mr. STAFFORD). Enactment of the uniform 55 miles per hour speed enabled us for the first time to observe on a national basis the impact of slower speeds on highway safety. The result has been a dramatic drop in people killed on our highways. During March the number of highway fatalities was 3,191, a figure 25.5 percent below March of last year. This was the fifth consecutive month that traffic fatalities declined compared to a year ago. Some of this reduction can be attributed to fewer cars on the highways, but there is no question that the uniform speed limit is a major factor in achieving what years of effort with expensive highway safety programs could not.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD a letter from the Honorable Claude S. Brinegar, Secretary of Transportation, who expresses the feeling of the Department of Transportation that the present speed limit is worthwhile.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 13, 1974.

Hon. JENNINGS RANDOLPH,
Chairman of the Senate Public Works Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR RANDOLPH: I wish to advise you of the Department's views regarding the proposal by Senator Dole to amend the Emergency Highway Energy Conservation Act so as to increase permissible speed limits from 55 to 60 mph.

The 55 mph speed limit has admittedly had some adverse economic impact on certain sectors of the transportation industry, a situation which has been of great concern to this Department. On the other hand, the energy conservation value of the reduced limit is considerable. This, combined with initital reports reduced highway fatalities and injuries which have resulted from the lowered speed limit, argues against increasing the speed limits at this time.

It is the Department's view that the 55 mph speed limit presently in effect should not be altered prior to passage of sufficient time to allow proper assessment of its advantages and disadvantages. I suggest that

such an assessment could best be made at the time of the Act's current termination date.

Sincerely,

CLAUDE S. BRINEGAR.

Mr. RANDOLPH. Mr. President, I understand the approach of the Senator from Kansas (Mr. DOLE). There are arguments, of course, pro and con on this matter that the Senator proposes and we must think of it in its reality, that we increase the maximum speed limit to 60 miles per hour. This may at first appear insignificant and consistent with our improved fuel situation—although I must emphasize that this situation may be only temporary.

The existing 55-mile limit was agreed to as a compromise. In hearings before the Committee on Public Works last December 11, there was extensive testimony that the greatest savings could be achieved with a 50-mile-per-hour speed limit. Several factors, including the impairment of efficient operation of trucks below 55 miles per hour, prompted us to establish that limit. In testimony before this committee, the Secretary of Transportation said:

A 60-mile-per-hour limit would, in total, save very little.

We were also told that we could anticipate larger vehicles to exceed the 55-mile-per-hour limit somewhat to obtain maximum efficiency from their engines.

Mr. President, I want to be realistic. I know that in enforcement of this type law the highway officers usually do not call for an arrest when a person is operating at 57 and 58 miles an hour. They are given that cushion in their decision as to whether to enforce the 55-mile-per-hour limit.

But when we go from 55 miles an hour to 60 miles an hour, then we are increasing that further cushion of 2 or 3 miles where the radar or officer-enforced law does not come into effect.

I think the commerce of this country has suffered no great dislocation because trucks are driving slower. I recognize the importance of the trucking industry to our country. There has been an adjustment, and they have made it. There is a saving, as we know, in fuel and in lives and this fact, I think, outweighs any of what might be considered the anticipated benefits that would accrue if the 60-mile limitation were placed in the law.

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

Mr. BIBLE. Mr. President, I yield the Senator 3 minutes.

Mr. RANDOLPH. Such an action by the Senate and the Congress would be another signal to the American people that we no longer consider important the serious efforts that we must make in energy conservation. This conservation is important, and today we must not allow our enthusiasm of a few months ago to deteriorate so that we come into the Senate and, at the first opportunity, it seems, jump 5 miles an hour in the speed limits of our country. I think it abandons, frankly, the responsibility which has been expressed by the American people to be realistic about the situation we face.

Not only do we have a saving in fuel, which I have said is very significant, not only do we have a decrease in the number of traffic injuries and fatalities, which I have emphasized, but we have a more pleasant feeling on the part of people who are able to motor at a speed of 55 miles an hour. We do not have the pressure that someone behind us keeps getting close to us and then we start moving ahead. This country is still beautiful, and I think we should have an opportunity, as we drive along, to look at it and even to talk to those who are in the car with us.

The law which the Senator from Kansas seeks to change has been in effect, I remind the Senate, for only 4 months. Its benefits, I have outlined and substantiated, are being felt on the positive side of this question. I believe that we should continue the limit at 55 miles an hour.

I urge the Senate to give the 55-mile-an-hour speed limit the opportunity for continued use, so that we are ready, if serious fuel deficiencies come again, to continue to save gasoline. We are able, as the record shows, to decrease the number of accidents and the fatalities, and we are able to provide to the American people a more satisfactory, pleasant, and happier motoring experience.

Mr. DOLE. Mr. President, I yield 5 minutes to the distinguished Senator from Wyoming.

Mr. PERCY. Mr. President, will the Senator yield me 5 minutes?

Mr. BIBLE. Mr. President, I yield 5 minutes, and I would permit the Senator from Wyoming and the Senator from Illinois to resolve who is to be recognized first.

Mr. HANSEN. Mr. President, I shall be happy to have the Senator from Illinois go first.

Mr. BIBLE. I understand the Senator from Illinois wishes to speak against the amendment. Is that correct?

Mr. PERCY. Yes.

Mr. BIBLE. I am glad to yield 5 minutes to the Senator.

Mr. PERCY. I thank my distinguished colleague.

Mr. President, I am opposed to Senator DOLE's amendment to increase the speed limit on the Nation's highways to 60 miles per hour. Although the 55-mile-per-hour speed limit has been in effect for only a few months, we have already realized very significant benefits from the reduced limit.

The first benefit, and the one which the lower limit was intended to achieve, has been the substantial saving of our Nation's dwindling energy resources. John C. Sawhill, the Director of the Federal Energy Office, has estimated that if every automobile observed the 55-mile-per-hour speed limit, 125,000 barrels of oil might be saved every day. If all vehicles, including trucks and buses, followed the 55-mile-per-hour limit, a total of 200,000 barrels of fuel would be saved each day.

To put these statistics in more concrete terms, it would require 146 million tons of oil shale rock to produce the amount of oil saved in 1 year by observing the 55-mile-per-hour limit. At the current minimum production cost of domestic crude oil of $5.25 per barrel, the fuel saved in 1 year by maintaining a 55-mile-per-hour speed limit would mean a saving of $383 million. Certainly such a saving in fuel resources and costs is a significant one.

The second major benefit, and one which we really did not foresee when we approved the 55-mile-per-hour limit, is an important saving of human life. In a report released last month, the National Safety Council said that from November 1973 to March 1974 U.S. traffic deaths dropped by some 25 percent over the same period a year earlier. While this percentage figure is impressive in itself, when one realizes that the statistic means we have saved some 4,000 lives already, the importance in human terms is apparent. Four thousand wives, children, parents, husbands are alive today, and to a very great extent, they are alive only because of the 55-mile-per-hour speed limit.

The National Safety Council shows that a driver involved in a crash at 50 miles per hour has a chance for survival four times greater than a driver who crashes at 70 miles per hour. The Council estimates that if 55-mile-per-hour speed limits are observed, 8,000 to 10,000 lives could be saved this year alone.

Obviously, lowered speeds cannot be given full credit for this saving of human life. The fact that the gas shortage lowered traffic volume must also be considered. But statistics indicate that although traffic volume was down, it was not the significant factor in the decline in traffic deaths.

The National Highway Traffic Safety Administration, an arm of the U.S. Department of Transportation, reports that an analysis from 16 States that voluntarily reduced highway speed limits in November showed a decline in deaths of 15 to 20 percent below November 1972. The remaining States, whose drivers were not legally bound to lower speeds in November, showed a decrease in fatalities of only 2 percent. Lowered speed limit States similarly reduced traffic fatalities by more than 30 percent in February, while in States with higher limits, fatalities declined only 2.7 percent. Clearly, reduced speed limits are an overwhelming factor in the decline in traffic fatalities.

Lower speeds logically reduce the severity of injuries in the same manner they reduce the number of fatalities. During January and February, disabling injuries were down 16 percent, and the cost of traffic deaths and injuries to the national economy was down 10 percent—a saving of $200 million in 2 months alone. These statistics are from the National Safety Council.

If, as the experts have estimated, 8,000 to 10,000 lives and 73 million barrels of fuel can be saved each year simply by retaining and enforcing a nationwide 55 miles-per-hour speed limit, I cannot see any justification for raising that limit. I also believe that permanently reduced speed limits will serve as a reminder to all Americans that fuel conservation must continue to rank high in priority, both for the Nation and for individual

citizens. I urge my colleagues to recognize the importance of not increasing the speed limit to 60 miles per hour.

I personally favor making the current 55 miles per hour limit a permanent part of American life, and I intend to introduce legislation to this effect in the near future. I have discussed my intentions with the chairman of the Public Works Committee, Mr. RANDOLPH, and my approach has his full support.

I understand also that it would be consistent with the position expressed previously by the distinguished Senator from Vermont (Mr. STAFFORD), who is the ranking minority member of the Subcommittee on Roads and who also has been a leader in this field.

I therefore urge Senators to defeat the pending amendment to raise the speed limit on the Nation's highways to 60 miles an hour. What we are talking about is a saving of more American lives per year than we lost in Vietnam. Probably never before have we had a more dramatic demonstration of the wisdom of a policy in so short a time.

Certainly a relaxation of the speed limits today would again say to the Nation that "the energy crisis is over." Mr. President, it is a long, long way from being over. It is going to be with us for a good, long time, regretfully. I think the law should remain as passed by Congress in December.

Mr. JACKSON. Mr. President, I must oppose this amendment for a number of reasons. First, countless studies done by the Department of Transportation and other agencies indicate that maximum fuel savings are achieved at speeds of 50 miles per hour, which was the speed limit requested by the President on November 7, 1973. In testimony before the Senate Public Works Committee, Secretary of Transportation Claude Brinegar indicated that some fuel economy could be achieved at 55 miles per hour, but that at speeds of 60 miles per hour, no fuel savings would be realized. At 55 miles per hour, savings of up to 160,000 barrels per day would be realized; yet, the loss in travel time from 60 to 55 miles per hour is only 5 minutes. Thus, on the drive from Kansas City to Wichita, the higher speed limit will make a difference of only 16 minutes driving time.

I could say the same thing about the wide open spaces of eastern Washington, my own State, in order to be fair to the Senator from Kansas.

Second, the National Highway Traffic Safety Administration has clearly demonstrated that lower speed limits have dramatically reduced traffic fatalities. In the month of March alone, for example, there were 25 percent fewer highway deaths than in March of 1973. In Kansas, highway fatalities have dropped 36 percent since the speed limit was lowered.

I might state that in my State of Washington that figure was dropped 22.4 percent.

The PRESIDING OFFICER. The time of the Senator from Washington is expired.

Mr. DOLE. I will yield the Senator 1 minute.

Mr. JACKSON. I thank the Senator. That is 1 mile per hour.

[Laughter.]

It is estimated that with a 55-miles-per-hour speed limit instead of 60, some 12,000 lives can be saved this year. I do not think anyone would dispute the merit of this saving. A gain of 5 minutes an hour in driving time is not worth 1,000 lives a month.

Thus, lowered speed limits have a double advantage, and I must oppose any move to raise speed limits and lessen these benefits merely to gain the convenience of a minimal time saving.

I think it is appropriate now to commend the distinguished Senator from West Virginia (Mr. RANDOLPH) on his statement in opposition to the amendment. He was, indeed, the author of the 55-mile-an-hour speed limit. I commend him most highly

Mr. President, I am deeply concerned about the evolving situation with regard to gasoline supply. Movements of product into the consumption stream, the "apparent demand," which the FEO derives from industry statistics, has climbed steadily since the end of the embargo. At the end of April, gasoline demand stood at almost 6.7 million barrels per day, nearly identical to year-ago levels. There is a real danger that gasoline stocks may be dangerously depleted if this trend continues. We are actually producing less gasoline at refineries now than last year, and making up the additional required to meet demand through imports and stock withdrawals. Rapid stock withdrawals only squander the hard-won savings accomplished during the embargo and threaten to deplete the inventories we will need to carry us through the summer. Imports, of course, are disastrously expensive. In April 1974, the U.S. bill for oil imports was $1 billion higher than in April 1973, according to Commerce Secretary Dent.

According to the May 6 issue of Energy, the FEO is concerned enough about the gasoline supply situation to seriously consider holding May allotments to 90 percent of 1972 levels instead of an expected 95 percent figure. An FEO official is quoted as saying that "We're headed right back to the January gas lines unless we do something about it, and quickly."

Mr. President, this situation only further underscores the need to develop conservation programs that will protect the American consumer from a repeat of this winter's gasoline supply fiasco. I ask unanimous consent that the text of the Energy article be printed in the RECORD.

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

OIL ALLOCATION NEWS: FEO MAY HOLD DOWN "GAS" SUPPLIES

FEO Administrator John Sawhill is seriously considering holding back part of the May monthly gasoline allocations to states.

Sawhill, who, along with other top FEO officials, is worried about alarming increases in gasoline demand, might make the unprecedented move of holding the May allotments to 90% of the 1972 base period, even though current supplies could meet a 95% allocation.

The 5% cutback would mean about 400-million gallons less gasoline would be available to motorists nationwide.

The reason for the possible supply holdback is that FEO statistics show gasoline demand has been rising dramatically in recent weeks. Over 281-million gallons were consumed during the last week in April—the high for this year. The figure represents a 9% increase over the previous week and is just 1% below 1973 levels for the period.

Current gasoline inventories by primary suppliers (refiners) are about 850-million gallons more than at this time last year. But FEO data shows stocks are dropping more rapidly than normal.

The present prognosis is that, although supplies are adequate for the time being, Sawhill and his aides foresee a very serious and undesirable situation cropping up this summer unless galloping gasoline demand can be checked.

"Apparently what has happened," said one FEO official who watches demand figures, "is that the claims made by our President and (former FEO administrator) Simon that the energy crisis is over have been taken too literally by motorists. They're out driving and buying gas as often as before the problems started. Even the higher prices don't seem to be keeping people from going back to their old habits."

"We're heading right back to the January gas lines unless we do something about it, and quickly," he said.

The plan reportedly taking shape at FEO is that each month, a national minimum gasoline inventory level would be established. The figure would be based on current levels and projected needs.

Each primary supplier would be given minimum inventory levels that he would be required to maintain. Allocations to customers would be based on leftover supplies.

The plan would allow FEO to prevent the problems of the winter from recurring by establishing a "gasoline saving account" which could be drawn upon during emergencies. The account would be filled by monthly withdrawals from available supplies.

The plan's advantage, according to officials, is that it would help insure against future supply emergencies while at the same time promoting conservation by decreasing slightly the volumes of gasoline available at service stations.

Officials say the amount of gasoline diverted for storage under the plan probably would not exceed 5% of monthly supplies.

Allocations staffers note, however, that chances are against the plan being implemented because it probably will not be acceptable to the White House.

"Public reaction might be too strong," one staffer said. "There's already enough heat on them. The last thing they want now is people beating on the door for more gasoline."

There also is some question about whether Sawhill would have the authority to withhold gasoline allocations arbitrarily, even as administrator of the newly-formed Federal Energy Administration.

But Sawhill is said to be determined to avoid a recurrence of the long gas lines and may fight with the White House and, if need be, Congress, to win consent and authority for the new plan.

Mr. JACKSON. Mr. President, we are skating on thin ice. We could have a blowup in the Middle East tomorrow. Let us face it. Our margin between demand and supply is terribly thin. There is every reason to believe that we will have spot

shortages this summer. Unless something is done about conservation, the opponents and proponents of the various petroleum measures are in agreement on this. The administration is in agreement on it. The conservationists are in agreement. It is only sensible that we attack this problem in the area where we can probably save the largest amount of fuel from a purely conservation point of view and from the standpoint of humanity and the saving of life.

This country in many ways is in such a hurry that we are not sure what our objective is. I must say that our objective ought to be to save human life first, and then to save energy concurrent with that objective.

Mr. President, I ask unanimous consent that tables showing the percentage of lives saved throughout the United States and a statement from the Federal Energy Office on savings of gasoline be printed at this point in the RECORD.

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

	Estimated traffic fatalities and changes		
	1974	1973	Percent change
January	2,928	3,781	−22.6
February	2,655	3,458	−23.2
March	3,191	4,283	−25.5

ESTIMATED TRAFFIC FATALITIES IN MARCH

State	1974	March 1973	Percent change
Alabama	97	106	−8.5
Alaska	4	7	−42.9
Arizona	49	93	−47.3
Arkansas	42	51	−17.6
California	260	355	−26.8
Colorado	36	44	−18.2
Connecticut	30	42	−28.6
Delaware	4	10	−60.0
Florida	207	252	−17.9
Georgia	107	165	−35.2
Hawaii	11	10	+10.0
Idaho	21	22	−4.5
Illinois	103	156	−34.0
Indiana	73	132	−44.7
Iowa	41	60	−31.7
Kansas	30	47	−36.2
Kentucky	55	85	−35.3
Louisiana	70	88	−20.5
Maine	16	8	+100.0
Maryland	35	62	−43.5
Massachusetts	66	88	−25.0
Michigan	105	180	−41.7
Minnesota	72	87	−17.2
Mississippi	48	93	−48.4
Missouri	68	47	+44.7
Montana	15	26	−42.3
Nebraska	24	33	−27.3
Nevada	9	29	−70.0
New Hampshire	10	6	+67.0
New Jersey	86	104	−17.3
New Mexico	34	44	−22.7
New York	206	239	−13.8
North Carolina	123	138	−10.9
North Dakota	11	10	+10.0
Ohio	125	209	−40.2
Oklahoma	36	72	−50.0
Oregon	38	46	−17.4
Pennsylvania	175	178	−1.7
Rhode Island	5	12	−58.3
South Carolina	63	86	−26.7
South Dakota	7	16	−56.3
Tennessee	127	131	−3.1
Texas	198	326	−39.3
Utah	7	36	−80.6
Vermont	9	8	+12.5
Virginia	96	93	+3.2
Washington	45	58	−22.4
West Virginia	32	27	+18.5
Wisconsin	51	59	−13.6
Wyoming	9	7	+28.6
Total	3,191	4,283	−25.5

DRIVE 55: SAVE LIVES, SAVE GASOLINE

Traffic deaths in March, the first month during which all 50 States observed the 55 mph speed limit, were over 25 percent less than the same month last year, the Federal Energy Office (FEO) observed today.

At the same time, the FEO said, if every automobile on the road traveled at no more than 55 mph, national gas savings would total approximately 125,000 barrels a day.

Figures from the Department of Transportation's National Highway Traffic Safety Administration show that total traffic fatalities in the U.S. in March were 1,092 less than the same month a year ago.

FEO attributes the reduction to lower speed limits and more conservative driving.

In terms of fuel saving, according to FEO, most automobiles get about 28 percent more miles per gallon on the highway at 50 mph than they do at 70, and about 21 percent more at 55 mph than at 70.

If all vehicles, including cars, trucks, and busses, were to travel at speeds no higher than 55 mph, the estimated savings in all fuels would be 200,000 barrels per day.

Newly-appointed FEO Administrator John C. Sawhill has recently sent a telegram to the Nation's governors urging continued enforcement of the 55-mph limit.

Sawhill told the governors that "Speed limits of 55 miles an hour can save hundreds of thousands of barrels of oil per day, not to mention the reduction in the number of Americans injured and maimed by accidents on our highways. I urge you to maintain enforcement of the Nationwide 55-mile an-hour highway speed limit, and to continue moving forward with other energy conservation measures."

Mr. DOLE. Mr. President, I yield 5 minutes to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank the distinguished Senator from Kansas. It seems to me that there is danger, possibly, that this issue could become a dangerous partisan issue. I hope it will not become such. In order to contribute to its nonpartisan character, I may say that I just came from Wyoming, where both the Republican and Democratic Parties have concluded their State conventions. The headlines in both cities where the conventions were held underscored the fact that the gubernatorial candidates called for raising the speed limit to 65 miles an hour.

The Democrats beat the Republicans to the punch. It is my understanding that the Democratic gubernatorial candidate, from Casper, asked, about 24 hours before his Republican counterpart made a similar expression, that the speed limit be raised to 65 miles an hour.

I think the important thing to consider is that, as is true in so many other instances, it really does not make sense to try, in the Halls of Congress, to legislate specifics for each of the 50 States. The reason why that is true is that conditions vary throughout the United States. A significant part of the transportation that can be seen on the highways in the West today is that which comes from the movement of goods by truck. Much of the trucking through Wyoming is on Interstate 80 and on other important 4-lane highways in Wyoming—trucks moving from the West to the East and the South; trucks moving produce from the East to the West and the Southwest, and produce from the Northwest to the South and Southeast. That is the kind of trucking that is particularly penalized by the 55-mile-an-hour national speed limit.

It has been pointed out on numerous occasions that the engineering that is manifest in the average big highway truck transport today takes into account the fact that these highways are built to permit safe passage at speeds considerably in excess of 55 miles an hour. I am told that many of the trucks cannot get into their highest and hence most economical speed ratio until they exceed 60 miles an hour.

In Wyoming, both the major parties, I believe, have gone on record asking that the speed limit be raised to 65 miles an hour. There is nothing at all that says that the State of Vermont, having had a 55-mile-an-hour speed limit before the national 55-miles-an-hour speed limit was imposed by Congress, cannot continue to exercise that 55-miles-an-hour speed limit. So I say to my good friend from Vermont that taking the action that would follow the adoption of the amendment by the Senator from Kansas would not in any way negate the action by the State of Vermont.

The same thing is true for the State of West Virginia. According to the information I have, that State has a 55-mile-an-hour speed limit, and for a good reason, when you consider the terrain. And when you consider the lack of comparability between West Virginia roads and roads in the West and the Plains States, and in the States where there is considerable flat land, I think it is easy to understand why those States have chosen different speed limits.

A good case can be made, and I subscribe to it, for efforts that are important in seeing that we conserve energy, but I say to my good friends on both sides of the aisle that a good case cannot be made for conserving energy by the important trucking industry of the United States if a 55-miles-an-hour speed limit continues.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield 2 minutes to the Senator from Arizona.

Mr. FANNIN. Mr. President, naturally we are all concerned regarding safety on the highways. I have had a vital interest in that program for many years, having served on the National Governors' Conference as chairman of that committee.

Still, when we start analyzing what is involved in going from 55 miles an hour to 60 miles an hour, I do not think we really can agree on the differences involved in that 5 miles an hour.

I think the record will show that during the period of time in which these figures were compiled, there was much less travel on interstate highways, and so the speed involved in interstate travel is a great factor.

I give as an illustration a project that was operated several years ago through the cooperation of the States between Chicago, Ill., and Los Angeles, Calif.

Arizona happened to be one of the participants.

In that particular project, there was a highway patrolman stationed every 14 miles or so, for a test period of approximately 30 days, just to determine what would happen if there was a strict patrol.

They found that the number of accidents on the highways dropped immeasurably. Why? It was not that the automobiles were observing the speed limit, which was 60 miles an hour. The basis for the cut-back in fatalities and the number of accidents was the inspections made. A car was stopped if a driver had been driving for too long a period; he was cautioned that he should not continue driving. If the vehicle were a truck operating in interstate commerce, the driver would be subject to penalties.

But here the real discussion is whether 60 miles an hour is a safe speed to travel. It certainly is, as has been brought out very forcefully by the Senator from Wyoming.

Trucks and interstate buses are very much involved in this particular matter, since they have gear ratios that do not go into high gear until they reach 50 or 55. At cruising speeds, they are operating around 60, and there is at that speed a saving of a considerable amount of fuel.

I think we must take into consideration that during that period of time, when there was less interstate travel, it was a different situation.

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

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

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. DOLE. Mr. President, I think it is interesting to note that there is a difference of opinion. I modified my amendment specifically to make this discretionary for those States which wanted to retain 55 miles an hour. As pointed out by the distinguished Senator from Wyoming, 55 was the noninterstate, open highway speed limit in West Virginia before the rest of the States were required to lower their speed limits to 55. So I can understand why there is no great desire there to change it. But the open highway, nonfreeway speed limit in Idaho was 60, for example, Wyoming 65, Nebraska 65, Oklahoma 65, Colorado 60, Alabama 60, Maine 45 where posted, New Mexico 70, Texas 70, Delaware as low as 45, New York 55 where posted. And most interstate limits were 65, 70, or even 75. So I can understand that some States never had to reduce their speed limits. Some States, such as Kansas and other Plains States I have mentioned, were required to reduce their freeway and regular highway speeds 10 or 15 or even 20 miles an hour.

And in commonplace travel of 100, 200, or as much as 400 miles or more per day, this 55-mile speed limit is an unquestioned irritation, inconvenience, and source of frustration. Just ask anyone who has to do it, and you will see. A traveling salesman, a truckdriver, a farmer will tell you that the difference between 70 or 65 miles per hour and 55 makes a great deal of difference in his daily life.

Certainly I am concerned about the safety factor and do not wish to stand on the floor of the Senate and advocate that we go out and raise the speed limits to kill more people. If that were the intention, perhaps we ought to lower the speed limits to 25, and assure that perhaps no one would be critically injured on the highways. I simply suggest that, considering the cross-country truck situation, and the conditions in the broad open spaces which we have in Kansas and most other States, 60 miles an hour is a reasonable speed.

Having been in Kansas during the last weekend, I can say that a great many people are trying to abide by the limit of 55 miles an hour. A great many people spend much of their time when driving looking through the rearview mirror to see where the highway patrolman is. That causes a great deal of nervousness on the part of the driver, and with that great pressure on drivers, I can see where the accident rate might increase.

I am aware of the energy problems. But it occurs to me that we should do things for the American people to help them get more energy. So far, we have not. We have passed the year-round daylight saving time measure, which has not produced—or saved—any energy. A lot of people were stumbling around in the early morning winter hours in the dark. We passed year-round daylight saving time, which has not saved any energy, and the second thing we have done is impose a speed limit of 55 miles an hour.

Mr. President, I do not suggest that we have no energy problems, but I am suggesting that by permitting a discretionary increase in the speed limit from 55 to 60, we can provide an appropriate measure of relief. One great saving was made in reducing the speed limit from 75 and 70 to 55, but the increase from 55 to 60 miles per hour will not really add all that much additional fuel consumption.

I can understand those who feel that we are on a very grave, delicate balance. Some wanted to impose rationing last December, as I recall. Fortunately that did not come to pass. But I can also say that for anyone who lives in an area of the country with broad open spaces, 60 miles an hour is a safe, reasonable, and psychologically acceptable limit.

All the Senator from Kansas is suggesting is that we all want to conserve fuel, and Kansas and other States are willing to conserve and do their fair share, but we believe that while 55 miles an hour might be enough in West Virginia to drive through its mountains—which might be too fast, for that matter—60 miles an hour is not too fast in Western Kansas and other States like Wyoming, Arizona, Idaho, Alabama, and other States across this great Nation.

The PRESIDING OFFICER (Mr. MCCLURE). All time on the amendment has now expired.

The question is on agreeing to the amendment of the Senator from Kansas (Mr. DOLE), as modified (No. 1266).

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

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from North Dakota (Mr. BURDICK), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Utah (Mr. MOSS), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE) is absent on official business.

On this vote, the Senator from Louisiana (Mr. LONG) is paired with the Senator from Rhode Island (Mr. PASTORE).

If present and voting, the Senator from Louisiana would vote "yea" and the Senator from Rhode Island would vote "nay."

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mr. PEARSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Alaska (Mr. STEVENS) is absent on official business.

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

The result was announced—yeas 29, nays 52, as follows:

[No. 191 Leg.]

YEAS—29

Abourezk	Eagleton	McClellan
Allen	Ervin	McGovern
Bayh	Fannin	Metcalf
Beall	Goldwater	Montoya
Bellmon	Griffin	Scott, Hugh
Cook	Hansen	Scott, William L.
Cotton	Helms	Taft
Curtis	Hruska	Thurmond
Dole	Huddleston	Young
Dominick	Hughes	

NAYS—52

Aiken	Fong	Nunn
Baker	Hart	Packwood
Bartlett	Hartke	Pell
Bennett	Hatfield	Percy
Bible	Hathaway	Proxmire
Biden	Hollings	Randolph
Brock	Jackson	Ribicoff
Brooke	Kennedy	Roth
Buckley	Magnuson	Schweiker
Byrd, Harry F., Jr.	Mansfield	Sparkman
Byrd, Robert C.	Mathias	Stafford
Cannon	McClure	Stennis
Case	McGee	Stevenson
Chiles	McIntyre	Talmadge
Church	Metzenbaum	Tunney
Clark	Mondale	Weicker
Domenici	Muskie	Williams
	Nelson	

NOT VOTING—19

Bentsen	Haskell	Pastore
Burdick	Humphrey	Pearson
Cranston	Inouye	Stevens
Eastland	Javits	Symington
Fulbright	Johnston	Tower
Gravel	Long	
Gurney	Moss	

So Mr. DOLE's amendment No. 1266, as modified, was rejected.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

LEAVE OF ABSENCE

Mr. MANSFIELD. Mr. President, I ask the consent of the Senate to be absent from the Senate on official duties at the conclusion of the vote on the pending amendment.

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

Mr. MANSFIELD. I shall miss the vote on the veterans educational program, S. 3398. If I were here, I would vote for the legislation. But our colleagues from Mexico, members of the Mexico-United States Interparliamentary Delegation, will arrive at Dulles Airport at 4:45 p.m. I think it is my duty and my responsibility to be there with whatever other Senators may be present officially to greet our guests.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 13, 1974, he presented to the President of the United States the enrolled bill (S. 514) to amend the Act of June 27, 1960 (74 Stat. 220), relating to the preservation of historical and archeological data.

TEN-YEAR DELIMITING PERIOD FOR PURSUIT OF EDUCATIONAL PROGRAMS BY VETERANS, WIVES, AND WIDOWS

The PRESIDING OFFICER (Mr. MCCLURE). Under the previous order, the Senate will now proceed to the consideration of S. 3398, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 3398) to amend title 38, United States Code, to provide a ten-year delimiting period for the pursuit of educational programs by veterans, wives, and widows.

Mr. MANSFIELD obtained the floor.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I just want to tell my colleagues that I received a call from Senator JAVITS, who unfortunately is unable to be here until about 7 o'clock tonight. He has asked me to handle the time on the bill on the minority side, I say to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, there is a half-hour limitation on this bill. A number of Senators and Representatives are due to go to Dulles Airport to greet our colleagues from Mexico, the Mexican delegates to the 14th Mexican-United States Interparliamentary Conference, which will start tomorrow morning.

I understand that those who have indicated that they would like to speak on the pending business, the veterans' education bill, have stated that they would not be adverse to having a rollcall vote, say, within 5 minutes. I therefore ask unanimous consent that the time be reduced to that time and that the vote occur at the end of 5 minutes.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Without objection, it is so ordered.

TWO-YEAR EXTENSION OF GI BILL BENEFITS

Mr. HARTKE. Mr. President, as chairman of the Committee on Veterans' Affairs it is my privilege to urge the Senate to approve S. 3398 which I introduced on April 29, with every member of the committee and 51 other Senators as cosponsors.

Briefly, S. 3398 has three major purposes. First, the bill would extend from 8 to 10 years the period of time following discharge or release from military service within which an eligible veteran may utilize his educational assistance benefits. Second, it extends from 8 to 10 years the eligibility period for wives of totally and permanently disabled veterans and widows of veterans who died of service-connected causes, to utilize their educational assistance benefits authorized under chapter 35 of title 38. Finally, the bill would exclude in computing the delimiting period for educational benefits for certain veterans who were prisoners of war in the Vietnam theater of operations any time spent in captivity and subsequent hospitalization.

Currently, a veteran or other eligible person has an 8-year period following discharge or release from service in which to use educational assistance benefits earned while in service. As my colleagues are aware, following 7 months of committee hearings and consideration the House of Representatives on February 21 passed H.R. 12628, a comprehensive measure amending educational assistance benefits.

Included in that measure, which passed by a vote of 382 to 0, were the same provisions extending the time period which are included in the bill before you today. These provisions are also part of the Senate committee's own bill, S. 2784, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as well as other measures pending before it which have been considered in hearings this past March and April.

Initially it had been my hope that a measure could be agreed to by the Senate and then resolved in House-Senate conference hopefully for the President's signature so that there woud be adequate time to implement a 2-year extension for those veterans whose eligibility expires on May 31. But now this seems increasingly unlikely. Indeed, the Veterans' Administration has informed the committee that to insure that no veteran is adversely affected they will need legislative authority by M[illegible] 14, next Tuesday.

In the meantime, time must be set aside for deliberation and consideration on the floor of the Senate for various amendments being proposed this year to the GI bill. In addition, past experience indicates that a sufficient period of time will be needed by the House and Senate to reconcile their differences. Thus, it is necessary to act separately and immediately on the 2-year extension to make sure that no veteran has his benefits cut off.

Mr. President, at the same time I am keenly aware of the need to move promptly on an overall comprehensive bill. The House has previously acted on February 21 and now awaits final Senate action. I am also aware that the Veterans' Administration needs time to gear up for amendments made and that veterans need to be able to make plans for the fall semester. I have discussed the matter with other members of the Committee on Veterans' Affairs which I am privileged to chair, and they agree that it is important to press forward quickly on the overall comprehensive measure. I want to assure my colleagues that it is my intention to move rapidly so that the comprehensive measure can be ready for full Senate consideration by the end of this month. I plan to do everything within my power to speed early responsible consideration of all pending amendments to the GI education program this year.

Mr. President, the committee has received expressions of support of our action on S. 3398 from several veterans' organizations. A telegram was received this morning from the National Association of Concerned Veterans, which represents over 200,000 Vietnam era veterans. The American Legion and the Veterans of Foreign Wars have also given the committee assurances of their total support of the swift passage of S. 3398. If there is no objection I ask unanimous consent to have printed in the RECORD at this point the telegram from the National Association of Concerned Veterans.

There being no objection, the telegram was ordered printed as follows:

MAY 9, 1974.

HON. VANCE HARTKE,
Chairman, Senate Committee on Veterans' Affairs, Washington, D.C.

DEAR CHAIRMAN HARTKE: The National Association of Concerned Veterans, NACV, appreciates your introduction and Committee approval of S. 3398. This bill, if enacted, would prevent the scheduled loss of GI Bill education and training benefits for post Korean and Vietnam Era veterans.

Since current law prescribes the end of this month as the beginning of a cut-off of veterans' eligibility, the NACV is pleased by your Committee's swift provision of a two year extension. The NACV also realizes the gravity of this situation in that if Congress does not approve such an extension very soon, as many as 30 percent of the current GI Bill enrollees will start losing their benefits on May 31, 1974.

The NACV is aware that the Senate Committee on Veterans Affairs is considering major overall provision in today's Veterans Readjustment and Employment Assistance in S. 2784 and related bills. Our organization

is cognizant of the fact that the Committee cannot report out the omnibus GI Bill amendments at this time. However, we are confident, after this separation of the extension of eligibility issue into S. 3398, that the Committee will move with great haste to report major GI Bill amendments.

Therefore, the NACV thanks you and the 59 cosponsors of S. 3398 for this action and we encourage expeditious Senate and House of Representatives approval.

Respectfully yours,

JAMES M. MAYER,
President.

Mr. HARTKE. The need to act separately and solely on a 2-year extension is thus apparent. At this time I would like to express my appreciation to the distinguished ranking minority member (Senator HANSEN) for his assistance in the timely consideration of this measure. I would also like to express my pleasure that such a large number of my colleagues have seen fit to act with the committee on S. 3398 including Senators MCGOVERN, MATHIAS and INOUYE who have shown an active interest in seeing that this legislation receives swift and favorable action.

Mr. President, I ask unanimous consent that appropriate excerpts from the committee report to S. 3398 which provides further detailed explanation of the committee's action be printed in the RECORD at this point.

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

BACKGROUND AND DISCUSSION OF S. 3398

NEED FOR LEGISLATION

Veterans training under the current Vietnam era GI bill have 8 years within which to utilize their educational assistance benefits. Subsection (a) of section 1662 of title 38, United States Code, currently provides that:

"No educational assistance shall be afforded an eligible veteran in this chapter beyond the day 8 years after his last discharge or release from active duty after January 31, 1955."

Post-Korean conflict veterans who served after January 31, 1955, and who were discharged prior to June 1966, were made retroactively eligible for educational assistance benefits when the current GI bill was first authorized by Congress in Public Law 89–358. Thus, for those veterans the 8-year "delimiting period" runs from June 1, 1966, the effective date of the Act. With limited exceptions approximately 4 million post-Korean veterans currently eligible for educational assistance benefits will become ineligible on May 31, 1974, the eighth anniversary of the current GI bill. The following table shows the number of veterans affected by date of their discharge prior to 1966:

TABLE 1.—*Net separations from military service, 1955–66*

Fiscal year:	*Veterans separations*
1955 [1]	4,000
1956	26,000
1957	156,000
1958	383,000
1959	399,000
1960	434,000
1961	388,000
1962	375,000
1963	465,000
1964	507,000
1965	495,000
1966	507,000
Total	4,139,000

[1] 2d half of fiscal year only.

Of that number, the Veterans' Administration estimates that approximately 530,000 will have been in training during the current fiscal year. This includes 387,000 post-Korean veterans who served between 1955 and 1964 and an additional 143,000 Vietnam era veterans discharged in fiscal years 1965 and 1966. As of May 31, it is estimated that 285,000 veterans, subject to the immediate cutoff of benefits will actually be in training at the time. Others have finished their spring college semester prior to that date or have completed short-term vocational training.

Approximately 55.8 percent of veterans in training this year who are affected by the May 31 cutoff date were enrolled in college level training. Veterans enrolled in correspondence courses comprised another 25.9 percent of the total with 4.3 percent participating in on-job training and the remaining 14 percent enrolled in other post-secondary vocational education.

The following table shows the number of veterans by type of training affected by the May 31 date who are in training or who have trained under the GI bill since eligibility was first authorized in 1966.

TABLE 2.—TRENDS IN PARTICIPATION IN GI BILL EDUCATION PROGRAMS BY VETERANS DISCHARGED, 1955-66

Type of education	Participation by fiscal year								
	1967	1968	1969	1970	1971	1972	1973	[1] 1974	[1] 1975
Institutions of higher learning	305,825	312,503	250,625	242,541	258,164	275,624	294,006	315,000	297,000
Below college level	60,719	70,771	59,682	51,379	58,593	63,674	66,878	70,000	60,000
Correspondence	43,263	93,284	98,498	106,860	116,265	137,026	146,422	145,000	143,000
Total	409,807	476,558	408,805	300,780	433,022	476,324	507,306	530,000	500,000

[1] Estimate.

Probably no one amendment to the current GI bill program has occasioned more mail or comment this year than the proposed extension of the time period within which to utilize GI bill benefits. In establishing GI bill benefits, Congress declared in section *1651 of title 38*, United States Code, that:

"The Congress of the United States hereby declares that the education program created by this chapter is for the purpose of (1) enhancing and making more attractive service in the Armed Forces of the United States, (2) extending the benefits of a higher education to qualified and deserving young persons who might not otherwise be able to afford such an education, (3) providing vocational readjustment and restoring lost educational opportunities to those service men and women whose careers have been interrupted or impeded by reason of active duty after January 31, 1955, and (4) aiding such persons in attaining the vocational and educational status which they might normally have aspired to and obtained had they not served their country."

In carrying out the purposes outlined above, Congress established an eight-year period within which a veteran could utilize benefits to accomplish his "readjustment" to civilian life. Though it would appear on first impression that an eight-year period is a sufficient period of time for a veteran to complete his educational training, testimony before the Committee indicated a variety of factors which have prevented many veterans from fully utilizing their benefits before the cutoff date. The Committee believes the primary reason for non-utilization of benefits prior to the expiration of eight years has been the inadequate level of benefits. As originally enacted in 1966, a single veteran received $100 a month for full-time training which was $10 a month less than a veteran received 14 years prior under the Korean war program in 1952. The following table shows the level of benefits available to a veteran since 1966:

TABLE 3.—FULL-TIME EDUCATIONAL ASSISTANCE RATES UNDER THE GI BILL SINCE 1966

Year	Number of dependents			Each dependent above 2
	None	1	2	
1966	$100	$125	$150	
1967 [1]	130	155	175	$10
1968	130	155	175	10
1969	130	155	175	10
1970 [2]	175	205	230	13
1971	175	205	230	13
1972 [3]	220	261	298	18
1973	220	261	298	18
1974	220	261	298	18

[1] Public Law 90–77, effective Aug. 31, 1967.
[2] Public Law 91–219, effective Mar. 26, 1970.
[3] Public Law 92-540, effective Sept. 1, 1972.

Thus, many veterans were financially unable to attend school until just recently when rates have achieved a more adequate level.

As a result, the overall GI bill participation rate for eligible veterans discharged prior to 1966 is lower than for those discharged after that date. Further, post-Korean veterans who have enrolled in training reflect a lower college participation rate.

The median age for veterans first entering training is higher for the pre-1966 veteran (25.8 years) than for those discharged after 1966 (24.5 years). And, there is a greater likelihood that he will be enrolled in less than full-time training. All of these factors were considered by the Committee in its decision to extend the period within which to use benefits.

That participation bears a close relationship to the level of benefits is reflected in part by the number of post-Korean veterans in training today. The number of those veterans in training for this year (530,000), and for the preceding fiscal year (507,306), were greater than the number in training in any other single year since eligibility was first granted in 1966 as reflected in table 2 cited previously.

Indeed, in comparing the number of veterans in training in November 1972 with those in training in November 1973, the most striking change occurred with regard to post-Korean conflict veterans who registered a 17.2 percent increase. By contrast, those in training in November 1972 had reflected an increase of only 0.9 percent over the previous November 1971.

The lack of adequate and aggressive outreach programs by the Veterans' Administration or other organizations also has a bearing on participation of veterans discharged prior to 1966 who were often unaware that they were granted benefits ret-

roactively. Many will be unable to relate the opportunities available under the bill to their present lives. It was only recently that many have been reached by outreach workers. The Veterans Cost of Instruction Program under the Higher Education Act, for example, did not really begin until the fall of 1973. Consequently veterans prior to that time were not the subject of college concern and were reached primarily by printed brochures from the Veterans' Administration and scattered outreach programs.

As the Veterans of Foreign Wars noted in their testimony before the Committee regarding veterans who were discharged between 1955 and 1966:

"In this group, many of them of course came from economic and social groups that did not have much education or much money. Many of them are attending college for the first time in their lives. This deadline is more important to them."

In this connection it should be noted that an examination of veterans enrolled in training revealed that those who were discharged prior to 1966 have a higher percentage of non high school graduates (21.0 percent) than those discharged after 1966 (13.9 percent).

A veteran affected by the May 31 cutoff date wrote in a letter that:

"I graduated from high school in June of 1960 and June 24 of that same year I entered the United States Air Force. In August of 1962, because of medical reasons I was discharged. Since that time I have been employed as a driver salesman for the Detroit area beer distributor. I have recently enrolled in a night-time college program.

"Up until this time I have not had the opportunity to use any of my benefits. Now that I have begun I am very enthusiastic about a chance to better myself.

"I would never have believed that after being out of school for so many years I could do the amount of work that I have accomplished so far. I do now believe that an education is something that no one can take away from you. But, in order to obtain my degree, the benefits would need to be extended from eight to ten years.

"The job opportunities awaiting me when I obtain my degree are vast. The chances to better myself and my family are important to me. Your support will be appreciated by all of us."

Another veteran who served during the Berlin crisis noted that he had moved several times since his discharge from the service and that this among other factors had precluded him from entering educational training. He is now enrolled as a part-time evening law student. He wrote the Committee to say:

"Needless to say, financial assistance from my GI Bill has substantially underwritten my cost of attendance. As the father of five children maintaining a household, funds for educational programs are hard to come by. I am sure you will recognize that my situation is not unique and is shared by many other veterans who are just recently taking full advantage of the expanded benefits available to them."

