its share of total U.S. factory employment fell below its share of the U.S. population. Since the mid-'Fifties, added the Committee, this sector of the state's economy has plunged more than 20%, leading to a loss of over 400,000 jobs. Out-migration and plant relocation mount apace. "The situation is drastic."

Nor are reasons far to seek. While the Committee cites several, including lack of industrial space, labor attitudes and out-of-state incentives, it points a clear-cut finger of blame at the deteriorating business climate. In explaining their reasons for leaving, corporate spokesman repeatedly cited such adverse factors as unemployment insurance for strikers and the high tax burden on middle-income and upper-bracket executives (which, by the way, the Committee would like to see lowered). Since Rocky's departure, the state's legislature has made several sensible moves—repealing the so-called card-board tax, doubling the investment tax credit and amending the state sales tax to broaden further the manufacturing exemption. If campaign speeches are any guide, whoever captures the governor's mansion come November, whether Republican or Democrat, will try to keep the legislative pendulum swinging the right way. New York State, in sum, already has gained by Rockefeller's departure. Its gain should not be the nation's loss.

SENATE—*Wednesday, August 21, 1974*

The Senate met at 9:30 a.m. and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

PRAYER

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

Eternal Father, who has watched over this Nation in the times past, we pray that our deliberations on this high hill of the Nation's life, may begin, continue, and end in Thee. May we enter the day's work through the gateway of prayer and then worship while we work.

Correct our faulty perspectives by the view of broader horizons. Spare us from fondling past evils and from lugging ancient failures into the future. Let Thy refining fire sweep through the Nation, forgiving our sins, healing our brokenness, and cleansing the roots of our national life.

We beseech Thee, O God, to lead our leaders, teach our teachers, guide our legislators, inspire our Chief Executive. Give us a part in the rebuilding of the Nation on the sure foundation of God and righteousness, that we may be a bastion of moral and spiritual power and a beacon of light for the coming of Thy kingdom of justice and peace.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 21, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, August 20, 1974, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

CONSIDERATION OF CERTAIN MATTERS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to Calendar Nos. 1057 and 1059.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will state the first bill by title.

AUTHORIZATION TO TRANSFER CERTAIN LANDS IN THE STATE OF COLORADO FOR INCLUSION IN THE ARAPAHO NATIONAL FOREST

The Senate proceeded to consider the bill (S. 3615) to authorize the Secretary of the Interior to transfer certain lands in the State of Colorado to the Secretary of Agriculture for inclusion in the boundaries of the Arapaho National Forest, Colo., which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 1, in line 6, strike out the words "and directed" 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 to insure consolidation of lands in the Arapaho National Forest, Colorado, and to afford the opportunity for better management of those lands, the Secretary of the Interior is hereby authorized to transfer certain lands under his jurisdiction and adjacent to the existing boundary of said national forest to the Secretary of Agriculture. Pursuant to this Act, the exterior boundaries of the Arapaho National Forest, Colorado, shall be extended to include all of the lands not presently within such boundaries lying in township 3 south, range 78 west, township 4 south, range 78 west, township 2 south, range 79 west, township 3 south, range 79 west, and township 2 south, range 80 west, sections 7 through 18, and sections 20 through 28, all of the sixth principal meridian.

The amendment was agreed to.

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

REMOVAL OF CLOUD ON TITLE OF CERTAIN LANDS IN THE STATE OF NEVADA

The Senate proceeded to consider the bill (S. 3518) to remove the cloud on title with respect to certain lands in the State of Nevada which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1, in line 7, after the word "under" insert the words "section 7".

On page 1, in line 9, after "(13 Stat. 30)," strike out the following language: "and which were contained on 'Clear Lists' transmitted to the State of Nevada by the Department of the Interior,".

On page 2, in line 4, after the word "issue" insert "to the State of Nevada". 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 notwithstanding any other provision of law, all right, title, and interest of the United States in and to all lands which the State of Nevada, prior to the date of the enactment of the Act of June 16, 1880 (21 Stat. 287), sold and patented on the basis of the grant to it under section 7 of the Act of March 21, 1964 (Nevada Enabling Act) (13 Stat. 30), shall be deemed to have been vested in the State of Nevada as of the time such lands were so sold and patented.

SEC. 2. The Secretary of the Interior is authorized to issue to the State of Nevada such documents or other instruments 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.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calender.

The Senate proceeded to the consideration of executive business.

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

FEDERAL ENERGY ADMINISTRATION

The second assistant legislative clerk read the nomination of Roger West Sant, of California, to be an Assistant Administrator of the Federal Energy Administration.

The ACTING PRESIDENT pro tem-

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

pore. Without objection, the nomination is confirmed.

DEPARTMENT OF STATE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of State.

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

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

NOMINATIONS ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard.

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

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

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

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

LEGISLATIVE SESSION

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

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

VICE-PRESIDENT-DESIGNATE NELSON A. ROCKEFELLER

Mr. HUGH SCOTT. Mr. President, it is very gratifying that the designation by President Ford of former Gov. Nelson A. Rockefeller of New York to be Vice President has met with such broad general approval.

His unquestioned ability to attract talent to various enterprises can be greatly useful to the Federal Government. His familiarity with the processes of government is of enormous benefit to all of us. He was for long the most respected of all the Governors of the Union. He has a common touch, an unusual characteristic for one who is also blessed with such affluence, but who has met the demands of affluence by recognition of broad civic duty, of intense interest and compassion, and a determination carried out throughout his life to help those who are less advantaged.

As one who recommended his selection as my first choice, and said so publicly, I am very pleased, indeed, that we will all have the benefit of this fine man's ability. So I commend the choice.

I am a member of the Committee on Rules and Administration which will begin hearings, I am sure, as soon as the FBI report is available. I would assume that the House Judiciary Committee will also act promptly. I think it is necessary to act as expeditiously as we can in both houses so that no one may charge us with any ulterior motives whatsoever, because I think none exists; and I hope we can dispose of any such feeling that there is any desire for delay on the part of any person.

I, myself, shall do my best to help expedite consideration of the nomination for confirmation.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. MANSFIELD). Under the previous order the Senator from Oklahoma (Mr. BARTLETT) is recognized for not to exceed 15 minutes.

FPC NATIONAL RATE DECISION

Mr. BARTLETT. Mr. President, the recent action of the Federal Power Commission in setting a single, national rate of 42 cents per million cubic feet for interstate sales of natural gas is not the answer to our Nation's growing natural gas shortage. This action is not in the interest of the consumer, because it will not stimulate enough exploration to provide adequate supplies of this clean-burning fuel.

The Commission's action is nothing more than a repeat of the price fixing mechanism that has proved to be a failure for 20 years. It will neither spur needed exploration and development of new natural gas reserves, nor slow down the increasing shortages and curtailments of natural gas for interstate shipment throughout the Nation. In short, it does not solve our natural gas dilemma.

If the interstate prices would be held only 1 or 2 cents below the intrastate prices—which are now in the 65 cents per million cubic feet to $1 per million cubic foot range—there still would be no significant commitments to the interstate market. The intrastate market would outbid interstate pipelines for the available supplies of natural gas. Presently, with the recent FPC set price of 42 cents, the interstate supplies are living on borrowed time.

On the supply side, exploratory drilling for gas has declined 50 percent over the last two decades. Reserves have decreased steadily to where they are today—at their lowest level since the late 1950's. Supplies in the lower 48 States have dropped from a 23-year supply in 1956 to an 8-year supply in 1973.

The FPC action, setting a national ceiling of 42 cents per million cubic feet with a 1 cent per year escalation, falls far short of the needed incentive to increase supplies—it is like trying to thread a needle blindfolded.

An MIT study shows that even if the new gas price was 42.7 cents per million cubic feet in 1975 with a 3.1 cents per million cubic feet annual increase, the natural gas shortage would still be 10.8 trillion cubic feet in 1980—current demand is 23.3 trillion cubic feet—more than one-third our total energy requirement.

The study further showed that with a new contract field price of 64.6 cents per million cubic feet in 1975 and a 5.1 cents per million cubic feet annual increase the natural gas shortage would disappear by 1980.

The need for natural gas currently is nearly 2 trillion cubic feet greater than available supplies. John Nassikas, Chairman of the Federal Power Commission, recently announced in hearings before the Senate Subcommittee on Agriculture that curtailments of natural gas supplies will be 81 percent greater—totaling 0.768 trillion cubic feet—in the winter of 1974–75 than they were in the previous winter. Nearly all States' utilities are facing from small to severe curtailments this winter.

The impact of these sharply increased cutbacks in natural gas supplies will affect the economies of many areas of the country and the jobs of thousands of workers. We need look no further away than Maryland. In hearings conducted by our distinguished colleague from Maryland, Senator BEALL, the record was made clear that curtailment of natural gas supplies for industrial users could put thousands of employees out of work this winter.

Examples of possible unemployment caused by companies facing curtailments are numerous.

For instance, South Jersey Gas Co., supplied by Transco, is presently receiving 27 percent below contract entitlement because of curtailments. For the winter these curtailments could rise to as high as 60 percent over a 90-day period—that is for a normal winter. The 19 plants supplied by South Jersey employ approximately 25,000 people who face unemployment for as long as 3 months.

Stauffer Chemical Co., which itself employs only 500–600 people in its Delaware plant, supplies a customer with critical CS_2—carbon disulfide—who in turn produces approximately 50 percent of the Nation's rayon and employs approximately 40,000 people. Also, the cellophane industry depends upon the Delaware plant for 50 percent of its CS_2.

Philadelphia Electric Co. is now facing 11.96 percent curtailments with the prospect of 34 percent curtailments by the spring of 1975.

Piedmont Natural Gas, which serves North and South Carolina, is anticipating that delivery this winter will be 27 percent below contract entitlement from its major supplier. Five or six of its largest industrial customers with "firm" requirements will probably be curtailed 3 or 4 days during the winter.

Alcoa Aluminium Co. has said that 10,000 jobs are threatened by natural gas curtailments and stated further:

> We feel every effort should be made to increase the supply of natural gas. To accomplish this the sale of interstate gas should be deregulated at the wellhead.

A review of the Commission's announcement of the uniform national rate provides me with no confidence that the 20-year downward trend in natural gas reserves and upward trend in natural gas shortages and curtailments will

be reversed. My lack of confidence is sustained by a number of statements made by Commission members themselves at the time the decision was announced.

First, the Commission admitted that it could not predict or quantify how much new supplies would be brought to market by the adoption of the uniform rate scheme. In effect, the Commission is saying that continued natural gas price fixing will not redress the widening natural gas supply/demand gap.

Second, the Commission said, in determining the national rate, that it considered a number of related factors including intrastate market prices. The Commission members clearly know that intrastate natural gas prices range as high as $1 per thousand cubic feet or more. The continued wide disparity between the price fixed interstate rate and the free market intrastate price will certainly do nothing to funnel greatly needed large volumes of additional natural gas to the interstate market.

Third, one of the Commissioners who voted with the majority apparently did so only because he felt any action was better than the hodgepodge price mechanism existing up to now. He stated, however, that:

> The legacy of wellhead rate regulation, initiated during a time of plentiful supplies in a "buyer's market" and now completely unresponsive to shortages, has been worsening chronic gas supply.

Indeed, he called the prescribed rate "mischief."

Fourth, another Commissioner who concurred with the majority decision, also seemed to have had deep reservations about the wisdom of his actions. His views, too, are worth quoting. He said:

> The decision . . . may be incompatible with our goal of securing long term supplies for a long range problem, and inhibits development of a methodology of adequately pricing new gas.

And he added that—

> The price determined for gas from wells drilled after January 1, 1973, may be inadequate to encourage reinvestment of the funds so generated.

In fact, the FPC national ceiling is not truly cost based. The Commission has ignored the capital cost of dry holes and Federal income tax in its determinations of adequate return on capital, that is, the costs used to determine the national area rate are understated.

Ironically, and inconsistently, the FPC does allow pipelines to employ full cost accounting which provides for a return on dry holes for pipeline production. This places independent producers at a competitive disadvantage compared to integrated operations.

Consider the following example: Two exploration and development operations, one owned by a pipeline and the other by an independent producer, are underway in the same gas field in the vicinity of a pipeline. The same amount of capital for these operations must be raised and invested by the producer as by the pipeline. Following expenditure of this capital in the world drilling operations, the producer and the pipeline achieve the same degree of drilling success and incur the same cost per thousand cubic feet for their efforts.

The pipeline's imputed "rate" for this gas is figured on a full-cost-accounting basis which will include a return to the pipeline on the total cost prudently incurred in its exploration and development effort. The producer, on the other hand, must sell his gas to the pipeline at a price no higher than the area rate. If that rate includes no component for return on dry hole costs, the independent producer earns only 60 percent of the return earned by the pipeline on its own production. Therefore, the Federal Power Commission decision is discriminatory and reduces competition.

Finally and perhaps the most telling of the Commission's statements announcing the uniform national rate actually flies in the face of its decision. The Commission admitted that:

> The "cost" of new gas supplies "is an imprecise and elusive quantity."

And, yet the Commission, by mandate of the Congress and the courts, must continue to chase this "imprecise and elusive" goal, because of the fallacious belief that the subjective judgment of Government regulators is superior to the objective forces of the marketplace.

It is apparent that John Nassikas, Chairman, and the other members of the FPC responsible for current natural gas pricing are most knowledgeable of all aspects of domestic natural gas.

They candidly predict sharp curtailments of natural gas to industry and other users this winter—they know this means a serious loss of jobs when unemployment is already anticipated to be high.

They know their actions on the price of natural gas will lead to greater curtailments of natural gas and unemployment in the following year—and the next year—and so on as long as they continue their unworkable system.

They admit privately and publicly that their pricing programs have not and will not work. They know that a possible coal strike and possible oil refinery strikes this winter could create an energy crisis of panic proportions.

They know the only answer to the worsening natural gas shortage lies with domestic natural gas and not synthetics, imports, other conventional fuels or alternate sources of energy.

They know that a free market for new natural gas will in time, and it will take time, produce sufficient natural gas for the interstate market.

They know that until there is a price for new natural gas that is equivalent to the free market intrastate price for new natural gas that they and Congress, public servants to a great nation, are unequivocal hypocrites.

Significant support for some form of deregulation has been emerging from the major users of natural gas and from gas utilities. The American Gas Association, which represents most of the gas utilities in the country; the New England Gas Association, which represents 42 utilities and more than 200 supporting companies; the Connecticut Natural Gas Co.; the Columbia Gas System, the largest group of gas utilities in the country; the American Textile Manufacture's Institute; the Manufacturing Chemists Association; the Indiana Gas Co.; the Department of Agriculture; and the Fertilizer Institute have expressed support for some form of deregulation.

Congress must address itself soon to this critical situation. We can best do this by moving, precisely, toward adopting legislation now before us to deregulate—once and for all—the interstate wellhead price of this most needed, clean burning and convenient source of energy.

Congress must act now—Congress must deregulate natural gas so the free market forces of thousands of transactions will establish a fair market price and a sufficient supply.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. HARTKE). Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 10 a.m., with statements therein limited to 3 minutes.

TOBACCO MARKETING QUOTA PROVISIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1058, H.R. 6485, which has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The second assistant legislative clerk read the bill by title, as follows:

> A bill (H.R. 6485) to amend the tobacco marketing quota provisions of the Agricultural Adjustment Act of 1938.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

ORDER TO PRINT H.R. 11510, ENERGY REORGANIZATION ACT OF 1974, AS PASSED

Mr. RIBICOFF. Mr. President, I ask unanimous consent that H.R. 11510, the Energy Reorganization Act of 1974, be printed as passed by the Senate on August 15, 1974.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MESSAGES FROM THE HOUSE

At 9:33 a.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House has passed without amendment the bill (S. 3919) to authorize the establishment of a Council on Wage and Price Stability.

The message also announced that the House has passed the bill (S. 3320) to extend the appropriation authorization for reporting of weather modification activities, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 609. A concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 2; and

H. Con. Res. 611. A concurrent resolution directing the Clerk of the House of Representatives in the enrollment of H.R. 15842 to make certain corrections.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 15205. An act to amend the Natural Gas Pipeline Safety Act of 1968, as amended, to authorize additional appropriations, and for other purposes; and

H.R. 16102. An act to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973 to exempt from its provisions the period from the last Sunday in October 1974 through the last Sunday in February 1975.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has affixed his signature to the following enrolled bill and joint resolutions:

H.R. 15581. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1975, and for other purposes;

S.J. Res. 66. A joint resolution to authorize the erection of a monument to the dead of the First Infantry Division, U.S. Forces in Vietnam;

S.J. Res. 220. A joint resolution to provide for the reappointment of Dr. William A. M. Burden as citizen regent of the Board of Regents of the Smithsonian Institution;

S.J. Res. 222. A joint resolution to provide for the appointment of Dr. Murray Gell-Mann as citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 221. A joint resolution to provide for the reappointment of Dr. Caryl P. Haskins as citizen regent of the Board of Regents of the Smithsonian Institution.

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore.

At 1:48 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker has affixed his signature to the following enrolled bills and joint resolution:

H.R. 3620. An act to establish the Great Dismal Swamp National Wildlife Refuge;

H.R. 16027. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1975, and for other purposes; and

H.J. Res. 1105. A joint resolution designating August 26, 1974, as "Woman's Equality Day".

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

CONFERENCE REPORTS

At 4:05 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11864) to provide for the early commercial demonstration of the technology of solar heating by the National Aeronautics and Space Administration and the Department of Housing and Urban Development, in cooperation with the National Bureau of Standards, the National Science Foundation, the General Services Administration, and other Federal agencies, and for the early development and commercial demonstration of technology for combined solar heating and cooling.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14920) to further the conduct of research, development, and demonstrations in geothermal energy technologies, to establish a Geothermal Energy Coordination and Management Project, to amend the National Science Foundation Act of 1950 to provide for the funding of activities relating to geothermal energy, to amend the National Aeronautics and Space Act of 1958 to provide for the carrying out of research and development in geothermal energy technology, to carry out a program of demonstrations in technologies for the utilization of geothermal resources, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 821) to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

HOUSE BILL REFERRED

The bill (H.R. 16102) to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973 to exempt from its provisions the period from the last Sunday in October 1974 through the last Sunday in February 1975 was read twice by its title and referred to the Committee on Commerce.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED AMENDMENTS TO THE BUDGET, 1975, FOR THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE (S. DOC. 93-103)

A communication from the President of the United States, transmitting proposed amendments to the request for appropriations transmitted in the budget for the fiscal year 1975 in the amount of $537,355,000 for the Department of Health, Education, and Welfare (with accompanying papers). Referred to the Committee on Appropriations, and ordered to be printed.

SALE OF WHEAT TO EGYPT

A letter from the Assistant Secretary of State for Congressional Relations, reporting, pursuant to law, on a proposed sale of wheat to Egypt (with accompanying papers). Referred to the Committee on Agriculture and Forestry.

REPORT OF THE DEPARTMENT OF THE NAVY

A letter from the Deputy Chief of Naval Material of the Department of the Navy transmitting, pursuant to law, a report of research and development procurement actions of $50,000 and over covering the period July 1, 1973, through June 30, 1974 (with an accompanying report). Referred to the Committee on Armed Services.

PROPOSED LEGISLATION BY THE DEPARTMENT OF THE ARMY

A letter from the Secretary of the Army transmitting a draft of proposed legislation to permit the assignment of members of the armed forces who have completed basic training and training in a military specialty as is prescribed by the Secretary concerned to overseas areas free from hostile fire, and to permit the release of Reserve component enlistees from their initial active duty for training upon completion of basic training and training in a military specialty as is prescribed by the Secretary concerned (with accompanying papers). Referred to the Committee on Armed Services.

REPORT OF THE COST ACCOUNTING STANDARDS BOARD

A letter from the Chairman of the Cost Accounting Standards Board transmitting, pursuant to law, a progress report for the year ending June 30, 1974 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE NATIONAL MARINE FISHERIES SERVICE

A letter from the Secretary of Commerce transmitting, pursuant to law, the report of the National Marine Fisheries Service for the calendar year 1973 (with an accompanying report). Referred to the Committee on Commerce.

PROPOSED LEGISLATION BY THE DEPARTMENT OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting a draft of proposed legislation to provide for standard time during the winter of 1974-75, and for other purposes (with accompanying papers). Referred to the Committee on Commerce.

TAXICAB SERVICE AND REGULATION IN THE DISTRICT OF COLUMBIA

A letter from the Chairman of the Transportation Committee of the City Council of Washington, D.C., reporting, pursuant to law, on a study of the adequacy of taxicab service and regulation in the District of Columbia. Referred to the Committee on the District of Columbia.

REPORT OF THE FEDERAL ENERGY ADMINISTRATION

A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, a report entitled "Progress Report on the Retailing of Gasoline" (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

REPORTS OF THE IMMIGRATION AND NATURALIZATION SERVICE

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, reports concerning visa petitions which have been approved (with accompanying papers). Referred to the Committee on the Judiciary.

PROPOSED FACILITIES IN FORT LAUDERDALE, FLA.

A letter from the Administrator of General Services transmitting, pursuant to law, a prospectus regarding the acquisition of space in a building proposed to be constructed in Fort Lauderdale, Florida (with accompanying papers). Referred to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, with an amendment:

S. 1939. A bill to prohibit pyramid sales transactions, and for other purposes (Rept. No. 93-1114).

By Mr. ERVIN, from the Committee on Government Operations:

S. Res. 389. An original resolution authorizing supplemental expenditures by the Committee on Government Operations (Rept. No. 93-1115) (Referred to the Committee on Rules and Administration.)

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

S. 1134. A bill to provide the Secretary of the Interior with authority to promote the conservation and orderly development of the hard mineral resources of the deep seabed, pending adoption of an international regime therefor (Rept. No. 93-1116).

Mr. METCALF. Mr. President, I am today filing the unanimous report of the Senate Committee on Interior and Insular Affairs on an amendment in the nature of a substitute for S. 1134, the Deep Seabed Hard Minerals Act.

The legislation is designed to promote the conservation and orderly development of the manganese nodule resources of the deep seabed by those subject to the jurisdiction of the United States.

It is interim legislation, which expressly provides that it will be superseded by the terms of any international agreement binding on the United States. Negotiations toward such an agreement are continuing at the Third United Nations Conference on the Law of the Sea.

Mr. President, we have recently had one example of what happens when foreign suppliers of an essential commodity band together to increase their economic and political clout. In the case of oil, the United States relies on imports for an increasing fraction of our needs. Now it is about one-third. We are in a far more vulnerable position on other minerals, such as those needed to make steel. Of these, we import most, if not all. Their cost is astronomical. In 1973, the estimated U.S. deficit in the balance of payments for minerals and processed materials of mineral origin was $8 billion.

At the same time, we have a source of mineral supply at the bottom of the ocean. And we are at least reasonably sure we know how to get it—and process it—with due regard to the other uses of the ocean.

The bill has three basic provisions.

First, U.S. nationals would have to obtain licenses from the Secretary of the Interior before they could engage in exploration for or commercial recovery of manganese nodules on the deep seabed. Licenses would limit the area to be mined by any one company and would contain provisions to protect the marine environment. There is no other existing basis for such licensing under either international law or Federal statute.

Second, the legislation recognizes the need for an international legal system for all the uses of the oceans, including ocean mining. No licenses would be issued under the bill once a new treaty becomes binding on the United States. This bill provides an orderly transition from the present situation of no regulation of ocean mining to U.S. regulation of its nationals who conduct ocean mining and then to a new international system which could result if a Law of the Sea treaty is agreed upon, ratified and enters into force.

Third, the bill would stabilize the presently uncertain investment climate in the ocean mining industry caused by the fact that the United States has indicated its willingness to agree to change the present international law which permits unrestricted deep seabed mineral development. Prospective ocean miners are faced with the possibility that new internationally agreed upon terms and conditions may be imposed on them in the near future which would deny access by private industry to manganese nodule deposits entirely. Delay in investment could result in loss of American industry's current technological advantage and increased dependence on foreign sources of minerals.

I commend to my colleagues this report and this legislation on a subject vital to the United States. The committee will defer plans for action on this legislation until we have heard from those who have so capably represented the United States at the Law of the Sea Conference in Caracas. This hearing is scheduled for September 17.

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

H.R. 6395. An act to designate certain lands in the Okefenokee National Wildlife Refuge, Georgia, as wilderness (Rept. No. 93-1117).

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

S. 2888. A bill to convey certain land of the United States to the Inter-Tribal Council, Inc., Miami, Oklahoma (Rept. No. 93-1118).

By Mr. CANNON, from the Committee on Rules and Administration, without amendments:

S. Res. 360. A resolution authorizing supplemental expenditures by the Special Committee on Aging for inquiries and investigations (Rept. No. 93-1119).

By Mr. McINTYRE, from the Committee on Banking, Housing and Urban Affairs, with amendments:

S. 3838. A bill to authorize the regulation of obligations issued by financial institution holding companies, and for other purposes (together with additional views) (Rept. No. 93-1120).

By Mr. INOUYE, from the Committee on Commerce:

S. 3942. An original bill to authorize appropriations to the Secretary of Commerce for the promotion of tourist travel in the United States (Rept. No. 93-1121).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 358. A resolution authorizing supplemental expenditures by the Committee on the Judiciary for an inquiry and investigation relating to citizens' interests (Rept. No. 93-1122).

S. Res. 365. A resolution relating to the printing of legislative proceedings with respect to the death of former Senator Wayne L. Morse (Rept. No. 93-1123).

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 refered as indicated:

By Mr. MONTOYA (for himself and Mr. WEICKER):

S. 3935. A bill to amend the Internal Revenue Code of 1954 to prohibit disclosure of tax returns without consent of the taxpayer, and for other purposes. Referred to the Committee on Finance.

By Mr. BUCKLEY (for himself, Mr. HARRY F. BYRD, JR., Mr. CURTIS, Mr. PROXMIRE, Mr. PACKWOOD, Mr. ROTH, Mr. GOLDWATER, Mr. GURNEY, Mr. HELMS, Mr. THURMOND, and Mr. BROCK):

S. 3936. A bill to authorize the President to reduce Federal expenditures for fiscal year 1975 to $295,000,000,000. Referred to the Committee on Government Operations.

By Mr. TAFT:

S. 3937. A bill to require that States, which receive Federal payments with respect to any State welfare program, consent to suit in the Federal courts in actions brought against the State by claimants for the aid or assistance provided under such program. Referred to the Committee on the Judiciary.

By Mr. TUNNEY:

S. 3938. A bill to amend the Federal Trade Commission Act to provide for the disclosure of annual operating costs of new buildings and for other purposes. Referred to the Committee on Commerce.

By Mr. GOLDWATER (for himself and Mr. TOWER):

S. 3939. A bill to amend section 1401(e) of title 10, United States Code, to preclude a military member from receiving less retired pay by continued active service. Referred to the Committee on Armed Services.

By Mr. HASKELL:

S. 3940. A bill for the relief of Nestor Manuel Lara-Otoya. Referred to the Committee on the Judiciary.

By Mr. DOMENICI (for himself, Mr. HUMPHREY, Mr. SCHWEIKER, Mr. METZENBAUM, and Mr. MOSS):

S. 3941. A bill to amend title XVIII of the Social Security Act to provide for the coverage, under the Supplementary Medical Insurance Benefits program established by part B of such title, of one routine physical checkup each year and for preventive care for individuals insured under such program. Referred to the Committee on Finance.

By Mr. INOUYE, from the Committee on Commerce:

S. 3942. An original bill to authorize appropriations to the Secretary of Commerce for the promotion of tourist travel in the United States. Ordered placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MONTOYA (for himself and Mr. WEICKER):

S. 3935. A bill to amend the Internal Revenue Code of 1954 to prohibit disclosure of tax returns without consent to the taxpayer, and for other purposes. Referred to the Committee on Finance.

Mr. MONTOYA. Mr. President, we Americans take great pride in the strength and power of our leaders and of our Government.

There is one American, however, who seldom is honored by commentators or speakers, although his importance is really far greater than that of any other leader, no matter how wise or successful. That American, so often ignored, is the American taxpayer.

Without him nothing in Government would work, no defense would be possible against our enemies, no government programs would operate, no congressional salaries could be paid, no White House advisors would be hired, no foreign aid would be possible and the dreams and hopes of most of the free world would wither away.

Without the American taxpayer, American Government would not exist at all and we would, indeed, live in the jungle of anarchy.

Throughout our history as a Nation, this one great American—the taxpayer—has stood firm behind every forward step we have taken. His—and her—dedication to duty, patience, and faith in our institutions of government, have made possible the development and growth of this Nation. It is significant that through all the years of that service to the Nation and the world, and with a minimum of credit and approval, the American taxpayer has for the most part, assessed himself—that is, he has figured what tax he owes, filed whatever forms have been designed for him, and paid his tax bill voluntarily when it was due.

However, a growing number of American taxpayers are beginning to question the fairness and decency with which their own tax system operates. I believe that it is essential for this Congress to move quickly to stop the erosion of trust which that questioning represents. Today, Senator WEICKER and I are introducing legislation which we hope will remove some of those questions and stop that erosion of trust. I appreciate the support of Senator LOWELL WEICKER in joining me in proposing this legislation, and in preparing other corrective legislation in this area of government concern.

In the past 2 years my Appropriations Subcommittee has heard lengthy testimony concerning the administration of our tax laws. As I have said in my reports to the Senate on those hearings, I have been astounded and deeply concerned by the anger, despair and cynicism which many citizens now express about the IRS and its field operations, procedures, and attitudes.

There is, of course, always some complaint about the size of taxes themselves, about loopholes or about inequities. However, the surprising element which surfaced in our hearings was the fact that most of those who came to Washington to testify before us were angry about what they saw as an invasion of privacy, a lack of fairness and courtesy in procedures or the ignoring of due process in disputes between the tax payer and IRS.

Clearly, most taxpayers are still firmly supportive of the tax system. In addition, I believe that the IRS, its current Commissioner, and many IRS employees want to do a good job and want to improve tax service and taxpayer confidence. In some instances, IRS itself has requested changes in the law in order to enable them to provide better service or to better protect citizens from invasions of privacy.

However, it is also clear that for an increasing number of taxpayers, there is a need for immediate changes in the law in order to protect both rights and privacy, in order to provide tax assistance information with greater efficiency, and in order to allow for better public information about the tax system.

The legislation which Senator WEICKER and I are proposing would protect the taxpayer's right to privacy by making it mandatory that he be notified in writing of any request for information reported on his tax returns, and by requiring that he give his consent before release of that information. This regulation would apply to all persons or agencies of Government with the exception of IRS itself, the Department of Justice in a criminal case, or the Joint Committee on Internal Revenue taxation. These are the only agencies which routinely have need of tax report information and they already operate under strict regulations concerning the confidentiality of such information.

This proposed legislation would make the unauthorized delivery or receipt of tax information a felony, with a fine of up to $10,000 and/or imprisonment of up to 5 years.

The taxpayer would, Mr. President, be assured that information reported by him on his tax return was, and would remain, confidential. That seems an extraordinary simple protection for this Congress to offer the American taxpayer, and it is one I am sure my colleagues will support. I believe that speedy passage would go a long way toward returning trust in the IRS to taxpayers.

By Mr. BUCKLEY (for himself, Mr. HARRY F. BYRD, JR., Mr. CURTIS, Mr. PROXMIRE, Mr. PACKWOOD, Mr. ROTH, Mr. GOLDWATER, Mr. GURNEY, Mr. HELMS, Mr. THURMOND, and Mr. BROCK):

S. 3936. A bill to authorize the President to reduce Federal expenditures for fiscal year 1975 to $295,000,000,000. Referred to the Committee on Government Operations.

Mr. BUCKLEY. Mr. President, the President, the Congress, and the American people are in full agreement that the most important domestic task before us today is to bring inflation under control. Attempts to help the aged, provide for the poor, or to expand housing are frustrated at the outset by the prospect of continuing inflation at current rates. Moreover, the disincentive to saving caused by inflationary expectations compounds the problems of finding the capital necessary to expand production to meet demand.

There is now a broad consensus that continued Federal deficits are the primary cause of the current inflation, and that the most important anti-inflationary step that can be taken by the Federal Government at the present time is to make a substantial cut in expenditures projected for fiscal year 1975. The Chairman of the Federal Reserve Board, Dr. Burns, has recommended that expenditures be kept to $295 billion. This is the same ceiling proposed by Senator PROXMIRE in an amendment to the depository insurance bill that was adopted by a vote of 74 to 12 on June 13.

Since 1969, the Nation's economic system has been forced to pay the price of the Great Society's extravagances of the 1960's. From the founding of our country, no Congress has succeeded in spending $100 billion in a single fiscal year until 1962. In only 9 years—1971—the Congress succeeded in breaking the 200-billion-dollar mark. It has taken only 4 more years—fiscal year 1975—for projected Government spending to exceed $300 billion.

In the process of this spending, an enormous deficit of more than $110 billion has been incurred since 1969; and it has been the financing of this deficit that has been the primary contributor to the current high rate of inflation. As a practical matter, a substantial part of this deficit has been financed by the Treasury by borrowing in the ordinary private capital markets—the same capital markets in which homeowners compete for mortgage money, small businessmen compete for equity-capital, major business firms finance their long term growth, and State and local governments finance their basic capital improvements. By being forced to borrow in such huge volumes, the Federal Government has absorbed most of the new funds which would normally be available to private individuals, businesses, and State and local governments. As a result, the normal private users of the capital markets have been forced to seek funds on a short-term basis until sufficient funds are available in the capital markets to meet their needs. Most of these organizations seeking funds have had to borrow them on a short-term basis from commercial banks.

The Federal Reserve System has been faced with a dilemma: if they accommodated the borrowers in the commercial banking system by increasing the money supply, they would almost certainly fuel inflation at ever higher rates 9 to 12 months hence. If they did not provide the funds to the commercial banks to meet this loan demand, business would face a severe Government-induced "crunch" because of an inability to finance their activities. The only solution to this immediate problem is to reduce the aggregate Federal deficit, and consequently Federal borrowings.

There is a broad consensus in support of the proposition that the most effective way of meeting our most urgent domestic problems is to establish an immediate goal of reducing expenditures in the cur-

rent fiscal year to $295 billion. The question that remains to be resolved is how the necessary reductions are to be achieved.

Unfortunately, we are too far along in this legislative year for the kind of review of appropriations that would enable the Congress to make, in enough instances, the ultimate decision as to where the cuts should be made. Yet if the goal of $295 billion is to be achieved, the budgetary request of $305 billion will have to be cut by a significant margin. Whereas there is reason to believe that the growing concern over ever-expanding Federal expenditures may result in meaningful cutbacks in appropriation bills that have not yet been acted upon, as a practical matter there is little prospect of sending those already acted upon back to the shop.

If it is to keep faith with the public and with itself, the Congress has no choice but to delegate the necessary cutting authority to the Executive. This can be done in a manner that does not provide the Executive with the eqivalent of a line veto.

It is with this in mind that I send to the desk, for appropriate referral, a bill that will authorize the President to hold total Federal expenditures during fiscal year 1975 to $295 billion, provided:

First, expenditures for any given program will not be reduced by more than 15 percent below budgeted requests; and

Second, expenditures will not be reduced for any program funded by an appropriation bill the total expenditures of which are at 95 percent or less of budget requests, except after 30 days written notice to each House of the Congress identifying the program where such further reducitons are intended to be made, and detailing the reasons therefore. In such event, either House of the Congress may disallow or modify the proposed reduction by a majority vote of its Members.

The effect of this bill will be to reserve to the Congress the right to determine where the necessary cuts are to be made with respect to programs covered by those appropriation bills where a special effort was made to achieve anti-inflationary reductions in spending. In other words, the President would not be allowed to substitute his judgment for that of the Congress where the amount of a given appropriation bill reflects a 5-percent cut or more over anticipated spending.

This approach to fiscal responsibility is not unprecedented. In fact, in October of 1972, each House adopted legislation providing the President with comparable powers to hold spending to the level of $248 billion, but were unable to agree as to the details of the authority to be delegated. The President, in the absence of specific directions from the Congress, proceeded to achieve a significant reduction in expenditures through pocket vetoes and impoundments. The latter course of action, however, has been outlawed by the recently enacted budget reform bill, which makes the adoption of the measure we introduced today that much more essential if we are to do something practical and immediate to bring Federal expenditures under responsible control.

Having said this, I would be less than candid if I failed to observe that in my judgment it will be difficult for the Executive to make responsible reductions in spending sufficient to achieve the goal of a $295 billion ceiling because the Congress has seen fit to allow so large a proportion of the Federal budget to escape the discipline of annual appropriations. I speak of the items now described as "uncontrollable expenditures," items that now amount to more than 70 percent of the 1975 budget. As a practical matter, therefore, most of the cuts that would be required to achieve the $295 billion goal would have to come from less than one-third of the budget, although the schedule of payments, as in general revenue sharing, could be stretched out over a longer period. This fact underscores the urgent need for the Congress to reexamine each of the uncontrollable items in an attempt to regain fiscal control over as many of them as possible; and it should also serve notice to the Congress that new "uncontrollables" ought not to be created, whatever the immediate pressures to do so.

I urge my colleagues to act quickly on this legislation. It is responsible, it is essential. We have done more than enough talking about our intention to do something meaningful to curb inflation. This is our opportunity to translate rhetoric into action. It is, in fact, the only effective action that is available to us if we intend to do something about inflation now, and not 1 year from now when our newly established budgetary machinery comes into full effect.

I submit, also, that adoption by the Congress of this legislation, and action by the Executive under its authority will do more than anything else to persuade the American public that we are in fact taking responsible action to restore stability to the dollar.

Mr. ROTH. Mr. President, I am today joining Senators BUCKLEY, BYRD, CURTIS, PROXMIRE, and others Senators in introducing a bill to authorize the President to reduce fiscal year 1975 Federal expenditures to $295 billion. This bill will authorize the President to cut Federal spending by approximately $10 billion to achieve a balanced budget, subject to adequate safeguards.

An immediate cut in Federal spending is essential if inflation is to be brought under control. The deficit spending we have experienced for 14 out of the last 15 years has siphoned money away from commercial, mortgage, and small business loans, driven interest rates up to record levels, and fueled the fires of inflation.

In 1960, the Federal Government was spending $92 billion. In 1965, the figure had grown to $118 billion. By 1971, the Government was spending over $211 billion, and this year's budget is over $305 billion. Unless we take action now to hold spending down to $295 billion, next year's budget could be as high as $350 billion.

The massive increase in Federal spending in the last 15 years has resulted in the creation of more and more Federal programs that are considered both beneficial and necessary. The programs sounded good, our constituents back home liked them, and we voted more and more funds each year.

But this massive increase in Federal spending has also been responsible for today's inflation. And we can either continue spending at these deficit levels and fuel further inflation, or we can make some hard choices, reduce spending and restrain inflation.

President Ford has pledged to make a reduction in Federal spending his No. 1 priority. Many of my distinguished colleagues in the Senate have spoken out time after time on the need to control Federal spending.

If Members of Congress are serious about cutting Federal spending and reducing inflation, we must take coordinated action now.

By Mr. TAFT:

S. 3937. A bill to require that States, which receive Federal payments with respect to any State welfare program, consent to suit in the Federal courts in actions brought against the State by claimants for the aid or assistance provided under such program. Referred to the Committee on the Judiciary.

Mr. TAFT. Mr. President, today I am introducing legislation designed to close a legal loophole which leaves intended beneficiaries of State administered, federally funded assistance programs helpless to recover benefits denied by States in clear violation of Federal laws.

This legislation is made necessary by an unfortunate 5 to 4 Supreme Court decision rendered last March 25, in which the Court ruled that the 11th amendment to the Constitution bars Federal courts from ordering State officials to pay retroactive program benefits even if it recognizes that the State officials acted unlawfully in withholding these benefits. The Court said that Federal courts would have the power only to order the State officials to comply with Federal law in the future.

The case was brought as a class action by John Jordan, an elderly Chicago beneficiary of aid to the aged, who wished to protect himself and others receiving aid from delays in the provision of assistance which were held to be illegal by the district court—a ruling which was not contested by higher courts. His case was predicated on the simple concept assumed valid, in my judgment by the vast majority of us, that a State which participates voluntarily in federally funded programs certainly must abide by Federal laws and regulations governing the administration of the program.

The 11th amendment literally prevents suits against States in Federal courts by foreign citizens or citizens of other States. Mr. Justice Brennan expressed his belief that it is not applicable to suits against a State by citizens of the same State, as in Jordan. Furthermore, the Court's decision was an express overruling of recent decisions in which it has held for other reasons that courts could order States to pay retroactive benefits withheld in violation of Federal law.

These decisions were based on the proposition that "when a State leaves a sphere that is exclusively its own and enters into activities subject to congressional regulation, it subjects itself to that regulation as fully as if it were a private person or corporation." *Parden v. Terminal R. Co.*, 377 U.S. 184, at 196.

Such rulings, coupled with reinforcing statutes—as noted in Mr Justice Douglas' dissent to Jordan, which I will have printed at the end of my remarks—and the voluntary nature of State participation in these federally funded programs, led Mr. Justice Douglas, Mr. Justice Marshall, and Mr. Justice Blackmun to conclude that by agreeing to participate in the aid to the aged program, States automatically waive whatever immunity they might otherwise have from Federal court orders requiring retroactive payment of benefits.

The effects of the Supreme Court decision on the operation of the Federal assistance programs affected could, unfortunately, be extremely serious. As Mr. Justice Marshall and Mr. Justice Blackmun noted, no remedy other than the Court's power to order retroactive payment of benefits can effectively deter States from the strong temptation to cut welfare budgets by circumventing the stringent requirements of Federal law. Unless this loophole is closed, State bureaucrats will be able to violate Federal regulations freely, without fear that effective action will be taken against their State.

The Court's argument in the Jordan case rested largely on the premise that because Congress did not specifically require the State to waive its immunity to suit in Federal court as a condition for participation in the aid for the aged program and the State did not take specific voluntary action to do so, the State retained that immunity. My bill would restore the legal rights of affected program beneficiaries, by requiring States to waive immunity to suit as a condition for future Federal financial participation in State administered assistance programs. These programs would include aid for dependent children, medicaid, and food stamps.

I am hopeful that Congress will act quickly and favorably on this measure. In my view, the issue has nothing to do with congressional support or lack thereof for specific provisions of the assistance programs. Rather, my bill is necessary to insure that once the Congress has decided what those laws are, the citizens we have decided to assist will have appropriate recourse against States which do not comply with those laws.

I ask unanimous consent that an April 3, 1974, Washington Post editorial on this subject be printed in the RECORD at this point. Because of the importance of the Supreme Court's decision to my bill, I also ask unanimous consent that the slip opinion be printed in the RECORD. Furthermore, I ask unanimous consent that following those materials, the text of my bill be printed in the RECORD.

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

WELFARE AND THE COURTS

John Jordan, an elderly Chicago indigent, made a simple assumption about equitable justice in the United States and went to court to test it. Last week Mr. Jordan learned that his assumption was wrong. What he assumed is that if a state is conducting a program that involves federal funds, and if the state violates the federal regulations under which the program was established by Congress, then those who are entitled to the benefits of the program are also entitled to sue the state officials and receive the benefits that had been withheld.

What the Supreme Court said in the case, *Edelman v. Jordan*, is that the 11th Amendment to the Constitution bars the federal courts from ordering state officials to pay retroactive benefits, even if it recognizes that the state officials acted unlawfully in withholding the benefits. The Court said it could order the state officials to behave legally in the future, but it could not order the state to pay back benefits.

Mr. Jordan was eligible for benefits under the Assistance to the Aged, Blind and Disabled program. He applied for them, only to discover that Illinois had a regulation that resulted in long delays before such benefits were paid. The federal regulations called for payment to Mr. Jordan within 30 days. Mr. Jordan was told he would have to wait much longer. And so he sued. His class action was intended to do more than recover the $195.00 he would have received if Illinois had obeyed the federal regulations. He wanted to protect the interests of others in the state who had also been victimized by the delays.

Mr. Jordan won in the federal district court and in the Seventh Circuit of the U.S. Court of Appeals. At the Circuit Court level, Illinois asserted its rights under the 11th Amendment, which has been held to bar suits in federal courts brought by residents against their states. The amendment, adopted in 1798, was originally designed to prevent the federal courts from being able to enforce the claims of foreigners against individual states. It has since become a tricky current in the law and has produced a variety of conflicting holdings.

The Supreme Court's most recent interpretation in *Jordan* is that residents of states who are eligible for aid from federally assisted programs cannot sue the state officials in federal court for violating the regulations laid down by federal agencies or by Congress. The Court held that it could enjoin the state officials from future violation of the regulations, but it could not grant the back benefits that had been denied. The Seventh Circuit held that Illinois waited too long to assert its 11th Amendment right, but the Supreme Court ruled that the 11th Amendment is such a grave bar against federal jurisdiction in such cases that it had to be entertained, no matter how late the hour at which it was involked.

The implications of this case for the public welfare system are serious. If welfare agencies can withhold funds until the courts tell them to stop, many welfare lawyers fear that delay in the processing of applications could well become the rule rather than the exception. The reason for demanding restitution of lost benefits in the Jordan case is to prevent state bureaucrats from discouraging welfare applicants by putting them through long processes. The federal regulations requiring that applications be processed within 30 days for the elderly indigent, the blind and the disabled were intended to guard against just such bureaucratic delay. The Supreme Court has now removed the federal courts from their equity role in such matters.

The court has said that unless a state consents to such a suit in federal court, the court cannot award back benefits. The court rested its decision on the absence of any specific language in the law requiring states to give up their immunity against such suits as a condition of participation in the program. Since the courts no longer have the power to protect recipients, and since the Congress has left the bureaucrats so large a loophole, it is the Congress that must make its intent clearer.

We are here concerned with the interests of the poorest of our citizens who are elderly, disabled or blind. To leave them at the mercy of the agencies that have already demonstrated their lack of concern is unfair and cannot have been the intent of Congress. What is required now is an amendment of the Social Security Act that would take a simple step to right a wrong. Congress can require that any state that participates in a federal welfare program must waive its immunity against suit under the 11th Amendment. Otherwise, an illegally operated program can continue to be in violation until it is enjoined. And at that, its officials will feel no pressure to do anything other than to begin operating legally from the point at which an injunction has been issued.

The reason for the welfare program is to assist those who are unable to help themselves. It is designed to grant "minimal subsistence" in cases of indigence, infirmity or disability. We give to the John Jordans of this country just enough to stay alive. We require the states to do a simple thing—assist them promptly when they are in need. Since the Supreme Court in *Edleman v. Jordan* has removed the courts from their traditional equity function in welfare cases, the Congress should act to protect the least among us.

EDELMAN, DIRECTOR, DEPARTMENT OF PUBLIC AID OF ILLINOIS V. JORDAN

SYLLABUS

Certiorari to the United States Court of Appeals for the Seventh Circuit; No. 72-1410. Argued December 12, 1973—Decided March 25, 1974)

Respondent brought this class action for injunctive and declaratory relief against the Illinois officials administering the federal-state programs of Aid to the Aged, Blind, and Disabled (AABD), which are funded equally by the State and Federal Governments, contending that they were violating federal law and denying equal protection of the laws by following state regulations that did not comply with the federal time limits within which participating States had to process and make grants with respect to AABD applications. The District Court by a permanent injunction required compliance with the federal time limits and also ordered the state officials to release and remit AABD benefits wrongfully withheld to all persons found eligible who had applied therefor between July 1, 1968, the date of the federal regulations, and April 16, 1971, the date of the Court's preliminary injunction. The Court of Appeals affirmed, rejecting the state officials' contentions that the Eleventh Amendment barred the award of the retroactive benefits and that the judgment of inconsistency between federal regulations and state porvisions could be given only prospective effect. *Held:* The Eleventh Amendment of the Constitution bars that portion of the District Court's decree that ordered retroactive payment of benefits. Pp. 7-26.

(a) A suit by private parties seeking to impose a liability payable from public funds in the state treasury is foreclosed by the Amendment if the State does not consent to suit. P. 11.

(b) The Court of Appeals erred in holding that *Ex parte Young*, 209 U.S. 123, which awarded only prospective relief, did not preclude the retroactive monetary award here on the ground that it was an "equitable restitution," since that award, though on its

face directed against the state official individually, as a practical matter could be satisfied only from the general revenues of the State and was indistinguishable from an award of damages against the State. *Ford Motor Co.* v. *Department of Treasury*, 323 U.S. 459, followed. *Shapiro* v. *Thompson*, 394 U.S. 168; *State Dept. of Health and Rehabilitation Services* v. *Zarate*, 407 U.S. 918; *Sterrett* v. *Mothers' & Children's Rights Organization*, 409 U.S. 809; *Wyman* v. *Bowens*, 397 U.S. 49, disapproved to extent that their holdings do not comport with the holding in the instant case on the Eleventh Amendment issue. Pp. 12–20.

(c) The State of Illinois did not waive its Eleventh Amendment immunity and consent to the bringing of respondent's suit by participating in the federal AABD program. *Parden* v. *Terminal R. Co.*, 377 U.S. 184, and *Petty* v. *Tennessee-Missouri Bridge Comm'n*, 359 U.S. 275, distinguished. Nor does the mere fact that a State participates in a program partially funded by the Federal Government manifest consent by the State to be sued in federal courts. Pp. 20–22.

(d) The Court of Appeals properly considered the Eleventh Amendment defense, which the state officials did not assert in the District Court, since that defense partakes of the nature of a jurisdictional bar. *Ford Motor Co.* v. *Department of Treasury*, *supra*. Pp. 24–25.

472 F. 2d 985, reversed and remanded.

REHNQUIST, J., delivered the opinion of the Court, in which BURGER, C. J., and STEWART, WHITE, and POWELL, JJ., joined. DOUGLAS and BRENNAN, JJ., filed dissenting opinions. MARSHALL, J., filed a dissenting opinion in which BLACKMUN, J., joined.

EDELMAN VERSUS JORDAN

Mr. JUSTICE REHNQUIST delivered the opinion of the Court.

Respondent John Jordan filed a complaint in the United States District Court for the Northern District of Illinois, individually and as a representative of a class, seeking declaratory and injunctive relief against two former directors of the Illinois Department of Public Aid, the director of the Cook County Department of Public Aid, and the comptroller of Cook County. Respondent alleged that these state officials were administering the federal-state programs of Aid to the Aged, Blind and Disabled (AABD) in a manner inconsistent with various federal regulations and with the Fourteenth Amendment to the Constitution.[1]

AABD is one of the categorical aid programs administered by the Illinois Department of Public Aid pursuant to the Illinois Public Aid Code, Ill. Rev. Stat. c. 23, §§ 3–1 through 3–12 (1971). Under the Social Security Act, the program is funded equally by the State and the Federal Government. 42 U.S.C. § 1381–1385 (1969 ed.).[2] The Department of Health, Education, and Welfare (HEW), which administers these payments for the Federal Government, issued regulations prescribing maximum permissible time standards within which States participating in the program must process AABD applications. Those regulations, originally issued in 1968, required, at the time of the institution of this suit, that eligibility determinations must be made by the States within 30 days of receipt of applications for aid to the aged and blind, and within 45 days of receipt of applications for aid to the disabled. For those persons found eligible, the assistance check was required to be received by them within the applicable time period. 45 CFR § 206.10(a)(3).[3]

During the period in which the federal regulations went into effect, Illinois public aid officials were administering the benefits pursuant to their own regulations as provided in the Categorical Assistance Manual of the Illinois Department of Public Aid.[4] Respondent's complaint charged that the Illinois defendants, operating under those regulations, were improperly authorizing grants to commence only with the month in which an application was approved and not including prior eligibility months for which an applicant was entitled to aid under federal law. The complaint also alleged that the Illinois defendants were not processing the applications within the applicable time requirements of the federal regulations; specifically, respondent alleged that his own application for disability benefits was not acted on by the Illinois Department of Public Aid for almost four months. Such actions of the Illinois officials were alleged to violate federal law and deny the equal protection of the laws. Respondent's prayer requested declaratory and injunctive relief, and specifically requested "a permanent injunction enjoining the defendants to award to the entire class of plaintiffs all AABD benefits wrongfully withheld."

In its judgment of March 15, 1972, the District Court declared § 4004 of the Illinois Manual to be invalid insofar as it was inconsistent with the federal regulations found in 45 CFR § 206.10(a)(3), and granted a permanent injunction requiring compliance with the federal time limits for processing and paying AABD applicants. The District Court, in paragraph 5 of its judgment, also ordered the state officials to "release and remit AABD benefits wrongfully withheld to all applicants for AABD in the State of Illinois who applied between July 1, 1968 [the date of the federal regulations] and April 16, 197[1] [the date of the preliminary injunction issued by the District Court] and were found eligible . . . ."[5]

On appeal to the United States Court of Appeals for the Seventh Circuit, the Illinois' officials contended, *inter alia*, that the eleventh Amendment barred the award of retroactive benefits, that the judgment of inconsistency between the federal regulations and the provisions of the Illinois Categorical Assistance Manual could be given prospective effect only, and that the federal regulations in question were inconsistent with the Social Security Act itself. The Court of Appeals rejected these contentions and affirmed the judgment of the District Court. *Jordan* v. *Weaver*, 472 F. 2d 985 (1973).[6] Because of an apparent conflict on the Eleventh Amendment issue with the decision of the Court of Appeals for the Second Circuit in *Rothstein* v. *Wyman*, 467 F. 2d 226 (1972), we granted the petition for certiorari filed by petitioner Joel Edelman, who is the present Director of the Illinois Department of Public Aid, and successor to the former directors sued below. *Sub nom.* 412 U.S. 937 (1973). The petition for certiorari raised the same contentions urged by the petitioner in the Court of Appeals.[7] Because we believe the Court of Appeals erred in its disposition of the Eleventh Amendment claim, we reverse that portion of the Court of Appeals decision which affirmed the District Court's order that retroactive benefits be paid by the Illinois state officials.[8]

The historical basis of the Eleventh Amendment has been oft-stated, and it represents one of the more dramatic examples of this Court's effort to derive meaning from the document given to the Nation by the Framers nearly 200 years ago. A leading historian of the Court tells us:

"The right of the Federal Judiciary to summon a State as defendant and to adjudicate its rights and liabilities had been the subject of deep apprehension and of active debate at the time of the adoption of the Constitution; but the existence of any such right had been disclaimed by many of the most eminent advocates of the new Federal Government, and it was largely owing to their successful dissipation of the fear of the existence of such Federal power that the Constitution was finally adopted." 1 C. Warren, The Supreme Court in United States History 91 (Rev. ed. 1957).

Despite such disclaimers,[9] the very first suit entered in this Court at its February Term in 1791 was brought against the State of Maryland by a firm of Dutch bankers as creditors. *Ibid.*; *Vanstophorst* v. *Maryland*. The subsequent year brought the institution of additional suits against other States, and caused considerable alarm and consternation in the country.

The issue was squarely presented to the Court in a suit brought at the August 1792 Term by two citizens of South Carolina, executors of a British creditor, against the State of Georgia. After a year's postponement for preparation on the part of the State of Georgia, the Court, after argument, rendered in February 1793, its short-lived decision in *Chisholm* v. *Georgia*, 2 U.S. (2 Dall.) 419 (1793). The decision in that case, that a State was liable to suit by a citizen of another State or of a foreign country, literally shocked the Nation. Sentiment for passage of a constitutional amendment to override the decision rapidly gained momentum, and five years after *Chisholm* the Eleventh Amendment was ratified by the final State necessary for passage. As ratified in 1798, and unchanged since, the Amendment provides:

"The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State."

While the Amendment by its terms does not bar suits against a State by its own citizens, this Court has consistently held that an unconsenting State is immune from suits brought in federal courts by her own citizens as well as by citizens of another State. *Hans* v. *Louisiana*, 134 U.S. 1 (1890); *Duhne* v. *New Jersey*, 251 U.S. 311 (1920); *Great Northern Life Insurance Co.* v. *Read*, 322 U.S. 47 (1945); *Parden* v. *Terminal R. Co.*, 377 U.S. 184 (1964); *Employees* v. *Department of Public Health and Welfare*, 411 U.S. 279 (1973). It is also well established that even though a State is not named a party to the action, the suit may nonetheless be barred by the Eleventh Amendment. In *Ford Motor Co.* v. *Department of Treasury*, 323 U.S. 459 (1945), the Court said:

"[W]hen the action is in essence one for the recovery of money from the state, the state is the real, substantial party in interest and is entitled to invoke its sovereign immunity from suit even though individual officials are nominal defendants." *Id.*, at 464.

Thus the rule has evolved that a suit by private parties seeking to impose a liability which must be paid from public funds in the state treasury is barred by the Eleventh Amendment. *Great Northern Life Insurance Co.* v. *Read*, *supra*; *Kennecott Copper Corp.* v. *State Tax Comm'n*, 327 U.S. 573 (1946).

The Court of Appeals in this case, while recognizing that the *Hans* line of cases permitted the State to raise the Eleventh Amendment as a defense to suit by its own citizens, nevertheless concluded that the Amendment did not bar the award of retroactive payments to statutory benefits found to have been wrongfully withheld. The Court of Appeals held that the above cited cases, when read in light of the Court's landmark decision in *Ex parte Young*, 209 U.S. 123 (1908), do not preclude the grant of such a monetary award in the nature of equitable restitution.

Petitioner concedes that *Ex parte Young*, *supra*, is no bar to that part of the District Court's judgment that prospectively enjoined petitioner's predecessors from failing to process applications within the time limits established by the federal regulations. Petitioner argues, however, that *Ex parte Young* does not extend so far as to permit a

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suit which seeks the award of an accrued monetary liability which must be met from the general revenues of a State, absent consent or waiver by the State of its Eleventh Amendment immunity, and that therefore the award of retroactive benefits by the District Court was improper.

Ex parte Young was a watershed case in which this Court held that the Eleventh Amendment did not bar an action in the federal courts seeking to enjoin the Attorney General of Minnesota from enforcing a statute claimed to violate the Fourteenth Amendment of the United States Constitution. This holding has permitted the Civil War Amendments to the Constitution to serve as a sword, rather than merely as a shield, for those whom they were designed to protect. But the relief awarded in *Ex parte Young* was prospective only; the Attorney General of Minnesota was enjoined to conform his future conduct of that office to the requirement of the Fourteenth Amendment. Such relief is analogous to that awarded by the District Court in the prospective portion of its order under review in this case.

But the retroactive portion of the District Court's order here, which requires the payment of a very substantial amount of money which that court held should have been paid, but was not, stands on quite a different footing. These funds will obviously not be paid out of the pocket of petitioner Edelman. Addressing himself to a similar situation in *Rothstein* v. *Wyman*, 467 F. 2d 226 (CA2 1972), cert. denied, 411 U.S. 921 (1973), Judge McGowan[10] observed for the court:

"It is not pretended that these payments are to come from the personal resources of these appellants. Appellees expressly contemplate that they will, rather, involve substantial expenditures from the public funds of the state . . .

"It is one thing to tell the Commissioner of Social Services that he must comply with the federal standards for the future if the state is to have the benefit of federal funds in the programs he administers. It is quite another thing to order the Commissioner to use state funds to make reparation for the past. The latter would appear to us to fall afoul of the Eleventh Amendment if that basic constitutional provision is to be conceived of as having any present force." *Id.*, at 236–237 (footnotes omitted).

We agree with Judge McGowan's observations. The funds to satisfy the award in this case must inevitably come from the general revenues of the State of Illinois, and thus the award against the State itself, *Ford Motor Co.* v. *Department of Treasury, supra*, than it does the prospective injunctive relief awarded in *Ex parte Young*.

The Court of Appeals, in upholding the award in this case, held that it was permissible because it was in the form of "equitable restitution" instead of damages, and therefore capable of being tailored in such a way as to minimize disruptions of the state program of categorical assistance. But we must judge the award actually made in this case, and not one which might have been differently tailored in a different case, and we must judge it in the context of the important constitutional principle embodied in the Eleventh Amendment.[11]

We do not read *Ex parte Young* or subsequent holdings of this Court to indicate that any form of relief may be awarded against a state officer, no matter how closely it may in practice resemble a money judgment payable out of the state treasury, so long as the relief may be labeled "equitable" in nature. The Court's opinion in *Ex parte Young* hewed to no such line. Its citation of *Hagood* v. *Southern*, 117 U.S. 52 (1886), and *In re Ayers*, 123 U.S. 443 (1887), which were both actions against state officers for specific performance of a contract to which the State was a party, demonstrate that equitable relief may be barred by the Eleventh Amendment.

As in most areas of the law, the difference between the type of relief barred by the Eleventh Amendment and that permitted under *Ex parte Young* will not in many instances be that between day and night. The injunction issued in *Ex parte Young* was not totally without effect on the State's revenues, since the state law which the Attorney General was enjoined from enforcing provided substantial monetary penalties against railroads which did not conform to its provisions. Later cases from this Court have authorized equitable relief which has probably had greater impact on state treasuries than did that awarded in *Ex parte Young*. In *Graham* v. *Richardson*, 403 U.S. 365 (1971), Arizona and Pennsylvania welfare officials were prohibited from denying welfare benefits to otherwise qualified recipients who were aliens. In *Goldberg* v. *Kelly*, 397 U.S. 254 (1970), New York City welfare officials were enjoined from following New York State procedures which authorized the termination of benefits paid to welfare recipients without prior hearing.[12] But the fiscal consequences to state treasuries in these cases were the necessary result of compliance with decrees which by their terms were prospective in nature. State officials, in order to shape their official conduct to the mandate of the Court's decrees, would more likely have to spend money from the state treasury than if they had been left free to pursue their previous course of conduct. Such an ancillary effect on the state treasury is a permissible and often an inevitable consequence of the principle announced in *Ex parte Young, supra*.

But that portion of the District Court's decree which petitioners challenge on Eleventh Amendment grounds goes much further than any of the cases cited. It requires payment of state funds, not as a necessary consequence of compliance in the future with a substantive federal question determination, but as a form of compensation to those whose applications were processed on the slower time schedule at a time when petitioners were under no court-imposed obligation to conform to a different standard. While the Court of Appeals described this retroactive award of monetary relief as a form of "equitable restitution," it is in practical effect indistinguishable in many aspects from an award of damages against the State. It will to a virtual certainty be paid from state funds, and not from the pocket of the individual state official who was the defendant in the action. It is measured in terms of a monetary loss resulting from a past breach of a legal duty on the part of the defendant state officials.

Were we to uphold this portion of the District Court's decree, we would be obligated to overrule the Court's holding in *Ford Motor Co.* v. *Department of Treasury, supra*. There a taxpayer, who had, under protest, paid taxes to the State of Indiana, sought a refund of those taxes from the Indiana state officials who were charged with their collection. The taxpayer claimed that the tax had been imposed in violation of the United States Constitution. The term "equitable restitution" would seem even more applicable to the relief sought in that case, since the taxpayer had at one time had the money, and paid it over to the State pursuant to an allegedly unconstitutional tax exaction. Yet this Court has no hesitation in holding that the taxpayer's action was a suit against the State, and barred by the Eleventh Amendment. We reach a similar conclusion with respect to the retroactive portion of the relief awarded by the District Court in this case.

The Court of Appeals expressed the view that its conclusion on the Eleventh Amendment issue was supported by this Court's holding in *Department of Employment* v. *United States*, 385 U.S. 355 (1966). There the United States was held entitled to sue the Colorado Department of Employment in the United States District Court for refund of unemployment compensation taxes paid under protest by the American National Red Cross, an instrumentality of the United States. The discussion of the State's Eleventh Amendment claim is confined to the following sentence in the opinion:

"With respect to appellants' contention that the State of Colorado has not consented to suit in a Federal forum even where the plaintiff is the United States, see *Monaco* v. *Mississippi*, 292 U.S. 313 (1934), and *Ex parte Young*, 209 U.S. 123 (1908)." 385 U.S., at 358.

Monaco v. *Mississippi, supra*, reaffirmed the principle that the Eleventh Amendment was no bar to a suit by the United States against a State. 292 U.S., at 329. In view of Mr. Chief Justice Hughes' vigorous reaffirmation in *Monaco* of the principles of the Eleventh Amendment and sovereign immunity, we think it unlikely that the Court in *Department of Employment* v. *United States*, in citing *Ex parte Young* as well as *Monaco*, intended to foreshadow a departure from the rule to which we adhere today.

Three fairly recent District Court judgments requiring state directors of public aid to make the type of retroactive payment involved here have been summarily affirmed by this Court notwithstanding the Eleventh Amendment contentions made by state officers who were appealing from the District Court judgment.[13] *Shapiro* v. *Thompson*, 394 U.S. 168 (1969), is the only instance in which the Eleventh Amendment objection to such retroactive relief was actually presented to this Court in a case which was orally argued. The three-judge District Court in that case had ordered the retroactive payment of welfare benefits found by that court to have been unlawfully withheld because of residency requirements held violative of equal protection. *Thompson* v. *Shapiro*, 270 F. Supp. 331, 338, n. 5 (Conn. 1967). This Court, while affirming the judgment, did not in its opinion refer to or substantively treat the Eleventh Amendment argument. Nor, of course, did the summary dispositions of the three District Court cases contain any substantive discussion of this or any other issues raised by the parties.

This case, therefore, is the first opportunity the Court has taken to fully explore and treat the Eleventh Amendment aspects of such relief in a written opinion. *Shapiro* v. *Thompson* and these three summary affirmances obviously are of precedental value in support of the contention that the Eleventh Amendment does not bar the relief awarded by the District Court in this case. Equally obviously they are not of the same precedental value as would be an opinion of this Court treating the question on the merits. Since we deal with a constitutional question, we are less constrained by the principle of *stare decisis* than we are in other areas of the law.[14] Having now had an opportunity to more fully consider the Eleventh Amendment issue after briefing and argument, we disapprove the Eleventh Amendment holdings of those cases to the extent that they are inconsistent with our holding today.

The Court of Appeals held in the alternative that even if the Eleventh Amendment be deemed a bar to the retroactive relief awarded respondent in this case, the State of Illinois had waived its Eleventh Amendment immunity and consented to the bringing of such a suit by participating in the federal AABD program. The Court of Appeals relied upon our holdings in *Parden* v. *Terminal R. Co.*, 337 U. S. 184 (1964), and *Petty* v. *Tennessee-Missouri Bridge Comm'n*, 359 U. S. 275 (1959), and on the dissenting opinion of

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Judge Bright in *Employees of Department of Public Health and Welfare* v. *Department of Public Health and Welfare*, 452 F. 2. 820, 827 (CA8 1971). While the holding in the latter case was ultimately affirmed by this Court in *Employees* v. *Department of Public Health and Welfare*, 411 U. S. 279 (1973), we do not think that the answer to the waiver question turns on the distinction between *Parden, supra*, and *Employees, supra*. Both *Parden* and *Employees* involved a congressional enactment which by its terms authorized suit by designated plaintiffs against a general class of defendants which literally included States or state instrumentalities. Similarly, *Petty* v. *Tennessee-Missouri Bridge Comm'n, supra*, involved congressional approval, pursuant to the Compact Clause, of a compact between Tennessee and Missouri, which provided that each compacting State would have the power "to contract, to sue, and be sued in its own name." The question of waiver or consent under the Eleventh Amendment was found in those cases to turn on whether Congress had intended to abrogate the immunity in question, and whether the State by its participation in the program authorized by Congress had in effect consented to the abrogation of that immunity.

But in this case the threshold fact of congressional authorization to sue a class of defendants which literally includes States is wholly absent. Thus respondent is not only precluded from relying on this Court's holding in *Employees*, but on this Court's holdings in *Parden* and *Petty* as well.[15]

The Court of Appeals held that as a matter of federal law Illinois had "constructively consented" to this suit by participating in the federal AABD program and agreeing to administer federal and state funds in compliance with federal law. Constructive consent is not a doctrine commonly associated with the surrender of constitutional rights, and we see no place for it here. In deciding whether a State has waived its constitutional protection under the Eleventh Amendment, we will find waiver only where stated "by the most express language or by such overwhelming implications from the text as will leave no room for any other reasonable construction." *Murray* v. *Wilson Distilling Co.*, 213 U.S. 151, 171 (1909). We see no reason to retreat from the Court's statement in *Great Northern Insurance Co.* v. *Reed*, 322 U.S. 47, 54 (1945) (footnote omitted):

"[W]hen we are dealing with the sovereign exemption from judicial interference in the vital filed of financial administration a clear declaration of the state's intention to submit its fiscal problems to other courts than those of its own creation must be found."

The mere fact that a State participates in a program through which the Federal Government provides assistance for the operation by the State of a system of public aid is not sufficient to establish consent on the part of the State to be sued in the federal courts. And while this Court has, in cases such *J. I. Case Co.* v. *Borak*, 377 U. S. 426 (1964), authorized suits by one private party against another in order to effectuate a statutory purpose, it has never done so in the context of the Eleventh Amendment and a state defendant. Since *Employees, supra*, where Congress had expressly authorized suits against a general class of defendants and the only thing left to implication was whether the described class of defendants included States, was decided adversely to the putative plaintiffs on the waiver question, surely this respondent must also fail on that issue. The only language in the Social Security Act which purports to provide a federal sanction against a State which does not comply with federal requirements for the distribution of federal monies is found in 42 U. S. C. § 1384, which provides for termination of future allocations of federal funds when a participating State fails to conform with federal law.[16] This provision by its terms does not authorize suit against anyone, and standing alone, falls far short of a waiver by a participating State of its Eleventh Amendment immunity.

Our Brother MARSHALL argues in dissent, and the Court of Appeals held, that although the Social Security Act itself does not create a private cause of action, the cause of action created by 42 U.S.C. § 1983, coupled with the enactment of the AABD program, and the issuance by HEW of regulations which require the States to make corrective payments after successful "fair hearings" and provide for federal matching funds to satisfy federal court orders of retroactive payments, indicate that Congress intended a cause of action for public aid recipients such as respondent.[17] It is of course true that *Rosado* v. *Wyman*, 397 U.S. 397 (1970), held that suits in federal court under § 1983 are proper to secure compliance with the provisions of the Social Security Act on the part of participating States.[18] But it has not heretofore been suggested that § 1983 was intended to create a waiver of a State's Eleventh Amendment immunity merely because an action could be brought under that section against state officers, rather than against the State itself. Though a § 1983 action may be instituted by public aid recipients such as respondent, a federal court's remedial power, consistent with the Eleventh Amendment, is necessarily limited to prospective injunctive relief, *Ex parte Young, supra*, and may not include a retroactive award which requires the payment of funds from the state treasury, *Ford Motor Co.* v. *Department of Treasury, supra*.

Respondent urges that since the various Illinois officials sued in the District Court failed to raise the Eleventh Amendment as a defense to the relief sought by respondents, petitioner is therefore barred[19] from raising the Eleventh Amendment defense in the Court of Appeals or in this Court. The Court of Appeals apparently felt the defense was properly presented, and dealt with it on the merits. We approve of this resolution, since it has been well-settled since the decision in *Ford Motor Co.* v. *Department of Treasury, supra*, that the Eleventh Amendment defense sufficiently partakes of the nature of a jurisdictional bar so that it need not be raised in the trial court:

"[The Attorney General of Indiana] appeared in the federal District Court and the Circuit Court of Appeals and defended the suit on the merits. The objection to petitioner's suit as a violation of the Eleventh Amendment was first made and argued by Indiana in this Court. This was in time, however. The Eleventh Amendment declares a policy and sets forth an explicit limitation on federal judicial power of such compelling force that this Court will consider the issue arising under this Amendment in this case even though urged for the first time in this Court." 323 U.S., at 466–467.

For the foregoing reasons we decide that the Court of Appeals was wrong in holding that the Eleventh Amendment did not constitute a bar to that portion of the District Court decree which ordered retroactive payments of benefits found to have been wrongfully withheld. The judgment of the Court of Appeals is therefore reversed and the cause remanded for further proceedings consistent with this opinion.

So ordered.

FOOTNOTES

[1] In his complaint in the District Court, respondent claimed that the Illinois Department of Public Aid was not complying with federal regulations in its processing of public aid applications, and also that its refusal to process and allow respondent's claim for a period of four months, while processing and alowing the claims of those similarly situated, violated the Equal Protection Clause of the Fourteenth Amendment. Respondent asserted that the District Court could exercise jurisdiction over the cause by virtue of 28 U.S.C. §§ 1331 and 1343(3) and (4). Though not briefed by the parties before this Court, we think that under our decision in *Hagans* v. *Lavine*, No. 72-6476. —— U.S. —— (1974), the equal protection claim cannot be said to be "wholly insubstantial," and that therefore the District Court was correct in exercising pendent jurisdiction over the statutory claim.

[2] Effective January 1, 1974, the AABD program has been replaced. See 42 U.S.C. § 1381 *et seq.* (Supp. 1973).

[3] CFR § 206.10(a)(3) (1973) provides in pertinent part: "(a) *State plan requirements*. A State plan . . . must provide that. . . .

"(3) A decision will be made promptly on applications, pursuant to reasonable State-established time standards not in excess of 45 days for [aid to aged and blind] and 60 days [for aid to the disabled]. Under this requirement, the applicant is informed of the agency's time standard in acting on applications which covers the time from date of application to the date that the assistance check, or notification of denial of assistance or change of award, or the eligibility decision with respect to medical assistance, is mailed to the applicant or recipient."

When originally issued in 1968 the regulation provided that the applications for aid to the aged and blind be processed within 30 days and that aid to the disabled be processed within 45 days of reciept. They also provided that the person determined to be eligible must *receive* his assistance check within the applicable time period. The amendment to 60 days for aid to the disabled occurred in 1971, as did the change to require mailing instead of receipt of the assistance check within the applicable time period; effective Oct. 15, 1973, the time for processing aged and blind applications became 45 days.

In addition, 45 CFR § 206.10(a)(6) provides in pertinent part:

"(6) Entitlement will begin as specified in the State plan, which (i) for financial assistance must be no later than the date of authorization of payment. . . ."

[4] The Illinois regulations, found in the Illinois Categorica Assistance Manual of the Illinois Department of Public Aid, provide in pertinent parts:

"4004.1

"Except for [disability] cases which have a time standard of 45 days, the time standard for disposition of applications is 30 days from the date of application to the date the applicants are determined eligible and the effective date of their first assistance or are determined ineligible and receive a notice of denial of assistance. . . .

"8255. Initial Awards

"Initial awards may be new grants, reinstatements, or certain types of resumptions. They can be effective for the month in which Form FO-550 is signed but for no prior period except [under conditions not relevant to this case].

"8255.1 New Grants

"A new grant in the first grant authorized after an application has been accepted in a case which has not previously received assistance under the same assistance program. It may be authorized for the month in which Form FO-550 is signed but not for any prior period unless it meets [exceptions not relevant to this case]."

[5] Paragraph 5 of the District Court's judgment provided:

"That the defendant EDWARD T. WEAVER, Director, Illinois Department of Public Aid, his agents, including all of the County Departments of Public Aid in the State of Illinois, and employees, and all per-

sons in active concert and participation with them, are hereby enjoined to release and remit AABD benefits wrongfully withheld to all applicants for AABD in the State of Illinois who applied between July 1, 1968 and April 16, 1972 [*sic*] [should read "1971"], and were determined eligible, as follows:

"(a) For those aged and blind applicants whose first full AABD check was not mailed within thirty days from the date of application, AABD assistance for the period beginning with the thirtieth day from the date of application to the date the applicant's entitlement to AABD became effective;

"(b) (i) For those disabled applicants who applied between July 1, 1968 and December 31, 1970, whose first full AABD check was not mailed within forty-five days from the date of application, AABD assistance for the period beginning with the forty-fifth day from the date of application to the date the applicant's entitlement became effective;

"(ii) For those disabled applicants who applied between January 1, 1971 and April 16, 1971, whose first full AABD check was not mailed within sixty days from the date of application, AABD assistance for the period beginning with the sixtieth day from the date of application to the date the applicant's entitlement became effective.

"These AABD benefits shall be mailed to those persons currently receiving AABD within eight months with an explanatory letter having been first approved by plaintiff's attorney. Any AABD benefits received pursuant to this paragraph shall not be deemed income or resources under Article III of the Illinois Public Aid Code.

"For those persons not presently receiving AABD:

"(a) A certified letter (return receipt requested), said letter having been first approved by plaintiffs' attorney, shall be sent to the last known address of the person, informing him in concise and easily understandable terms that he is entitled to a specified amount of AABD benefits wrongfully withheld, and that he may claim such amount by contacting the County Department of Public Aid at a specified address, within 45 days from the receipt of said letter.

"(b) If the County Department of Public Aid does not receive a claim for the AABD benefits within 45 days from the date of actual notice to the person, the right to said AABD benefits shall be forfeited and the file shall be closed. Persons who do not receive actual notice do not forfeit their rights to AABD benefits wrongfully withheld under this provision."

Paragraph 6 of the District Court's judgment provided:

"Within 15 days from the date of this decree, defendant Edward T. Weaver, Director, Illinois Department of Public Aid, shall submit a detailed statement as to the method of effectuating the relief required by paragraph 5, *supra*, of this Decree. Any disputes between the parties as to whether the the procedures and steps outlined by the defendant Weaver will fulfill the requirements of this Decree will be resolved by the Court."

On July 19, 1973, the author of this opinion stayed until further order of this Court these two paragraphs of the District Court's judgment. 414 U.S. 1301 (1973).

[6] Respondent appealed from the District Court's judgment insofar as it held him not entitled to receive benefits from the date of his applications (as opposed to the date of authorization of benefits as provided by the federal regulations) and insofar as it failed to award punitive damages. The Court of Appeals upheld the District Court's decision against respondent on those points and they are not at issue here. 472 F. 2d, at 997–999.

[7] Citing *Chevron Oil Co.* v. *Huson*, 404 U. S. 97 (1971), petitioner also contends in this Court that the Court of Appeals erred in refusing to give the District Court's judgment prospective effect only. Brief for the Petitioner, at p. 37, incorporating arguments made in petitioner's petition for Certiorari, at pp. 18–22. The Court of Appeals concluded that this ground was "not presented to the district judge before entry of judgment, so that it comes too late." 472 F. 2d, at 995. The Court of Appeals went on, however, to conclude that "[e]ven if the ground had been timely presented, defendant's contention would be meritless." *Ibid.* Noting that one of three tests established by our decision in *Huson* for determining the retroactivity of court decisions was that "the decision to be applied non-retroactively *must* establish a new principle of law, either by overruling clear past precedent on which litigants may have relied . . . or [have decided] an issue of first impression whose resolution was not clearly foreshadowed . . . .", *Chevron Oil Co.* v. *Huson, supra,* 404 U. S., at 106, the Court of Appeals found that the petitioner had not satisfied this test, since the "federal time requirements for processing applications and paying eligible AABD applicants were made effective July 1, 1968, and defendants were well aware of these mandatory maximum permissible time standards." 474 F. 2d, at 996.

In light of our disposition of this case on the Eleventh Amendment issue we see no reason to address this contention.

[8] 42 U.S.C. § 1382(a)(8) provides in pertinent part:

"(a) Contents.

"A State plan for aid to the aged, blind, or disabled, or for aid to the aged, blind, or disabled and medical assistance for the aged, must—

"(8) provide that all individuals wishing to make application for aid or assistance under the plan shall have opportunity to do so, and that such aid or assistance shall be furnished with reasonable promptness to all eligible individuals."

HEW, pursuant to authority granted to it by 42 U.S.C. § 1302, has promulgated regulations, see n. 3, *supra*, which require that decisions be made promptly on applications within 45 days for the aged and blind and within 60 days for the disabled, and that initiation of payments to the eligible be made within the same periods. Petitioner renews in this Court the contention made in the Court of Appeals that these time limitations in the regulations are inconsistent with the statute and therefore an unlawful abuse of the rulemaking authority. Brief for the petitioner, at p. 37, incorporating arguments made in petitioner's Petition for Certiorari, at pp. 22–28. Specifically, petitioner argues that the "establishment of arbitrary [forty-five] and sixty day maximums in the HEW regulations for determination of eligibility and initiation of payments without taking into consideration the efficient administration of the Act by the State agencies is inconsistent with the 'reasonable promptness' requirement and must therefore be declared unlawful. . . ." Petition for Certiorari, at p. 23. The Court of Appeals rejected this contention, holding that "these requirements, binding on state welfare officials, are an appropriate intepretation of the Congressional mandate of 'reasonable promptness.' " 472 F. 2d, at 996. We agree with the Court of Appeals.

[9] While the debates of the Constitutional Convention itself do not disclose a discussion of the question, the prevailing view at the time of the ratification of the Constitution was stated by various of the Framers in the writings and debates of the period. Examples of these views have been assembled by Mr. Chief Justice Hughes: ". . . Madison, in the Virginia Convention, answering objections to the ratification of the Constitution, clearly stated his view as to the purpose and effect of the provision conferring jurisdiction over controversies between States of the Union and foreign States. That purpose was suitably to provide for adjudication in such cases if consent should be given but not otherwise. Madison said: 'The next case provides for disputes between a foreign state and one of our states, should such a case ever arise; and between a citizen and a foreign citizen or subject. I do not conceive that any controversy can ever be decided, in these courts, between an American state and a foreign state, without the consent of the parties. If they consent, provision is here made.' 3 Elliot's Debates, 533.

"Marshall, in the same Convention, expressed a similar view. Replying to an objection as to the admissibility of a suit by a foreign state, Marshall said: 'He objects, in the next place, to its jurisdiction in controversies between a state and a foreign state. Suppose, says he, in such a suit, a foreign state is cast; will she be bound by the decision? If a foreign state brought a suit against the commonwealth of Virginia, would she not be barred from the claim if the federal judiciary thought it unjust? The previous consent of the parties is necessary; and, as the federal judiciary will decide, each party will acquiesce.' 3 Elliot's Debates, 557.

"Hamilton, in The Federalist, No. 81, made the following emphatic statement of the general principle of immunity: 'It is inherent in the nature of sovereignty not to be amenable to the suit of an individual *without its consent*. This is the general sense and the general practice of mankind; and the exemption, as one of the attributes of sovereignty, is now enjoyed by the government of every State in the Union. Unless therefore, there is a surrender of this immunity in the plan of the convention, it will remain with the States, and the danger intimated must be merely ideal. The circumstances which are necessary to produce an alienation of State sovereignty were discussed in considering the article of taxation and need not be repeated here. A recurrence to the principles there established will satisfy us that there is no color to pretend that the State governments would by the adoption of that plan be divested of the privilege of paying their own debts in their own way, free from every constraint but that which flows from the obligations of good faith. The contracts between a nation and individuals are only binding on the conscience of the sovereign, and have no pretensions to a compulsive force. They confer no right of action independent of the sovereign will. To what purpose would it be to authorize suits against States for the debts they owe? How could recoveries be enforced? It is evident it could not be done without waging war against the contracting State; and to ascribe to the federal courts by mere implication, and in destruction of a preexisting right of the State governments, a power which would involve such a consequence would be altogether forced and unwarrantable.'" *Monaco* v. *Mississippi*, 292 U.S. 313, 323–325 (1934) (footnotes omitted).

[10] Of the Court of Appeals for the District of Columbia Circuit, sitting by designation on the Court of Appeals for the Second Circuit.

[11] It may be true, as stated by our Brother DOUGLAS in dissent, that "[m]ost welfare decisions by the federal courts have a financial impact on the States." *Post*, at p. —. But we cannot agree that such a financial impact is the same where a federal court applies *Ex parte Young* to grant prospective declaratory and injunctive relief, as opposed to an order of retroactive payments as was made in the instant case. It is not necessarily true that "[w]hether the decree is prospective only or requires payments for the weeks or months wrongfully skipped over by state officials, the nature of the impact on the state treasury is precisely the same." Opinion of MR. JUSTICE DOUGLAS, *post*, at p. —. This argument neglects the fact that where the State has a definable allocation to be used in the payment of public aid benefits, and pursues

a certain course of action such as the processing of applications within certain time periods as did Illinois here, the subsequent ordering by a federal court of retroactive payments to correct delays in such processing will invariably mean there is less money available for payments for the continuing obligations of the public aid system.

As stated by Judge McGowan in *Rothstein* v. *Wyman*, 467 F. 2d 226, 235 (CA2 1972):

"The second federal policy which might arguably be furthered by retroactive payments is the fundamental goal of congressional welfare legislation—the satisfaction of the ascertained needs of impovished persons. Federal standards are designed to ensure that those needs are equitably met; and there may perhaps be cases in which the *prompt* payment of funds wrongfully withheld will serve that end. As time goes by, however, retroactive payments become compensatory rather than remedial; the coincidence between previously ascertained and existing needs becomes less clear."

[12] The Court of Appeals considered the Court's decision in *Griffin* v. *School Board*, 377 U.S. 218 (1964), to be of like import. But as may be seen from *Griffin's* citation of *Lincoln County* v. *Luning*, 133 U.S. 529 (1890), a county does not occupy the same position as a State for purposes of the Eleventh Amendment. See also *Moor* v. *County of Alameda*, 411 U.S. 633 (1973). The fact that the county policies executed by the county officials in *Griffin* were subject to the commands of the Fourteenth Amendment, but the county was not able to invoke the protection of the Eleventh Amendment, is no more than a recognition of the long established rule that while county action is generally state action for purposes of the Fourteenth Amendment, a county defendant is not necessarily a state defendant for purposes of the Eleventh Amendment.