A third veteran wrote:

"I entered Morningside College, Sioux City, Iowa, on probation. But, 21 months later I have completed 90 semester hours with a grade point average of almost 3.6 on a 4.0 scale. I did this while working 30 to 40 hours a week to support my family. My wife also worked outside the home and the children helped any way they could. Needless to say, the GI Bill was the basis which made this possible. In May of this year, I will have eight months of eligibility left on the GI Bill. The time limit will prevent me from using it . . . How many others are in a similar position? In the middle of their education facing the cut-off due to time limit, an ever increasing inflation is eating up all available savings and making it impossible to live on part-time earnings."

In addition to the thousands of letters received from individual veterans the Committee received strong testimony from all major veterans organizations and educational associations. Dr. Charles Palmer, Executive Director of the South Carolina Comprehensive Technical Education Board testified that:

"As of May 31 there will be substantial numbers of veterans in South Carolina who will no longer be eligible to continue their training program. It will be an awful waste if they cannot complete that which they have started. It will be worse for veterans who have not yet started if they are not given an opportunity to continue without interruption in the program of his or her choice."

The Adult Education Association in a resolution urging the extension for two years of GI bill benefits noted that:

"Veterans of this age group as well as persons of all age groups now have a greater opportunity for basic adult education and post secondary education than was available during and immediately following the 1955 to 1966 period; and, because of new concepts and implementation in the area of adult and continuing education, many of the veterans of this group can now be served educationally more readily and more effectively than at any previous time; and that period of time from now until June, 1974 is not adequate to complete effective educational service."

Thus, men who held off getting an education, hoping either to save enough money to supplement an inadequate GI bill or hoping Congress would recognize the need for more realistic assistance have found themselves running out of the allotted time period before they were in such a position.

Need for immediate action on extension of time period

The need to act promptly on S. 3398 is important. The Committee has been informed by the Veterans' Administration that to insure that there is no break in the continuity of training and in educational assistance payments that legislation should be enacted prior to May 14, 1974. Assuming that legislation is enacted by that date, the Committee has been informed that the VA computer system will be ready to produce listings of veterans who will be in training because of the extension.

Within approximately 6 days following the authorization to proceed, a Veterans' Administration computer will have generated and there will have been sent to the various VA regional offices individual lettersize write-outs identifying each veteran affected. This, in turn, will require the manual identification and pulling of each of the estimated 285,000 claims files. Each file will have to be examined to determine, from information contained therein, the new period of entitlement to benefits for each veteran.

Upon making the determination, the proper VA official in the regional office will then have to make an award of an abbreviated award form. These award forms, following completion will be sent in batches to the VA center, Hines, Illinois, for processing. It is anticipated that a benefit check will be sent to the veteran within 5 to 7 days following the processing of the award by Hines.

Considering the many complicated and time-consuming steps involved in extending this period for those veterans in training who will lose their benefits at the end of this month without any break in benefits, the Committee again stresses the need for swift enactment of S. 3398 by May 14.

Extension of time benefits for eligible wives and widows training under chapter 35

In addition, S. 3398 would amend section 1712 of title 38, to extend the current 8-year delimiting date for maintaining eligibility for educatonal assistance under chapter 35 for the widow of any veteran who died of a service-connected cause, and the wife of any veteran who has a total, permanent service-connected disability. Also covered are the wives of any members of the uniformed services serving on active duty who, at the time of application for benefits under this chapter are listed for more than 90 days as missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power.

As of March 31, 8,234 wives and widows were in training receiving benefits under chapter 35. There is presently no data on the number of persons who would be ineligible to continue receiving these benefits past May 31, 1974. However, the Committee believes it necessary and equitable that these women whose husbands sacrificed their lives or their ability to support their families be given the same opportunity and time limits to gain an education and provide for their livelihood.

Extension of time period for veterans held as prisoners of war

Also included in this bill is a provision which would exclude, in computing the delimiting date for those veteran-civilians held as prisoners of war in the Vietnam theater of operations, the period of time during which they were detained, plus any period of time they were hospitalized immediately subsequent to their release.

Included among the prisoners of war released last year were 24 repatriated civilian prisoners, of whom 17 are veterans who had military service which could otherwise qualify them for VA educational benefits. These individuals, through circumstances beyond their control, have been unable to utilize this potential entitlement. This provision would, in the case of these 17 individuals, exclude, in computing their delimiting date for utilizing their entitlement, those periods of time during which they were detained and were unable to use their benefits, plus any period of hospitalization they were required to undergo immediately subsequent to their release from detention.

This provision is entirely equitable and fully justified in the case of this limited group of individuals. This provision, too, was approved by the House of Representatives and is endorsed by the Veterans' Administration.

COST ESTIMATES

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress) the Committee has attempted to estimate the fiscal impact of a two-year extension of the time period within which veterans and eligible wives and widows may utilize their educational assistance benefits. In connection with the two-year extension and other amendments proposed in S. 2784, the Committee on December 10, 1973 requested the Veterans' Administration to estimate the "five-year fiscal cost of the bill as contemplated by the Legislative Reorganization Act of 1970 together with information as to how you computed the cost."

On March 28, 1974, the Veterans' Administration in responding to this request reported to the Committee that it estimated the fiscal 1975 cost of a two-year delimiting date extension would be $179.1 million decreasing to $80.5 million at the end of five years. The following table indicates the number of veterans who, it is anticipated, will

train and the cost for the first five fiscal years as estimated by the Veterans' Administration.

TABLE 4.—MAR. 28, 1974, VA ESTIMATES OF 5-YR COST OF 2-YR EXTENSION OF DELIMITING DATE

	Trainees	Direct benefits cost (millions)
Fiscal year:		
1975	118,000	$179.1
1976	98,000	148.8
1977	44,000	66.8
1978	52,000	78.9
1979	53,000	80.5
Total 5-yr cost		554.1

The formula for estimating the cost of extension of delimiting date was explained in the following table prepared by officials at the Veterans' Administration:

Formula for estimating costs of extension of delimiting date

A. Actual statistics show that between *fiscal year 1955* and fiscal year 1966 there were 4,139,000 net separations from service (total separations minus re-enlistments equals net separations). In fiscal year 1967 there were 533,000 net separations. Thus, from fiscal year 1955 through fiscal year 1967 there were 4,672,000 net separations.

B. Using past experience to determine how many will enter training within their 8-year period, we estimate that 1,769,000 of the total will enter training during that time. It is further estimated that of the 1,769,000, 5% would train in the ninth year, or about 88,000. It is also estimated that of the remainder of 2,900,000 who did not train in their 8-year period, 1% would be induced to enter training with the delimiting date being extended to 9 years. Thus, it is estimated that during the ninth year 117,000 (88,000 plus 29,000) will train.

C. In fiscal year 1968 there were 745,000 net separations of which it is estimated on the basis of past experience that 381,000 will train in the 8-year period and 364,000 will not enter training.

D. Assuming a 10-year period, based on our estimate of the 1,769,000 who entered training premised upon the fiscal year 195–1966 period, the rate who would train in the second additional year would drop from 5% to 3%, or 52,000 would train in the second additional year. Of the 2,900,000 who did not train in the 8-year period, we further estimate that the 1% figure would drop to ¾ of 1%, giving a net figure of 23,000. The number of trainees from the fiscal year 1968 separations would amount to 23,000 (5% of 381,000 who will have trained and 1% of those did not train). Therefore, the total number of trainees in the 10th year would amount to 98,000 (52,000 plus 23,000 plus 23,000).

E. Premised on this formula, and assuming either a 9-year or 10-year delimiting date, we arrive at the following number of trainees by fiscal year who would be expected to train:

	9-years	10-years
Fiscal year—		
1974	0	0
1975	117,000	117,000
1976	23,000	98,000
1977	29,000	43,000
1978	33,000	52,000
1979	32,000	53,000

Note: There would be no new trainees estimated for fiscal year 1974 since the 8-year delimiting date on anyone discharged prior to June 1, 1966, does not run out until May 31, 1974. The number of trainees in fiscal year 1978 and fiscal year 1979 rises because of the number of discharges in fiscal year 1970 and fiscal year 1971 exceeded the number of discharges in fiscal year 1969.

On May 6th, the Veterans' Administration reported on S. 3398 and submitted an additional report to S. 2784 to the Committee which sharply revised the cost estimates upward for a new first year fiscal cost of $618.5 million over their previous estimate of $175.9 million.

In attempting to explain the discrepancies, the Veterans' Administration reported to the Committee that:

"In developing the original cost estimates of a potential 2-year extension, nearly a year ago, we assumed that 5 percent of those who would have entered training by the end of the 8-year eligibility period would continue to train in the 9th year and that 3 percent would continue into the 10th year. We also assumed that 1 percent of those who would not have entered within 8 years would train in the 9th year and .75 percent would train in the 10th year. The result was an estimated 113,000 trainees during fiscal year 1975. This figure was later updated to 118,000 trainees to parallel the upward revisions in our estimates and to reflect the numbers subsequently shown in our 1975 congressional budget submission. At that time, we were unable, due to time constraints, to review the basic assumptions.

"Upon later reevaluation, we observed that the number of post-Korean peacetime trainees had increased from 367,000 in 1972 to 395,000 in fiscal 1973. Based upon this fact, we concluded that many of these older veterans were making an effort to enter training before the expiration of their 8-year delimiting period. This was also confirmed by other reports showing an increase in entry rates for this group.

"A special study and tabulation was made by a VA research group, the results of which were not available until the end of March 1974. This special study provided our first training count of those Vietnam veterans separated before enactment of the current law (between August 4, 1964, and June 1, 1966). The study estimated that adding these early Vietnam veterans to the post-Korean peacetime veteran total would produce a count of 388,000 in training as of the end of February 1974.

"Having expanded the 388,000 to reflect the entire 1974 fiscal year, we now estimate that between 500,000 and 600,000 persons will have trained during the year whose entitlement will expire on May 31, 1974. Applying our latest data on entry and retention rates, and considering the new data provided by the special study, we now estimate that a revised total of 500,000 trainees will avail themselves of the extended entitlement during fiscal year 1975. This revision necessarily required a revision in the cost estimate premised upon this increased number of individuals who we now anticipate may utilize training under a 2-year delimiting date extension."

Thus, the Veterans' Administration revised estimates for the five-year cost of a two-year delimiting extension are as follows:

TABLE 5.—MAY 6, 1974, VA ESTIMATES OF 5-YEAR COST OF 2-YEAR EXTENSION OF DELIMITING DATE

[Dollar amounts in millions]

	Trainees	Direct benefits cost
Fiscal year		
1975	500,000	$759.1
1976	500,000	759.1
1977	311,000	472.1
1978	379,000	575.4
1979	396,000	601.2
Total 5-year cost		3,166.9

The foregoing estimates were based on a four-percent sample of the Education Master File taken November 1973. Subsequent to the May 6th report, the Committee has now been informed that a 10-percent sample has been taken and that further revisions in the number of veterans estimated to be in training will be forthcoming. The numbers estimated in training, based upon the new 10-percent sample is expected to be less than those provided in the May 6th report. If such is the case, the cost estimates by the Veterans' Administration on May 6th could be substantially less than presently contemplated. Given the foregoing, the Committee is without sufficient information to make a final determination as to the exact cost of the enactment of this proposal.

TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes cast in person or by proxy of the Members of the Committee on Veterans' Affairs on a motion to report S. 3398, without amendment, favorably to the Senate:

Yeas—9: Vance Hartke, Herman E. Talmadge, Jennings Randolph, Harold E. Hughes, Alan Cranston, Clifford P. Hansen, Strom Thurmond, Robert T. Stafford, James A. McClure.

Nays—0.

SECTION-BY-SECTION ANALYSIS AND EXPLANATION OF S. 3398

Section 1

Clauses 1, 2, and 3 of section 1 would amend section 1662 of chapter 34 of title 38, United States Code, to extend the current 8-year delimiting date for veterans to complete their programs of education to ten years.

Clause 4 of section 1 would add a new subsection (d) of section 1662 of chapter 34 of title 38, which would exclude, in computing the delimiting date for those veteran-civilians held as prisoners of war in the Vietnam theater of operations, the period of time during which they were detained, plus any period of time they were hospitalized immediately subsequent to their release.

Section 2

This section amends subsections (b) and (f) of section 1712 of title 38, United States Code, to extend the current eight-year delimiting date for educational assistance to ten years for wives and widows eligible under chapter 35. Those made eligible to receive an additional two years within which to utilize their GI bill benefits are (1) the widow of any veteran who died of a service-connected cause; (2) the wife of any veteran with a disability rated total and permanent in nature; and (3) the wife of any member of the uniformed services on active duty who at the time of application for benefits under chapter 35 has been listed for more than 90 days as missing in action, captured in the line of duty by hostile forces, or forcibly detained or interned in the line of duty by a foreign government of power.

Section 3

This section amends section 604(a) of the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (Public Law 92–540), to extend the current eight-year delimiting period to ten years for wives and widows eligible under chapter 35 to utilize benefits first granted by the 1972 Act. Public Law 92–540 extended for the first time to chapter 35 trainees, free eligibility for educational assistance to the disadvantaged; eligibility for on-job and apprenticeship training as well as training by correspondence. Section 604(a) granted an eight-year period within which to use these benefits authorized under that Act. Consistent with the general two-year delimiting period extension for other chapter 35 programs the benefits made available by Public Law 92–540 would also be similarly extended by two years.

Mr. HARTKE. Mr. President, I cannot urge too strongly that my colleagues support S. 3398.

Mr. DOLE. Mr. President, I am especially glad that we are considering the extension of eligibility for veterans educational benefits today and I am glad to be counted among the supporters of this measure.

This is why I introduced a bill myself on April 25 to extend eligibility for veterans educational benefits from 8 to 10 years. The measure we are considering today accomplishes the same purpose and I hope any delay can be avoided so that we can give assistance to the thousands of veterans who properly deserve it.

IMMEDIATE PASSAGE NEEDED

It is very timely that the Senate should consider this measure now. The expiration of eligibility on May 31 is growing closer every day. The cutoff date on May 14 for the continued issuance of monthly assistance checks is just around the corner for 285,000 veterans. In the great State of Kansas alone, the estimate of those veterans losing assistance on May 31 reaches as high as one-third of the approximately 12,000 presently attending school.

Several hundred of these veterans have personally expressed to me their concern about getting eligibility extended in time. Many of them would find it impossible to meet the financial requirements of getting an education without VA assistance. These veterans would be forced into the job market, which, as we all know, is already in a strained condition. The unemployment rate for Vietnam veterans is already in excess of 5 percent. If veterans are forced out of school and into the job market, many of them will not be able to find a job. Clearly, every effort should be made to avoid pushing more veterans into unemployment.

EXTENSION JUSTIFIED

As I have stated before, the extension of veterans educational benefits for 2 years is totally proper and justifiable. The explanation hinges on the unrealistically low level of assistance provided in the early years of the Vietnam era GI bill. The monthly assistance rate of $100 per month in 1966 was less than the rate 14 years earlier under the Korean GI bill.

We certainly did not have negative inflation rates between 1952 and 1966. Veterans certainly did not find it less expensive to attend school in 1966 than in 1952. The only explanation is that Vietnam veterans were penalized by the political attitudes in Congress and the administration toward the Vietnam war at that time.

NO PENALTY

It was not until the present administration that substantial increases in the level of assistance were made. It has only been recently that many Vietnam veterans discharged before June 1966 could afford to attend school. To end their eligibility now would deprive them of a more equitable level of assistance which they should have received but could not get years ago when they first became eligible.

Mr. President, we should not penalize veterans just because of the political environment of a given time. They served their country as well as soldiers of any other era. And they deserve an equivalent level of assistance. This is why an immediate extension of eligibility for educational benefits is needed.

IMPROVEMENTS NEEDED

In applauding the substantial increases we have seen in recent years, I do not mean to say that assistance has reached an adequate level. I helped introduce the comprehensive Vietnam era Veterans Educational Benefits Act because I think the GI bill should be greatly improved. The Senate Veterans' Affairs Committee is still investigating the need for educational assistance. It is essential that the committee's scheduled examination of alleged GI bill abuses be completed before the final draft of an improved GI bill is presented to the Senate. In addition, the President's Domestic Council on Veterans' Affairs will report its findings on May 30. This information should be relevant to making improvements in the GI bill and should be considered before a final bill is brought to the Senate for debate.

But of greatest urgency at this time is the extension of the eligibility period. This measure is not controversial and should be passed quickly to avoid unnecessary problems for veterans. Improvements in other aspects of educational assistance need to be made as expeditiously as possible, but not until due consideration has been given them.

Mr. President, I support the extension of the eligibility period for veterans' educational benefits from 8 to 10 years. I hope my colleagues in Congress will join me in extending in a timely fashion the benefits veterans so properly deserve.

Mr. MATHIAS. Mr. President, I am most pleased that the Senate is today acting upon S. 3398, a crucial measure which would extend the eligibility period for veterans educational benefits by an additional 2 years.

As I stated in this Chamber when this bill was introduced on April 29, I believed then and am convinced now that we must speed it through Congress immediately if we are to prevent a disruption of the education and training of more than a quarter of a million veterans whose eligibility will otherwise expire on May 31.

The importance of speedy action by both Houses of Congress is especially obvious in view of the May 14 deadline—tomorrow—which the Veterans' Administration advises us must be met in order to avoid the enormous administrative confusion that would result from a suspension and retroactive reinstatement of the eligibility of these quarter-million veterans.

It is for this reason that I believe it is essential that the House of Representatives join us in prompt action on this measure. I am aware, of course, that many Members of the other Chamber would have preferred to move to direct consideration of H.R. 12628, a comprehensive bill which was passed by the House on February 21 and which includes a provision for a 2-year extension of eligibility similar to the one we are acting upon today.

Nevertheless, events have a way of outstripping even the best of intentions, and it has become necessary for the Senate to consider a number of issues which simply were not addressed in the House bill. In the time since the House acted on February 21, for example, the cost of living has continued to skyrocket, making it necessary for us to consider an increase in the regular monthly GI bill benefits which may well exceed the House-passed level of 13.6 percent. In addition, the unemployment rate for Vietnam-era veterans has undergone an alarming increase, thus posing a problem which must be addressed in any comprehensive legislation we consider. We would also be seriously remiss if we did not consider legislative solutions to a wide range of abuses which have begun to appear under the current GI bill program.

All of these areas deserve careful deliberation and scrutiny by this body as we shape a counterpart to H.R. 12629. These issues and others—such as a proposal for variable tuition payments which I have long advocated—are all worthy of the kind of deliberation which is simply not possible under the gun of tomorrow's deadline.

Therefore, I sincerely hope and trust that the House of Representatives will share with us a firm commitment to the veterans whose eligibility for educational benefits is now in jeopardy, and will swiftly pass this simple extension legislation, sending it on to the President's desk for his signature forthwith.

I am sure that the Members of the other body are well aware of the need to move quickly. I am equally sure that they have no desire to subject these quarter of a million veterans to a period of suspended animation—during which it would be impossible to make any secure educational plans or even to enroll in summer sessions—simply because the House and Senate were unable to come to immediate agreement on issues entirely unrelated to their eligibility to pursue their education and training.

Mr. President, we are acting today on a measure the substance of which enjoys virtually unanimous support in both Houses of Congress. Let us pass it today and speed it on its way to enactment. The other issues concerning veterans educational programs which remain to be considered can and must be resolved within the next several weeks. I am fully confident that the Senate Committee on Veterans' Affairs, under the able leadership of the Senator from Indiana (Mr. HARTKE), will very shortly report out a comprehensive veterans education bill worthy of broad congressional support.

In the meantime, the time to act on this 2-year extension of eligibility is now. I sincerely hope and trust that our distinguished colleagues in the House of Representatives will join us in this effort, and will resist the temptation to hold the eligibility of a quarter of a million veterans as hostage in an effort to shortcut the legislative process and preempt full Senate consideration of an adequate comprehensive veterans education bill.

Mr. McCLURE. Mr. President, I rise in favor of S. 3398, a bill which is designed to extend the time during which a veteran may use his educational benefits from 8 to 10 years.

As the law presently reads, a veteran has 8 years from June 1, 1966, or from the date of his discharge or release from military service, whichever is later, in which to complete his program of education. The maximum educational entitlement to which he is entitled is 36 months, earned at a rate of one and one-half months of benefit for each month of service in the Armed Forces. Eighteen months of active duty entitles a veteran to the full 36-month maximum benefit.

Both Vietnam era veterans and cold war era veterans were made eligible for educational benefits by the latest GI bill. However, benefits were woefully low in 1966 compared to modern educational costs—$100 per month. The Korean GI bill was $110 per month, 12 years earlier. As the subsistence allowance rates increased—$130 in 1967, $175 in 1970, and $220 in 1972—so did the rate of veteran participation.

The Vietnam GI bill did not until recently approach adequacy. Many of the veterans of the cold war era, 1955–64, had committed themselves to jobs, homes, and families. They were not entitled at their discharges to educational benefits. Not until 1970 could many veterans who had been eligible since 1966 begin to take advantage of their available educational benefits. The increase of benefits in 1972 again gave many veterans, especially those with families to support, their first real opportunity to meet the high costs of a college education. And many of these veterans are part-time or night students.

Without a 2-year extension, there will be some 285,000 veterans dropped from the VA's eligibility rolls who are presently taking advantage of their benefits.

Of this number, about two-thirds are cold war era veterans. Our commitment will not be cheap. The first year cost, at present allowance rates, is estimated at $618 million. But such an investment in the training of our veterans is small reward for the freedom our country presently enjoys. I urge you to unanimously support the passage of this 2-year extension.

Mr. EAGLETON. Mr. President, I want to express my support for the bill before us, S. 3398, which would extend from 8 to 10 years the period of time during which a veteran may use his educational benefits.

Under the GI bill, veterans have 8 years following discharge or release from military service within which to utilize their educational benefits. Veterans who served after January 31, 1955, and who were discharged prior to June 1966, were made retroactively eligible for educational benefits when the current GI bill was enacted. For those veterans, the 8-year period runs from June 1, 1966, and expires on May 31 of this year.

Without the legislation we are considering today, approximately 4 million post-Korean veterans who are still eligible for educational benefits will lose their eligibility on May 31. Over a half million of those veterans, including 143,000 Vietnam era veterans who were discharged in 1965 and 1966, have been using their educational assistance during this school year. It is estimated that about 285,000 of this number will be in school at the time of the May 31 cutoff.

A number of factors, foremost among them the inadequate level of assistance under the GI bill, have kept many veterans from utilizing all of the assistance to which they are entitled during this 8-year period. In 1966 the monthly subsistence allowance for a single veteran was only $100. It was subsequently increased to $130 in 1967, $175 in 1970, and $220 in 1972. It was not until 1972 that many veterans who had been eligible since 1966 found it financially feasible to resume their education.

Mr. President, in my view this Nation can make no better investment than in the education of this generation of young men and women. It would be shortsighted indeed if we should now tell thousands of veterans that they can no longer use the educational assistance they have earned by their service to this country.

I also want to make it clear that our action on this bill today in no way implies any diminution of support for legislation to provide vitally needed increases in assistance under the GI bill.

The Senate Veterans' Affairs Committee is now considering H.R. 12628, S. 2784, and S. 2789, all of which would provide increases in monthly assistance allowances substantially above the 8 percent recommended by the administration. S. 2789, of which I am pleased to be a cosponsor, would also provide assistance with tuition costs of up to $600 per year where those costs exceed $400 annually. It is my understanding that the committee will proceed expeditiously with its consideration of these bills.

But it is a matter of the utmost urgency that we act today on this bill so that thousands of veterans in Missouri and across the country will not have their educational assistance terminated on May 31.

I commend the Senator from Indiana (Mr. HARTKE) for bringing S. 3398 to the Senate floor at this time, and I urge its passage by the Senate.

Mr. HANSEN. Mr. President, I rise in support of S. 3398, a bill to extend the time limits for Vietnam veterans to pursue their education. The present law, Public Law 89–358, with an effective date of June 1, 1966, allowed veterans 8 years from date of discharge or the date of enactment of the law.

The intent at that time was to provide educational assistance to veterans who were deprived of an education because of the draft, and also included those who had served between January 31, 1955, and June 1, 1966, who had no education benefits or an opportunity for Government assistance.

Many feel that the 8 years was ample time for a veteran to readjust to civilian life; yet, those veterans who had been discharged prior to June 1, 1966, had more than the military to adjust to. They were released and sought employment and when education benefits were allowed they had to adjust their lives so they could take advantage of these benefits.

In light of this there is some justification for extension of educational benefits, notwithstanding the significant cost to the Government.

The cost of this one provision will apparently exceed the original estimate for the entire education bill as sponsored by the Senate Veterans' Affairs Committee.

However, correspondence received by me and most of my colleagues show that this is the area which deserves our attention. In fact over half of this body has cosponsored this piece of legislation because it is so vital.

Later on, the Senate Veterans' Affairs Committee hopes to bring up additional legislation for Vietnam veterans, but if we are to maintain some semblance of fiscal responsibility, we may have to adjust some of the other phases of the program.

Mr. President, at this time, I ask unanimous consent to insert the report from the Veterans' Administration on S. 3398, and its updated report on S. 2784, the original committee bill.

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

VETERANS' ADMINISTRATION,
Washington, D.C., May 6, 1974.

Hon VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will respond to your request for the views of the Veterans' Administration on S. 3398, 93d Congress, a bill "To amend title 38, United States Code, to provide a 10-year delimiting period for the pursuit of educational programs by veterans, wives, and widows."

This measure has three purposes. It would provide a 10-year delimiting date for eligible veterans pursuing programs of education under chapter 34 of title 38; it would provide a 10-year delimiting date for eligible wives and widows pursuing programs of education under chapter 35 of title 38; and it would provide an additional period of eligibility for those civilian-veterans detained as prisoners of war by foreign governments.

We favor the third provision set forth in the measure. At the time the prisoners of war were repatriated last year, there were, among that group, 17 civilian-veterans who had military service which could otherwise qualify them for VA educational benefits. Through circumstances beyond their control, these individuals were unable to utilize this potential entitlement. If enacted, this proposal would exclude, in computing the 10-year delimiting date for these 17 individuals, those periods of time while they were detained, plus any period they may have been hospitalized immediately following release from such detention. Such a provision is entirely equitable and fully justified in the case of this limited group of individuals.

We are opposed, however, to any extension of the time limitation for veterans, wives or widows, as proposed by S. 3398.

Current law (38 U.S.C. 1661(a)) allows a veteran 8 years from June 1, 1966, or from the date of discharge, whichever is later, in which to complete his program of education. Thus, a veteran discharged after January 31, 1955, and before June 1, 1966, with three exceptions, has until May 31, 1974, to com-

plete his program. The three exceptions concern veterans who are pursuing programs of flight, farm cooperative and on-job and apprentice training programs. These programs were not included in Public Law 89-358, the law which set up the current program of educational benefits for veterans. Public Law 90-77, effective August 31, 1967, added these three programs and provided that the 8-year delimiting period for pursuit of such programs was to run from that date. Veterans discharged on or before August 31, 1967, therefore, have 8 years from that date to complete such programs.

The underlying purpose of all three GI Bill programs—World War II, Korean conflict, and current law—has been to afford a veteran a readjustment benefit to assist him in his transition from military to civilian life by providing him with financial assistance to obtain an educational status he might have normally aspired to and achieved had he not served his country in time of national emergency. It was never contemplated that this assistance was to be a continuing benefit.

The Congress, in creating the World War II program, set a 9-year period of time for the bulk of such veterans to complete their program of education. It also required these veterans to commence such programs within 4 years after their discharge or release. In the case of the Korean conflict program, the Congress set an 8-year delimiting period, plus a 3-year commencement requirement. Similarly, in setting up the current program, the Congress also set an 8-year delimiting date; but, contrary to the prior programs, it did not impose any commencement requirement. It is clear, therefore, that the Congress, each time, deemed a delimiting date essential to the program. We believe that for those veterans who want to take advantage of the educational benefits provided by the current program, 8 years is more than adequate and that increasing the delimiting date would defeat the readjustment concept of the program.

We are also opposed to any extension of the current 8-year delimiting date for pursuit of educational programs by wives and widows, as is proposed in S. 3398. The present program of benefits was granted to wives and widows of veterans by Public Law 90-631, effective December 1, 1968. That law provided up to 86 months of entitlement to educational assistance for these beneficiaries. A late enactment (Public Law 91-584) extended the same benefit to the wives of servicemen who were missing in action, prisoners of war, or detained or interned by a foreign power.

The stated intent of the law is to extend educational assistance to enable these individuals to assist them in preparing to support themselves and their families at a standard of living which the veteran, but for his death or disablement, could have expected to provide for his family. A similar 8-year delimiting date has been provided for these beneficiaries.

We are of the view that to extend that time period, as is proposed in S. 3398, would establish a time frame for completion of a training program which would exceed the period reasonably necessary for an educationed program to assist in the transitional readjustment from the partial or complete loss of the veteran-breadwinner. We believe that the 8-year limitation is entirely adequate. Under this time frame, for example, an eligible wife or widow, with a maximum entitlement of 36 months, needs to attend only 4 to 5 months of full-time instruction a year, or a comparable amount of part-time training, to make full use of her entitlement. We, therefore, oppose this provision.

Concerning costs, it is estimated that enactment of S. 3398 would result in additional direct benefits cost of $618.5 million in fiscal year 1975 and in additional direct benefits cost of approximately $2.5 billion over the first 5 fiscal years. A detailed breakdown of costs and trainees for the first 5 fiscal years is as follows:

[Dollar amounts in millions]

	Trainees	Direct benefits cost
Fiscal year—		
1975	500,000	$618.5
1976	500,000	618.5
1977	311,000	384.7
1978	379,000	468.8
1979	396,000	489.9
Total, 5-year cost		2,580.4

There are several factors involved in the cost estimate for this measure which should be brought to your attention. First, institutional training eligibility for the 4.1 million veterans, orginally entitled by Public Law 89-358 (enacted in 1966), will expire in fiscal year 1976, thereby causing a decrease in the number of trainees in 1977. However, due to increases in yearly net separations from the armed forces in the period FY 1968-1970, the estimated trainees increase in fiscal year 1978 and 1979. Second, we have insufficient data available on which to make any estimate as to the number of individuals or cost which would result from an extension of the delimiting date for wives and widows. Therefore, no cost for this group has been included in the figures cited above. Third, since the delimiting date extension for prisoners of war would affect only 17 individuals, any cost involved for this limited number of persons would be insignificant.

For the foregoing reasons, the Veterans' Administration favors extension of the delimiting date for the prisoners of war, but opposes extension of the delimiting date for veterans, or for wives and widows.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DONALD E. JOHNSON, *Administrator.*

VETERANS' ADMINISTRATION,
Washington, D.C. May 6, 1974.

Hon. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In our report to your Committee, dated March 28, 1974, on S. 2784, the Veterans Administration advised it had estimated that the cost of extending the present delimiting date by two years would amount to $179.1 million in fiscal year 1975 and $554.1 million over the first 5 fiscal years. These estimates were premised upon the 22.7 percent rate increase proposed in that measure. Our current estimate of this cost is substantially higher.

In developing the original cost estimates of a potential 2-year extension, nearly a year ago, we assumed that 5 percent of those who would have entered training by the end of the 8-year eligibility period would continue to train in the ninth year and that 3 percent would continue into the tenth year. We also assumed that 1 percent of those who would not have entered within 8 years would train in the ninth year and .75 percent would train in the tenth year. The result was an estimated 113,000 trainees during fiscal year 1975. This figure was later updated to 118,000 trainees to parallel the upward revisions in our estimates and to reflect the numbers subsequently shown in our 1975 Congressional Budget submission. At that time, we were unable, due to time constraints, to review the basic assumptions.

Upon later reevaluation, we observed that the number of post-Korean peacetime trainees had increased from 367,000 in 1972 to 395,000 in fiscal 1973. Based upon this fact, we concluded that many of these older veterans were making an effort to enter training before the expiration of their 8-year delimiting period. This was also confirmed by other reports showing an increase in entry rates for this group.

A special study and tabulation was made by a VA research group, the results of which were not available until the end of March 1974. This special study provided our first training count of those Vietnam veterans separated before enactment of the current law (between August 4, 1964 and June 1, 1966). The study estimated that adding these early Vietnam veterans to the post-Korean peacetime veteran total would produce a count of 388,000 in training as of the end of February 1974.

Having expanded the 388,000 to reflect the entire 1974 fiscal year, we now estimate that between 500,000 and 600,000 persons will have trained during the year whose entitlement will expire on May 31, 1974. Applying our latest data on entry and retention rates, and considering the new data provided by the special study, we now estimate that a revised total of 500,000 trainees will avail themselves of the extended entitlement during fiscal year 1973. This revision necessarily required a revision in the cost estimate premised upon this increased number of individuals who we now anticipate may utilize training under a 2-year delimiting date extension. The revised cost estimate, shown by fiscal years and numbers of trainees, is as follows:

[Dollar amounts in millions]

	Trainees	Direct benefits cost
Fiscal year—		
1975	500,000	$759.1
1976	500,000	759.1
1977	311,000	472.1
1978	379,000	575.4
1979	396,000	601.2
Total 5-year cost		$3,166.9

A copy of my letter of this date to the Chairman of the House Committee on Veterans' Affairs, reflecting a similar upward revision of the cost of H.R. 12628, which contains an identical 2-year delimiting provision to that provided by S. 2784, but modified to reflect the 13.6 percent rate increase proposed in that measure, is enclosed for your information.

Sincerely,

DONALD E. JOHNSON, *Administrator.*

QUICK ACTION IS NECESSARY ON S. 3398

Mr. HUGHES. Mr. President, the reports I receive from Vietnam veterans in Iowa are painful reminders of the expression we have been hearing for years.

The frustration, the poverty, the difficulty integrating into civilian life after the Vietnam experience are as real today as ever.

May young Americans say they did not want to go to Vietnam in the first place. They were drafted and went, seeing it as their duty to their country. The war was costly and unpopular. But there is no reason for saddling the blame for the war on our veterans.

They deserve a better welcome than they have received and more imaginative programs in job training and educational assistance. I support substantial increases in veterans' educational allowances.

In the meantime, I urge quick action

this week in the Senate and the House on S. 3398, a bill which will extend for 2 years the period within which a veteran or eligible wife or widow can utilize GI bill education benefits.

Many veterans who are already in school have discovered that an 8-year period following discharge is simply not enough time to complete their advanced *education* under the GI bill. This legislation would extend the period of eligibility from 8 to 10 years. For about 285,000 veterans, this is necessary to prevent a cutoff in benefits on May 31.

I had hoped we would include this provision in a comprehensive educational benefits bill similar to that which was enacted in the House. But sincere differences in judgment over the magnitude of the proposed increases in monthly benefits appear to make this impossible. I personally favor at least the 24-percent increase in allowances mandated in the bill I cosponsored, S. 2784. The House has already approved increases of about 13.6 percent while the administration has expressed its support for increases no greater than 8 percent.

In any event, quick action on the legislation to extend the period of eligibility is necessary if we are to avoid a situation in which thousands of veterans find their education benefits interrupted.

It is the least a grateful Nation should do to express thanks to our servicemen.

JUSTICE FOR VETERANS

Mr. McGOVERN. Mr. President, I am pleased with the way the Senate has responded to the urgent need to extend the eligibility period for Vietnam veterans participating in the GI bill education and training program. Realizing that over a quarter of a million young veterans could be adversely affected by a cutoff in their benefits if prompt action were not taken, the Senate has separated out the 2-year extension provision from the other amendments to the GI bill being considered and cut through the redtape in order to enact the extension ahead of the May 31 deadline.

The effort to revitalize the GI bill to the point where young veterans are able to use its benefits in all States and from *all income* and social strata has become a long affair. Perhaps the Senate is open to some criticism for not moving faster on the entire package of GI bill benefits. However, it is obvious to those of us who have been working toward a satisfactory benefit level for Vietnam veterans that the major roadblock has been the unstinting opposition of the administration and some Members of the Congress who have chosen to ignore the real plight of the veteran in favor of carrying the ball for the Budget Bureau and the Veterans' Administration.

It would be a travesty, Mr. President, if the Congress were to back away from the kind of solid, comprehensive reform we need in the GI bill now that the problem has been exposed thoroughly and support for the reform is coming in from all quarters.

The House of Representatives has passed their own version of a GI reform bill including the 2-year extension provision. Because they are already committed to the provision, it would seem a simple matter to expect them to pass S. 3398 routinely and allow the Senate the simple courtesy of completing our work on the remainder of the amendments before going to conference on the final shape of a comprehensive bill. However, the sounds from the other chamber do not indicate that this course will be followed.

Mr. President, if the House attempts to amend S. 3398 with the provisions of their own previously passed bill, H.R. 12628, it could mean the end of all hope for literally thousands of young veterans who have already been subjected to outright neglect and unwarranted abuse. It would make it unlikely that we could then reach the real substance of the issue we are dealing with. If that happens, it will be difficult for any Member of Congress to go out and face young veterans. It will be obvious to them that the Congress has not responded to their legitimate and long-neglected needs but has chosen instead to play parliamentary games.

Let me back up for a moment and say that the House should be commended for its quicker response to the problem. They had their bill passed over 2 months ago. But that was before we learned of the reversal in unemployment rates for Vietnam veterans. It was before a multitude of problems in administering GI bill programs were exposed. And it was prior to the announcement by the College Entrance Examination Board that the cost of a college education will rise an average of 9.4 percent next fall. Finally, it preceded the first quarter economic statistics that show the rate of inflation hit 10.8 percent in the first 3 months of 1974.

Taken in the light of these recent events, the House proposal to increase subsistence benefits by 13.6 percent is barely enough to keep up with the rise in costs since the House voted. Under the able guidance of Chairman HARTKE, the Senate Veterans' Affairs Committee is considering all these problems and should be able to wrap up a good solid bill that responds to all the needs within 4 to 6 weeks.

I want to take just a moment to discuss the cost factor of the GI bill since this seems to be a major sticking point for those who are rightfully concerned about the size of the Federal budget. I am sure that many in the Congress feel that the provisions of H.R. 12628, although admittedly inadequate to solve the problems of the Vietnam veteran, are already approaching the borderline on what we can afford to spend for the program. Any expansion on the provisions of the House bill by the Senate would be viewed as yet another effort to bust the budget.

There are two very solid arguments against this thinking. First, there is the obvious need of the veteran for expanded benefits and the real value of the program both to the veteran and to society. The Educational Testing Service in its congressional authorized report stated that—

> There is no doubt that the World War II GI bill was one of the most important and effective pieces of social legislation Congress had ever enacted. It profoundly affected the fortunes of veterans and postwar society, and it transformed the Nation's higher education system.

Mr. President, the value of the much more generous World War II GI bill in hard statistical terms has been quoted on this floor time and again. That program turned out hundreds of thousands of doctors, lawyers, and specialized professionals who have returned the investment made in them many times over in their contributions to society in general and through their increased earning power in particular.

The second argument is as simple as the size of the overbloated military budget for the coming fiscal year. Secretary of Defense Schlesinger admitted in front of two separate congressional committees that the military budget requests were padded to the tune of between $2 and $5 billion in an effort to stave off the threat of increased unemployment and a possible recession. Not only is that bad military strategy, Mr. President, that is bad economics. We have an inflation problem, and military spending is among the most inflationary kinds of spending there is.

It must be obvious to anyone with an elementary understanding of economics and an appreciation for what the World War II GI program accomplished that the money would be much better invested in the education and training of our young veterans. Rather than pouring our dollars into wasteful arms projects, we should be arming the Vietnam veteran with a diploma or vocational training. That is the kind of investment in America that we can see grow and produce results that will match our internal economic strength against our military might.

Mr. President, it is almost exactly 1 year to the day since I introduced the first set of GI bill amendments in the 93d Congress. Since that time, I have watched the Congress and the country become aware of the problems encountered by our self-proclaimed "prisoners of peace." The Vietnam veterans GI bill which I introduced with Senators MATHIAS, INOUYE, and DOLE last December has acquired 35 additional cosponsors. The Senate Veterans' Affairs Committee led by Senator HARTKE has come forth with their own very worthy bill. We have all worked hard and we are now close to passing landmark legislation that could finally bring justice to millions of young veterans who have known nothing but neglect and injustice since their time of service.

It would be unfair and highly irregular for the House to expect the Senate Veterans' Affairs Committee to meet in conference over an omnibus GI bill when the full Senate has only acted on the 2-year extension. It would be unfair to over a quarter of a million young veterans to tie up the simple 2-year extension provided by S. 3398 in a mangle of parliamentary bickering and political logrolling. And it would be an insult to all young veterans to turn the entire proceedings into a battle of "who is to blame for the holdup in benefit increases." It is my hope that the House will pass S. 3398

expeditiously and without amendment so that we can complete our work on the omnibus bill and be able to report to the beleaguered Vietnam veterans by midsummer that the Congress has held their ground and the kind of comprehensive education and training program they need to get that decent job and that quality education will be available beginning in the fall.

Mr. THURMOND. Mr. President, I rise in support of S. 3398. As a coauthor of this provision with 60 other Senators, I urge its passage.

S. 3398 will extend the current period in which veterans can use their GI bill eligibility from 8 to 10 years.

Unless the Congress acts expeditiously on this proposal, it is estimated that 4.1 million veterans will lose their GI bill of rights on May 31. There are approximately 2.6 million veterans who have never taken advantage of the education benefits which have accrued to them under the GI bill. Around 285,000 veterans who are actually in training under the GI bill on May 31 will lose their benefits if the extension is not enacted.

Mr. President, I addressed myself to this problem in detail on Thursday, May 9, 1974. My remarks are recorded in the RECORD on page S2749. I reiterate what I said last Thursday:

We must give our young veterans enough time to make plans for summer school, and the VA time to program the computers to take into account the extension. Otherwise, disastrous consequences will ensue for those student veterans who must plan for the summer session.

Mr. President, I urge my colleagues to approve S. 3398. I hope the House will act expeditiously on a similar measure, and I hope the President will sign this provision into law.

Only swift passage of S. 3398 can preclude a disaster for these young men on June 1.

The Stars and Stripes National Tribune, in its May 9, 1974 editorial, succinctly analyzed this problem.

Mr. President, I commend this editorial "No Time for Playing Games," to the attention of my colleagues, and ask unanimous consent that it be printed in the RECORD.

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

NO TIME FOR PLAYING GAMES

Congress, once again, is faced with legislation in a race with the calendar.

Three weeks from now, hundreds of thousands of veterans will have no time left. Those who were discharged between January 31, 1955 and June 1, 1966 have only until May 31, 1974 left to their educational eligibility.

While the educational bills have been given very careful study in both the House and the Senate, only the House has passed a bill calling for increases and extension of time. The Senate bill is still in the process of study and hearings. The Senate is including several features not present in the House bill.

The all-encompassing features of the Senate bill have required more time than the approach taken by the House.

The House is pushing the Senate to pass their bill and the Senate is not buying it. The Senate feels that their bill is more complete in answering the present day educational problems and veterans' needs. The House has split up their approach and passed the most urgent features and is taking up other features in separate bills.

In the interim, the clock is ticking away. We feel this is no time to be playing games. The most urgent need at the moment is to extend the delimiting date from eight years to at least 10 years in order to protect those thousands whose eligibility will expire May 31, 1974.

On April 29 Senator Vance Hartke introduced S. 3898 with 49 cosponsors to extend the eligibility from eight to ten years as a separate bill.

On April 30 Rep. Mario Biaggi introduced HR 14464 to extend the eligibility as a separate bill.

While it is quite normal politics for one House to hold out for the provisions of their bill and to negotiate in conference on the differences, all of this takes a great deal of time.

Time should be used for the advantage of the veteran as the educational bill intended. Both bills should be reported to the floor for a vote and on to the President for his signature. This process will naturally use up some of the three weeks that are left. Without encountering problems or time loss waiting for the President's signature, the VA will need some time to recertify those veterans' eligibility.