[13] Brief for the Respondent, at pp. 15–18. Decisions of this Court in which we summarily affirmed a decision of a lower federal court which ordered the payment of retroactive awards and in which the jurisdictional statement filed in this Court raised the Eleventh Amendment defense include: *State Dep't of Health and Rehabilitative Services* v. *Zarate*, 407 U.S. 918 (1972), aff'g 347 F. Supp. 1004 (SD Fla. 1971); *Sterrett* v. *Mothers and Children's Rights Organization*, 409 U.S. 809 (1972), aff'g unreported order and judgment of N.D. Ind. 1972, on remand from *Carpenter* v. *Sterrett*, 405 U.S. 971 (1971); *Gaddis* v. *Wyman*, 304 F. Supp. 717 (SDNY 1968) (order at CCH Pov. L. Rptr. Transfer Binder ¶ 10,506), aff'd *per curiam sub nom. Wyman* v. *Bowens*, 397 U.S. 49 (1969).

[14] In the words of Mr. Justice Brandeis: "*Stare decisis* is usually the wise policy, because in most matters it is more important that the applicable rule of law be settled than that it be settled right. . . . This is commonly true even where the error is a matter of serious concern, provided correction can be had by legislation. But in cases involving the Federal Constitution, where correction through legislative action is practically impossible, this Court has often overruled its earlier decisions. The Court bows to the lessons of experience and the force of better reasoning, recognizing that the process of trial and error, so fruitful in the physical sciences, is appropriate also in the judicial function." *Burnet* v. *Colorado Oil & Gas Co.*, 285 U.S. 393, 406–408 (1932) (dissenting opinion) (footnotes omitted).

[15] Respondents urge that the traditionally broad power of a federal court sitting as a court of equity to fashion appropriate remedies as are necessary to effect congressional purposes requires that the District Court's award of retroactive benefits be upheld. Respondent places principal reliance on our prior decisions in *Porter* v. *Warner Holding Co.*, 328 U.S. 295 (1946), and *Mitchell* v. *DeMario Jewelry*, 361 U.S. 288 (1960). Both cases dealt with the power of a federal court to grant equitable relief for violations of federal law; the decision in *Mitchell* indicated that a federal court could provide equitable relief "complete . . . in light of the statutory purposes." 361 U.S., at 291–292. Since neither of these cases involved a suit against a State or a state official, they did not purport to decide the availability of equitable relief consistent with the Eleventh Amendment.

[16] HEW sought passage of a bill in the 91st Congress, H.R. 16311, 91st Cong., 2d Sess., c. 169–170 (1970), which would have given it authority to require retroactive payments to eligible persons denied such benefits. The bill failed to pass the House of Representatives.

[17] 45 CFR § 205.10(b) (2) and (3) provide:

"(b) *Federal financial participation*. Federal financial participation is available for the following items:

"(2) Payments of assistance made to carry out hearing decisions, or to take corrective action after an appeal but prior to hearing, or to extend the benefit of a hearing decision or court order to others in the same situation as those directly affected by the decision or order. Such payments may be retroactive in accordance with applicable Federal policies on corrective payments.

"(3) Payments of assistance within the scope of Federally aided public assistance programs made in accordance with a court order."

The Court of Appeals felt that § 1983, the enactment of the AABD program and the issuance by HEW of the above regulation, indicated that Congress intended to include within the Social Security Act the remedy of "effective judicial review" and "the remedy of restoration of benefits withheld in violation of federal law." 472 F. 2d. at 994–995 & n. 15. But the adoption of regulations by HEW to permit the use of federal funds in the satisfaction of judicial awards is not determinative of the constitutional issues here presented.

[18] Mr. Justice Marshall, and both the Court of Appeals and the respondent herein, refer to language in *Rosado* v. *Wyman*, 397 U. S., at 420, to the effect that Congress in legislating the Social Security Act has not "closed the avenue of effective judicial review to those individuals most directly affected by the administration of its program." The Court in *Rosado* was concerned with the compatibility of a provision of New York law which decreased benefits to some eligible public aid recipients and amendments to the federal act which required cost-of-living increases. The case did not purport to decide the Eleventh Amendment issue we resolve today. In finding the New York law inconsistent with the federal law, Mr. Justice Harlan stated:

"New York is, of course, in no way prohibited from using only *state* funds according to whatever plan it chooses, providing it violates no provision of the Constitution. It follows, however, from our conclusion that New York's program is incompatible with § 402(a)(23), that petitioners are entitled to declaratory relief and an appropriate injunction against the payment of *federal* monies according to the new schedules, should the State not develop a conforming plan within a reasonable period of time.

"We have considered and rejected the argument that a federal court is without power to review state welfare provisions or prohibit the use of federal funds by the States in view of the fact that Congress has lodged in the Department of HEW the power to cut off federal funds for noncompliance with statutory requirements. We are most reluctant to assume Congress has closed the avenue of effective judicial review to those individuals most directly affected by the administration of its program. . . . We adhere to *King* v. *Smith*, 392 U. S. 309 (1968), which implicitly rejected the argument that the statutory provisions for HEW review of plans should be read to curtail judicial relief and held Alabama's 'substitute father' regulation to be inconsistent with the federal statute. While *King* did not avert specifically to the remedial problem, the unarticulated premise was that the State had alternative choices of assuming the additional cost of paying benefits to families with substitute fathers or not using federal funds to pay welfare benefits according to a plan that was inconsistent with federal requirements." 397 U. S., at 420–421.

Respondent urges that this language is "tantamount to a finding that Congress conditioned the participation of a state in the categorical assistance program on the forfeiture of immunity from suit in a federal forum . . . irrespective of the relief sought, [since] the intent of Congress remains constant." Brief for the Respondent, at p. 42–43. Petitioner contends that this language, coupled with the fact that the Court in *Rosado* remanded the case to the District Court to "afford New York an opportunity to revise its program . . . or, should New York choose [not to revise its program], issue its order restraining the further use of federal monies pursuant to the present statute," 397 U.S., at 421–422, indicates that the Court felt that retroactive relief was not a permissible remedy. Brief for the Petitioner, at pp. 17–20. We do not regard *Rosado* as controlling either way since the Court was not faced with a district court judgment ordering retroactive payments nor with a challenge based on the Eleventh Amendment.

[19] Respondent urges that the State of Illinois has abolished its common-law sovereign immunity in its state courts, and appears to argue that suit in a federal court against the State may thus be maintained. Brief for the Respondent, at p. 23. Petitioner contends that sovereign immunity has not been abolished in Illinois as to this type of case. Brief for the Petitioner, at pp. 31–36. Whether Illinois permits such a suit to be brought against the State in its own courts is not determinative of whether Illinois has relinquished its Eleventh Amendment immunity from suit in the federal courts. *Chandler* v. *Dix*, 194 U.S. 590, 591–592 (1904).

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Mr. Justice Douglas, dissenting.

Congress provided in 42 U.S.C. § 1983 that:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

In this class action respondent sought to enforce against state aid officials of Illinois a provision of the Social Security Act, 42 U.S.C. §§ 1381–1385, known as Aid to the Aged, Blind, or Disabled (AABD).[1] The complaint alleges violations of the Equal Protection Clause of the Fourteenth Amendment and also violations of the Social Security Act. Hence § 1983 is satisfied *in haec verba*, for a deprivation of "rights" which are "secured by the Constitution and laws" is alleged. The Court of Appeals, though ruling that the alleged constitutional violations had not occurred, sustained federal jurisdiction because federal "rights" were violated. The main issue tendered us is whether that ruling of the Court of Appeals is consistent with the Eleventh Amendment.[2]

Once the federal court had jurisdiction over the case, the fact that it ruled adversely to the claimant on the constitutional claim did not deprive it of its pendent jurisdic-

Footnotes at end of article.

tion over the statutory claim. *United States* v. *Georgia Pub. Serv. Comm'n*, 371 U.S. 285, 287–288.

In *Ex parte Young*, 209 U.S. 123, a suit by stockholders of a railroad was brought in a federal court against state officials to enjoin the imposition of confiscatory rates on the railroad in violation of the Fourteenth Amendment. The Eleventh Amendment was interposed as a defense. The Court rejected the defense saying that state officials with authority to enforce state laws—"who threaten and are about to commence proceedings, either of a civil or criminal nature, to enforce against parties affected an unconstitutional act, violating the Federal Constitution, may be enjoined by a Federal court of equity from such action." *Id.*, at 156. The Court went on to say that a state official seeking to enforce in the name of a State an unconstitutional act "comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequence of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States." *Id.*, at 159–160.

As the complaint in the instant case alleges violations by officials of Illinois of the Equal Protection Clause of the Fourteenth Amendment, it seems that the case is governed by *Ex parte Young* so far as injunctive relief is concerned. The main thrust of the argument is that the instant case asks for relief which is granted would affect the treasury of the State.

Most welfare decisions by federal courts have a financial impact on the States. Under the existing federal-state cooperative system, a state desiring to participate, submits a "state plan" to HEW for approval; once HEW approves the plan the State is locked into the cooperative scheme until it withdraws,[2] all as described in *King* v. *Smith*, 392 U. S. 309, 316 *et seq.* The welfare cases coming here have involved ultimately the financial responsibility of the State to beneficiaries claiming they were deprived of federal rights. *King* v. *Smith* required payment to children even though their mother was cohabitating with a man who could not pass muster as a "parent." *Rosado* v. *Wyman*, 397 U. S. 397, held that under this state-federal co-operative program a State could not reduce its standard of need in conflict with the federal standard. It is true that *Rosado* did not involve retroactive payments as are involved here. But the distinction is not relevant or material because the result in every welfare case coming here is to increase or reduce the financial responsibility of the participating State. In on case when the responsibility of the State is increased to meet the lawful demand of the beneficiary, is there any levy on state funds. Whether the decree is prospective only or requires payments for the weeks or months wrongfully skipped over by the state officials, the nature of the impact on the state treasury is precisely the same.

We have granted relief in other welfare cases which included retroactive assistance or payments. In *State Dept.* v. *Zarate*, 407 U. S. 918, the sole issue presented to us[4] was whether the Eleventh Amendment barred a judgment against state officers for retroactive welfare assistance benefits or payments. That had been ordered by the lower court and we summarily affirmed, only MR. JUSTICE WHITE voting to note probable jurisdiction. We also summarily affirmed the judgment in *Sterrett* v. *Mother's Rights Org.*, 409 U.S. 809, where one of the two questions[5] was whether payment of benefits retroactively violated the Eleventh Amendment. In *Wyman* v. *Bowens*, 397 U.S. 49, we affirmed a judgment where payments were awarded in spite of the argument that the order was an incursion on the Eleventh Amendment.[6] In *Shapiro* v. *Thompson*, 394 U. S. 618, we affirmed a judgment which ordered payment of benefits wrongfully withheld;[7] and while we did not specifically refer to the point, the lower court had expressly rejected the Eleventh Amendment argument.[8]

As stated in *Gaither* v. *Sterrett*, 346 F. Supp. 1095, 1099, whose judgment we affirmed,[9] 409 U. S. 809, the court said:

"[T]his court would note that if defendants' position regarding the jurisdictional bar of the Eleventh Amendment is correct, a great number of federal district court judgments are void, and the Supreme Court has affirmed many of these void judgments."

The Seventh Circuit Court of Appeals is in line with that view; the opposed view of *Rothstein* v. *Wyman*, 467 F. 2d 226, from the Second Circuit Court of Appeals is out of harmony with the established law.

What is asked by the instant case is minor compared to the relief granted in *Griffin* v. *School Board*, 377 U.S. 218. In that case we authorized entry of an order putting an end to a segregated school system. We held, *inter alia*, "the District Court may, if necessary to prevent further racial discrimination, require the Supervisors to exercise the power that is theirs to levy taxes to raise funds adequate to reopen, operate, and maintain without racial discrimination a public school system in Prince Edward County like that operated in other counties in Virginia." *Id.*, at 233. We so held against vigorous contentions of the state officials that the Eleventh Amendment protected the State; and in reply we cited *Lincoln County* v. *Luning*, 133 U.S. 529, and *Kennecott Copper Corp.* v. *State Tax Comm'n*, 327 U.S. 573, 579, to support the proposition that "actions against a county can be maintained in United States courts in order to vindicate federally guaranteed rights." *Ibid.*

Griffin is sought to be distinguished on the ground that a "county" is not the "state" for purposes of the Eleventh Amendment. But constitutionally the county in *Griffin* was exercising state policy as are the counties here, because otherwise the claim of denial of equal protection would be of no avail.

Counties are citizens of their State for purposes of diversity of citizenship. *Bullard* v. *City of Cisco*, 290 U.S. 179; *Moor* v. *County of Alameda*, 411 U.S. 693, 718–719. And they are not States for purposes of 28 U.S.C. § 1251 (a) which gives this Court original and exclusive jurisdiction of: "(1) All controversies between two or more states. . . ." *Illinois* v. *City of Milwaukee*, 406 U.S. 91, 98. But, being citizens of their State, suits against them by another State are in our original but not exclusive jurisdiction under 28 U.S.C. § 1251(b)(3). *Ibid.* Yet, as agencies of the State whether in carrying out educational policies or otherwise, they are the State, as *Griffin* held, for purposes of the Fourteenth Amendment. And *Griffin*, like the present case, dealt only with liability to citizens for state policy and state action.

Yet petitioner asserts that money damages may not be awarded against state offenses as such a judgment will expend itself on the state treasury. But we are unable to say that Illinois on entering the federal-state welfare program waived her immunity to suit for injunctions but did not waive her immunity for compensatory awards which remedy her willful defaults of obligations undertaken when she joined the co-operative venture.

It is said however, that the Eleventh Amendment is concerned not with immunity of States from suit but with the jurisdiction of the federal courts to entertain the suit. The Eleventh Amendment does not speak of "jurisdiction"; it withholds the "judicial power" of federal courts "to any suit in law or equity . . . against one of the United States. . . ." If that "judicial power," or "jurisdiction" if one prefers that concept, may not be exercised even in "any suit in . . . equity" then *Ex parte Young* should be overruled. But there is none eager to take the step. Where a State has consented to join a federal-state co-operative project, it is realistic to conclude that the State has agreed to assume its obligations under that legislation. There is nothing in the Eleventh Amendment to suggest a difference between suits at law and suits in equity, for it treats the two without distinction. If common sense has any role to play in constitutional adjudication, once there is a waiver for immunity it must be true that it is complete so far as effective operation of the state-federal joint welfare program is concerned.

We have not always been unanimous in concluding when a State has waived its immunity. In *Parden* v. *Terminal R. Co.*, 377 U.S. 184, where Alabama was sued by some of its citizens for injuries suffered in the interstate operation of an Alabama railroad, the State defended on the grounds of the Eleventh Amendment. The Court held that Alabama was liable as a carrier under the Federal Employees Liability Act, saying,

"Our conclusion is simply that Alabama, when it began operation of an interstate railroad approximately 20 years after enactment of the FELA, necessarily consented to such suit as was authorized by that Act," *id.*, at 192.

The Court added:

"Our conclusion that this suit may be maintained is in accord with the common sense of this Nation's federalism. A State's immunity from suit by an individual without its consent has been fully recognized by the Eleventh Amendment and by subsequent decisions of this Court. But when a State leaves the sphere that is exclusively its own and enters into activities subject to congressional regulation, it subjects itself to that regulation as fully as if it were a private person or corporation." *Id.*, at 196.

As the Court of Appeals in the instant case concluded, Illinois by entering into the joint federal-state welfare plan just as surely "left the sphere that is exclusively its own." 377 U.S., at 196.

It is argued that participation in the program of federal financial assistance is not sufficient to establish consent on the part of the State to be sued in federal courts. But it is not merely participation which supports a finding of Eleventh Amendment waiver, but participation in light of the existing state of the law as exhibited in such decisions as *Shapiro* v. *Thompson*, 394 U.S. 618, which affirmed judgments ordering retroactive payments. Today's holding that the Eleventh Amendment forbids court-ordered retroactive payments, as the Court recognizes, necessitates an express overruling of several of our recent decisions. But it was against the background of those decisions that Illinois continued its participation in the federal program, and it can hardly be claimed that such participation was in ignorance of the possibility of court-ordered retroactive payments. The decision to participate against that background of precedent can only be viewed as a waiver of immunity from such judgments.

I would affirm this judgment.

FOOTNOTES

[1] Effective January 1, 1974, the AABD program was replaced by a similar program. See 42 U.S.C. §§ 801–805 (1973 Supp.). The program in Illinois is administered by the Department of Public Aid. Ill. Rev. Stat. c. 23, §§ 3–1 to 3–12 (1971). The program is funded 50% by the State and 50% by the Federal Government, 42 U.S.C. §§ 303–306, 1201–1206, 1351–1355, 1381–1385.

[2] Amendment XI—The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State,

or by Citizens or Subjects of any Foreign State.

As the Court, speaking through MR. JUSTICE BRENNAN, said in *Parden* v. *Terminal R. Co.*, 377 U.S. 184, 186: "Although the Eleventh Amendment is not in terms applicable here, since petitioners are citizens of Alabama, this Court has recognized that an unconsenting State is immune from federal-court suits brought by its own citizens as well as by citizens of another State. *Hans* v. *Louisiana*, 134 U.S. 1; *Duhne* v. New Jersey, 251 U.S. 311; *Great Northern Life Ins. Co* v. *Read*, 322 U.S. 47, 51; *Fitts* v. *McGhee*, 172 U.S. 516, 524. See also *Monaco* v. *Mississippi*, 292 U.S. 313."

[3] The Social Security Act states what a "state plan" must provide. At the time this suit was brought, 42 U.S.C. § 1382(a) provided: "A state plan for aid to the aged, blind, or disabled and medical assistance for the aged, must . . . .

"(5) provide (A) such methods of administration . . . as are found by the Secretary to be necessary for the proper and efficient operation of the plan . . .;

"(8) provide that all individuals wishing to make application for aid or assistance under the plan shall have opportunity to do so, and that such aid or assistance shall be furnished with reasonable promptness to all eligible individuals;

"(13) include reasonable standards, consistent with the objectives of this subchapter for determining eligibility for and the extent of aid or assistance under the plan."

Nearly identical provisions are now found at 42 U.S.C. § 802(a) (1973 Supp.)

The Secretary of HEW issued mandatory federal time standard regulations. Handbook Public Assistance Administration, Pt. IV, §§ 2200(b)(3), 2300(b)(5); 45 CFR § 206.10 (a)(3). Illinois adopted a 30-day standard for aged and blind applicants (Ill. Categ. Assistance Manual § 4004.1) as contrasted to HEW's 60-day period, § 2200, *supra*. It is that conflict which exposes the merits of the controversy.

[4] The lower court's opinion is found in 347 F. Supp. 1004.

[5] The jurisdictional statement had as its second question the following:

"Whether a federal court is precluded by the Eleventh Amendment to the United States Constitution from ordering a state agency to pay money from the state treasury and from further ordering the state agency to perform certain specified acts which would otherwise be in the discretion of the agency."

[6] The lower court's opinion is found in 304 F. Supp. 717. Retroactive payments were challenged in question 2 of the jurisdictional statement.

[7] The lower court's opinion is found in 270 F. Supp. 331.

[8] *Id.*, at 338 n. 5. The award of money damages was alleged to be a violation of the Eleventh Amendment in Part V of the jurisdictional statement.

[9] The jurisdictional statement in the Sterrett case explicitly urged that the decree below violated the Eleventh Amendment since it would expand itself in the public treasury—the second question in the jurisdictional statement.

[10] We settled in *Rosado* v. *Wyman*, 397 U.S. 397, the question whether the grant of authority under the Social Security Act to HEW to cut of federal funds for noncompliance with statutory requirements provides the exclusive procedure and remedy for violations of the Act. We said, "We are most reluctant to assume Congress has closed the avenue of effective judicial review to those individuals most directly affected by the administration of its program." *Id.*, at 420.

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MR. JUSTICE MARSHALL, with whom MR. JUSTICE BLACKMUN joins, dissenting.

The Social Security Act's categorical assistance programs, including the Aid to the Aged, Blind, and Disabled (AABD) program involved here, are fundamentally different from most federal legislation. Unlike the Fair Labor Standards Act involved in last Term's decision in *Employees* v. *Department of Public Health & Welfare*, 411 U.S. 279 (1973), or the FELA at issue in *Parden* v. *Terminal Railway*, 377 U.S. 184 (1964), the Social Security Act does not impose federal standards and liability upon all who engage in certain regulated activities, including often-unwilling state agencies. Instead, the Act seeks to induce state participation in the federal welfare programs by offering federal matching funds in exchange for the State's voluntary assumption of the Act's requirements. I find this basic distinction crucial: It leads me to conclude that by participation in the programs, the States waive whatever immunity they might otherwise have from federal court orders requiring retroactive payment of welfare benefits.[1]

In its contacts with the Social Security Act's assistance programs in recent years, the Court has frequently described the Act as a "scheme of cooperative federalism." See, *e.g.*, *King* v. *Smith*, 392 U.S. 309, 316 (1968); *Jefferson* v. *Hackney*, 406 U.S. 535, 542 (1972). While this phrase captures a number of the unique characteristics of these programs, for present purposes it serves to emphasize that the State's decision to participate in the programs is a voluntary one. In deciding to participate, however, the States necessarily give up their freedom to operate assistance programs for the needy as they see fit, and bind themselves to conform their programs to the requirements of the federal statute and regulations. As the Court explained in *King* v. *Smith*, *supra*, 392 U.S., at 316–317 (citations omitted):

"States are not required to participate in these programs, but those which desire to take advantage of the substantial federal funds available for distribution to needy children [or needy aged, blind or disabled] are required to submit an AFDC [or AABD] plan for the approval of the Secretary of Health, Education, and Welfare (HEW). The plan must conform with several requirements of the Social Security Act and with rules and regulations promulgated by HEW."

So here, Illinois has elected to participate in the AABD program, and has received and expended substantial federal funds in the years at issue. It has thereby obligated itself to comply with federal law, including the requirement of 42 U.S.C. § 1382(a)(8) (1970) that "such aid or assistance shall be furnished with reasonable promptness to all eligible individuals." In *Townsend* v. *Swank*, 404 U.S. 282, 286 (1971), we held that participating States must strictly comply with the requirement that aid be furnished "to all eligible individuals," and that the States have no power to impose additional eligibility requirements which exclude persons eligible for assistance under federal standards. Today's decision, *ante*, at 7–8 n. 8, properly emphasizes that participating States must also comply strictly with the "reasonable promptness" requirement and the more detailed regulations adding content to it.

In agreeing to comply with the requirements of the Social Security Act and HEW regulations, I believe that Illinois has also agreed to subject itself to suit in the federal courts to enforce these obligations. I recognize, of course, that the Social Security Act does not itself provide for a cause of action to enforce its obligations. As the Court points out the only sanction expressly provided in the Act for a participating State's failure to comply with federal requirements is the cutoff of federal funding by the Secretary of HEW. 42 U.S.C. § 1384 (1970).

But a cause of action is clearly provided by 42 U.S.C. § 1983 (1970), which in terms authorizes suits to redress deprivations of rights secured by the "laws" of the United States. And we have already rejected the argument that Congress intended the funding cutoff to be the sole remedy for noncompliance with federal requirements. In *Rosado* v. Wyman, 397 U.S. 397, 420–423 (1970), we held that suits in federal court under § 1983 were proper to enforce the provisions of the Social Security Act against participating States. Mr. Justice Harlan, writing for the Court, examined the legislative history and found "not the slightest indication" that Congress intended to prohibit suits in federal court to enforce compliance with federal standards. *Id.*, at 422.

I believe that Congress also intended the full panoply of traditional judicial remedies to be available to the federal courts in these § 1983 suits. There is surely no indication of any congressional intent to restrict the courts' equitable jurisdiction. Yet the Court has held that "[u]nless a statute in so many words, or by a necessary and inescapable inference, restricts the court's jurisdiction in equity, the full scope of that jurisdiction is to be recognized and applied." *Porter* v. *Warner Holding Co.*, 328 U.S. 395, 398 (1946). "When Congress entrusts to an equity court the enforcement of prohibitions contained in a regulatory enactment, it must be taken to have acted cognizant of the historic power of equity to provide complete relief in light of the statutory purposes." *Mitchell* v. *DeMario Jewelry, Inc.*, 361 U.S. 288, 291–292 (1960).

In particular, I am firmly convinced that Congress intended the restitution of wrongfully withheld assistance payments to be a remedy available to the federal courts in these suits. Benefits under the categorical assistance programs "are a matter of statutory entitlement for persons qualified to receive them." *Goldberg* v. *Kelly*, 397 U.S. 254, 262 (1970). Retroactive payment of benefits secures for recipients this entitlement which was withheld in violation of federal law. Equally important, the courts' power to order retroactive payments is an essential remedy to insure future state compliance with federal requirements. See *Porter* v. *Wagner Holding Co.*, *supra*, 328 U.S., at 400. No other remedy can effectively deter States from the strong temptation to cut welfare budgets by circumventing the stringent requirements of federal law. The funding cutoff is a drastic sanction, one which HEW has proven unwilling or unable to employ to compel strict compliance with the Act and regulations. See *Rosado v. Wyman*, *supra*, 397 U.S., at 426 (DOUGLAS, J., concurring). Moreover, the cutoff operates only prospectively: It in no way deters the States from even a flagrant violation of the Act's requirements for as long as HEW does not discover the violation and threaten to take such action.

Absent any remedy which may act with retroactive effect, state welfare officials have everything to gain and nothing to lose by failing to comply with the congressional mandate that assistance be paid with reasonable promptness to all eligible individuals. This is not idle speculation without basis in practical experience. In this very case, for example, Illinois officials have knowingly violated since 1968 a federal regulation on the strength of an argument as to its invalidity which even the majority deems unworthy of discussion. *Ante*, at 7–8 n. 8. Without a retroactive payment remedy, we are indeed faced with the spectre of a state, perhaps calculatingly, defying federal law and thereby depriving welfare recipients of the financial assistance Congress thought it was giving them." *Jordan* v. *Weaver*, 472 F. 2d 985, 995 (CA7 1972). Like the Court of Appeals, I cannot believe that Congress could possibly have intended any such result.

Such indicia of congressional intent as can

Footnotes at end of article.

be gleaned from the statute confirm that Congress intended to authorize retroactive payment of assistance benefits unlawfully withheld. Availability of such payments is implicit in the "fair hearing" requirement, 42 U.S.C. § 1382(a)(4) (1970), which permits welfare recipients to challenge the denial of assistance. The regulations which *require* States to make corrective payments retroactively in the event of a successful fair hearing challenge, 45 CFR § 205.10(a)(18) (1974), merely confirm the obvious statutory intent. HEW regulations also authorize federal matching funds for retroactive assistance payments made pursuant to court order, 45 CFR §§ 205.10 (b)(2), (b)(3) (1974). We should not lightly disregard this explicit recognition by the agency charged with administration of the statute that such a remedy was authorized by Congress. See *Griggs* v. *Duke Power Co.*, 401 U.S. 424, 433–434 (1971).

Illinois chose to participate in the AABD program with its eyes wide open. Drawn by the lure of federal funds, it voluntarily obligated itself to comply with the Social Security Act and HEW regulations, with full knowledge that Congress had authorized assistance recipients to go into federal court to enforce these obligations and to recover benefits wrongfully denied. Any doubts on this score must surely have been removed by our decisions in *Rosado* v. *Wyman, supra*, and *Shapiro* v. *Thompson*, 394 U.S. 618 (1969), where we affirmed a district court retroactive payment order. I cannot avoid the conclusion that, by virtue of its knowing and voluntary decision to nevertheless participate in the program, the State necessarily consented to subject itself to these suits. I have no quarrel with the Court's view that waiver of constitutional rights should not lightly be inferred. But I simply cannot believe that the State could have entered into this essentially contractual agreement with the Federal Government without recognizing that it was subjecting itself to the full scope of the § 1983 remedy provided by Congress to enforce the terms of the agreement.

Of course, § 1983 suits are nominally brought against state officers, rather than the State itself, and do not ordinarily raise Eleventh Amendment problems in view of this Court's decision in *Ex parte Young*, 209 U.S. 123 (1908). But to the extent that the relief authorized by Congress in an action under § 1983 may be open to Eleventh Amendment objections,[2] these objections are waived when the State agrees to comply with federal requirements enforceable in such an action. I do not find persuasive the Court's reliance in this case on the fact that "congressional authorization to sue a class of defendants which literally includes States" is absent. *Ante*, at 21. While true, this fact is irrelevant here, for this is simply not a case "literally" against the State. While the Court successfully knocks down the strawman it has thus set up, it never comes to grips with the undeniable fact that Congress has "literally" authorized this suit within the terms of § 1983. Since there is every reason to believe that Congress intended the full panoply of judicial remedies to be available in § 1983 equitable actions to enforce the Social Security Act, I think the conclusion is inescapable that Congress authorized and the State consented to § 1983 actions in which the relief might otherwise be questioned on Eleventh Amendment grounds.

My conclusion that the State has waived its Eleventh Amendment objections to court ordered retroactive assistance payments is fully consistent with last Term's decision in *Employees* v. *Department of Public Health and Welfare*, 411 U.S. 279 (1973). As I emphasized in my concurring opinion, there was no voluntary action by the State in *Employees* which could reasonably be construed as evidencing its consent to suit in a federal forum.

"The State was fully engaged in the operation of the affected hospitals and schools at the time of the 1966 amendments. To suggest that the State had the choice of either ceasing operation of these vital public services or 'consenting' to federal suit suffices, I believe, to demonstrate that the State had no true choice at all and thereby that the State did not voluntarily consent to the exercise of federal jurisdiction . . . ." *Id.*, at 296.

A finding of waiver here is also consistent with the reasoning of the majority of *Employees*, which relied on a distinction between "governmental" and "proprietary" functions of state government. *Id.* at 284–285. This distinction apparently recognizes that if sovereign immunity is to be at all meaningful, the Court must be reluctant to hold a State to have waived its immunity simply by acting in its sovereign capacity—*i.e.*, by merely performing its "governmental" functions. On the other hand, in launching a profitmaking enterprise, "a State leaves the sphere that is exclusively its own," *Parden* v. *Terminal Railway, supra*, 377 U.S., at 196, and a voluntary waiver of sovereign immunity can more easily be found. While conducting an assistance program for the needy is surely a "governmental" function, the State here has done far more than operate its own program in its sovereign capacity. It has voluntarily subordinated its sovereignty in this matter to that of the Federal Government, and agreed to comply with the conditions imposed by Congress upon the expenditure of federal funds. In entering this federal-state cooperative program, the State again "leaves the sphere that is exclusively its own," and similarly may more readily be found to have voluntarily waived its immunity.

Indeed, this is the lesson to be drawn from this Court's decision in *Petty* v. *Tennessee-Missouri Bridge Comm'n*, 359 U.S. 275 (1959), where the Court found that the States had waived the sovereign immunity of the Commission by joining in an interstate compact subject to the approval of Congress. The Court in *Petty* emphasized that it was "called upon to interpret not unilateral state action but the terms of a consensual agreement" between the States and Congress, *id.*, at 279, and held that the States who join such a consensual agreement, "by accepting it and acting under it assume the conditions that Congress under the Constitution attached." *Id.*, at 281–282. Although the congressional intent regarding the sue-and-besued clause was by no means certain, the Court held that the surrounding conditions made it clear that the States accepting it waived their sovereign immunity, *id.*, at 280, especially since this interpretation was necessary to keep the compact "a living interstate agreement which performs high functions in our federalism." *Id.*, at 279.

I find the approach in *Petty* controlling here. As even the dissent in that case recognized, *id.*, at 285 (Frankfurter, J., dissenting), Congress undoubtedly has the power to insist upon a waiver of sovereign immunity as a condition of its consent to such a federal-state agreement. Since I am satisfied that Congress has in fact done so here, at least to the extent that the federal courts may do "complete rather than truncated justice," *Porter* v. *Warner Holding Co., supra*, 328 U.S., at 398, in § 1983 actions authorized by Congress against state welfare authorities, I respectfully dissent.

FOOTNOTES

[1] In view of my conclusion on this issue, I find it unnecessary to consider whether the Court correctly treats this suit as one against the State rather than as a suit against a state officer permissible under the rationale of *Ex parte Young*, 209 U.S. 123 (1908).

[2] It should be noted that there has been no determination in this case that state action is unconstitutional under the Fourteenth Amendment. Thus, the Court necessarily does not decide whether the States' Eleventh Amendment sovereign immunity may have been limited by the later enactment of the Fourteenth Amendment to the extent that such a limitation is necessary to effectuate the purposes of that Amendment, an argument advanced by an *amicus* in this case. In view of my conclusion that any sovereign immunity which may exist has been waived, I also need not reach this issue.

EDELMAN VERSUS JORDAN

[March 25, 1974]

MR. JUSTICE BRENNAN, dissenting.

This suit is brought by Illinois citizens against Illinois officials. In that circumstance, Illinois may not invoke the Eleventh Amendment, since that Amendment bars only federal court suits against States by citizens of other States. Rather, the question is whether Illinois may avail itself of the nonconstitutional but ancient doctrine of sovereign immunity as a bar to responents' claim for retroactive AABD payments. In my view Illinois may not assert sovereign immunity for the reason I expressed in dissent in *Employees* v. *Department of Public Health and Welfare*, 411 U.S. 279, 298, (1973): the States surrendered that immunity in Hamilton's words, "in the plan of the Convention," that formed the Union, at least insofar as the States granted Congress specifically enumerated powers. See *id.*, at 319 n. 7; *Parden* v. *Terminal Railway*, 377 U.S. 184 (1964). Congressional authority to enact the Social Security Act, of which AABD is a part, 42 U.S.C. §§ 1381–1385, is to be found in Art. I, § 8, cl. 1, one of the enumerated powers granted Congress by the States in the Constitution. I remain of the opinion that "because of its surrender, no immunity exists that can be the subject of a congressional declaration or a voluntary waiver," 411 U.S., at 300, and thus have no occasion to inquire whether or not Congress authorized an action for AABD retroactive benefits, or whether or not Illinois voluntarily waived the immunity by its continued participation in the program against the background of precedent which sustained judgment ordering retroactive payments.

I would affirm the judgment of the Court of Appeals.

S. 3937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in addition to any other requirement imposed by law as a condition of Federal financial participation in any State welfare program (as defined in subsection (c)), there is hereby imposed the requirement that the State give its consent (thereby waiving any immunity to suit conferred upon the State by Amendment XI of the Constitution) to the exercise of the judicial power of the United States in any suit brought against the State by or on behalf of any claimant (or class of claimants) for the aid or assistance provided under such program.

(b) The acceptance, on or after the effective date of this Act, by a State of any Federal payment made to the State for or with respect to any State welfare program (or with respect to any expenditures incurred under such program) shall constitute, with respect to suits brought against the State by or on behalf of claimants for aid or assistance provided under such program, the consent to suit described in subsection (a).

(c) the term "State welfare program" means a program which is instituted and operated by the State for the purpose of providing to needy and individuals and families aid or assistance (whether in terms of money payments, services, or other benefits), and under which individuals and families meeting the conditions for the receipt of

such aid or assistance are legally entitled thereto.

(d) The provisions of this Act shall become effective on the first day of the first calendar quarter which commences more than 60 days after the date of enactment of this Act; except that nothing in this Act shall be construed to require consent to suit by any State with respect to any claim for aid or assistance for any period prior to the effective date of this Act.

By Mr. TUNNEY:

S. 3938. A bill to amend the Federal Trade Commission Act to provide for the disclosure of annual operating costs of new buildings and for other purposes. Referred to the Committee on Commerce.

THE TRUTH IN ENERGY ACT OF 1974

Mr. TUNNEY. Mr. President, the energy crisis is not over. Although the end of the Arab oil embargo has temporarily eased the problem, we should never forget that the Arab States can turn off the spigots whenever it suits their advantage.

Already the American consumer is faced with skyrocketing energy costs. In mid-1973, for example, prior to major increases in energy prices, the average family in this country spent about 7 percent of its annual income of $743 per year on energy. Considering the 50 percent increase in the cost of petroleum products, this figure has now probably increased to over $1,000. Therefore, the American consumer is being bludgeoned first by energy shortages and now by ever-increasing energy goals.

I am convinced that one of the most effective ways to meet this double challenge is to commit overselves to an imaginative and far-reaching policy to foster energy conservation.

An important element of a national energy conservation program is to inform consumers of the energy consumption and associated financial implications of their purchase decisions, and to provide engineers and manufacturers with incentives to develop energy efficient products and systems.

Last spring, as a first step in this effort I introduced S. 1327, the Truth in Energy Act of 1973. It required that major household appliances have annual average operating costs disclosed on their labels. This legislation, along with a similar provision requiring operating cost labeling for automobiles, passed the Senate last December as part of S. 2176, the National Fuels and Energy Conservation Act.

Mr. President, today, in order to extend the principle of energy cost disclosure, I am introducing for appropriate reference, S. 3938, the Truth in Energy Act of 1974. This bill will require that individuals be informed of the estimated annual operating costs of new homes and buildings which they are purchasing and leasing. It also establishes a demonstration program involving retrofitting of existing Federal buildings with energy conservation equipment.

This legislation can quickly save this Nation additional millions of barrels of oil a year by creating incentives for the development of energy efficient buildings. Energy efficient buildings can also save consumers billions of dollars that would otherwise be wasted on unnecessarily inflated fuel bills.

Heating and cooling of residential and commercial buildings accounts for 20 percent of the energy consumed in this country. According to a recent report by the American Institute of Architects, energy conservation practices can reduce energy consumption in new buildings by as much as 35 to 50 percent in comparison to present levels. Furthermore, the report states that these savings can be attained using existing technology and without sacrificing needed amenities or services.

There is a vast potential for energy savings in the more than 2 million houses which are constructed in the United States each year—not to speak of the enormous number of factories and commercial buildings.

The average builder is often not motivated to construct buildings that are energy efficient. In fact, as our hearings and extensive discussions with experts in the field have demonstrated, many builders presently attempt to minimize the initial purchase price of a building through such means as skimping on insulation, providing inadequate weather stripping, or by installing inexpensive but inefficient heating and cooling equipment. Consequently, too many Americans are finding that their so-called bargain "dream home" turns out to be an energy gobbling nightmare.

Once the builder is required to disclose estimates of annual heating and cooling costs to prospective purchasers and lessees of new buildings, there will be an enormous incentive to develop energy efficient buildings whose low operating costs will greatly increase marketability.

Careful investigations have disclosed that reliable estimates of operating cost can be made readily available to the consumer. Within the past few years, the Bureau of Standards, private consulting firms, and heating and air-conditioning equipment manufacturers, have developed computer programs that permit the accurate determination of the energy requirements of buildings. Provisions have been made in this bill for the development and promulgation of uniformly acceptable methods for the designers of the heating and cooling systems to calculate and disclose the estimated annual operating costs to the owner of the building, who in turn would then be responsible for disclosing them to potential customers.

Prospective purchasers and lessess of building will then have adequate information on the long term costs of the building, and can balance such costs against the initial purchase price before deciding which building represents the wisest investment.

I am confident that once the consumer is given adequate information, the forces of the marketplace will create the conditions for the rapid adoption of energy conservation techniques in building construction.

Finally, Mr. President I believe that the U.S. Government, which manages more than 10,000 buildings, should begin to take a leadership role by retrofitting Federal buildings to demonstrate available energy conservation methods. The buildings should be selected in order to offer a wide range of circumstances and opportunities for implementation of energy conservation measures which can be justified on a lifecycle cost basis. Over and over again the American public has been exhorted to be energy conscious; it is now time that the Federal Government demonstrates its own commitment by beginning to rectify energy wasting practices in Federal buildings.

Mr. President, I ask unanimous consent that the text of S. 3938 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. 3938

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 "Truth in Energy Act of 1974".

TITLE I—TRUTH IN ENERGY

SEC. 101. (a) The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by—

(1) striking out section 18 thereof in its entirety;

(2) amending section 1 thereof by inserting at the beginning of the first sentence thereof the following "(b)";

(3) inserting a new section 1(a) thereof as follows:

"(a) This Act may be cited as the 'Federal Trade Commission Act'."; and

(4) adding at the end thereof the following new sections:

"SEC. 18. FINDINGS AND PURPOSE.—(a) The Congress finds and declares that—

"(1) The Nation is facing an energy shortage of acute proportions in the decade following the date of enactment of this section. The problem has already manifested itself in different geographical areas in the form of power blackouts and brownouts, school closings because of a scarcity of fuel, and shortages of gasoline for automobiles and fuel for farm equipment.

"(2) A significant easing of the energy problem can be achieved by elimination of wasteful uses of energy, promotion of more effective uses of energy, and education of consumers as to the importance of conserving energy.

"(3) Climate conditioning systems use significant quantities of energy. Substantial reductions are possible in the energy consumption of many of these systems if more attention is paid to energy usage in their design and in their use by consumers.

"(4) Many owners and lessees of buildings equipped with climate conditioning systems do not know nor can they readily discover prior to purchase or lease how much each such system will cost each year to operate (in terms of energy charges) nor are they able to compare, in terms of operating cost, competing systems using different energy sources.

"(b) Since informed consumers are essential to the fair working of the free enterprise system and to the maintenance of balance between the supply of and the demand for energy, it is hereby declared to be the intent of Congress to assure, through a uniform national system, noncompliance with which shall be an unfair or deceptive act or practice, meaningful disclosure of the estimated annual operating cost of climate conditioning systems, so that consumers can readily compare them and thereby avoid purchasing or leasing buildings equipped with climate conditioning systems which unnecessarily waste energy.

"SEC. 19. DEFINITIONS.—As used in sections 18 through 23 of this Act—

"(1) 'Building' means any physical enclosure or portion thereof which is designed for use or used for residential, commercial, industrial, governmental, or public accommodation purposes, including mobile homes, and which is provided or designed to be provided with a climate conditioning system.

"(2) 'Climate conditioning system' means any system which is designed to be installed or is installed in a previously unoccupied building for the purpose of artifically controlling temperature or humidity levels within such building or portion thereof. Such systems include electric resistance heating systems and systems composed of a number of components (such as piping, ducting, furnaces, boilers, fans, heaters, compressors, pumps, controls, and working fluids, such as air, other gases, water, steam, oils, and refrigerants) which are not designed for or are incapable of controlling temperature or humidity levels within such building until and unless they are connected or combined together.

"(3) 'Estimated annual operating cost' means, with respect to a climate conditioning system, the estimated cost of electricity or fuel needed for normal usage during a calendar year as determined in accordance with the provisions of section 20 of this Act.

"(4) 'Fuel' means butane, coal, diesel oil, fuel oil, gasoline, natural gas, propane, or steam obtained from a central source; or any other substance which, when utilized, is capable of powering a climate conditioning system.

"(5) 'Lease' means the act or agreement by which (A) a person conveys a building or portion thereof for a period of at least one year to a second party (lessee); and (B) a second party (lessee) agrees to pay the costs incurred for electricity, fuel, or both in the course of operating such building or portion thereof during such period.

"(6) 'Supplier' means any engineer or contractor who is designing a climate conditioning system for use in a previously unoccupied building.

"SEC. 20. ESTIMATES OF ANNUAL OPERATING COSTS.—

"(a) Within 18 months after the date of enactment of this section, in a proceeding pursuant to section 553 of title 5, United States Code, the Commission, after consultation with the National Bureau of Standards, shall establish:

"(1) Model calculation procedures for use by suppliers in determining the estimated annual operating costs of climate conditioning systems.

"(2) Procedures for suppliers to disclose such estimates to their clients.

"(b) In developing such procedures, the Commission shall consult with appropriate professional engineering societies, and organizations representing the climate conditioning and building industries so as to allow the best possible utilization by the Commission of appropriate existing procedures and professional expertise. The procedures developed under subsection (a) shall be distributed or otherwise made available by the Commission at reasonable cost to all applicable suppliers and other interested persons.

"SEC. 21. DISCLOSURE.—(a) Beginning 6 months after the date of adoption of procedures for determining and disclosing annual operating costs in accordance with section 20 of this Act, it shall be unlawful for any person to sell or lease, or to offer for sale or lease, any previously unoccupied building for which a climate conditioning system has been designed subsequent to the adoption of such procedures; unless the estimated annual operating cost of such system is disclosed by the person prior to any such sale or lease. Such disclosure shall appear on the same contract, estimate, proposal, or any other place on which the purchase price or rental cost of such building is stated, in accordance with rules established by the Commission.

"(b) It shall be unlawful for any supplier to fail to comply with any requirement imposed by any rule or regulation issued under this section or section 20 of this Act.

"(c) Nothing in this section shall be construed to give rise to a cause of action for recission of any contract or for damages, unless the supplier or person fraudulently or knowingly gave the client, or purchaser, or lessee false information on estimated annual operating costs, and such client or purchaser reasonably relied thereon to his substantial detriment in entering upon such contract.

"(d) Nothing in this section shall be deemed to prohibit a supplier or person from representing orally or in writing that the estimated annual operating costs required to be disclosed by this section are based on average patterns of usage and should not be construed as a precise calculation of annual operating costs to be experienced by an individual client, purchaser, or lessee.

"SEC. 22. (a) PROHIBITED ACTS AND ENFORCEMENT.—(a) Violation of any disclosure provision of section 20 or 21 of this Act shall constitute an unfair or deceptive act or practice under section 5 of this Act and shall be subject to proceedings thereunder.

"(b) The district courts of the United States shall have jurisdiction without regard to the amount in controversy or the citizenship of the parties to restrain any violation of section 20 or 21 of this Act. Such actions may be brought by the Commission in any district court of the United States for a judicial district in which the defendant resides, is found, or transacts business or in which the alleged violation occurred. In any such action, process may be served in any judicial district in which a defendant resides or is found.

"(c)(1) Any person may commence a civil action on his own behalf against (A) any person who is alleged to be in violation of any provision of section 20 or 21 of this Act or any regulation thereunder; or (B) the Commission where there is an alleged failure of the Commission to perform any act or duty under such sections which is not discretionary. The district courts of the United States shall have jurisdiction without regard to amount in controversy or citizenship of the parties to grant mandatory or prohibitive injunctive relief or interim equitable relief to enforce such provisions with respect to any person or to order the Commission to perform any such act or duty. Such court, in issuing any final order in an action brought under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate. No action may be commenced under this subsection prior to 60 days after the plaintiff has given notice of the alleged violation to the appropriate person and the Commission.

"(2) In any action under this subsection, the Commission, if not a party, may intervene as a matter of right.

"(3) Nothing in this subsection shall restrict any right which any person or class of persons may have under any other statute or at common law to seek enforcement of any provision of sections 18 through 23 of this Act or regulation thereunder or any other relief.

"SEC. 23. REPORT AND AUTHORIZATION.—(a) On July 1 of the year following the year in which this Act is enacted and every year thereafter as part of its annual report, the Commission shall report to the Congress and to the President on the progress made in carrying out the purposes of sections 18 through 23 of this Act.

"(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 18 through 23 of this Act, not to exceed $2,000,000 for the fiscal years 1975, 1976, and 1977."

TITLE II—RENOVATION AND RETROFITTING OF EXISTING FEDERAL BUILDINGS

SEC. 201. (a) Within ninety days after the enactment of this Act, the Administrator of the General Services Administration, in consultation with the Director of the National Bureau of Standards, and the Administrator of the Federal Energy Administration, shall establish procedures for identifying existing buildings as candidates for renovation and retrofitting with energy conservation equipment and systems for the purpose of decreasing the cost of supplying such buildings with energy for climate-conditioning, water heating, lighting, and other major uses of energy.

(b) On the basis of the procedures established under subsection (a), the Administrator of the General Services Administration shall, within six months after the date of enactment of this Act, select no fewer than ten federally owned buildings as candidates for renovation and retrofitting with energy conservation equipment and systems. The buildings shall be selected so as to offer a wide range of circumstances and opportunities for implementation of energy conservation measures which can be justified on a life-cycle cost basis.

(c) The Administrator of the General Services Administration, within six months after the date of enactment of this Act, shall solicit proposals for renovation and retrofitting each building identified in subsection (b) of this section with energy conservation equipment and systems. On the basis of the proposals received in response to his solicitation, the Administrator of the General Services Administration, is authorized to award contracts for the design and installation of energy conservation equipment and systems in any or all of the Federally owned buildings identified in subsection (b) of this section.

SEC. 202. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title, not to exceed $3,000,000 for the fiscal year ending June 30, 1975, and $3,000,000 for the fiscal year ending June 30, 1976.

By Mr. GOLDWATER (for himself and Mr. TOWER):

S. 3939. A bill to amend section 1401(e) of title 10, United States Code, to preclude a military member from receiving less retired pay by continued active service. Referred to the Committee on Armed Services.

Mr. GOLDWATER. Mr. President, the bill I am introducing today will preclude those military personnel who retire after October 1, 1974, from receiving less retired pay than those who retire prior to that date. The potential disparity arises, because military retired pay increases are tied to the Consumer Price Index, whereas, pay raises for active duty military personnel are tied to civil service pay increases.

Because of the extraordinary inflation rate our economy has been experiencing, legitimate CPI adjustments to military retired pay have created the situation where a military member retiring after October 1, 1974, can receive less than a

member of the same grade retiring before that time. Surely it is an inequity for a service member to expect to receive less retired pay for remaining on active duty.

Mr. President, the legislation I am preparing will correct the situation, and a similar bill, H.R. 16130, has been introduced in the House by Mr. WILLIAM ARMSTRONG of Colorado.

Mr. President, I ask unanimous consent that the complete text of the bill be printed at this point.

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

S. 3939

Be it enacted by the Senate and House of of Representatives of the United States of America in Congress assembled, That the text of section 1401a(e) of title 10, United States Code, is amended to read as follows:

"(e) Notwithstanding any other provision of this section, the adjusted monthly retired or retainer pay of a member or former member of an armed force who becomes entitled to that pay on or after January 1, 1971, may not be less than the monthly retired or retainer pay to which a member or former member of an armed force of the same grade, position, years of service for pay, years of service for retired or retainer pay purposes, and percent of disability, if any, who became so entitled before him, but after January 1, 1971, is entitled as a result of increases under this section."

SEC. 2. This Act is effective as of January 1, 1971.

By Mr. DOMENICI (for himself, Mr. HUMPHREY, Mr. SCHWEIKER, Mr. METZENBAUM, and Mr. MOSS):

S. 3941. A bill to amend title XVIII of the Social Security Act to provide for the coverage, under the supplementary medical insurance benefits program established by part B of such title, of one routine physical checkup each year and for preventive care for individuals insured under such program. Referred to the Committee on Finance.

PENNYWISE: DOLLAR FOOLISH

Mr. DOMENICI. Mr. President, today I am offering a bill which I believe can make a major contribution to improving the health status of persons over age 65 and certain disabled persons, and at the same time has the potential of reducing the total cost of care for these population groups. The proposal I am offering would amend the medicare program to authorize payment for one comprehensive physical examination per year for each person enrolled in the supplementary medical insurance program—part B—of Medicare.

The need for this legislation became obvious during general hearings before the Special Committee on Aging, Subcommittee on Health, which I conducted in my own State of New Mexico on May 25, 1974. Later, on July 25 and 26, more specific hearings were conducted before the same subcommittee regarding the findings of the Abbott-Northwestern Hospital in Minneapolis, Minn. Hospital officials recently became aware of many seniors' inability to pay even the most minimal health expense on their fixed retirement incomes. While health officials knew cost constraints were keeping the aged from health care, they were ignorant of the problem's magnitude until they tried a unique experiment. It was decided the hospital would accept medicare payments as total payment for all health care provided. The senior citizen would not have to pay a dime.

An astounding 239-patient load per week replaced the usual 20- to 30-patient load. The number of registered patients grew from less than 1,000 enrolled to almost 10,000. The hospital staff was shocked with the advanced state of many diseases. The patients, many of them retired professionals, could not afford medicare treatment, even with medicare benefits. These people were waiting until they could no longer ignore their disease.

The hospital officials found that medicare would not pay for any physical examination which was not directly related to the illnesses complained about by the patient. So, although patients who were complaining of headaches were found through the course of examination and lab tests to have terminal cancer of the stomach, the tests could not be paid for by medicare because the patient had not yet complained of stomach pains. I submit that by the time a patient complains of stomach pains and is later found to have cancer, it would most likely be too late—and subsequently very costly.

This provision under present medicare regulations, I believe exemplifies that old adage, "penny-wise; dollar-foolish."

Dr. Thomas Werges from Abbott-Northwestern, stated the problem in his testimony before the subcommittee:

Medicare encourages only episodic (crisis intervention) medical care. This is not only not beneficial barriers to prevent him from seeking medical aid unless he has a medical crisis, the cost of his medical care will increase dramatically.

The significant example that I can use here is high blood pressure. Hypertension is one of the significant public heatlh problems in this country today, not only in just the geriatric age group. By waiting until target organ damage has occurred, such as stroke or heart attack, the results are disastrous. The early detection and treatment of hypertension significantly reduced the mortality and the morbidity from vascular disease. And, as an additional benefit, it reduces the cost of health care.

Dr. Werges felt early preventive care to be imperative for cancer, malnutrition, emphysema, and vascular problems, diseases most affecting the elderly—both from the patient standpoint, and from the cost analysis.

The facts show that medicare provides health insurance protection for virtually all persons age 65 or older. Persons who meet the age requirement but who are otherwise not entitled to coverage may voluntarily obtain hospital insurance protection by paying the full actuarial cost of such coverage. Also beginning in fiscal 1974, about 1½ million disabled workers at any age, and certain disabled dependents are also included in medicare.

In total about 23 million aged and disabled Americans are protected against the potentially devastating effects of the high cost of serious illness.

Medicare covers both institutional and physician costs. But, in particular, the program provides generous benefits for persons requiring hospitalization. Coverage is provided for 90 days of inpatient hospital care, for each "spell of illness" and if additional time is needed, a "lifetime reserve" of 60 hospital days may be drawn upon. A deductible of $84 currently applied to each hospital admission and cost sharing percentages are applied after the 60th day of care. In 1973, medicare paid for 61 percent of all hospital costs incurred by persons over 65. Other public programs, notably medicaid, reimbursed for an additional 20 percent of hospital costs for the elderly. In dollar terms, medicare expenditures totaled $6.4 billion to pay for care to almost 7 million persons requiring hospitalization. Medicaid expended an additional billion dollars for hospital care for the aged.

Medicare also covers a broad range of diagnostic and remedial services provided by physicians and other health care practitioners if the tests are directly related to an actual complaint of the patient. In 1973, medicare expended almost $2.5 billion in benefit payments to or on behalf of 10½ million beneficiaries.

Mr. President, I have reviewed these statistics indicating a gigantic expenditure of Federal dollars, an expenditure which is projected to reach $13.4 billion in 1975, to make one basic point: This entire amount has been and is being expended to provide assistance to aged persons once they are very ill. No funds are spent to prevent illness or for early detection of disease. The ounce of prevention rhetoric has not found its way into the medicare program.

Mr. President, it is not possible to estimate how much suffering could be avoided, how much pain could be alleviated, how much money could be saving if we invested a fraction of the medicare dollar into preventive care.

My proposal to authorize payment for one comprehensive physical examination per year for each medicare beneficiary can result in early detection of illness and potentially crippling disease. While it will initially increase the demands on physician manpower, preventive care of this sort will soon result in reduced medical demands. We can anticipate an improvement in the general health status of the population with it a lessening in expensive hospital care.

Some have objected to an annual physical examination for the elderly on the basis that it will result in unnecessary use of medical services. I maintain, Mr. President, that the present system of providing benefits only when people are seriously ill results in an avoidable use of medical services.

On both humanitarian and fiscal grounds my proposal is both sound and prudent. I urge its early enactment.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2481

At the request of Mr. CHILES, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 2481, a bill to amend the Accounting and Auditing Act of 1950 to provide for the audit of certain Federal agencies by the Comptroller General.

S. 3143

At the request of Mr. CHURCH, the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. MAGNUSON), the Senator from Oregon (Mr. HATFIELD), the Senator from New Jersey (Mr. CASE), the Senator from Nevada (Mr. CANNON), the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Ohio (Mr. METZENBAUM), the Senator from Wisconsin (Mr. NELSON), the Senator from North Dakota (Mr. YOUNG), the Senator from Maryland (Mr. MATHIAS), the Senator from Alabama (Mr. ALLEN), and the Senator from Washington (Mr. JACKSON) were added as cosponsors of S. 3143, a bill to amend titles II, VII, XI, XVI, XVIII, and XIX of the Social Security Act to provide for the Administration of the old-age, survivors, and disability insurance program, the supplemental security income program, and the medicare program by a newly established independent Social Security Administration to separate social security trust fund items from the general Federal budget, to prohibit the mailing of certain notices with social security and supplemental security income benefit checks, and for other purposes.

S. 3641

Mr. MONTOYA. Mr. President, S. 3641, a bill to extend for a period of 2 years the Public Works and Economic Development Act of 1965, as amended, was passed by the Senate earlier this month on August 2. Final action has not yet been taken by the House.

Inadvertently, the name of Senator Moss was not included as one of the sponsors of the reported version of the bill, despite the fact that he was an early cosponsor. I very much regret this omission, and I ask unanimous consent that the name of Senator Moss be included as a cosponsor of S. 3641.

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

S. 3775

At the request of Mr. BUCKLEY, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 3775, a bill to create a Consumer Price Index for the Aged.

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 110

At the request of Mr. KENNEDY, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of Senate Concurrent Resolution 110, relating to the situation in Cyprus.

SENATE RESOLUTION 389—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENT OPERATIONS

(Referred to the Committee on Rules and Administration.)

Mr. ERVIN, from the Committee on Government Operations, reported the following resolution:

S. RES. 389

Resolved, That Senate Resolution 269, 93d Congress, agreed to March 1, 1974, is amended as follows:

(1) In section 3 strike out "$2,099,000" and insert in lieu thereof "$2,184,000".

(2) In section 4(a) strike out "$1,036,000" and insert in lieu thereof "$1,121,000".

(3) In section 10 strike out "$2,119,000" and insert in lieu thereof "$2,204,000".

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1613

At the request of Mr. HOLLINGS, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of amendment No. 1613, concerning men missing in action in Indochina, intended to be proposed to the bill (S. 3471) to authorize certain construction at military installations, and for other purposes.

AMENDMENT NO. 1768

Mr. TAFT. Mr. President, during the debate on my amendment (No. 1768) to terminate year-round daylight saving time, on August 15, I neglected to mention that the Senator from South Carolina (Mr. HOLLINGS) had asked to become a cosponsor of this amendment.

I ask unanimous consent that the RECORD show that the Senator was a cosponsor of my amendment No. 1768 to S. 2744.

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

AMENDMENT NO. 1836

At the request of Mr. EAGLETON, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of amendment No. 1836, intended to be proposed to the bill (H.R. 16243) making appropriations for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes.

ADDITIONAL STATEMENTS

THE WORLD FOOD PROBLEM

Mr. HUMPHREY. Mr. President, I wish to call your attention to an August 19, New York Times article, "Tackling the World Food Program," by Senator GEORGE MCGOVERN.

This article summarizes a great deal of what has happened recently in the world food arena. It holds out the hope that the new administration will take a fresh look at our agricultural policies.

Senator MCGOVERN also correctly looks to the World Food Conference as a great opportunity to deal with the whole complex of food problems which we face.

Our Government must be prepared to show some leadership and determination if this conference is to be a success. I hope that we are willing to face the food crisis even though our own crop estimates are down.

I wish to commend Senator MCGOVERN on his forthrightness and leadership in this area.

Mr. President, 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:

TACKLING THE WORLD FOOD PROBLEM

(By George McGovern)

WASHINGTON.—We have a new President and it is a time for new beginnings. It is an opportunity to grapple with the great problems that confront our nation and the world.

In his inaugural speech, President Ford identified inflation as the nation's most urgent problem.

Every American farmer and consumer knows all too well that the cost of producing and marketing food has been skyrocketing. Furthermore, this food problem is one that is not confined within our borders, it is a problem affecting every human on earth.

High food-production costs and consumer prices in the United States inevitably signal food shortages, hunger and even starvation in other, less affluent parts of the globe.

We all remember the food price panic just a year ago. Among its causes were a worldwide crop reduction arising from the changing weather, discovery that critical fertilizers were in short supply and finding that surplus food had practically disappeared after the large grain sale to the Soviet Union.

The most dramatic visible evidence of the crisis is the tragic situation in West Africa, where millions are already severely undernourished and hundreds of thousands have died, and in South Asia, where floods and drought have created a critical food shortage.

We had hoped that this feeling of crisis and panic would ease this year as our own and other nations' bumper crops came in. In this country alone, we have put fifty million acres back into wheat and corn production in the last two years. Earlier this year, crop prospects looked excellent as farmers sowed in record numbers.

Now, however, hope is turning to fear again. As some weather experts had predicted, the American farm belt is experiencing its worst drought since the nineteen-thirties.

Predictions of feed grain crops have already dropped from an original 6.7-billion bushels to 4.9 billion or less. If yields in other major grain-producing nations such as Argentina, Canada and the Soviet Union are also down, the world is in serious trouble.

At the very least, these developments mean continued high food prices. But high food prices do not help the farmer because of his own high production costs, particularly the cost of fertilizer, fuel and machinery, which are wiping out potential profits, and in the cattle industry wiping out producers altogether.

For all of these reasons, the United States and the world community need to develop a new set of national and international policies that promote maximum food production at the lowest possible cost to provide ample nutrition for mankind.

Secretary of State Kissinger, last year in his maiden speech to the United Nations,

proposed a world food conference to be held in Rome this November. This conference represents an opportunity to make major progress.

I have proposed outlines of a program for our Government to take to Rome. Called "Plowshares for Peace," the proposal consists of the following components:

First is the need for agricultural research. Without the kind of basic research already being carried on by men such as Norman Borlaug, the American Nobel laureate and father of the so-called Green Revolution, millions more of the world's population would be starving today. We also need to intensify our research into weather prediction and weather control to anticipate or prevent periodic drought and floods.

Second, equally important, is the assurance of adequate supplies of those key elements without which crops cannot grow—land, water, fuel and fertilizer. The United States and the world need a large new investment in fertilizer factories over the next two decades to enable food production to keep pace with population growth.

Third, we need to increase technological assistance in the harvesting, storing, processing and distributing of crops to assure maximum use and minimum waste—assistance that American farmers' cooperative associations and American industry are uniquely qualified to render.

Fourth, there must be established a minimum emergency foood reserve on a worldwide basis, isolated from commercial marketing, to be used solely for famine relief.

Richard M. Nixon and Secretary Kissinger raised the world food issue at the Moscow summit meeting. As a result, the Soviet Union is seriously considering officially joining the United Nations Food and Agriculture Organization—a major step forward in the possible development of a world food program.

I hope that President Ford will continue this initiative by making the Rome conference an opportunity to deal in a fundamental way with the food and inflation problems.

There is a natural community of interest on these two great problems. The United States and the other grain-exporting nations have the technology and food to carry out a "Plowshares for Peace" program. The Arab world has the oil and investment capital to finance vitally needed fertilizer capacity and to help support food-research and famine-relief programs. The less-developed countries, which need this agricultural assistance desperately, have many of the scarce raw materials that make possible the advanced technology of the United States, Western Europe and Japan.

This is the potential negotiating environment of the conference. But a major leadership effort is required of the United States to take full advantage of that environment.

TALMADGE REACTION TO THE HEARINGS ON REDUCED CROP ESTIMATES

Mr. HUMPHREY. Mr. President, on August 15, the Subcommittee on Agricultural Production, Marketing and Stabilization of Prices held hearings on the reduced crop projections for this year.

My colleague and the chairman of the full Agricultural and Forestry Committee, Senator HERMAN TALMADGE, commented very appropriately on the testimony of the USDA at those hearings.

Senator TALMADGE suggested that he hoped that the Department was right in stating that no contingency plans were needed, but he also urged implementation of section 802 of the Agriculture and Consumer Protection Act of 1973 in order to maintain a continuous appraisal of our export sales. This would include notification of pending sales before contracts are signed.

I have long advocated more careful monitoring of worldwide crop information. This is especially important in a tight crop year as we have now.

Mr. President, I also wish to bring to your attention a letter which I sent to President Ford recommending that he order the President's Committee on Food—established by Executive Order No. 11781 on June 18, 1974—or some broader based group, to undertake an immediate study of the critical crop situation.

We need to bring high-level attention to our national food and agricultural policy.

Mr. President, I ask unanimous consent that the statement of Senator TALMADGE and my letter to the President be printed in the RECORD.

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

DISASTER FOR LIVESTOCK INDUSTRY, SKYROCKETING PRICES FOR CONSUMERS POSSIBLE IF USDA FAILS TO ACT

(By Senator HERMAN TALMADGE)

Mr. President, the testimony yesterday of the Department of Agriculture at the emergency hearings of the Subcommittee on Stabilization of Prices, called in response to the distressing level of crop projections in the August 1 Crop Report, was very optimistic.

Clearly, the effort was directed at dispelling the wide-felt concern over impending shortages and sharp price increases.

In essence, the Department view is that no major problems exist, as both domestic demand and export demand is expected to moderate.

The rationale is simply that world food and feed production is up, that the expected higher prices will naturally dampen demand, the economic situation abroad is curtailing demand for U.S. products and in fact the U.S. supply situation is not all that bad.

Because of this, the Department says it has no contingency plan if shortages should develop except to let the market be self-determinate.

I appreciate the economic realities and relationships cited by the Department. However, in looking at the testimony of the Department and of other witnesses, it is evident that a large number of uncertainties have gone into their assessment. There is uncertainty about crop production in Canada, Bangladesh, Pakistan, India, the USSR and China—or basically, in the world.

An early frost in the U.S. could be devastating because of the later than usual planting of corn and soybeans this year. And at this time it is not clear just how much export demand there will be for the scarce supplies of U.S. feed grains, soybeans and wheat.

However, what is clear is that prices of feed and food in the U.S. are going to rise. This is going to put additional pressure on already burdened livestock producers.

As more and more livestock producers find the cost-price squeeze too tight, they will necessarily cease production. This will mean, very quickly, smaller supplies of broilers, eggs, turkeys and pork. In the long run, it will mean less dairy products and beef. This translates into higher consumer prices very shortly.

The idea that contraction of herds will yield larger supplies of meat in the short run, and thus provide relief to consumers, is like burning your house to keep warm in January—you freeze in February.

The potential impact on dairy and beef producers would be long-term as the recovery cycle for this enterprises stretches over several years. And if livestock producers are forced out of business, the high prices and good markets for feed grains and soybeans will quickly disappear, leaving our crop farmers in economic distress.

It is very clear that our economy cannot afford many more surprises like the August 1 Crop Report. I agree with the Department of Agriculture when they say we should have learned a lesson from the soybean embargo last year. The lesson is that you shouldn't wait until the horse is stolen before you lock the barn door.

If we ignore current danger signals, we could very well find our food and feedstocks are inadequate for domestic needs because they have been contracted by foreign buyers or have in fact sailed away.

This morning's Wall Street Journal indicates that the Japanese are sufficiently alarmed over the expected shortages of the U.S. corn crop that they are right now buying up all of the corn they will need until the 1975 harvest. They are moving quickly to protect their livestock producers.

If the Russians or other nations make similar demands on the U.S. grainery, the results will be catastrophic to the U.S. economy.

For these reasons, I appeal to the Secretary of Agriculture, to implement the export surveillance and reporting provisions in the Agriculture and Consumer Protection Act of 1973.

Section 802 of the Act states, "All exporters of agricultural commodities produced in the United States shall upon request of the Secretary of Agriculture immediately report to the Secretary any information with respect to export sales or agricultural commodities and at such times as he may request."

The Secretary must order all exporters of feed grains to immediately report any pending export sales and this must be before the contracts are signed. By using this process, a more realistic and continuous appraisal of foreign shipments can be maintained. It will also assure against undue or unwarranted purchases by any foreign buyer. It will also protect our free enterprise, competitive market system against a concerned assault by a foreign centralizd or government supported buying agent.

No one is less desirous of government intervention in the marketplace than I am. But when events beyond the control of men create a situation that could spell disaster for a large portion of our livestock complex and add fuel to the inflationary fires plaguing our economy, it is irresponsible for government to ignore the stark facts of reality.

Mr. President, I like Secretary Butz personally, although we have many differences on policy. I hope for his sake, as well as the sake of the American people, that he is right. He and his spokesmen have told us we have nothing to worry about. They have stated that there is no need for any kind of additional action, and that the Department of Agriculture does not even have any contingency plans for meeting possible drastic shortages in the supply of feed for our livestock producers.

I hope the Secretary and his men are

right. For if they are wrong, the American people will rebel. If the average American wage earner, who can no longer afford the choice cuts of beef for his dinner table, finds that he can't afford milk, eggs, broilers, and bacon because we have shipped our grain overseas, they will explode.

The President will never be able to explain to the American people that we refused to control exports because it is in our long-term economic best interest. To satisfy the American people and save his own political career, the President will be forced to clean house in the Department of Agriculture.

Mr. President, as a result of the Russian grain fiasco, the Congress provided the Department of Agriculture with the tools to protect our domestic food supply. I hope that, for the good of all of us, these tools will be used.

COMMITTEE ON
AGRICULTURE AND FORESTRY,
Washington, D.C., August 20, 1974.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: While I know the burdens and challenges facing you as a new President are both numerous and enormous, I nonetheless must beg your indulgence and attention to what I consider a most serious and important matter of both national and international consequence, namely, the current and future food and agricultural situation.

Current estimates for carryover of 1973 wheat, feed grains and soybeans and 1974 production of these crops suggest serious implications for American consumers, less-developed countries, and commercial foreign buyers of these commodities this coming marketing year. Even if current estimates of 1974 production of these commodities prove correct, liquidations of poultry, hog, beef and dairy cow numbers can be expected. The same will be true with respect to some reduction in commercial exports, with no estimate likely of adverse impact on foreign humanitarian requirements currently possible. And I must remind you, that none of the U.S. 1974 corn crop, soybean crop or Canadian wheat crop are in farmers' bins as yet. Given the fact that substantial portions of these crops, due mainly to late plantings, will be very likely subject to further loss by early or even normal freeze dates, current production estimates for 1974 issued by USDA must be interpreted with great caution.

The eventual impact of supply levels of these farm commodities during the 1974–75 marketing year on poultry and livestock producers—and then later, on American consumers and taxpayers—in terms of higher prices, could run between $10 and $20 billion in additional costs in 1975, that is, assuming no action is taken to insure adequate allocation of available supply of these commodities this next year to the U.S. market, less-developed countries and foreign commercial buyers. To rely solely upon market forces and prices as a rationing system under these circumstances could be disastrous, not only in feeding the fires of inflation here in the U.S. and in other industrialized nations, but also to many millions of people in the world that may very well die or suffer severe malnutrition in the absence of our sharing some of our food supply with them—however short it might be!

I am not advocating any easy, or simple solutions to this national and international dilemma, such as immediate imposition of export controls. However, I do wish to respectfully request that you either order the President's Committee on Food (established by Executive Order 11781 on June 18, 1974, by President Nixon) or establish some sort of comparable group which might be broader based than the Committee on Food, to conduct an immediate study of this entire situation, under a limited time-frame. *All* aspects of this situation must be carefully evaluated—and very soon—so that a balanced, rational national policy on food and agriculture can be formulated that is consistent both with our responsibilities to American farm producers and consumers and our international obligations as they relate both to commercial buyers and the needy of the world.

Of course, in addition to the formulation of a national policy to effectively deal with the immediate situation ahead of us, we also, in my judgment, must reevaluate and revise our nation's long range goals relating to food and agricultural policy. I would hope we are learning something from current and recent experiences in this regard and are now prepared to reflect those learning experiences in reformulating our nation's future food and agriculture policy.

I pledge my utmost cooperation in any effort that you or your Administration may undertake regarding this critically important matter.

With every best wish.
Sincerely,

HUBERT H. HUMPHREY.

DEPRESSION IN THE DAIRY INDUSTRY

Mr. HUMPHREY. Mr. President, the dairy industry of this country is hurting financially from severely reduced prices while the costs of production continue to go up.

The Minneapolis Tribune on August 18 included an article, "Hard Times in Dairyland," which outlines the current problems.

Unfortunately, although this problem has become widely known, the Department of Agriculture appears unwilling to tackle the problem. Although the Department has provided assurances that milk prices will go up, prices have continued to go down. Further price declines are expected, and more farmers will leave dairy farming.

This is a serious problem. The Department of Agriculture previously increased imports because our own production was viewed as not being sufficient to meet our needs.

What we need is an increase in the floor price of milk so that farmers can stay in business. This is far preferable to relying on imports.

Mr. President, 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:

HARD TIMES IN DAIRYLAND

(By Marylin Becerra)

Jim Lefebvre has 60 Holstein cows that produce an average of 2,200 pounds of milk—that's roughly 506 of those half-gallon containers—every day.

Last February he was making about $1.57 profit for every 100 pounds of milk he produced, or about $34.54 a day. In June he was losing 13 cents on every 100 pounds, or about $2.86 a day.

That's because in February he was getting $8.50 per 100 pounds. By June the price he was paid had dropped to $6.80. And as that came down, costs for everything from feed to baling twine went up.

Lefebvre figures it costs him $6.93 to produce every 100 pounds of milk. That's $3.93 in feed (including hay and silage, corn, oats, soybean meal, beet pulp, linseed oil meal, molasses, salt and a few other things); $4 an hour for labor (he and three of his sons spend an average of 10 hours a day caring for the herd) or $2 in labor costs for every 100 pounds of milk produced; and $1 in costs for such other things as veterinarian fees, repairs, taxes and depreciation.

The $6.93 is what it actually cost Lefebvre to produce 100 pounds of milk in February and he can document it. He gets out the book that contains a computerized analysis of his herd—each cow's production, the amount of feed each eats at what cost and a host of other information.

He hasn't gotten the computerized breakdown for June yet, so the 13-cent loss per 100 pounds Lefebvre is talking about is based on February costs. Realistically, Lefebvre knows his costs were up in June and so his June loss was actually much more grim than he's making it.

But Lefebvre is an optimist.

The present situation is not good, he says. It is the worst high low-cost price squeeze he's been in since he and Rita, his wife, came back from military service to his dad's farm, near Elk River, Minn., in 1958. He has culled his herd harder than usual this year—the cows that are not producing enough milk for the amount of grain they eat are cut out of the herd and sold—usually at a loss.

But Lefebvre is an optimist.

He thinks the drop in price is a result of several things—an influx of imported cheese products, consumer reaction to the higher prices of milk products earlier this year, and the natural fact that there are more cows producing more milk in April, May and June. He thinks the situation will improve this fall.

Carl Backes, Sauk Rapids, Minn., has a herd of Guernseys. He's been producing Grade A milk for more than 25 years. It hasn't been an easy life. He played football at the University of Minnesota for two years before he was drafted during World War II and came away from the experience with what he calls "water on the knees—football knees" that dosn't allow him to kneel and bend with ease. So 25 years ago he built himself what was to become the prototype of the modern milking parlor. The cows stand on an elevated platform at about waist-height—so he doesn't have to bend.

But he's sent three children to college—with some help from his wife, Dorothy, who has taught school for many years. Their youngest son, Rick, is in high school and last week he was at football practice so Backes talked while he cleaned up the barn alone.

Backes says his last milk check was down 25 percent from what it had been in March. The basic price paid for 100 pounds of manufacturing milk dropped from $8.15 in March to $6.29 in July.

"I figure I've lost $1,300 for the last couple of months . . . Since I've been in it, this is about the rottenist deal we've had. Why should we have to suffer losses like that? I tell you, we're being sacrificed. We're being crucified."

Backes doesn't like the federal milk-marketing order system—complex set of rules that govern the prices paid to dairy farmers across the country for milk processed for drinking. Those premium prices are based on the average price paid in Minnesota and Wisconsin for manufacturing milk—that used to make cheeses, butter and other milk products.

It's a complex system and Backes believes it is unjust. For one thing, because so much milk is produced here, only a small percentage of the total is consumed as liquid milk. The rest is made into creams, cottage cheese, ice cream, yogurt, butter, cheeses. And milk used for those manufactured products commands a lower price.

But what happens is that this region becomes the milk reservoir for the rest of the nation. Florida dairy farmers, for example, barely are able to produce enough milk for their state residents to drink. So Minnesota and Wisconsin dairy farmers end up supplying Florida and many other places with most of the manufacturing milk products they eat. At the same time Florida dairymen are all getting the premium prices paid for milk that is consumed as a liquid.

In fact, dairymen in the Miami milk-marketing order area—there are 62 areas in the country—get paid the highest premium of all, $3.15 above the monthly average price paid in Minnesota and Wisconsin for manufacturing milk. For example, the June Minnesota-Wisconsin Price was $6.31. The Miami-area dairymen will receive in their August checks (because of a two-month lag) $6.31 plus $3.15 for every 100 pounds of milk they produce. Dairy farmers in the Minneapolis-St. Paul milk marketing area, however, will receive $6.31 plus this area's premium of $1.06, the lowest premium paid in the country.

Of course, the argument is—and Backes admits that it's at least partly true—that the cost of producing 100 pounds of milk in Florida is much higher than it is here where, because of climate and geography, farmers are able to grow most of the feed for their herds. And, of course, the cost of transporting Minnesota-Wisconsin products to other markets means that higher prices in those markets are essential.

But as far as Backes is concerned, one man could turn what he sees as a disaster into something at least less painful. That man is U.S. Secretary of Agriculture Earl Butz.

Jon Wefald, Minnesota Commission of Agriculture, joins Backes in that contention. On Aug. 8 Wefald wrote Butz a letter which said the state already has lost an estimated 1,500 dairy farmers this year and "thousands more among the remaining 35,000 will be forced out of business before the end of the year if positive and immediate federal action is not taken to guarantee the dairy farmer the recovery of his costs and a fair return on his investment and management."

At least a $2 increase in the federal milk-market order is required immediately, Wefald said in the letter.

Wefald said he estimated the 1,500 figure on a couple of things: figures from several of the milk producers' associations on numbers of farmers who had left the business, early indications from the U.S. Crop and Livestock Reporting Service that a larger number of dairy farmers are leaving the business this year than ever before, and on the number of letters and phone calls he has received on the subject since early this year.

The number of dairy farms has been declining in the state for years, just as the consumption of milk has fallen steadily for decades. But Wefald believes that the current drop in prices is causing a larger than usual exodus. That's important for the entire state, Wefald says, because dairying produces one-fourth of Minnesota's gross farm income and agriculture is the state's biggest industry—accounting for about 40 percent of the state's economy.

There appears to be all kinds of villains in this recent price drop.

But one almost everyone agrees on is the effect that a large increase in dairy imports had on the domestic industry—or, as Backes puts it: "The trouble is, Butz imported so cotton-pickin' much cheese."

Wefald, gleaning information from various agricultural publications, says dairy imports rose 168 percent for the first five months of 1974 over the same period last year. Cheese imports increased by 108 percent and imports of cheddar cheese, in particular, of which Minnesota is the nation's second-largest volume producer, showed an increase during the first five months of 1,635 percent over the same five months of 1973, according to Wefald.

There even are feelings that the American dairy industry is being sacrificed so that large amounts of our grain can be exported.

The assistant milk marketing administrator for the Minneapolis-St. Paul area, Aaron Reeves, acknowledges that the imports had an effect on the domestic prices, but he and some others in the industry believe that imports were increased because consumers stopped buying as many dairy products when the prices climbed last fall and winter. And when meat prices declined earlier this year, people began eating more meat and less cheese again.

That combined with the normal increase in milk production in late spring sent the prices down, Reeves said.

But he believes prices have bottomed out and that the August Minnesota-Wisconsin base price for manufacturing milk, to be announced Sept. 5, will be up 15 to 20 cents over the July low of $6.29.

Backes is not so sure.

He believes Watergate and the tainted dairy funds given to politicians from both parties has kept everyone in Washington from wanting anything to do with the dairy business. Backes says he didn't know anything about those contributions and doesn't know a single dairy farmer who had any knowledge of it.

"Hell, that's injustice. Why should all of us suffer, why should the whole dairy industry suffer when we didn't know anything about it."

Backes says if nothing else works, he'll go to Washington and try to talk directly to President Gerald Ford.

SOYBEAN RESEARCH

Mr. HUMPHREY. Mr. President, the August Soybean Digest included an informative article "Researchers Face Unique Yield Barriers."

The article describes current efforts to learn more about soybeans in order to expand production yields.

One lesson of the story is that the soybean is different than most other crops in that it appears to adjust the number of pods to the number of plants. For example, a large plant population will result in fewer branches and fewer pods per plant. The yield may actually be about the same whether one plants 140,000 plants or 200,000 plants per acre.

The major research concern continues to be the secret of nitrogen fixation and how to increase the absorption of nitrogen by the soybean plant.

One effort in this area is a program to increase the carbon dioxide around the plant, thereby enabling the plants to "fix" additional nitrogen. This effort appears to hold real promise.

Mr. President, 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:

RESEARCHERS FACE UNIQUE YIELD BARRIERS

Answer the following true or false:

1. Soybean yield = plans per acre × pods per plant × seeds per pod × weight per seed.

2. If you change one of the equation's yield factors, you change the yield level.

The first statement is true. But every time you change one of the yield factors, the goofy soybean plant can change another factor in the opposite direction, and the yield may remain the same.

Soybean plants have an amazing ability to compensate, conclude scientists who are now taking a lot more intensive look at the soybean since more research funds have become available through checkoffs and government grants. While this ability to compensate may help prevent extremely low yields, it also presents researchers with a so-called yield barrier.

"We've still got an awful lot to learn about this crop," says Dave Johnson, University of Missouri soybean physiologist. "It's so different from any of the other major world crops. For this reason, a great deal of emphasis is placed on soybean physiology and genetics. We must start from the very beginning in our soybean research programs because we cannot use the information we learned about other crops. We are slowly finding out how soybeans grow and how they differ from other crops."

While plant populations are very important for high corn yields, soybeans have a tremendous population range which doesn't affect yield levels, Johnson says. If you have a very low plant population, soybeans will produce more branches and increase the total number of pods per plant. At low populations, each plant can produce up to 400 or 500 pods. But as plant population increases, soybeans reduce the number of branches and reduce the number of pods per plant. And the yield remains about the same.

Last year Missouri agronomists had a plot of soybeans with 11,000 plants per acre equally spaced and harvested by hand. Nearby were soybeans planted at the rate they recommend to farmers—about 140,000 plants per acre. Both plots yielded about 50 bu/a. Other researchers in tests with over 200,000 plants per acre also didn't change yields with higher populations.

Johnson warns that farmers naturally don't have quite that wide a range with plant populations. First, planters aren't accurate enough to give an even distribution of plants. Secondly, combines won't go low enough to pick up the many pods that are lying on the ground due to branching in low populations and lodging in high populations.

Neither chemicals to increase the number of pods per plant by 50% nor picking off half the plant's pods change yields either, researchers have found. With fewer pods, the soybean plant increases the number of seeds per pod and seed size, ending up with the same yield as those with more pods per plant but fewer and smaller seeds, Johnson explains.

In other studies, Iowa researchers have stripped off up to 50% of the leaves without changing yields, and Illinois scientists took off a number of branches with no effect on yields. While soybeans produce about twice as much leaf area as corn, only half of this leaf area is needed, Johnson says.

Based on these past studies, Missouri researchers reasoned that they should be able to take off all the bottom branches, leaves and pods and not reduce yields. But the amount of soybeans harvested by the farmer would increase about 8%, the amount many

studies show is left in soybean fields because pods are too low for combines to pick up.

For the past two years, Missouri researchers have taken off everything on the bottom 6 in., 9 in. and 12 in. of the plants three times during the season—first of July (early flowering), mid-July and end of July (start of bean development). As expected, there was no yield difference compared to unstripped plants, reports Johnson. Apparently, they could have stripped the plants even higher because there wasn't any difference in yield between the three heights.

Raising pod height may be accomplished two ways. One method is by developing a plant which genetically sets its pods higher. As yet, there have been no breakthroughs in this area. The other possibility is using a directed contact spray which would kill everything on the bottom of the plant at whatever height is decided.

If that chemical were an herbicide, Johnson says, growers would get a dual advantage: They'd raise the height of the pods and also kill late-season weeds. Along with Maurice Gebhardt, Agricultural Research Service ag engineer, Johnson tested three chemicals. Monsanto's Roundup, which has not yet received clearance, showed the most promise. This chemical could be put on about the same time as the last cultivation, Johnson notes.

"But there are still some things to be worked out yet," Johnson adds. "It is more likely to sell where they have weed control problems. Whether it's going to be economical to put on a chemical just to raise pod height, I don't know."

The most important compensating aspect of the soybean plant is the interaction of the nitrogen (N) fixation and N uptake systems. "This is getting more research attention right now than anything else," Johnson says. "We would have to say there is no evidence to show that N is the limiting factor in increasing yields. Yet, we do not understand how N fixation and N uptake from the soil furnish all the N required for high-yielding soybeans."

Soybeans use more N than any other major crop, yet N applications have given few yield gains and even some decreases. The seed contains about 4 lb. of N/bu with another 2 lb. of N in the unharvested root, stem and leaves.

The following is a comparison of the amount of N used per acre by soybean and corn crops:

Nitrogen (pounds)	Soybeans (bushels)	Corn (bushels)
125	25	125
300	50	250
400	75	350
600	100	500

In contrast to other major crops, soybeans obtain their nitrogen from two sources. They utilize N from the soil as do other crops. In addition, they form a beneficial or symbiotic relationship with Rhizobia bacteria which form root nodules and fix N from the air.

"N fixation is the single most important factor which distinguishes soybeans from all other major crops," Johnson says. "Most plants which carry on fixation are forages, but they're an entirely different type of crop because the entire green plant is harvested instead of just the seed."