Veterans need this extension immediately so they can plan summer school or fall semester.

Also, this extension will open the door to many thousands of veterans in this category that have not been able to use their benefits before now.

We expect Congress to forget political games and remember that this is an election year and to try to break records in getting this extension passed.

Mr. HARTKE. Mr. President, I ask unanimous consent that the statement of my distinguished colleague from Hawaii (Mr. INOUYE) be inserted in the RECORD. Senator INOUYE is necessarily absent from the Senate today but wishes to have his support of S. 3398 known.

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

STATEMENT BY SENATOR INOUYE

Mr. President: The legislation which is presently before us represents a good first step toward creating a new G.I. education bill which will provide equal and adequate educational assistance to veterans without regard to marital status, income level or place of residence. Numerous studies and the recent hearings of the Senate Veterans Affairs Committee have documented the inadequacy of present educational benefits and the unequal manner in which they are distributed. The issue of Vietnam era veterans benefits has become a national concern—and justifiably.

During the first session of this Congress I joined with Senators McGovern, Dole and Mathias to introduce the Comprehensive Vietnam Era Veteran Education Benefits Act (S. 2789). This legislation includes provisions which would drastically alter the structure of the present G.I. bill to equalize access to benefits. I have also introduced legislation which would go beyond the bill we are now considering to extend by four years the present delimiting date for utilization of educational assistance benefits in order to better reflect today's education patterns and the veterans' needs. These measures have drawn significant support from fellow Senators, veterans organizations and veterans, their families and friends.

Still I support quick passage of S. 3398—the two-year extension of G.I. bill benefits—because the May 31, 1974, deadline for extension must be met and the sword of Damocles now over the heads of 285,000 affected veterans must be removed. It is the responsible thing to deal with this pressing matter immediately and to continue to consider more significant revision of the educational assistance program while not under the gun. It would be irresponsible to adopt a reform package that would not address the abuses and deficiencies in the administration and impact of the current G.I. bill.

Because the legislation which was passed by the House of Representatives will not cure the current abuses and will not address the needs of those veterans who are married, from low income families or living in states which do not have low cost public education, the Senate must insist on giving thorough consideration to proposed improvements in the G.I. bill. We cannot be stampeded into unwise action. I for one will not stand by and watch the Vietnam veterans shortchanged because of any desire to quickly put the issue of veterans benefits behind us.

The upcoming Senate hearings on abuses in the current program and the review of the provisions of the various bills that have been introduced in the Senate to bring veterans' benefits up to a level consistent with today's education cost will provide a record for design of a G.I. bill which will repeat the success of the post-World War II bill in serving the veterans without repeating some of the abuses that were experienced.

The reason for extension of the eligibility period is obvious. The initial eight-year period is inadequate for the veteran who is unable to attend school full-time or who must interrupt his pursuit of an education for personal reasons. The pattern of education has changed over recent years with more reliance on technical and professional training to fill the needs of our present job market. Accordingly, veterans have had to adjust their educational training requirements to reflect this pattern. I believe that a four-year extension would provide the veteran with the flexibility to utilize his benefits to the fullest extent possible consistent with the intent of the G.I. bill. I am sure that the Senate Veterans Affairs Committee will give my proposal a fair and objective hearing.

The approval of the House for the two-year extension and the majority support in the Senate are proof that unlike the Veterans Administration and the Nixon Administration, the Congress is serious in its intention to create a new and adequate G.I. bill.

The nation will have to reserve its final judgment on whether the President's newly espoused concern over the administration and substantive provisions of veterans programs is truly felt. When the new Domestic Council Committee on Veterans Services issues its report, when a replacement for V.A. director Donald Johnson is named and when veterans benefits legislation reaches the President's desk, the seriousness of the President's commitment to the men who fought in Vietnam under his command will be tested. The Congress, the veterans and the country will be watching.

I ask unanimous consent that the editorial which appeared in the Washington Star-News on Saturday, May 4, 1974, be printed in the RECORD. It clearly expresses the questions on the minds of those Americans and those in the Congress who are concerned about the plight of the veteran:

"AFTER JOHNSON—WHAT?

"In the face of so many inexorable pressures, Donald E. Johnson's announced intention to resign as veterans' administrator 'in the near future' stirs scarcely more than a ripple of surprise. And with Johnson's early departure settled, the focus of attention switches now to what else the Nixon administration has in mind, if anything, to put to rights a veteran's program that is in a deplorable state of disarray.

"Chairman Vance Hartke of the Senate Veterans' Affairs Committee already has served notice that his confirmation hearings on Johnson's successor will be concerned not just with the new man, but with a 'searching examination' of the administration's whole policy stance on veterans' benefits. We are delighted to hear it.

"This in no sense minimizes the importance of the new administrator. In the aftermath of World War II, when the old Veterans' Bureau was a near-hopeless shambles, the best thing that occurred was President Truman's assignment of General Omar Bradley, fresh from his wartime victories, to rescue a scandal-ridden program that had mushroomed to immense proportions. Bradley did so with a hard hand, and the help of the highly respected professional aides he recruited. It is our contention that President Nixon must look to the military to duplicate that process. But it is certainly vital that he pick an administrator who will instill the highest possible degree of public confidence—and that is hardly the image that is conjured up by most of the names that are floating around as possibilities.

"Hartke's additional point, however, is that the appearance of a new administrator, no matter who he may be, shouldn't be allowed to defuse the basic controversy that has been raging over the amounts of dollars the administration is willing to spend on VA benefits. Committee hearings are underway in both the House and Senate to raise GI educational grants substantially beyond the administration's proposals. There is nearly as much concern about the high rate of unemployment among Vietnam vets and the sorry state of medical programs. Those issues aren't apt to evaporate, nor should they.

"On the positive side, there are at least some hopeful signs that the administration is recognizing that these aren't passing fancies, that it is confronting a problem that won't go away. The current comments of White House aides, for example, are different from those we were hearing a few weeks ago about the seriousness of the problem. Congressional leaders also appeared generally optimistic after a session on the subject this week with the President's chief of staff, General Haig.

"Impressions are one thing, though, results are another. The acid test of the administration's rhetorical commitment to the veterans of the Vietnam war is a lot more money, and how far the administration is willing to go in meeting that obligation certainly hasn't been cleared up yet."

Finally, I wish to commend my colleague Senator Hartke and his colleagues on the Senate Veterans Affairs Committee for their responsible approach to the question of how to best improve the current G.I. bill. I look forward to continued cooperation with the Committee in designing the best possible legislation in this area.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and the third reading of the bill.

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

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. HARTKE. I yield back my time.

Mr. HANSEN. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is, Shall the bill pass? The yeas and nays have been order, the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from California, (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Utah (Mr. MOSS), the Senator from Missouri (Mr. SYMINGTON), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE) is absent on official business.

I further announce that, if present and voting, the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Rhode Island (Mr. PASTORE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Texas (Mr. BENTSEN), and the Senator from Alaska (Mr. GRAVEL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mr. PEARSON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Alaska (Mr. STEVENS) is absent on official business.

I further announce that, if present and voting, the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. JAVITS), the Senator from Alaska (Mr. STEVENS) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 82, nays 0, as follows:

[No. 192 Leg.]

YEAS—82

Abourezk	Dominick	Metcalf
Aiken	Eagleton	Metzenbaum
Allen	Ervin	Mondale
Baker	Fannin	Montoya
Bartlett	Fong	Muskie
Bayh	Goldwater	Nelson
Beall	Griffin	Nunn
Bellmon	Hansen	Packwood
Bennett	Hart	Pell
Bible	Hartke	Percy
Biden	Hatfield	Proxmire
Brock	Hathaway	Randolph
Brooke	Helms	Ribicoff
Buckley	Hollings	Roth
Burdick	Hruska	Schweiker
Byrd, Harry F., Jr.	Huddleston	Scott, Hugh
Byrd, Robert C.	Hughes	Scott, William L.
Cannon	Jackson	Sparkman
Case	Kennedy	Stafford
Chiles	Long	Stennis
Church	Magnuson	Stevenson
Clark	Mansfield	Taft
Cook	Mathias	Talmadge
Cotton	McClellan	Thurmond
Curtis	McClure	Tunney
Dole	McGee	Weicker
Domenici	McGovern	Young
	McIntyre	

NAYS—0

NOT VOTING—18

Bentsen	Haskell	Pastore
Cranston	Humphrey	Pearson
Eastland	Inouye	Stevens
Fulbright	Javits	Symington
Gravel	Johnston	Tower
Gurney	Moss	Williams

So the bill (S. 3398) was passed, as follows:

S. 3398

An act to amend title 38, United States Code, to provide a ten-year delimiting period for the pursuit of educational programs by veterans, wives, and widows

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1662 of title 38, United States Code, is amended—

(1) by deleting "eight" in subsection (a) and inserting in lieu thereof "ten";

(2) by deleting "8-year" in subsection (b) and inserting in lieu thereof "10-year";

(3) by deleting "8-year" and "eight-year" in subsection (c) and inserting in lieu thereof "10-year" and "ten-year", respectively; and

(4) by adding at the end thereof the following new subsection:

"(d) In the case of any veteran (1) who served on or after January 31, 1955, (2) who became eligible for educational assistance under the provisions of this chapter or chapter 36 of this title, and (3) who, subsequent to his last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, there shall be excluded, in computing his ten-year period of eligibility for educational assistance, any period during which he was so detained and any period immediately following his release from such detention during which he was hospitalized at a military, civilian, or Veterans' Administration medical facility.".

SEC. 2. Section 1712 of title 38, United States Code, is amended—

(1) by deleting "eight" in subsection (b) and inserting in lieu thereof "ten"; and

(2) by deleting "eight" in subsection (f) and inserting in lieu thereof "ten".

SEC. 3 Section 604(a) of Public Law 92-540 (82 Stat. 1333, October 24, 1972) is amended by deleting "eight" an inserting in lieu thereof "ten".

Mr. HARTKE. Mr. President, I move that the Senator reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

THE SENATE ACTS FAVORABLY ON EXTENDING EDUCATIONAL BENEFITS TO OUR VETERANS

Mr. WILLIAMS. I am especially pleased that the Senate has acted responsively on S. 3398, legislation which extends the eligibility period for receiving GI educational benefits for our veterans.

The 8-year delimiting period, which extends from the Cold War G.I. Bill of 1966, is due to expire May 31 of this year. The legislation approved by the Senate today will extend this period for 2 years, and will provide an opportunity for thousands of our veterans to complete their education.

I am pleased to have joined Senator HARTKE in sponsoring this legislation, and believe that the members of the Senate Veterans' Affairs Committee have demonstrated a profound understanding of this problem by acting so quickly and favorably on S. 3398.

What continues to face our veterans, however, is the grave fact that in the past 25 years, educational costs have risen 3 times as much as GI educational assistance. Because of this soaring cost, only 21 percent of the eligible Vietnam veterans have enrolled in college programs.

In addition to responsively acting on

S. 3398, the Senate Veterans' Affairs Committee is currently considering broader legislation in the area of improved and increased educational benefits for the veteran. I have joined with Senator McGOVERN in sponsoring one of the proposals before the committee, S. 2789, the Vietnam Era Veterans Educational Benefits Act.

This act would increase the subsistence allowance rate to a veteran by 13.6 percent, and would reimburse the veteran for tuition costs above $400 and up to $1,000. The bill would also extend the present 36-month entitlement period for up to 9 additional months. Under this proposal, the veteran would be allowed to draw his full allotment entitlement in larger amounts over a shorter period of time.

I believe this legislation is an important step toward overcoming the specific inadequacies of the existing law.

Mr. President, at the end of World War II, our veterans returned home to a Nation eager to demonstrate its gratitude for the sacrifices they had made. But the war in Vietnam was a controversial one and, as a result, our men and women have returned to face enormous hardships and burdens. In addition to meeting high educational and vocational training expenses, many of our veterans are confronting such problems as unemployment, drugs, and inadequate housing.

It is imperative, therefore, that Congress continue the battle for improving this serious situation facing this Nation's veterans. It is encouraging that the Senate has acted favorably in S. 3398, and I am hopeful that substantially more can be done before the end of this Congress.

EDUCATION AMENDMENTS OF 1974

The Senate continued with the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 1539, which will be stated.

The legislative clerk read as follows:

A bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

Mr. HANSEN. Mr. President, I ask unanimous consent that a member of my staff, Sunny Nixon, be granted the privilege of the floor during the consideration of S. 1539.

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

Under the previous order, the Senator from Wyoming is recognized for the presentation of an amendment.

Mr. HANSEN. Mr. President, for myself and my colleague from Wyoming (Mr. McGEE), I call up amendment No. 1248 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 265, line 18, strike out the word "school" and insert in lieu thereof "public education".

On page 266, line 2, strike out the words "elementary or secondary school or other appropriate public building," and insert the following: "building, including but not limited to a pubic elementary or secondary school".

On page 266, line 22, after the period insert the following new sentence: "Each such application shall contain provisions assuring consultation with local community colleges, social, recreational, and health groups with respect to programs to be offered and facilities to be used for the purpose of this section.".

Mr. HANSEN. Mr. President, this amendment, No. 1248, is intended as a modification of amendment No. 1247, which was my original amendment and will not be called up.

Section 406 embodies the community school concept which provides that the school facilities and equipment be used by members of the community for educational, recreational, and cultural purposes.

I have conferred with the distinguished Senator from New Jersey (Mr. WILLIAMS), who is managing S. 1539 on the floor, and he has no objections to the amendment.

My amendment would add language to insure that community college facilities could be considered for the community school programs along with the presently included public elementary or secondary school facilities.

The purpose of the amendment is not to furnish grants to community colleges or to position community colleges so they may strong-arm their ideas and policies upon the grantees, the local educational agencies. Nor would the community colleges be the direct grantees. The purpose of the amendment is rather to prevent expenditure of the taxpayer's dollars through grants for facilities which the community colleges may already have on hand.

If the community colleges and the elementary and secondary schools are too isolated from one another, those in charge of the community education program may not know facilities exist in the community college which would facilitate a program. They might then apply for a grant to furnish this facility and in this way duplicate the existing facility.

I would like to add language that such application must show evidence of consultation with local community colleges, social, recreational, and health groups as to programs to be offered and facilities to be used. Once evidence of consultation is shown, the local education agencies may decide whether there would be duplication and its decision should be final.

The community colleges would not be placed in a position of being able to force their views upon the grantees, since S. 1539 is not primarily a community college act, but rather a elementary and secondary school act.

The evidence of consultation would simply indicate that those in charge of the community school programs were alerted to the possibility that facilities were already available in community colleges for their programs.

I hope that the Senate will act favorably on this proposal.

I ask unanimous consent that a letter in support of the amendment from the Association of Community College Trustees be printed in the RECORD.

Also, I ask unanimous consent that a letter from the National Recreation and Park Association be printed in the RECORD.

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

ASSOCIATION OF COMMUNITY COLLEGE TRUSTEES,
Washington, D.C., April 8, 1974.

Hon. CLIFFORD P. HANSEN,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR HANSEN: At the suggestion of Mr. M. Dale Ensign (former President, ACCT Board of Directors) we enlist your support in clarifying the intent of the Senate regarding the Community School program embodied in S1539.

As presently written the Community School Program is defined as "a program in which a public elementary, secondary school or other appropriate building is used as a community center operated in conjunction with other groups in the community, community organizations and local governmental agencies, to provide educational, recreational and cultural community services for the community that center serves in accordance with the needs, interests and concerns of that community".

We applaud the Senate for promoting that concept. In fact we feel that, as defined, the Community School Program adequately defines the mission of this nation's community colleges.

Therein lies the basis of our concern—a concern that if S1539 is passed in its present form a duplication of programs and services could appear. At this stage of development and continuing change in the thrust of the community college movement, we cannot be certain that the lines of communication are sufficiently developed between community colleges and existing local school boards to avoid programs that result in cross purposes.

Therefore, we appeal to you to move amendments to S1539 as follows:

(1) to change the definition of a "community school program" to one in which a "public elementary, secondary school, *community college* or other appropriate building is used as a community center . . ."

(2) to change line 8 of Sec. 406 (b) to read "promotes a more efficient use of *public educational* facilities . . ." rather than simply "school facilities".

(3) to add a sentence in Sec. 406 (d) (2), line 14 after "regulation", "Such application must show evidence of consultation with local community colleges, social, recreational and health groups as to programs to be offered and facilities to be used for this purpose."

Rationale:

(1) these amendments would necessitate coordination of community activities and help assure that the community school, when established, will be so conceived and so operated as to meet real community needs, clearly and carefully defined by the community to be served.

(2) they will guard against duplication of programs and services currently offered by the community services branch of community colleges and whose community colleges are not covered by this—an elementary and secondary education act.

(3) a publicized goal of Congress is better utilization of educational facilities and an avoidance of duplication of programs. These amendments will help to attain that goal.

Mr. Ensign and I stand ready to assist you

with more information or further testimony from the field should that be necessary.

We sincerely feel that the possibility of duplication was simply an oversight on the part of the Senate. Once brought to the attention of your fellow Senators, we feel that a ground swell of support will appear in order to give recognition to the premise that the potential problem defined above should be avoided.

Thanking you in advance for your consideration, I am

Sincerely yours,

WILLIAM H. MEARDY,
Executive Director.

NATIONAL RECREATION AND PARK ASSOCIATION,
Arlington, Va., May 13, 1974.

Hon. CLIFFORD P. HANSEN,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR HANSEN: The National Recreation and Park Association strongly endorses your proposed amendment to S. 1539 which will guarantee meaningful community input in the formulation of community school programs.

Public recreation officials support the community school concept, and in fact, have long been involved in community school programs throughout the country.

It is vital that this existing base of professional support and cooperation be maintained and strengthened as the community school program grows. Your proposed amendment will accomplish this purpose and therefore we strongly urge its adoption.

Sincerely,

JOHN P. LAGOMACINO,
Director, Division of Special Programs.

Mr. PELL. Mr. President, I thank the Senator from Wyoming for his explanation of the amendment. I understand that he has been in contact with the prime sponsor of the community college section and that this is agreeable to the Senator from New Jersey (Mr. WILLIAMS). For that reason, I am delighted to recommend the acceptance of the amendment.

Mr. WILLIAMS. Mr. President, I have already discussed the amendment with the Senator from Wyoming (Mr. HANSEN) and find it perfectly compatible with the intent of the community schools provisions in the bill. The committee report makes clear the intent that groups such as community colleges, parks and recreation departments, and so forth, be consulted during the time grant proposals for community education projects are being formulated. The amendment before us merely restates that objective and makes it a part of the language in the bill. Therefore, I hope that the floor manager of the bill will see fit to accept this addition.

Mr. DOMINICK. Mr. President, we have no objection. We think it is a pretty good amendment and that it will be helpful.

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

The amendment was agreed to.

Mr. STAFFORD. Mr. President, I have an unprinted amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. STAFFORD. 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 will be printed in the RECORD.

The amendment is as follows:

On page 154, between lines 18 and 19, insert the following:

(5) Section 141(a) of such title I is amended—

(A) by striking out the word "and" at the end of paragraph (12) the first time is appears in such section,

(B) by redesignating paragraph (12) the second time it appears in such section as paragraph (13),

(C) by striking out the period in paragraph (13) (as redesignated by this paragraph) and inserting in lieu thereof a semicolon and the word "and", and

(D) by inserting at the end thereof the following new paragraph:

"(14) That the local educational agency will establish an Advisory Council for the school district under the jurisdiction of that agency which—

"(A) has a majority of members who are parents of children attending the schools of that agency,

"(B) is composed of members who are selected by the parents of the children attending schools of that agency,

"(C) has responsibility for advising that agency in the planning for, and the implementation and evaluation of, programs and projects assisted under this title, and

"(D) is provided by that agency, in accordance with regulations of the Commissioner, with access to appropriate information concerning such programs and projects.",

On page 120, in the Table of Contents, insert in item "Sec. 101." after "(4)" the following:

"(5) Amendment relating to local educational agency Advisory Councils."

Mr. STAFFORD. Mr. President, I offer this amendment to S. 1539 on behalf of myself and the Senator from Delaware (Mr. BIDEN).

The purpose of the amendment is to provide a legislative mandate to continue in effect the requirement for Districtwide Parent Advisory Councils under title I of the Elementary and Secondary Education Act.

That purpose is endorsed by the National Advisory Council for the Education of Disadvantaged Children in its 1973 report. In addition, the amendment has the support of educators and parents who feel the broadest possible involvement of interested parents in the educational process of their children is important to the success of that process.

In brief, the amendment would provide the greatest flexibility in the formation and activities of Parent Advisory Councils.

While much support for this amendment comes from States with large urban areas, the concept also has the support of parents and educators from rural States.

Mr. Robert A. Withey, the Commissioner of Education in my State of Vermont, has told me that the concept of Districtwide Parent Advisory Councils is most helpful in encouraging and assisting parents of children in rural supervisory union school districts to become more involved in the education of their children.

This amendment has been discussed with the Senator from Rhode Island (Mr. PELL) and the Senator from Colorado (Mr. DOMINICK), the managers of the bill, and I understand they are in agreement with the value of this amendment.

The Senator from Delaware (Mr. BIDEN) has prepared a statement that describes in some detail the activities and the value of the Parent Advisory Council and I ask unanimous consent that his statement be entered in the RECORD at the conclusion of my remarks.

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

STATEMENT BY SENATOR BIDEN

Mr. President, I am pleased to join the distinguished Senator from Vermont (Mr. Stafford) in introducing an amendment to require Local Educational Agencies to establish Parent Advisory Councils in school districts receiving Federal assistance under Title I of the Elementary and Secondary Education Act.

Under current law, the Commissioner of Education is authorized to establish guidelines for the implementation of Parent Advisory Councils for local school districts receiving ESEA funds if he deems this necessary. Subsequent to enactment of this provision, the Commissioner did issue regulations which mandate the implementation of these Councils for districts receiving assistance under Title I, and it is under this regulatory mandate that Parent Advisory Councils now function. The Commissioner is to be commended for his action.

However, the Parent Advisory Council is too important to be left to Federal regulation; the mandate should come from Congress. The amendment which Mr. Stafford and I propose recognizes the past effectiveness of Parent Advisory Councils by replacing the regulatory mandate for their implementation with a legislative mandate.

The concept of the Parent Advisory Council addresses itself to an area of vital concern—community involvement. In districts receiving Federal assistance for the educationally disadvantaged children, parents are an essential source for ideas and advice. Parent Advisory Councils provide a mechanism through which this input can, in an orderly way, reach its proper destination—the child.

This amendment will require the continuation of Parent Advisory Councils, as before, and will provide that these Councils are composed of a majority of members who are parents of the children attending the schools of the local district in which the Council functions, and that the Council members are selected by the parents of these children. The Councils will have the responsibility of advising the Local Educational Agencies in planning, implementation, and evaluation of the programs assisted by Title I of ESEA.

Again, the responsibilities of the Parent Advisory Councils remain as they were under Federal regulation. However, as a part of the Elementary and Secondary Education Amendments of 1974, the Congressional mandate for continuation of Parent Advisory Councils recognizes that effective education begins when parents and educators meet on common ground to work for the same goals.

I believe this amendment is a necessary one, and I urge my colleagues in the Senate to support it.

Mr. STAFFORD. Mr. President, I move the adoption of the amendment, and reserve the remainder of my time.

Mr. PELL. Mr. President, as I understand the Biden-Stafford amendment, it would make the districtwide title I advisory councils, which are now required by regulation, mandatory by law. This amendment would greatly help us in conference for the House bill mandates local school advisory councils while hav-

ing the districtwide councils optional. I believe mandating the districtwide councils a good idea. I personally know of the work of the districtwide councils and views them with favor, and in my own State of Rhode Island believe they have been a very viable force.

With the concurrence of the minority, I would move adoption of this amendment.

Mr. DOMINICK. Mr. President, we have no objection to taking this to conference. I have not heard the argument on the other side, but the one made by the distinguished Senator from Vermont is very persuasive, I think. Among other things, it might have the possibility of reducing the number of advisory councils, which I think in most cases would be very fine, not because they do not serve useful purposes, but when you get too many of them they get at cross purposes with each other.

I am happy to accept the amendment.

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

The amendment was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BEALL. 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 NO. 1241

Mr. BEALL. Mr. President, I call up my amendment No. 1241, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BEALL's amendment (No. 1241) is as follows:

On page 196, line 4, strike out "30" and insert in lieu thereof "40".

On page 207, line 2, strike out "30" and insert in lieu thereof "35".

On page 207, line 9, strike out "27" and insert in lieu thereof "32".

On page 207, line 15, strike out "18" and insert in lieu thereof "28".

On page 211, strike out lines 10 through 12 and insert in lieu thereof the following:

"(b)(1) The amendments made by paragraphs (1) and (2) of subsection (a) shall be effective on and with respect to appropriations for fiscal years beginning on and after July 1, 1975, and the amendments made by paragraph (3) of subsection (a) shall be effective upon enactment of this Act.".

On page 214, after line 24, insert the following:

"(C) During the first fiscal year in which the amendments made by subsection (a) are effective and each of the succeeding fiscal years ending prior to July 1, 1978, the Commissioner shall determine with respect to each local educational agency in any State the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent employed on Federal property in a State or in a county other than the State or county, as the case may be, in which the school district of such agency is located but which is situated within a reasonable commuting distance from the school district of such agency. If the number of children determined under the preceding sentence is equal to at least 10 per centum of the total number of children determined with respect to such agency for such fiscal year under section 3(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), the amount to which such agency shall be entitled with respect to a number of children determined under such section 3(b) for such fiscal year, shall not be less than 90 per centum of the amount to which such agency was entitled with respect to the number of children so determined during the preceding fiscal year, as computed under section 3 of such Act.

Mr. BEALL. Mr. President, I send to the desk a technical modification of my amendment.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk proceeded to read the modification.

Mr. BEALL. Mr. President, I move that further reading be dispensed with.

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

The modification is as follows:

On page 2, line 1, strike out the word "The" and insert in lieu thereof the following: "(A) Except as provided in subparagraph (B), the".

On page 2, between lines 6 and 7, insert the following:

"(B) Section 3(a) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out 'July 1, 1973' and inserting in lieu thereof 'July 1, 1975'.".

On page 3, line 7, after the period insert end quotation marks and a period.

Mr. BEALL. Mr. President, as I indicated in my additional views in the Senate report, I oppose the reported bill's impacted aid provisions. Although some changes may be called for in the impacted aid program, the committee's bill, in my judgment, goes too far and too soon. or example, Prince Georges County, Md., officials estimate that the county would lose 70 percent of their impacted aid funds. Mr. President, Prince Georges County citizens are already overtaxed and the county is incurring additional expenses as a result of HEW's ordered desegregation actions.

Since the bill was reported, I have been discussing the impacted aid provisions with a number of education leaders in my State, the National School Board Association and other education groups, with numerous Senators and working with the committee and the committee staff in trying to avert the harsh impact on many school districts that would result because of the committee's bill.

The amendment I advance now, which was cosponsored by Senators BYRD of Virginia, COOK, MATHIAS, NUNN and SCOTT of Virginia, allows the "reform of the impacted aid program, that the committee desires, but it does in a more reasonable manner and hopefully will avoid drastic consequences to many school districts.

Basically, the amendment does three things:

First, it provides for a transitional phase-down period for the heavily impacted "B" districts so as to prevent drastic payment reductions. It does so by assuring such districts of 90 percent of their previous year's funding level.

As the National School Board Association said in a letter to me:

In terms of sound fiscal management and the educational needs of the youngsters attending schools in such communities, it would be preferable if the affected school districts were eased through a transitional phase-down period.

The National School Board Association, which incidentally supports the committee's reform, also strongly supports this amendment.

Second, the amendment attempts to deal with the ongoing problem that will be experienced by States as a result of the reduction in the entitlement and payment levels for the "out of county" situations. It does so by increasing the "B" entitlement rate from the bill's "30 percent" to "40 percent" and by increasing the payment rate for uniformed "B's" from "30 percent" to "35 percent"; for civilian "B's" employed in the district from "27 percent" to "32 percent" and civilian "B's" employed out of the district, but in the same State, from "18 percent" to "28 percent."

Third, the amendment postpones the effective date of these changes for 1 year. As reported, the changes would commence in the next fiscal year, which begins on July 1. Whatever sense that date made initially, it does not make sense today. We will be very close, or perhaps into the next fiscal year when the pending bill is enacted. As we know, the bill makes major changes in the impacted aid program. If these changes are enacted, financial problems will be created for affected school districts. They may need additional local or State assistance which may require increases in taxes or a reduction in other programs to provide such additional sums.

As Congress well knows, appropriation bills cannot be enacted over night and I believe that we must take into consideration the practical problem that faces these school districts. On the same point,

I might add that the changes will necessitate new regulations. HEW is not known for the promptness in issuing regulations. For example, the regulations on the physician shortage scholarship program, authored by me and enacted in 1971, have just been issued by the Department.

So, I do believe that the Department will need some time to issue the regulations and, therefore, postponement of the effective date does make considerable sense.

I want to thank Mr. Gus Steinhilber and Mr. Mike Resnick of the staff of the National School Boards Association for their help and support on the measure and Mr. Dick Smith and Mr. Steve Wexler of the committee staff for the technical assistance they provided on this amendment.

I urge the adoption of this amendment, and reserve the remainder of my time.

Mr. DOMINICK. Mr. President, will the Senator yield for a couple of questions?

Mr. BEALL. I yield to the distinguished Senator from Colorado.

Mr. DOMINICK. I just want to make

sure of what I am agreeing to or not agreeing to here.

Mr. BEALL. I hope I can give the Senator the kind of assurance he needs.

Mr. DOMINICK. Do I correctly understand the Senator to say he is holding harmless all the districts for up to 90 percent of the money they got during previous years?

Mr. BEALL. Those with 10 percent or more "B" students, yes.

Mr. DOMINICK. Yes. There is a provision in the law that Indian children who are not in a district, but go to school in a district, can be counted for impacted area aid. Does the Senator's amendment affect that in anyway whatsoever?

Mr. BEALL. No, that definition will remain the same.

Mr. DOMINICK. That is particularly important in the southern section of my State, and I did not want to get crosswise on that.

Mr. BEALL. We were made aware of that situation.

Mr. DOMINICK. The other thing I think the Senator is doing here is to say—and I may be wrong, so I hope the Senator will correct me if I am—that each district will get a little more money as it decreases in time than they are now getting; is that correct?

Mr. BEALL. That is correct.

Mr. DOMINICK. Is that the reason for the 30 to the 40, the 30 to the 35, and the 27 to the 32, and so forth?

Mr. BEALL. Present law gives everyone 50. We thought it was too much of a jump to be taken down so rapidly.

Mr. DOMINICK. Have you investigated as to whether the amendment will be helpful or harmful outside of Prince Georges County?

Mr. BEALL. It would be helpful in all districts.

Mr. DOMINICK. How much more money will be involved?

Mr. BEALL. We do not know. We cannot tell.

Mr. DOMINICK. Cannot tell. I thank the Senator from Maryland. I know how careful he is in this and I know how he is trying to protect the interests of schoolchildren and school districts. So I am tending to go along with this without creating a fight.

Mr. BEALL. I respect the intentions of the Senator and we are grateful for them.

Mr. PELL. Mr. President, I have listened to the arguments of the Senator from Maryland. He is more familiar with the problem than I am. His ideas have merit, particularly the phaseout portion. It will have less of an abrupt effect on the communities as the impact aid program moves into the new system. Both the phaseout over the 5-year period and also the postponement of it for a year will cost a certain amount of additional money. This bill is already pretty expensive, and we must make sure that we do not let it get out of hand. But I do believe that the merit involved in the phaseout and the postponement for 1 year is such that we should accept the amendment.

So far as moving up the payment rates, that alters somewhat the basic formula for the future. This is a more deep amendment, however, from a political viewpoint. I believe that, with the amendment of the Senator from Maryland included in the bill, the bill will probably have a stronger base of support across the country. While not agreeing on the merits of it, I do agree on the policy of securing passage of the bill.

For these reasons, I would recommend acceptance of the amendment of the Senator from Maryland.

Mr. BEALL. I thank the Senator from Rhode Island, the chairman of the Education Subcommittee, and appreciate the fact that the committee will accept the amendment. With that assurance, I yield back the remainder of my time.

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

The question is on agreeing to the amendment of the Senator from Maryland (Mr. BEALL).

The amendment was agreed to.

Mr. BEALL. Mr. President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 374, line 22, after the word "present" add the following: "or distribute, in the event supplementary noncommercial telecommunication is utilized,".

On page 374, line 22, strike "this section" and insert in lieu thereof "section 704".

On page 376, line 12, following the word "production" add "evaluation,".

On page 376, line 16, after the word "of", add the following: "informational and"

On page 382, line 25, strike "$1,500,000" and insert in lieu thereof "$3,000,000".

Mr. BEALL. Mr. President, this amendment involves the reading title, specifically those sections dealing with the reading training on public television.

With one exception, the amendment is basically clarifying or technical in nature. The first part is designed to provide some flexibility with respect to the making available of the courses for teachers. It has been pointed out to me that it might be better and more convenient for the teachers in some of the areas of the country if the courses were shown on closed circuit television, such as that which exists in Hagerstown, Md., or through the use of cassettes. This part of the amendment would not require but would provide flexibility for such use.

The second part of the amendment is a technical change designed to clarify that the television course to be presented by the local public television station is the course produced under section 704 of the bill.

The next part of the amendment would add authority for evaluation.

The next item in the amendment would allow the distribution of informational material, such as necessary for informing the teachers of the availability of such courses.

Finally, and this is the real substantive part of the amendment, I would increase the authorization level for the reading training on public television section from $1.5 million to $3 million. A number of experts in the television area have advised me that they feel the recommended funds are inadequate. They point out that this is particularly true when one considers that we also call for the development of course material to be used in conjunction with the television courses. As a result, I believe that an increase in the authorization is needed and necessary.

I urge the adoption of the amendment.

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

Mr. PELL. Mr. President, I have talked to the Senator from Maryland about this amendment. It is a sensible one. It does cost the taxpayer an additional $1.5 million, but it does improve the bill, so I am inclined to accept the amendment from the viewpoint of the majority side, at least.

Mr. DOMINICK. Mr. President, as one of the principal cosponsors of this reading bill to begin with along with Senators BEALL and EAGLETON, I think this is a good amendment. I have no objection to it and am delighted to accept it.

Mr. President, there has come to my attention, Mr. President, a unique demonstration in how to succeed in teaching to read which, I believe, merits serious consideration.

During a 6-week period last summer the Reading Reform Foundation raised the average reading level of 58 randomly selected, mostly "inner city" D.C. children by an astonishing 2.2 grades.

The Reading Reform Foundation, whose president is Mrs. Raymond Rubicam of Scottsdale, Ariz., was founded in 1961 by the late Watson Washburn of New York City. It is a private, nonprofit educational organization of American citizens concerned with the fact that so many young Americans, black and white, rich and poor, regardless of cultural background, have been finding it difficult to learn to read. Claiming that the reading crisis is a nightmarish comedy of errors that the American people could dispel at will, the foundation is devoted to the proposition that every child (except of course the truly brain-damaged or otherwise severely retarded child) can learn to read—provided he or she is taught to read by the correct method. Method is the foundation's message; and the method advocated by the foundation is intensive phonics.

Because, in the climate of skepticism in which we live today, a showing of results seems to speak more convincingly than either the spoken or the written argument, the foundation sponsored during the spring and summer of 1973 a two-part demonstration in intensive phonics here in the Nation's Capital: Part I, "Teacher-Training," and part II, "How-to-Read Classes." The foundation's purpose was twofold: First, it was to open the door of learning to as many D.C. children as possible; and, second, it was to prove to as many concerned adults as possible that intensive phonics is a how-to-teach reading method that really works.

Due largely to the success of its Washington demonstration in 1973, the foundation chose Washington as the site for its annual conference in 1974. It will be held at the Sheridan Park Hotel on the 16th and 17th of May. I will be the

luncheon speaker on May 16 and Representative AUGUSTUS F. HAWKINS, chairman of the Equal Opportunities Subcommittee of the House Committee on Education and Labor, will be the luncheon speaker on May 17. Dr. Ruth Holloway, director of the right-to-read program, U.S. Office of Education, and other distinguished authorities in the reading field will address the conference during the morning and afternoon sessions.

I have read a summary report of the foundation's D.C. demonstration project and understand that the project director will present a full report, with test scores and so forth, to the conference on the morning of May 17.

In the meantime, Mr. President, I ask unanimous consent that a short article, entitled "Learning to Read at All Souls," by Emily C. Hammond, published in the All Souls Memorial Episcopal Church Message of October 14, 1973, be printed in the RECORD.

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

LEARNING TO READ AT ALL SOULS

Anyone who can read supercalifragilistic-expialidocious can read just about anything.

This is exactly what happened to children in the Reading Reform Foundation-sponsored class conducted at All Souls' last summer. They went on Mary Poppins guided flight to the wonderland of sound and symbol, learning how to read not only nonsensical, tongue-twisting, rib-tickling whimsies, but also practically any of those commonsensical stern-faced facts and figures that would help them in school.

To Miss Margaret Payne, a public school teacher, Foundation-trained in intensive alphabetical phonics, great credit is due. In the ridiculously short period of six weeks, in spite of having to compete with planned-in-advance summer vacations, 90 degree heat, and chronic pupil absenteeism to go swimming or fishing, she managed to inspire her young charges with the desire to excel—as the test scores show.

To assure objectivity, the children were tested, both before and after the course was given, by volunteer, professional school teachers, unknown to Miss Payne or the children and unconnected with the Foundation. Nationally accepted, widely used standard tests were administered.

Julia Erazo, age 7, a native of Chile, in this country for only one year, speaking only Spanish at home was reading at grade level 2.5 when tested on June 18 and at 14.7 when tested on July 27th—a whopping increase of 12.2 grades.

Ana Hidalgo, age 7, a native of San Salvador, in this country for only one year, speaking only Spanish at home, jumped from 4.1 to 15.6, an increase in reading ability of 11.5 grades.

Eric Buadu, age 10, a native of Ghana, Africa, in this country three years, with no knowledge of English upon arrival, speaking only Twi at home, jumped from 4.1 to 11.6, an increase in reading ability of 7.5 grades.

Gustavo Rivero, age 7, American-born son of a Cuban father and a Guatemalan mother, speaking only Spanish at home, rose from 3.6 to 7.8, an increase of 4.2 grades.

Edwin Rojas and Carletta Carter, both age nine, also leapt ahead in reading ability and received honorable mention.

Naturally, all of the children did not do as well as these front runners. Nevertheless, Miss Payne performed the feat of raising the reading level of her class an average of 4.2 grades in approximately 80 hours of teaching time!

On July 27, before a small but select audience, the All Souls class celebrated commencement. Each child had the opportunity to read aloud. Prizes were awarded and citations recorded. Mr. Hewlett, after congratulating Miss Payne and her pupils on their achievements, asked God's blessing on them in their future undertakings. Finally, party favors, ice cream cones and cookies were enjoyed by everyone.

All Souls Memorial Church and Shiloh Baptist Church made unique contributions to the Reading Reform Foundation's two-part D.C. project by playing host to the teacher training courses held for two weeks in May as well as the How-to-Read classes during the summer. Twelve How-to-Read classes took place in day-care centers, in one public school and at the Salvation Army. The overall results were extremely gratifying.

The question arises: If the Foundation has had so much success in teaching to read, why have not the public schools had equal success?

The answer is method. By-and-large, the public schools use the "whole word" or "look say" method; the Foundation advocates intensive phonics.

There have been a number of calls received from neighborhood parents inquiring when the reading classes would start again. While there are no present plans for repeating the course, it is hoped that arrangements may be made.

Mr. BEALL. I thank the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland (Mr. BEALL).

The amendment was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield briefly, with the understanding that he will not lose his right to the floor?

Mr. HUMPHREY. I yield.

Mr. ROBERT C. BYRD. And that the time consumed by me not be charged against either side.

The PRESIDING OFFICER. The Senator from Minnesota has no time.

Mr. PELL. I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, am I to understand that there is no time on any amendment?

The PRESIDING OFFICER. An amendment has not been offered.

AMENDMENT NO. 1236

Mr. HUMPHREY. I will offer an amendment, then.

I call up my amendment No. 1236, and then I will yield to the Senator from West Virginia.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

The amendment is as follows:

On page 337, between lines 15 and 16, insert the following new section:

"POLITICAL LEADERSHIP INTERN PROGRAM

"SEC. 527. (a) The Higher Education Act of 1965 is amended by redesignating title XII and all references thereto as title XIII and sections 1201 through 1206 and all references thereto as 1301 through 1306 and by inserting immediately after title XI the following new title:

"'TITLE XII—POLITICAL LEADERSHIP INTERN PROGRAM

"'PROGRAM AUTHORIZED

"'SEC. 1201. The Commissioner is authorized to make grants, in accordance with the provisions of this title, to institutions of higher education for the planning, development, administration, and operation of an internship program under which students will be provided practical political involvement with elected officials in the performance of their duties at the local and State levels of government through internships in their offices. Such internship program shall be carried out through arrangements administered by institutions of higher education, and with the cooperation of State and local governments. Under such program the interns, who are students at any institution of higher education which is a grant recipient, will be assigned duties in offices of State and local elected officials, which will give them an insight into the problems and operations of the different levels of government, as well as an opportunity for research and for involvement in the policymaking process. Arrangements for such grants shall provide for coordination between the on-campus educational programs of the persons selected and their activities as interns, with commensurate credit given for their work and achievement as interns.

"'SELECTION OF STUDENTS FOR PARTICIPATION AND DISTRIBUTION OF GRANTS

"'SEC. 1202. (a) The students who are to participate in the internship program provided for in this title shall be selected by the institutions of higher education receiving grants under this title.

"'(b) The Commissioner shall assure that grants under this title are distributed among the States in the same ratio, to the extent practicable, as the number of Members of Congress of a State bears to the total number of Members of Congress in all States.

"'(c) (1) In order to assist the Commissioner to select institutions of higher education within a State to receive grants under this title, he shall appoint a National Advisory Council for Political Leadership Interns. Such Council shall be composed of twelve members appointed from among individuals especially qualified to serve on the Council.

"'(2) The Council shall advise the Commissioner with respect to the distribution of grants under this title within each State and with respect to such other matters of policy as may be appropriate in carrying out the objectives of this program as authorized under this title.

"'(3) The Commissioner shall make available to the Council such staff, information, and other assistance as it may require to carry out its duties under this title.

"'(4) The provisions of part D of the General Educations Provisions Act shall apply to any Council established under this title.

"'(d) Whenever the Commissioner determines in the third quarter in any fiscal year that grant funds will not be needed in any State he may redistribute such funds to institutions of higher education in other States which he determines have a need for them.

" 'FEDERAL SHARE

" 'SEC. 1203. (a) The Federal share of the cost of planning, developing, and administering of any program assisted under this title shall not exceed 100 per centum of such cost.

" '(b) The Federal share of the cost of operating an internship program under this title shall not exceed 50 per centum of such cost.

" 'ADMINISTRATION

" 'SEC. 1204. The Commissioner shall by regulation prescribe the stipends to be paid by institutions of higher education to the interns participating in the program assisted under this title and the duration and other terms and conditions of such internships.

" 'DEFINITIONS

" 'SEC. 1205. For the purpose of this title—

" '(1) the term "Members of Congress" includes the Resident Commissioner for the Commonwealth of Puerto Rico and the delegate for the District of Columbia; and

" '(2) the term "State" means the fifty States, the Commonwealth of Puerto Rico, and the District of Columbia.

" 'APPROPRIATIONS AUTHORIZED

" 'SEC. 1206. There is authorized to be appropriated to carry out this title the sum of $5,000,000 for the fiscal year 1975 and the same amount in each of the two succeeding years. Funds appropriated pursuant to this section shall remain available for the succeeding fiscal year after the fiscal year for which they were appropriated.

" 'SHORT TITLE

" 'SEC. 1207. This title may be cited as the "*Political Leadership* Intern Program Act of 1974".'.

"(b) The amendment made by subsection (a) shall be effective after June 30, 1974.".

On page 123 in the table of contents, after item "Sec. 526." insert the following new item:

"Sec. 527. Political leadership intern program.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time yielded to me by the Senator from Minnesota not be charged to anyone.

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

RESOLUTION AUTHORIZING MARY LOU JARDINE TO APPEAR AS A WITNESS

Mr. ROBERT C. BYRD. Mr. President, I send a resolution to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the resolution with its preamble.

The assistant legislative clerk read as follows:

Whereas, in the case of United States v. Kenneth Young Hee Choy (Case No. 74–468), pending in the United States District Court for the Central District of California, a subpena has been issued by that court and addressed to Mary Lou Jardine, in the office of Senator Inouye, directing her to appear before that court at 9:30 a.m. on Tuesday, May 14, 1974, and to give testimony with respect to trial proceedings in such case: Now, therefore, be it

Resolved, That by the privileges of the Senate of the United States no evidence under the control and in the possession of the Senate of the United States can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession, but by its permission.

SEC. 2. By the privilege of the Senate and by rule XXX thereof, no Member or Senate employee is authorized to produce Senate documents but by order of the Senate, and information secured by Senate staff employees pursuant to their official duties as employees of the Senate may not be revealed without the consent of the Senate.

SEC. 3. When it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that testimony of an employee of the Senate of the United States is needful for use in any court of justice or before any judge or such legal officer for the promotion of justice and, further, such testimony may involve documents, communications, conversations, and matters related thereto under the control of or in the possession of the Senate of the United States, the Senate of the United States will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate.

SEC. 4. Mary Lou Jardine, in the office of Senator Inouye, is authorized to appear before the United States District Court for the Central District of California (Case No. 74–468) in response to the subpena issued by that court directing her to appear and testify on May 14, 1974, in the case of United States v. Kenneth Young Hee Choy but shall not take with her any papers or documents on file in her office or under her control or in her possession as an employee of the Senate.

SEC. 5. The said Mary Lou Jardine, in response to such subpena, may testify to any matter determined by the court to be material and relevant in such case with respect to persons on the staff of Senator Inouye.

SEC. 6. A copy of this resolution shall be transmitted to the court as a respectful answer to such subpena.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, the adoption of this resolution would give permission to Senator INOUYE's secretary to proceed to California to testify in the case of a man who has been arrested by the FBI for impersonating Senator INOUYE's administrative assistant.

Mr. INOUYE is in Hawaii, and he has given his secretary permission to go to the west coast. The Disbursing Office has stated that such a resolution must be agreed to by the Senate before she could testify.

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

The resolution (S. Res. 323) was agreed to.

The preamble was agreed to.

ORDER FOR SENATOR BUCKLEY TO CALL UP AMENDMENT NO. 1289 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, upon the disposition of the amendment by Mr. MCCLELLAN, Mr. BUCKLEY be recognized to call up his amendment, No. 1289.

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

UNANIMOUS-CONSENT AGREEMENT ON STANDBY ENERGY EMERGENCY AUTHORITIES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the conclusion of routine morning business, the Senate resume consideration of S. 3267, the Standby Energy Emergency Authorities Act; that debate thereon ensue for not to exceed 1½ hours; that the time be equally divided between Mr. FANNIN and Mr. JACKSON or their designees.

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

Mr. ROBERT C. BYRD. That would mean that the debate on the energy bill tomorrow would not go beyond 12 noon, at the most.

UNANIMOUS-CONSENT AGREEMENT ON EDUCATION AMENDMENTS OF 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the 90 minutes for debate tomorrow on the energy bill, the Senate resume consideration of the unfinished business, Education Amendments of 1974.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that if any rollcall votes are ordered on tomorrow on any amendments or other matters, they not occur prior to 4 p.m. tomorrow.

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

EDUCATION AMENDMENTS OF 1974

The Senate resumed the consideration of the bill (S. 1539) to amend and extend certain acts, relating to elementary and secondary education programs and for other purposes.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Mr. Robert Kerr, of my office, have the privilege of the floor during the entire consideration of the bill that is now before the Senate.

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

Mr. HUMPHREY. I make the same request with respect to James Thurber, during the consideration of this amendment and the other amendment I will call up.

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

Mr. HUMPHREY. Mr. President, I offer this amendment on behalf of Senators BAKER, BROCK, GRAVEL, HART, HATHAWAY, MATHIAS, MONDALE, MOSS, STEVENSON, TUNNEY, and myself.

This amendment adds a new title to the Higher Education Act of 1965, to be cited as the "Political Leadership Intern Program."

A previous version of this amendment was passed by the Senate in 1971 as part of S. 659, the Higher Education Amendments. However, it was dropped in the conference committee because of objections by the House conferees. I believe the necessary revisions have been made in the intern program so that there is support from the House for my amendment.

This amendment would add a new title XII under the Higher Education Act of 1965, which would authorize the Commissioner of Education to make grants to institutions of higher education to establish internship programs in State and local government. It is an amend-

ment which fits into the total program of higher education and it encourages our young people to learn more about our Government through practical experience.

Now that the public's confidence in Government seems to be at a low ebb, it is very necessary for our college and university students to test and temper their theoretical classroom knowledge with the realities of the governmental process. My amendment provides for such an experience.

Under this internship program, institutions of higher education would apply for funds from the Commissioner of the U.S. Office of Education to establish fulltime internships in State and local government. The guidelines for the distribution of grant funds would be set by a special 12-person advisory council consisting of educators and government officials who have had an interest and experience in internship program. The funds would be distributed among the States on the basis of the ratio a State's congressional delegation bears to the total number of Members of Congress. The program would be financed by 50-percent Federal matching grants for the intern stipends and 100-percent Federal financing of the administrative costs. Appropriations are authorized at a level of $5,000,000 for each of fiscal years 1975 through 1977.

It is anticipated that 6,410 students would be able to participate on a fulltime 12-week internship. This would allow approximately 15 internships per congressional district in each State. All intern nominations would be proposed by participating institutions of higher education and State and local government. The internships would carry academic credit through the sponsoring institutions of higher education. Each student would receive a stipend equal to at least $2 per hour while working as an intern.

Mr. President, several colleagues have asked whether this intern program would allow one agency in each State to administer all of the internships in State and local government. Of course that decision is up to the advisory council to the Office of Education, but it is the legislative intent of the amendment, that a central intern agency could administer the program for a specific State. If, for example, a State establishes a consortium of institutions of higher education to administer the intern program, I assume the council and the Commissioner would find no limitations on making grants available to such a group.

The program I am proposing today would hopefully attract only the best qualified, the most dedicated students into government internships. Although the exact qualifications of the interns would be left up to the institutions of higher education and State and local government, I am sure they would look for new ideas, imagination, integrity, social conscience, as well as academic excellence. This program will do far more than provide invaluable insight and experience for college and university students. It will be a source of energetic, enthusiastic and capable assistance for elected public officials from mayors and city councilmen to Governors and State legislators.

I have discussed this amendment with the manager of the bill, the distinguished Senator from Rhode Island (Mr. PELL).

I am hopeful that he will see fit now, as he did on another occasion, to accept this particular amendment. I believe it has special merit and that it will prove a very valuable part of the practical education of young men and women in our institutions of higher education who seek to get a better insight into the operation of government, not from the theoretical or academic point of view but through participation in the governmental process.

Mr. President, I conclude by saying that this type of program has been operated in many colleges throughout the United States and has proved very worthwhile. Internships exist in over 30 of our States and hundreds of our cities and have proven to be very successful from the standpoint of students as well as public officials.

I believe that the broad bipartisan cosponsoring of my amendment indicates the proposal has the kind of support which should stand it well in any examination as to the merits.

The PRESIDING OFFICER. Does the Senator ask unanimous consent to have the Senators indicated listed as cosponsors?

Mr. HUMPHREY. Yes, I ask unanimous consent that that be done.

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

Mr. HUMPHREY. Mr. President, I notice that the manager of the bill has returned to the Chamber. I wish to ask the Senator from Rhode Island if he is prepared to comment on the amendment.

Mr. PELL. Mr. President, this amendment was accepted on another bill a year or two ago. The amendment does have merit. I was disappointed when we lost the amendment in the House earlier. I am inclined, speaking for the majority side, to recommend acceptance of the very meritorious amendment of the Senator from Minnesota.

Mr. President, the amendment offered by the Senator from Minnesota would establish a Federally-funded political leadership intern program. It should be remembered that an amendment along the same lines was added to S. 659, the Higher Education Act of 1972, on the Senate floor but was unfortunately unacceptable to the House Members of the conference.

The present amendment differs from the previous one in that—the internships are to be in local and State government offices as opposed to Federal offices and—they are to be administered by an institution of post-secondary education as opposed to the previous method.

Although I preferred to keep S. 1539 limited to elementary and secondary education, there are higher education amendments already in it; I do believe in the aims of the Humphrey amendment and would, with minority concurrence, recommend acceptance of the amendment.

Mr. DOMINICK. Mr. President, I have no objection to the amendment, but I would point out we had trouble with this proposal in conference last year and we may have the same problem this year.

Mr. HUMPHREY. May I respectfully suggest to my two distinguished colleagues that we ran into trouble because the previous proposal included interns at the congressional level. The present amendment applies only to the State and local government. Hopefully, with the capabilities of the two distinguished Senators from Rhode Island and from Colorado, we will be able to succeed this year. I thank the Senators for their help.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HUMPHREY. I yield back my time.

Mr. PELL. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HUMPHREY. Mr. President, I call up my amendment No. 1250.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

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

On page 368, line 21, strike out the word "and".

On page 368, line 24, strike out the period and insert in lieu thereof a semicolon and the word "and".

On page 368 after line 24, insert the following:

"(4) to develop the capacity of preelementary school children for reading, and to establish and improve preelementary school programs in language arts and reading.".

On page 369, line 2, after "(a)" insert "(1)".

On page 369, between lines 9 and 10, insert the following new paragraph:

"(2) The Commissioner is further authorized to contract with either State educational agencies, local educational agencies, or both, or with nonprofit educational or child care institutions, for the carrying out by such agencies and institutions, in areas where such schools are located, of such demonstration projects, for preelementary school children. Such demonstration projects are to be instituted in kindergartens, nursery schools, or other preschool institutions.".

On page 369, line 16, after the word "identify" insert the following: "preelementary and".

On page 369, line 23, after the word "for" insert the following: "elementary school".

On page 370, line 17, after the word "testing" insert the following: "in programs for elementary school children".

On page 370, line 18, insert before the semicolon a comma and the following: "and for programs for preelementary school children a test of reading proficiency at the conclusion, minimally, of the first-grade program into which the nursery and kindergarten programs are integrated".

On page 371, line 11, strike out the word "and".

On page 371, line 18, strike out the period and insert in lieu thereof a semicolon.

On page 371, between lines 18 and 19, insert the following new paragraphs:

"(14) coordination and continuity for preelementary programs with respect to subsequent programs, so that a nursery school language arts and reading program shall be shown to lead into a kindergarten program which is integrally related to the nursery school program, and a kindergarten language arts and reading program shall be shown to lead into a first-grade program which is integrally related to the kindergarten program; and

"(15) assessment, evaluation, and collection of information on individual children by teachers during each year of the preelementary program, to be made available for teachers in the subsequent year, in order that continuity for the individual child not be lost.".

On page 371, line 25, strike out the word "and".

On page 372, line 4, strike out the period and insert in lieu thereof a semicolon and the word "and".

On page 372, between lines 4 and 5, insert the following new paragraphs:

"(3) whenever appropriate, sufficient measures will be taken to coordinate each preelementary reading program with the reading program of the educational agencies or institutions which such preelementary school children will be next in attendance; and

"(4) the preelementary reading and language arts program will be carried out as part of a general learning environment.".

On page 372, line 6, after the word "section", insert the following: "or other agency or institution making an application under paragraph (2) of section 702(a)".

On page 373, line 4, after the word "subsection", insert the following: "or an applicant under paragraph (2) of section 702(a)".

On page 382, line 12, strike out "$75,000,000" and insert in lieu thereof "$82,000,000".

On page 382, line 13, strike out "$80,000,000" and insert in lieu thereof "$88,000,000".

On page 382, line 14, strike out "$85,000,000" and insert in lieu thereof "$93,000,000".

On page 382, line 16, after the period insert the following: "Of the sums authorized to be appropriated under this subsection, not less than $7,000,000 in the fiscal year ending June 30, 1975, and not less than $8,000,000 in each of the fiscal years ending June 30, 1976 and June 30, 1977 shall be available to carry out programs authorized under paragraph (2) of section 702(a).".

Mr. HUMPHREY. Mr. President, this particular amendment that I am introducing as an amendment to title 7 of S. 1539, I believe, would make a valuable addition to an already excellent proposal. Problems in reading have long been identified as among the principal causes of failure for the children in our schools. The national reading improvement program in title VII is a major effort to address this problem, by providing for major experimental and demonstration programs in reading with children in the elementary schools, and coordinating this with extensive investigation of reading problems under the aegis of the National Institute of Education. The intention is to find a way to help children to get off to a good start in reading, and it is a long-due and worthwhile proposal.

What my amendment would do is to provide for demonstration programs to test the feasibility of further extending the benefits of this proposal to children before they enter the elementary schools. It is generally agreed that the experiences children have with reading or reading-related activities in the pre-elementary years have a significant impact on their ability to learn quickly in the elementary grades.

There have, of course, been experimental programs carried out with these younger children, and there have even been some rudimentary programs integrated into child care, nursery, or kindergarten programs. The problem has been that more often than not the children have left these programs only to enter an elementary school which takes no account of the type of learning experience they have already had. The benefits of the preelementary school experience are thus too often lost through lack of any continuity or, worse still, the child is confused by the melange of methods and experiences which lack any coordination.

The national reading improvement program offers us a major opportunity to find out how to make the best use of these early experiences in reading. The amendment I am proposing authorizes the establishment of demonstration programs in reading in qualified child care centers, nursery schools, or kindergartens for children in the 2 years before entering the first grade. It requires that such demonstration programs be coordinated with programs in the schools which the children will subsequently be entering. For the first time we will have an opportunity to see the impact of a continuous effort to reach preschool children with training to improve their abilities in language skills and comprehension.

Little coordinated effort has been put into such preschool training in language skills, and virtually no effort has gone into establishing continuity between the reading training of preschool agencies and the schools. Through authorizing the demonstration projects which I propose, we can do some investigating and evaluating to find out what structural arrangements for carrying out these programs work the best, what arrangements provide the greatest continuity and benefits for the child's development of reading skills.

I am suggesting a very moderate level of funding—$7 million in the first fiscal year. This will give us time to get some projects running and to find out which are most effective.

We must not lose this opportunity to devise comprehensive reading training, and training in reading-related skills, for our children at the earliest point at which it may be beneficial to them. Title VII is a major positive innovation in Federal aid to education, and it gets to the children in the way and at the time that can do the most good. What I propose is that we make a moderate but valuable addition to the program which will help to fulfill its purpose and promise.

Mr. President, this amendment did not come out of thin air but out of my personal visits and consultations with a number of teachers in my State of Minnesota, as well as elsewhere in the United States. It also stems from a good deal of reading that I have attempted to do over the years about the subject of reading instruction. I am hopeful we will permit this kind of demonstration project to be established. Most of us know children learn very rapidly in the preschool years and many of the reading habits that children establish start much earlier than grade 1.

What we are seeking to do by this amendment is to start several demonstration projects that will have continuity for children from age 4 to age 6, as they move from a preschool reading experience into regular elementary education. In the past we have had no coordination.

This amendment is tied to title VII of the bill, the reading improvement program, and if the amendment is agreed to we might find we have struck on something that might be very helpful to the reading program generally.

I have discussed this matter with the manager of the bill (Mr. PELL), and the Senator from Maryland (Mr. BEALL) who has been an active proponent of this proposal, as well as the Senator from Missouri (Mr. EAGLETON). Senators BEALL and EAGLETON have worked hard to provide for legislative authorization for reading improvement demonstration programs in elementary schools across the Nation. I have given my full support to this program and intend to be a spokesman in the Senate for its adoption.

Mr. PELL. Mr. President, I have listened to the explanation of the amendment. I am familiar with it from before. The amendment does have merit. It means that over the next few years every citizen will spend the equivalent of 10 cents, and it is for a good cause. I think most Americans would be willing to spend a dime for that purpose in the next few years.

For that reason I recommend that the amendment be accepted.

Mr. HUMPHREY. I thank the manager of the bill.

Mr. DOMINICK. Mr. President, being one of the principal sponsors of the right to read measure we have in this legislation I welcome any new initiative we can get in order to get people to read.

I think all of us here know how poor the reading capacity of many Americans is by reading letters addressed to our offices from constituents. Some of those letters are terrible. If we can start a new system to learn to read early, I am delighted to accept the amendment.

Mr. HUMPHREY. I thank my distinguished colleagues.

Mr. President, I yield back my time.

Mr. PELL. 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 Minnesota.

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I should like to call up an amendment sponsored by my colleague (Mr. ALLEN) and myself, No. 1178.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read amendment No. 1178.

Amendment No. 1178 is as follows:

On page 138, line 21, after the word "workers", insert the words "and of migratory fishermen".

On page 139, line 3, after the word "workers", insert the words "and of migratory fishermen".

On page 148, between lines 6 and 7, insert the following:

"(ii) Section 141(c)(1) of such title I is amended by adding after the words 'migratory agricultural workers' each time it appears in such section the following: 'and migratory fishermen'.

"(iii) Section 141(c)(2) of such title I is amended by inserting after the word 'workers' the following: 'and migratory fishermen'.

"(iv) Section 141(c)(3) of such title I is amended by inserting after the word 'worker' the following: 'or of a migratory fisherman'."

On page 148, line 7, strike out "(ii)" and insert in lieu thereof "(v)".

On page 148, line 10, strike out "(iii)" and insert in lieu thereof "(vi)".

On page 148, line 20, strike out "(iv)" and insert in lieu thereof "(vii)".

On page 148, line 23, strike out "(v)" and insert in lieu thereof "(viii)".

Mr. SPARKMAN. Mr. President, this amendment is a simple one. It simply provides that children of migratory fishermen may be taken care of in the same way as children of migratory agricultural workers. This means a great deal to my area, and I am sure to many other areas of the country where there is a sizable fishing industry.

I have discussed this amendment with the distinguished chairman, and I believe he is willing to accept the amendment. I hope so, anyhow.

Mr. PELL. Mr. President, the Senator from Alabama is correct. We have discussed it and I see no reason in the world why migratory aquacultural workers should not be given the same treatment as migratory agricultural workers. The need for this amendment arose from the fact that the Office of Education definition of "migratory agricultural workers" did not include migratory aquacultural workers.

Therefore, I support the proposal of my colleague that migratory agricultural and migratory aquacultural workers be considered alike.

Mr. DOMINICK. Mr. President, will the Senator from Alabama indulge me for a few questions?

Mr. SPARKMAN. Yes.

Mr. DOMINICK. First of all, who are migratory fishermen? I thought all fishermen were migratory. I am when I am fishing.

Mr. SPARKMAN. Yes; the Senator and I would be migratory fishermen because we move from one place to another hoping to make a catch, but there are many fishermen in the country who move from place to place just as agricultural workers move from place to place. This amendment is to put them in the same place as migratory agricultural workers—nothing more and nothing less.

Mr. DOMINICK. There is, then, a definition within the Department of Labor of what constitutes a migratory fisherman?

Mr. SPARKMAN. I cannot answer that.

Mr. DOMINICK. Because, with all due respect, I do not think all fishermen would be classified as migratory fishermen, even though we might travel up and down the stream or go across the lake.

Mr. SPARKMAN. No, it is not intended to apply to them at all. It is for the people who make a living by fishing. That is their work.

Mr. DOMINICK. Let us take the salmon fishermen in Alaska or the tuna fishermen off Block Island, R.I. Are they classified as migratory fishermen?

Mr. SPARKMAN. I would not think they would be migratory fishermen unless fishing was their means of livelihood, and, second, if they did not confine themselves to one particular area; but in different parts of the country, fishermen move just as agricultural workers do, from Florida northward as the seasons change, and I think the same thing would apply to fishermen.

Mr. DOMINICK. I think the Senator from Alabama has a pretty good idea. My only question is, Who is to be classified as a migratory fisherman, because I have never heard the term fisherman so classified? Does the Senator from Alabama have any specific examples to give me so we can clear up the record on that point?

Mr. SPARKMAN. I am sorry. I cannot give the Senator any specific examples, but I do know there are fishermen who make a living fishing and who move from one area to another as the seasons change.

Mr. DOMINICK. And as they try to catch different species of fish?

Mr. SPARKMAN. I am sure the Senator realizes that fish have a way of going with certain waters according to the warmth or the coldness of those waters and with certain tides. One might be fishing, for instance, on the western coast of Florida one day or one week, and perhaps the next week those fish would move around to the east coast of Florida. Fishermen follow those fish and make their living out of that work.

Mr. DOMINICK. But we are talking about marketable fish; the Senator is not talking about people who follow fill fish around from place to place just for the sport, or who follow dolphin around just for the sport of catching them?

Mr. SPARKMAN. No; this amendment is only for people who make their living by fishing.

Mr. DOMINICK. I thank the Senator from Alabama. With that record, I have no objection to the amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. SPARKMAN. I am willing to yield back my time.

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

Mr. SPARKMAN. I yield.

Mr. LONG. I personally am confused a little by this. It seems to me we would definitely want to take care of the fishermen if they are in the same situation as migratory labor, but it was my impression that when fishermen go to sea on their boats their families do not migrate; that the fishermen move back and come back to their home ports. Are we to understand that there are sizable numbers of fishermen's families that move around from season to season as the migratory workers do?

Mr. SPARKMAN. That is right, as the seasons change. Perhaps the waters of the gulf get warmer, the fish move to cooler waters, and the fishermen and their families go where the fish are. I am not talking about one who has a boat and goes out into the gulf off the coast of Louisiana, for instance, but I am talking about those who follow the runs of fish from one area to another.

Mr. LONG. I was not sure that fishermen moved their families from place to place. It was my impression that while the fishermen might be gone a long time, their families remained at the same place. Of course, there may be exceptions to that. I would be surprised to find there are any number of such situations.

Does the Senator have any figures or statistics showing how many such families there may be?

Mr. SPARKMAN. No, but surely the Senator from Louisiana would recognize the fact that there are many boats right off the coast of his State on which the families of fishermen live and that they do move from area to area.

I have in my hand now some facts that have been handed to me. This is a result of research by the staff, and it states that this amendment is good and that it is necessitated because of an action by the Office of Education denying the Mobile County, Ala., schools—so this happened in my own State—title I funds on behalf of the children of migratory fishermen. For the school year 1970–71, 345 such children were counted for title I purposes. This number rose to 368 in 1971–72, and declined to 336 in 1972–73.

Then, for the 1973–74 school year, the Office of Education decided that migratory fishermen did not come under the definition of "migratory agricultural workers," as specified in title I legislation. No payments were made to Mobile County for that year.

The amendment would clarify the situation. If they are migratory, just as the agricultural workers are migratory—and certainly the Department has its own definition of what constitutes migratory conditions—and if the agricultural workers are entitled to have their children counted, I say the migratory fishermen ought to have their children counted, too, so that Mobile County can receive its payments on behalf of the children of the migratory fishermen.

Mr. LONG. My thought was that if this was a problem, I would be pleased to vote for the amendment. As the Senator has convinced me that it is a problem, I shall be pleased to vote for the amendment.

The PRESIDING OFFICER. Is all time yielded back?

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

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

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendments of the Senator from Alabama.

Amendment No. 1178 was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, I ask unanimous consent that the managers on both sides yield me 10 minutes each on the bill.

Mr. DOMINICK. Mr. President, I am happy to yield 20 minutes to the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, the pending bill is S. 1539. Also on the calendar is H.R. 69, which legislates in the same general area and is a superior bill in at least

three areas to the Senate bill now under consideration.

I refer, in the first place, to the impacted aid provision, which is superior to the committee version of the bill and is superior to the Beall amendment, which was adopted by the Senate just this afternoon.

H.R. 69 is a superior bill as regards the title I funding, because the Senate bill would provide title I funds to the State, based in large part upon what the States were doing for the needy or disadvantaged children in the general areas of support, not merely in education; whereas the House bill provides the same amount of money, some $1.8 billion, among the States, based on the number of needy in general in the various States.

The Senate bill would provide more money to the wealthier States, whereas the House bill would make more adequate provision for the needy children wherever they might be.

The third area in which the House has a bill that is superior to the Senate bill is in the area of regulating or abridging or limiting the forced mass busing of schoolchildren.

Later—in the early part of next week, as a matter of fact—the distinguished Senator from Michigan (Mr. GRIFFIN) plans to submit two developments that might take place in the legislative process prior to that time, and to offer the House bill as a substitute to whatever the Senate has finally agreed to at the time he offers the House bill. If we knew that the provisions in the House bill could be substituted for the Senate bill, there would be no need of further debate. But we do not know that, so we are going to have to debate the various areas as we come to them.

Tomorrow, the distinguished Senator from Arkansas (Mr. MCCLELLAN) will bring up, by unanimous consent, the title I amendment, which, by and large, was a substitute for the Senate provision in title II, the provisions of the House bill. As soon as the Senate has finally acted on the provision relating to impacted areas, a move will be made to substitute the House provisions there.

Later, starting on Wednesday, we shall have debate on the Gurney amendment, with the substitute for the Senate provisions, the antibusing provisions, of the House bill. But at this time I shall address my remarks to the provisions of the Gurney amendment and to discuss the general question of whether Congress has the power to curb massive, forced busing and cross-busing, since we are dealing with the denial of equal protection clause of the 14th amendment, and in particular are dealing with busing. Our power to deal with busing is unmistakably clear.

So at this time I am going to address my remarks to whether Congress has the power to legislate in this field. I believe it is abundantly clear that Congress does have this power. Not only does it have this power; it has the duty under the Constitution to act in this area.

So I support the amendment to S. 1359 to be offered by the Senator from Florida (Mr. GURNEY) on Wednesday, with the final vote on that amendment to take place on Wednesday at 5 o'clock in the afternoon. That amendment incorporates the amendment of the Equal Opportunity Act of 1974 as set out in title 2 of H.R. 69, which passed the House on March 17, 1974. If we were considering only the House bill, H.R. 69, which I want to substitute for the Senate bill, we would have no occasion for the debate which is going to take place this week with respect to the education bill.

The Senate version of this bill, will be voted on Wednesday afternoon at 5 o'clock. No vote can be had on that question prior to that time, so every Senator will have an opportunity to discuss the amendment if he sees fit to do so.

This is an amendment which is essentially the same as the provisions of the bill, which passed the House in 1972, only to be killed in the Senate by a liberal-led filibuster in the waning days of the 92d Congress. Senators talk about filibustering. But they do not like to use the word "filibuster" until it serves their ends to have a filibuster. Then we have a filibuster. Such a filibuster took place with respect to the House bill having to do with the regulation of forced busing and the power of the Federal courts to use it as a remedy. That bill was filibustered to death in the Senate. Three cloture votes were taken on the bill. While a majority favored the bill, a determined minority was able to defeat it.

I do not object to the use of the filibuster. I have used it myself from time to time. Sometimes it does rather go against the grain a little bit for those who are deprived of the use of the filibuster to have it used against themselves, when its users can do so to great advantage.

On January 18, 1973, I introduced these provisions as a separate bill because I am convinced that many Senators who opposed the Equal Education Opportunities Act in 1972 are under an honest misapprehension as to its purpose, intent, scope and effect. This is a most charitable explanation of some of the opposition.

In any event, I believe that honest misapprehensions persist and that chief among them is the belief that Congress is without the power to prescribe limitations on the formulation of discretionary remedies in school desegregation cases. Since this issue would seem to be controlling, I believe it will be useful to explore this question separately before addressing other reasons advanced in opposition to the Senate provisions with respect to busing. Obviously, if Congress has no power to impose limitations on discretionary remedies imposed by Federal judges in the formulation of desegregation decrees, it would be a mere exercise in futility to attempt to do so.

Mr. President, let us put the problem in current perspective. This amendment, which is the provision of the House bill with respect to limiting or remedying forced busing, among other things provides Federal courts with guidelines for the formulation of desegregation decrees when such decrees require busing of students.

Mr. President, desegregation of schools is here to stay, and we have no complaint as to the law of the land in this respect. We have read in the papers in recent days of the 20th anniversary of Brown against Board of Education.

Certainly that was a landmark decision, and it was a decision with which the junior Senator from Alabama agrees—that the States should not and shall not have authority to make assignments of pupils to public schools because of race or color. If that were still the law today, there would be no complaint about this whole problem.

But the Supreme Court has changed its ruling by 180 degrees, and is now holding that the States or the public entities must assign by race in order to overcome racial imbalance. There is no quarrel anywhere in the country that I know of—certainly not in the South—against Brown against Board of Education. It is the departures from that rule that we object to. These guidelines are both timely and of urgent importance, not only to individual victims of forced busing schemes, but also to Congress and to the Nation.

Mr. President, seldom in our history have we faced a situation where overwhelming numbers of citizens were simultaneously critical of the performance of the executive, Legislative and judicial branches of the Federal Government. We face that situation today. The reasons for popular disillusionment with the separate branches are different, but the complaint of unresponsiveness of the Federal Government to the will and wishes of a vast majority of the people is applicable to each. On reflection, I think the complaint is justified.

For one thing, the Federal judiciary is not responsible to the people and was not intended to be; and it can hardly be expected to be responsive to the will of the people.

While the Chief Executive is responsible to the people, the executive branch of Federal Government is not necessarily responsive to the will of the people. In fact, the Federal bureaucracy is well nigh uncontrollable and far too often it is responsive neither to the people nor to their elected representatives.

Finally, there is increasing evidence that the vast majority of the people are dissatisfied with the performance of Congress. The charge against Congress is not only that it is unresponsive, but also that it thwarts the will of the majority by many affirmative enactments and by denying the people recourse to constitutional amendment to protect what they conceive to be cherished liberties.

Mr. President, it is not my purpose or desire to make a case against Congress or to be unduly critical of Congress. However, I sincerely believe that the refusal of Congress to halt excessive forced busing in the face of overwhelming sentiment against it is a tremendously important factor in the erosion of confidence in Congress. This amendment—that is, the Gurney amendment—if enacted, will serve as a concrete manifestation that a substantial number of the Members of Congress are concerned about and are responsive to just griev-

ances stemming from a misuse of the coercive power of Federal Government in the area of forced busing.

Mr. President, the hostility of the people to the idea that the Federal Government has the power to yank up children and transport them to distant schools in conformity with half-baked sociological theories is illustrated by poll results. I shall offer some of the fairly recent poll results as exhibits. For the moment, let me read some of the captions. From an April 1970, Gallup poll, "Public Opposes Busing by a Margin of 8 to 1"; from the publication Nation's Schools, June 1970, issue, "Forced Busing Vetoed by 90% of Schoolmen"; from a March 1972 Florida poll, "74% Back Antibusing Amendment"; from a September 1973, Gallup poll:

> Only one person in 20—(5%)—selects busing from a list of plans that have been suggested as ways to achieve integration in public schools.

Mr. President, we can imagine the results were the pollsters to ask, "Do you favor massive busing and cross-busing schemes as imposed in Charlotte, N.C.?" or, "Do you favor closing neighborhood schools and consequent busing of your children to distant schools?" There can be no doubt where the sentiment of the people lies on these questions. Yet Congress has taken no affirmative action—at any rate no action approved by the Supreme Court—to respond to the will of the people on this issue. The practice goes on in the South and is spreading throughout the Nation. Congress cannot reasonably continue to neglect the will of the people on this issue.

Mr. President, as previously indicated, the first question to be decided is whether Congress has the power to curb massive forced busing and cross-busing. Since we are dealing with an alleged denial of equal protection of the laws under the 14th amendment, the power of Congress to deal with remedies is unmistakably clear. Section 5 of the amendment provides:

> Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Innumerable Civil Rights Acts have been enacted in the exercise by Congress of this power. But, the argument is advanced that Congress can enact laws only to broaden rights protected by the 14th amendment and not laws which delineate the rights so protected. The poverty of this argument is illustrated by the fact that many liberals in Congress who advance the argument have insisted on doing what they say Congress has no power to do. They have consistently supported enactments beginning with the Civil Rights Bill of 1964 and continuing year after year in various education bills which specifically deny the U.S. Attorney General the power and the U.S. District Courts the jurisdiction to interfere with the extensive system of segregated schools located in areas outside of the South.

Obviously, if Congress can exclude certain types of segregation from protection of the 14th amendment, it can properly limit the use of the coercive power of Federal Government in the vindication of rights which Congress may determine to be protected under the equal protection clause—and for that matter the rights which the Supreme Court may determine to be protected by the amendment.

The PRESIDING OFFICER (Mr. McCLURE). The time of the Senator from Alabama has expired.

Mr. ALLEN. Mr. President, I ask unanimous consent for an additional 5 minutes to be equally divided.

Mr. PELL. Mr. President, so far as I am concerned, that would be fine. So take 2½ minutes out of my side.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 2½ additional minutes at this time.

Mr. ALLEN. I thank the Chair. Speaking on behalf of the Senator from Colorado (Mr. DOMINICK) I yield myself an additional 2½ minutes. [Laughter.]

Traditionally Congress has determined rights and remedies under all of the so-called civil rights amendments. Witness the innumerable remedies prescribed by Congress in the many Civil Rights Acts enacted since adoption of the 14th amendment. However, in the school cases, the U.S. Supreme Court took the initiative in determining a right to be protected when it reversed a longstanding precedent in school cases and the Court prescribed its own remedies—and there is the rub. The Court invoked its equity power and vested jurisdiction of school desegregation cases in inferior courts and authorized U.S. District Court judges to fashion equitable remedies.

Mr. President, the equity power of a court is a power of discretion in judges. In earlier days, it was recognized as a discretionary power to decide questions concerning the meaning of the Constitution in law, and also its meaning in equity. In this connection, the eminent New York jurist, Robert Yates, a prominent antifederalist, warned of the danger of vesting in an independent Federal judiciary the power to construe the Constitution by what judges in their discretion might from time to time consider the spirit or grand design of the Constitution rather than the letter of the instrument. Yates wrote:

> "From this method of interpreting laws (says Blackstone) by the reason of them, arises what we call equity;" which is thus defined by Grotius, "the correction of that, wherein the law, by reason of its universality, is deficient; for since in laws all cases cannot be foreseen, or expressed, it is necessary, that when the decrees of the law cannot be applied to particular cases, there should be a power vested of defining those circumstances which had they been foreseen the legislator would have expressed; and these are the cases, which according to Grotius, lex con exacte definit, fed arbitrio boni viri permittet.

Mr. President, we have inherited some of the problems foreseen by Robert Yates. For example, the Brown I decision is the result of an equitable construction of the Constitution which reversed a prior equitable construction of the 14th amendment, as it applies to public schools. Obviously, Congress could not have foreseen this reversal of a prior Supreme Court decision and, therefore, no statutory remedies were available to the Court. Consequently, the Court invoked its equity power to prescribe remedies. The Supreme Court has since complained of the absence of guidance from Congress in formulating remedies, but Congress has not acted and we are continuing to suffer the consequences of the abuse of near limitless discretion of Federal judges.

Heretofore Congress has limited the exercise of discretionary power in Federal judges in the use of injunctions in cases involving constitutionally protected rights, and it can certainly limit the use of a mandatory injunction to coerce the people into accepting massive uprooting of schoolchildren and forcibly transporting them from school to school in the discretion of Federal judges. The question of whether or not Congress may "dilute" constitutional safeguards is not at issue. It must be admitted, in reason, that every statutory vindication of a constitutionally protected right is an expression of what is considered appropriate by Congress to achieve the desired end. Such an expression by Congress necessarily excludes inappropriate or unnecessary measures to accomplish this end. It is well to remember that in the busing issue, we are addressing the question of remedies and the scope and character of the relief to be offered. The basic question is, will Congress perform its duty to provide statutory remedies in school cases, or will it continue to permit Federal court judges to formulate remedies consistent with the sociological hangup of individual judges?

I hope no one will take lightly this matter of abuses of the equity power of discretion in judges in the field of education. Let me read portions of a resolution adopted by the school board of Chesterfield County, Va., which was under a mandatory injunction of a U.S. district court judge. This is the case in which, in the exercise of equity power, the judge ordered the consolidation of school systems of three separate political subdivisions of the State of Virginia in order to meet an arbitrary racial quota in each of the school systems.

> Whereas, if the members of this Board remained free to vote in accord with their independent and collective judgment and will, they would unanimously refuse to request the State Board of Education to create a single division to be composed of the Counties of Chesterfield and Henrico and the City of Richmond; and
>
> Whereas, our attorney aforesaid has advised us that the Order of January 10, 1972, mandatorily directs that we cast our vote in favor of a "request" that the State Board of Education create a single division composed of the Counties of Chesterfield and Henrico and the City of Richmond on or before 30 days from January 10, 1972, under pain of punishment for contempt by fine or imprisonment should we fail to do so.
>
> Now, therefore, acting under the duress, coercion, and compulsion of the penalties consequent upon doing otherwise, and acting contrary to our individual and collective judgment and wills, and under the compulsion of the Order aforesaid, we do adopt and vote for the following:

Mr. President, if we multiply this example of coercion by the number of school boards in the 16 Southern and border states, we grasp the magnitude of

the judicial tyranny which pervades nearly a third of the States of our Nation. It is of little comfort to know that this particular case was reversed by the U.S. Court of Appeals for the Fourth Circuit and that the reversal was allowed to stand by the narrow thread of an equally divided U.S. Supreme Court.

That was the Richmond-Chesterfield-Henrico case.

The fact remains that it is within the discretionary power of U.S. district court judges to enter such decrees, and it is within the discretionary power of the U.S. Supreme Court to uphold such decrees—unless Congress decides otherwise.

That is what we are trying to do with this amendment that will be voted on Wednesday.

In the case just mentioned, about 106,000 students were involved. The judge, in the exercise of his discretion, decided to create what would have been one of the largest school districts in the United States covering an area of 752 square miles. The children in this mammoth district who were to be denied the right to attend the school closest to their respective places of residence were to be chosen—would you believe it—by lot. I repeat, they were chosen by lot. The principal witness in the case was a sociologist who advanced a theory of "viable racial mix." The U.S. district court judge bought the theory hook, line, and sinker. His opinion bristled with statistics and racial ratios. In toto, the record of the case is a hideous but "viable" example of judicial abuse of a discretionary power which should and must be curtailed by Congress. I have reference to the U.S. district court, not the appellate court in this particular case.

Mr. President, it is true that up until now the parents and schoolchildren in the South have borne the brunt of the hardships and disrupted education and lives of children affected by compassionless U.S. district court judges.

I might say that this is not a racial view because both races in the South, in the judgment of the Senator from Alabama, disapprove heartily of the busing ordered by the Federal courts, because it is the black children who are, by and large, transported on the buses for 10, 20, and 30 miles, and the hardship is placed upon them. It is their schools which are closed with the constant requirement of busing on their part.

But now, the U.S. Supreme Court in the exercise of its discretion has reached out to Denver, Colo., and, as one Supreme Court Justice put it:

> The Court's (U.S. Supreme Court) opinion virtually compels the finding on remand that Denver has a dual school system. That city will then be under an affirmative duty to desegregate its entire system "root and branch". Again the critical question is what ought this constitutional duty entail.

The question presented is one which Congress must attempt to answer, at least to the point of establishing guidelines. It is the duty of the Congress to determine the nature and scope of the remedy. Otherwise, the remedy will be left to the unlimited discretion of judges who have shown no reluctance to order massive busing and cross-busing such as was inflicted upon the citizens of Charlotte, N.C. Unfortunately, the Charlotte remedy, approved by the U.S. Supreme Court, became the model for all U.S. district court judges, and has become known as the "root and branch" treatment.

Mr. President, each Senator has before him the separate provisions of the amendment. I will not elaborate on them at this time. I will point out that among the limitations on busing contained in the bill, not one conflicts with any ruling of the U.S. Supreme Court nor do they singly or collectively deny any person a constitutionally protected right. It would impose reasonable and humane limitations on the discretionary powers of U.S. district courts in formulating desegregation decrees when such decrees involve busing of children.

I do hope that all Senators will agree that all persons in the United States are entitled to freedom from coercion imposed in the exercise of limitless discretionary powers by any branch, agency, or officer of the U.S. Government, and that it is in the public interest to terminate at the earliest practicable date by means consistent with the Constitution the involvement of U.S. courts in decisions affecting the operation, management, and control of public schools.

One final word—there are no dual school systems in the South—Federal judges continue their involvement under the pretext of eliminating "vestiges" of dual school systems. Translated that means that there are schools which do not have a racial ratio of pupils as reflected in the population as a whole. Of course, the U.S. Supreme Court has said that no individual has a constitutionally protected right to attend a school having a racial balance. But, then, it said that in the South any deviation from racial balance is prima facie evidence of the vestiges of a dual school system. Accordingly, such school systems are compelled to achieve, as nearly as possible, by one means or another, a racial balance in the schools—to which no one is entitled as a constitutional right. But, of course, this is only a part of a shameful heritage from the U.S. Supreme Court of nonthink, double talk, and judicial exposition which relies on cryptic key words and phrases to confound and confuse the people.

Mr. President, let me say this in conclusion. Congress has the power to correct this situation. In my judgment it has a duty to correct it. It is my sincere and solemn hope that the Senate will cooperate with the House in efforts to shackle the unlimited discretionary powers of Federal judges to tyrannize the people of our Nation.

Mr. WILLIAMS. Mr. President, all of my colleagues in this Chamber this week will be considering extension of the most important Federal education legislation ever passed by the Congress. I know that my colleagues share my deep concern about the standard of education in this Nation, and about the future of hundreds of thousands of schoolchildren. Thus, it is important that we carefully review the major title on this bill, title I—Special Educational Programs and Projects for Educationally Deprived Children.

I know that there will be extensive debate and discussion about the Senate committee title I formula, and about the concomitant effects this formula will have on delivering educational services to disadvantaged children. It is with this in mind that I review for my colleagues the history and development of this formula in committee, and point out its salient characteristics. I know also that my colleagues will be wondering about the specific financial effect this formula will have on their own States, and no doubt they will be comparing this effect to the effect of action taken by the other body just a few weeks ago. At the outset, I want to emphasize that this program is an educational program above all for economically and educationally deprived children. It is furthermore a program for the entire United States and not just for a single State or a single region. My colleagues in reviewing the effects of the committee bill should keep in mind that in the final result the purpose is to insure equality of educational opportunity to all children and that title I is designed to insure that poor children are assisted so that they, too, will share in that opportunity.

There can be no doubt that some States under the committee formula appear to receive smaller estimated allocations than they would under the House bill. Yet it is also true that under the House bill, some States receive much less than they would receive under the Senate formula.

THE PROBLEM WHICH FACED THE COMMITTEE IN DEVELOPING A NEW TITLE I FORMULA

The committee has taken great care to develop a formula to fairly meet the needs of all of the States. I point out to my colleagues that hearings were completed on this legislation in October, and that the subcommittee met in executive session for 10 days in November and December. We worked on the bill in full committee throughout January and February and held 3 full days of meetings in March. Most of the sessions and the interim period was devoted to the consideration of the title I formula, and to the problems of delivering funds equitably to children in need of services throughout the country.