N research is receiving so much attention because of its importance during bean development stage. But at that stage both N fixation and N uptake systems are tapering off. Maximum N uptake occurs at full bloom and drops off relatively fast in the latter part of the growing season, says plant physiologist James E. Harper at the U.S. Regional Soybean Laboratory, Urbana, Ill. Up to the time of flowering, the soybean plant fixes very little N. After flowering, it increases N fixation quite rapidly in an exponential curve—that is, doubling total N fixed every week until half to two-thirds through pod fill (about 70 to 80 days of age). Then it loses its exponential phase and the bacteria start slowing down. But the plant continues to develop its seed and still needs N.

Major yield increases in other crops—hybrid corn, rice and dwarf wheat, for example—were due to finding more N responsive varieties. But these crops take about one-fourth as much N/bu as soybeans. It would seem reasonable that soybean yields could be increased by getting more N into the plant, says Ralph Hardy, E. I. duPont researcher.

Scientists first considered N fertilization. Illinois researchers recently summarized 133 experiments and found only three that showed a yield response from nitrogen. And in those three, the extra yield didn't pay for the extra N.

Even applying the N late in the season during the critical pod-filling stage didn't help. No matter how much N is applied, when it's applied or how deep it's applied, N fertilization hasn't brought an increase in soybean yields, Johnson says.

The more N fertilizer that's applied, the less N that's fixed. Again, the soybean plant compensates. "All you're doing is playing games with the N fixation system," Hardy explains. "The outcome is a trade-off between N fertilization and N fixation."

Research aimed at overcoming this nonproductive trade-off includes searches for forms of N fertilizer that do not inhibit N fixation, soybean varieties that respond to N fertilizer, rhizobial strains whose N fixation is insensitive to N fertilizer, and cultural practices that give a yield response to N fertilizer.

"I don't think N is the first limitation (on yields)," says Harper after extensive research on N fixation and N uptake from the soil. "It looks like photosynthesis is going to be our first limitation. Until we do something about the photosynthetic rates, we may be at a standstill as far as N goes.

Scientists know that the bacteria in plant's roots are kept alive by sugars supplied by the plant. The soybean makes these sugars with energy from the sun by absorbing carbon dioxide from the air through its leaves—the process of photosynthesis. But as the plant matures, researchers theorize that more of the sugars go to the developing seeds and less to the bacteria. Thus, N production slows as the bacteria are denied food.

This led du Pont researchers Hardy and U. D. Havelka to conclude that the availability of sugars was limiting N fixation. Two years ago they took soybeans growing in normal field conditions and surrounded them with walls of plastic, leaving the top open to keep heating and lighting conditions the same. From 40 days of age until maturity, Hardy explains, they increased the carbon dioxide around the soybean plants from the normal 300 parts per million (ppm) to between 800 and 1,200 ppm. They roughly tripled the amount of carbon dioxide available to the plant. Within 6 hours of increasing the carbon dioxide around the plant, the nitrogen fixing activity of the plant doubled.

"What this is telling us is that there are more 'machines' down there in the N fixing 'factories' but they weren't getting enough energy," Hardy says. "The carbon dioxide enriched plants fixed more N in one week (87 days to 94 days of age) than the normal plants did in one season. This phenomenal increase in N fixation resulted from doubling the size of the nodules and running the factories twice as fast."

Their results: N fixation increased from 80 to 100 lb/a to 425 lb/a. N uptake from the soil decreased from 225 lb/a to 75 to 100 lb/a. The net result was more than 500 lb/a of N—approaching amount required for a yield of 100 bu/a. More than 80% of the N came from N fixation and less than 20% from soil N, nearly the reverse of normal.

"This is the first example out in the field where anyone has been able to markedly increase total N in the soybean plant," Hardy claims. "This almost doubled N input and nearly doubled yields. The percentage of protein in the bean was not altered."

Hardy believes that the du Pont research shows that the N input in the soybean plant is really not an N problem but a carbon problem. He goes on to explain that soybeans are much less efficient converters of carbon dioxide to sugars than many other crops like corn. All the carbon dioxide corn takes in is converted to sugar. However, soybeans convert only part of the carbon dioxide taken in to sugar, physiologists explain. The rest is kicked back into the atmosphere, an inefficient process scientists call photorespiration.

Since it is not economically practical to enrich soybean fields with carbon dioxide, chemical companies are looking for a growth regulator which would make the soybean plant a more efficient converter of carbon dioxide.

At the same time, plant breeders are trying to develop nonphotorespiring soybean plants by applying radiation and other mutagenic agents to seeds. If they succeed, soybean yields could theoretically increase by 40%–50%.

Because of the interest in nitrogen fixation and nitrogen uptake from the soil in relation to supply, movement and distribution of carbohydrates, the American Soybean Assn. Research Foundation is funding such a research project at the University of Missouri. Walter Russell is conducting the tests in several parts.

In one part of the research, Russell grafted two different maturing stems on the same root system. While the earlier maturing top is in the green soybean stage, the later maturing top should still be supplying carbohydrates to the roots, keeping the bacteria fixing N, Russell explains. Other parts of his ASA-funded research include supplying light to the lower part of the canopy, shading the plants and studying the effects of different cultural practices on N fixation and N uptake systems.

"It takes energy to do either of these N processes," Russell explains. "We're trying to find out whether the two systems are compatible or if it's the plant's carbohydrate distribution system which is inhibiting N fixation."

It's unlikely that these research projects will pay off for several years. But researchers are optimistic. With the increasing importance of soybeans, more researchers with more funds are studying this complex soybean plant. The pace of soybean research has lagged behind the quadrupling of acreage since 1950. While soybean yields have increased only 6 bu/a since then, corn yields have nearly doubled. Many feel the same type of increase is possible with soybeans.

A SECOND CHANCE

Mr. HUGH SCOTT. Mr. President, I was extremely pleased to hear President Ford's remarks yesterday about amnesty for Vietnam draft evaders. I have long advocated conditional amnesty on

a case-by-case basis, including performance of constructive civic service, as the reasonable and just way to treat these 50,000 offenders. Each case is different, each case therefore should be treated individually. Those who have violated military or civil law are of course subject to those processes.

The New York Times yesterday had an excellent editorial. I commend it to the attention of my colleagues and ask that it be printed in the RECORD.

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

A SECOND CHANCE

In his wise and compassionate statement on the much-debated subject of amnesty for Vietnam draft evaders, President Ford has demonstrated his fidelity to the principle that the rule of law applies to all Americans but that its application necessitates no conflict between the noble aims of mercy and justice. He took the opportunity to say what he did in the lion's den—the annual convention of the Veterans of Foreign Wars, which has heretofore taken a hard line on amnesty—and emerged unscathed and newly respected.

By sending forth a generous instead of an unforgiving signal to Congress and the armed forces which, as President, he commands, Mr. Ford has opened the way for new legislation and new thinking in the country. Speaking as veteran, lawyer and champion of a strong military establishment, he gave tacit approval to the resolution passed last week by the American Bar Association that would allow individual draft resisters to earn immunity from prosecution.

He has asked the Attorney General and the Secretary of Defense to provide the facts, first of all, on the status of some 50,000 offenders—whom he compassionately called "our countrymen"—accused of violating the Selective Service Act or the Uniform Code of Military Justice. These men would not be lumped together as "draft dodgers" or "deserters" but treated as individuals, their cases studied within the framework of legal precedents.

For these men the President seeks "a second chance." His view is that they should be regarded not as enemies but as "casualties" and allowed to work their way back home to America. The Ford approach, without going all the way toward amnesty, would remove the attitude of revenge by law; and that is the beginning of justice.

President Ford cited two Presidents—Abraham Lincoln and Harry S. Truman—as his guides. He omitted his immediate predecessor. The Civil War and World War II Presidents both demonstrated a spirit of generosity toward deserters and issued many pardons. President Lincoln did so while the war still raged; President Truman created a postwar amnesty board that judged draft evaders and deserters on a case-by-case basis.

As Congress and the country seize the nettle of amnesty, they will have President Ford's own bold words to guide them: "I am throwing the weight of my Presidency into the scales of justice on the side of leniency.

DÉTENTE AND THE FUTURE

Mr. CHURCH. Mr. President, the national debate on détente between the United States and the Soviet Union has begun. Last week, my able and distinguished friend from Rhode Island (Mr. PELL) wrote an article for the New York Times on this vital subject. He urged that—

In seeking détente, the United States should use whatever bargaining levers it has to assure our military security and to press for recognition of the human values and liberties we treasure. But we must be careful that we do not overload the circuits and instead of bringing light to the world, plunge it toward darkness.

Senator PELL concluded that—

It would be disastrous if we were turned from the present opportunities for détente.

I agree with this assessment.

I ask unanimous consent that Senator PELL's essay, "Détente and the Future," be printed in the RECORD.

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

DÉTENTE AND THE FUTURE

(By Claiborne Pell)

WASHINGTON.—Given a choice between détente with the Soviet Union or a return to the eyeball-to-eyeball confrontations of the frigid cold-war period, most Americans, I suspect, would choose a realistic easing of tensions between the supporters.

And, as a matter of fact, the progress toward détente initiated by Richard M. Nixon and vigorously executed by Secretary of State Kissinger has had until recently very broad support among the American people. Now, however, détente is in trouble.

The efforts to reach mutually beneficial agreements with the Russians on arms control and trade are under attack from all sides within the United States.

Conservatives criticize détente because of their profound disapproval of Communism and their equally profound distrust of the long-range intentions of the Soviet Union.

Liberals, while not opposing détente, insist on a coupling of agreements on arms controls or trade with liberalization of Soviet society.

Our military leadership and their supporters in industry and the Congress oppose détente because they believe that only overwhelming military superiority—and damn the cost—can provide security for our country.

The national leadership of much of organized labor is cool to détente, reflecting a traditional anti-Communist stance in foreign affairs as well as a union membership with heavy stakes in defense-oriented industry.

And the American Jewish leadership's view of detente is strongly shaded by its concern over the persecution of Soviet Jews and the role of the Soviet Union in the Middle East.

Each of these segments of our society has some measure of legitimacy for its concern. However, in combination, these segments form a very formidable alliance encompassing a major part of the most articulate and influential opinion-forming groups in the nation. And there is a very real possibility that, in combination, this alliance could turn our country from the path of détente.

I consider myself a liberal with moderate fiscal views, a supporter of labor, an admirer of Israel and the contribution to our national weal of our American Jewish community, and one who values basic human rights.

But I also have a long view of history, and I believe it would be disastrous if we were turned from the present opportunities for détente.

History does not stand still, but moves in currents and directions. And if the movement toward détente is halted, history will take a new direction, probably toward confrontation and conflict.

The tragedy is that most of the segments now joining in the alliance against détente do not want to see such a change in the direction of history. Each wants only to attach a condition to détente, apparently without realizing that the cumulative weight of the conditions could sink the ship.

The result would be what very few of the critics of détente want: an escalation of the arms race, a tightening of repression within the Soviet Union, a resurgence of the basic Soviet anti-Semitism, and an end to all voluntary emigration from the Soviet Union.

I am under no illusions as to any sun and light behind the Iron Curtain.

But at least people there are alive and leading reasonably normal lives. It is not the bleak scorched area it could be in a World War III.

It is so easy to forget the improvements of the last ten years. Prominent opponents of Soviet policies are now exiled instead of being killed or jailed.

It is understandable that the American Jewish community is concerned about the ill-treatment of many Jews who wish to emigrate, particularly in light of the Soviet history of pogroms and anti-Semitism. But the Russians have in fact responded to world pressure and some 30,000 Jews are being permitted to leave Russia each year. The extent to which the Russians have responded can be seen in the fact that Jewish emigration from the Soviet Union represents 85 per cent of all persons permitted to emigrate, while Jews continue less than one per cent of the population.

Finally, I think we should remember that Nikita S. Khrushchev was removed from power primarily because his advocacy of détente with the West was opposed by Soviet conservatives and the Soviet military. Now Leonid I. Brezhnev has staked his political life on détente. If he, too, fails because of his advocacy, it will be many a decade before another Soviet leader will risk his reputation, his prestige and his power in pursuit of better relations with the West.

In seeking détente, the United States should use whatever bargaining levers it has to assure our military security and to press for recognition of the human values and liberties we treasure. But we must be careful that we do not overload the circuits and instead of bringing light to the world, plunge it toward darkness.

PETITION TO CONGRESS ON BEHALF OF AMERICAN MIA'S

Mr. GOLDWATER. Mr. President, the American people have not forgotten the remaining U.S. personnel who are listed as missing in action in Indochina.

Only this month, I received a petition signed by more than 200 Arizonans living in or near Winslow, a city of approximately 8,000 persons. These citizens demand that their Government take strong and immediate action to obtain information about our MIA's.

My constituents put their finger upon the No. 1 problem involved, which is the recalcitrant attitude of the Communists, by suggesting that a congressional delegation be formed to visit Hanoi to press for further information. They know it is the North Vietnamese and Vietcong who

have turned down American requests to enter Communist-controlled territory to conduct searches at probable crash or gravesites.

They also know of the tragic and cold-blooded attack by Communists on the last unarmed American MIA search team that investigated a crashsite in South Vietnam in December of last year.

Mr. President, I agree with the signers of this petition that our Government must continue to press for a full accounting of each and every one of the remaining U.S. MIA's. These citizens have asked if I would bring their petition to the attention of all of Congress by placing it in the CONGRESSIONAL RECORD, and I am pleased to ask unanimous consent for the petition and the names of its signers to be printed in the RECORD.

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

PETITION

To the Congress of the United States:

We as American Citizens demand you give your immediate attention to form a Congressional Delegation to visit Hanoi to obtain information about American Servicemen still listed as MIA's:

Robert Fair, R. C. Morgan, Archie Epling, D. S. Pike, Gladys Pike, Nadine J. Conder, Sharon Singleterry, Kay C. Guttersen, William R. Ledbetter, Janet Peterson, Janice Lancaster, Robert V. Perez, Christeena Harper, and Mary Tackett.

Linda Singleterry, Lynn M. Rice, Vicki L. Azeas, Teresa Sena, Katrin Nelson, Audie Whitney, Karl T. Frey, Emily J. Frey, Lorille Chambers, Dennis Echler, Sally Patterson, Carolyn Becraft, and Peter M. Becraft.

Charlotte Gipson, C. G. Gipson, Mrs. C. D. Gipson, Judy D. Cox, Sally Hudson, Mabel Feagins, Kelly Henson, Loudene Dove, Lynette Dove, Danny Dove, Chas E. Stegmeir, Bam Guttersen, L. C. Hansoe, Sharon Polk, Bonita White, Sheila Polk, Rena White, Deura Polk, Valerie Bryson, Della White, Joe White, and Lori Carrell.

Mrs. Carol Epling, Beth Gehringer, June Curnutte, Keith Curnutte, J. T. Curnutte, Helen White, George H. Morley, Mrs. F. P. Guter, Mrs Alan Whitney, Marie L. Rutherford, Kris Rodgers, Judy Ann Simmons, E. P. Jackson, Charles I. Mathes, Inna Bardslay, Patti Ansell, Louis Gill, Thomas James Benho, Chas. S. Allen, Jr., J. C. Fogleman, Sue Hancock, Edna Mae Robinson, Lea H. Koenig, Mary May Bailey, Margaret S. Iler, Robert R. Pennington, Cecilia D. Benefield, and Barbara La Gait.

Ruth B. Kalisz, Charlotte L. Buss, Rosemary Kutch, Brian Patet, George T. Kahn, Kathey Chacou, L. P. Fulton, O'Dette Fulton, Gloria M. Moore, Morgan H. Denet, Esther E. Kislingbury, Diane Todd, Jack Power, Vivian H. S. Power, Fontella Randall, Walter Cox, Ballard Henri, Stella Wilt, Jerry Wiggins, Heidi Ewart, and Jill Scholten.

Shirley Owens, Mary C. Boggan, Geralyn Owens, W. W. Boggan, Jack E. Dove, Joe Hoffman, Susan Boles, Mr. and Mrs. Florentino Paigas, Donald D. Johnson, Kathleen A. Johnson, Yvonne Howeth, Vivian Shurley, Kenneth D. Hillston, Larry Graff, James O. Babe, Cinda Sawyer, LeRoy Sawyer, and Sadie Sawyer.

Janet Peterson, Mabel Clarksen, Donna Davis, John Serrano, Rob Flatnik, David Harrah, Deborah Rippey, Robert Ford, David Stevens, Gayle Livingston, Lauri Leaverton, Leslie D. Purpana, Jannette V. Harrison, Lester E. Harrison, Debbie Bonnete, Kathi Bonnet, Kathy Williams, Jim Williams, Robin Ettinger, and Douglas Epling.

Glenn Howell, Patricia LaBart, Vivian J. Hopkins, I. L. Curtis, Mary L. Ellis, Mary Wyatt, Micke Todd, Patricia Kent, John L. Russell, Norma Lassiter, Chris Kissling, Helen Kessling, Cheis Hanson, R. A. Kent, Shawn W. Peterson, Keith Beauchene, and Jack Dale.

Coral Dawson, Richard White, Bonnie Blinn, Mary Lewis, ——— ———, Dan Lott, Andy Keeler, Rhonda Williams, Bernadette Armend, Bill Mollring, Claudia M. Scholten, Donald Blanchard, Blance Aston, Paul Aston, Nan Witte, John Witte, Darlene Barnes, Lynne Hoeeta, Tammy Bryan, Ardrea Schmoebeckere, Terry Mrytle Jay Lox, and Kathie Walker.

Sharoh J. Belper, Doris J. Hedges, Leola Tellman, Lyle R. Healg, Jammes F. Gary, Betty J. Stewart, George Patrick Dean, Nancy Iannelli, Nina Iannelli, Mike Cataldi, David Bennett, Mari Hammon, Robin Y. Rivet, George Jiffins, Jerry Jelly Elli, Eric Wyles, Katheen Reyes, J. A. Anne Snelson, and Tricia Dunn.

Michael J. Williams, Richard Weld, David Hameolf, Cathy Vinsel, Rob Kimmel, James Spurlock, Lynn Love, Loyd Thacker, Gary L. Eddy, Joseph Josephy, Stephen W. Lambert, David Hopper, and Diana Curnutte.

INDEPENDENT GASOLINE MARKETERS EXPRESS CONCERN OVER OIL INDUSTRY CONCENTRATION

Mr. McINTYRE. Mr. President, as chairman of the Subcommittee on Government Regulation of the Senate Select Committee on Small Business, I have recently held several days of hearings on the profits of our Nation's oil industry, the energy industries' need for capital, and the effect on small business. During these hearings, the subcommittee received testimony from the Independent Gasoline Marketers Council on the acquisition and operation by integrated oil companies of gasoline marketing facilities and the impact of this activity on competition. While it is obvious that the energy sector of the economy must commit substantial resources to the development of domestic energy supplies, the Congress must assure that in meeting our energy needs, competition is preserved and encouraged.

Mr. President, I request unanimous consent that the statement presented on behalf of the Independent Gasoline Marketers Council before the Subcommittee on Government Regulation be printed in the RECORD.

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

STATEMENT BY MR. KEN CATMULL ON BEHALF OF INDEPENDENT GASOLINE MARKETERS COUNCIL BEFORE THE SUBCOMMITTEE ON GOVERNMENT REGULATION, SENATE SMALL BUSINESS COMMITTEE, AUGUST 20, 1974

Mr. Chairman and members of the committee, I appreciate the opportunity to appear here today on behalf of the Independent Gasoline Marketers Council. My name is Ken Catmull and I am Vice President of Autotronic Systems, Inc. of Houston, Texas. I am accompanied by Mr. T. J. Oden who is the Executive Director of I.G.M.C.

Before commencing my testimony, I would like to briefly state that, as the name Independent Gasoline Marketers Council implies, we are a Council composed solely of nonbranded independent marketers of gasoline. As defined by Congress in the Emergency Petroleum Allocation Act of 1973, the term nonbranded independent marketer means:

"A person who is engaged in the marketing or distributing of refined petroleum products, but who (A) is not a refiner, (B) is not a person who controls, is controlled by, is under common control with, or is affiliated with a refiner (other than by means of a supply contract), and (C) is not a branded independent marketer."

As Congress clearly stated, we are independently owned and operated companies, whose only relationship with any large integrated oil company is in the purchase of gasoline for distribution and resale through our own company outlets. We do not operate under any integrated company's trade name and we are, in fact, the primary competitors, at the retail level, of our substantially larger integrated rivals.

In order to maintain competition with our larger rivals we as businessmen must have access to certain essential tools. These tools are required whether the business entity is the most dominant firm within a given industry or the smallest. Every retail business must have a product to sell.

Gasoline supply problems, which began to develop in the Fall of 1972 and deteriorated progressively throughout 1973, were disastrous to nonbrand independent marketers. The impact that these shortages had on competition in the marketing segment of the industry resulted in the passage in November of last year of the Emergency Petroleum Allocation Act of 1973.

Recent press reports indicating that the Administration supports early removal of of petroleum product allocations causes substantial concern for nonbranded independent marketers. It is the position of the Council that precipitous action by the Federal Energy Administration with regard to removing or altering mandatory gasoline allocation procedures will have a serious detrimental effect on the consumer and on the competitive situation within the marketing segment of the oil industry.

Problems connected with obtaining adequate supplies of gasoline are compounded by the price that independent nonbranded marketers, are forced to pay for obtainable supplies. Members of the Council have found that it is increasingly more difficult to compete in the marketing of gasoline because of the fact that price increases to nonbranded independent marketers have been disproportionately higher than average price increases to all marketers. The Independent Gasoline Marketers Council has established a comparative wholesale price movement analysis which shows that price increases in 1974, when compared to 1972 base period costs are now substantially higher than rival branded marketers. While costs for all marketers of gasoline have increased on an average of 122% since the 1972 base period, nonbranded independent marketers costs for gasoline have increased by 137%. This pricing problem is compounded when it is taken into consideration that branded marketers also received the benefit of nationwide brand name advertising and major company credit card services. One of the primary benefits to the consumer and to competition within the marketing segment has been the competitive pricing policy of nonbranded gasoline marketers.

It has been the true independent in the oil industry that has generally been the innovator and the developer. The ability of nonbranded independent marketers to lower operating costs and to establish and maintain efficient marketing systems has resulted in competition in the market place that has been of real benefit to the consumer. Because of efficient and innovative

marketing methods we have historically been able to offer gasoline to the consuming public at prices below that charged by our major brand rivals. If we can obtain adequate supplies of product, we can continue to be the competitive pacesetter and pricing policeman for the consumer in the marketing segment of the oil industry.

Among those issues that Congress must ultimately resolve is the function and role of our energy industry in total, and particularly the petroleum segment of that industry. The oil industry has undergone a total transformation within the last few years. Petroleum product shortages were first encountered in this decade because of insufficient refining capacity and failure to utilize existing capacity. This took place at a time when we were also experiencing substantial increases in demand. In October of last year Arab member countries of the Organization of Petroleum Exporting Countries imposed an embargo that further curtailed our ability to meet our energy needs. The embargo must be considered not only as a political act but also as an economic decision jointly reached by a cartel controlling the basic world supplies of crude oil. Through joint action OPEC successfully increased world crude oil prices fourfold over previous prices and it is still unclear as to whether or not we will experience even further increases.

The question is how do we as a country respond to the new changed circumstances. There are two prime issues:

(1) the energy needs of the United States and its people; and

(2) the ability of the private energy sector to meet those needs.

Oil is the life blood of any industrialized society and under our free enterprise system we have relied on private industry to meet this demand. This raises several questions can a reliable source of energy be handled solely by a number of individual private companies whose basic purpose is to make a profit?

Can we as a nation rely completely on the profit incentive to have our energy needs met? Will the cost of supplies to meet these needs become so overburdening as to substantially curtail our present standard of living?

There is no need to cite the recently published second quarter earnings of the major integrated oil companies. Suffice it to say, that most of the multinational integrated companies have continued to experience several quarters of high profits, most approximately double their 1973 figures. The argument for these high profits is the tremendous capital need of the individual companies to meet our energy needs, and I don't believe that any one can doubt that this need is real and is enormous. Most recent estimates show at a minimum that at least $60 billion a year must be invested in energy between now and 1985 with as much as $400 billion for the remainder of this decade alone. The extent to which the oil industry as a whole directs its resources into new domestic production and refining operations is of crucial importance. At stake here is not only a tremendous drain of our financial resources but also a public policy question of the extent to which the United States wants to have its economic well being determined by forces beyond our own national control. Recent estimates by the Commerce Department indicate that oil imports will cost $25 billion this year alone. The consuming public is calling for some sign of assurance that the increased prices that they are being called upon to pay will result in positive long range benefits.

Several months ago the Administration announced an ambitions new program regarding energy resources and entitled this undertaking as "Project Independence". The initial plan was to develop within our own borders self-sufficiency in energy resources. In the last few weeks however, the Federal Energy Administration has stated that Project Independence in effect will be Project Semi-Independence. FEA has stated that during the rest of this century the United States must continue to look to overseas sources for substantial quantities of crude oil. It is interesting to note that within a few days after FEA's announcement, the Oil Minister of Saudi Arabia, Sheik Yamani warned that the Arab oil producing cartel stands ready to reimpose an embargo on the United States, if the Arabs feel that our political position in the Middle East is not compatible with their goals. The embargo that we experienced last winter is a clear warning of the danger inherent in an increased reliance on other countries for our energy needs. During the height of the embargo, crude oil imports into the United States were cut by approximately 1.5 million barrels a day representing less than 10% of total crude oil demand of 16.5 million barrels a day. But yet this reduction placed an enormous strain on our economy and the American people. Immediate attention must be given to the degree to which the United States can increase its own available energy resources and the oil industry must meet this challenge.

When viewed within the context of this country's energy needs, the recent announcement by Mobil Oil Corporation of its intent to acquire Marcor, the parent company of Montgomery Ward, arises a host of unanswered questions. The American economic system encourages independent decision making by individual corporations. There are serious reservations to this general rule however. Public policy goals quite often override individual corporate decisions particularly when a well established public need is shown. The announced intent by Mobil to acquire Marco immediately raises the question as to whether it is in the best interest of this country to have the oil industry divert its resources away from energy production at this particular time. To the members of I.G.M.C. another question comes immediately to mind. What is the impact on competition when a major integrated producer, refiner, transporter, and marketer of oil products acquires a new company with major market penetration in the retail sector that can become a direct conduit for the sale of this company's gasoline and other petroleum products? The acquisition of Marcor by Mobil Oil Corporation extends the basic structure for the total and complete control of crude oil and refined products from the wellhead to the consumer.

This acquisition is also another example of the impact of the ability to accumulate capital in the oil industry. The sheer size of a company such as Mobil provides the leverage necessary to acquire a corporation whose assets include Montgomery Ward and the Container Corporation of America. It is interesting to note that this acquisition actually commenced last year when Mobil purchased almost 1.25 million shares of Marcor stock representing approximately 4.5% of the total shares of Marcor common stock outstanding. One of the arguments that Mobil has publicly made in support of this acquisition is the fact that members of Congress and other public figures have been critical of the oil industry and are threatening to inhibit this industry in one way or another. As a Council representing nonbranded independent marketers, we too share a concern for our industry's image with the public. The question remains, however, as to the total impact of this acquisition on our nation's ability to meet our energy requirements and its impact on competition in the marketing segment.

In recent years a number of large integrated oil companies have established new marketing operations using marketing names not generally identifiable with their companies' operations. This new phenomenon in the marketing segment has been referred to as secondary branding. These marketing outlets are totally owned and operated by the parent company such as Alert owned by the Exxon Corporation. It is partly because of this type of activity and its obvious impact on market control that Congress passed the Emergency Petroleum Allocation Act of 1973. The continued existence of this Act is crucial to the independent marketers of gasoline and other petroleum products. The major oil companies are strongly aligned against this act arguing that it distorts the competitive process in the oil industry. But this Act staved off the immediate and dramatic annihilation of the nonbranded marketers.

We, as nonbranded independent gasoline marketers, feel that there are two public policy questions that must be answered in connection with the announced proposed Mobil-Marcor merger. First, is it in our best national interest, at this particular point in time, to have major energy companies divert much needed capital into non-energy related areas and, secondly, is it in the best interest of the consumer and competition to have the nation's fourth largest oil company further expand into marketing. As independent nonbranded gasoline marketers we strongly oppose the continuing efforts of the major integrated oil companies to completely dominate and control all levels of the industry from production to marketing. Obviously as gasoline marketers we have a vested interest in our ability to compete, but we also feel that it is not in the consumers best interest for the oil industry to become completely dominated and controlled by a small number of giant companies. What competition remains in gasoline marketing should be preserved and if steps are not taken to do so quickly, Congress may well be forced to face much more difficult issues regarding the structure of this industry in the not too distant future.

MINERS' MEMORIAL MONUMENT

Mr. McCLURE. Mr. President, over 2 years ago after the terrible tragedy which claimed the lives of 91 men at the Sunshine Mine, shock waves surged across the country. While the country took note and then returned to its business, the families of these men had to continue to live with the tragedy and its result.

The memorial statue which they commissioned is not a grim reminder of an evil day so much as a living tribute to tough, strong men and their way of life. It reminds the youth of our country that there are men who go out daily with some risk to their lives to provide for their children's futures and their country's strength.

Strength and skill as well as dedication and courage are the backbone of the hardrock miner's character. If our country ever runs out of such men, it will fall upon evil days indeed. These were men proud of their skills and the knowledge that their work was necessary to their Nation.

In an effort to memorialize the 91 who were lost, and to pay tribute to mining as a way of life, those left behind—the Sunshine Widows—came up with the idea of constructing an appropriate me-

morial. The idea grew and donations rolled in. Finally, on May 2, the Miners' Memorial Monument was dedicated.

I ask unanimous consent that an article of the Kellogg Evening News be printed in the RECORD.

The dedication of the memorial was a fitting tribute to the men who lost their lives—and to those who have and will spend their lives in the mines, and to their families. But the dedication expressed another tribute which should not go unmarked. It was a tribute to a man whose name will not be inscribed on the monument to be read by future generations, but whose acts have given him a special place in the hearts of those families who lost men in the disaster. That man is Marvin Chase. Others may find it surprising that the Sunshine Widows asked the manager of the company to represent them at the ceremony. The people of Kellogg will understand. As one of the widows put it, Marvin Chase, the manager of the Sunshine Mining Co.,

Performed many acts of unobtrusive helpfulness and kindness . . . too many to enumerate.

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

[From the Kellogg (Idaho) News, Apr. 29, 1974]

SUNSHINE WIDOWS ASK MINE CHIEF REPRESENT THEM

The Sunshine Widows' Group has asked Marvin Chase, manager of Sunshine Mining Company, by letter "to represent the mining industry at the dedication of the Miners' Memorial Monument on May 2," and to represent the widows on the platform.

"We are asking you now to do something more for us on that day. We have decided that we want you to represent our group on the platform that day—decided it unanimously. No one from our group will be on the platform."

"In the course of this project of ours we have learned about so many acts of unobtrusive helpfulness and kindness on your part—too many to enumerate. So many times you have smoothed out the way for us. We feel it in our hearts—for the heart knows—what we cannot express. Ever so many people have contributed their talents, their know-how, their money, and their efforts to the realization of this impossible dream that we initiated and we cannot thank them all adequately, either."

"One of our group said that each of us has lost at least one dear to us—a loss that broke a heart—but you lost ninety-one, and that is a burden that lies heavy on your heart. So, on the platform on that day, will you represent all of us and in our name, give this memorial statue to the valley. We are grateful to so many for the uncountable acts of love and kindness that carried us through those days in May of searing pain."

The letter was signed by Edna Davenport, Eileen Pena, Doris Sargent, Elizabeth Rais, Mary Ellen Wilson and Elizabeth Fee.

NATIONAL HEALTH INSURANCE—IDAHO LOOKS AT THE PROBLEMS

Mr. CHURCH. Mr. President, after studying the concept of national health insurance as advanced by several legislative proposals currently pending before Congress, the Idaho Governor's Advisory Council on Comprehensive Health Planning has made recommendations regarding principles which they feel should be incorporated in any proposed system of national health insurance.

I know my colleagues representing rural areas recognize, as I do, that access to quality health care involves not only monetary concerns, but geographical as well. In line with this, the Idaho Council has endorsed the innovation uses of all available health manpower along with incentives toward increasing the quantity and quality of all health practitioners.

The points adopted by the Governor's Advisory Council are certainly worthy of consideration by Congress, and I ask unanimous consent that the text of this position paper be printed in the RECORD.

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

TEXT

The Governor's Advisory Council on Comprehensive Health Planning has thoroughly studied the "National Health Insurance Concept" over a period of eighteen months. In addition to analyzing the many, many proposals introduced in both the 91st and 92nd Congresses, the Governor's Advisory Council prepared its own "background paper" of analysis and comparison of the proposals introduced in the 92nd Congress prior to April 15, 1972. The Council has also examined and evaluated all of the subsequent proposals.

In January, 1972 the Council arranged and held the Governor's Conference on National Health Insurance Proposals. The Conference was attended by more than forty representatives of both state and national health and consumer organizations. The Council heard eight hours of oral testimony from representatives of nineteen organizations and received eighteen pieces of written testimony. The Proceedings of the Governor's Conference on National Health Insurance Proposals was published, widely distributed, and additional testimony from the readers of the Proceedings was solicited.

The regular quarterly meeting of the Governor's Advisory Council held on February 24–25, 1972 had, as the major item agenda, an in-depth discussion of the national health insurance concept and the many and varied proposals.

During its three and one-half year history the Governor's Advisory Council on Comprehensive Health Planning has addressed itself to the study and the recommendation of solutions to the problems of the facilities, services, and manpower components of the health care system in Idaho which, while peculiarly indigenous to Idaho, are also typical of rural areas in much of the vast land mass of these United States.

The spirit and the substance of many of these individual recommendations evidence the Council's consistent conviction that "change" should be advocated only when predicated on deliberative, reasoned judgment. This statement regarding the national health insurance concept is based on the deliberative, reasoned judgment of the Governor's Advisory Council on Comprehensive Health Planning.

The purpose of this statement is to convey the deliberative, reasoned judgment of the people of Idaho, as represented on the Governor's Advisory Council on Comprehensive Health Planning, to the elected representatives of the people who, as members of the Congress, are best able to express the will of the people of Idaho relative to the national health insurance concept.

FUNDAMENTAL BELIEF

It is a fundamental belief of the Governor's Advisory Council on Comprehensive Health Planning that a national health program should not be simplistic and based only on a massive infusion of public funds. The special problems of health care delivery to rural areas, as well as to the urban ghetto and even to many middle income citizens are so deep-rooted and so complex that they cannot be solved only with money.

RECOMMENDED PRINCIPLES

The Governor's Advisory Council urges that each of the elected members of the Idaho Congressional Delegation be advised that the Governor's Advisory Council on Comprehensive Health Planning recommends that consideration of the various national health insurance proposals should incorporate the following principles:

The Governor's Advisory Council accepts two major premises:

It accepts the premise that everyone in the nation should have access to the full range of preventive, curative, and rehabilitative health services regardless of the ability to pay for the services.

It accepts the premise that the accessibility of health services to the individual consumer is inextricably interrelated with the availability of skilled health manpower and, therefore, any system of national health insurance must necessarily act to promote the increased development of both traditional and new health disciplines; it must necessarily act to provide financial, as well as other incentives, to increase the quantity and the quality of all health practitioners; it must necessarily act to encourage the innovative uses of all available health manpower.

Based on these premises, legislation creating a national health service system should also incorporate the following principles:

1. The system should insure that the consumer has a free choice from among the available providers of health service.

2. The system should assure that the private health insurance system can continue to function, on the one hand, as a counterbalance againts bureaucratic meddling and political interference, and, on the other hand, to provide the dynamic mechanisms to encourage innovation in the provision of health care services.

3. The system should provide for a mix of revenue sources which is neither regressive nor inequitable to any sector of the economy of the population.

4. The system should assure that the administration of the system will be both reasonable and just, and will have enough flexibility to be able to respond to the desires of the providers and consumers of the health services through the continuing and dynamic comprehensive health planning process.

THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

Mr. STEVENS. Mr. President, from August 3 through August 6 I was in Caracas, Venezuela, where I attended the Third United Nations Conference on the Law of the Sea as adviser to the U.S. delegation. With me in Caracas were my good friends, the Senator from Maine (Mr. MUSKIE) and the Senator from Rhode Island (Mr. PELL). At the time of our visit the 10-week conference was

in its seventh week and main trends in the conference proceedings were already becoming apparent. I had an opportunity to discuss these trends at some length with leaders of the United States and foreign delegations and with representatives of the U.S. fishing industry participating in the conference. Most of those with whom I spoke were very aware of the possibility of action by the U.S. Congress on matters directly related to Law of the Sea issues—particularly of a bill which I am cosponsoring, S. 1988, which would extend as an emergency measure our fisheries management zone from 12 to 200 miles.

I would like to take this opportunity to share with you some observations concerning the conference proceedings which I made while in Caracas and my subsequent assessment of how we in the Congress must act in response to the present Law of the Sea situation. I am more concerned now, than I was before going to Caracas, with the crisis threatening this Nation's fisheries, and am more convinced than ever that it is crucial to the overall best interests of the United States that Congress take immediate action to extend our fisheries management zone to 200 miles.

As you know the Caracas conference is of unprecedented size with 149 nations participating. It has before it a task of unprecedented magnitude for an international conference. The more than 80 ocean-related issues comprising the official agenda are of enormous political, strategic, and economic implication to the international community. As a Senator from the State possessing more than half the coastline of the United States, I fully share the enthusiasm of conference delegates for their goal of establishing a fair system of international law defining nations' rights to use and lay claims to the world's oceans. However, we must clearly recognize the limitations of such a large conference to move with adequate promptness on an issue requiring immediate attention and resolution.

When in 1971, the General Assembly of the United Nations passed a resolution calling for a major conference on the Law of the Sea, it did so in anticipation of a rapid global intensification of use of the high seas for commerce, resource exploitation, military activities, and scientific research. The General Assembly recognized the desirability of preventing this intensification from occurring in anything but a peaceful manner. The success of the Law of the Sea Conference is dependent upon the degree to which it can anticipate potential ocean-related problems and confrontations and resolve them by an equitable and agreeable statement of law before injury occurs. I think it is fair to say that for most issues under consideration by the delegates in Caracas there is time for deliberation—even if the promulgation of a comprehensive Law of the Sea Treaty is delayed for another 1 to 4 years or longer as most Caracas observers are now predicting.

However, in the fisheries issue we have already run out of time. A rapid international intensification of effort in fishing has been underway worldwide for more than 10 years. While most resources of the high seas have barely been touched commercially, the exploitation of fisheries has been pushed to and even beyond the practical limit in many regions of the ocean. At least 11 commercially valuable species of fish are already depleted or are threatened with depletion off the coasts of the United States alone. Most of these species have for some years been covered by some sort of international fisheries agreement. From an average annual catch of 700 million pounds in the period from 1952 to 1960, the U.S. catch off the New England coast was cut 40 percent to 418 million pounds in 1969, while foreign catch increased from an annual 7 million pounds to over 1.2 billion pounds in 1969.

As an example of conditions on the west coast, in 1963 the United States and Canada put out 104 halibut boats in the Bering Sea, catching 11 million pounds of halibut. In 1973 the 7 surviving halibut boats caught a total of 167,000 pounds of halibut. In the same period the Japanese increased their trawl catch 500 percent and in 1973 caught an estimated 11 million pounds of halibut incidental to the target catches. In my home State of Alaska, Bristol Bay was this year declared a State and national disaster area because of the depletion of salmon runs upon which the economy of the area depends.

It was heartening for me to learn several weeks ago through State Department cables that widespread agreement had developed in Caracas in favor of a 200-mile economic zone. The State Department joined this growing international concensus in a major policy shift announced on July 11 in the Law of the Sea Conference Plenary by Ambassador John R. Stevenson, leader of the U.S. delegation. Ambassador Stevenson proposed a 200-mile economic zone giving the coastal nation exclusive rights to all seabed resources and preferential rights to fisheries resources, meaning that while the coastal nation would have full sovereignty over seabed resources, foreign fishermen would be guaranteed the right to fish underfished coastal stocks up to their scientifically determined maximum sustainable yield. International navigation and overflight would remain unhampered.

In the limited realm of fisheries S. 1988 closely resembles the State Department proposal. It attempts to minimize economic hardship caused traditional foreign fishermen of U.S. coastal stocks by stricter conservation and management regulations. The State Department proposal is viewed as one of the most moderate proposals now under consideration in Caracas. Other economic zone proposals enjoying major support call for coastal State sovereignty over all resources within 200 miles of shore, while the most extreme proposals advocate a 200-mile territorial sea. The only nation of major significance to expressly oppose any kind of extended economic zone is Japan which would like to see the ocean beyond the present 12-mile contiguous zone remain high seas.

Of great concern to me is the fact that although there now exists almost universal agreement that the coastal nation has the right to conserve and protect its fisheries within 200 miles of shore, implementation of this agreement must wait until all of the 80 issues under consideration in Caracas have been resolved and incorporated into a single comprehensive Law of the Sea Treaty. Many of these issues presently arouse considerable controversy. Ambassador Stevenson in his July 11 speech emphatically stated that the U.S. delegation would accept nothing less than a single comprehensive treaty—this position is shared by a number of foreign delegations.

Such a position may seem logical in the conference chamber and unquestionably contributes to greater security for the negotiator. But it does nothing to answer the difficult reality we are facing. It would be cruel irony if the mechanics of the Law of the Sea Conference contributed to a continued lawlessness on the seas such that fish stocks are destroyed while the world is working to preserve them. A global consensus in their favor will do our fishermen little good if their livelihood is nonetheless destroyed.

The dominant theme at the dinner and two luncheons with foreign delegates arranged for Senators MUSKIE, PELL, and myself by the U.S. delegation in Caracas was that one must not expect too much of international negotiation. We were told: "It takes time to build international law." This point was explained to me at length by members of the Japanese and Russian delegations. As a U.S. Senator I was counseled against taking action to extend our fisheries management authority.

I continue to believe that international law governing the oceans is attainable and eminently worthwhile, particularly law preserving world fisheries. But if the present lack of concern for basic conservation principles on the seas persists among some foreign fish operators for the indefinite amount of time necessary to conclude the law of the sea negotiations then we may be left very little of value to preserve. Enactment of S. 1988 by the United States will not be prejudicial to the successful formulation of a law of the sea treaty. On the contrary, S. 1988 conforms to world trends. As a fisheries conservation measure S. 1988 is a fair fisheries proposal which demand of foreign fishermen only that they accept the conservation measures we impose ourselves. I am confident that, given the consensus now evident in Caracas, any eventual law of the sea treaty will affirm or strengthen the fisheries protection established through S. 1988.

There has been no moratorium on international fishing within 200 miles off our shores in deference to the deliberations in Caracas and the world consensus evident there. It does indeed take time to formulate international law and the nations fishing our coastal and anadromous stocks to the point of depletion are apparently quite content to delay. We must

act firmly and demonstrate openly that we will not abandon our commitment, enunciated in Senate Concurrent Resolution 11, to preserve U.S. fisheries. Strength, rather than weakness on this issue cannot but serve this Nation's overall interests and, in addition, remove an important incentive for delay in the law of the sea negotiations. I return from Caracas with the conviction that we must act to extend our fisheries management authority to 200 miles. The U.S. Congress is now the only organization capable of taking measures to insure the survival of U.S. fisheries.