I am sure my colleagues know that it is not an easy problem which we were considering. In the absence of a single relative index of poverty which is current, detailed, and equitable, it is difficult to make judgments which will affect not only the quality but the continuity of programs for the education of children. As has been evident in debates on appropriations for this program throughout the past year, every one of us is concerned about the effects of abrupt changes on their States and it is for this reason that the committee evaluated this problem in its entirety. The formula which the committee has developed is a fair formula: It is one which will provide continuity to all education agencies so that they may not again be faced with the disruption of funds; it is one which takes into account variations in not only standard of living throughout the Nation, but the real costs of educating children; it is one which assures that one area of the country will not benefit to

the disadvantage of another area; and it is a formula which assures that we will not be faced with problems in the ensuing years of relying entirely on data which had been collected some 10 years previous.

As my colleagues know, and as was evidenced by debate in this Chamber on three appropriations bills in the last year, the availability of the 1970 census data threw a veritable monkey wrench into the development of extension legislation for title I. As a result of population shifts and increases in the standard of living, the $2,000 low-income factor in existing law for determining eligible children showed an absolute decrease of over 2 million children. Those States showing the greatest decrease include Alabama, Arkansas, Georgia, Iowa, Kentucky, Mississippi, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, and West Virginia. Each of these States showed a loss of over 60 percent of the number of children in families with incomes under $2,000 who were eligible for title I. Furthermore, over the decade, States had changed their payment levels and eligibility requirements for AFDC. Thus, while AFDC had been adopted as a factor to provide updating of the static census data and to provide an additional measure of relative poverty, the AFDC factor, which represented 10 percent of the population in 1965, grew to represent, as a result of the release of the new census data, over 60 percent of the population in measuring eligible title I children.

It was therefore necessary to develop an equitable title I formula which will remain current and reflective of where children are actually living, and which will provide a measurement of poverty which reflects differences in costs of living and standard of living. To accomplish this the committee reviewed all poverty indicators which are in use throughout the Government. There can be no question that the factors which have been adopted by the committee in the title I formula demonstrate improvement over the approach in existing law. The poverty factors used combine the Orshansky index and AFDC.

THE FORMULA FACTORS IN S. 1539

The Orshansky index, which is utilized in drawing up estimated welfare budgets by the Social Security Administration, is based on food costs to a family of a particular size, age, sex of head of household, and nonfarm or farm residence. Because of these adjustments, and particularly because of its variation in income level for size of family, the Orshansky poverty index is much more sensitive to variations in individual family needs than a single poverty level can be.

Now the Orshansky index is not without its problems. It is derived based solely on the cost of food for a family of given size. It assumes that a family spends approximately one-third of its budget on food and the overall income level is determined to be three times that figure. The index is then applied against census figures to determine number of children eligible in a given county. I point out to my colleagues that under this index no further adjustments are made for variations in housing costs, transportation costs, medical costs, or for the cost of other necessary services. Furthermore, the only adjustment which is made for area of residence is a small variation for farm or nonfarm family; it assumes that food costs will be 15 percent less for a farm family.

Thus, this index has no adjustment for urban, suburban, or rural nonfarm cost-of-living variations.

The Orshansky index is further limited by the fact that it can only be applied against static census population figures and therefore is not reflective of changes which occur between the 10-year period of census counts.

In order to assure that a similar problem will not result in the future because of changes in population, the committee has continued to count children from families receiving AFDC payments as a second poverty factor in the title I formula. Without this updating factor we would be faced with the same problem as has occurred in the last year when there was a switch to new census figures. In the absence of AFDC data, the title I formula would continue to rest on population figures collected in 1969, and as population shifts take place, areas would be continuing to count children who were in school in 1969.

Under the committee formula full AFDC caseload is included in order to assure that all States are able to share equally in the use of the AFDC allocation factor no matter how high or low the State pays its AFDC recipients. While the question can be raised of "double counting," I point out that no data exist on AFDC population over the Orshansky income level—$4,250 for a family of four—and few States have many families receiving payments at that level. Furthermore, because the census is recognized to have a high error rate and substantial undercounting for poverty populations, inclusion of total AFDC caseload should provide additional assurance that we are reaching more of the population that we have intended to reach under title I.

To assure for future years that the AFDC counts will not become the overriding factor in distribution of funds under the title I formula, the committee has divided the allocations so that 60 percent of the funds will be distributed according to the number of Orshansky children and 40 percent will be distributed according to the number of children in families receiving AFDC payments.

Finally, to assure continuity and stability to districts receiving funds under title I, the committee has also adopted the concept of a "base year." Under this concept no local education agency would receive less than it received in fiscal year 1974. Thus new money would be distributed on the 60 percent Orshansky-40 percent AFDC formula and all States would share in this new money.

Mr. President, I know that it has been alleged that AFDC is biased toward urban areas because so-called wealthier States are able to pay higher AFDC payments and add more people to their welfare rolls. I know also that it has been argued that it is more equitable to provide a ceiling on the amount that a State may be allowed to use as a measure of its per-pupil expenditure.

In response to these assertions, I reiterate the points I made in my opening remarks. This program has, for 10 years, been designed for all of the 50 States.

It is intended to provide assistance to poor children on an equitable basis. Until the time when the Government of the United States has developed a poverty index which accurately reflects the differences in cost of living and relative poverty in each of the 50 States, I say that we must insure that all areas are treated fairly, even if it means adding 50 factors to the formula.

REASONS FOR USING BOTH THE ORSHANSKY INDEX AND AFDC—DIFFERENCES IN COSTS OF LIVING

Some of my friends will argue that Orshansky is the universally accepted poverty index of the Federal Government and is adequate by itself. But I must tell them that Ms. Mollie Orshansky, who developed this index, forthrightly counseled the Congress against adopting this index as the sole indicator of poverty. Furthermore, she indicated that the index concentrates only on "the income-food relationship, although in urban families, particularly those handicapped not only by a lack of money but by minority status and large families, the cost of housing may be critical."

The facts are, Mr. President, that costs do vary across this Nation. I point out, that according to a Gallup poll, although food costs on an annual basis average $2,080 for other areas of the country, in the Eastern States food costs are $2,548 for an average family of four. Mr. President, I ask unanimous consent that an article in the March 14, 1974, New York Times describing this Gallup poll be inserted in the RECORD at this point in my remarks.

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

FAMILY FOOD BILL PUT AT $42 A WEEK

The typical American family spends $42 a week for food, including milk, according to Gallup Poll findings made public yesterday in Princeton, N.J.

That figure is a record high, up $5 from last year's figure and nearly four times the sum recorded in the first survey on food costs in 1942, when the amount was $11.

The median amount being spent for food is highest in the East at $49, the survey found. The figure recorded for each of the other three major regions was $40.

The amount spent differs sharply by income groups, according to the poll. Among those whose yearly household income is $15,000 and over, the figure is $52—$10 higher than the national finding. The amount declines by income level down to $29, the amount spent by families whose annual household income is under $5,000 a year.

The survey results reported yesterday were based on interviews with 1,444 nonfarm people interviewed in person in more than 300 localities across the country during the periods Feb. 8 to 11 and Feb. 15 to 18. Farm families were excluded from the survey since many farmers raise their own food.

MEDIANS BY REGION

The question asked was: On the average about how much does your family spend on food, including milk, each week?

Following are the medians for the national nonfarm population by region, showing the

change since 1971, the last time results by region were reported:

	1971	1974
National	$34	$42
East	39	49
Midwest	31	40
South	33	40
West	34	40

Following are the latest results by family income groups:

$15,000 and over	$52
$10,000–$14,999	46
$5,000–$9,999	34
Under $5,000	29

Gallup surveys during a quarter century show that food costs have increased in the United States to a lesser extent than have nonfood costs. In 1947 food costs represented about one-half the total minimum amount that the public said was needed to make ends meet. More recent surveys have shown, it was said, that food costs represent a smaller proportion—between one-third and one-fourth in the latest survey on the subject.

The public's current estimate of the minimum amount a family of four needs per week to make ends meet, as reported last Sunday, is $152. This is five times the figure recorded in 1937, which was $30 a week.

Mr. WILLIAMS. Mr. President, furthermore, although nationally monthly housing rents average $81.26, in those States above the median in AFDC standard payment levels the average monthly contract rent is $93.57; while the average in those States paying below the median in AFDC standard payment levels is $74.92—a difference of $20 per month.

In some States, particularly those where heating fuel costs do not add into utility bills, the average monthly rents drop as low as $47. Mr. President, I ask unanimous consent that a table comparing monthly rents and the AFDC standard payment level index, by State AFDC rank be inserted in the RECORD at this point in my remarks.

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

MONTHLY RENTS AND AVERAGE AFDC PAYMENTS RANKING OF STATES ACCORDING TO AFDC STANDARD PAYMENT LEVELS AND THE MEDIAN CONTRACT RENT FOR RENT AGREED TO OR CONTRACTED FOR

[With or without furnishings, utilities, and services]

	AFDC standard index	Contract rent
Alaska	141.5	$171.00
Indiana	125.7	83.00
Maine	123.5	71.00
Kansas	121.4	75.00
New York	118.9	96.00
Connecticut	118.6	105.00
New Jersey	114.7	111.00
Minnesota	114.7	101.00
Nevada	113.6	123.00
Utah	113.3	80.00
Vermont	112.9	76.00
Massachusetts	112.6	91.00
California	111.2	113.00
Missouri	110.8	74.00
Wisconsin	110.4	92.00
Maryland	110.1	110.00
Michigan	109.0	95.00
Nebraska	106.7	77.00
Pennsylvania	106.6	74.00
South Dakota	106.2	70.00
North Dakota	106.2	77.00
Average rent		93.57
Median	105.6	[1] 81.26
New Hampshire	104.2	79.00
Delaware	101.6	91.00
Washington	101.2	95.00
Wyoming	100.2	$73.00
Arkansas	99.5	52.00
Oregon	99.1	87.00
Virginia	98.8	93.00
Mississippi	98.1	47.00
Illinois	96.6	107.00
Idaho	96.3	71.00
Hawaii	94.9	120.00
Arizona	94.2	91.00
West Virginia	93.8	52.00
Kentucky	93.5	63.00
Ohio	91.3	84.00
Rhode Island	90.3	67.00
Colorado	83.2	97.00
Alabama	81.4	49.00
Georgia	80.1	66.00
Montana	79.7	71.00
Florida	78.9	94.00
Oklahoma	78.6	65.00
Tennessee	76.8	62.00
South Carolina	73.6	51.00
Louisiana	72.2	62.00
New Mexico	71.9	73.00
North Carolina	70.8	59.00
Texas	69.7	77.00
Average rent		74.92

[1] National average.

Note: 1970 Census of Housing figures; HEW standard payment level.

Mr. WILLIAMS. Mr. President, furthermore, according to census figures, real estate taxes for single family dwellings vary from $563 in the Northeast to $168 in the South, and vary from $27 tax per $1,000 value in the Northeast to $12 tax per $1,000 value in the South.

And, Mr. President, we see some significant facts if we examine tax effort and untapped tax capacity. According to figures collated by Advisory Committee on Intergovernmental Relations: States above the median AFDC standard payment level had a tax effort of 12.03 as compared to a 10.57 tax effort of States below that median. In relation to untapped tax capacity, the States above the median AFDC standard payment level had an untapped capacity of 3 percent, as compared to those below the median level which had an untapped capacity of 56 percent.

Mr. President, I ask unanimous consent that a table comparing AFDC standard payment level rank with tax effort and untapped tax capacity, by State, be inserted in the RECORD at this point in my remarks.

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

TAX EFFORT, UNTAPPED TAX CAPACITY, AND AFDC STANDARD RANK BY STATE AND HIGH OR LOW RANK FOR AFDC

	AFDC rank	Tax effort	Untapped capacity
Alaska	141.5	12.33	30.9
Indiana	125.7	11.18	44.4
Maine	123.5	13.09	23.3
Kansas	121.4	9.86	63.6
New York	118.9	16.14	0
Connecticut	118.6	11.99	34.8
New Jersey	114.7	11.99	34.8
Minnesota	114.7	13.399	20.8
Utah	113.3	11.94	35.2
Nevada	113.6	8.34	80.3
Vermont	112.9	14.88	8.5
Massachusetts	112.6	14.32	12.7
California	111.2	12.96	24.6
Missouri	110.8	9.62	68.3
Wisconsin	110.4	15.48	4.3
Maryland	110.1	12.99	24.2
Michigan	109.0	11.86	36.0
Nebraska	106.7	10.40	56.3
Pennsylvania	106.6	12.45	29.6
North Dakota	106.2	12.32	31.6
South Dakota	106.2	12.83	27.8
Iowa	106.2	11.76	37.2
U.S. median	105.6	11.80	38.[3]
New Hampshire	104.1	9.19	75.6
Delaware	101.6	10.98	47.0
Washington	101.2	11.91	35.3
Wyoming	100.2	8.83	82.3
Arkansas	99.5	8.3	92.3
Oregon	99.1	10.73	50.5
Virginia	98.8	10.58	52.6
Mississippi	98.1	11.24	42.6
Illinois	961.6	12.01	34.4
Idaho	96.3	11.11	45.3
Hawaii	94.9	14.65	10.2
Arizona	94.2	11.93	35.3
West Virginia	93.8	10.76	50.2
Kentucky	93.5	9.87	63.6
Ohio	91.5	10.98	47.0
Rhode Island	90.3	13.60	18.7
Colorado	83.21	11.18	44.4
Alabama	81.4	9.53	69.3
Georgia	80.1	10.03	60.8
Montana	79.7	10.69	51.5
Florida	78.9	9.00	79.4
Oklahoma	78.6	8.00	101.7
Tennessee	76.8	9.58	68.3
South Carolina	73.6	11.06	45.9
Louisiana	72.2	10.15	69.1
New Mexico	71.9	10.64	51.3
North Carolina	70.8	10.43	34.8
Texas	69.7	8.67	88.1

Mr. WILLIAMS. Mr. President, I believe that these figures give us a good indication of the true variation in costs to families in different regions of our Nation. And just as family costs vary, cost to State and local governments for providing education services also vary.

For example, the average salary of teaching staff varies from a low of $7,100 in the State of Mississippi to a high of $14,000 in the State of New York.

Mr. President, I ask unanimous consent that a table comparing average instructional staff salaries, by State, be inserted in the RECORD at this point in my remarks.

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

AVERAGE SALARY OF INSTRUCTIONAL STAFF, 1972–73[1]

State	Dollars	Percent of national average
Alabama	8,262	78
Alaska	15,176	143
Arizona	10,863	102
Arkansas	7,613	72
California	12,700	119
Colorado	10,280	97
Connecticut	11,200	105
Delaware	11,100	104
District of Columbia		
Florida	9,740	92
Georgia	8,644	81
Hawaii [1]	10,900	102
Idaho	8,058	76
Illinois	11,564	109
Indiana	10,300	97
Iowa	10,564	99
Kansas	8,839	83
Kentucky	8,150	77
Louisiana	9,388	88
Maine	9,277	87
Maryland	11,787	111
Massachusetts	11,200	105
Michigan	12,400	117
Minnesota	11,115	104
Mississippi	7,145	67
Missouri	9,329	88
Montana	8,908	84
Nebraska	9,080	85
Nevada	11,472	108
New Hampshire	9,313	88
New Jersey	11,750	110
New Mexico	8,600	81
New York	[2] 14,300	134
North Carolina	9,314	88

AVERAGE SALARY OF INSTRUCTIONAL STAFF, 1972-73[1]

State	Dollars	Percent of national average
North Dakota	8,362	79
Ohio	9,800	92
Oklahoma	8,200	77
Oregon	9,949	93
Pennsylvania	11,000	103
Rhode Island	10,800	101
South Carolina	8,310	78
South Dakota	8,034	75
Tennessee	8,450	79
Texas	9,029	85
Utah	8,990	84
Vermont	9,110	86
Virginia	9,842	92
Washington	11,100	104
West Virginia	8,505	80
Wisconsin	10,812	102
Wyoming	9,900	93

[1] Source: NEA estimates.
[2] The mean salary (p. 22) has replaced the median salary reported in the NEA table for comparability with the other States.

Mr. WILLIAMS. Mr. President, looking at allocations per child under the title I program, the State of Mississippi received $419 per child eligible in fiscal year 1974, whereas the State of New York received $240 per child eligible for that same period. And in terms of the amounts these two States would be eligible for if title I were fully funded under the existing law, the State of Mississippi could receive 87.1 percent of its total per pupil expenditure from the Federal Government under this program, whereas the State of New York is only eligible to receive 50 percent of its total per pupil expenditure.

THE FORMULA IN S. 1539 COMPARED TO THE FORMULA IN H.R. 69

Mr. President, I am not quarreling with the fact that different States are reimbursed differently under this program. I strongly believe that as a national program, title I has borne different burdens in different States. But this program has a primary objective, and this must be remembered, it has an objective for all States and for all children within those States to provide them with assistance so that they may be assured an equal educational opportunity.

And it is this objective that the committee has responded to in formulating the title I formula. We have adopted a base year approach which will ensure that all local education agencies will receive at least the allocation they received in fiscal year 1974.

The committee has adopted a two-factor formula for new money appropriated above fiscal year 1974 allocations which combines both Orshansky and AFDC by splitting the appropriations so that 60 percent of the appropriations are distributed according to the number of children counted under the Orshansky index and 40 percent of the appropriations will be based on the number of children whose families receive AFDC payments.

We have continued provisions in existing law providing for full funding of State agency programs for the handicapped, migrants, the neglected and the delinquent. In this respect, I point out to my colleagues that the House has changed these State agency provisions in such a way so that these important and valuable programs will be reduced by a total amount of $54 million: $24 million of this money is in programs for handicapped children; $22 million for the migrant programs; and $8 million for programs for the neglected, delinquent, correctional institutions, and programs for juvenile delinquents. And under this part of the House bill every State will lose money under their State agency allocations.

Furthermore, the committee has continued provisions of existing law which sets payment rates for the States at 50 percent of the State or national per pupil expenditure, whichever is higher.

My colleagues should be aware that the House bill has altered that provision too. It reduces the payment rate to 40 percent and places a ceiling on the amounts States can receive at 120 percent of the national average per pupil expenditure, and a floor of 80 percent of the national average per pupil expenditure. The effect of this provision is destructive of the very intent of title I: Which is to provide additional funding to States to assist them to come up to the national average and to provide additional benefits to States who have increased their expenditures for education. The 120-percent limitation on current educational expenditures by a State would, this year, affect five jurisdictions, including New Jersey, Connecticut, Alaska, New York, and the District of Columbia. But my colleagues should be aware that many of their States are very close to this proposed ceiling, and may exceed this ceiling in several years. These States in jeopardy include Delaware, 113 percent; Hawaii, 108 percent; Illinois, 110 percent; Maryland, 115 percent; Michigan, 114 percent; Minnesota, 117 percent; Oregon, 112 percent; Pennsylvania, 111 percent; Rhode Island, 112 percent; Wisconsin, 111 percent; and Wyoming 109 percent. I point out also that all other States will only be compensated at their State average per pupil expenditure or 80 percent of the national average. Mr. President, I ask unanimous consent that a table showing the 1974 average per pupil expenditures and such expenditures as a percentage of the national average, by State, be inserted in the RECORD at this point in my remarks.

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

FISCAL YEAR 1974 STATE AVERAGE PER PUPIL EXPENDITURES USED IN TITLE I AND AS A PERCENTAGE OF THE NATIONAL AVERAGE

	Amount	Percent
Alabama	$587.65	63.45
Alaska	1,596.21	172.34
Arizona	816.62	88.17
Arkansas	563.42	60.83
California	925.01	99.87
Colorado	880.53	95.07
Connecticut	1,128.27	121.82
Delaware	1,043.76	112.70
Florida	842.38	90.95
Georgia	630.26	68.05
Hawaii	1,005.29	108.54
Idaho	652.80	70.48
Illinois	1,020.94	110.23
Indiana	850.31	91.81
Iowa	944.65	101.99
Kansas	826.29	89.21
Kentucky	599.00	64.67
Louisiana	811.80	87.65
Maine	784.70	84.72
Maryland	1,073.93	115.95
Massachusetts	937.13	101.18
Michigan	$1,056.68	114.09
Minnesota	1,081.80	116.80
Mississippi	533.37	57.59
Missouri	794.89	85.82
Montana	853.03	92.10
Nebraska	862.05	93.08
Nevada	887.85	95.86
New Hampshire	803.97	86.80
New Jersey	1,234.08	133.24
New Mexico	762.21	82.30
New York	1,543.68	166.67
North Carolina	658.90	71.14
North Dakota	748.69	80.84
Ohio	820.30	88.57
Oklahoma	677.80	72.10
Oregon	1,034.98	111.74
Pennsylvania	1,027.51	110.94
Rhode Island	1,033.34	111.57
South Carolina	636.52	68.73
South Dakota	739.74	79.87
Tennessee	605.76	65.40
Texas	731.37	78.97
Utah	715.19	77.22
Vermont	920.32	99.37
Virginia	813.54	87.84
Washington	945.12	102.04
West Virginia	730.64	78.89
Wisconsin	1,028.93	111.09
Wyoming	1,009.24	108.97
District of Columbia	1,194.30	128.95
National average	926.18	

Mr. WILLIAMS. Finally, Mr. President, I believe it is important to note that the Senate committee continues funding of part B, incentive grants, and part C, grants for urban and rural districts with large poverty populations. But the House has repealed both of these parts. Both of these programs have provided additional assistance to States and local districts to provide them compensation for increasing their own commitment to education and to deal with more critical needs of highly concentrated poverty areas.

This change made by the House together with the changes made in the State agency allocations, in payment rate for average per pupil expenditure, and the virtual limitation of AFDC as a factor will have wide-ranging effects on State allocations and in-State distributions. I particularly caution my colleagues to examine the effects of this most complicated factor on individual districts within their States. For although the overall impact of the House formula may increase the allocation for the State as a whole, individual districts within a State may be substantially disadvantaged. This is particularly true for all urbanized areas where their budgets are already straining to provide good educational programs for children. For example, each of the following States would ostensibly "do better" under the House bill, but individual cities within these States would lose money:

Losses	
Colorado, Denver	−$54,000
Georgia, Atlanta	−500,000
Indiana:	
Fort Wayne	−59,000
Gary	−850,000
Kansas:	
Shawnee Mission	−6,000
Wichita	−260,000
Kentucky, Louisville	−1,500,000
Maryland:	
Prince Georges	−113,000
Baltimore	−1,900,000
Missouri, St. Louis	−140,000
Nebraska, Omaha	−660,000
Oklahoma, Oklahoma City	−290,000
Virginia:	
Norfolk	−268,000
Richmond	−414,000
Washington, Seattle	−344,000

In addition, the following additional cities will lose funding:

	Losses
Oakland	−$31,000
Contra Costa	−362,000
Los Angeles	−7,000,000
District of Columbia	−2,900,000
Chicago	−9,400,000
Des Moines	−483,000
Boston	−2,000,000
Flint	−104,000
Detroit	−2,300,000
Minneapolis	−1,200,000
St. Paul	−485,000
Newark	−3,100,000
Buffalo	−2,400,000
New York City	−52,000,000
Rochester	−1,900,000
Winston-Salem	−498,000
Charlotte	−377,000
Cleveland	−3,900,000
Columbus	−606,000
Toledo	−288,000
Dayton	−326,000
Akron	−308,000
Philadelphia	−7,300,000
Charleston, S.C	−90,000
Greenville, S.C	−330,000
Charleston, W. Va	−258,000

That is a total of 41 of the 100 largest cities which lose money under the House formula.

I wish to state again, Mr. President, that the Senate bill was not treated lightly by my committee. We have worked long and hard to find a way of equitably and justly distributing money under the title I program to assure that school programs and schoolchildren will be provided the continuity and quality of programs which title I is designed to support. We have developed a bill—and an allocation formula—which I believe assures each area, region and district with poor children a good way of continuing the work that they started to do in 1965. I urge all of my colleagues who are concerned about the children of this Nation to review carefully these provisions.

Mr. PELL. Mr. President, I suggest the absence of a quorum with the time to be charged equally to both sides.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. 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. PELL. Mr. President, tomorrow we will be deciding the question of the title I formula contained in S. 1539. That debate will, I believe, be engendered by an amendment to be offered by the distinguished Senator from Arkansas (Mr. MCCLELLAN). Indeed, I believe a suggested amendment has been offered for cosponsorship which is, in effect, the House title I formula, which is found in H.R. 69. Although I am not certain that that is the exact form of the McClellan amendment, it is to that formula that I address my remarks today.

When the committee discussed S. 1539, it was clear that some amendment was required to insure that the title I money was equitably distributed. With the introduction of the 1970 census figures, there were major shifts in the allocations of those funds because there had been major shifts in the number and distribution of children from low-income families. The charts on pages 13, 14, and 15 of the report show those changes. What the committee had to do was devise a formula which, working against a given figure, would be equitable to all.

Many different combinations of factors were attempted. However, as we worked on the formula, it became politically clear that no matter what the population shifts, no matter what the income levels, no Senator or Representative wanted his State to get less than it was now receiving. And then, of course, we were expected to devise a formula that, while taking nothing away, gave more money to each State.

The committee formula starts with the political reality—the base year; no local educational agency will receive less than it did in fiscal year 1974. These are the amounts actually set in last year's HEW appropriations bill with its floors and ceilings but at least using 1970 census figures.

I am sure my colleagues will recall the uncertainties faced by their constituents as the formulae for allocating title I money changed from the First Continuing Resolution for fiscal year 1974 to the Second Continuing Resolution to the final Labor-HEW Appropriations Act. School districts did not know from day to day whether they would be able to hire teachers or continue programs. Drastic shifts occurred within States, even though the total figure for the State remained constant.

The base year is designed to assure that this will not happen again in fiscal year 1975. Fiscal year 1974 allocations may not have been made as a result of the most careful deliberations, but they are an acknowledged fact. School administrators are now operating programs with real dollars. The base year would assure that these programs could be continued without interruption.

The second portion of the Senate formula distributes funds appropriated in addition to that base year on a totally new title I formula. This formula would count all children aged 5–17 determined by the 1970 census to be below the Orshansky poverty level, taking into account the variables of number of children in the family, sex of family head, and farm/nonfarm residence. This factor, as discussed earlier, seemed a far more flexible, and fair, standard of poverty than the current flat income level cutoff.

In addition, the formula would count for eligibility purposes all children aged 5–17 in families receiving aid to families with dependent children, regardless of the level of the payment received by such family. By counting all children on AFDC, the committee bill would assure that such children in all States would be counted in the formula.

The Senate is now being asked to reverse the decision of its committee and opt for a formula akin to one passed by the House. On first hearing, this sounds like a very reasonable request, for the charts which have been passed about would seem to indicate that more States do well with the House-passed formula than under the Senate-reported bill. However, the simple charts are misleading. One should ask, Why do the figures differ as they do? That is a fairly easy question to answer: The Senate, in drawing up its title I formula, was measuring State allocations against fiscal year 1974 payments, as opposed to some mythical figures as found in the House bill.

Harsh language—mythical figures—but such as must be used. For, to arrive at their most favorable formula, the House has simply done away with parts B and C of title I, those portions which deal with B, special incentive grants to States which exceed the national effort index, and C, the extra payments for school districts with a critically high impact of title I youngsters. To compound the myth, the House also cuts back on the payments made under title I generically known as the State agency grants. These are the moneys which provide educational services to handicapped children, neglected and delinquent children, and migrant youngsters, all programs which must be fully funded before local educational agency allocations are made. So, in effect, we in the Senate were working with the allocation of only $1.5 billion, while the House was dividing up $1.8 billion; with those rules, it is easy to devise a formula that appears to be beneficial to all.

The Senate committee sought to devise a formula that was of assistance to all portions of the country. The following chart shows the relative distribution of $1.885 billion under S. 1539 and the House version, which I understand will be the McClellan amendment. I ask unanimous consent that the chart be printed in the RECORD.

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

ALLOCATIONS FOR TITLE I ESEA AT THE APPROPRIATIONS LEVEL OF $1,885,000,000

State	S. 1539	McClellan amendment
Alabama	$41,003,771	$44,868,676
Alaska	5,719,074	5,133,969
Arizona	13,121,920	17,860,455
Arkansas	25,922,158	26,878,118
California	160,596,282	155,308,745
Colorado	16,380,821	17,644,100
Connecticut	19,822,696	19,337,838
Delaware	4,211,921	5,667,622
Florida	46,956,439	69,030,101
Georgia	48,786,472	49,082,811
Hawaii	5,369,770	5,680,949
Idaho	4,537,779	5,218,444
Illinois	99,063,570	90,791,114
Indiana	25,838,011	27,569,791
Iowa	17,601,364	16,865,389
Kansas	13,319,390	14,214,258
Kentucky	37,034,767	34,736,864
Louisiana	42,851,326	56,647,054
Maine	8,100,389	7,347,814
Maryland	30,584,021	31,735,735
Massachusetts	37,499,315	33,752,527
Michigan	83,629,258	80,178,685
Minnesota	29,178,450	27,897,524
Mississippi	42,506,259	43,192,865
Missouri	30,153,093	32,509,522
Montana	5,299,356	6,043,073
Nebraska	9,042,085	9,593,067
Nevada	1,848,649	2,586,141
New Hampshire	3,272,833	3,542,701
New Jersey	70,871,709	57,863,560
New Mexico	11,103,819	14,715,611
New York	279,870,988	211,465,572
North Carolina	62,168,372	55,534,793

ALLOCATIONS FOR TITLE I ESEA AT THE APPROPRIATIONS LEVEL OF $1,885,000,000—Continued

State	S. 1539	McClellan amendment
North Dakota	$5,835,388	$5,923,622
Ohio	61,277,636	59,707,305
Oklahoma	21,187,310	21,764,929
Oregon	15,032,958	17,363,589
Pennsylvania	90,023,841	86,375,668
Rhode Island	6,714,307	7,292,444
South Carolina	36,200,602	35,650,765
South Dakota	6,822,889	6,415,924
Tennessee	37,931,833	41,219,802
Texas	107,244,075	128,178,361
Utah	6,509,059	6,377,119
Vermont	3,888,696	3,902,980
Virginia	38,937,287	40,866,592
Washington	23,217,001	23,701,290
West Virginia	20,518,857	18,309,050
Wisconsin	27,303,244	30,409,486
Wyoming	2,267,749	2,784,831
District of Columbia	14,793,631	11,375,324

Mr. PELL. Generally, it can be said that the Senate bill is more favorable to the urban areas, while the House formula favors the rural areas. However, we need only look at the States of Rhode Island, Kentucky, and West Virginia to see that the statement does not always hold true. One point is clear: The House formula would take great amounts of money from the States of New York, New Jersey, Massachusetts, Pennsylvania, Michigan, North Carolina, and California, and distribute them to other States.

Yet that chart of the House formula which looks so good to so many States must be studied more fully. Since the Senate bill includes a base year, no educational agency will get less than it did in fiscal year 1974. The House does not include such a provision, so, while some States are in a better relative position, the breakdown wihtin the State, due to the intricacies of the McClellan formula, are fascinating. For example, in Georgia, 48 counties would receive less than they now receive; in Iowa, 42; in Kentucky, 42; in Mississippi and Missouri, 27; in North Carolina, 54. The figures speak for themselves. If you are giving more to one person, somebody else must be getting less. I ask unanimous consent that a chart showing a State-by-State breakdown be printed in the RECORD.

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

Number of counties per State receiving a decreased allocation under the McClellan amendment and S. 1539

[None under S. 1539]

Alabama	17
Alaska	7
Arizona	0
Arkansas	12
California	2
Colorado	5
Connecticut	0
Delaware	0
Florida	1
Georgia	48
Hawaii	0
Idaho	6
Illinois	12
Indiana	4
Iowa	41
Kansas	21
Kentucky	42
Louisiana	2
Maine	2
Maryland	0
Massachusetts	2
Michigan	2
Minnesota	10
Mississippi	27
Missouri	27
Montana	5
Nebraska	18
Nevada	1
New Hampshire	0
New Jersey	10
New Mexico	1
New York	19
North Carolina	54
North Dakota	15
Ohio	3
Oklahoma	14
Oregon	1
Pennsylvania	1
Rhode Island	0
South Carolina	19
South Dakota	27
Tennessee	35
Texas	32
Utah	7
Vermont	0
Virginia	20
Washington	0
West Virginia	24
Wisconsin	2
Wyoming	1
District of Columbia	1
Total	600

Mr. PELL. Under the McClellan amendment as I understand it, each county is held harmless at 85 percent of its prior year's funding. Put another way, this means that those 250 counties which are "held harmless" by the McClellan amendment will lose 15 percent of their title I funds next year, even with the additional appropriations proposed in the President's budget. And, since the hold harmless is only at the level of 85 percent of the preceding year, these counties could again suffer a loss of 15 percent in fiscal year 1976. I ask unanimous consent to have printed in the RECORD at this point a chart showing how much money these counties will lose under the McClellan amendment over the next 2 years. As the asterisks show, a number of them will continue to lose money even after fiscal year 1976.

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

EFFECTS OF THE DECLINING 85 PERCENT HOLD HARMLESS IN THE MCCLELLAN AMENDMENT ON COUNTIES AT THE HOLD-HARMLESS LEVEL

State and county	Fiscal year 1974 [1]	S. 1539 [2]	McClellan amendment, fiscal year 1975 [3]	McClellan amendment, fiscal year 1976 [4]
Alabama:				
Geneva	$340,459	$365,463	$289,390	$283,659
Henry	322,295	344,098	273,951	258,217
Jackson	516,555	549,549	439,072	401,231
Marion	276,127	294,541	234,708	219,500
Alaska:				
Haines	9,690	10,432	8,236	[5] 7,001
Ketchikan	117,388	128,000	99,780	87,475
Seward	18,826	20,316	16,002	[5] 13,602
Sitka	29,141	31,052	24,770	[5] 21,054
Upper Yukon	96,211	102,249	81,779	[5] 69,512
Valdee-Chitina-Whitt	33,640	36,851	28,594	[5] 29,042
Arkansas:				
Greene	322,573	342,740	274,187	244,942
Howard	103,531	108,808	88,001	[5] 74,801
Newton	131,904	141,075	112,118	108,407
Sharp	114,153	121,998	97,030	93,078
California: Alpine	5,472	5,966	4,651	4,387
Colorado:				
Crowley	42,696	45,581	36,292	35,165
Dolores	6,801	7,344	5,781	4,943
Georgia:				
Berrien	178,117	190,363	151,399	149,652
Dawson	70,136	73,094	59,616	[5] 50,673
Dodge	313,597	340,176	266,557	254,108
Fannin	160,204	172,106	136,173	137,642
Franklin	147,842	157,117	125,666	[5] 106,816
Gilmer	135,984	144,701	115,586	106,352
Heard	88,049	94,023	74,842	[5] 63,615
Madison	163,736	172,992	139,176	[5] 118,299
Marion	135,353	146,455	115,050	113,148
Montgomery	122,613	132,268	104,221	92,288
Pike	162,222	171,360	137,889	[5] 117,205
Schley	82,372	87,874	70,016	[5] 59,514
Screven	313,975	338,436	266,879	255,846
Seminole	167,647	179,904	142,500	[5] 121,125
Stewart	193,254	209,442	164,266	156,763
Taylor	184,172	200,335	156,546	148,388
Telfair	241,820	261,741	205,547	201,011
Towns	63,703	67,990	54,148	48,356
Webster	$100,033	$126,929	$85,028	$72,535
Wheeler	108,989	118,108	92,641	83,913
Wilcox	169,034	182,777	143,679	135,113
Worth	411,359	442,317	349,655	322,376
Idaho:				
Blaine	16,596	17,612	14,107	[5] 11,991
Boise	5,576	5,982	4,740	[5] 4,029
Clark	5,067	5,426	4,307	3,931
Illinois:				
Brown	69,733	73,034	59,273	[5] 50,382
Carroll	134,225	139,740	114,091	[5] 95,978
Johnson	64,637	68,719	54,941	51,537
Indiana: Warrick	122,383	131,085	104,026	99,346
Iowa:				
Adair	82,073	86,311	69,762	64,762
Audubon	93,236	97,851	79,251	72,367
Benton	120,382	128,163	102,325	100,020
Buena Vista	115,942	122,403	98,551	88,773
Calhoun	69,768	74,271	59,303	57,360
Cass	106,175	112,378	90,249	86,158
Cedar	140,171	145,386	119,145	[5] 101,274
Cherokee	123,934	130,942	105,344	101,577
Clayton	182,413	192,847	155,051	156,881
Grundy	66,343	70,280	56,392	56,676
Guthrie	105,033	110,681	89,278	[5] 75,886
Hancock	120,382	125,345	102,325	[5] 86,976
Ida	75,096	77,987	63,832	[5] 54,257
Lyon	131,926	138,406	112,137	105,846
Mills	73,066	76,305	62,106	[5] 52,790
Monona	106,682	113,512	90,680	87,090
Montgomery	83,595	88,337	71,056	[5] 60,397
Polk	1,560,867	1,705,663	1,326,736	1,258,631
Ringgold	90,445	94,647	76,878	65,346
Shelby	131,127	143,221	116,558	[5] 99,074
Tama	145,372	154,300	123,566	109,807
Taylor	93,109	97,590	79,143	72,633
Washington	96,788	103,001	82,270	79,067
Winnebago	55,307	58,347	47,011	41,884
Worth	57,717	60,783	49,059	42,269

Footnotes at end of table.

State and county	Fiscal year 1974 [1]	S. 1539 [2]	McClellan amendment, fiscal year 1975 [3]	McClellan amendment, fiscal year 1976 [4]
Kansas:				
Barber	$26,084	$27,730	$22,171	$20,037
Clark	10,080	10,456	8,568	[5] 7,283
Comanche	14,995	15,622	12,746	[5] 10,834
Edwards	21,169	22,405	17,994	[5] 15,295
Elk	20,287	21,393	17,244	[5] 15,657
Gray	25,328	26,946	21,529	19,591
Greenwood	58,847	62,865	50,020	50,053
Jackson	56,074	60,067	47,663	47,861
Pratt	33,014	34,744	28,062	[5] 23,853
Republic	54,940	57,709	46,699	[5] 39,694
Smith	38,811	40,941	32,989	31,976
Wabaunsee	40,071	42,117	34,060	28,962
Kentucky:				
Adair	271,877	290,608	231,095	221,554
Butler	169,182	177,979	143,805	[5] 122,234
Casey	335,084	353,958	284,821	[5] 242,098
Edmonson	130,829	138,584	111,205	95,290
Green	110,517	118,722	93,939	95,448
Jefferson	5,031,569	5,544,525	4,276,831	4,050,714
Lincoln	298,119	318,010	253,401	243,678
Menifee	99,162	104,420	84,288	[5] 71,645
Robertson	39,867	41,637	33,887	[5] 28,804
Russell	256,233	271,795	217,798	185,366
Trigg	145,085	153,948	123,322	107,617
Massachusetts: Dukes	27,528	29,645	23,399	20,684
Minnesota: Jackson	171,281	179,280	145,589	123,752
Mississippi:				
Issaquena	90,443	98,182	76,877	74,905
Smith	266,915	284,803	226,878	212,705
Union	318,507	341,338	270,731	259,323
Missouri:				
Carter	58,125	62,842	49,406	45,634
Gentry	74,012	78,322	62,910	54,930
Grundy	78,551	83,809	66,768	59,832
Holt	50,182	53,814	42,655	42,254
Lafayette	104,651	113,785	88,953	85,691
New Madrid	696,879	747,683	592,347	523,443
Pemiscot	802,917	869,244	682,479	643,444
St. Clair	107,047	112,765	90,990	[5] 77,341
Worth	46,399	48,484	39,349	[5] 33,523
Montana:				
Dawson	60,485	64,057	51,412	[5] 43,700
Garfield	17,335	18,296	14,735	14,502
Golden Valley	5,061	5,196	4,302	[5] 3,657
Toole	24,548	26,746	20,066	20,208
Nebraska:				
Blaine	11,600	11,915	9,860	[5] 8,381
Deuel	5,422	5,855	4,609	[5] 3,917
Douglas	2,244,586	2,480,355	1,907,897	1,912,597
Dundy	29,380	30,845	24,973	21,996
Harlan	24,841	26,293	21,115	20,491
Hooker	8,448	8,691	7,181	[5] 6,104
Johnson	53,339	56,032	45,338	39,656
Nemaha	59,013	61,510	50,161	[5] 42,637
Otoe	80,702	86,357	68,597	66,038
Pawnee	52,078	54,981	44,266	42,708
Perkins	18,914	20,022	16,077	14,442
Saline	61,157	64,058	51,983	[5] 44,186
Seward	91,168	95,127	77,493	[5] 65,869
Thomas	3,026	3,052	2,572	[5] 2,186
Nevada: Lincoln	33,397	34,808	28,387	[5] 24,129
New Jersey: Camden	5,987,101	6,517,003	5,089,033	4,641,936
New Mexico: Catron	23,817	25,228	20,244	[5] 17,208
New York:				
Bronx	46,234,075	50,356,482	39,298,944	[5] 33,404,096
Genesee	334,205	363,566	284,074	274,959
Kings	67,172,700	73,246,537	57,096,768	49,401,952
Nassau	6,400,044	7,017,366	5,440,035	5,058,305
New York	26,020,783	28,468,366	22,117,648	20,766,560
Queens	12,786,676	13,966,474	10,868,670	10,550,960
Richmond	2,158,831	2,342,437	1,835,005	1,625,578
Suffolk	7,705,858	8,481,007	6,549,976	6,117,796
Westchester	6,201,274	6,780,819	5,271,080	4,739,180
North Carolina:				
Avery	194,459	205,552	165,290	144,595
Beaufort	651,854	694,281	554,076	522,438
Caswell	357,139	382,019	303,568	284,766
Cherokee	247,424	261,004	210,310	[5] 178,764
Clay	87,140	92,709	74,069	69,848
Duplin	789,060	841,108	670,701	656,603
Durham	1,367,765	1,488,350	1,162,599	1,080,274
Forsyth	1,833,012	1,992,468	1,558,059	1,432,833
Franklin	565,975	603,611	481,079	472,028
Gates	179,452	190,974	152,534	145,069
Graham	90,419	95,513	76,856	67,794
Greene	493,714	520,933	419,657	363,621
Hoke	339,484	362,874	288,561	291,876
Johnston	1,219,217	1,292,510	1,036,334	[5] 880,884
Macon	204,674	215,676	173,973	152,654
Madison	296,102	315,706	251,687	235,461
Polk	116,398	124,124	98,938	99,399
Rutherford	397,115	426,934	337,548	328,539
Sampson	924,753	988,655	786,040	776,388
Stokes	233,931	250,185	198,841	198,640
Swain	120,559	128,188	102,475	91,024
Warren	520,917	551,035	442,167	386,377
Watauga	235,696	249,628	200,342	179,361
Yancey	194,711	207,685	165,504	166,719
North Dakota:				
Bowman	$23,579	$25,114	$20,042	$20,168
Burke	44,391	46,936	37,732	32,735
Dunn	77,179	82,295	65,602	59,553
Emmons	79,197	83,944	67,317	66,250
Logan	79,954	82,198	67,961	[5] 57,767
McIntosh	74,153	78,042	63,030	54,209
Oliver	51,453	53,242	43,735	[5] 37,175
Sargent	53,218	56,405	45,235	43,919
Sheridan	70,622	73,869	60,029	[5] 51,024
Ohio: Cuyahoga	12,448,365	13,737,708	10,581,106	9,002,359
Oklahoma:				
Atoka	195,947	211,315	166,555	167,983
Harper	24,461	26,141	20,792	20,386
Lincoln	152,950	164,132	130,007	117,888
Love	63,424	68,090	53,910	52,939
McIntosh	229,866	247,174	195,386	184,576
South Carolina:				
Abbeville	208,986	225,525	177,638	172,566
Allendale	243,291	262,632	206,797	187,578
Barnwell	316,190	341,927	268,761	269,753
Calhoun	368,910	391,908	313,573	[5] 266,537
Chesterfield	640,579	686,421	544,492	524,809
Williamsburg	1,281,033	1,363,718	1,088,877	1,041,558
South Dakota:				
Bon Homme	93,069	98,320	79,109	69,658
Clark	78,440	82,427	66,674	[5] 56,673
Clay	41,112	44,295	34,945	30,808
Codington	131,029	138,103	111,375	[5] 94,668
Douglas	73,018	77,454	62,065	60,398
Grant	103,284	108,874	87,791	[5] 74,623
Hamlin	58,137	60,329	49,416	[5] 42,004
Hanson	82,098	85,826	69,783	[5] 59,316
Jerauld	49,309	51,911	41,913	[5] 35,626
Lincoln	89,412	93,663	76,020	[5] 64,600
Lyman	35,437	38,127	30,121	[5] 25,603
McPherson	75,666	79,452	64,316	[5] 54,669
Mellette	49,057	53,087	41,698	38,071
Miner	62,298	66,077	52,953	50,430
Perkins	49,183	52,418	41,806	42,445
Spink	107,824	113,954	91,650	80,998
Turner	107,824	113,922	91,650	82,819
Tennessee:				
Carroll	268,776	285,678	228,460	[5] 194,191
Clay	171,280	182,354	145,588	126,738
Decatur	103,550	110,798	88,017	76,643
DeKalb	125,622	133,153	106,779	[5] 90,762
Giles	264,740	284,271	225,029	224,241
Hancock	239,895	256,523	203,911	195,954
Jackson	170,902	181,392	145,267	130,531
Johnson	207,226	222,091	176,142	173,356
Lake	192,343	207,638	163,491	165,613
McNairy	285,047	304,462	242,290	230,088
Meigs	101,658	108,308	86,409	87,231
Moore	32,919	34,497	27,981	[5] 23,784
Perry	77,946	82,206	66,254	[5] 56,316
Pickett	68,739	72,723	58,428	[5] 49,664
Smith	138,487	147,272	117,714	107,617
Van Buren	56,631	59,236	48,136	[5] 40,916
Weakley	184,902	198,681	157,167	157,237
Texas:				
Armstrong	3,273	3,420	2,782	[5] 2,365
Cass	284,654	303,783	241,956	216,023
DeWitt	285,284	306,798	242,491	225,505
Falls	368,880	397,532	313,548	317,951
Fayette	228,504	242,504	194,228	172,724
Freestone	207,605	221,599	176,464	171,302
Hamilton	46,582	49,109	39,595	[5] 33,655
Lavaca	247,011	263,149	209,959	202,433
Lee	120,484	129,302	102,411	101,928
Rains	40,539	42,261	34,458	[5] 29,289
Roberts	2,895	3,050	2,461	2,212
Rockwall	69,621	73,915	59,178	[5] 50,301
Throckmorton	6,168	6,685	5,243	[5] 4,456
Utah:				
Daggett	3,914	4,129	3,327	[5] 2,828
Piute	10,479	11,257	8,907	[5] 7,571
Virginia:				
Bland	65,956	68,425	56,063	[5] 47,653
Floyd	89,539	94,239	76,108	66,273
Highland	30,518	31,830	25,942	[5] 22,049
Lee	639,133	674,318	543,263	[5] 461,773
Scott	405,322	428,798	344,524	328,563
Wythe	231,666	245,479	196,916	175,702
Norton City	66,460	70,712	56,491	51,126
West Virginia:				
Cabell	805,620	877,868	684,777	692,002
Lincoln	486,593	525,373	413,604	390,960
Monroe	179,618	191,428	152,675	146,807
Ohio	400,861	432,259	340,732	295,037
Pleasants	67,546	73,038	57,414	53,729
Raleigh	907,300	977,101	771,205	769,277
Taylor	159,310	169,943	135,413	[5] 115,101
Wayne	599,863	649,771	509,883	518,172
Webster	250,633	268,343	213,038	185,998

[1] Fiscal year 1974 appropriations level for pt. A at the impoundment level of $1,396,000,000. Pt. C allocations unavailable.

[2] Allocations under pt. A of S. 1539 at the President's budget level. Additional amounts may also be available to counties under pt. C.

[3] Allocations under pt. A of the McClellan amendment at the President's budget level. Pt. C is repealed.

[4] Projected allocations for fiscal year 1976 under pt. A of the McClellan amendment reflecting the declining "hold harmless" provision (i.e., that a county is only held harmless to 85 percent of the previous year's 85 percent). Data used in calculations not projected.

[5] Denotes number of allocations still at the hold-harmless level in fiscal year 1976; in fiscal year 1977 these allocations may drop, as they will be held harmless to 85 percent of the fiscal year 1976 level.

Source: Library of Congress.

Mr. PELL. There has been considerable discussion of the necessity of putting title I funds where the children are. I feel that the Senate bill does this. First, I would like to clear up any misunderstanding about the 1974 HEW Appropriations Act; the funds were distributed on the basis of the 1970 Census, with floors and ceilings to assure that no State or school district was severely hurt. But the most recent data were the basis of the distribution.

Second, the McClellan amendment would count only two-thirds of the children receiving AFDC above the level of $4,250. This level would float upward each year as the Consumer Price Index rose. As this number rose, fewer and fewer States would have any AFDC children counted, unless their AFDC payments increased as fast as inflation. The result of this is that in a couple of years, all allocations under the McClellan formula would be made on the basis of the Census—where the children were in 1969.

Under the Senate bill, 40 percent of the new money above the base year would be distributed on the basis of total AFDC caseload. This is the only factor in the formula which is an updating factor. All States participate in that 40 percent, and the data used are current—where the children actually are in the year in question. I feel that it is important to keep AFDC in the formula, as imperfect a measure as it is, just to keep some updated reflection of population shifts since the Census was taken.

Before closing, Mr. President, I ask unanimous consent to have printed in the RECORD a chart which succinctly shows the effect of the formula on the 100 largest school districts in the country.

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

ALLOCATIONS TO THE 100 LARGEST SCHOOL DISTRICTS UNDER TITLE I ESEA

State and county	Fiscal year 1974 [1]	S. 1539 [2]	McClellan amendment [3]
Alabama:			
Jefferson (Birmingham)	$4,447,988	$5,352,375	$5,940,700
Mobile	3,037,523	3,578,279	4,077,093
Arizona: Pima (Tucson)	1,380,397	1,735,357	2,396,652
California:			
Alameda (Oakland)	6,120,938	7,447,918	7,115,016
Contra Costa	2,983,539	3,581,873	3,089,172
Fresno	4,061,527	5,001,778	6,011,795
Los Angeles	49,867,494	59,824,138	50,606,128
Sacramento	4,613,718	5,561,373	5,006,867
San Diego	6,643,838	8,051,447	8,467,036
San Francisco	4,312,040	5,231,764	4,688,773
Colorado:			
Denver	3,435,624	3,865,211	3,656,981
Jefferson	406,056	500,212	678,263
District of Columbia	11,196,398	13,350,801	9,932,495
Florida:			
Brevard	603,531	723,520	1,267,205
Broward (Fort Lauderdale)	1,453,948	1,925,771	3,006,885
Dade (Miami)	4,330,621	5,563,746	8,167,989
Duval (Jacksonville)	2,535,155	3,309,328	5,191,392
Escambia (Pensacola)	948,912	1,262,929	2,233,460
Hillsborough (Tampa)	1,710,489	2,118,529	3,957,995
Orange (Orlando)	1,211,730	1,604,585	2,698,361
Palm Beach	1,169,242	1,543,613	2,464,149
Pinellas (Clearwater)	1,061,733	1,405,783	2,177,636
Polk	861,199	1,160,577	2,361,132
Georgia:			
Chatham (Savannah)	1,663,730	1,995,608	2,080,806
Cobb (Marietta)	509,497	609,353	667,138
De Kalb (Decatur)	1,064,373	1,284,690	1,351,987
Fulton (Atlanta)	4,903,802	5,828,417	5,175,060
Muscogee (Columbus)	1,327,209	1,583,963	1,690,062
Hawaii: Honolulu	3,419,497	4,137,802	4,150,876
Illinois:			
Cook (Chicago)	51,866,527	62,282,566	50,721,328
Winnebago (Rockford)	1,338,899	1,489,064	1,480,231
Indiana:			
Allen (Fort Wayne)	977,770	1,171,444	1,067,523
Lake (Gary)	3,566,029	4,209,266	3,224,946
Marion (Indianapolis)	3,169,235	3,867,298	4,184,557
Iowa: Polk (Des Moines)	1,560,867	1,809,528	*1,326,736
Kansas:			
Johnson (Shawnee Mission)	351,979	422,527	399,178
Sedgwick (Wichita)	1,937,000	2,322,805	1,978,744
Kentucky: Jefferson (Louisville)	5,031,569	5,734,856	*4,276,831
Louisiana:			
Caddo (Shreveport)	1,484,466	1,920,340	3,118,008
East Baton Rouge	1,264,284	1,646,269	2,493,830
Jefferson	1,126,315	1,415,039	1,958,576
Orleans (New Orleans)	5,960,408	7,455,499	9,034,294
Maryland:			
Anne Arundel	967,409	1,105,359	1,447,619
Montgomery	994,468	1,121,519	1,369,523
Prince Georges	2,284,534	2,749,977	2,529,772
Baltimore City	12,921,187	15,596,875	13,483,395
Massachusetts: Suffolk (Boston)	8,329,899	9,962,033	7,586,415
Michigan:			
Genesee (Flint)	$3,325,702	$4,025,504	$3,761,612
Wayne (Detroit)	25,933,205	31,245,039	27,767,840
Minnesota:			
Hennepin (Minneapolis)	5,149,435	6,152,330	4,700,579
Ramsey (St. Paul)	2,395,789	2,873,530	2,291,221
Missouri:			
Jackson (Kansas City)	2,562,563	3,184,079	3,485,891
St. Louis City	5,678,370	6,965,556	6,547,887
Nebraska: Douglas (Omaha)	2,244,586	2,623,266	*1,907,897
Nevada: Clark (Las Vegas)	733,639	1,015,242	1,274,855
New Jersey: Essex (Newark)	13,220,988	15,756,508	12,077,665
New Mexico: Bernalillo (Albuquerque)	1,667,013	2,085,099	2,814,053
New York:			
Bronx (New York City)	46,234,075	54,829,842	*39,298,944
Erie (Buffalo)	8,732,161	10,616,541	7,857,415
Kings (New York City)	67,172,700	79,921,088	*57,096,768
Monroe (Rochester)	5,665,322	6,799,131	*4,815,521
New York (New York City)	26,020,783	31,044,275	*22,117,648
Queens (New York City)	12,786,676	15,300,894	*10,868,670
Richmond (New York City)	2,158,831	2,342,437	*1,835,005
North Carolina:			
Forsyth (Winston-Salem)	1,833,012	2,056,334	*1,558,059
Mecklenburg (Charlotte)	2,448,123	2,777,764	2,302,978
Ohio:			
Cuyahoga (Cleveland)	12,448,365	14,554,878	*10,581,106
Franklin (Columbus)	4,099,831	4,948,177	4,165,823
Hamilton (Cincinnati)	4,060,561	4,970,420	5,158,652
Lucas (Toledo)	2,149,538	2,594,304	2,269,346
Montgomery (Dayton)	2,353,612	2,838,810	2,410,672
Summit (Akron)	2,237,573	2,688,935	2,283,897
Oklahoma:			
Oklahoma (Oklahoma City)	2,826,913	3,317,812	2,904,552
Tulsa	1,869,674	2,225,121	2,185,833
Oregon: Multnomah (Portland)	2,640,706	3,241,138	3,398,371
Pennsylvania: Philadelphia	27,131,272	32,250,130	23,844,048
South Carolina:			
Charleston	3,009,307	3,441,130	3,214,661
Greenville	1,136,475	1,334,431	1,597,154
Tennessee: Shelby (Memphis)	5,489,690	6,719,966	8,058,639
Texas:			
Bexar (San Antonio)	5,797,673	7,098,500	8,857,054
Dallas	5,110,172	6,232,016	7,029,810
El Paso	1,921,119	2,452,582	4,295,382
Harris (Houston)	8,019,010	9,667,204	10,576,642
Nueces (Corpus Christi)	1,696,219	2,077,903	2,822,519
Tarrant (Fort Worth)	2,433,509	2,953,071	3,295,762
Travis (Austin)	952,542	1,202,195	1,769,454
Utah: Salt Lake	1,975,077	2,381,951	2,256,723
Virginia:			
Fairfax	917,713	1,100,642	1,158,432
Norfolk City	3,100,406	3,517,851	3,117,316
Richmond City	2,450,360	2,925,977	2,409,945
Virginia Beach City	906,866	1,075,123	1,126,865
Washington: King (Seattle)	4,417,046	5,333,151	4,786,912
West Virginia: Kanawha (Charleston)	1,741,657	1,983,921	1,655,726
Wisconsin: Milwaukee	6,349,363	7,699,248	7,411,430

[1] Pt. A allocations at impoundment level of $1,396,000,000 only; pt. C allocations not included, since they have not yet been made by HEW.

[2] Pt. A and pt. C allocations at a total appropriations level of $1,885,000,000.

[3] Pt. A allocations at a total appropriations level of $1,885,000,000; pt. C is repealed.

*Asterisk denotes allocation adjusted up to 85 percent hold harmless level.

Mr. PELL. This chart demonstrates how the Senate formula sought to increase with real money the amounts of money these school districts would receive, while also indicating the very real losses of 50 of these school districts under the House formula—very real losses, while those that gain make only minimal gains. Again, these figures indicate the evenhandedness of our approach. In addition, if AFDC is phased out of the formula, as is probable under the McClellan amendment, these areas could suffer substantial additional losses.

I personally am in a peculiar position because my own State of Rhode Island gains about $700,000 under the House formula. Yet, I shall not support that formula. The Senate bill increases by $1 million the amount of money my State is now receiving. It was with this view in mind that I supported the Senate formula. I knew other permutations would favor Rhode Island more, but I believed and still believe that we must seek a formula that is fair to all. To my mind, taking $101 million from New York, New Jersey, North Carolina, California, Massachusetts, and Michigan to redistribute money to 44 other States is inequitable.

It is my hope that the Senate will not accept any amendment to the Senate's committee recommendation and will allow us to enter the conference with as wide a range as possible so that a real compromise may be effected.

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. DOMINICK. 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. DOMINICK. I yield myself 5 minutes on the bill.

Mr. President, on May 2, I submitted six amendments to S. 1539 for printing—Nos. 1251 through 1256. I should like to take this opportunity to explain these amendments.

CONSOLIDATION

Two of the amendments—Nos. 1253 and 1256—pertain to consolidation and simplification of six State administered formula grant programs. The present version of S. 1539 gives State educational agencies discretion only in the use of 50 percent of the amount appropriated in excess of designated prior years. At a minimum, I believe the State agencies should be given the discretion to use all of the funds in excess of the level of designated prior years, and that is the thrust of amendment No. 1253.

A better procurement, in my opinion, is provided in amendment No. 1256 which would permit the State educational agencies to utilize a gradually increasing percentage of the funds made available—25 percent in fiscal year 1976, 50 percent in fiscal year 1977, and 75 percent in fiscal year 1978, the last year of authorization under the bill—in accordance with the priorities determined by these agencies.

In other words, under amendment No. 1256, there would be a gradual phasing in of consolidation. After a transitional phase, programs would have to stand and be evaluated on their merits, just like other education programs. If these programs are really worth funding, then they will be continued. If other priorities emerge, they will take precedence. But the whole point is that States should have discretion in future fiscal years to determine their own needs and not be locked into funding patterns prescribed by Washington back in fiscal year 1974.

ELIMINATION OF GRADE LEVEL DESIGNATIONS OR AUTHORIZATIONS FOR NEWLY CREATED BUREAUCRACIES

Mr. President, S. 1539 creates some 16 new bureaucracies. Moreover, it mandates grade level authorizations and designations for certain of the newly created education division units.

I believe it is a matter of general knowledge that to the extent that Congress mandates organizational structure within the Federal Government, the ability of the Government to make flexible responses to changing program needs at the local level is impaired. Therefore, I have submitted amendment No. 1255, which would eliminate the grade level designations, and amendment No. 1254 to eliminate the authorization provided in S. 1539 for: First, the Director, Bureau of Bilingual Education, and two assistants; second, Director of the Office of Career Education; third, Director of the Office of Consumers' Education; fourth, Deputy Director of the National Center for Education Statistics; and fifth, Deputy Commissioner, Bureau of Libraries and Learning Resources, and two assistants.

In my opinion, S. 1539 establishes programs which need not be shored up by the mandating of these grade level designations and authorizations.

ADMINISTRATIVE PROCEDURES

Mr. President, the two final amendments—Nos. 1251 and 1252—pertain to administrative procedures.

Amendment No. 1251 would eliminate a provision involving the Commissioner of Education's planning for the expenditure of funds under the Special Projects Act, section 403 of the bill. Under section 403, we have set up a procedure whereby the Commissioner of Education must submit to the Education Committees of the Senate and the House a plan of how we would expend the funds appropriated under the Special Projects Act by February 1 of each year. In such plan, the Commissioner must delineate each contract over $100,000 made or intended to be made for the current fiscal year. Beyond that, if either Committee of the Senate or the House adopts a resolution disapproving such plan, the Commissioner must submit a new plan within 15 days.

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

Mr. DOMINICK. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. DOMINICK. Mr. President, I have been greatly concerned about the grants and contracts processes of the Office of Education, and I believe that OE must clear up and clean up its procedures in this area.

I do not believe, however, that the procedure presently required under S. 1539 is a correct solution to the problem. The bill, in its present form, mixes apples and oranges—in this case, oversight responsibilities with appropriation processes. Thus, the Commissioner's plan under the Special Projects Act is to report on contracts over $100,000 made from the previous July until February 1—an oversight function.

He must also report on contracts intended to be made. One of our primary concerns has been the violation of the competitive procedure in letting contracts. If the competitive procedures are to be followed, the exact amount of the contract cost is a legitimate part of the bidding for the contracts. If the Commissioner fails to report a contract because he plans to let it for $90,000 and it turns out that the accepted bid is $110,000, do we then find him in violation of the intent of Congress?

Further, if a major event occurs between February 1 and the following July—such as a Supreme Court decision like the Lau against Nichols decision—how is the Commissioner to use his discretionary authorities flexible to meet the new need when he has little or no flexibility because he is locked into the report of his intentions? I believe such a procedure would make shambles of the competitive procedures.

Mr. President, the contract process in the Office of Education is already slow and cumbersome enough without additional slowing of the process by requiring congressional oversight for every contract over $100,000 using the Commissioner's "discretionary" funds. What staff have we to analyze and debate the merits and demerits of each one of these contracts? And, if we do not intend to debate the merits and demerits of each one, then why do we have such a procedure?

I believe our proper role is oversight and holding the Commissioner accountable for his actions. I do not believe our role is to straitjacket the Commissioner, further complicate the contract process and to slow everything down.

Mr. President, the other administrative amendment—No. 1252—would eliminate the provision within section 505 of the bill, which would direct the Secretary of Health, Education, and Welfare to delegate his functions with regard to administration of Office of Education programs to the Assistant Secretary for Education.

While I understand this to be the current practice at Health, Education and Welfare, I am somewhat at a loss to explain why this should be legislatively mandated—unless the intent is to edge toward a separate Department of Education. The creation of a separate Department has been advocated by some and opposed by others. If the Congress wishes to create such a Department, public hearings should be held. I do not believe we should attempt to move toward a separate Department through the back door.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. McCLELLAN. Mr. President, I ask unanimous consent to have placed in the RECORD three charts, together with explanations thereof, as follows: Comparison of Total Title I Money Under S. 1539 and the McClellan Amendment; State Title I Population Under Orshansky Formula and State Percentage of National Title I Orshansky; and Comparison of State Percentage of the National Total of Low-Income Children.

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

COMPARISON OF TOTAL TITLE I MONEY UNDER S. 1539 AND THE MCCLELLAN AMENDMENT

This chart compares each state's percentage of total Title I allocations under S. 1539 with that state's share of the total Title I allocations under the McClellan Amendment.

Because of the more equitable formula utilized for LEA's in the McClellan Amendment, 29 states gain as compared with the S. 1539 formula.

This is because the McClellan Amendment relies on the Orshansky formula (Chart #2), ⅔ AFDC count and an 85% hold harmless instead of the inequitable FY 74 Base Year provision in S. 1539.

It is also a result of the McClellan Amendment's repeal of Part B and Part C (See Chart #3) which are special grants. This

money will be available for distribution as LEA Part A grants.

CHART NO. 1

PERCENTAGE COMPARISON BY STATE OF TOTAL TITLE I MONEY UNDER S. 1539 AND UNDER McCLELLAN AMENDMENT

	Percentage of money under S. 1539	Percentage of money under McClellan amendment
Alabama	2.20	2.45
Alaska	.31	.28
Arizona	.70	.98
Arkansas	1.39	1.47
California	8.64	8.50
Colorado	.89	.97
Connecticut	1.06	1.05
Delaware	.23	.31
Florida	2.53	3.78
Georgia	2.62	2.68
Hawaii	.29	.31
Idaho	.24	.29
Illinois	5.33	4.97
Indiana	1.39	1.51
Iowa	.95	.92
Kansas	.72	.78
Kentucky	2.00	1.90
Louisiana	2.31	3.10
Maine	.44	.40
Maryland	1.65	1.74
Massachusetts	2.02	1.85
Michigan	4.50	4.39
Minnesota	1.57	1.53
Mississippi	2.29	2.36
Missouri	1.62	1.78
Montana	.29	.33
Nebraska	.48	.52
Nevada	.10	.14
New Hampshire	.18	.19
New Jersey	3.81	3.17
New Mexico	.60	.80
New York	15.05	11.57
North Carolina	3.35	3.04
North Dakota	.32	.32
Ohio	3.29	3.27
Oklahoma	1.13	1.19
Oregon	.81	.95
Pennsylvania	4.85	4.72
Rhode Island	.36	.40
South Carolina	1.95	1.95
South Dakota	.37	.35
Tennessee	2.04	2.25
Texas	5.77	7.01
Utah	.35	.35
Vermont	.21	.21
Virginia	2.09	2.24
Washington	1.25	1.30
West Virginia	1.10	1.00
Wisconsin	1.47	1.66
Wyoming	.13	.15
District of Columbia	.80	.62
Total	100.0400795	100.000000

STATE TITLE I POPULATION UNDER ORSHANSKY FORMULA AND STATE PERCENTAGE OF NATIONAL TITLE I ORSHANSKY POPULATION

This chart shows the number of poor people in each state and the state's percentage of the number of poor people in the nation, using the Orshansky index of poverty.

The Orshansky formula is the official federal index of poverty. It has been adopted by both the House and the Senate in updating the Title I count.

The Orshansky formula computes the minimum income that a family must have in order to be able to afford a nutritionally adequate diet. The Orshansky Index is based on several factors:

(1) The size of the family.

(2) Whether the family is rural- or urban-based.

(3) Whether the head of the family is male or female.

The McClellan Amendment formula for LEA Grants (Part A) is based on the sum of

(1) The number of Orshansky children.

(2) Two-thirds of the AFDC children from families with income above the Orshansky level ($4,250 for FY 75).

(3) Special populations in the State (juvenile delinquents, neglected and dependent children in institutions).

multiplied by the payment rate of 40% of the State average per pupil expenditure rate, with a floor of 80% and a ceiling of 120%

STATE TITLE I POPULATION UNDER ORSHANSKY FORMULA AND STATE PERCENTAGE OF NATIONAL TITLE I ORSHANSKY POPULATION

	Title I population under Orshansky formula	State percentage of national title I population under Orshansky formula
Alabama	272,146	3.27
Alaska	12,393	.15
Arizona	84,014	1.01
Arkansas	155,135	1.87
California	595,765	7.17
Colorado	71,254	.86
Connecticut	55,083	.67
Delaware	17,372	.21
Florida	299,575	3.60
Georgia	293,871	3.53
Hawaii	19,465	.23
Idaho	23,716	.29
Illinois	302,311	3.64
Indiana	123,484	1.49
Iowa	72,000	.87
Kansas	64,621	.78
Kentucky	208,462	2.51
Louisian	308,850	3.71
Maine	36,308	.44
Maryland	116,951	1,41
Massachusetts	116,900	1.41
Michigan	220,485	2.65
Minnesota	98,936	1.19
Mississippi	261,679	3.15
Missouri	172,955	2.08
Montana	24,998	.30
Nebraska	45,952	.55
Nevada	10,890	.13
New Hampshire	14,286	.17
New Jersey	155,690	1.87
New Mexico	80,559	.97
New York	526,402	6.33
North Carolina	312,545	3.76
North Dakota	27,354	.33
Ohio	273,542	3.29
Oklahoma	122,548	1.47
Oregon	53,953	.65
Pennsylvania	304,815	3.67
Rhode Island	24,482	.29
South Carolina	206,985	2.49
South Dakota	33,815	.41
Tennessee	245,157	2.95
Texas	636,776	7.66
Utah	30,796	.37
Vermont	13,062	.16
Virginia	214,357	2.58
Washington	80,172	.96
West Virginia	106,359	1.28
Wisconsin	103,895	1.25
Wyoming	10,054	.12
District of Columbia	37,193	.45
Puerto Rico	613,405	7.38
Total	8,313,773	100.03000

COMPARISON OF STATE PERCENTAGE OF THE NATIONAL TOTAL OF LOW-INCOME CHILDREN—FROM FAMILIES WITH LESS THAN $3,000 ANNUAL INCOME AND STATE PERCENTAGE OF TOTAL PART C—URBAN-RURAL CONCENTRATION—GRANTS

This chart compares the percentage of national low income children (those from families with less than $3,000 annual income) for each state with the state's percentage of total Part C grants.

Under S. 1539, LEAs are eligible for Part C grants if the sum of:

(1) Children from families with incomes less than $3,000.

(2) Children from families with AFDC payments above $3,000.

(3) Special LEA populations.

In the counties in which they (the LEAs) are located are:

(1) Either at least twice the state's average number of such children or at least 10,000; and

(2) Are at least 5 percent of the school-aged children in the county.

The AFDC factor accounts for the wide disparities and inequities pointed out by this chart. For example, New York, with 6.94 percent of the Nation's low income children, would receive 25.92 percent of the total Part C money, while Texas, with 7.56 percent of the children, would receive only 3.42 percent of the money. Also, Illinois has 3.87 percent of the low income children in the Nation, while Alabama has 3.60 percent. Yet Illinois would receive 7.27 percent of the Part C monies and Alabama would receive only 0.68 percent.

The distribution of Part C funds as provided in S. 1539 are patently inequitable and discriminatory.

CHART NO. 3

COMPARISON OF STATE PERCENTAGE OF THE NATIONAL TOTAL OF LOW INCOME CHILDREN (FROM FAMILIES WITH LESS THAN $3,000 ANNUAL INCOME) AND STATE PERCENTAGE OF TOTAL PT. C (URBAN-RURAL CONCENTRATION) GRANTS

	State percentage of National Low Income Children	State percentage of Part C Money
Alabama	3.60	0.68
Alaska	.15	.13
Arizona	1.09	.54
Arkansas	2.05	.41
California	7.86	13.30
Colorado	.94	.96
Connecticut	.78	1.78
Delaware	.21	0
District of Columbia	.48	1.23
Florida	3.87	2.19
Georgia	3.70	.96
Hawaii	.25	.41
Idaho	.29	.13
Illinois	3.87	7.27
Indiana	1.59	.96
Iowa	.90	.54
Kansas	.83	.54
Kentucky	2.86	.68
Louisiana	4.24	1.37
Maine	.39	.13
Maryland	1.58	1.64
Massachusetts	1.52	3.15
Michigan	2.99	5.48
Minnesota	1.22	1.23
Mississippi	3.63	.54
Missouri	2.26	1.09
Montana	.33	.13
Nebraska	.60	.27
Nevada	.15	.13
New Hampshire	.18	.13
New Jersey	2.05	5.21
New Mexico	1.04	.27
New York	6.94	25.92
North Carolina	3.96	1.09
North Dakota	.31	.13
Ohio	3.87	2.74
Oklahoma	1.58	.41
Oregon	.75	.68
Pennsylvania	3.82	5.07
Rhode Island	.33	.41
South Carolina	2.64	.68
South Dakota	.43	.13
Tennessee	3.16	.68
Texas	7.56	3.42
Utah	.39	.41
Vermont	.13	.05
Virginia	2.66	1.23
Washington	1.08	1.50
West Virginia	1.44	.41
Wisconsin	1.34	1.23
Wyoming	.13	.06

TITLE 8—CIVIL RIGHTS

Mr. HART. Mr. President, in the next few days we will again consider the question of school desegregation in America.

Senators will have to face the question squarely, whether the Congress should try to tell the Federal courts that they may not enforce the Constitution—and tell black schoolchildren whose constitutional rights have been denied: "Well, that is just too bad." We can try to dodge it or duck it, but ultimately that will be the issue. While my colleagues consider this issue, the following materials may be of some assistance.

In 1972 the Senate considered a House-passed antidesegregation bill identical in every respect to the so-called Esch amendment provisions of the House ESEA bill presently before us.

From all across the Nation, an outpouring of opposition to the 1972 bill expressed itself in a statement signed by almost 500 law professors from law schools in every section of the country—the only expression of unanimous scholarly opinion I have seen to equal it was at the time of the Carswell nomination for the Supreme Court.

I ask unanimous consent that the statement and list of professors be included in the RECORD at the end of these remarks.

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

(See exhibit 1.)

Mr. HART. Mr. President, I also ask unanimous consent to have printed in the RECORD following my remarks a summary prepared by the Notre Dame Center for Civil Rights of Various Law Review articles discussing the 1972 House-passed bill which is identical to the amendment No. 1194 offered by the Senator from Florida (Mr. GURNEY) to the Senate committee bill. These articles reflect the overwhelming consensus of legal scholars that such provisions are unconstitutional.

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

(See exhibit 2.)

Mr. HART. Mr. President, next I ask unanimous consent that a superb discussion of the whole school desegregation issue, in the form of a speech given by Professor Thomas Pettigrew of Harvard University, be printed in the record at the conclusion of my remarks. Dr. Pettigrew, a long recognized expert in the field of desegregation, states articulately and movingly the educational and the practical reasons why we must not set the clock back—why we should be striving, instead, to create the optimum conditions to realize the full benefits of school integration.

His article also places in perspective research projects such as the Armour study, which purport to show that desegregation through student transportation is counterproductive or not worth the candle.

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

(See exhibit 3.)

Mr. HART. Mr. President, I believe that fidelity to the Constitution and to the role of the judiciary as final arbiter of that document under our system of government is the most fundamental reason why the House language is unacceptable. But I also believe my colleagues will find Dr. Pettigrew's article a forceful statement of the case against the House bill on educational grounds:

Finally, Mr. President, several amendments will be offered seeking to repeal, in terms or in practical effect, title VI of the Civil Rights Act of 1964. I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a memorandum indicating why this would be a futile legislative gesture. The memorandum shows that title VI merely codifies what is constitutionally required anyway; namely, that Federal money may not fund segregated institutions. This was our understanding, as the legislative history makes clear, when we acted in 1964. We can repeal title VI, but to no avail—because we cannot, by statute, repeal the Constitution.

The PRESIDING OFFICER. Without objection, it is ordered.

(See exhibit 4.)

EXHIBIT 1

STATEMENT RE H.R. 13915, THE EQUAL EDUCATIONAL OPPORTUNITIES ACT OF 1972

The undersigned members of the Bar, in various sections of the country and representing differing political affiliations, have grave reservations about the constitutionality of the Equal Educational Opportunities Act of 1972, H.R. 13915, and fear it would place in jeopardy much of the hard won progress toward school desegregation of the last two decades. We urge its defeat in the Senate.

The passage of this bill, as indicated by the floor debate in the House and testimony before the House Judiciary and Labor and Education Committees, will—

Place the legislative and judicial branches in conflict;

Impair the Supreme Court's role of final arbiter of constitutional matters;

Remove a remedy for the vindication of minority students' constitutional rights, even when that remedy is constitutionally required; and

Open to relitigation nearly two decades of judicial desegregation decisions, many of which involve no busing whatsoever, thus leading to divisiveness and confusion in many communities already satisfactorily operating under school desegregation plans.

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University of Iowa, School of Law, Iowa City, Iowa

Gerald Ashdown, David Baldus, Robert Bartels, Arthur Bonfield, William Buss, N. Wil-

*Designation of an organization is purely for descriptive purposes and not to indicate an expression of the views of the organization.

liam Hines, Benjamin Hopkins, Kendall Meyer, Paul Neuhauser, Mark Schantz, and Burns Weston.

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Robert Casad, Barkley Clark, David Culp, Michael Davis, Carroll Grant, Edwin Hecker, Francis Heller, Jonathan Landers, Keith Meyer, Charles Oldfather, Louise Wheeler, and Malcolm Wheeler.

University of Kentucky, School of Law, Lexington, Ky.

Robert G. Lawson, Acting Dean; John Batt, W. Garrett Flickinger, William H. Fortune, Kenneth Germain, Alvin Goldman, W. L. Matthews, Jr., Eugene Mooney, Anita Morse, Paul Oberst, Robert Sedler, Stephen J. Vasek, and Harold R. Weinberg.

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EXHIBIT 2

CENTER FOR CIVIL RIGHTS,
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LEGAL SCHOLARS FIND EQUAL EDUCATIONAL OPPORTUNITIES ACT UNCONSTITUTIONAL

Legal scholars have closely scrutinized the Equal Educational Opportunities Act since that restrictive anti-busing legislation was proposed by President Nixon and passed, in amended form, by the House of Representatives in 1972. A survey of the legal periodicals has revealed no scholarly comment upholding the constitutionality of the Act as passed by the House and only one article, written by the present Solicitor General, finding the milder provisions originally proposed by the President arguably constitutional. The scholars are unanimous in their opinion that the Act's restriction of court ordered student transportation to the closest or next closest school is unconstitutional. They find no support for this provision either under Article III of the Constitution which confers jurisdiction over the federal courts or under the enforcement clause of the Fourteenth Amendment. They conclude that passage of the Act would place the legislative and judicial branches in direct constitutional conflict.

The opinion of the legal scholars strongly supports the opposition expressed by nearly 500 law school professors to the identical provisions of the Act when it was considered in the Senate in 1972.

F. Thompson, Jr., and D. H. Pollitt, Congressional Control of Judicial Remedies: President Nixon's Proposed Moratorium on "Busing" Orders, 50 North Carolina Law Review, 809 (1972).

Representative Thompson and Professor Pollitt review the Supreme Court's holding in three cases involving busing: *Swann* v. *Charlotte-Mecklenburg*, 402 U.S. 1 (1971); *McDaniel* v. *Barresi*, 402 U.S. 39 (1971); and *North Carolina State Board of Education* v. *Swann*, 402 U.S. 43 (1971). They conclude:

"The short of the matter is that the Supreme Court in the three cases held that a 'busing' order is the 'one tool' available to the federal courts that is 'absolutely essential' for the vindication of constitutional rights. The question thus posed is whether

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**The listed members of the Harvard Law School faculty signed a statement in April, 1972 opposing the President's anti-busing legislation on the grounds that it would "sacrifice the enforcement of Constitutional rights, impair the functions of the judiciary under a rule of law, and jeopardize improved schooling for many, many children."

the Congress can, consistent with the constitutional concept of separation of powers, deprive the courts of this essential remedial device."—Id. at 823.

The authors next discuss the essentiality of remedies to the judicial process. They state that:

"It appears from all the sources, then, that the issuance of remedial orders is an integral part of the judicial process, and if the courts are to act at all, their judgments are immunized from congressional control. That moves us on to the next question: Does Congress have constitutional authority to deny the federal courts the power to hear and decide busing cases?—Id. at 826–27.

The article considers congressional control over the appellate jurisdiction of the Supreme Court under Article III as a possible source of constitutional authority for the Nixon proposals. After discussing cases involving congressional challenges to the judiciary during Reconstruction, the authors conclude:

"If the Congress could not tell the Supreme Court how to rule on cases in those post-*Civil War* years (against the 'rebels'), there is no reason to believe that the same Constitution now permits the Congress to tell the Supreme Court how it should effectuate the fourteenth amendment (against the black school children)."—Id. at 836.

Finally, the article considers the congressional control of the inferior federal courts under Article III as a basis for the antibusing proposals. The authors reject this basis in these words:

"President Nixon, of course, is asking Congress to do what it did not do in the Portal-to-Portal Act—'to interfere with the power of the judiciary to protect rights vested under the Constitution.' His proposals challenge not only 'busing' but also the very idea of law itself.

"The portal-to-portal cases strongly indicate that Congress has no power to withhold or restrict the jurisdiction of the 'inferior' courts when the withholding or restriction of that jurisdiction would deny or deprive persons of property rights guaranteed by the fifth amendment. It follows that Congress has no power to withhold or restrict the jurisdiction of the 'inferior' courts when the withholding or restriction (as suggested by the Nixon 'busing' proposals) would deny school children of the rights already declared to be theirs under the equal protection clause of the fourteenth amendment."—Id. at 840–41.

Smedley, The Last Two Years in School Desegregation, Vol. 4, No. 9, Race Relations Reporter 14 (May, 1973). (A condensation of Smedley, Developments in the Law of School Desegregation, which appeared in Vol. 26 of the Vanderbilt Law Review.)

Professor Smedley summarizes the reasons why the Equal Educational Opportunities Act is unconstitutional as follows at p. 18:

Those who urge the enactment of such legislation rely on two basic sources of authority for congressional action. The first is Section Five of the Fourteenth Amendment, which states that "Congress shall have power to enforce, by appropriate legislation," the preceding sections of the amendment. The reasoning at this point is that Section Five empowers Congress to specify what kinds of measures and remedies may be applied by the courts against racial discrimination in the public school, and that the power to specify measures and remedies includes the power to limit the extent of their uses, when such limitation aids in establishing uniform national school desegregation standards. However, the Supreme Court has already rejected this reasoning in a case involving the validity of the 1965 Voting Rights Act. The Supreme Court stated in *Katzenbach* v. *Morgan* (1966): "We emphasize that Congress' power under Section Five is limited to adopting measures to enforce the guarantees of the Amendment; Section Five grants Congress no power to restrict, abrogate, or dilute these guarantees." In other words, in a situation where "busing" is the only feasible way to desegregate, a statute forbidding a court to require busing does not operate to enforce the constitutional rights of the students, but rather has the practical effect of denying those rights.

The second possible source of congressional authority for adopting anti-busing legislation lies in Article III, Section One of the Constitution, which states: "The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish."

It has been reasoned that the power to establish lower federal courts includes the power to fix the scope of their jurisdiction; that because Congress can confer jurisdiction on these courts, it can also remove jurisdiction from them; and that prohibiting the courts from ordering the busing of students is merely the equivalent of limiting their jurisdiction. However, it is to be noted that the proposed antibusing legislation does not purport to withdraw the courts jurisdiction over school desegregation cases.

Instead, it recognizes the power of the courts to decide such cases, but then attempts to restrict the manner in which the courts may fix the remedies for violations of constitutional rights found to be occurring. Old and eminent legal authority supports the view that, once jurisdiction is conferred on a court to decide a particular case, the separation-of-powers doctrine precludes either legislative or executive interference with the judicial process of deciding the case and determining the relief needed.

Further, assuming that Article III vests Congress with some power to limit the courts in the way they exercise their jurisdiction, it seems that this power must be used in a manner which will not conflict with provisions added to the Constitution subsequent to its original adoption. Since the Fourteenth Amendment guarantee against racial discrimination was adopted by the majority of the citizens of the nation as a part of the basic law of the United States, Congress should not be able to prevent the use of the only remedy through which the guaranteed right can be vindicated.

To uphold such legislation is to allow Congress, by a bare majority vote, to nullify a segment of the fundamental law of the land. Additionally, since the Due Process Clause of the Fifth Amendment prohibits the federal government from engaging in racial discrimination in the operation of public schools, the action of Congress in passing a law which prevents the elimination of such discrimination and thereby contributes to its perpetuation would appear to be federal government action in violation of the Fifth Amendment.

Goldberg, The Administration's Anti-Busing Proposals—Politics Makes Bad Law, 67 Nw. U. L. Rev. 319 (1972). Former Supreme Court Justice Arthur J. Goldberg reviews the history of the Court's school desegregation rulings and concludes that:

"[I]t is clear that in cases of unconstitutional school segregation the fourteenth amendment requires effective relief; that effective relief means immediate relief; and that limited busing is a permissible and occasionally indispensable element of relief."—Id. at 329–30.

Justice Goldberg discusses each of the restrictive provisions of the Equal Educational Opportunities Act and finds them to be unconstitutional. In discussing limits on transportation as proposed by the Nixon Administration (the Gurney amendment is even more restrictive) Goldberg states:

"If these provisions are non-jurisdictional, as I believe them to be, they are unconstitutional for three reasons.

"First, to the extent their remedial inhibition implicates Congress in the perpetuation of segregated harm, these provisions violate fifth amendment due process . . .

"Second, to the extent these three limiting provisions render federal court desegregation judgments practically unenforceable, they violate the separation of powers.

"And third, these provisions are not legislation appropriately within Congress' fourteenth amendment enforcement power because they contract the equal protection guarantee of effective desegregation relief."—Id. at 349–50.

Goldberg finds the restrictions on busing not constitutionally supportable under Congress' Article III power to regulate Federal jurisdiction:

"Therefore, these sections fail as jurisdictional limitations for two reasons. First, they impair the availability in federal court of adequate constitutional remedies. . . . Second, regardless of their jurisdictional cast, the sections would render continuing desegregation judgments effectively unenforceable, in violation of the separation of powers."—Id. at 356.

Comment, The Nixon Busing Bills and Congressional Power, 81 Yale L.J. 1542 (1972).

This comment considers the Equal Educational Opportunities Act as proposed by President Nixon in 1972. It views the Act as a challenge to the Supreme Court's ruling in *Swann* v. *Charlotte-Mecklenburg*. It analyzes the Act with regard to those constitutional provisions which have been asserted as a basis for such a congressional power: Article III which grants Congress power over the jurisdiction of the Federal courts, and the enforcement clause of the Fourteenth Amendment. It notes at 1546:

Either of these claims to congressional power, heard in full and accepted by a court reconsidering *Swann*, not only would profoundly alter the present prospects for school desegregation but might also redefine the basic and enduring outlines of the Supreme Court's role in shaping the law.

I. Article III as a source of congressional power to enact the Equal Educational Opportunities Act:

The power over jurisdiction is just that: a power to grant or withhold jurisdiction, not a disguised power to revise the Court's reading of the Constitution.—Id. at 1547.

As an exercise in regulating jurisdiction, the busing bills can find little constitutional support in even the strongest congressional claims to Article III power over inferior federal courts. The bills attempt to alter substantially not just the manner but the extent to which constitutional rights may be vindicated, and Section 1 of Article III gives Congress no such power.—Id. at 1553.

II. Section 5 of the Fourteenth Amendment as a source of congressional power to enact the Equal Educational Opportunities Act:

Section 5 of the Fourteenth Amendment, with or without *Morgan's* doctrine of judicial deference to congressional judgment, grants Congress no greater power than Article III. Congress under Section 5 may mandate certain remedies and combinations of remedies, but the Court . . . must determine whether the denial of equal protection can be remedied within the limits of the congressional plan. . . . As Chief Justice Burger wrote recently, "Congress does not have the power to authorize the individual states to violate the Equal Protection Clause." Congress may enact remedies; it cannot even under *Morgan*, abrogate rights.—Id. at 1572.

Preyer, Beyond Desegregation—What Ought to be Done 51 North Carolina Law Rev. 657 (1973).

Representative Richardson Preyer (D-N.C.) considers several issues of importance to the

future of school desegregation in this article.

In discussing the Equal Educational Opportunities Act as passed by the House in 1972, Rep. Preyer states:

"The most serious problem with this type of legislation is the constitutional one . . .