Thank you, Mr. President.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the International Convention on the Prevention and Punishment of the Crime of Genocide may not redirect the flow of international relations. For the accord appears to impose a demand for selfless action upon its signatories. And relations between world leaders and diplomats have historically—and too often necessarily—been based wholly upon strict self or national interests.

But the convention will impose a new constraint upon that traditional perspective. By defining genocide as an international crime and obligating the parties to the accord to action against perpetrators of this offense, the convention erects a significant moral barrier against this horrible abuse of power. The price of this defense is not high. In creating this collective protection from genocide the nations of the world need only surrender their freedom to plan and impose programs of mass extermination.

This constraint will be fully effective, however, only when it has the support of the major world powers. To date more than 75 countries have ratified the genocide convention. Regrettably, the United States is not among that number.

Without American support the genocide convention is only an empty gesture toward international moral cooperation, toward any change in the moral blindness that has characterized the interaction between nations. More importantly, our failure to approve the treaty is an unflattering reflection upon our own ethical vision. Mr. President, it is long past time we set aside our concern with petty legalisms and move toward immediate reconsideration and ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide.

COMMUNITY SERVICES ACT— A DANGEROUS BILL

Mr. McCLURE. Mr. President, one of my constituents, Mrs. Harriet P. Crank, of Bridge, Idaho, has brought to my attention a statement which she and some of her neighbors have prepared after reading the Community Services Act. I am pleased to learn that my constituents are aware of this dangerous bill, and I am particularly grateful to Mrs. Crank for bringing this petition to my attention.

I ask unanimous consent that it be printed in the RECORD.

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

PETITION

DEAR SENATOR McCLURE: We are very much alarmed by the Child & Family Services Act now coming up before the House and Senate.

For this reason we want to invoke our right to petition that was saved for us by John Quincy Adams. So we are enclosing a Petition to the Senate, and ask that you present it for us.

We would very much like to have it included in the business of the day and to appear in the CONGRESSIONAL RECORD.

Your very truly,

Mrs. Henrietta Kelley, Rachel Wunder, Lewis L. Young, Jenny Young, Ray Kelley, Alva E. Wunder, Patty Kelley, Loverna Gerrard, Mary Long, LaVetta Plocher, John Gincard, and L. D. Baker.

Carl E. Richardson, Lyon Plocher, Royce O. Tolman, Glenn W. Long, Donald C. Kelley, Dolores Baker, LaRae Tolman, Karen Fearnside, Alta Fowler, and Ellen Kelley.

PETITION

Definitely, but definitely, seeking to go beyond the will of the people and their elected representatives, the Community Services Act, HR 14449, passed by the House of Representatives (331–53) is the climactic expression of congressmen who vote on bills they have neither read nor studied, and have been pressured into okaying.

Contradicting itself many times, the 180 page Act has provisions for asking the governor of a state and the elected officials of counties, cities and towns, if Community Services may enter, but it also has definite provisions for by-passing any or all of these officials if they say "No!" Similarly it bypasses the people in an election. If the people of an area vote against it, the Director is empowered to enter the area anyway and establish Community Services.

Opening an incredibly big pork barrel, so ultimately disgraceful is the intent of the Act, it has unscrupulous auditing features written into it. It says salaries paid to bureaucratic employees of organizations subsidized under the Act, "Shall not be counted as Administrative."

Authorizing more than $1.5 billion for Headstart, the Act covers almost everything in the life of a low income family. It would supplement the family's food, provide medical and legal services, loan up to $3,500 for 15 years at not less than 1% interest for a down payment on a new home or to fix up an old one, make loans to low-income business men of up to $50,000 on the same terms, direct vocational and pre-vocational education, sports of most kinds, child development, day care, and a host of other goodies including money for demonstrations that were not illegal. The Director would even be empowered to enter the bedroom with medical supplies and assistance for 'family planning.' On one page the Act says, "Use of Family Planning Services . . . shall not be prerequisite to receipt of service from or participation in other programs under this Act," but on another page it says, "The Director is authorized to suspend further payments . . . whenever he determines there has been material failure to comply."

Senator Curtis, of Nebraska, writing in the CONGRESSIONAL RECORD, says many members of the House voted for H.R. 14449 because they felt they had to "in order to survive politically." He says special poverty groups have spent a year organizing "to protect their private claims on the public purse" and that this lobby has permeated nearly every Congressional district. Citing their OEO (Office of Economic Opportunity) funding, Curtis says they have "ridden to battle armed with literally millions of dollars of public funds to advance their cause."

Speaking of the Act's provisions to "support local government and include their social values and political objectives into every community," Senator Curtis says if this bill passes the Senate, "We might as well abolish Congress, abolish state and local government, and simply turn over the authority which we hold in trust from the people to the faceless bureaucrats who many feel already run America.

FIGHTING "AGEISM" IN EMPLOYMENT

Mr. CHURCH. Mr. President, in the last several months there have been some heartening signs of progress in combating age discrimination in employment. In April, the Fair Labor Standards Amendments of 1974 became law and extended the protection of the Age Discrimination in Employment Act to employees of Federal, State, and local governments. Coverage of private employers was also amended to include those with 20 and more employees compared to the former stipulation of 25 or more. I was pleased to have sponsored these amendments.

In May, Standard Oil of California agreed to a settlement of $2 million in the largest age discrimination award ever. In June, the Labor Department filed a complaint against two railroad companies seeking $20 million on behalf of some 300 present and former employees in the largest suit ever filed. This suit is particularly important in that it challenges a mandatory retirement age of 62.

These events are recounted in a perceptive article by Sylvia Porter, "U.S. Wars on 'Ageism,'" in which she applauds the "new, no-nonsense crackdown." On the other hand, she points out that while thousands of workers did get some help under the law, there are many, many more who did not. She estimates:

> The number of U.S. workers being hit by this form of discrimination is surely in the millions, not the thousands, and the amount of money forfeited by these victims is surely in the billions, not the millions.

I agree wholeheartedly with Miss Porter, and while I, too, applaud the Labor Department's recent actions, I wonder why the enforcement of the Age Discrimination in Employment Act is continually starved for funds. The Congress at the outset authorized $3 million for enforcement of the act. This was recently raised to $5 million because of the extension of coverage. Yet the Labor Department has asked for only $1,755,000 for funding in fiscal 1975—a funding level which would support enforcement activities at the 1972 level.

I am disturbed that the Department does not back its increased responsibilities to enforce age discrimination in its many guises with requests for adequate funding. Also disturbing is the length of time required to investigate cases. In the Standard Oil suit, some of the employees were discharged as long ago as December 1970. In the case of another

individual with a legitimate complaint which was brought to my attention, the Department took almost a year and a half to decide that it would not file suit. Certainly part of this delay is the lack of adequate investigative manpower.

The fiscal 1975 Labor budget is now being considered by a subcommittee of the Senate Committee on Appropriations and I have asked Chairman WARREN MAGNUSON to consider additional funding for these activities.

Funds spent in this way would not be inflationary but would instead save public money otherwise needed for unemployment and welfare payments. The savings in human resources is immeasurable.

Mr. President, I ask unanimous consent that the article by Sylvia Porter be printed in the RECORD.

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

U.S. WARS ON "AGEISM"

(By Sylvia Porter)

The opening salvo has been fired at last in a new, no-nonsense crackdown against our most rampant and devastating form of job discrimination—"Ageism."

Just two months ago (May 15) the giant Standard Oil Co. of California agreed in an historic settlement of a case brought by the Labor Department to award $2 million in back pay to 160 older employes the company had illegally discharged between December 1970 and Dec. 31, 1973, because of their age. The company also agreed to rehire 120 of these workers.

The settlement made history because it was by far the largest ever made under the little known 1967 Age Discrimination in Employment Act.

One month later, the Labor Department filed a $20 million suit against two of the nation's leading railroads—the Baltimore & Ohio and the Chesapeake & Ohio—on the basis that the railroads had illegally fired, demoted or denied work to no fewer than 300 employees between 40 and 65 in violation of the age discrimination law.

The Chessie suit made history not only because of its size in dollars but also because it challenged, for the first time in the law's history, the company's mandatory retirement age of 62.

Should the workers involved be awarded the full $20 million by the Baltimore Federal District Court, it would mean an average settlement of more than $66,000 for each worker.

Should the ban on the mandatory retirement age of 62 be upheld by this court, the implication would be that virtually every corporation now pegging retirement at this age would be legally vulnerable.

These suits, says Labor Department attorney William Kilberg, are merely a hint of what's to come. Under the law, including an important round of new amendments signed into law by President Nixon along with the minimum wage amendments on April 8:

Private employers with 20 or more employes may not discriminate against workers between 40 and 65 because of their age unless age is a "bona fide occupational qualification"—as, say, for baby clothes model.

The ban applies not only to hiring; it also applies to hiring, promotion, awarding fringe benefits, other job practices.

Job ads may not discriminate against older workers (e.g., by specifying a "young person," "teenagers," "recent college grads") and discrimination by employment agencies and unions also is banned.

Coverage under the Age Discrimination Act is extended to nearly 14 million federal, state and local government employes. In addition, the yearly budget authorization by Congress for enforcement of this law was increased from $3 million to $5 million.

Before you raise even a feeble cheer, however, let it be understood that the liberalizations and the new aggressive stance by the Labor Department enforcers have been painfully long in coming.

In an enormous number of workplaces, a person who is over 40 is designated as an "older worker." Age discrimination in job recruiting and job ads remains pervasive.

While in fiscal 1973, thousands of workers did get some help from the Labor Department Wage & Hour Division in keeping or regaining job privileges which had been illegally denied them, the number of U.S. workers being hit by this form of discrimination is surely in the millions, not the thousands, and the amount of money forfeited by these victims is surely in the billions, not the millions.

On top of this illegal discrimination, the older worker in the United States (and there are 37 million between the ages of 40 and 65) is being squeezed by today's murderous inflation. And this squeeze is not only on current incomes but also on carefully accumulated nest eggs and pensions.

The spectre of rising unemployment at a time when today's queasy economy could quite easily tilt downward rather than rebound is far more serious to the older than to the younger worker.

SHORTAGE OF NATURAL GAS

Mr. ROTH. Mr. President, in his speech to the Congress and the Nation on August 12, 1974, President Gerald R. Ford set the tone for a new spirit of cooperation between Congress and the executive. President Ford's call for "action, not words" was a long-overdue plea for constructive leadership in the resolution of the great problems facing this Nation. His commitment to cooperative action between Congress and the executive was an important first step toward the development of effective solutions to the Nation's problems.

I was particularly pleased by the President's endorsement of a Cost of Living Task Force and a proposed economic conference of members of Congress and the executive branch, and leaders of labor, industry, and agriculture to deal with the vexing problems of inflation. For the past 5 months I have been urging my colleagues in this Chamber to establish such an anti-inflation commission composed of representatives of all segments of the economy.

As the President noted in his address, "inflation is public enemy No. 1," and we must make every effort to bring it under control. The renewed spirit of cooperative problem-solving he outlined will make the finding and implementing of solutions to our most pressing problems immeasurably easier.

I do not believe that coordinated problem-solving should stop with inflation. There are other important issues facing this Nation, and we should take intelligent and decisive action to resolve them. These problems could also be approached through the use of task forces to recommend solutions to the President and Congress. The task forces would not only recommend policy alternatives to resolve timely issues, but they would also help to cement the divisions that now exist between various factions of Government, industry, and the public. Accordingly, last week I wrote to President Ford urging him to establish a task force to address the increasingly critical shortage of natural gas.

Today, natural gas represents 38 percent of all energy consumed in the United States. It serves 43 percent of the country's industry and 150 million Americans in their homes.

Since 1968, Americans have been consuming natural gas at about twice the rate of its discovery. As a result, there has been a continuing decline in our natural gas supplies. Only a decade ago this country had an 18-year supply of natural gas. Today the proved reserves are less than a 10-year supply. At the same time our reserves were being depleted, we have had an unprecedented and unforeseen growth in demand, which has exacerbated further the growing stress on our limited natural gas supply. In the past year, this problem has reached critical proportions.

In June 1974, the chairman of the Federal Power Commission—FPC—stated that there was "growing evidence of a deepening and potentially crippling" natural gas shortage. The Federal Power Commission has pointed out that some areas of the United States face critical natural gas shortages next winter and spring, particularly the Atlantic coast. The FPC predicts curtailments of firm natural gas supplies for 1974–75 will increase by 80 percent over last winter; the shortage is anticipated to reach 1.8 trillion cubic feet. In addition, the curtailment of interruptible users over the same period is anticipated to increase by 60 percent to 0.2 trillion cubic feet. Thus, the natural gas supply deficit is expected to reach 2 trillion cubic feet, which is nearly 10 percent of total natural gas demand.

The future outlook, if present policies are continued, is even more startling. By 1980 the shortage is expected to reach 9 trillion cubic feet and by 1990 it will be 17 trillion cubic feet. The severe economic dislocations in the next decade are all too apparent if reserves are not increased substantially by new discoveries.

The reality of the shortage of natural gas is unquestioned. The question is should the shortage have occurred in the first place and can it be overcome in the future?

Gas industry estimates indicate that there is an abundant supply of natural gas to be tapped which could satisfy both our immediate needs and those for the foreseeable future. According to these estimates, the quantity of natural gas known to be recoverable on the basis of available technology and current geological and engineering data as of December 1972 was 266.1 trillion cubic feet in the United States, including Alaska. At that time, estimates of "potential" natural gas supplies; that is, gas not yet in proved reserves, ranged from 1,146 trillion cubic feet to as high as 6,600 trillion cubic feet. The low estimate of "potential" reserves is significant when it is noted that it is over 50 times this

country's 1972 consumption. It is for this reason that the natural gas shortage has been said to result not from an inadequate domestic resource base, but rather from a lack of incentive to explore for and develop new resources.

Since 1954, when the Supreme Court extended the authority of the Federal Power Commission over the sales of natural gas producers where the gas is sold for resale in interstate commerce, a controversy has raged between producers and consumers. The producers have charged that the price of natural gas has been kept artificially low, creating disincentives and causing shortages. On the other hand, consumers believe that regulation is essential to prevent exorbitant pricing with no assurance of additional supplies. The result has been a legislative roadblock for 20 years.

In my letter to the President, I called attention to a number of other problems associated with the shortage of natural gas that require congressional direction. While the shortage can only be corrected by additions to the proved reserves, a time-consuming process, the threatened curtailments of natural gas to the nearly 3 million commercial and industrial users require a different type solution—how to use the available supplies in the most equitable manner. It is important to note that these curtailments will manifest themselves in varying degrees in various regions of the country, depending upon the supply posture of specific pipeline companies.

The impact these shortages will have is vividly demonstrated by Delaware's problem. The Transcontinental Gas Pipe Line Corp., which services the First State, anticipates that curtailments will vary between 23 and 33 percent over the next year. This curtailment could have a profound economic impact. For example, Delmarva Power & Light Co., the local distributor, reports it will have to curtail power to industrial customers with a total employment of over 16,000 people and an annual payroll in excess of $180 million.

Delaware is not alone in facing this problem. If the Federal Power Commission's predictions are correct—and we have no reason to believe they are not—similar shortages will begin to affect individuals and industries throughout the East, Midwest, and Southeast.

The obvious solution is to rely on the independent and executive agencies to deal with the anticipated shortage. Unfortunately, the Federal Power Commission, the Federal Energy Administration, and other agencies do not have the necessary powers to deal with the imminent shortages. In response to this situation, on June 19, 1974, I introduced S. 3677 to authorize the Federal Power Commission to allocate scarce supplies of natural gas.

As we all know, it takes more than the introduction of legislation to solve problems. Notwithstanding the introduction of more than 1,500 bills in the 93d Congress, literally hundreds of hearings and many extensive investigations, legislative progress on energy problems has not been impressive. Five major energy bills have been enacted by the 93d Congress, only one of which will add to the supply of natural gas.

Additional legislation, while it is important, is not the final answer. What we need is a national consensus on national problems. In my opinion, the best way to get this consensus is through well-conceived programs developed by task forces comprised of knowledgeable representatives of the Congress, the executive, business, labor, consumer groups, and other interested citizens.

Therefore, I have requested the President to establish such a task force to recommend a program for resolving the myriad of problems associated with the natural gas shortage. I would envision this task force to consist of 10 to 15 persons to examine both short- and long-term problems in natural gas supply. Congressional representation should be two from each House, one from each political party. The task force would have a life of 90 days, and would have available to it the talents and resources of all branches of Government.

The task force would be instructed to provide the President and the Congress with a pragmatic program with sufficient appeal to permit its timely implementation. Upon request by the President, I am confident that task force members would subjugate their personal interests for the national good; and would, through an openminded consideration of the issues and alternatives, hammer out a consensus that could be supported by the majority of the concerned parties.

Mr. President, the past few months have been extremely difficult ones for all Americans. The constitutional crisis brought on by Watergate has tested the very foundations of American Government. That crisis is now behind us. It is time to undertake a new spirit of cooperation in the resolution of the critical problems facing this country. I feel that task forces of the kind I am recommending on the natural gas shortage would be an effective way to develop meaningful solutions to our major national problems.

I expect to propose other task forces to President Ford and my colleagues in the Congress in the next few days.

Mr. President, I ask unanimous consent that a copy of my letter to President Ford be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., August 16, 1974.

Hon. GERALD R. FORD,
President of the United States,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: Your speech to the Joint Session of Congress on August 12, 1974, was an inspiration to all Americans. Your call for "action, not words" was a long-overdue plea for constructive leadership in the resolution of the great problems facing this nation. I was also gratified to hear you urge cooperative action between the Congress and the Executive in the solution of important problems.

Your endorsement of a Cost of Living Task Force and a proposed economic conference of Members of Congress, the Executive Branch, and leaders from labor, industry, and agriculture was a positive step toward dealing with inflation. For the past five months I have been urging the Congress to establish such an anti-inflation commission composed of representatives of all segments of the economy.

As you aptly stated, "inflation is public enemy number one" and we must make every effort to bring it under control. I do not believe that coordinated problem-solving should stop with inflation. There are other important issues facing this nation, and we should take intelligent and decisive action to resolve them. I would urge you to give serious consideration to the establishment of other task forces on problems critical to America's future. One area which should receive immediate attention is the shortage of natural gas supplies.

The Federal Power Commission (FPC) recently pointed out that many areas of the United States face critical natural gas shortages next winter and spring. The FPC predicts curtailments of firm natural gas supplies for 1971–1975 will increase by 80 percent over last winter; the total natural gas supply deficit is expected to reach 2 trillion cubic feet, which is nearly 10 percent of the total interstate natural gas demand.

By 1980, the shortage is expected to increase to 9 trillion cubic feet and by 1990 to 17 trillion cubic feet if present policies are continued. The economic and social implications of these shortages are profound.

A wide range of industries and public services depend on natural gas. In fact, natural gas supplies one-third of the nation's total energy requirements. With alternative fuels also in short supply, the number of options available to gas users is limited. Thus, many plants have already announced preliminary plans to layoff thousands of employees if supplies become scarce. This action will be duplicated nationwide, and will become more serious in the future, unless we take steps now to improve our response to this critical issue.

Answers must be found to the legislative deadlock that has thwarted the development of natural gas policies that would expand the supply of gas and minimize the impact of the shortage of this national resource. Inability to find a solution to the country's energy problems is certainly not due to inadequate attention by Congress. Countless hearings by more than 30 Senate, House, and Joint Committees and over 1,500 bills in the 93rd Congress attest to this. Yet, only one measure (the Alaskan pipeline bill) has been enacted that will provide additional oil and gas.

The controversy that has existed in Congress for 20 years between those who seek deregulation of wellhead natural gas prices and those who believe regulation of prices is inviolate is typical of the hard problems to be addressed. Other complex issues requiring decisions are:

Should the end uses of gas be restricted to protect higher-priority users?

Should available supplies of natural gas be allocated to minimize economic disruptions?

Should the jurisdiction of the Federal Power Commission extend to intrastate operations?

Are the estimates of available gas reserves reliable?

Should millions be expended to manufacture synthetic gas or import liquified natural gas?

In my opinion, a program acceptable to both the Executive and Legislative Branches that will best meet the needs of our country can most effectively be formulated in the shortest time by a task force for natural gas. Therefore, I urge you to establish such a task force. I would envision this task force to consist of ten to fifteen persons from Congress (two from each House), the Executive Branch, private industry, labor, consumer groups, and other interested citizens. The task force would have a life of 90 days, and

would make recommendations for realistic solutions to both short- and long-term natural gas problems.

The task force would be instructed to provide you and the Congress with a pragmatic program with sufficient appeal to be implemented readily. At your request, I am content the task force members will subjugate their personal interests for the national good, and will, through an open-minded consideration of the issues and alternatives, hammer out a consensus that can be supported by the majority of the concerned parties.

Over the past eight years, it has been my distinct pleasure to serve with you in both the House of Representatives and the United States Senate. I look forward to working with you on the important problems facing the United States, including inflation and the natural gas shortage. To this end, I shall suggest, in the next few days, the establishment of additional task forces to examine major national problems.

Sincerely,

WILLIAM V. ROTH, JR.,
U.S. Senate.

LEARNING CAPACITIES AND CONTINUING EDUCATION FOR OLDER AMERICANS

Mr. CRANSTON. Mr. President, I invite the attention of my colleagues to the text of remarks by Stephen Horn, president of California State University at Long Beach before the Senior Citizens League, Inc., in Seal Beach, Calif.

President Horn is interested in helping older people achieve the full potential of their later years and considers that recent studies reveal some important facts about the capacities for continuing growth in older persons. He points out the following: tests show that with stimulus the brain potentially can perform at its maximum capacity through age 90. Senility, these same studies show, is a conditioned response, especially prevalent in a society such as ours which has been politically, socially, and educationally preoccupied with youth. Learning does not decline significantly with age; the ability to learn at ages 50 and 60 is about equal to that at age 16.

President Horn believes that from ages 25 to 55—during one's working career—there ought to be a recurring pattern of formal educational training, as well as educational opportunities for the retired person who wants to take advantage of increased leisure time for personal enrichment and continued self-development. Several imaginative educational programs have already been initiated in U.S. colleges and universities to meet these needs, including such programs at California State University, Long Beach, as a counseling course, a preretirement training workshop, a self-paced program in evaluation and strengthening study skills and learning processes for those wishing to reenter a college, an activity course in theater appreciation, photography, and others. But there is nothing in this country yet to compare with the "Third Age College," a new division of the University of Toulouse in France, where the pace and curriculum is specially geared to those over 60.

The expansion and development of such continuing educational opportunities is seen by President Horn as an important item on our national agenda for the 1970's.

I ask unanimous consent that the full text of his remarks be printed in the RECORD.

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

HE WHO LEARNS LONGEST LIVES BEST AND PROBABLY LAUGHS A LOT MORE, TOO

(By Stephen Horn)

Carlos Chavez, Mexico's leading conductor and composer and our artist-in-residence at California State University, Long Beach for the past six weeks, was born in 1899. He witnessed the first flight of the airplane and the walk on the moon and probably has been privy to a host of other similar historical comparisons which make him in his own being an integral part of the history of the past three quarters of a century. He was a friend of Stravinsky, colleague of Schoenberg, and many other musical greats, and he came into our University this past month and a half and inspired students and faculty alike by his continuing creativity, his enthusiasm, his genius, and his humanness. For the first time in his long musical career, he conducted a symphonic band. He lectured in Spanish on Mexican folk music. He was the occasion for our first bilingual press release. He ran our Dean of Fine Arts, who is 43—but aging fast—ragged. My 32-year-old executive assistant, who escorted him for an afternoon's excursion to Disneyland, says he is everything in a man she has ever looked for. Now that is not what I call growing old.

Two weeks ago, Robert Maynard Hutchins, former President and Chancellor of the University of Chicago, founder and since 1959 head of the Center for the Study of Democratic Institutions in Santa Barbara, came to our campus as guest of honor and principal speaker for the dedication of the University's new Graduate Center. He, also, was born in 1899. He still speaks with the clarity and incisiveness and wit and relevance which have characterized his past 51 years as a noted educator and intellectual, and, which have for all those years made people reexamine their values in the light of his. He is tall, trim, with a dignified, imposing bearing. Now that is what I call "Dynamic Maturity".

What is it these men—(and it is just coincidence that it is two men relevant to this topic that were recently on our campus, ladies. I could name many women with similar qualities. We all remember the energy of Eleanor Roosevelt and have seen that of Golda Meir). What is it these individuals have in common? An active, still-curious and creative mind, a love of life and learning, a certain humility, and experience in living that puts the world in perspective and inspires those around them.

Obviously, and unfortunately or fortunately as one might view it, we are not all going to be a Chavez, a Hutchins, a Mae West, a Grandma Moses, an Alice Roosevelt Longworth. But we are all going to get one year older each year, and I think it is of some relevance, therefore, to know that tests show with stimulus the brain can potentially perform to a maximum through age 90. Senility, these same studies show, is a conditioned response, especially prevalent in a society such as ours which has been politically, socially, and educationally preoccupied with youth. Senility is not an inevitable result of human growth. Much of it, I suspect, is unnecessary. Learning ability does not decline significantly with age; the ability to learn at ages 50 and 60 is about equal to that at age 16.

Why, then, are not all retired people as eager to learn as freshmen arriving at college in the fall? Why are those over 52 not enrolled in college courses by the dozen? Why are so-called "rest" homes doing such a booming business? These are important questions; there are important answers and there are a number of reasons, and many of them involve a reexamination of the whole concept of higher education and the role of the public university such as California State University, Long Beach.

Retired people vary in their abilities as do other age groups; not all have the native ability for college level education but many have. This is actually an area where those retired persons who are capable of success in college—and a survey of some 2,000 retirees in California shows that more than 30% fall into this category—can provide a valuable community service in learning to aid and communicate with those, who are peers in age, but who lack formal education or commensurate experience, and who do not have basic learning skills. This group tends to withdraw, and their isolation leads to more rapid mental and physical deterioration.

However, even among those individuals suited for college education there are certain myths and traditions that work against the motivation necessary to continue the educational process: the idea that older persons cannot learn (the old-dog/no new-tricks syndrome), or the idea that the elderly have poor memories are myths. Many older adults suffer from insecurities and fears of not being able to fit into or adapt to what they see as youth-dominated educational activity. This image would not last long were it more widely known that our oldest freshman enrolled as a student in Comparative Literature in the fall of 1973, at the age of 81. Actually we have 87 students at the University between the ages of 60 and 81, and 476 between the ages of 50 and 59.

One of the greatest deterrents, however, has been what a member of our own faculty calls "an absence of scholarly recognition of the older American". The fact that the needs of the older individual have been ignored in educational planning and the fact that higher education—its programs and courses—has been traditionally viewed as belonging to the exclusive realm of the 18–22 year old, mainly living on campus or within easy access to campus, are evidence that the typical university is not geared to the educational needs, and formats, and delivery systems required by the adult student and especially by the senior adult citizen. Most such individuals have never been made aware of the opportunities and potentialities before them, or if they are aware they have been deterred from participation by a number of obstacles such as the increasing cost of education at a time when relatively fixed incomes such as Social Security are not rising as fast, as the cost of living. In competition with the basic necessities of food, clothing and shelter, education in many instances simply had to take the lower priority.

For the adult citizen, the choice between the necessities of life and education can no longer be tolerated. From its founding, the United States has made a growing commitment to the values of an educated citizenry, and, particularly in California where education has been provided at public expense. Now, that citizenry *lives* longer. As a result of improved medical technology and better living standards between 1950 and 1970, the over 65 population increased at more than twice the rate of the under-45s. Today some 20 million elderly individuals make up 10% of the total population. One in every 10 Americans is in this catgeory. At the present rate of increase, approximately half the population will be over 50 years of age by the year 2000, and the trend is toward earlier and earlier retirement. In addition, California has one of the largest concentrations of older Americans in the nation. By 1985, when the population will have passed the 25 million mark, California will have more than 2 million persons 65 years of age and over.

The consequences of this trend are twofold, and when aggravated by inflation, indicates an inescapable responsibility on the part of the entire educational system in this state. One consequence I will call, for want of a better term, social isolation. For those who are more affluent, with Social Security and private retirement funds, there is a move toward planned retirement communities such as this one where persons under 52, in this case, are excluded. On the other end of the income scale, we see the same exclusiveness but in what has been less attractively labelled the "geriatric ghettos" of the inner cities. Actually, the income statistics are not encouraging; the over-65 community is the only group in which the number of poor is rising.

Such isolation, especially among the less fortunate, often leads to a loneliness which contributes to the symptoms of senility and expedites fulfillment of that condition. Our current rate of inflation, however, is increasingly pulling the elderly all along the economic continuum bolt upright and fighting mad. They are more concerned than ever before for their own rights—in economics, in education, in social affairs, in housing, in credit, and in a number of other areas. And because of their rising numbers, their stronger sense of community, and the general trend among groups in the nation today who see themselves oppressed, there is an increasing tendency to establish an identity and insist on their civil rights. Older Americans are organizing again for the first time in more than 40 years. Our older citizens have not been more active politically since Dr. Francis E. Townsend, retired and living in Long Beach, issued the "Townsend Plan" to care for the elderly during the Depression. There are now more than 300 national organizations representing the interests of the old; they are calling upon the elderly to become issue-oriented. These organizations are becoming more and more militant. The most militant was established as the Gray Panthers several years ago. It now numbers some 2,000 members (15% of which are under 65) and it vows to fight "again"—discrimination based on age. The American Association of Retired Persons, headquartered in Long Beach, claims 6.5 million members and a substantial growth rate each month. In two years the National Council of Senior Citizens has grown from some 1.7 million members to 3.5 million. There are the National Council on the Aging which has some 1400 organizational affiliates and the California Legislative Council for Older Americans with about 50,000 members.

Politicians who have seemingly been preoccupied with youth cannot continue to ignore the older American. Educators, happily, have been a little less slow to recognize and to respond to the increasing demand of the adult population for educational programs relevant to their needs, for as our traditional enrollment has declined we have had to become more sensitive to new and potential constituencies. More important, as an educator, I, and others like me, have recognized that in an age of ever-increasing complexity of social and technological systems, it is more essential than ever before to provide an education through which the individual can come to grips with his or her own values, with those of his or her society, and with those of the broader world beyond—to provide a steadily broadening base on which a person can continue to learn and to grow as an individual, regardless of age.

This kind of educational commitment knows no bounds in terms of age or previous level of formal schooling. It is an approach which seeks to spread formal education over a person's entire lifetime. From ages 25 to 55, there ought to be a recurrent pattern of formal educational training during a work career in the United States as there is, by government subsidy (of the family as well as the individual) in several European countries. This serves to maintain a current and productive work force by keeping the individual up to date in terms of technological skills and theoretical understanding and by providing retraining for workers whose jobs are endangered by technological change. How much better it is to re-educate individuals during their working years before they are forced to pick up unemployment checks of limited duration which provide little hope and no opportunity upon which to build a new career. But there are also important spin-offs from this approach which should be carried beyond the working years into the retirement years. These include reducing the gap between the educated young and the older generation, preserving the ability to learn, resisting the rigidities of advancing age, and maintaining social awareness.

This re-entry education, as I call it, is applicable to the older worker who may be handicapped by obsolete skills, by a lower level of formal education than younger colleagues, or by a lack of self-confidence. Re-entry education is also extremely relevant to the retired person, who may be as young as 55, who wants to take advantage of increased leisure time for personal enrichment and continued self-development, and who has interests that range from current events, politics, foreign languages, and music and art appreciation, to the fine and applied arts and crafts. Re-entry education is relevant also to the individual who chooses to become involved, either on a volunteer, part-time, or even full-time basis in some community service such as day care centers, recreation, therapy or health care, or working with handicapped children or other older adults; this individual may well find that to embark on what actually may be a new career requires formal retraining. Re-entry education is relevant to the person who was caught in youth by the Depression and who finally sees an opportunity to earn the degree which has been too long denied. Re-entry education is relevant to the individual facing retirement on a limited budget who finds himself or herself needing to know about finances, investments, income tax, health, estate planning, consumer education, nutrition, health and physical fitness, insurance, car repair, legal services, employment discrimination, and housing improvement. Re-entry education is, in short, relevant to you all.

Today, an increasingly significant portion of higher education is either taking place outside traditional institutions or in nontraditional modes, such as the on-campus Weekend College at California State University, Long Beach which is designed to attract adults who have not had a college education or those who want to reeducate themselves in new areas. This program, which we expect to offer again next fall, is an interdisciplinary approach with basic courses such as "Explorations in Cultural Creativity" that give students an exposure to a variety of disciplines in a matter of months rather than the years which the traditional university pace on a course-by-course basis would require. In addition special weekend intensive workshops are offered off campus through continuing education. Courses are being developed in areas such as Allied Health training which will be offered through the California Instructional TV Consortium. An External Degree movement is developing which will permit individuals to utilize special courses designed for their needs as well as to draw on existing courses which are already in the regular curriculum of different campuses. When fully developed the external degree program will lead to various baccalaureate and master's degrees.

The campuses of America, and especially those public institutions of higher learning in California, are no longer the traditional medieval fortresses behind whose walls all educational activity must occur. They cannot afford to be isolated. With development of the continuing education or off-campus mode, there are limitless possibilities and opportunities for educational institutions such as ours to work with particular groups to develop programs tailored to special needs such as yours.

This process will be speeded up as evolving constituencies, including senior adults, place new demands on universities and colleges to meet their cultural, social, recreational, and occupational needs. This means providing educational experiences which will allow a chance for self-expression and involvement in the mainstream of society.

It will be up to institutions such as California State University, Long Beach, to provide you with those opportunities, but that will take some learning and readjustment on our part, for the older citizen definitely has different needs than the constituencies we have been more accustomed to serving. We will, for example, have to explore ways of providing credit for learning by experience, ways to simplify admissions and the stop-out and re-entry process, and ways to establish campus classes offered with the option of no credit or grade. Perhaps a special "audit" status should be established such as at Ohio State University's "Program 65" which does not require examination or papers from its participants. There is no flunking. Learning is free and for its own sake, but those enrolled have all the library and recreational privileges of any other student. We will need personnel who are able to advise the older adult on academic programs and even job planning and placement. We will need faculty who can conduct classes in a way that will take note of and utilize the experience of the older students, allowing them to be active participants in the class, rather than passive listeners in a lecture. We may well look to the expertise that exists within the very ranks of the population we are seeking to serve, for their services as teachers, special lecturers, and counselors.

Imagine what a fascinating learning process it will be for both faculty and younger "oldsters" in campus classes, people who fought in the First World War, lived through the Prohibition era, danced the Charleston, and who can offer a very special personal perspective to the textbook treatment of various aspects of the twentieth century. More than that, it will provide a channel for social interaction of such value and of such critical and mutual benefit to young and old alike, that I think it important enough from a sheerly educational viewpoint—in addition to the social and the economic perspectives I noted earlier—to facilitate this process by offering these educational opportunities to those over 65 free of all charge. I have formally proposed this to the Vice Chancellor for Academic Affairs of the California State University and Colleges system and hope the idea will be received favorably and rapidly by the Legislature. I am also hopeful that both labor and management will recognize their responsibility through the collective bargaining contract to fund educational opportunities for worker, spouse, and family during the working years as well as the retirement years.

There are already a number of precedents for facilitating the re-entry of older adults into the educational process. The "Third Age College", for example, is a new division of the University of Toulouse in France where the pace and curriculum is specially geared to those over 60. The United States has nothing to match this, but there are more modest programs springing up around the country. A small number of institutions already offer tuition-free education to older Americans, but one of the most imaginative approaches seems to be at Western Washington State's Fairhaven College which has experimented with what has been titled "multigenerational

living." At Fairhaven, individuals ranging from 60 to 80 pay modest fees to live in dormitories on campus that also house day care centers for preschoolers. While auditing classes and attending lectures and concerts, these new students also help out in the centers, providing not only services but also guidance and perspective for their younger campus neighbors.

While at this moment we do not have the flexibility or resources for an undertaking of that magnitude, we do have the capability now to provide instruction—either right here at Leisure World, or for example, at public libraries or other community facilities which provide easy access to all senior adults. Although I would clearly prefer to be able to offer such services free, thereby insuring equal access to all older adults, this approach is not at present legally or economically possible. The Learning Assistance Center on our campus can prepare specific self-paced educational programs in many subject areas on cassettes which can be used at your leisure with any standard tape recorder. This same method can also be used to upgrade or refresh fundamental learning skills.

A number of new programs designed for senior citizens are being planned in the Office of Continuing Education. These will include a counseling course, a pre-retirement training workshop, a self-paced program in evaluation and strengthening study skills and learning processes for those wishing to re-enter a college or university, an activity course in theatre appreciation, photography and others. However, in developing new programs for retired and semi-retired persons, the University's Continuing Education program is desirous of serving your needs and interests and would like to work with you or your representatives in developing both short-term courses of your choosing as well as a systematic long-range plan which could involve a combination of concurrent enrollment in university offerings, extension programs housed in convenient locations, noncredit workshops, external degree programs, seminars, and institutes. Such a program would be limited only by its academic and fiscal viability as well as your aspirations, desires, and dreams. Through contact with the various organizations which I mentioned earlier, or the Leisure World Corporation, special classes can be arranged to meet your needs and demands, and I look forward to greater cooperation between this community and our campus community in the days ahead.

I am encouraged to know, as I think you will be, of the current effort underway to develop a one-year comprehensive statewide plan for eductaional programs to serve the needs of California's elderly citizens and to provide a five-year statewide plan of effective education and supportive services in the area of aging. This grant is the first statewide coordination of the three public segments of higher education in California—the University of California, the California State University and Colleges system, and the Community Colleges. It is specifically designed to make older citizens in the state more aware of existing educational opportunities and to recommend new areas in which programs and services need to be developed. Working together with the private colleges and appropriate agencies and organizations, such as the Institute of Lifelong Learning in Long Beach, this study of educational and research needs will hopefully result in a systematic method of meeting the desires of the older adult—and increasing their awareness of the opporunity for continued education.

An exciting program is already underway on our campus—the Pioneer Project—established by the Asian Studies Center. Under this program Japanese-American students go back to their grandparents or greatgrandparents at home and record oral histories and gather old photographs, thereby gaining a greater sense of awareness and appreciation of their cultural heritage, a more personal sense of history, perhaps even a greater appreciation of older people. At the same time, through this kind of communication and inquiry, the elder has possibly bridged what may have been a formidable cultural and communications gap with the grandchild, the younger generation, "over-Americanized" youth, and in the process the grandparent may have gained a renewed sense of self-respect and self-*worth*, because someone has demonstrated interset in such experiences and knowledge. This program has potential as a model which can be applied to other groups of older people who tend to be isolated, suffering acutely and decaying rapidly as a result of inability to cope with the social dislocation of the fast-moving twentieth century.

Lastly, I want to return to a point I mentioned very early in my remarks—the potential role individuals such as you and the population of other Leisure World communities might play, with further specialized education, to aid those of your age group who are less fortunate economically, often living in the inner city, often alone, and frequently from an educationally deprived ethnic minority background. All the formalized educational programs in the world are not enough to instill the kind of spirit and motivation and caring I have been talking about. There is, I think, a specific and currently unfilled need for people who not only understand the special problems of the elderly, but who, more importantly, can establish a meaningful rapport with them. You could aid, for example, in teaching groups of the needy elderly (many of whom do not even have the funds to ride to free museums or to attend free classes were they so motivated) how to establish laundry, food, or transportation cooperatives or provide the methods of accomplishing the hundreds of other things that would improve living. You might be able to serve as a demonstration and inspiration of what they can do for themselves. You would also be providing a critical and now missing link between the educational institution and the elderly persons who are now simply surviving, rather than living with the dignity due them.

Statistically, we know that contemporary Americans are living longer, potentially they have a more productive life than their predecessors, yet they are often failing in an era of great mobility where the rapid pace of undreamed of events can lead to a sense of frustration and shattered self-image. We also know that the older population is the fastest segment in the nation. These trends contain the elements of personal frustration and social disaster. They also contain an opportunity for advancement and influence that has been unimaginable in the past. That choice is ours and it must rank high on our national agenda for the 70's.

It is time we revised our concept of "old" to "long-living" and accented not the declining powers of aging but the rising knowledge and experience which results from a long life.

THE PETROLEUM INDUSTRY

Mr. HRUSKA. Mr. President, the junior Senator from Oklahoma (Mr. BARTLETT) is one of the better informed members of the Senate on the subject of energy, and especially with reference to the history, structure, and functioning of the petroleum industry.

The Senator served as State legislator and later as Governor of a State which has vast activity and volume of petroleum in all of its aspects.

These official activities have served as a firm and practical foundation for the authority with which he speaks on the subject. And those experiences as legislator and Governor were followed during later years and when he came to the Senate by additional study and action as a member of the Committee on Interior and Insular Affairs.

Recently, he testified before the Subcommittee on Antitrust and Monopoly on which I serve.

The subcommittee hearings had for their subject the structure of the petroleum industry, the degree of concentration and competition which exist in it, the interrelationship of its component parts, such as exploration, development, production, pipelines, refining, distribution, and so forth.

Several bills are pending in the subcommittee relating to industrial reorganization generally of some of the Nation's basic industrial corporations, including those in the petroleum industry; and also some bills relating to divestiture of larger petroleum companies of some of the component segments of their activities.

The text of Senator BARTLETT's testimony indicates a very complete understanding of the issues and the problems in the legislation as well as in the energy field. He very ably analyzed both the bills and the issues and commented upon them in very knowledgeable fashion.

Mr. President, I ask unanimous consent that in order that my colleagues and other readers of the RECORD may gain a better understanding of this complex subject that Senator BARTLETT's statement together with attachments thereto be printed in the RECORD.

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

REMARKS BEFORE THE SUBCOMMITTEE ON ANTITRUST AND MONOPOLY BY SENATOR DEWEY F. BARTLETT

I would like to thank the Committee for allowing me to appear today and give my views on the consequences of restructuring the petroleum industry.

This is the first time that I have had the opportunity to share the testimony given before the Senate Interior Special Subcommittee on Integrated Oil Operations during the ten days of hearings between November 28, 1973, and February 28th of this year. The basic purpose of those hearings was to determine whether the market behavior of the petroleum industry is characteristic of genuine competition or of oligopolistic collusion.

Those hearings afforded all of the members of the Special Subcommittee an opportunity to gain a better understanding of the energy industry and the operations therein. By increasing our collective understanding, Congress, in my opinion, can better develop energy policies which will not only ameliorate the current energy situation but provide long term guidance toward achieving relative self-sufficiency in energy.

All of us would agree, even though we might have different methods of solution, that the real energy problem is one of insufficient domestic energy supplies to meet the growing demands of a modern society. The obvious solution to our dilemma is to increase the supplies of energy available. But how we do that, is the question.