"In cases where a court determined that the *only* effective remedy for school segregation is to order busing of children, foreclosing the remedy of busing is, in effect, to deny the substantive right of desegregated schools. The denial of all effective remedies is very different from "the denial of one remedy while another is left open, or the substitution of one for another." As Professor Bickel has stated, should the Supreme Court "accept the command of Congress that it may not administer what it regards as the essential remedy (busing), the Court will have accepted a more far-reaching limitation on judicial power, a greater qualification of the power of judicial review established by *Marbury* v. *Madison* than ever before in its history.' "—Id. at 664–65.

NOTE.—Moratorium on School Busing for the Purpose of Achieving Racial Balance: A New Chapter in Congressional Court Curbing, 48 Notre Dame Lawyer 208 (1972).

The Note reviews the history of Congressional attacks on the judiciary and summarizes the criteria established for school desegregation by the Supreme Court. The Note concludes at page 230 that:

The Court should declare the Education Amendments and any measures enacted pursuant to the Administration's recommendations unconstitutional. These enactments not only contravene the tribunal's requirement of immediate desegregation of dual school systems, but they are an abuse of the article III and fourteenth amendment powers of Congress and a violation of the principle of separation of powers. They are also antagonistic to the overall scheme of the Constitution which requires that Federal courts always be available to hear and provide remedies for constitutional disputes. In regard to busing, therefore, it would be improper to deny either jurisdiction or an essential remedy to the federal tribunals.

Comment, On Insulating Busing from Congressional Review: The *Swann* Right to a Racial Mixture, 22 American Univ. Law Rev. 795 (1973).

This comment reviews the history of school desegregation cases and concludes that the *Swann* decision established a right to attend a school with racial mixture reflecting that of the entire school district. The comment then considers at length the constitutionality of the Equal Education Opportunities Act. It concludes that:

Swann, read in light of the school desegregation cases extending from *Brown* through *Wright* v. *Council of City of Emporia*, has in effect granted busing the status of an important constitutional right, and not merely one remedy to be used in judicial discretion whenever unconstitutional segregation is found. Consequently, Congress in legislating its busing bills labored under a false premise—the premise that it could control busing by controlling remedies. Congress lacks the ability to completely legislate away a constitutional right from the grasp of the Supreme Court. "Where [the Court] has spoken, its decrees are the law." Congress role in limiting the use of busing is confined to the initiation of a constitutional amendment, and then only with very precise language can the Supreme Court be denied the power to exercise that heightened degree of judicial solicitude necessary for the protection of those rights it has so assiduously guarded for nineteen years—the rights of the nation's most powerless minority: black schoolchildren.—Id. at 831–32.

NOTE.—Busing: A Constitutional Precipice, 7 Suffolk Univ. L. Rev. 45 (1972).

This note considers the constitutionality of the Equal Educational Opportunities Act as proposed by President Nixon in 1972. It states that:

Assuming, however, that the Court does not determine that under the specific circumstances of a given case, busing is essential, lest desegregation of schools go unremedied, the Court will be faced with the difficult decision of either upholding the constitutional validity of the anti-busing statute or holding the statute, as it regards busing, unconstitutional. Yet, the results of such a confrontation are fairly predictable, because the Court in a companion case to *Swann* has already held a similar state statute to be unconstitutional, declaring that it operated "to hinder vindication of federal constitutional guarantees."—Id. at 60–61.

EXHIBIT 3

THE CASE FOR THE RACIAL INTEGRATION OF THE SCHOOLS

(By Thomas F. Pettigrew, Harvard University, delivered June 29, 1973, at the Cubberley Conference, Stanford University)

I. INTRODUCTION

William McCulloch, the former Republican from Ohio's Fourth Congressional District, served for many years as the ranking minority member of the Judiciary Committee of the U.S. House of Representatives. Last year, the elderly Mr. McCulloch had to endure listening to the testimony of literally dozens of angry "anti-busing" witnesses who came before the Committee. Gently, the soft-spoken Ohioian would ask each of these witnesses the same question.

"Do you really want to change the basic rules of American society?" And without waiting for an answer, Mr. McCulloch would point out that black Americans had been told for 350 years by white Americans to play by the democratic rules, to eschew violence in favor of the ballot box and court action and the promise of this great nation would apply to them, too. So they did play by the rules right on through to the 1954 Supreme Court ruling outlawing de jure racial segregation of the public schools.

"Isn't that your problem?" prodded Mr. McCulloch of each anti-busing witness. "Isn't it true that black Americans have played by the rules so well that they've won in the courts. And because they've won you now wish to change the rules on them, to tell them that it was all a lie what we white people have been telling black people all these years. Isn't that what you come before us today to advocate?"

Well, how do we answer the pointed query of the Honorable Mr. McCulloch? Are we going to change the basic constitutional rules of our democracy to avoid interracial schools," of course, is not grounded in so historical backdrop upon which to consider the case for the racial integration of the schools.

II. THE SCHOOL DESEGREGATION SITUATION TODAY

The fundamental "case for integrated schools," of course, is not grounded in social science findings or even court rulings. It is founded on concepts of justice and the American dream. Yet we meet here at the Cubberley Conference at a bleak time in our national history, a time of scandal and a time when neither justice nor the American dream is in vogue with our national leadership. For almost half a decade now, the President of the United States himself has led and legitimized the effort essentially to reverse the Brown *v.* Board of Education ruling of 1954 through the use of such shibboleths as "busing" and "neighborhood schools."

Still the racial problems of our nation continue to fester and grow worse. The racial integration of the public schools does not constitute a complete solution to these problems, but it is a necessary component of the institutional restructuring that will be required. Indeed, as the political climate in recent years has grown more hostile to it, the practical need for school desegregation has become more obvious. Consequently, this paper points to a future when the United States regains its accustomed confidence and returns to its highest ideals; in short, our discussion will not be constrained by the present national mood.

The present situation in school desegregation is complex. While President Nixon has repeatedly attacked "busing" for integration, the Federal courts have grown impatient with "deliberate speed" and begun ordering sweeping school desegregation. These court orders have particularly affected such southern cities as Richmond, Charlotte, and Memphis, though Denver, Minneapolis and a few other northern cities have recently received similar directives. Public school statistics reflect this trend. Black children in all-black schools declined from 40% in 1968 to 12% in 1971; and those in predominantly white schools rose from 18% in 1968 to 44% by 1971. Indeed, the special pressure on the South means that by the fall of 1970 a greater percentage of black children in the South attended majority-white schools than in the North (38% to 28%).

But there is another, less positive side to current trends. Many areas without court orders continue to practice massive racial segregation in their public schools as if the racial changes over the past generation had never happened. Cincinnati, for example, still in 1973 has about three-fifths of its pupils attending schools that are over 90% of their own race. Moreover, a number of urban districts, such as Louisville and Washington, D.C., achieved considerable school desegregation within their boundaries in past years only to find themselves resegregating as white families continue to move out to the suburbs and black families remain constrained to central city residence through a vast and effective system of racial discrimination in housing. Finally, the growth of interracial schools under court pressure has raised a third and critical issue: How do you go beyond mere desegregation to attain true integration? We shall discuss the distinction between desegregation and integration shortly.

In summary, then, three problems persist. First, some areas have yet to initiate the school desegregation process even in this last third of the twentieth century. Second, many central cities are becoming overwhelmingly black school districts due to demographic patterns and housing discrimination. Third, those districts with stable desegregation must now achieve genuine racial integration. Add to these problems the negative political climate, and the present state of the school desegregation process can be properly evaluated.

There are four major causes of public school segregation in urban areas, the relative importance of which is not widely understood. The most immediately critical are (1) long-term trends in racial demography and (2) the anti-metropolitan nature of school district organization. Contributing further to the problem are (3) the effects of private schools and (4) intentional segregation within districts.

The magnitude of the first two of these factors becomes apparent as soon as we check the relevant data. There are approximately 17,000 school districts in the United States with most of the recent consolidation of districts limited to rural areas. Thus, there are still over 75 school districts in the Boston metropolitan area and 96 in the Detroit metropolitan area. There is pitifully little cooperation between central-city and suburban school systems, and often vast fiscal and

social disparities between them. In addition, the 1970 census reveals that 78% of all black Americans in metropolitan areas reside within central cities, while 59% of all white Americans in metropolitan areas reside in suburbs. This extensive racial separation at the suburban line was evident back in 1950 and 1960, too, but has increased in each of these decades: in 1950 and 1960, black central city percentages were 75% and 77%, while the white suburban percentages spurted from 45% and 53% to its present 59%. The educational implications of these demographic data are made more severe by the fact that younger white families with school-aged children are even more likely to be living in the suburbs than metropolitan whites in general. And racial housing trends are not encouraging and offer no hope for extensive relief of school segregation by race in the next generation. Consequently, America would face an enormous problem of interdistrict segregation of public schools even if there were no patterns of intradistrict separation.

But, of course, the nation also faces the *task of* overcoming sharp racial segregation within such school districts as Cincinnati, Philadelphia, Chicago, New York, and Los Angeles. In cities with large Roman Catholic populations, this intradistrict segregation is unwittingly increased by the absorbtion of many white children in the parochial school system. Since only about 6% of black Americans are Roman Catholics, a large church school system necessarily limits the available pool of school-aged white children for a central city public school system. In Philadelphia, for example, well over half of all school-aged white children in the central city attend Roman Catholic schools. The same general point can be made for other church schools in urban areas—Quaker, Episcopal, Missouri Synod Lutheran, etc. Indeed, urban private schools of all descriptions act in this manner. The South has not had a tradition of private education; but the region has recently shown a sudden interest in it. Thus, white private school enrollment in the South rose from about 300,000 in 1968 to 500,000 in 1971, though this still represents only about 4% of the region's public school enrollment.

Finally, though only fourth in significance, the factor of blatant racist leadership cannot be ignored. At the local level, the Hicks and Wallaces of American political life have exacerbated the problem of intradistrict segregation by their open advocacy of separation, careful misplacement and zone-drawing of new facilities, and steadfast refusal to take even the preliminary measures that would ease the problem. But while the public resistance of these anti-black political figures captures the headlines, such structural factors as demographic trends, the anti-metropolitan nature of school organization and private-school effects remain more critical.

From this analysis, we can readily appreciate the positive significance of present efforts to achieve metropolitan-based educational desegregation and truly democratic, integrated classrooms—subjects upon which we shall shortly focus. We can also appreciate the negative significance of present political attempts to perpetuate three basic myths of resistance—the myths of "de facto segregation," "the neighborhood school," and "the dangers of busing." Let us consider each of these myths briefly.

III. THE THREE MYTHS OF SEGREGATIONIST RESISTANCE

(1) The myth of "de facto segregation." There has long been a sharp discrepancy between the legal and social science views of American race relations. In particular, the legal distinction between *de jure* and *de facto* racial segregation received no empirical support whatsoever in research. This disconfirmation exists even when we recall the derivation of the legal distinction from "the state action" prohibition of the Constitution's Fourteenth Amendment. "State action" need not be an explicit law of a southern state that requires racially separate schools; it may more often be school board decisions of attendance boundaries, new school placement, and the like, as well as city council zoning actions that act to increase residential segregation by race. For public school segregation to be accurately termed *de facto*, then, its origins must be completely untainted with such broadly defined "state action." It can be said with confidence that social science research on American race relations has yet to uncover such *de facto* segregation in any public realm anywhere in the nation. *De jure* racial segregation is the harsh fact of American society; so-called *de facto* segregation is simply a myth.

Increasingly, the federal district courts in northern cities are coming to accept this fact. Judges are ruling in Denver, Minneapolis, and other cities that *de jure* segregation exists in their public schools and must be ended under the *Brown v. Board of Education* doctrine just as in southern cities. This trend is what gives the Supreme Court review of the Denver case such broad national significance. Ironically, just as the federal courts slowly throw out the conception of *de facto* segregation, President Nixon has given new life to the myth by ostensibly making it the legal cornerstone of his approach to racial segregation and discrimination.

(2) The myth of "the neighborhood school." The President has also legitimized the notion that racial and social class desegregation is appropriate only if it can occur in "neighborhood schools." Given the enormity of the housing segregation patterns by race and class, this argument is obviously a not-subtle attempt to maintain homogeneous schools as long as the country possesses homogeneous residential areas.

Additional considerations contribute further evidence as to the speciousness of this contention. To begin with, there are actually relatively few "neighborhood schools" in urban areas today—"neighborhood," that is, in the true Gemeinschaft sense that the school draws its students from a small area where virtually all of the resident families know each other and constitute a genuine community. What "neighborhood school" apparently means to its advocates is "local and conveniently nearby." But then one wonders if it is being upheld as a sacred ideal less for its presumed educational value than as a parental convenience.

Nor can "neighborhood schools" validly be described as "traditionally American." True, the fabled log-cabin school of the frontier had by necessity to be within walking distance of its pupils. But the frontier school was the classic example of a "common school," bringing together American children from all walks of life. To compare the homogeneous local urban school as the historical outgrowth of the heterogeneous rural school is to ignore the powerful social class "desegregating" function of the common school. The concept of "the neighborhood school" has been in educational circles since the Chicago city planners' use of it in the 1890s; yet it did not win popular acclaim and presidential support until the desegregation process gained momentum in recent years. Such timing is enough to make even a prudent person suspicious, especially when the neighborhood school advocates push their case to the point of claiming the the public school which their children will attend.

Furthermore, there is no evidence of the educational merit of the "neighborhood school." Indeed, if it has to be small it is probably an anachronism and highly inefficient like the corner grocery of bygone decades. But what about parental involvement? There can be doubts raised as to how much parental involvement urban "neighborhood schools" can boast of now. In any event, there is no evidence that there exists a close and negative association between the size of the attendance area and parental involvement, or that only a local school can generate such concern.

(3) The myth of the dangers of school busing. This third myth is the most virulent, and has been given increased currency by numerous politicians including the President. Proposed bills to end all school busing for racial desegregation proliferate; anti-busing riders of dubious constitutionality are attached to major national legislation; and Constitutional amendments to end the practice forever receive serious attention.

A curious historian looking back upon this racial era from the perspective of the next century will have to dig hard to explain this national mania. Complicating the task is an array of facts that make school busing a strange target. In 1972, nineteen million pupils (43.5% of the total enrollment of public schools) were being regularly transported to school at public expense, a massive effort that requires 256,000 buses traveling 2.2 billion miles at a cost of 1.7 billion dollars annually. Legally authorized in 48 states since 1919, fifteen states today even permit the transportation of students to private schools at public expense. Clearly, travel-conscious America has no objection whatsoever to the busing of school children *per se*.

The political issue arises only when the transportation is designed to further the racial desegregation of schools. Only *three* per cent of all bused students are transported for desegregation; and more public funds are still expended for transportation to racially *segregated* schools than to desegregated schools. Likewise the dangers of bus accidents have been stressed for this three per cent while ignored for the remaining 97% who are transported for "acceptable" reasons. Moreover, the relevant data reveal that the school bus is by far the safest mode of transportation. In 1968, according to the National Safety Council, the occupant death rate per 100 million passenger miles was 0.06 for school buses as compared to 0.24 for regular buses and 2.40 for automobiles. And the Pennsylvania Commission on Human Relations recently announced that over a five-year period, the State's school children were over three times safer per mile being bused to school rather than walking to school.

So why the national excitement? The movement ostensibly against busing has been forming over the past five years, and gained momentum when federal judges in a number of key cities ordered busing solutions to correct urban patterns of widespread school segregation by race in situations where other alternatives were not available.

Survey data show that once Nixon explicitly legitimized the movement, it rose in strength even among so-called "moderate" white Americans. While 41% of a national sample of adult Americans told Harris Survey interviewers in early 1971 that they were unwilling to see school children bused for integration in their communities, 69% were unwilling by March of 1972. Opposition was, not surprisingly, most intense in the Deep South and among whites, for blacks *favored* busing for integration in 1972 by 54 to 34%. In sharp contrast, by an overwhelming margin of 83 to 15%, parents whose children are bused to school for largely non-racial reasons are satisfied with the arrangement. Despite insistent denials, then, a future historian is likely to conclude that "busing" became in our time the polite, culturally sanctioned way to oppose the racial desegregation of the public schools. It's not the distance, stated a white mother in my home town of Richmond, Virginia, candidly, "It's the niggers."

IV. BUT DOES RACIAL INTEGRATION OF THE SCHOOLS "WORK"?

Recently a fourth myth has developed as a part of the movement to turn back the racial clock during the Nixon era. Bluntly, this fourth myth asserts that "science shows busing doesn't work." It originates from a much-publicized article in the summer of 1972 issue of the conservative organ, The Public Interest.[1] Authored by David Armor, now a sociological consultant to the Rand Corporation, this article claimed to be an objective, "scientific" appraisal of "the evidence on busing." The mass media, as yet unequipped to evaluate material that purports to be social science, soon spread its anti-integration contentions across the nation.[2] Nixon campaigners immediately began to exploit the article as "scientific proof" of the anti-busing position; and Armor himself began appearing before congressional committees and in courts throughout the country as an "expert witness" on behalf of maintaining the racial segregation of the public schools.

Soon, however, a critique of Armor's article appeared.[3] It was written by four of his former colleagues at Harvard (including the present author), and it asserted that the Armor article was neither objective, "scientific," nor the complete evidence. The critique maintained that there were four fatal flaws in Armor's anti-integration arguments:

(1) Unrealistic criteria for success. Armor began his article by establishing unrealistically high standards by which to judge the succeess of school integration so that he could more easily demonstrate its "failure." "Busing," he claims, works only if it leads—in one school year—to increased achievement aspirations, self-esteem, interracial tolerance, and life opportunities for black children. And "busing" must meet these standards in all types of interracial schools; no distinction is made between merely desegregated and genuinely integrated schools.

This "integration policy model," as it is labeled, is not what social scientists who specialize in race relations have been writing about over the past generation. Indeed, Dr. Armor's criteria must surely be among the most rigid ever employed for the evaluation of a change program in the history of public education in the United States.

(2) Biased selection of findings from selected studies. Armor presents selected findings from selected studies as "the evidence on busing." The bias here is two-fold. On the one hand, the few studies mentioned constitute an incomplete list and are selectively negative in results. Unmentioned are at least seven investigations from busing programs throughout the nation that meet his methodological criteria for inclusion and report positive achievement results for black students. These seven studies are widely known investigations.

On the other hand, only cursory descriptions are provided of the few investigations that are reviewed. Mitigating circumstances surrounding black responses to desegregation are not discussed. For example, we are not told that educational services for the transported black pupils were actually reduced with the onset of desegregation in three of the cited cities. In addition, negative findings consistent with the paper's anti-busing thesis are emphasized, while positive findings from these same cities are either obscured or simply ignored. Newer studies from three of the cited cities showing more positive results are not discussed.

Positive findings are also obscured by the utilization of an unduly severe standard. The achievement gains of black students in desegregated schools are often compared with white gains, rather than with the achievement of black students in black schools. But such a standard ignores the possibility that both racial groups can make more meaningful educational advances in interracial schools. Indeed, this possibility actually occurs in three of the cities mentioned by Dr. Armor. Yet he does not inform us of this apparent dual success of desegregation; rather "busing" is simply rated a failure because the black children did not far outgain the improving white children.

(3) Inadequacy of Armor s own research. Armor's antibusing conclusions rest primarily on the findings from one short-term study conducted by Dr. Armor himself. This investigation focused on a voluntary busing program in metropolitan Boston called METCO. Yet this study has extremely serious methodological problems. Two major problems concern deficiencies of the control group. To test the effects of "busing" and school desegregation, a control group should obviously consist exclusively of children who are neither "bused" nor attend desegregated schools. But a check of this critical point reveals that this is not the case. Among the 82 control students used to test the achievement effects of METCO at all four grade levels, records on 55 were obtained. Only 21 of these 55 actually attended segregated schools in the tested year of 1968–69. Many of the 34 (62%) desegregated children by necessity utilizing buses and other forms of transportation to get to school.

Incredible as it sounds, then, Armor compared children who were bused to desegregated schools with other children many of whom were also bused to desegregated schools. Not surprisingly, then he found few differences between them. But this complete lack of adequate controls renders his METCO research of no scientific interest in the study of "busing" and school desegregation. In addition, since this METCO investigation furnished the chief "evidence" against "busing," his conclusions are severely challenged by this point alone.

Serious, too, is an enormous non-response rate in the second test administration, a problem alluded to by Armor only in a footnote. For the elementary students, only *51%* of the eligible METCO students and *28%* of the eligible "control" students took part in both of the achievement test sessions. The achievement results for junior and senior high students are also rendered virtually meaningless by the participation of only *44%* of the eligible METCO students and *20%* of the eligible "control" students. Compare these percentages to the survey standard of 70% to 80%, and one can appreciate the magnitude of the possible selection bias introduced into the METCO results by the widespread lack of student participation. Efforts to compensate for these high non-response rates through the use of cross-sectional samples that also suffer from extensive non-response are insufficient.

There are other problems in the METCO study. Besides recording and clerical errors in the data, children were included who initially performed as well as the test scoring allowed and therefore could not possibly demonstrate "improvement." In fact, these pupils comprise one-sixth of all the junior high pupils tested for achievement gains in reading. Moreover, the conditions for the third administration of the attitude tests were different for the two groups. The METCO students took the tests at school and the "control" students took them at home with their parents as proctors. Apart from the severe control group problems, then, the faulty research design makes any conclusion about differences in racial attitude between the two groups hazardous.

The inadequate discussion of the METCO study in the article makes it virtually impossible for even the discerning reader to evaluate it properly. Its many errors were uncovered only from unpublished earlier materials and from reanalyzing the data. The METCO discussion is inadequate in other ways. Differential statistical standards are employed, with less rigorous standards applied to findings congruent with the article's anti-busing thesis. Attitude differences among METCO schools are not shown; and misleading claims of consistency with other research findings are made.

From this assortment of "evidence," Armor concludes authoritatively that "busing" fails on four out of five counts. It does not lead, he argues, to improved achievement, grades, aspirations, and racial attitudes for black children; yet, despite these failures, he admits that desegregated schools do seem somehow to lead more often to college enrollment for black students.

The picture is considerably more positive, as well as more complex, than that painted by Dr. Armor. For example, when specified school conditions are attained, research has repeatedly indicated that desegregated, compared to segregated, schools improve the academic performance of black pupils. Other research has demonstrated that rigidly high and unrealistic aspirations actually deter learning. Thus a slight lowering of such aspirations by school desegregation can lead to better achievement and cannot be regarded as a failure of "busing." And "militancy" and "black consciousness and solidarity" are not negative characteristics, as the article asserts, and their alleged development in desegregated schools would well be regarded as a further success, not a failure, of "busing." Moreover, the evidence of desegregated education sharply expands the life opportunities of black children is more extensive than indicated in the article.

Consequently, Armor's sweeping policy decision against "mandatory busing" is neither substantiated nor warranted. Apart from the impaired and incomplete "evidence," the paper in a real sense is not about "busing," much less "mandatory busing." Three of the cities discussed, including the primary discussion of Boston had *voluntary*, not "mandatory," "busing." "Busing" was never cited as an independent variable, and many of the desegregation studies discussed involved some children who were not "bused" to reach their interracial schools. Indeed in Armor's own investigation of METCO, some of the METCO children were not "bused" while many of the controls were.

(4) *Questionable racial assumptions.* Objections must be raised to the basic assumptions about racial change that undergird the entire Armor article. Public school desegregation is regarded as largely a technical matter, a matter for social scientists more than the courts. Emphasis is placed solely on the adaptive abilities of black children rather than on their constitutional rights. Moreover, the whole national context of individual and institutional racism is conveniently ignored, with interracial contact under any conditions assumed to be "integration."

Armor's response to this damaging critique called its authors an assortment of names (irresponsible, immoral, etc.); but it did not even attempt to refute most of the critique's chief criticisms. Again his anti-integration argument was based on special case data selected carefully to fit the thesis. Obscured in his response was the fact that actually he was begrudgingly in *agreement* with his critics on a number of important points concerning the effects of interracial schools. Marshall Smith, one of the original Harvard critics, has summarized three important points that even Armor no longer contests:[5]

"1. Insofar as we can tell from existing research, racial desegregation (induced or voluntary—via busing or other transportation) does not negatively influence and may often benefit the achievement of white students. In the controversy over the effects of

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desegregation on the achievement of black students, this important fact appears to have gone relatively unnoticed. It surfaces in the discussion of the original paper by Dr. Armor only to the extent that Pettigrew *et al.* point out that in three of the seven studies they reviewed, white students in desegregated situations appeared to gain more than white students in segregated situations. And . . . a desegregated experience appears beneficial to whites in 3 of the 5 studies cited by Dr. Armor himself in his rebuttal. Dr. Armor does not disagree with the conclusions that whites gain more in some situations and are generally not adversely affected, though he does admit his inability to construct a theory to explain why whites would gain more in desegregated situations.

2. Insofar as we can tell from the existing research, desegration (induced or voluntary—via busing or other transportation) does not harm and may often benefit the achievement of black students. Although this may appear to be a controversial statement, in no place in either of Dr. Armor's two articles is there an indication that he finds that black students in desegregated situations do less well on standardized tests than they did prior to desegregating, or than similar black students do in segregated situations. In the seven studies cited by Pettigrew *et al.*, the analysis of the authors was that desegregation increased the achievement scores of black students. In his reply to Pettigrew *et al.*, Dr. Armor does not disagree with this finding. Indeed, for New York City and Hartford, he explicitly states that black children in integrated schools appear to do better than black students in segregated schools. The point of contention arises in the interpretation of the importance of the gains . . .

3. There are indications that desegregated education increases the chances of black students attending post-secondary educational institutions. Both Dr. Armor in his original article and Pettigrew *et al.* clearly make this point. Although both sets of authors indicate that more data is needed on this issue, the potential implications are great. As a variety of researchers have recently pointed out, the consequences of increasing years of schooling for later income and occupational status are far greater than the consequences of increasing scores on achievement tests."

There are, to be sure, three major points of *disagreement* between Armor and his critics, points that must be emphasized to understand the mythical nature of the "*desegregation* doesn't work" assertion. Smith provides a cogent summary:

"1. The authors disagree in their interpretation of the achievement data. Dr. Armor argues that, while there may be black gains attributable to desegregation, . . . the gain is of no importance since the 'gap' between whites and blacks in achievement is not closed. Pettigrew *et al.*, on the other hand, argue that the gains are potentially important and that part of the 'gap' is in fact being closed. The central bone of contention revolves around the definition of 'gap.'

Take, for example, the case of New York City (Table 4 in Dr. Armor's reply, though tables 2, 3, and 5 could also illustrate the same point). Here we find black students at the end of the fifth grade before desegregation scoring at the 4.0 grade level. In other words, in the five years of school since the beginning of first grade they had an average gain of 0.6 grade levels per year. During their sixth year of school, they gained an additional 1.1 grade levels—virtually double their *rate during* segregation. Had the same students progressed at the same rate during their sixth year as they had before, they would have been scoring at the 4.6 grade level instead of the 5.1 grade level.

In terms of national norms, the desegregation experience of black students in the New York study closed the "gap" in two ways. First, since the expected score for the average child in the national sample is 5.9 years at the end of fifth grade and 6.9 years at the end of sixth grade, and since the black students in this sample scored 4.0 grade levels (or 1.9 grade levels behind the norm) at the end of fifth grade and 5.1 grade levels (or 1.8 grade levels behind the norm), the black students have closed the "gap" (as defined this normative way) by 0.1 grade levels. We can, however, conceive of the "gap" in a different way. Here we take an expected gain of the students in the study to be 0.6 years. Given this expectation we would find the black students in the New York City study to be scoring at the 4.6 grade level after six years of school had they not been desegregated. Computing the expected gap in this fashion, we find that the desegregation experience closed the "gap" by 0.5 grade levels. We note that this method of computing the gap is equivalent to considering the percentile levels of students. If a group of students progress at the same rate (e.g., 0.6 grade levels per year), they stay at the same percentile. If some experience increases their rate (e.g., from 0.6 grade levels to 1.1 grade levels per year), their percentile level increases. In other words, for below-average students their percentile level moves closer to the national norm of 50.

Dr. Armor defines the "gap" in still a third way. He sees it as the difference between black and white students' achievement in the same school or study at any given time. Thus, he finds in the New York study that the "gap" as he defines it increases, since black students gained "only" 1.1 years during desegregation and white students gained 1.7 years. Thus, he sees the "gap" as increasing by 0.6 grade levels.

Thus there are three different ways of computing the 'gap' for the New York youngsters:

(a) If we compare the difference in their grade levels between the national norms and the scores of black students before and after the desegregation experience, black students have closed the 'gap' by 0.1 grade levels.

(b) If we compare the difference in grade levels between the national norms and the achievement of blacks before desegregation with the difference in grade level between national norms and the expected achievement of black students (given no desegregation), the black students have closed the 'gap' by 0.5 grade levels.

(c) If we compare the white students in the same school with the black students in the school, the 'gap' has opened by 0.6 grade levels.

The question then is: Which of the three ways of assessing the gap makes more sense? I believe the second definition is educationally, legally, and logically correct. The 'gap' as we normally think of it is the difference between the achievement of black students and the achievement of the national sample of all students, for if black students on the average scored at the 50th percentile, we would not be concerned with the 'gap.' The only measure which assesses the difference between the national norms in percentiles and the black average is the second definition of 'gap.' In the New York case, it shows that desegregation is closing this 'gap.' Simply because the New York desegregation program under investigation is apparently so successful that the white students increase in grade level at faster than an average rate is no reason to discard the conclusion that desegregation is helpful to black students in the study.

2. A second major point of disagreement surrounds the interpretation of Black Militancy. Dr. Armor finds that black students in both METCO, in desegregated Boston schools, and in the ABC program appear to become more 'separatist' than do black students in segregated schools. Although all of the means for students appear to be at the non-separatist end of a continuum, he claims to discern statistically significant differences.

The interpretation of this finding rests in part upon the expectations and predilections of the reader. My own experience in a university setting where majority faculty and student dominate has been to accept and encourage minority students to have pride in their background and heritage—not to reject it. As a vehicle for coping with a new and sometimes hostile environment, group cohesion and a partial rejection of majority norms may be a powerful source of strength for an individual student. This leads me to be not discouraged by findings such as those cited by Armor; but to put them in the same positive arena as the rejection by public school students of the closed eating clubs at Harvard so favored by private school graduates in the 1920s and 30s: There is an irony in Dr. Armor's argument which stems back to the original findings of the Supreme Court in Brown. The High Court found that blacks' identity and pride suffered from segregated education. Should we now be distressed to find that black identity and pride improve from desegregated education?"

3. "There is also disagreement between Dr. Armor and Pettigrew et al. in the policy implications of the findings of the desegregation studies and, indeed, of social science research in general. Although both parties agree that social science properly conducted and interpreted can be of value to policy makers, Dr. Armor apparently believes that social science should demonstrate conclusively the positive benefits of a policy before the policy is initiated. In defense of his argument, he cites medical research and the 'guaranteed income' experiments now being carried out by the Federal Government. Neither example is, of course, necessarily appropriate, but both seem worthy of some consideration. In the medical area, consider the case of 'birth control pill(s).' Now, some years after its introduction, there is some indication of negative side effects of the drug. Some members of the medical profession argue that the pill should never have been released until full data on its consequences were available. This may be true, but it seems highly unlikely that the United States would now be experiencing a zero growth rate had the pill not been universally marketed—a policy benefit that may have been indicated but could never have been proved by experimentation. The consequences, thus, of the pill could not be fully realized before it was introduced, and could not have ever been assessed without it being universally marketed.

The case of the 'guaranteed income' scheme is more appropriate. Here the main impetus for a 'guaranteed income' was that all people in an affluent society have the right to enough income to be able to clothe and feed their families. The central concern which generated the need for an 'experiment' was that some people, given a 'guaranteed income,' would cease working and thereby reduce the national labor force. The first results of the study demonstrated that this concern is probably not warranted. Yet the experiments go on and the Federal Government is not even considering a guaranteed income presently. The reason for the lack of enactment appears to be that the Nixon Administration does not want a 'guaranteed income'. The reason has nothing to do with social science evidence.

My reading of these two examples is simply that social science evidence may have some impact, but essentially social policy depends on the beliefs and ideology of the government and the people. In the case of racial desegregation, the findings of social science are that it will not harm and can often enhance the achievement of both black and

white students. And the findings of the courts are that the nation has systematically excluded the possibility of blacks going to school with whites in the South and in all of the instances where the courts have ordered desegregation in the North. The rest is politics. Dramatic evidence for this view was provided by the ready acceptance of Dr. Armor's conclusions by those who oppose interracial schools, an acceptance that had little to do witn the social science data that presumably related to his conclusions. Indeed, the conclusions received national publicity before the paper was even published.

One is reminded of the 1840 census results that purported to support slavery. These data seemed to show that black Americans in the slave South were far less likely to be either 'idiotic' or 'insane' than those in the 'free' North. The defenders of slavery did not stop to check the data in their rush to exploit the apparent census findings. These data, argued John Calhoun immediately, proved that the abolition of slavery would be 'a curse instead of a blessing.' Soon a young physician and statistician, Dr. Edward Jarvis of Massachusetts, completely refuted the 1840 census data on race by revealing such glaring errors as northern communities with more reported 'idiotic' and 'insane' blacks than their total black populations. 'It was the census that was insane,' commented a contemporary observer, 'and not the colored people.' Pettigrew et al. do not claim to be another Dr. Jarvis, but in the last third of the twentieth century, it behooves us all to be extremely skeptical about sweeping conclusions that favor racial segregation made in the name of social science research."

V. ACHIEVING INTERGRATION OUT OF DESEGRATION

No responsible observer ever claimed that all interracial schools would be "good" schools. It takes little imagination to design desegregated schools that are living hells for both black and white pupils. The question, then, is not: Do all interracial schools work well? The key questions, neatly skirted by Armor and other political foes of biracial education, are: How do we make interracial schools effective? And what are the discernible differences now between effective interracial schools and ineffective ones?

The racial desegregation of schools is not a static but a complex, dynamic process. One must search for the critical conditions under which the process seems to be most beneficial for all students. For this purpose, it is important to distinguish between desegregation and integration. Desegregation is achieved by simply ending segregation and bringing blacks and whites together; it implies nothing about the quality of the interracial interaction. Integration involves positive intergroup contact with cross-racial acceptance and equal dignity and access to resources for both racial groups. Now that desegregation is reasonably widespread, an important question for education—and this Conference—becomes: How do we achieve integration out of desegregation?

Unfortunately, competent research directed specifically upon this question is scarce. But eight conditions that appear to maximize the probability that integration can occur in a school can be tentatively advanced on the basis of laboratory and classroom research, social psychological theory, and observation.

(1) There must be equal racial access to the school's resources. This critical condition means far more than just equal group access to books in the libraries and other physical facilities. More importantly, it refers to equal access to the school's sources of social status a well. It is a compelling fact that the two most frequently voiced complaints in desegregated schools revolve around membership in the cheerleading squad and the student government—both sources of student status. Blacks in the minority often note that they are welcome to participate in those activities with universalistic standards such as athletics; but not as welcome in more particularistic activities such as cheerleading and student government leadership. These restrictions upon social status particularly affect black girls, and a number of studies have shown that they tend to have a more difficult time than black boys in newly desegregated schools.

The general point of equal treatment has, of course, been emphasized by many writers. Indeed, the leader of this Conference, Professor Castaneda, has discussed it at length in terms of "democratic classrooms' involving Anglo and Chicano children. While this paper concentrates on Black-Anglo desegregation, a special example of the equal access criterion is brought to mind by Castaneda's contentions. It seems doubtful if true intergroup integration will ever be possible in Anglo-Chicano schools as long as the Spanish-speaking abilities of the Chicano pupils are seen as a problem rather than exploited as a resource. Apart from Spanish language courses for non-Chicanos, Spanish could be used as the medium of instruction in particular courses in the higher grades for all children. Castaneda and others have stressed the cultural and psychological importance of such an approach for Chicano students. But as an Anglo victim myself of poor language instruction in the public schools of Richmond, Virginia, the writer would add selfishly that this approach could provide Anglo students with an effective bilingual environment seldom obtained in America's public schools.

(2) Classroom—not just school—desegregation is essential if integration is to develop. This second condition may seem so obvious as not to warrant listing. Yet many of our so-called "desegregated" schools today are essentially internally segregated. This internal segregation is achieved in many not-so-subtle ways, ability grouping and curriculum separation being prime examples. But sometimes the methods can be quite elaborate. For example, transported minority children in some Riverside, California, schools arrive and leave an hour earlier than untransported white children so that they can have entirely separate reading classes[6]—hardly a practice that facilitates integration. However it is managed, segregation by classroom does not and cannot provide the benefits that generally attend integration.[7]

(3) Strict ability grouping should be avoided. The principal means of separating majority and minority pupils within schools is by rigid ability grouping across various subjects. Such grouping is typically based on achievement and I.Q. tests standardized only on majority samples. And ability grouping is increasing in American schools, even penetrating down into the elementary grades. Some grouping by subject matter is, of course, necessary; Algebra 2 must follow Algebra 1, chemistry requires certain basic skills in arithmetic. Rather, it is the across-the-board classification of students into "dull," "average," and "bright" that not only segregates by race and social class, but through labeling sets the aspirations of both teachers and students in concrete and produces self-fulfilling prophecies of achievement. Told they are dumb and treated as if dumb, all but the most rebellious and self-confident pupils become in fact dumb.

From this perspective, an array of research findings fall into place. Thus, school systems, such as those of Sacramento, California, and Goldsboro, North Carolina, that maintained classrooms of heterogeneous ability levels by resisting ability grouping with more open classrooms and team teaching have tended to demonstrate the most encouraging achievement effects of desegregation.[8] By contrast, systems such as Riverside, California's, that increased its use of ability grouping with the onset of desegregation have tended to show the most disappointing results.[9] Additional Riverside desegregation data highlight the effects of ability grouping further: bused students who were more dispersed in the classes of their receiving schools outperformed those who through ability tracking were clustered in essentially segregated classrooms; while the mean achievement of minority pupils with low initial ability scores declined relative to grade level, the achievement of minority pupils with high initial scores rose in the interracial scores; and, finally, minority children transported to schools characterized by higher achievement of the receiving white students gain significantly more than comparably minority children transported to schools characterized by low achievement.[10]

A chief obstacle in eliminating across-the-board labeling and tracking of children is presented by teachers who have only been trained to instruct homogeneous ability classes. They, understandably, come to regard ability grouping as a necessary practice as well as a beneficial work condition that makes their task easier. Moreover, it often is perceived as a status differentiating device with teachers holding seniority given the "high" track classes. In a profession that lacks sufficient status differentials, this feature becomes an important function of ability grouping apart from the needs of children. Nevertheless, it leads to the bizarre situation where the most inexperienced teachers are given the greatest professional challenge. It is as if the chief of a hospital's surgical service handled only band-aid cases and the newest interns were given all of the most complex surgical procedures. At any rate, changes in this domain must obviously begin with education schools and departments providing teachers with the necessary skills for effectively instructing classes of wide ability ranges.

(4) School services and remedial training must be maintained or increased with the onset of desegregation. Again this condition may appear so obvious as to be unnecessary to mention. Yet it must be listed, for many desegregation programs witness an actual reduction in per student expenditures. Examples include Ann Arbor, Michigan and Riverside and Berkeley, California.[11] Typically there is no reduction in local funds, but an overall decrease due to narrowly conceived federal guidelines for the use of Title I monies under the 1965 Elementary and Secondary Education Aid Act. Actually, the Act does not expressly forbid Title I funds for children from low-income families from following the children on the bus to the desegregated school. Indeed, former Commissioner of Education Harold Howe explicitly provided for this special aid to continue with desegregation. However, the U.S. Office of Education more recently has made this all but impossible, consistent with the Nixon Administration's resistance to racial change. Yet the fact remains that desegregation and so-called "compensatory education" are most effective when they are combined rather than treated as opposite alternatives.

(5) Desegregation should be initiated in the early grades. During the 1950s, the White Citizens' Councils of the deep South provided a noteworthy example of being wrong for the right reasons. They sternly opposed the racial desegregation of the public schools and particularly objected to beginning the process in the primary grades. "It's not fair," they argued; "the very young

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children simply wouldn't know any better than to become friends."

Relevant research supports the Citizens' Councils' observation, if not their conclusion. The Coleman Report data show higher achievement among black children who began their interracial schooling in the first five grades.[12] And specific studies in Hartford, Connecticut, Ann Arbor, Michigan, Newark-Verona, New Jersey, Bridgeport-Westport, Connecticut, and Riverside all show, too, the best achievement gains for those who begin desegregation in kindergarten and the first grade.[13]

More relevant for determining the beginning of genuine integration are other results. The Coleman data also indicate that the most positive attitudes toward having interracial classes and blacks as close friends are evinced by white children who begin their interracial schooling in the earliest grades.[14] Likewise, the choice of schools by black students is largely determined by their early familiarity with biracial education. Consider the 1962 findings of the U.S. Commission on Civil Rights in Louisville, Kentucky. The city then had six public high schools, all with some black pupils, and an open choice of enrollment. One of the six, Central High School, had originally been "the black high school" and was still virtually all black in 1962. The Commission found a strong correlation (+.82 Spearman rank order) between the percentages of blacks in the junior high schools and the percentage of blacks from each school who chose to attend the all-black high school. "The inference is strong," concluded the Commission, "that Negro high school students prefer biracial education only if they have experienced it before. If a Negro student has not received his formative education in biracial schools, the chances are he will not choose to enter one in his more mature years." [15]

Racial isolation, then, is a cumulative process. Its effects over time on children of both races make subsequent integration increasingly more difficult. Separation leads them to grow apart in interests and values. It also enhances the likelihood of the three factors Irwin Katz found to depress black performances in biracial situations: lowered probability of success, social threat, and failure threat.[16] Moreover, considerable research initiated over three decades ago by Kenneth and Mamie Clark and repeatedly replicated up to today reveals that the dawn of racial awareness occurs in the third and fourth years of life and the beginnings of racial prejudice by the fifth and sixth years.[17] In short, from many perspectives, early interracial intervention seems most desirable.

Recently, the nation witnessed dramatic evidence of this critical condition for obtaining integration. Following the assassination of Dr. Martin Luther King in April of 1968, a series of interracial confrontations and conflicts erupted in many biracial schools. Some observers immediately interpreted this strife as evidence that desegregation "cannot work," that it "only leads to trouble." Yet a diametrically opposite explanation is more plausible. This interracial conflict was centered at the high school level and typically involved black and white students who in the earlier grades had attended largely uniracial schools. The hostile students, then, were unfortunately living what they had been taught; that is, their first eight years of schooling taught them that segregation was the legitimate American norm and did not prepare them for harmonious interracial contact in high school. It was not desegregation that "failed" as such. Rather it was racial segregation in the formative years that had "succeeded" as it has throughout our nation's history to develop distrust and conflict between Americans of different skin colors.

Footnotes at end of article.

(6) The need for interracial staffs is critical. Another correlate of the high school strife following Dr. King's murder underlines the importance of black teachers and administrators in the public schools. One study has shown that high school "disruptions" and racial tensions are far less likely to occur when the black staff percentage is equal to or greater than the black student percentage.[18] To be sure, there are more positive reasons for the development of thoroughly interracial staffs than the prevention of conflict. Genuine integration among students may be impossible to achieve unless the staff furnishes an affirmative model of the process. Black students report a greater sense of inclusion and involvement when blacks as well as whites are in authority. And black and white teachers learn the subtleties of the process from each other under optimal intergroup contact conditions—interdependently working toward common goals as equals under authority sanction.[19]

There is growing evidence, too, that the role of the principal is decisive in generating an integrated climate within a school. This fact suggests that it is important not just to have an interracial mix of teachers but a mix of administrators as well. This point is generally recognized at the high school level, though it is too often handled by having a black administer largely black student disciplinary problems as one among a group of assistant principals. The token and limited nature of such an appointment is obvious to all, and may hurt more than it helps the growth of cross-racial acceptance. More frequent assignment of black educators as principals of biracial schools is necessary in elementary and junior high schools as well as high schools. Despite changes in the nation's employment patterns in recent years, both black and white students are likely to see blacks in authority over whites only in schools where there is a black principal.

(7) Substantial, rather than token, minority percentages are necessary. Coleman's original analysis of his national data revealed that black children who were the only members of their race in a classroom tended to score either quite high or quite low on both mathematical and reading achievement tests.[20] Such tokenism is psychologically difficult for black children in America where race is so salient. Without the numbers to form a critical mass, black students can come to think of themselves as an unwanted appendage; and white students can overlook the black presence and even perceive it as a temporary situation. But once the minority percentage reaches about 20% to 25%, a critical mass is formed. Blacks are then a significant part of the school to stay; they are now numerous enough to be filtered throughout the entire school structure, on the newspaper staff and in the honor society as well as in the glee club and on athletic teams. Substantial minority representation, of course, does not guarantee intergroup harmony, but it is clearly a prerequisite for integration. Little wonder that Jencks and Brown find in a reanalysis of Coleman data that schools with 25% to 50% black enrollment seem to teach their black pupils more than those with 1% to 25% black enrollment.[21] Tokenism, then, appears not only to exact a heavy psychological cost from black children, but may hold fewer academic benefits for them in addition.

(8) Finally, race and social class must not be confounded in the interracial school. When the white children of a biracial school are overwhelmingly from affluent, middle-class families and the black children are overwhelmingly from poor, working-class families, the opportunities to develop integration are severely limited. Such confounding of race and class heightens the probability for conflict. Much of this conflict may be generated by value differences between classes; but in race-conscious America such class conflict is typical seen as race conflict. To meet this eighth condition for the development of integration, the inclusion of working-class white children and middle-class black children is essential. The crucial group in shortest supply are the middle-class blacks, though their absolute numbers have expanded about 14 times since 1940. The middle-class black child, then, should be seen as an invaluable resource for lowering the correlation within biracial schools between race and class.

VI. SUMMING UP

The basic case for the racial integration of the public schools is founded on our nation's traditional view of justice as well as the American dream. It is a cumulative process with potential academic and attitudinal benefits for both black and white children, but it is not a paternalistic program conducted "for" blacks or "for" whites for that matter. Rather it should be viewed as one component of the massive racial changes required to make viable the United States as an interracial society.

Within this framework, this paper has traced the present situation of school desegregation, listed the principal myths currently in vogue to legitimate racist resistance to the process, and summarized the recent debate on its effects. Finally, the paper maintained that a major task now facing American education is how to develop integration out of desegregation. The conception of intergroup integration put forward is emphatically not an "Anglo-white-middle-class assimilation model." It requires a blending and a mutual dignity and respect of diverse groups and their cultures. Such a development, it is argued here, would be more likely if eight conditions held: equal racial access to the school's resources; thorough classroom desegregation; the avoidance of strict, across-the-board ability grouping; the maintenance of or increase in school services and remedial training; desegregation begun in the early grades; interracial staffs; substantial, rather than token, minority representation; and race and social class both involved in the desegregation.

But will the thorough desegregation—and hopefully, integration—of the public schools of the United States actually ever become a reality? This paper does not claim to be prophetic. It cannot state authoritatively that the separatists, white and black, are wrong when they claim that the nation is too racist, too anti-black, too committed to the 350-year tradition of white domination to ever countenance extensive school integration as described here. However, it can be said that those who hold such pessimistic views and act upon them personally contribute to achieving the grim future they foresee. To avoid participating in such a self-fulfilling prophecy, one must assume the best for the future of American race relations and act accordingly—much as the legal father of the integration movement, Charles Hamilton Houston, did during the even more discouraging decades of the twenties and thirties.

It can also be asserted that integration as described here is possible were America somehow to will it. Our brief review earlier of the chief causes of urban school segregation emphasized the importance of metropolitan approaches to desegregation. Innovative ideas abound in this realm, such as the Metropolitan Education Park.[22] In this regard, the recent 4 to 4 deadlock of the U.S. Supreme Court that prevented the metropolitan desegregation plan of Richmond, Virginia, may prove to be a serious roadblock to further progress. A similar plan for Detroit, Michigan, however, has won strong approval from federal judges at both the dis-

trict and appellate court levels. It has yet to be reviewed by the High Court; and the decision rendered on it next year could influence the course and pace of the process for the remainder of the 1970s.

In the meantime, there is much for educators to be doing professionally. We should not allow lawyers and the courts to determine completely the direction of a process that is basically within our field of competence. Even if the racial integration of the public schools is currently out of political vogue, it is up to us to achieve it within our desegregated schools, to make it "work" effectively. To end where we began, we can contribute to the effort of negatively answering Representative McCulloch's rhetorical question about changing our basic national premises to maintain racial segregation.

FOOTNOTES

[1] D. J. Armor, "The Evidence on Busing," *The Public Interest*, Summer 1972, 90–126.

[2] Walter Shapiro, "Black and White Together Is Still the Point," *The Washington Monthly*, June 1973, 32–42; Godfrey Hodgson, "Do Schools Make a Difference?" *Atlantic*, March 1973, *231*, 35–46.

[3] T. F. Pettigrew, E. L. Useem, C. Normand, and M. S. Smith, "Busing: A Review of the Evidence," *The Public Interest*, Winter 1973, 88–118.

[4] D. J. Armour, "The Double Double Standard: A Reply," *The Public Interest*, Winter 1973, 119–131.

[5] Marshal S. Smith, "Agreement and Disagreement: A Final Word." Unpublished manuscript, Harvard Graduate School of Education, March 1973.

[6] Harry Singer, "Effect of Integration on Achievement of Anglos, Blacks, and Mexican-Americans." Unpublished manuscript, Department of Education, University of California, Riverside, 1972: pp. 25–26.

[7] James McPartland, "The Segregated Student in the Desegregated Schools: Sources of Influence on Negro Secondary Students," *Report No. 21*, Department of Social Relations, Johns-Hopkins University, 1968.

[8] Pettigrew *et al., op. cit.*

[9] I. S. Hendrick, "The Development of a School Integration Plan in Riverside, California: A History and Perspective." Unpublished manuscript of the University of California, Riverside and the Riverside Unified School District, 1968; p. 201.

[10] Mabel C. Purl, "The Achievement of Pupils in Desegregated Schools." Unpublished manuscript, Riverside Unified School District, California, 1971.

[11] Pettigrew *et al., op. cit.*

[12] James Coleman *et al., Equality of Educational Opportunity*. Washington, D.C.: U.S. Government Printing Office, 1966; p. 332.

[13] Pettigrew *et al., op. cit.;* and T. F. Pettigrew, "The Negro and Education." In I. Katz and P. Gurin (eds.), *Race and the Social Sciences*. New York: Basic Books, 1969.

[14] Coleman *et al., op. cit.*, p. 333.

[15] U.S. Commission on Civil Rights, *Civil Rights U.S.A.: Public Schools, Southern States, 1962*. Washington, D.C.: U.S. Government Printing Office, 1963; p. 55.

[16] I. Katz, "Review of Evidence Relating to Effects of Desegregation on the Performance of Negroes," *American Psychologist*, 1964, 19, 381–399.

[17] T. F. Pettigrew, *A Profile of the Negro American*. New York: Van Nostrand-Rinehold, 1964; Judith D. R. Porter, *Black Child, White Child: The Development of Racial Attitudes*. Cambridge, Mass.: Harvard University Press, 1971.

[18] S. K. Bailey, *Disruption in Urban Public Secondary Schools*. Washington, D.C.: National Association of Secondary School Principals, 1970.

[19] G. W. Allport, *The Nature of Prejudice*. Cambridge, Mass.: Addison-Wesley, 1954, Chapter 16; T. F. Pettigrew, *Racially Separate or Together?* New York: McGraw-Hill, 1971, Chapter 12.

[20] Coleman *et al., op. cit.*, p. 333.

[21] Christopher Jencks and Marsha Brown, "The Effects of Desegregation on Student Achievement: Some New Evidence From the Equality of Educational Opportunity Survey." Unpublished manuscript, Harvard Graduate School of Education, 1972.

[22] Pettigrew, "The Negro and Education," *op. cit.*

EXHIBIT 4

WASHINGTON RESEARCH PROJECT,
ACTION COUNCIL,
Washington, D.C.

ANTIBUSING RESTRICTIONS ON THE USE OF FEDERAL FUNDS AND ON TITLE VI ENFORCEMENT EFFORTS

(By Richard T. Seymour [1])

Legislative proposals currently pending before Congress would restrict or prohibit the use of Federal funds to pay the costs of busing public school students pursuant to a desegregation effort, and would prohibit Federal officials from requiring, as a condition of receiving Federal funds, that local school districts adopt desegregation plans requiring that such students be bused. Unless the language of any enacted legislation is carefully restricted so that it will not affect the availability of constitutionally required remedies, there is a strong possibility that such legislation would be held unconstitutional.

In any constitutional analysis of such legislation, the central fact is that segregated public schooling violates the Constitution and that the Constitution requires that all steps necessary to dismantle a segregated system must be taken. The courts have held that busing is an absolutely essential remedy in most cases, and that State legislation attempting to restrict the use of busing is therefore an unconstitutional interference with the right to effective desegregation. *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971); *North Carolina State Board of Education v. Swann*, 402 U.S. 43 (1971). Federal statutes, such as enactments limiting the use of Federal funds, which would have the effect of restricting constitutionally necessary busing would be just as unconstitutional, since the Federal government is no freer than State and local governments to discriminate on the basis of race. *Bolling v. Sharpe*, 347 U.S. 497 (1954). For a much fuller discussion of these points, see the February 28, 1974 memorandum, "Anti-Busing Legislation in the 93rd Congress."

Legislation which does not directly restrict constitutionally necessary busing may yet fall afoul of the Constitution if it expressly permits the discriminatory use of Federal funds. In *Simkins v. Moses H. Cone Memorial Hospital*, 323 F. 2d 959 (4th Cir., 1963), *cert. den.*, 376 U.S. 938 (1964), the court of appeals held unconstitutional the provision of 60 Stat. 1043, then codified as 42 U.S.C. §291e(f), which authorized but did not require separate-but-equal facilities for different races in hospital receiving Hill-Burton funds. Further, it is now clear that the Constitution is violated if a governmental agency has the power to prevent discrimination by a recipient of governmental benefits but fails to exercise that power. In *Burton v. Wilmington Parking Authority*, 365 U.S. 715, 720 (1961), a municipal parking authority was held to have violated the Constitution, *interalia*, by failing to exercise its ordinary powers as a landlord to include a provision in its lease with a restaurant requiring the restaurant to serve all members of the public on a nondiscriminatory basis:

[1] Member of the District of Columbia bar.

" . . .[N]o State may effectively abdicate its responsibilities by either ignoring them or by merely failing to discharge them whatever the motive may be."

In *Hicks v. Weaver*, 302 F. Supp. 619 (E. D. La., 1969), the court held that Federal officials acted unlawfully by failing to prevent racial discrimination in the placement of a Federally assisted housing project, and that the mere entry into a covenant not to discriminate was insufficient. In *Green v. Kennedy*, 309 F. Supp. 1127 (D.D.C., 1970), a three-judge court held that the failure of the Secretary of the Treasury to require actual nondiscrimination by private segregated schools with Federal tax exemptions violated the Fifth Amendment. In *James v. Ogilvie*, 310 F. Supp. 661 (N.D. Ill., 1970), the court held that the failure of the State of Illinois to require actual nondiscrimination by construction unions working on State-sponsored projects violated the Fourteenth Amendment. *Accord, Ethridge v. Rhodes*, 268 F. Supp. 83 (S.D. Ohio, 1967). In *United States v. Frazer*, 297 F. Supp. 319 (M.D. Ala, 1968), the court upheld the right of the United States to sue Alabama officials to require that there be no racial discrimination in the State's recruitment, hiring, and promotion of personnel who would administer Federal grant-in-aid programs and be paid from these grant funds. In deciding that the United States had standing to sue, the court observed:

"As a matter of fact, the interest of the United States in these Federally financed programs may be so considerable that the Government, through its duly constituted officials, including the Attorney General of the United States, has a constitutional obligation to eliminate racial discrimination in their administration. Failure on the part of any of these Government officials to take legal action in the event that racial discrimination does exist—and, as stated earlier in this opinion, we must, for the purpose of measuring these motions to dismiss against the complaint, assume that it does exist—would constitute dereliction of official duty."

It is thus clear that any Act of Congress which would expressly permit the discriminatory use of Federal funds would be unconstitutional. Congress was well aware of this doctrine when it enacted Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d *et seq.*[2] The legislative history indicates that the provisions' supporters viewed it as effectuating a mandatory constitutional requirement. During the debate, for instance, the Supreme Court had denied certiorari in *Simkins v. Moses H. Cone Memorial Hospital, supra*, and the bill's supporters cited the case during the debate.[3] Senator Humphrey, the floor manager of the entire Civil Rights Act, stated that § 601 stated "the law of the land," 110 Cong. Rec. 5253. He called § 601 "merely a restatement of the law." 110 Cong. Rec. 5864. He concluded, at 110 Cong. Rec. 6544:

"Thus, title VI is simply designed to insure that Federal funds are spent in accordance with the Constitution and the moral sense of the nation."

Senator Allott argues that § 601 articulates a constitutional standard, 110 Cong. Rec. 12675. Senator Case stated, in reference to § 601:

"As a matter of fact, it cannot be qualified as a matter of constitutional principle." 110 Cong. Rec. 13930.

[2] Sec. 501 provides:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

[3] *E.g.*, 110 Cong. Rec. 5253 and 6544 (remarks of Senator Humphrey); 110 Cong Rec. 8057 (remarks of Senator Pastore).

Senator Ribicoff agreed that Title VI would effectuate a "[C]onstitutional restriction against discrimination in the use of Federal funds." 110 Cong. Rec. 13333. Referring to the denial of certiorari in *Simkins*, Senator Pastore stated:

"All that the bill is trying to do is to take that edict of the Supreme Court and make it apply nationally and universally, so that we do not have to take every single case of discrimination into court." 110 Cong. Rec. 8057.

The Fifth Circuit has agreed with this view that § 601 was intended to effectuate a clear constitutional duty:

"Section 601 states a reasonable condition that the United States may attach to any grant of financial assistance. . . . But it also states the law as laid down in hundreds of decisions, independent of the statute." *Lemon* v. *Bossier Parish School Board*, 370 F.2d 847 (5th Cir., 1967), *cert. den.*, 388 U.S. 911 (1967).

Thus, any language in any Act of Congress which orders Federal officials not to enforce Title VI with respect to any kind of racial discrimination, or which in effect forbids these officials to enforce Title VI by requiring the use of specified remedies which may be constitutionally necessary under the facts of a case, would violate the Fifth Amendment.

Whether a given legislative proposal would have these effects, and would thus be unconstitutional, depends on its language. The standards by which it would be weighed are set forth above, and its language should be examined with these tests in mind.

AMENDMENT NO. 1304

Mr. McCLELLAN. Mr. President, I ask unanimous consent to have printed in the RECORD an amendment to S. 1539 which I have proposed, which was filed today and which will be printed and placed on the desks of Senators tomorrow.

The PRESIDING OFFICER. Without objection, the amendment will be received and printed and will lie on the table; and without objection the amendment will be printed in the RECORD.

On page 131, beginning with line 16, strike out through line 10 on page 152 and insert in lieu thereof the following:

(2)(A)(i) Section 103(a) of such title I is amended to read as follows:

"SEC. 103. (a)(1) There is authorized to be appropriated for each fiscal year for the *purpose of* this paragraph 3 per centum of the amount appropriated for such year for payments to States under section 143(a) (other than payments under such section to jurisdictions excluded from the term 'State' by this subsection, and payments under part B), and there shall be authorized to be appropriated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1973 for the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among the Commonwealth of Puerto, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

"(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this part for a fiscal year shall (except as provided in paragraph (3)) be determined by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State, except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

"(3)(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

"(4) For purposes of this subsection, the term 'State' does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.".

(ii) Section 103(b) of such title I is amended by striking out "aged five to seventeen, inclusive described in clauses (A), (B), and (C) of the first sentence of paragraph (2) of subsection (a)" and inserting in lieu thereof "counted under subsection (c)".

(B) Section 103(c) of such title I is amended to read as follows:

"(c)(1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds.".

(C)(i) Subsection (d) of section 103 is redesignated as paragraph (2) of subsection (c).

(ii) The first sentence of such paragraph (2) (as redesignated by this section) is amended to read as follows:

"(A) For purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.".

(iii) The second sentence of paragraph (2) of such subsection (c) (as redesignated by this section) is repealed.

(iv) The third sentence of such paragraph (2) is amended to read as follows:

"(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the second calendar year preceding such month of January) or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.".

(v) The fourth sentence of such paragraph (2) (as redesignated by this section) is amended by striking out the word "When" and inserting in lieu thereof the following: "(C) When"; and by striking out "having an annual income less than the low-income factor (established pursuant to subsection (c))" and inserting in lieu thereof "below the poverty level (as determined under paragraph (A) of this subsection)".

(vi) Section 103(e) of such title is repealed.

(D) Section 103 of such title I is amended by adding at the end thereof the following:

"(d)(1) From the amount allotted for payments to the Secretary of the Interior

under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

"(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 141(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of section 141(a) and 142(a)(3).".

(E) Such title I is amended by striking out parts B and C and inserting in lieu thereof the following:

"PART B—STATE OPERATED PROGRAMS

"PROGRAMS FOR HANDICAPPED CHILDREN

"SEC. 121. (a) A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

"(b) Except as provided in section 124, the grant to which a State agency shall be entitled under this section shall be an amount equal to—

"(1)(A) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State, or

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in all the States,

whichever is greater,

multiplied by—

"(2) the number of such children in average daily attendance, as determined by the Commissioner,

at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available.

"(c) A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

"(d) In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c).

"PROGRAMS FOR MIGRATORY CHILDREN

"SEC. 122. (a)(1) A State educational agency or a combination of such agencies, upon application, shall be entitled to receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination—

"(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

"(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

"(C) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (3) through (12) of section 141(a); and

"(D) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

"(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

"(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in the consideration of programs and activities contained in applications submitted under this subsection.

"(b) Except as provided in section 124, the grant to which a State agency shall be entitled under this section shall be an amount equal to—

"(1)(A) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State, or

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in all the States, whichever is greater,

multiplied by—

"(2)(A) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and

"(B) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner,

except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

"PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN

"SEC. 123. (a) A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

"(b) Except as provided in section 124, the grant to which a State agency shall be entitled under this section shall be an amount equal to—

"(1)(A) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State, or

"(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in all the States, whichever is greater,

multiplied by—

"(2) the number of such children in average daily attendance as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

"(c) A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

"RESERVATION OF FUNDS FOR TERRITORIES

"SEC. 124. There is authorized to be appropriated for each fiscal year for purposes of each of sections 121, 122, and 123, an amount equal to not more than 3 per centum of the amount appropriated for such year for such sections for payments to the Commonwealth of Puerto Rico, Guam, American Samoa, the

Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title.".

(F) Section 144 of such title I is amended by striking out the first sentence and inserting in lieu thereof the following: "If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are eligible to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121, 122, or 123 shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under part A of this title for such year, the allocations of such agencies shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year.".

(G)(i) Part D of such title I (including all references thereto) is redesignated as part C.

(ii) Section 141(a)(4) of such title is amended by striking out "section 145" and inserting in lieu thereof "section 433 of the General Education Provisions Act".

(iii) Section 141(a)(1)(B) of such title is amended by striking out "maximum".

(iv) Section 141(c) of such title is repealed.

(v) Section 143(a)(2) of such title is amended by striking out "maximum".

(vi) Section 142 of such title is amended by striking out "described in section 141 (c)" and inserting in lieu thereof "provided for in section 122".

(vii) Section 142(a)(1) of such title is amended by striking out "section 103(a)(5)" and inserting in lieu thereof "section 121".

(viii) Section 143(a)(2) of such title is amended by striking out "or section 131".

(ix) Section 143(b)(1) of such title is amended to read as follows:

"(1) 1 per centum of the amount allocated to the State and its local educational agencies as determined for that year under this title; or".

(x) The third and fourth sentences of section 144 of such title are each amended by striking out "section 103(a)(6)" and inserting in lieu thereof "section 122".

(xi) Section 146 of such title is amended by striking out "section 141(c)" and inserting in lieu thereof "section 122".

(xii) Section 147 of such title is amended by striking out "section 141(c)" and inserting in lieu thereof "section 122".

(xiii) Section 403 of the Act of September 30, 1950 Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new paragraph:

"(16) For purposes of title II, the 'average per pupil expenditure' in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.".

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that the time not be charged against 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. DOMINICK. 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. DOMINICK. Mr. President, I call up my amendments No. 1253 and ask that they be stated.

The PRESIDING OFFICER. The clerk will state the amendments.

The legislative clerk proceeded to read the amendments.

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

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

Amendments No. 1253 are as follows:

On page 239, strike out lines 14 through 25.

On page 240, strike out lines 1 through 3, and insert in lieu thereof the following:

"(s) The funds available to a State under this title for any fiscal year, in excess of the amounts required for entitlements under section 602(a)(1), shall be expended by that State for the purposes set forth in subsection (b) in such amounts, determined by the State education agency of that State, as will best meet the needs of the children of that State with respect to such purposes."

Mr. DOMINICK. Mr. President, I shall be relatively brief. As I just said in my prepared statement, amendment 1253 revises the proposed consolidation so that, instead of just having consolidated 50 percent of new money that comes in under the bill, we will be consolidating 100 percent of the new money. This is different from the House procedure because the House consolidates 100 percent of the new money on all kinds of projects, determining the preexisting limit, and all we are doing is saying new money will be consolidated.

It is not the type of consolidation I would like to go for, which is much more along special revenue sharing, and which would be exemplified in my amendment No. 1256, which gives a 3-year period for consolidation and says that 25 percent of the existing money this year would be subject to consolidation, 50 percent the following year, and 75 percent the year after that.

Nevertheless, I have talked to the distinguished Senator from Rhode Island on this matter and have agreed with him that, if we take this type of consolidation, which gives us a much better leeway than we had before, a 50 percent leeway, in addition to what is in the bill, then we would have at least taken the first step on the road toward consolidation, and I shall, under those circumstances, not bring up amendment 1256 except to talk about it during the process of the consideration of the bill. I shall also not bring up the other amendments which I have talked about prior to this time, in the hope that we will have made a big enough impact by the acceptance of amendment 1253 so that we would not have to go further and try to amend the bill with respect to some of the defects I consider to be in it, although I like the bill as a whole.

So I would say to the Senator from Rhode Island that if he is agreeable to accepting this amendment, I will make the commitment to him not to bring up the rest of my amendments at this time during the debate.

Mr. PELL. Mr. President, as the Senator from Colorado has suggested, we talked about this amendment. I have talked with our colleagues on the subcommittee. I am very concerned with its effect on the various groups which have long been identified with the programs involved in this consolidation.

I ask unanimous consent to insert in the RECORD at this point a letter from the American Library Association, the Association for Educational Communications and Technology, and the American Personnel and Guidance Association, expressing their opposition to the amendment of the Senator from Colorado.

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

AMERICAN LIBRARY ASSOCIATION,
Washington, D.C., May 13, 1974.

DEAR SENATOR PELL: Since writing to you on April 30 conveying the position of our coalition of 20 national associations, we have reviewed the amendments (Nos. 1251–1256) proposed to be offered by Senator Peter Dominick to the Education Amendments of 1974 (S. 1539). The views we present herein are based on the many years of experience our members have had throughout the nation as counselors, librarians, teachers, audiovisual and media center directors, school administrators, and state education officials.

In that three of the Dominick amendments (Nos. 1253, 1256 and 1251) affect the consolidation language in the bill, we felt you would be interested in learning how these amendments would directly affect ongoing, highly successful library, instructional media, and guidance and counseling programs in your state.

Dominick Amendments Nos. 1253 and 1256: These amendments would destroy the compromise in S. 1539 so carefully worked out by the Senate Education Subcommittee. For, the members of our 20 associations oppose all consolidation of education programs, whereas interests—such as the Administration—want general revenue sharing for education. The Senate Committee compromise is a balance which would be upset by the Dominick amendments.

Dominick Amendment No. 1253 is exceptionally objectionable because it would freeze all states at predetermined set amounts for the specific uses of the Elementary and Sec-

ondary Education Act Title II, National Defense Education Act Title III and V-A. The net effect of this freeze would be to establish ceilings at the 1969 or 1972 levels, beyond which no growth can be assured, regardless of need. As a result of this Dominick amendment, the 1969 and 1972 levels will be interpreted as ceilings just as they were when NDEA V-A was consolidated with ESEA III in 1970 (see pp. 67-68 in the Senate Report on S. 1539 for a summary of this situation). The advantage offered your state by the Senate Committee bill is this: if schools in your state need additional funds for one of the consolidated purposes—and their state government is not meeting this need—they may come to Congress for a remedy in the regular appropriation process. The Dominick amendment deprives your state of this remedy and leaves the local school district's needs solely up to the discretion of certain officials in the state government. This Dominick Amendment, therefore, is a dangerous deviation from the basic compromise in the Senate Committee bill.

We wish to add that Amendment No. 1253 would have the effect of increasing the power of the state government at the expense of the local school districts. We believe the Committee bill is equitable to both state and local education agencies and thus should be retained unamended.

Amendment No. 1256 goes even further toward diverting funds being used today in library, instructional media and guidance and counseling programs. Over a four-year period, Amendment No. 1256 would have the effect of almost completely eliminating Title II of the Elementary and Secondary Education Act, and Titles III and V-A of the National Defense Education Act. While the purposes of these titles would, to an extent, be preserved in a general way, funds earmarked for your state under the specific purposes of those titles would be cut from 100 percent to 25 percent of either FY 1972 or FY 1969 levels—hardly an adequate response to the increased need for these programs as documented in our joint statement which you so kindly inserted in the Congressional Record. Such a cutback destroys the state-by-state protection built into S. 1539 by you and the Senate Education Subcommittee and as approved by the Senate Labor and Public Welfare Committee when reporting the bill.

Therefore, we advise defeat of Amendments 1253 and 1256, should they be called up. Neither would serve the best interests of education and neither would benefit the maintenance of successful local programs in your state.

Dominick Amendment No. 1251: This amendment would deny the Senate and House committees responsible for education legislation the right to prior review of consolidation plans under the "third" consolidation (of discretionary programs) included in the Senate Committee bill. We believe prior clearance by two Congressional Committees is a wise step toward preserving for the Congress a degree of input to overall plans which grant, for the first time, vastly increased powers for the Commissioner in disbursing "Special Projects Act" funds. We were reminded of the clear need for such Congressional review and oversight in 1972 when, if the Office of Education had developed adequate consultation with the proper Congressional Committees, the "Educational Renewal" program might have been saved from collapse. So that you will have an opportunity to review plans from the standpoint of what is best for your state, during the initial years in which consolidation is basically at the experimental stage, we believe prior review by the Congressional committees is crucial to any successes which might be achieved under S. 1539. We thus urge your opposition to Amendment No. 1251.

As you know, Senator Dominick has indicated an intention to offer three other amendments (Nos. 1252, 1254, and 1255). These three, while not applied directly to consolidation provisions in the bill, do materially threaten the successful administration of consolidated programs. We believe No. 1252, if adopted, would set back the long-range efforts of the education community and many Senators and Representatives to create a separate department of education. The increased strength given to the U.S. Office of Education by the Senate Committee bill would be taken away by Amendment No. 1252. Furthermore, if Amendment No. 1252 is defeated the Committee bill would relieve much of the bureaucratic red tape our members and thousands of other educators have experienced in dealing with the Department of Health, Education and Welfare and with the U.S. Office of Education during recent years. We feel Amendment No. 1252 if offered should be rejected.

Amendments No. 1254 and No. 1255 undermine the Senate Committee's efforts to ensure that the intent of Congress is properly carried out by the U.S. Office of Education. These two amendments withdraw the Senate Committee bill's assurance to the American taxpayer that appropriate national leadership will be given to Congressionally established priorities. Amendment No. 1254 would cut the staffing for the Bureau of Libraries and Learning Resources—among other bureaus—which will have the job of administering the Senate Committee's consolidation language. Thus, we believe Amendment No. 1254 would simply stifle the full development of the new consolidation. Amendment No. 1255 is equally dangerous in that it takes away from Congress the assurance that the laws of the land will be obeyed and that certain programs mandated by the Congress, will in fact, be staffed and carried out by the appropriate executive branch officials. We have experienced far too many years in which executive branch officials have thwarted programs created by Congress through the manipulation of the bureaucracy. Amendment No. 1255 would simply encourage continued manipulation.

In conclusion, we believe your state and the entire nation would be best served by defeat of Dominick Amendments Nos. 1251, 1252, 1253, 1254, 1255, and 1256. The brief comments above are designed to supplement the full statement we provided you on April 30 titled: A Statement Concerning the Consolidation Provision of the Education Amendments of 1974 (S. 1539). If you need additional information or a further explanation of our views, please do have your staff contact us. We would be pleased to brief you and your staff on these important issues.

Sincerely,

EILEEN D. COOKE,
Director, American Library Association.

HOWARD B. HITCHENS,
Executive Director, Association for Educational Communications and Technology.

PATRICK J. MCDONOUGH, Ed. D.,
Assistant Executive Director for Professional Affairs, American Personnel and Guidance Association.

Mr. PELL. Nevertheless, in order to insure as wide a base of support for this bill as possible, my colleagues on the majority side of the subcommittee and I would be reluctantly willing—and I must emphasize the word "reluctantly"—to accept the amendment of the Senator from Colorado with regard to 100 percent consolidation of new moneys appropriated for the consolidated State programs, provided the amount of money received in the past is continued to be appropriated for each program. We will accept that amendment, appreciating all the positive contributions of the Senator from Colorado, his position as the ranking minority member of the Subcommittee on Education, and his willingness not to press the other amendments. We have worked together through the months, and really now through the years, to hammer out what we believe is good education legislation, no matter what might be the interests of our own individual communities or States or parties. For that reason, I would recommend acceptance of the amendment of the Senator from Colorado.

Mr. DOMINICK. Mr. President, I am sincerely thankful to the Senator from Rhode Island. I can understand why some of the groups might not like this, because they are afraid that in some areas their particular preferences might not be used as far as new money is concerned, but I think that is exactly why we need this, so we can get the best educational programs that are needed for that particular area.

I am sure the Senator from Rhode Island would agree that some of the needs that they have in Rhode Island are substantially different from some of the needs they have in Alaska, we will say, or Georgia, or Colorado, or any other State, for that matter.

That is why I think the consolidation program which goes toward, in general, an allowance for the local people to decide how they want to use their money best for educational purposes is a good idea.

I thank the Senator from Rhode Island.

Mr. PELL. Mr. President, I would like to have the legislative history show the special care I took in inserting into the RECORD the letter from the American Library Association, because libraries have fared particularly badly in the last couple of years from this administration. I would hope in the future libraries would not be given the short shrift they have been given in the past; they should be given the attention and the help that they deserve.

I am prepared to yield back the remainder of my time.

Mr. DOMINICK. Mr. President, I wish to make a fuller statement at this time.

Mr. President, the so-called State program consolidation contained in section 402 will provide only the appearance rather than the reality of consolidation for the six formula grant programs involved. The present version of S. 1539 gives State educational agencies discretion to utilize only 50 percent of the amount appropriated in excess of that required to fund certain categorical purposes at the level of designated prior years.

Mr. President, I believe the Senate should, at a minimum, modify the proposed new title VI of the Elementary and Secondary Education Act to give State education agencies discretion in the use of 100 percent of the funds appropriated under the new title in excess of the amount expended in designated previous years for certain categorical purposes.

This modification can be accomplished by adopting my amendment No. 1253 revising section 603(c)(2) of the proposed new title VI.

I would stress that adoption of this amendment, providing for consolidation of 100 percent of appropriations in excess of designated previous years, is only the first step toward true consolidation. I would much prefer adoption of my amendment No. 1256 to give the State educational agencies discretion to use a gradually increasing percentage of funds made available in accordance with priorities determined by such agencies.

Mr. President, we have discussed the need to simplify the funding process of our elementary and secondary education programs many times before. Why, then, are we indulging in the luxury of insisting that existing education programs be continued in perpetuity and be funded at increasingly higher levels?

States and localities are already finding that Federal priorities are out of phase with their needs. This is the very reason we seek consolidation—so that States can adjust funding to their own changing priorities. Educational conditions are rapidly changing today, even more rapidly than we anticipated when consolidation was first proposed. The public sector is being forced to respond quickly to a variety of new problems—inequities in school finance and equal educational opportunity for the handicapped children of limited English-speaking ability, to mention only a few. We can hardly expect the innovation and support needs of the States to remain the same through fiscal year 1978 in the midst of such a fast-changing scene. Nevertheless, section 402 puts up a wall around priorities States are already finding do not correspond to their current needs.

Mr. President, I also fear this provision represents a trend and a precedent that will become the rule rather than the exception. You will recall that when the higher education legislation was before us 2 years ago we were confronted with a similar device. At that time, the committee said that the new basic opportunity grant program would not be funded until most of the existing higher education programs, some of which BOG's was designed to replace, were fully funded at authorized levels.

It is about time we recognized that the pork barrel principle of satisfying every claimant on the limited resources of the Federal budget is incompatible with returning decisionmaking to the State and local level.

Now at the same time that I am sympathetic with consolidation, I realize we need to provide some cushion to school districts so that they will not be subject to abrupt changes in funding. But to do this, we do not have to put a permanent mortgage on the Federal education budget as S. 1539 would. Instead, we can gradually give States more discretion to use their funds according to their own assessments of their needs. This sort of transitional provision can insure program continuity at the same time it provides States new freedom to spend according to their own needs.

After such a transitional phase, programs should have to stand and be evaluated on their merits, just like other education programs. If these programs are really worth funding, then they will be continued. If other priorities emerge, they will take precedence. But the whole point is that States should have discretion in fiscal year 1978 to determine their own needs for fiscal year 1978 and not have it prescribed by Washington way back in fiscal year 1974.

Thus, my amendment would provide for the consolidation of certain State-administered programs, with discretion being vested in the State educational agencies to utilize a gradually increasing percentage of the funds made available, in accordance with priorities determined by such agencies. It would require that the ESEA titles II and III programs and NDEA titles III-A and V programs be funded in fiscal year 1975 at 100 percent of the levels specified in the present version of the bill. That percentage would be reduced by 25 percent each year, so that in the last year of authorization under the bill—1978—only 25 percent need be expended by the States for the categorical purposes. The amounts appropriated in excess of the required categorical amounts in each year could be used by the States for any of the purposes specified, in such amounts as the State educational agency determines will best meet the needs of children of that State with respect to such purposes.

The PRESIDING OFFICER. Is all time yielded back?

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

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

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

The amendment was agreed to.

Mr. PELL. 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.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that a staff member, David Clanton, have the privilege of the floor during the debate on the pending education bill.

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

Mr. HART. Mr. President, I make a similar request with respect to access to the floor during the debate on the education bill for Mr. Burton Wides.

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

ORDER FOR CONSIDERATION OF HOUSE MESSAGE ON H.R. 14368, TO AMEND CLEAN AIR ACT; AND ORDER FOR RESUMPTION OF UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after routine morning business has been concluded, the Senate proceed to the consideration of a message from the House on H.R. 14368; and that at no later than 12 o'clock noon the Senate resume its consideration of the unfinished business, S. 1539.

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

DIVISION OF TIME FOR DEBATE ON H.R. 14368

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the control of the time for consideration of the House message on H.R. 14368 tomorrow be equally divided between the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Tennessee (Mr. BAKER).

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

ORDER FOR CONSIDERATION OF AMENDMENT BY SENATOR BUCKLEY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the amendment to be offered by the Senator from New York (Mr. BUCKLEY) tomorrow, amendment No. 1289, Mr. Buckley then be recognized to call up a companion amendment—what I am told is a "companion amendment"—to amendment No. 1289.

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

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON THURSDAY INSTEAD OF WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order previously entered for the recognition of Senator PROXMIRE on Wednesday, May 15, be vacated, and that the order for Mr. PROXMIRE be reinstated on Thursday, May 16, immediately following the recognition of the two leaders or their designees under the standing order.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10 a.m.

After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements there limited to 5 minutes each.

At the conclusion of routine morning business, the Senate will proceed to the consideration of a message from the House on H.R. 14368. Debate will ensue thereon. Whether any action will be taken on that measure, I am not in a position to say, but action could very well be taken. Whether any yea-and-nay votes are anticipated, I cannot say. But if such are ordered, then, under the order previously entered today, they would not occur before the hour of 4 p.m. tomorrow.

At no later than 12 o'clock noon tomorrow, the Senate will resume the consideration of the education bill, S. 1539, which is the unfinished business. The Senator from Arkansas (Mr. McCLEL-

LAN) will be recognized to call up an amendment on which there is a limitation of 3 hours, 2 hours of which are to be under the control of Mr. McCLELLAN.

Amendments to Mr. McCLELLAN'S amendment would be in order. Yea and nay votes may occur thereon, but again with the caveat that no rollcall votes will occur before 4 p.m. tomorrow.

Upon the disposition of Mr. McCLELLAN'S amendment, the Buckley amendment No. 1289 will be called up, and upon its disposition, Mr. BUCKLEY will call up a companion amendment to amendment No. 1289. Yea and nay votes may occur on those amendments or other amendments.

Several yea-and-nay votes are likely tomorrow, I would say, or are certainly a possibility; but in any event, no rollcall votes will occur before 4 p.m. tomorrow.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 a.m. tomorrow.

The motion was agreed to; and, at 5:51 p.m., the Senate adjourned until tomorrow, Tuesday, May 14, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate on May 13, 1974:

DEPARTMENT OF STATE

Robert P. Paganelli, of New York, a Foreign Service Officer of Class four, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

DEPARTMENT OF THE TREASURY

Edward C. Schmults, of Maryland, to be Under Secretary of the Treasury, vice Jack Franklin Bennett.

Jack Franklin Bennett, of Connecticut, to be Under Secretary of the Treasury for Monetary Affairs, vice Paul A. Volcker, resigned.

Frederick L. Webber, of Virginia, to be a Deputy Under Secretary of the Treasury, vice William L. Gifford, resigned.

U.S. PATENT OFFICE

The following-named persons to be Examiners-in-Chief, U.S. Patent Office:

Gordon Krupsaw Milstone, of Maryland, vice John Stevens Lieb, resigned.

Evelyn K. Merker, of Virginia, vice Arthur H. Behrens, resigned.

MISSISSIPPI RIVER COMMISSION

Brig. Gen. Wayne S. Nichols, U.S. Army, to be a Member of the Mississippi River Commission, under the provisions of section 2 of an Act of Congress, approved 28 June 1879 (21 Stat. 37) (33 U.S.C. 642), vice Maj. Gen. Williard Roper, retired.

IN THE AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

To be lieutenant general

Lt. Gen. Albert P. Clark, [redacted] FR (Major General, Regular Air Force), U.S. Air Force.

IN THE ARMY

The following-named officer to the position of Permanent Professor at the U.S. Military Academy under the provisions of title 10, United States Code, section 4333:

Col. Dana G. Meade, [redacted] U.S. Army.

EXTENSIONS OF REMARKS

REV. BONIFACE WITTENBRINK IS RECIPIENT OF KIWANIS NATIONAL RADIO AWARD

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 13, 1974

Mr. PRICE of Illinois. Mr. Speaker, tomorrow the Kiwanis International will award its National Radio Award to Rev. Boniface L. Wittenbrink. Reverend Wittenbrink is currently associated with the Shrine of Our Lady of the Snows in Belleville, Ill.

Father Wittenbrink is being honored by Kiwanis for his efforts in establishing and maintaining the "Radio Talking Book," a full-time broadcast via closed circuit radio to the blind and physically handicapped. Through his initiative, Father Wittenbrink's program has grown from approximately 10 receivers in March 1973 to over 700 receivers in March of this year, serving over 6,000 persons in the Greater St. Louis Metropolitan region.

The planning and operational and program activity for the "Talking Book" is performed solely by Father Wittenbrink and a small group of volunteers. In addition to his work at Our Lady of the Snows, Father Wittenbrink is currently working with interested groups in Canada and Washington, D.C., as well as with the Library of Congress, the Department of Health, Education, and Welfare, and various congressional committees in an effort to highlight the urgent need for this type of service to the blind and physically handicapped.

Father Wittenbrink's efforts in initiating this program and making it a success deserve the thanks of not only the residents of my district, but of all those who will eventually benefit by similar programs. The Kiwanis award is a well-deserved recognition of Father Wittenbrink's tireless efforts to aid the handicapped throughout the country.

At this point in the RECORD, I would like to include the Kiwanis' news release on Father Wittenbrink's award:

Reverend Boniface L. Wittenbrink, O.M.I. executive director, "The Radio Talking Book for the Blind and Physically Handicaped, WMRY Broadcast Station, Belleville, Illinois" received today the Kiwanis International radio award. The 1974 national award is given in recognition of a "first year daily program of significant benefit to the nation, a state or locality; and to a community of listeners not previously served in a station's broadcast area."

The WMRY Radio Talking Book is the only such privately funded program in the nation, and went on the air March 1, 1973.

Fr. Wittenbrink was called from Washington, D.C., in February, 1972 with assignment to the Shrine of Our Lady of The Snows, Belleville, Illinois to organize, develop, program and manage the Radio Talking Book. It was an idea whose time had come for full time radio broadcasting via closed circuit radio to the blind and physically handicapped of the Greater Saint Louis Metropolitan Region, and for approximately 6,000 Blind in the WMRY listening area.

"His efforts under the most difficult and trying conditions have been eminently successful. Without prior background—managerial or technical—he was able within ten months to obtain Federal Communications Commission approval and a broadcast channel, an endorsement from the Federal Office of Telecommunications, and thereafter begin his mission to secure private funding to support this nonprofit and non-sectarian venture for public listening—the blind audience.

Fr. Wittenbrink's work was literally the creation of a radio broadcast station from the zero mark to a successful operation. On March 1, 1973 with boundless faith, about 10 radio receivers, a few volunteers, himself and little reserves, The Talking Book went on the air servicing the St. Louis metropolitan broadcast area.

By March, 1974 more than 700 receivers were on the network, all provided on a loan basis, and only to the blind and severely physically handicapped. By the end of this year more than 1000 receivers will likely be in the hands of anxious applicants.

The broadcast area served by the Radio Talking Book includes about 20,000 blind or handicapped people in Southern Illinois and Eastern Missouri.

Practically all of the planning, operational and program activity has been, and is, performed by Fr. Wittenbrink, and a hardy band of volunteers.

Joseph L. Tillson, president of Kiwanis presented Fr. Wittenbrink with a special radio receiver, and the coveted national radio award—the Kiwanis medallion. Tillson noted that the honoree was also aiding a group in Canada and in Washington, D.C. who are interested in a radio talking book for those areas which have large populations of people with impaired vision.

Fr. Wittenbrink is also working with the Library of Congress, the Department of Health, Education and Welfare and Committees of Congress as a means of highlighting an urgent need and service to the blind and physically handicapped.

The WMRY Talking Book makes hearing a book or listening to any printed material as simple as turning on the radio. It offers a full range of programming from 7:00 A.M. to 10:00 P.M.

Fr. Wittenbrink, a member of the Oblates of Mary Immaculate, is a graduate of the Catholic University in America, Ottawa University in Canada and the Gregorian University in Rome. While resident in Washington, D.C. from 1963 to 1972 he served as General Secretary of the Conference of Majors Superiors of Men, and Executive Director of the Foundation for Community Creativity. He is a member of, and consultant to, many self-help educational and social development organizations serving at the national level.

SENATOR WILLIAM L. SCOTT'S NEWSLETTER

HON. WILLIAM L. SCOTT

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, May 13, 1974

Mr. WILLIAM L. SCOTT. Mr. President, each month, I attempt to send a