The general public has been shocked by shortages, Americans have enjoyed the highest per-capita energy consumption in the world. The energy shortage, unfortunately,

is not contrived—for if it were contrived—it would be easy to solve. There have been many unfounded charges leaning towards sensationalism to take advantage of an emotional public ear.

But the energy shortage is the inevitable and direct result of 20 years of inept government controls—in particular the regulation of the wellhead price of natural gas sold in the interstate market and the import quota program. We have been selling our energy reserves off the shelf at less than replacement cost—now the cupboards are becoming bare.

Congress, thus far has been running on a treadmill—a lot of visible exercise but with no real constructive movement.

The chief obstacle that has impeded Congress' action on constructive measures that would increase the supplies of energy for the consumers of the United States is an unfounded fear by many members of Congress that there is a lack of competition within the petroleum industry.

Congress will take no significant action until its fears are removed and the public becomes more knowledgeable and the security blankets of Federal control are given up.

Regulation, such as the emergency allocation program and price controls on crude oil and natural gas, serve only to exacerbate the energy shortage.

The current shortage of energy is not a result of the structure of the industry.

The Chairman has conceded that the energy industry does not show up as concentrated when measured by normal concentration ratios. However, in the release announcing these hearings the Senator from Michigan said, "That most major decisions—on exploration, development, and delivery of crude end product—are in some fashion joint decisions among major companies." You gentlemen of the Committee should be much more aware than I that current antitrust law provides that companies cannot act jointly in a noncompetitive way. I must say that the hearings before our subcommittee provided no evidence of "joint decisions among major companies" for the purposes of reducing competition.

For the Record, Mr. Chairman, I would request that a table listing manufacturing industries in which the four firm concentration ratios exceeded 60% be inserted at this time. The list includes motor vehicles, steel, computing and related machines, aircraft, tires, cigarettes, and approximately 30 other industries. I should note at this point that domestic crude oil concentration is only about 31%. Crude and gasoline refining capacity about 33% and gasoline marketing about 31%. These concentration figures are less than half of most of the industries on the list I have submitted.

The Chairman has indicated that of particular interest during this set of hearings will be the "competitive impact of the major's dominance over crude production and pipeline ownership."

I cannot agree that the majors dominate crude production when approximately 3½ million barrels per day of the approximately 9 million barrels per day of domestic production is produced by independents. There are 10,000 independent oilmen in the United States. There are approximately 90 firms which produce over 1,000 barrels a day. Over 80% of the wells drilled domestically are drilled by independents. The majors hardly seem to dominate crude production.

As for pipeline ownership, the Chairman knows that pipelines must be common carriers and are subject to Interstate Commerce Commission regulation. Therefore, independents are guaranteed access to pipelines upon the making of a reasonable request to any shipper. Producing states also have regulatory bodies to protect correlative rights of independent producers.

I might add, that a great many of our pipelines would not have been built if the owners of proven but undeveloped reserves had not had the incentive to build the pipeline in order to develop their reserves and get them to a market.

I would hope that the Chairman intends to invite representatives of independent producers to testify concerning their access to pipelines. We had testimony in the Special Subcommittee on Integrated Oil Operations from independent producers that access to crude gathering systems was not a problem.

The Chairman has correctly observed that "one of the most crucial problems in this industry today is the shortage of refining capacity." And I am pleased that the Chairman also recognized that "there are a number of independent refiners—and others—who would build or expand refineries—if they could get crude." But, I would be quick to add two observations: (1) The shortage of domestic crude oil production has been caused by government policies and can be solved only by changing those policies. (2) Insufficient crude oil production has not been the only obstacle to many independents wanting to build refineries. Several independents such as Steuart Petroleum and Crown Central have tried to obtain approval to build refineries using imported crude oil on the East Coast and have been rebuffed by local and or state governments mainly for unfounded fears of environmental degradation.

Finally, I would like to talk a little about the long run profitability of the industry. The long run goal of an oligopolist or monopolist is profitability that is higher than normal.

If the petroleum industry is an oligopoly, it is a poor one, because over the last ten years, according to the First City National Bank in New York, the average rate of return was 11.8% as compared to 12.2% for all manufacturing. This is an important fact. According to most economists, to be an oligopoly or monopoly there must be market power. Market power shows up as economic profit. If the petroleum industry were an oligopoly then we would see increasing profitability in that period of time. We do not see that. Indeed, we find that from the period 1961 to 1971 six of the eight major petroleum companies earned less on stockholders' equity than the average of 125 industrialists. The eight major petroleum companies, in fact, were more profitable from the period 1951 to 1961 than they were in the more recent period from 1961 to 1971.

Aside from the theoretical arguments about whether or not the petroleum industry is competitive it is the responsibility of this committee and Congress to protect the public interest by considering the practical implications of changing the structure of the industry. Divestiture would restrict future investment and be counterproductive to the overall effort to increase domestic energy supplies. Our dependence on unstable and high priced foreign imports would increase further.

Divestiture of integrated oil operations would have an adverse effect on both the cost and supply of energy for domestic consumers.

Integration in the oil industry has occurred because of the opportunity for cost savings i.e., more efficient operation that would not otherwise occur. Cost economies are achieved by maintaining a continuous flow of oil throughout the integrated network and thereby eliminating some storage costs that otherwise would be necessary.

In testimony submitted to our Subcommittee one major company said that vertical integration enabled it to meet special supply and distribution problems arriving from its commitment to supply customers in all 50 states. This company said, "Without vertical integration they could not meet the supply problems of fulfilling their commitments in all parts of the country."

Major integrated companies supply not just a few stations strategically located in one area, but instead service many stations, both city and rural, in all parts of the country, many of which are at great distances from "the end of the pipeline."

Divestiture would have an immediate and chaotic effect on the supply of petroleum products. Long-established supply networks would be destroyed. It would be virtually impossible for any oil company to make contractual commitments when the entire future structure of the oil industry is in question. Long-term planning an investment is difficult, if not impossible, in an atmosphere of uncertainty created by any serious threat of divestiture. So I plead with my colleagues to get on with their business and make a decision, one way or the other, so that the petroleum industry can get on with its business of solving our energy shortage.

Mr. Chairman, in my opinion, the most important action that Congress can take toward solving this nation's energy shortage is to deregulate the price of natural gas at the wellhead.

Mr. Chairman, I request that a paper by Stephen Breyer and Paul W. MacAvoy entitled, "The Natural Gas Shortage and the Regulation of Natural Gas Producers" be made a part of the hearing record at the end of my remarks.

A former advisor to Democrat presidential candidate George McGovern, MIT economist Paul MacAvoy, has also argued that even if the concentration in the gas industry were higher than the rest of the manufacturing industry (which it is not), entry into the gas industry is so free that the largest producers would not be able to systematically charge higher than competitive prices. In pointing to the so-called noncompetitive behavior of the natural gas industry, critics of deregulation look to the large field price increases of natural gas in the fifties. However as MacAvoy has shown:

"During the early fifties the presence of only one pipeline in many gas fields effectively allowed the setting of monopoly buyers' (monopsony) prices for new gas contracts, thus often depressing the field price below the competitive level. During the next few years, several pipelines sought new reserves in oil field regions where previously there had been a single buyer. This new entry of buyers raised the field prices to a competitive level from the previously depressed monopsonitic level. In short, competition—not market power—accounted for much of the price spiral that has been claimed to show the need for regulation."

In summary, it is my conclusion after listening to ten days of thorough hearings by the subcommittee on Integrated Oil Operations and from personal experience that the petroleum industry is effectively competitive at all levels, especially at the producing level, and if the federal government would modify its policies that have proven ineffective and counterproductive, the free market would function to solicit additional supplies of energy for the consumers of the United States at a reasonable cost.

The solution to the shortage is not divestiture or restructuring of the petroleum industry. The solution is to change current government policies that have caused the shortages.

The solution is to increase domestic refining capacity and crude oil production and natural gas production. This will require a commitment by Congress that it has thus far been unwilling to make.

ATTACHMENT A

	Top 4	Top 8	Top 20
Oil industry concentration:			
Domestic crude oil production (1969)	31.09	50.54	70.21
Crude and gasoline refining capacity (1970)	32.93	58.07	86.25
Gasoline marketing (1970)	30.72	55.01	79.05

MANUFACTURING INDUSTRIES IN WHICH 4-FIRM CONCENTRATION RATIOS EXCEEDED 60 PERCENT IN 1966

SIC code	Industry	Concentration ratios 4-firm	8-firm
3717	Motor vehicles	79	83
	Steel:		
33121	Coke oven and blast furnace	68	76
	Steel ingot and semifinished shapes	70	84
33124	Hot rolled bars, shapes, etc	63	74
33126	Steel pipe and tubes	61	------
3571	Computing and related machines	63	78
3721	Aircraft	67	88
3011	Tires and inner tubes	71	90
3861	Photographic equipment	67	79
3352	Aluminum rolling	65	78
2111	Cigarettes	81	100
3411	Metal cans	71	83
2841	Soap and other detergents	72	80
2824	Organic fibers	85	95
3632	Household refrigerators	72	93
2032	Canned specialties	63	79
3661	Telephone apparatus	94	97
2141	Tobacco stemming	69	91
3694	Engine electrical equipment	72	81
2052	Biscuit crackers	59	68
2647	Sanitary paper products	64	80
3612	Transformers	66	80
2087	Flavorings	63	------
3633	Household laundry equipment	79	95
3229	Pressed and blown glass products	72	85
2823	Cellulose man-made fibers	85	100
3511	Steam engines and turbines	87	98
3672	Cathode ray tubes	89	------
2812	Alkalies and chlorine	63	88
2046	Corn milling	67	90
2043	Cereal preparations	87	------
3741	Locomotives	98	99
3211	Flat glass	96	99
3691	Storage batteries	60	80
2816	Inorganic pigments	64	83
2063	Beet sugar	68	97
2813	Industrial gases	72	88
8372	Typewriters	79	99
3313	Electrometallurgical	74	91

THE NATURAL GAS SHORTAGE AND THE REGULATION OF NATURAL GAS PRODUCERS †

(By Stephen Breyer * and Paul W. MacAvoy **)

(NOTE.—In an attack upon the current natural gas shortage, President Nixon has recently urged an end to much of the Federal Power Commission's regulation on the price of natural gas at the wellhead. From the perspectives of both the lawyer and the economist, Professors Breyer and MacAvoy lend support to a policy change in this direction. They show that regulation of gas wellhead prices raises problems substantially different from the regulation of traditional public utilities. They argue that the policies the Commission has pursued were almost inevitably bound to result in wellhead prices below the market level that would call forth supplies sufficient to meet demand, and through econometric analysis, they demonstrate the extent to which the Commission's pricing practices produced the shortage. While the Commission's policies were aimed at helping home consumers, data gathered by the authors indicate that regulation has brought about precisely the opposite result. The Commission's experience may well cast light on the wisdom of adopting regulatory techniques to redistribute income when serious economic efficiency losses are likely to arise.)

In 1954, somewhat to the Federal Power Commission's (FPC's) surprise, the Supreme Court held in *Phillips Petroleum Company* v. *Wisconsin* [1] that the Commission had authority to regulate the prices at which natural gas field producers sold gas to interstate pipeline companies.[2] In the past decade, the FPC has devoted much of its energy and about 30 percent of its budget to such regulation [3] and has been remarkably effective in holding down producers' selling prices.[4] Whether this regulation has benefited the nation or even the consumers it was designed to help, however, is another matter. It is the purpose of this article to evaluate the results of the Court's decision [5] and the FPC's ensuing regulatory effort. Such an evaluation is especially timely because President Nixon has recently proposed the discontinuance of much wellhead price regulation.[6]

Natural gas now supplies more than a third of America's energy needs [7] and exists in the ground in sufficient quantities to forestall any danger in the foreseeable future of its extinction as a natural resource.[8] Nevertheless, there is now, in the early 1970's, no lack of evidence that the United States is in the throes of a serious natural gas shortage.[9] This article will show that that shortage is a direct result of FPC regulation of producers' prices and that the shortage has been disproportionately borne by home consumers. Moreover, the article will show that the losses arising from the shortage have been so great that they cannot rationally be worth the pursuit of whatever valid purposes might be served by lower user prices. To explain how this state of affairs has come about, we shall explore the objectives of producer price regulation and the methods used by the FPC to achieve them. We shall then describe the results that FPC regulation has brought about. We shall conclude that the harms regulation has produced so far outweigh the benefits of lower price that gas price regulation at the wellhead should be substantially abandoned.

The article has another, more general purpose. It is becoming increasingly common to think of price and profit regulation as designed to achieve not simply economic efficiency, but also a more nearly equal income distribution.[10] Of course, these two objectives often peacefully coexist: to limit a monopolist's prices increases output and also redistributes income, probably towards equality. Sometimes, however, these goals directly conflict: to hold prices below the competitive level may lead to a more equal income distribution, but it may also wastefully create excess demand. When faced with such a conflict, some may argue that the "income distribution" objective should be favored over "economic efficiency."

This seemingly has been the view of the FPC in regulating producer gas prices. We shall argue, however, that the FPC's efforts to hold prices down for the residential gas consumer have not helped him; in fact, they have simply led to a gas shortage that has hurt him more. If redistribution of income is a proper regulatory goal, the FPC has failed to achieve it. Our discussion of the reasons for this failure shows the extreme practical difficulties that face an agency trying to use prices to pursue such a goal. And these practical difficulties should explain our grave doubts about whether generally such a goal is proper when serious efficiency losses are at stake.

Before turning to an assessment of FPC regulation of gas producer prices, a brief description of the field market for natural gas may be helpful.[11] Most producers search for gas by drilling wells on leased land. The gas is brought to the surface where it is sometimes "refined," producing liquid byproducts which can be sold separately. The gas itself may be sold directly to intrastate users and distributors, but most is sold to interstate pipeline companies.[12] These transmission companies transport the gas from the field and resell it either directly to industrial users or to distributing companies, which in turn resell to industry or to home consumers. Before World War II, gas was discovered and exploited mainly as a byproduct of the search for oil [13] and was sold at prices that had only to pay the ascertainable separate costs of gas production.[14] However, the growth of pipelines capable of bringing gas from fields in Texas, Oklahoma, and Louisiana to coastal markets increased the demand for gas to the point where today less than 25 percent of all gas produced comes from oil wells; most comes from wells that produce only gas, found in the search for gas itself.[15]

I. THE OBJECTIVES OF PRODUCER PRICE REGULATION

In order to evaluate the FPC's policy of regulating natural gas prices at the wellhead, it is necessary first to determine what the objectives of such a policy could be. There are two conceptually distinct purposes that regulation of gas producers might serve: reduction of market power and redistribution of income. That neither the Commission nor the courts have made much effort to distinguish between these purposes makes the task of evaluating regulation more difficult.

A. Control of market power

Control of market power constitutes the traditional economic rationale for regulation. Stated in simple and direct fashion, where one firm, or possibly a small group of firms, produces the entire output of an industry, the industry's output tends to be less—and profits more—than that which would be provided by competitive suppliers. This is so because the monopoly (or oligopoly) firm will restrict its output in order to increase the market price of its products—so as to add to net revenues via a higher price-cost margin more than is lost by restricting output. The government may seek to reduce prices and increase output by attacking market power directly through antitrust actions designed to create competition in the industry. If, however, such a policy is too costly because economies of scale make production by more firms less efficient, the government may try to combat market power by regulation of industry prices. In either instance, a major motivating force of the government's initiatives is to achieve efficient resource allocation; the objectives in setting lower prices at the margin are to reduce profits and to expand output, allowing buyers willing to pay the cost of extra units of goods to receive those goods.

Such a market power theory was advanced by supporters of gas producer regulation. They asserted that gas production was concentrated in the hands of a few producing companies—so few that the largest producers could raise the price of gas to the interstate pipelines above the level that competition would otherwise dictate.[16] Unless market power at the wellhead was checked, pipeline regulation would not be wholly effective in protecting consumers from noncompetitive prices; consumers would still have to pay monopoly wellhead prices for gas, since these prices would be passed through to retail distributors as "costs" of the pipelines. In the words of the Supreme Court,[17] "the rates charged [by producers] may have a direct and substantial effect on the price paid by the ultimate consumers. Protection of consumers against exploitation at the hands of natural-gas companies was the primary aim of the Natural Gas Act."

Thus, the argument ran, the FPC should determine the price at which gas would be sold under competitive production conditions and should forbid producers to sell at higher prices.

However, while the question of market power played an important role in the early history of the debate over producer regulation, it has become less significant in more recent years as accumulated evidence has

Footnotes at end of article.

created a strong presumption that gas producers do not possess monopolistic or oligopolistic market power. As the U.S. Court of Appeals for the Fifth Circuit has recently said,[18] "[T]here seems to be general agreement that the [field] market is at least structurally competitive." Federal Power Commission statistics show that in the early 1960's the largest gas producer accounted for less than 10 percent, and the 15 largest for less than 50 percent, of national production.[19] Nor in general has production in more narrow geographic markets been highly concentrated; in the Permian Basin, for example, the five largest producers have accounted for somewhat less than 50 percent of production.[20] This degree of production concentration in the narrow market has been characterized as "lower than that in 75–85 percent of industries in manufactured products."[21] And, even if concentration were higher here than elsewhere, it has been shown that entry into the industry is so free that the largest producers would not be able systematically to charge higher than competitive prices.[22]

One rejoinder to this evidence of structural competitiveness is that ownership of *production* is not really relevant to the price of natural gas at the wellhead. Rather, the market relevant for field prices is that in the sale to pipelines of *rights* to take gas from *new reserves*. Petroleum companies sell gas under long term contracts which commit to pipelines 10 to 20 years worth of production from new reserves.[23] While such a contract typically contains a specified initial price, many used to have a "most favored nation" clause under which the actual price to be paid for the gas produced at any given time was pegged to the pipeline's then newest, most expensive contract.[24] Thus, once a production contract was signed, only the *level* of production was "locked in"; the *price* for gas produced under the contract would depend on the market for the sale and dedication of new reserves. Proponents of regulation have argued that ownership of uncommitted reserves was so concentrated that a few petroleum companies were able to raise the specified prices in new contracts by controlling the supply of available natural gas reserves.[25] These higher prices were then passed through by triggering "favored nation" clauses in existing contracts, resulting in comparable prices for gas produced from previously dedicated reserves.

This argument, however, has little basis in fact. The available evidence[26] shows, for example, that the four largest production companies provided only 37–44 percent of new reserve sales in the West Texas-New Mexico producing area, 26–28 percent in the Texas Gulf region, and less than 32 percent in the Midcontinent region—all in the 1950–54 period just before the *Phillips* decision. These levels of concentration on the supply side of the market for new reserves were all less than half the concentration on the demand side, accounted for by the four largest pipeline buyers in each of these regions. Power to control new contract prices probably did not exist on either side of the market, but if the scales tipped at all, then surely the balance lay with the pipeline companies rather than with the producers.

Of course one can still argue that despite its apparently competitive structure, the producing segment of the industry has *behaved* noncompetitively. Certain proponents of producer regulation[27] have pointed to the rapid rise in the field price of natural gas between 1950 and 1958[28] as evidence of such noncompetitive performance. But economic studies of the markets for new contracts suggest that anticompetitive producer behavior did not cause this price increase.[29] During the early 1950's the presence of only one pipeline in many gas fields effectively allowed the setting of monopoly buyers' (monopsony) prices for new gas contracts, thus often depressing the field price below the competitive level. During the next few years, several pipelines sought new reserves in old field regions where previously there had been a such a single buyer. This new entry of buyers raised the field prices to a competitive level from the previously depressed monopsonistic level. In short, competition—not market power—accounted for much of the price spiral that has been claimed to show the need for regulation.

A further argument offered by those asserting the need to control the market power of gas producers was that producer competition was ineffective in bringing about competitive prices because the producers' customers—the pipelines—did not have enough incentive to bargain for low prices.[30] Since pipeline final sales prices were (and are) regulated on the basis of costs plus a fixed profit on capital, it was argued that the pipelines failed to resist producer price increases and simply passed them on as "costs" to be paid by the consumer.

This argument is theoretically suspect, however, for strict regulatory supervision should make the pipelines worry about whether they will be able to pass along producer price increases, and weak regulatory supervision might allow them to keep any extra profits they earn through hard bargaining with producers—at least until "regulatory lag" catches up with them. In either case they should wish to keep producers' prices low. More important, given some limit on price increases set by some combination of consumer demand and regulatory awareness, pipelines should prefer to keep fuel costs (on which they earn no return) low in favor of enhancement of capital costs (on which they earn a return).[31] Furthermore, the evidence available suggests that pipelines in fact bargained for minimum prices. In the 1950's pipelines pushed field prices below competitive levels wherever possible. When low prices threatened to drive producers out of exploration and development, the pipelines themselves went into the exploration business rather than allowing producers to raise their prices. The transmission companies selectively produced higher-cost gas while paying monopsony prices for the low-cost gas from petroleum companies, thus keeping payment of excess returns to producers to the minimum.[32] In sum, empirical study provides little evidence to support the theory that unregulated field prices were noncompetitive.[33]

If the view that unregulated producer markets were in fact competitive is correct, then to regulate as if firms had market power would in principle only cause trouble. The FPC, with the monopoly rationale in mind, would reduce prices below the level found in the unregulated market. But, since unregulated market prices were already the product of competition, any regulation would set prices below the competitive level. A lower than competitive price would stimulate demand, leading some buyers to use natural gas even though the economy could provide for their needs with other fuels at lower real costs. The lower price would also reduce the incentive of suppliers to provide new reserves and production, for the regulated price would not allow sufficient returns to producers at the margin. In short, the regulation-required price reduction would increase the quantity demanded and decrease the quantity supplied, thus causing a shortage.

B. Regulation to reduce rents and windfalls

Under certain special circumstances one might want to regulate prices even in a competitive market. One would do so not to correct resource misallocations, but in order to redistribute income.[34] In principle, price in a competitive market will equal the cost of producing marginal output—the last units that can be sold. Some producers can sell at that market price intramarginal units that are far less costly to produce, perhaps because the producer has special skill, knowledge, or expertise, or controls a resource that cannot easily be duplicated. Such producers realize "rents" or excess returns, and the objective of regulation in such circumstances would be to transfer to consumers some of the income that low-cost producers would otherwise receive. It has been claimed that these rents are exceptionally high in the oil and gas industries, so that price control systems should be devised that would deprive producers of these excess returns and give them to consumers in the form of lower prices.[35]

Although no one has measured the amount of rent that gas producers would earn without regulation, there are reasons to believe that rents would be large compared to those earned in other industries. First, gas is a wasting resource, and its presence in the ground in commercial quantities is uncertain until exploration and development are complete. At that point, the value or price of gas is in theory set by the cost of marginal additional exploration and development (at least when demand for gas is increasing sharply as it has been in the last two decades[36]). The difference between this cost of marginal additional exploration and development and the exploration and development costs of, let us say, the "lucky" producer who may have paid little for his land may constitute a considerable windfall. Of course, windfalls of this sort go in part to landowners who do not themselves produce gas but who have the ownership rights to the ultimate scarce resource (the location or site of the in-ground reserves). Strict control of producer prices, however, would prevent producers from paying these windfalls over to the landholders. Second, the cost of finding and developing gas reserves has increased considerably over the past two decades.[37] Thus, gas found and sold to pipelines 15 years ago in reserve commitments, but still not delivered, would have lower overall production costs than new reserves; such "old gas" may have even been found accidentally as part of the search for oil.[38] If production prices for this "old gas" were set at currently prevailing long term marginal exploration and development costs, its owners would receive appreciable windfalls or rents.

To eliminate these windfalls without interfering with the amount of gas produced, regulation would have to hold down the price charged to pipelines for intramarginal volumes of gas while allowing marginal units to be sold at a price equal to long term exploration and development costs. In effect, regulation would set different prices for different units of supply. Of course, such regulation would produce excess demand for the lower-priced intramarginal units received by the pipelines. To "clear" such excess demand by having the pipelines auction off these volumes would simply give windfall rents to the pipelines taking the highest bids. Rationing, on the other hand, might pass the windfall along to the retail distributor and presumably ultimately to the consumer.

This "tier" type of regulation is unusual, but not unheard of. Differential regulated prices are most commonly found in housing; rent control may hold down the price of existing housing while allowing the price of new housing units to rise so as not to discourage new building and to clear the market of demand for new rental units. But it is extraordinarily difficult to bring about the transfer of excess profits without affecting output. With regard to regulation of gas field prices, this requires extensive knowledge of the location and shape of the supply curve for both established production and new reserves. Moreover, if the reduced prices for intramarginal gas bring about the expected increase in the quantity demanded,

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then the excess demand has to be limited by recourse to such rationing devices as classifying users and designating one or more classes as "inferior" for purposes of allocating the lower-priced gas. To make such classification without reference to users' "willingness to pay," as measured by prices bid by users for the low-cost gas, is difficult, to say the least. In short, tier price regulation requires extraordinary sensitivity to changes in supply in order to react with necessary price changes, and, even in the best of conditions, it requires also a complicated rationing procedure.

Neither the Federal Power Commission nor the courts have clearly distinguished the two separate regulatory objectives of controlling market power and transferring rents to consumers, and often write as if they were trying to achieve both of them at once. Still, in view of the lack of empirical support for the "monopoly power" theory, we shall assume that regulating producers' market power is not a sensible regulatory goal. In fact, the Commission's writings in the past few years suggest that it has not pursued this goal with much fervor and indicate that the concern for income distribution predominates. For one thing, the Commission[39] and the courts[40] have expressed the belief or fear that efforts to limit price have reduced, rather than increased, the supply of new reserves and the actual level of gas production. Lowering prices from "monopoly" to "competitive" levels should have had just the opposite effect. The Commission's continued efforts to regulate, while holding this belief, suggest that it no longer sees itself as basically trying to control monopoly power. For another thing, the Commission has set two price levels in the area rate proceedings[41]—higher prices on "new" gas, and lower price on "old" gas.[42] Its doing so, while at the same time expressing the hope that the new gas price would be high enough to cover the costs of producing new supplies,[43] indicates that limiting producer rents and windfalls is the more important concern underlying more recent regulations.[44] We shall assume that this is what the Commission has ultimately been trying to do.

II. ALTERNATIVE METHODS OF REGULATING FIELD PRICES

After the Supreme Court's decision in *Phillips Petroleum Co. v. Wisconsin*,[45] the Federal Power Commission began to struggle with the problem of *how* to regulate.[46] The first approach was to treat producers as individual public utilities and to set limits on each producer's prices individually according to his "costs of service." After this approach proved unwieldy, the Commission set area-wide ceiling prices, allowing all individual producers within each gas production area to charge no more than the area ceiling.

A. Regulating producers individually

In attempting to regulate each gas producer, the Commission followed the same procedure it used to set prices for each gas pipeline. It sought the producer's "costs of service" and allowed prices sufficient for the company to recover these costs, but no more. This approach seemed to promise that no producing company would earn more than a reasonable return on its capital; producers with unusually low costs would not receive windfalls, but, instead, would have to charge their customers lower prices. This method of regulation also seemed to avoid the risk of a serious gas shortage. If costs increased producers could raise their prices, and, as long as there was demand for the higher-cost (and higher-priced) reserves, regulation would not inhibit production.

However, this summary description of individual producer regulation hides enormous problems. Although individual producer regulation allowed producers with different costs to sell at different prices, it provided no way to determine which gas users should get the more expensive gas and which the cheaper. And, even setting aside the difficulty of rationing the lower-priced gas, regulation of individual producers proved unwieldy because of the immense administrative burden it placed on the Commission. Most important, there were basic conceptual deficiencies in the regulatory method. Cost-of-service regulation was based on the assumption that it was possible to obtain detailed, accurate information about producer costs. It presumed that the cost of finding gas could be determined from accounting records, as can the costs of, say, gas pipelines, electricity generating companies, and telephone companies. Moreover, in searching for a proper rate of return on investment, the Commission assumed that gas produers' cost of capital could be rationally determined. But, as the Commission discovered, determining the costs of gas production and a proper rate of return to gas producers raises issues far less easy to resolve here—issues which require considerably more use of the regulator's subjective judgment—than in the case of traditional public utilities.

The difficulties the Commission experienced with individual producer regulation are typically attributed to management failure. The administrative burden placed on the Commission arose from the vast number of natural gas producers. In 1954 there were more than 4,500 producers,[47] and by 1962 they had submitted more than 2,900 applications for increased prices.[48] The individual price or "rate" case approach to regulation required finding which of the joint costs of oil and gas exploration and development attributable to gas alone, a judgment about the fairness of a particular rate of return on investment, and a determination of the proper amount of investment (or "rate base") for each of the 2,900 applications. To accomplish these tasks would have taken an interminable amount of time. The first producer rate case undertaken—the *Phillips* case itself—took 82 hearing days, with testimony filling 10,626 pages and a record including 235 exhibits.[49] Although later cases might have been handled more quickly, differences from case to case in both levels of costs and degrees of risk (and therefore in allowable rates of return) were such as to require some individual attention to each application. By 1960, the Commission had completed only 10 of these cases.[50] The backlog led the Landis Commission, appointed by President Kennedy to study the regulatory agencies, to conclude that "[t]he Federal Power Commission without question represents the outstanding example in the federal government of the breakdown of the administrative process." [51]

Management failure alone, however, does not account for the Commission's difficulties, for the problems of individual producer regulation went much deeper. Even if the Commission had had ten times the staff, it would have encountered severe conceptual difficulties in trying to separate the costs of oil and gas production and in setting a proper rate of return.

Finding the cost of natural gas posed several extraordinary difficulties which arose from the fact that gas is often produced in conjunction with petroleum liquids. Money spent by petroleum companies on *exploration* leads to the discovery of some gas wells, some oil wells that produce gas too, some pure oil wells, and many dry holes. Expenditures on *separate development* of gas fields often yield gas together with petroleum liquids, and expenditures on *gas refining* produce both "dry" gas and saleable liquid. Expenditures such as these, which yield two products but which are equally necessary to produce either one, complicate a regulatory process based on costs because there is no logical way to decide whether, or to what extent, a specific dollar outlay should be considered part of the "cost of gas production," or part of the "cost of liquid production."

This problem of joint cost allocation is distinctly a regulatory one. Without price controls and under competitive conditions, producers would recover marginal joint costs from the sale of gas and oil, with the relative amounts recouped from each varying from firm to firm.[52] If a regulatory agency controlled *both* oil and gas production, it might try to reproduce these competitive market results simply by requiring that the combined revenues from the sale of the two products be equal to their combined costs, including, of course, return to capital. Any combination of prices that would do no more than return total costs would meet this requirement.[53] The distinct regulatory problem in controlling field market prices for gas, however, was that liquid prices were not regulated by the FPC. Therefore, in order for the Commission to eliminate excess returns on gas production, it would have had either to find the "exact" costs of one of the joint products—something logically impossible to do—or to regulate indirectly the earnings on the unregulated sales of liquids—something it could not legally do.[54]

The Commission's efforts to overcome the joint cost problem in gas production in fact simply involved the application in various combinations of several traditional methods for allocating joint costs for accounting purposes.[55] But these methods only created the illusion that the joint costs of gas and oil production were separable and bore no particular relation to the problem of determining costs for rate setting. One method allocated joint costs according to the ratio of the separable cost of producing a barrel of oil to the separable cost of producing a thousand cubic feet (Mcf) of gas.[56] A second method allocated joint costs in proportion to the number of heating units (BTU's) contained respectively in the oil and gas produced.[57] A third method recognized that BTU's of oil and gas might not be of equal value in the marketplace, and therefore multiplied the BTU's by a factor representing relative value.[58]

None of the three procedures could yield either the long term costs of future gas production or the historical costs of past exploration and development. As methodology, they simply carried on a charade of implying separable costs when costs were joint and inseparable. In fact, if producers, in the absence of regulation, tended to recover most joint costs from oil revenues, and priced gas close to its ascertainable separate costs, the Commission's techniques, in allocating large shares of joint costs to gas, would force it to conclude that gas prices were too low. This fact may help to explain why the Commission held in the 10 pre-1960 individual producer rate cases that it completed that producers' proposed prices would not generate enough revenue to cover costs.[59] In short, as Justice Jackson said in a slightly different context: [60]

"The case before us demonstrates the lack of rational relationship between conventional rate-base formulas and natural gas production". . . .[61]

A second theoretical problem which the Commission had to confront in attempting to regulate gas producers individually was that of determining a proper rate of return for each of them. While such determinations are usually difficult, here the difficulties were of more than usual magnitude. For one thing, there was no simple process for choosing industries with comparable risks. To be sure, producing gas is probably riskier than running a telephone company; but is it as risky as mining copper or making steel? Arguably, the cost of capital can be determined directly by watching share prices

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fluctuate on an exchange (or, possibly, comparable risk can be measured in this way[62]); but few producers sold shares on exchanges, and those that did were obviously the larger firms which produced both gas and oil. Nor was it possible to determine costs of capital by looking to producers' debt, because gas producers had issued insignificant amounts of debt securities.[63] Finally, because of different degrees of expertise and different quality of land options, risks varied tremendously among gas producers themselves. To determine the rate of return needed to cover producers' opportunity costs of capital would have therefore required many highly subjective judgmental decisions about thousands of different producers. These problems were compounded by the fact that capital costs accounted for a high portion of total production costs,[64] and thus posed a problem at least as serious as allocation of joint costs for individual producer regulation.

The problems of determining the costs of production and the proper rate of return continued to plague the Commission as it turned to an administratively simpler regulatory method. And the Commission also continued to be plagued by the need to ration low-priced gas—as is any agency that tries to regulate competitive markets by setting different producer prices for sales of the same product at the same place and time.

B. Setting area rates

After regulation of individual producer prices proved unwieldy, the Commission embarked upon a policy of setting area-wide ceiling prices, allowing all individual producers within a given gas production area to charge up to, but not above, the area ceiling. In 1960, the major gas producing regions were divided into five geographical areas,[65] and hearings were begun to determine the legally binding ceiling prices for each. Because of statutory limitations on Commission authority,[66] the area rate proceedings could set limits on prices only prospectively, *i.e.*, from the time an area rate proceeding was completed. Therefore, to control producer prices during the many years that the proceedings would be in progress, the Commission worked out a legally complex, though operationally simple, procedure which set "interim ceiling prices" at the 1959–60 levels for new contracts.[67] During the 1960's rate proceedings were completed only for the Permian Basin and Southern Louisiana areas.[68] In these and the remaining production areas, contracts for new reserves were written throughout much of the entire decade as if economic conditions had not changed since the late 1950's.

In its area rate proceedings, the Commission sought to determine for each area two separate price ceilings: one for "new" gas from gas wells (new gas-well gas), and a second, lower ceiling that applied both to "old" gas from gas wells (old gas-well gas) and to all gas from oil wells. This two-tier area pricing system was designed to provide a fairly simple way to transfer rents from producers to consumers without seriously discouraging gas production and without imposing upon the Commission the administrative burdens of the multitier system of regulating producers individually. In embarking upon this new regulatory approach, the Commission assumed that gas found in conjunction with oil and old gas-well gas found several years before an area proceeding cost less to produce than new gas-well gas. It also assumed that the lower prices for old gas-well gas and gas found in conjunction with oil would not discourage their production, given that their supply was relatively fixed. Thus, lower prices for the old gas- and oil-well was would deprive producers of rents from the sale of these supplies to the benefit of the consumer, while higher prices for new gas-well gas would, at the same time, encourage enough additional gas production to meet total consumer demands.

Despite its apparent logic and simplicity, however, the two-tier pricing system contained potentially serious flaws. First, given that excess demand would be generated for the cheaper "old gas,[69] the FPC had to devise a way of rationing the available supply which would give it to those potential users who valued it most highly.[70] Home users, for example, value gas highly for cooking and heat, while industrial users may be nearly indifferent to the choice among gas, coal, and petroleum. An auction system, by allocating the old gas on the basis of willingness to pay, would insure that it went to those who placed the highest value upon it. But an auction system would quickly drive the price of the "old" gas up to "new" gas price levels. In fact, the methods of rationing chosen by the Commission—allocating the cheaper gas on an historical basis (old customers before new ones) [71] or on the basis of an FPC determination that some *end* uses of gas were "inferior" to others [72]—do not seem to reflect an attempt to make careful distinctions among users according to their potential willingness to pay higher prices for the low-priced gas. These choices are important, since preferences made by the allocation system according to economically inefficient criteria are likely to spill over and affect other areas of economic activity; for example, insofar as historically-based differential prices at the wellhead are reflected in different pipeline resale prices, they may distort competition among industrial customers (*e.g.*, two chemical companies paying different prices for identical gas) or choices as to plant location.

Second, the competitive conditions of the unregulated gas production market suggest the strong possibility that, in a two-tier system where prices at both levels were set by regulatory action, the price of the higher tier would be set too low.[73] If so, then exploration and development of new gas would be discouraged, and there would be excess demand for the new gas as well as the old.[74] Here, again, if regulation-induced shortages occurred, additional economic inefficiencies would arise from any allocation system based other than on users' willingness to pay.

Third, this potential for economic harm from the two-tier system created by the inevitable excess demand for the lower-priced product and the probable regulation-induced shortage of the higher-priced product, was compounded by jurisdictional limitations on the FPC's power to regulate field market prices. Although the Commission could regulate producers' interstate sales, it could not regulate the prices at which they sold gas intrastate in the production region.[75] Intrastate sales were made primarily to industrial purchasers [76] who would seemingly be relatively indifferent as among various fuel sources available at equal prices. In times of shortage, the gas that these industries purchased would likely be diverted from retail distributors willing but unable under regulation to pay a higher price. Thus, both the certain scarce supply of old gas and the potential scarce supply of new gas likely would be disproportionately given over to certain industrial users by default, since other users who valued the gas more highly would not be allowed to bid up its price.

While the Commission may have intended the price of new gas to be set at market-clearing levels, the methods it used for setting new gas area prices made it highly likely that a significant gas shortage would arise by virtue of the new gas price—the "high" price—being set below the long term costs of natural gas production.[77] The basic method first used by the Commission to find a ceiling price for new gas-well gas was to determine by survey for given base years the recent cost of finding and producing new gas.[78] In both of the area rate cases completed in the 1960's, the final new gas price ceilings established on the basis of these estimates of recent costs turned out to be roughly equal to the interim prices set in the early 1960's.[79]

Given this recent cost survey method of setting the final ceiling prices, their similarity to the old interim prices is not at all surprising (even though one might have expected costs to rise during the 1960's), for the interim price ceilings themselves strongly biased the effort to determine the recent cost of new production. Producers unable to sell gas at more than the interim price levels most likely developed only those reserves having marginal costs lower than such prices. Companies with higher costs would not be producing, while those with cheap, lucky finds would still be in business. Thus it is not surprising that the recent costs of new reserves were slightly lower than the Commission's interim price ceilings. Taken together, the interim ceiling and later cost survey constituted simply two elements of a self-fulfilling prophecy; using recent costs to set future prices may, in reality, have been using interim prices to set permanent ones. In short, given the interim ceiling, a survey of the costs of producing new gas in the early 1960's could not tell the Commission with any assurance what price would be needed to elicit additional production for growing demand in the late 1960's and early 1970's.

Quite apart from the existence of interim ceilings, the probability that regulation would induce a natural gas shortage was increased by the specific calculation the Commission made to determine the recent costs of new gas production. If the Commission were not to discourage future production, it should have been certain that the ceiling prices it was setting were as high as prospective development and extraction costs. One indicator of such prospective outlays would be the cost curve derived from the historical marginal production costs in each drilling region of a production area during the test years. Even these historical marginal costs would of course understate future production outlays, because of increases in drilling and other expenses. But the Commission further compounded the possibility of understating prospective development and extraction outlays by *averaging* the marginal costs of recent production across all the drilling regions of a production area. Given a wasting resource from a fixed stock of uncertain size, it is highly probable that the costs of producing the very final units of recent output were greater than the average costs of finding and developing new reserves during the test years.[80] The higher-cost producers most likely included not only the unlucky or less skillful, but also those forced to search farther afield or deeper underground after having exhausted their more promising leaseholds. Averaging their costs in with the new gas production costs of the more fortunate or unusually skillful producers would understate the likely costs of future new gas production and would therefore increase the probability that exploration and development of marginal reserves would not take place.

The Commission tried to take these problems into account by adding an "allowance for growth" to the historical average costs of finding new gas. In the *Permian Basin* proceedings, for example, the Commission added 1.11 cents per Mcf to the ceiling price in recognition that producing enough new gas in the future to meet growing demands would probably require the exploitation of more expensive reserve sources.[81] But it did not determine the size of this premium by analyzing producers' probable marginal costs. Rather, an expert appearing for the gas distributing companies presented this figure as a judgmental observation, and experts for the gas producing companies in turn concluded judgmentally that the proper figure was 2.15 cents per Mcf.[82] The Commission

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simply chose between these two judgments, and, by acceptance of the distributors' estimate of the proper growth allowance, made it likely that the Commission's choice would be on the low side. To be sure, trying to determine the marginal costs of future gas production would have to involve *some* guesswork. But the need to guess inevitably introduces the risk of error—error difficult to correct once prices are set. The Commission's determination of the proper "allowance for growth" did not reflect any guidelines of its own concerning the impact of such factors as increases in drilling costs, decreases in the probability of finding gas, and changes in the rate of return needed to attract speculative capital into future gas production. Of course, as indicated earlier, these matters are highly speculative. It is therefore perhaps understandable that a Commission interested in regulating producers' prices would, when given only the alternative of accepting the producers' own figures, accept the growth figure offered by those interested in keeping producers' prices low.[83] But, nevertheless, the Commission's acceptance of the distributors' estimate of the premiums needed to encourage marginal production, along with its own calculation of the historical average costs of new production, created a considerable risk that the "new gas" price would be too low and would engender a gas shortage of some scope.

Faced with the extraordinary difficulty of determining the costs of "new gas" at levels of production that would clear the market and with a new-found shortage of gas production in the late 1960's, the Commission has more recently shown greater reliance on a process of direct negotiations to set area prices. In the original *Southern Louisiana* case, representatives of the producers, distributors, and other customers bargained out a "settlement" which was presented to the Commission for approval. The Commission [84] and the appeals court [85] took the negotiation under advisement, however, along with a great deal of information on historical costs, and decided to set price ceilings slightly below the settlement figures. When the gas shortage in the late 1960's led the Commission to reopen the *Southern Louisiana* proceedings, once again the parties negotiated a settlement. This time the Commission adopted the settlement figures as its own, holding that they constituted reasonable ceiling prices.[86]

To be sure, one undeniable advantage of setting prices through such negotiation is administrative simplicity. The Commission need not spend as much time gathering evidence, the number of warring parties is reduced, and it is less likely that a disappointed party will convince a court to overturn a Commission decision. But to set ceiling prices in reliance upon industry settlements comes close to abandoning the Commission's espoused regulatory goals—whether they be to control market power or to eliminate windfall profits—and comes even closer to admitting an inability to achieve them. Negotiation among interested parties can hardly control monopoly power, for it bears little resemblance to the bargaining among buyers and sellers that takes place in a competitive market. Rather than competing individually for purchases or sales, the parties bargain in blocs—the buyers together in one bloc bargaining with producers in the other bloc. Whether the negotiated price ends up higher than, lower than, or equal to the competitive market price will vary depending on the skill of particular bargainers and the bargaining atmosphere surrounding the negotiation. The parties are likely to be constrained in the bargaining by their knowledge that the Commission and the courts must approve the result and may produce little more than what they perceive their regulators as wanting.[87] For these same reasons, negotiation is unlikely to provide "accurate" two-tier prices in an effort to drive out producer rents.

In sum, the difficulty of designing a two-tier system for regulating field prices for natural gas made it unlikely from the outset that the Commission would set the "high" price for new gas at a market-clearing level if that was what it intended to do. However, it is also possible that the Commission in fact *wanted* to set the "high," new gas price below competitive rates. Much new gas-well gas production as well as old gas- and oil-well gas production probably returns rents to its producers.[88] If the Commission wanted to return these rents to users, while setting a *single* area price for all new gas-well gas, it *had* to set the price below the marginal cost of new production in that area. The Commission may have felt that any necessarily resulting shortage would not be serious and would be worth the benefits of lower prices to consumers who could obtain the gas that would be made available. If this was the Commission's reasoning, though, it did not expressly state it. Moreover, even if Commission policy could be attributed to such a purpose, the wisdom of that policy would still depend upon the precise extent and impact of the gas shortage created by it. It is to that question that we now turn.

III. THE EXTENT AND IMPACT OF THE NATURAL GAS SHORTAGE

The expectation that FPC regulation of gas production was likely to produce a substantial gas shortage has been proven accurate by subsequent events. Thus, pipeline buyers have reported to the Commission instances during the summer and winter of 1971–72 in which their contracts obliged them to deliver gas but they lacked the necessary supply.[89] The FPC staff has shown deliveries falling short of gas demanded by 3.6 percent in 1971 and by 5.1 percent in 1972, and has predicted that production will fall short of demand by 12.1 percent in 1975.[90] Moreover, those feeling the pinch have tended to blame FPC regulations for the shortage.[91] And the FPC has not only acknowledged the existence of a substantial shortage,[92] but has also suggested that regulated prices are a cause.[93]

Production "shortfalls" alone, however, do not accurately describe the extent of the gas shortage, because gas is purchased by and sold to pipeline companies before the time of its actual production. Gas delivered during any given year is "backed up" by considerable volumes of reserves which are originally committed in long term contracts to pipeline companies demanding a guarantee as to future supplies. Obviously, pipelines will demand more than a few years of reserve backup, for only with a fairly long term supply guarantee is establishing a pipeline worthwhile. More importantly, retail distributors and industrial consumers normally demand that pipelines themselves guarantee a specific rate of delivery over time and therefore demand substantial reserve backing as security against default by the pipelines on their promised deliveries.[94] Thus, an inability of transmission companies to acquire sufficient supplies to meet contract delivery requirements in any given year should signal the earlier existence of a deficiency in the volume of backup reserves committed at the time the original production contracts were undertaken. If this view is correct, a shortage in production levels in the 1970's would have been prefaced by a deficiency of reserve commitments made to back up new production undertaken in the early and mid-1960's. The extent of this predicted reserve shortage in the 1960's should be measurable as the difference between an "optimal" level of reserves which would have been demanded by pipeline companies to back up new production undertaken in that period and the level of reserves actually supplied by regulated producers and acquired by the pipelines.

Rough calculations previously made by one of these authors in fact show the shortage of reserve inventory of natural gas during the 1960's to have been substantial.[95] This conclusion was reached by first determining an approximate "optimal" volume of gas reserves, in terms of years of backup supply, which would be dedicated to secure new production commitments undertaken in any single year. The FPC has considered the proper amount of reserves to be 20 times initial production, so that regulated pipeline demands for new reserves have been based on "the assumption that each new market commitment is backed by a 20 year gas supply."[96] Similarly, pipelines' actual demands for reserves from 1957 to 1954—before the Commission had much influence on the field markets—were on an average equivalent to a 20-year backup of production, with the lowest backing in any single year equal to 14.5 times new production.[97] It was therefore concluded that, on the most conservative of assumptions, a simple, rough estimate of demands for reserve inventory under ceiling prices could be obtained by multiplying total new production—including all new contracts plus any renewals of expiring contracts—by 14.5 to obtain the "lowest" demands for reserve backing in the unregulated market. Alternatively, on more liberal assumptions, total new production could be multiplied by the FPC's suggested reserve ratio. These calculations were done for the years 1964 through 1968 to determine the volume of natural gas which would have been demanded by pipelines as reserves to back up new production under "optimal" conditions for that period. These high and low "optimal" volumes were then compared to the actual new-reserve-to-new-production ratio for the same years. Taking the 5-year period as a whole, it was found that the total demand for reserves was 1.5 to 2.2 times higher than the actual reserves acquired under FPC price ceilings; therefore, *excess* demand for reserves was 50 percent to 120 percent of realized levels of commitments.

In an attempt to determine whether this reserve shortage was the result of field price regulation, we shall construct a model of supply and demand for new reserves, based upon market clearing conditions in the 1950's. These conditions will then be extrapolated into the 1960's in order to predict what supply and demand behavior would have been like during that decade under competitive conditions and whether FPC ceiling prices were too low to clear the market.[98] Then we shall proceed to determine who received gas and who suffered the shortage. It will be shown that, in fact, as suggested earlier the home consumer suffered the brunt of an FPC-created reserve shortage, while the unregulated industrial consumer received a disproportionate share of the gas that was available.[99]

A. A supply and demand analysis of the insufficiency of FPC ceiling prices

The proposed model of supply and demand in the field markets for natural gas in the 1960's tries to assess more accurately the extent to which field price regulation caused the gas shortage. The model tests the fairly plausible view that, without regulation, field prices for natural gas would have increased substantially, producing correlative increases in the supply of and decreases in the demand for natural gas reserves. These higher prices would have called forth enough new supply to fill at least part of what has been shown to be the excess demand for reserve inventories. And, by more carefully rationing the available supply, the higher prices would have eliminated whatever additional excess demand would have still remained.

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The proposed model applies to gas which is supplied by pipeline to the East Coast and Midwest.[100] To test the model's accuracy, we first construct supply and demand schedules to characterize unregulated market behavior in the latter half of the 1950's and use these schedules to predict market-clearing prices in that period. This is done by fitting 1950's data to the proposed supply and demand relations to predict the amount of reserves added in year "t" in producing district "j" ($\triangle_{tj}R_{tj}$) and the average new contract price at the same time and place (P_{tj}). The values of $\triangle R_{tj}$ and P_{tj} that "clear" this supply-demand system for the 1950's describe with considerable accuracy both the actual prices at which natural gas was sold and the actual amount of new reserves added in the test areas during that period. The model is then applied to the 1960's by inserting 1961–68 data into the supply and demand equations and then solving the system for market-clearing values $\triangle R^*_{tj}$ and P^*_{tj}. The model's values for the 1960's are then compared to the actual reserves added and prices existing during that period. The comparison shows regulated prices to be less than P^*_{tj} and actual reserves supplied to be less than one-third of $\triangle R^*_{tj}$. Most of the difference can be attributed to the FPC's regulatory efforts.

1. The Supply Equations.—As previously indicated, the supply of natural gas is measured both by the volume of new reserves *and* by the level of production added from new contracts each year.[101] Looking first at the supply functions for new gas reserves, the volume of new reserves discovered and developed in any given year depends on geological and technical factors, as well as economic ones. Thus, the supply equations of the proposed model relate observable data to the supply of new reserves on the following assumptions.

First, the volume of gas added to known reserves in a district depends quite plainly on the extent of hydrocarbon deposits in that district; gas discovery, in other words, cannot occur where the deposits are not present. Because of the relative permanence of geological characteristics, the most concrete determinant of general hydrocarbon availability in a district is the long term pattern of reserve discoveries there. Thus, it may be said that the supply of new reserves in year "t" in district "j" ($\triangle R_{tj}$) is a function (f) of the geological characteristics of district "j" itself. This relationship can be expressed by the equation $\triangle R_{tj}=f(j)$.[102]

The second condition of new reserve supply is that inputs are required—principally drilling inputs—to bring unknown hydrocarbons to the point of being producible reserves. The only available data on such inputs are the number of gas development wells sunk in the 1950's and 1960's, by drilling district. To be sure, such data are not indicative of all necessary inputs, but the wells do reflect the amount of capital invested in a hydrocarbon field and do provide producers with additional knowledge of surrounding geological conditions. Thus, the supply of new reserves in year "t" in district "j" ($\triangle R_{tj}$) is also a function of the number of development wells sunk in the same time and place (W_{tj}). In sum, the equation $\triangle R_{tj}=f(j, W_{tj})$ can be taken to indicate, even if somewhat imperfectly, a number of important "engineering" factors in the supply of new reserves.

Third, the supply of newly discovered reserves also depends upon economic factors. This relationship can be most immediately seen as a condition of the number of development wells sunk in a drilling district. Thus, as prices for new gas reserves increase, it can be expected that more gas drilling will occur, and this additional drilling of regions likely to contain gas will increase the amount of new gas reserves discovered. If average new reserve contract prices in year "t" in district "j" (P_{tj}) are good surrogates for the prices forecast by the drilling companies before development begins, then the amount of actual drilling (W_{tj}) will be a function of these prices. In addition, as noted previously, gas reserves may be discovered incidentally in the search for oil.[103] Oil price increases are likely to produce more drilling in areas likely to contain hydrocarbon deposits, and such drilling may produce gas, as well as oil, finds. Therefore, the number of development wells sunk (W_{tj}) may be said to be also a function of the level of the crude oil price throughout the Southwest (op_t). Thus, the response of drilling activity, and indirectly of new reserve supply,[104] to economic factors can be expressed by the equation $W_{tj}=f(P_{tj}, op_t)$.

Finally, the analysis of drilling, as well as that of reserves, should recognize that geological factors, as represented by the long term pattern of drilling in a region, are important. Thus, the drilling equation we have developed thus far, $W_t=f(P_{tj}, op_t)$, should include the geological characteristic j as well.

In sum, the supply functions for new gas reserves in each drilling region "j" supplying the East Coast and Midwest markets in year "t" within the late 1950's can be taken to be:

$$\triangle R_{tj}=f(j,W_{jt}), \text{ where}$$
$$W_{tj}=f(P_{tj}, op_t, j).$$

Turning to the supply of new production, as opposed to new reserves, the proposed model is based on the assumption that the quantity of additional production from new contracts signed in year "t" for gas in district "j" (ΔQ_{tj}) depends upon three factors. First, the quantity of additional production obviously is a function of the volume of newly discovered reserves at the same time and place ($\triangle R_{tj}$). Second, production depends upon the cost of production itself. These costs may be roughly represented by the current rate of interest (i_t), since the interest rate may be assumed to be a measure of capital costs for drilling. As these costs increase, the production rate out of new reserves should decrease. Third, the quantity of additional production from new contracts signed each year is a function of short term consumer demand for immediate gas delivery. One of the factors influencing short term consumer demand can be represented by the all fuels retail price index (fp_t). This index will indicate not only whether the price of substitute fuels is rising, thereby making gas more desirable, but perhaps also whether personal consumption of fuel generally is on the rise, increasing the demand for gas as one among a number of alternative fuel sources. In short, additional gas production from new purchase contracts signed each year ($\triangle Q_{tj}$) is taken roughly to be a function of the availability of new reserves ($\triangle R_{tj}$), production costs (i_t), and consumer demand (fp_t), and can be represented by the equation $\triangle Q_{tj}=f(\triangle R_{tj}, i_t, fp_t)$.

2. The Demand Equation.—Demand or "willingness to pay" is represented by the prices bid by pipelines to purchase new gas reserves. These bids are determined primarily by pipeline costs and the pipelines' opportunities for resale. Thus, the proposed model is based on the assumption that average new contract prices for gas reserves of district "j" in year "t" (P_{tj}) depend upon pipeline costs and the demand for gas in final consumer markets.

The price a pipeline is willing to offer for newly discovered gas is in part a function of the pipeline's transport costs. These costs depend both upon the volume of new reserves discovered in a district and the distance between the field and the point of resale to retail distributors. As the volume of new reserve discoveries in a district ($\triangle R_{tj}$) increases, companies will be able to install larger scale gathering lines, thereby reducing unit transport costs. On the other hand, costs will rise as the number of miles between the field and the point of resale to retail distributors (M_j) increases.[105] Thus, the relation between field prices in district "j" in year "t" (P_{tj}) and pipeline transport costs can be expressed by the equation $P_{tj}=f(\Delta R_{tj}, M_j)$.

A more important determinant of the price pipelines will bid, however, is final consumer demand. As pointed out earlier,[106] the index of all fuel retail prices (fp_t) provides a rough measure of such user demand for gas; the prices which pipelines are willing to pay for producer gas are likely to increase directly with increases in this index. On the other hand, user demand will be limited by the total size of the final user market, and measurement of demand can be made more accurate by considering the extent of this market. The size of the market can be initially estimated by the capital stock of all gas-burning furnaces in the country (K_t). Moreover, since there are limits to the level of resales by pipeline companies, the prices which these companies are willing to pay in in any year will depend on the sum total of *all* new reserves that year ($\Sigma\triangle R_{tj}$). Thus, as the capital stock of gas burning furnaces (K_t) increases, so will the likely price bid by the pipelines; but as total new reserves offered in any year ($\Sigma\triangle R_{tj}$) increases, the likely price bid will decrease. Therefore, the relation between average new contract prices (P_{tj}) and the demand and size of final markets can be expressed by the equation $P_{tj}=f(fp_t, \Sigma\triangle R_{tj}, K_t)$.

In sum, putting together both the cost and user demand determinants of the prices pipelines are willing to pay, the proposed demand relation (for the same regions and time periods as for the supply functions) is: $P_{tj}=f(\triangle R_{tj}, M_j, fp_t, \Sigma\triangle R_{tj}, K_t)$.

3. Application of the Model to the Field Market for Gas.—The four equations of the proposed model together make up an equilibrium system that describes well the actual prices and supplies of new reserves in the late 1950's. Data from the period 1955–60 were used to fit "least squares" equations[107] to the structural relations explained above for new reserves ($\triangle R_{tj}$), wells sunk (W_{tj}), new production ($\triangle Q_{tj}$), and average contract price (P_{tj}).[108] The closeness with which the fitted equations describe reality is indicated by the accuracy with which equilibrium in the four-equation system reproduced the actual volumes of new reserves supplied and prices paid during the period.[109] The difference between the "simulated" (four equation equilibrium) price and the actual annual average price in any given year was at most 1.6 cents per Mcf and the average difference over the entire 6-year period was only 0.7 cent per Mcf.[110] Similarly, while the volumes of actual new reserves exceeded simulated new reserves by approximately 3 trillion cubic feet in both 1955 and 1957, the average difference over the 6-year period was less than ½ trillion cubic feet (or less than 0.7 percent of total new additions to actual reserves).[111] The model thus suggests that markets "cleared"—or operated at equilibrium—in the 1950's before producer price regulation.[112]

In order to test whether the gas shortage in the following decade developed from price controls, the model was then applied to the 1960's. The four equations were used, along with 1961–68 figures for the "outside" or exogenous variables,[113] to find the values for $\triangle R^*_{tj}$, $\triangle Q^*_{tj}$, W^*_{tj}, and P^*_{tj} which "solve" the equations—*i.e.*, the values which "clear" the gas market as if there were no price ceilings. These "unregulated" values are compared with the actual values in Table I.

Footnotes at end of article.

TABLE I.—PRICES AND PRODUCTION OF GAS FOR THE EAST COAST AND THE MIDWEST, 1961-68

Year	Average price (cents per thousand cubic feet)		New production (billion cubic feet)		New reserves (billion cubic feet)	
	Actual	Simulated	Actual	Simulated	Actual	Simulated
1961	17.7	20.0	292	817	5,567	12,480
1962	19.0	21.1	230	755	5,805	12,858
1963	16.5	22.4	447	688	4,884	13,077
1964	16.7	22.9	200	814	5,512	13,221
1965	17.4	24.1	348	750	6,015	13,621
1966	17.2	25.5	347	627	4,204	14,147
1967	17.4	26.7	575	520	3,693	15,026
1968	18.0	27.8	434	548	951	15,572
8 yrs.	17.5	23.8	2,873	5,519	36,631	110,002

The simulated or "unregulated" prices that would have cleared the reserve market were on the average 6 cents per Mcf higher than ceiling prices for the entire period, and more than 7 cents higher for the period following 1962, when the full effect of price ceilings seems to have taken hold in the test region. On the supply side, the higher prices—if they had been allowed—would have provided considerable incentive to add to the volume of new reserves. The level of simulated new reserves is more than three times the level of actual new reserves over both periods. Another indication of the impact of clearing prices on supply appears in the difference between actual and simulated new production. Actual new production is approximately one-half of simulated new production over the 8-year period. Given that higher unregulated prices would have brought forth a much higher level of new reserves, this higher level of simulated new production is not surprising. On the demand side, the higher simulated (market-clearing) price would have significantly reduced the amount of reserves sought. To be sure, the amounts which would actually have been demanded at various prices are not known, since only the new reserves both demanded *and* supplied are shown by the annual simulations. But that excess reserve demand would have been reduced is indicated by the fact that the total demand for new reserves proved to be elastic with respect to price.[114] Total new reserve demand was reduced by approximately 10 trillion cubic feet for each cent of price increase.[115]

As it was, a serious reserve shortage developed in the 1960's, which at that time revealed itself in the pipelines' reduction of their new-reserve-to-new-production ratio. This reduction in the security of service, shared by all those connected to interstate pipelines, was translated in the early 1970's into a more tangible actual production shortage; pipelines had to curtail deliveries in 1971 and 1972 because they could not take gas from their reserves fast enough to meet their contract commitments. This production shortage has been plainly visible. It followed directly from the earlier reserve shortage which in turn was a creature of FPC regulatory policy.

B. The impact of the shortage

At the same time that field price regulation has meant lower gas prices, it has also brought about a reserve—and now a production—shortage. Determining who has been helped and who has been hurt by this FPC regulatory policy is necessary in order to assess whether the lower prices were "worth" the shortage. Information is not yet available to allow a definitive finding on this issue. Nevertheless, there is enough evidence inferentially to support the view that the result of FPC policy in the 1960's was to deplete the gas reserves of interstate home consumers in favor of the demands of intrastate industrial customers to whom sales were unregulated.

First, the regulated pipelines—those selling interstate for resale to distributors for most home customers—did not obtain their proportionate share of new gas reserves in the late 1960's. In 1965 these lines possessed more than 70 percent of the nation's reserves. But between 1965 and 1971, the interstate pipelines obtained less than half the volume of the new reserves developed, and the overall percentage of reserves possessed by them fell to 67 percent.[116]

Second, as Table II shows, what variation there was in the division of total annual gas production between residential and industrial users indicates that over the course of the 1960's proportionately more went to industrial users. The percentage of gas sold by pipelines and distributors to residential users declined 1.6 percentage points between 1962 and 1968.[117] This decline was caused in large measure by a substantial increase in industrial sales by unregulated intrastate pipelines and by producers themselves. Between 1962 and 1968, total industrial consumption of natural gas increased 43.5 percent, while intrastate pipelines and distributors increased their industrial sales by almost 62 percent.[118] Moreover, of the increase in industrial consumption, more than half can be attributed to sales by intrastate pipelines and distributors, while less than 13 percent is accounted for by direct industrial sales of the interstate pipelines. The remaining 37 percent of the increase was the result of direct sales by the producers.

TABLE II.—NATURAL GAS SALES TO ULTIMATE USERS[1]

Class of service or seller	1962 Quantity (million Mcf)[2]	1962 Percent of total	1968 Quantity (million Mcf)[2]	1968 Percent of total	Percent increase
Sales by all pipelines and distributors:					
Residential and commercial	4,320	44.5	5,966	42.9	+38.2
Industrial and other	5,396	55.5	7,925	57.1	+46.9
Total	9,716	100.0	13,891	100.0	+43.0
Sales to industrial and other nonresidential consumers:					
Direct sales by interstate pipelines[3]	2,129	23.2	2,641	20.0	+24.0
Intrastate pipelines and distributors (estimate)[4]	3,267	35.5	5,284	40.0	+61.7
Producers[5]	3,809	41.3	5,284	40.0	+38.7
Total U.S. industrial consumption	9,205	100.0	13,209	100.0	+43.5

[1] Much of the data in the table is derived from American Gas Association, "Gas Facts 1971", at 82, 119 (1972).
[2] This figure was converted from million therms to million Mcf based on 1,031 Btu's per cubic foot of natural gas.
[3] See Federal Power Commission, "Statistics of Interstate Natural Gas Pipeline Companies 1962, at XXII (1963); Federal Power Commission, "Statistics of Interstate Natural Gas Pipeline Companies, 1968," at XV (1969).
[4] These figures are derived by subtracting "Direct sales by interstate pipelines" from the figures for "Industrial and other" sales by all pipelines and distributors.
[5] These figures are derived by subtracting "Direct sales by industrial and other" sales by all pipelines and distributors from the figures for "Total U.S. industrial consumption."

Third, that the reserve shortage hit most seriously the residential buyer supplied by a regulated pipeline becomes still more evident when certain particular gas regions are examined. The Permian Basin in West Texas, for example, accounted for about 2.5 percent of total U.S. gas reserves in the early 1960's. In the late 1960's, additional discoveries raised this figure to about 10.5 percent.[119] Six large interstate pipelines, two intrastate pipelines, and many direct industrial buyers bid for the new reserves.[120] From 1966 onwards, the intrastate lines and the direct industrial buyers obtained almost all of the uncommitted volumes available. In fact, interstate pipelines, which accounted for 80 percent of production from the new reserves in this area in 1966, accounted for only 9 percent in the first half of 1970.[121] The reason for the interstate pipelines' decline in reserve holdings is not difficult to find. Prices offered by intrastate buyers for the new gas in this area rose from 17 cents per Mcf in 1966 to 20.3 cents per Mcf in 1970, and toward the end of 1970, the intrastate pipelines bought more than 200 billion cubic feet of reserves at initial delivery prices of 26.5 cents per Mcf.[122] At the same time, prices paid by interstate pipelines could not exceed the regulatory ceiling and therefore remained between 16 and 17 cents per Mcf. The inescapable conclusion is that the interstate pipelines were simply outbid.

In sum, as a result of regulation in the 1960's buyers for interstate consumption obtained fewer reserves than they wished. For the most part, those buyers were pipelines ultimately serving primarily residential consumers. The short reserve supplies were bid away from these buyers by intrastate gas users. This was a predictable result of FPC two-tier regulation of field gas markets in light of the Commission's jurisdictional limitations.

IV. THE COSTS OF REGULATION

Showing that ceiling prices created a substantial gas shortage and that this shortage was disproportionately borne by residential gas consumers is not enough by itself to condemn FPC regulatory policy. At the same time that FPC regulation of field markets created a shortage, it also reduced prices 6 cents per Mcf below what we have simulated market-clearing prices to be during the 1960's. To calculate the gains to consumers who actually received gas as a result of this regulatory policy, one might simply multiply average annual production of regulated gas from, say, 1962–68 (about 11 trillion cubic feet),[123] by 6 cents per Mcf and claim that regulation saved those consumers who received gas about $660 million annually. Of course, such a calculation contains heroic assumptions and oversimplifications. For one thing, it assumes that every cent of price reduction at the wellhead was passed through to ultimate consumers; in light of the fact that sales by retail distributors are intrastate and therefore subject only to state regulation, the assumption may not be valid.[124] For another thing, had producers received a higher price, at least some of their additional revenues would have been taxed away and, therefore, indirectly returned to consumers anyway. Nonetheless, even assuming that the entire 6 cents per Mcf was returned to consumers who actually received gas, we still doubt that this benefit outweighed the losses arising from regulation, even from the point of view of the consumer class itself.

In order to calculate the costs of wellhead price regulation to gas users, it must first be established that the behavior of pipelines in the field market is representative of consumers' interests. Table I[125] showed that the additional 6 cents per Mcf which pipelines would have paid for gas produced under unregulated conditions would have purchased a joint product: *both* additional production *and* additional reserves. These hypothesized purchases of additional supply by pipeline companies likely represent what the pipelines conceived to be final consumer demands for additional current deliveries and for additional insurance of future deliveries. Obviously, pipelines would not overstate demands for current production, since they clearly have no interest in purchasing gas which they cannot resell. Similarly, it is difficult to see why pipelines would deliberately over-

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state demand for reserves, given that the costs of dedicated reserves are not included in their rate base and demanding excessive reserves would increase contract prices and therefore ultimately reduce sales to consumers.[126]

If this assumption of the representative quality of the pipelines' field market demands is correct, then the cash returned to gas users by virtue of FPC regulation was probably less than the cash consumers were willing to give up for additional deliveries and reserve backing. First, the gains to those paying lower prices for gas they actually received must be offset by the losses to others who had to do without gas and find other sources of energy. Residential and commercial users unable to receive gas because distributors lacked supply—usually those consumers in new or growing population centers—were forced to use less desirable, or more expensive, fuels such as oil or electricity. The cost, in real terms, to these consumers of using such alternative energy sources can be roughly measured by the amount which they were willing to pay for additional gas. Therefore, the loss they suffered from regulation is the difference between what they *were willing to pay* for gas rather than go without it and *what they would have actually paid* under equilibrium conditions for the market-clearing level of gas deliveries. If this difference or "premium" which consumers suffering the shortage were willing to pay was on *average* 6 cents per Mcf, then the losses of those doing without gas were as great as the gains of others receiving gas at 6 cents per Mcf below market-clearing prices; this is so because the hypothesized *shortage* of new production (the difference between simulated and actual production out of new reserves in Table I) was approximately as large as *actual* new production.[127] In fact, it appears from the supply and demand model that consumers suffering that shortage would by 1967 or 1968 have been willing to pay an average premium of 6 cents per Mcf rather than do without gas entirely.[128] Therefore, the losses from the shortage (equal to what consumers in the aggregate were willing to pay to recover lost gas production) simply made too many consumers worse off to allow the conclusion to be drawn that reduction in prices was worth the shortage it created.[129]

Second, the argument that consumers who actually received gas obtained a 6 cents per Mcf saving as a result of FPC regulation is itself fallacious, because these consumers were, in fact, purchasing *less*—an inferior product—than they would have under unregulated conditions. As we have shown, the price which consumers pay for deliveries, when translated into the price pipelines pay for production at the wellhead, purchases not only current production, but also a reserve backing which provides a certain level of insurance of future deliveries. Since FPC price ceilings brought forth only a third of the new reserves which would have been developed under market-clearing conditions, those consumers who received gas at lower prices *gave up* a substantial amount of their guarantee of future service. To be sure, this loss was not observable by these consumers, since it took the form only of reduced backing for production which they were currently receiving. Nevertheless, it is likely that these reserves were worth a considerable amount to them. The man who makes a large investment in gas appliances, for example, obviously wants an assurance that he will not have to switch to oil or electricity for many years, if at all. Reserves promise him this and also provide him with security from possible temporary interruptions of service. On conservative assumptions, these buyers, as represented by the pipelines, wanted at least 14.5 years of reserve backup to provide them with a sufficient production guarantee.[130] Under unregulated conditions, this insurance would have been obtained by them; under FPC price ceilings, it was not.[131] The 6 additional cents per Mcf which consumers receiving gas would have had to pay in an unregulated market was, from the perspective of their interests, at least in part a premium for insurance which FPC price ceilings did not provide. For every 6 cents in cash which FPC regulation saved these consumers on actual deliveries, it took away reserves which they might well have desired at least as much as the money. In short, the extent to which FPC regulation actually helped even those receiving gas at lower prices is problematical; it simply gave them a short term windfall at the cost of long term insecurity.

These losses to both those who did not obtain gas and those who did, moreover, are not all the costs of the FPC's regulatory policy. For example, further costs probably resulted from the displacement of industry. Some industrial firms for whom energy costs were a large part of total costs moved to the producing states solely to obtain natural gas not available on the interstate market due to FPC price ceilings. Moreover, further distortion arose from competitors' paying different prices for their fuel sources, either because one had an intrastate gas supplier, or because of FPC policies for rationing the cheaper "old" gas. And the economic and administrative costs of litigation and delay from the price proceedings themselves have been substantial as well.[132]

Despite these strong indications of the failure of FPC regulation of field gas prices, some consumers' groups have argued that the Commission should deal with the problems that have arisen from its present regulatory efforts by introducing still more regulation. The Commission might, for example, seek to expand its jurisdiction over intrastate sales to end the "leakage of supply" to intrastate industrial users and then establish "end use" controls, specially allocating gas to particular individuals or classes of customers.[133] Such an approach, however, would not solve the problems raised here. Not only would it fail to reduce the aggregate shortage of gas, but it would require the Commission to determine on a larger scale than it now does which end uses of gas are "superior" and which "inferior." Such a task is difficult, to say the least, and there is little reason to believe that a Commission that was unable to set area prices in the field without creating massive shortages would find a "proper" solution to the still more complex problem of rationing on a grand scale. Once prices were abandoned as a measure of value, the number of claimants for special preferences, citing a variety of economic and social imperatives, would become large indeed. In all probability, the Commission would have to continue its past practices and simply arrange for a series of compromises among these various claimants. Such compromises would inevitably lead to continued excess demand for gas and to shortages in which, if the future resembles the past, those intended to benefit from gas regulation would still be injured.

Neither would it be completely satisfactory for the Commission to follow a partial policy of income redistribution by trying to squeeze rents only from old gas- and oil-well gas production while leaving new gas-well gas production unregulated.[134] To be sure, there would be little danger of shortage if the Commission set ceiling prices only on the production of gas *now* classified as "old," since there is *ex hypothesi* a fixed supply of these hydrocarbons. But such regulation would accomplish merely a temporary, minimal transfer of rents, because the supply of this "old" gas will run out in the next few years. In order to accomplish this temporary income transfer, the Commission would still have to solve the problems of determining the costs of producing old gas and of rationing the cheaper supplies. The administrative burden of solving these problems might not be worth the income redistribution which such a policy would bring about. On the other hand, if the Commission embarked upon a *permanent* policy of regulating "old" gas prices by continuously reclassifying further supplies as "old," it would not only have to develop a dynamic standard to separate "old" from "new" gas, but it would also be confronted with all the problems of the present regulatory system. Producers seeing that the prices of their new supplies would *eventually* be subject to ceilings would be likely to take these future price regulations into account. Therefore, while the prices of new reserves would not be directly regulated, further exploration and development would still be discouraged, and thus a shortage would still arise.

The alternative that we favor is eliminating field price regulation designed to transfer producer rents. If income is to be redistributed, rents can be transferred from producers to consumers without regulation. For example, tax policy can be used to accomplish the same objectives. Indeed, much of the alleged justification for the depletion allowance[135] in this area—the need to encourage exploration and development—would seemingly vanish if producer prices were set competitively. In contrast to the tax system, area price ceilings cannot help but be an indiscriminate method of income redistribution. While it takes *some* income from those producers realizing excess profits, its impact falls most heavily on those producers without excess profits—those right at the margin, perhaps forcing them out of the market entirely. In contrast, redistribution through taxation aims more directly at those producers with excessive incomes. While we are aware that redistribution through tax policy has many problems of its own, we doubt that they could be as serious as those that have accompanied the effort to control field prices. In short, it is difficult to see the virtue of a price control system, particularly when, as was proven during the 1960's, it is likely that those consumers the system is designed to benefit will not be benefited at all. With the example of producer price regulation in mind, one might well question the advisability of using microeconomic methods—such as regulation of the firm—solely to accomplish macroeconomic objectives—such as income redistribution.

To be sure, elimination of regulation intended to redistribute income would effectively mean deregulation of much of the field market for natural gas, since the market structure of most, if not all, producing regions is decentralized and competitive. Deregulation of this sort, however, would not deprive the Commission of all power over producer rates in those regions where producers do possess monopoly power. At the same time that the Commission would allow prices in competitive regions to approach market-clearing levels, it could selectively regulate prices in those few producer regions where market power turns out to be present by using the prices in the competitive areas as benchmarks.

Of course, one potential obstacle to this proposed regulatory policy is that a court might hold that for the Commission to allow market forces to determine producer prices would be inconsistent with the mandate of the Natural Gas Act to regulate "sale[s] in interstate commerce of natural gas. . . ."[136] To be sure, in the *CATCO* case,[137] the Court held that the Commission could not license a producer to sell gas without conditioning the license on the producer's promise to charge a reasonable price. But the Court's decision in that case was predicated on the inadequacy of the Com-

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mission's findings respecting the need to issue an unconditional license, and on the harms to consumers which would attend the inordinate delay before the Commission on its own could determine a just and reasonable rate. Certainly, the case cannot be taken as precedent for disturbing Commission judgment that market forces can ordinarily be relied upon to set just and reasonable rates and that any attempt to interfere with market forces to transfer rents would do the consumer more harm than good. A decision to "deregulate" producer prices as proposed would be a determination that selective rather than pervasive interference with field market transactions was the most appropriate way to regulate this portion of the natural gas industry. Such a determination would seemingly comply with the fundamental purposes of the Natural Gas Act, and, being based upon 15 years of experience with different methods of regulation, it would almost certainly be supported by substantial evidence.[138] Nothing in the *Phillips Petroleum* decision[139] *requires* the FPC to set prices; the decision simply gives the Commission jurisdiction to do so. As the U.S. Court of Appeals for the Fifth Circuit has recently stated:[140]

"[T]he decisions of the Supreme Court definitely indicate the Commission has a responsibility to take the steps necessary to assure that wellhead prices are in the public interest. The Commission does not have to employ the area rate method or for that matter regulate prices directly at all, but it has chosen to fulfill its duty in that manner here."

In sum, the arguments against the present system of gas field market regulation are compelling. Price control is not needed to check monopoly power, and efforts to control rents require impossible calculations of producer costs and lead to arbitrary allocation of cheap gas supplies. In practice, regulation has led to a virtually inevitable gas shortage. It has brought about a variety of economically wasteful results, and it has ended up by hurting those whom it was designed to benefit. Thus, less, not more, regulation is required.

FOOTNOTES

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[1] 347 U.S. 672 (1954).

[2] Prior to this decision, FPC regulation of the natural gas industry extended only to the regulation of prices for the transporting of gas across state lines for the purposes of resale.

[3] MacAvoy, *The Effectiveness of the Federal Power Commission*, I BELL J. OF ECON. & MANAGEMENT SCI. 271, 303 n. 22 (1970).

[4] *See* Table I, p. 975 *infra*.

[5] Although in debates over the wisdom of FPC regulatory policy the *Phillips* decision itself is often violently attacked, the Court's logic in that case was not wholly unreasonable, though neither was it totally satisfying. Whether the FPC should have jurisdiction over producer prices is not clear from the statutory language of the Natural Gas Act, 15 U.S.C. §§ 717–717w (1970). The Act states that [t]he provisions of this chapter shall apply to . . . the sale in interstate commerce of natural gas for resale . . . but shall not apply to . . . the production or gathering of natural gas.

15 U.S.C. § 717b (1970). To be sure, a field producer's sale to an interstate pipeline is "a sale in interstate commerce for resale." But whether the exemption for "production and gathering" applies to the physical production and gathering operations only or to those operations and also the *sale* of what what is gathered, is not clear.

While the legislative history of the Act has little to say about producer regulation, what is said seems to support the Court's decision. The House of Representatives Committee Report states that the words "production or gathering" are "not actually necessary, as the matters specified therein could not be said fairly to be covered by the language affirmatively stating the jurisdiction of the Commission. . . ." H.R. REP. No. 709, 75th Cong., 1st Sess. 3 (1937). *See generally* Note, *Legislative History of the Natural Gas Act*, 44 GEO. L.J. 695 (1956). This statement suggests that Congress did not mean to exempt from regulation sales by producers to pipelines, for such sales surely could be said "to be covered by the language affirmatively stating the jurisdiction of the Commission" over sales for resale in interstate commerce. Moreover, although the FPC consistently refused before 1954 to regulate producers, at their urging Congress passed a bill granting a clear producer exemption—a bill that President Truman vetoed. Thus the producers, the Congress, and the President arguably acted as if the producers might be regulated by existing law. For an excellent discussion of this point, and of producer price regulation generally, see Kitch, *Regulation in the Field Market for Natural Gas by the Federal Power Commission*, 11 J. LAW & ECON. 243, 254–55 (1968).

Despite this support for the Court's position, however, the *Phillips* decision can be criticized. The Court did not examine, more than superficially, the economic purposes that producer regulation might serve. Without such an examination, the Court could not tell what sense producer regulation made economically or whether it was consistent with a general regulatory policy which provides for the supervision of the prices of monopoly (or oligophy) gas transmission companies and of monopoly retail gas distributing companies. If producer regulation is not consistent with this general regulatory policy, then to assume a congressional intent to regulate producers in the face of ambiguous statutory language and a near-silent legislative history was not warranted, and produced bad law. To what extent the Court in 1954 could have been aware of the facts and arguments concerning the economic rationale for regulation, we leave to the reader to judge.

[6] N.Y. Times, April 19, 1973, at 1, col. 1; *see* note 134 *infra*.

[7] Southern Louisiana Area Rate Cases v. FPC, 428 F. 2d 407, 418 n. 10 (5th Cir.), *cert. denied*, 400 U.S. 950 (1970).

[8] Recent estimates place potential reserves in the U.S. at 1,227 trillion cubic feet in addition to the present proven reserve inventory of 275.1 trillion cubic feet. FEDERAL POWER COMMISSION, 1970 ANNUAL REPORT 52 (1971). Of course, much of the potential reserves exists in high-risk, high-cost areas. *Id.* at 52. But these figures for potential resources do not include the possibility of expansion by way of technological advances in obtaining gas from coal and in stimulating low-productivity gas reservoirs through the use of nuclear power. *Id.* at 53–54.

[9] *See* pp. 965–66.

[10] *See, e.g.*, Posner, *Taxation by Regulation*, 2 BELL J. OF ECON. & MANAGEMENT SCI. 22 (1971).

[11] For general background on the production of natural gas, see J. KORNFELD, NATURAL GAS ECONOMICS (1950); S. PIRSON, OIL RESERVOIR ENGINEERING (1959); L. UREN, PETROLEUM PRODUCTION ENGINEERING (1934).

[12] *See* Table II, p. 978 *infra*.

[13] *See* P. MACAVOY, PRICE FORMATION IN NATURAL GAS FIELDS chs. 5–7 (1962) [hereinafter cited as PRICE FORMATION].

[14] *See* pp. 954–57 *infra*.

[15] *See* C. HAWKINS, THE FIELD PRICE REGULATION OF NATURAL GAS 221 (1969) [hereinafter cited as HAWKINS].

[16] *See, e.g.*, Douglas, *The Case for the Consumer of Natural Gas*, 44 GEO. L.J. 566, 589 (1955) ("Competition is limited by the domination of supply and reserves by a very few major companies . . . .").

[17] Phillips Petroleum Co. v. Wisconsin, 347 U.S. 672, 685 (1954).

[18] Southern Lousiaina Area Rate Cases, 428 F.2d 407, 416, n.10 (5th Cir.), *cert. denied*, 400 U.S. 950 (1970).

[19] HAWKINS, 248.

[20] Permian Basin Area Rate Proceeding, 34 F.P.C. 159, 182 n.17 (1956), *aff'd in part and rev'd in part sub nom.* Skelly Oil Co. v. FPC. 375 F.2d (10th Cir. 1967), *aff'd in part and rev'd in part sub nom.* Permian Basin Area Rate Cases, 390 U.S. 747 (1968) (approving FPC decision in its entirety).

[21] P. MACAVOY, THE CRISIS OF THE REGULATORY COMMISSIONS 156 (1970), quoting Champlin Oil & Refining Co., Docket No. G–9277, at 458 (FPC 1969) (testimony of Professor M.A. Adelman).

[22] *See* McKie, *Market Structure and Uncertainty in Oil and Gas Exploration*, 74 QUARTERLY J. OF ECON. 453 (1960).

[23] *See* HAWKINS 227; pp. 966–67 *infra*.

[24] *See* PRICE FORMATION 29–31.

[25] *Cf.* Champlin Oil & Refining Co., Docket No. G–9277, at 489 (FPC 1969) (testimony of Professor A. E. Kahn).

[26] *See* PRICE FORMATION 93–242.

[27] *See, e.g.*, Dirlam, *Natural Gas: Cost, Conservation, and Pricing*, 48 AMERICAN ECON. REV. 491 (No. 2, 1958); Douglas, *supra* note 16; Kahn, *Economic Issues in Regulating the Field Price of Natural Gas*, 50 AMERICAN ECON. REV. 506 (No. 2, 1960).

[28] HAWKINS 223 (prices at the wellhead increased 83% during this period).

[29] *See* PRICE FORMATION 243–73.

[30] *See, e.g.*, Douglas, *supra* note 16; Spritzer, *Changing Elements in the Natural Gas Picture: Implications for the Regulatory Scheme*, in REGULATION OF THE NATURAL GAS PRODUCING INDUSTRY 118 (K. Brown ed. 1972).

[31] On this point, most of the economic theories of the regulated firm agree. *See, e.g.*, Averch & Johnson, *Behavior of the Firm Under Regulatory Constraint*, 52 AMERICAN ECON. REV. 1052 (No. I, 1962). *See also* Baumol & Klevorick, *Input Choices and Rate-of-Return Regulation: An Overveiw of the Discussion*, I BELL J. OF ECON. MANAGEMENT SCI. 162 (1970).

[32] *See* PRICE FORMATION 93–145.

[33] Those favoring regulation have also pointed to producer profits as evidence of market power. To be sure, profits would appear to have been higher here than in some industries. Economic experts appearing for the distributing companies in the Permian Basin Area proceedings reported average returns on capital between 12 and 18% for oil and gas companies at a time when the average return in manufacturing was less than 8%. But such comparisons are not enough to suggest the presence of monopoly pricing, due to three special features of returns in the gas producing industry. First, without regulation, marginal producers must earn a return on their capital at least equal to what they could earn by investing elsewhere. But lower costs on more fortunate discoveries in a world of uncertainty might earn much more, and this "rent" earned by unusually efficient or fortunate producers would create an upward bias in industry average profit rates. Such "rent" is more likely to be prevalent in natural gas production than in most other industries because of the characteristics of discovery of an uncertain resource. *See* p. 950 *infra*. Second, the Permian Basin figures reflect profits only of firms still in business, not of those that have failed. The uncertainty in exploring and developing gas suggests that risks of failure have been unusually high. *See* HAWKINS 222

(showing high percentage of exploratory wells which have been dry). Thus, measuring industry returns on the basis of those that are able to remain in it results in an upward bias. Third, profit figures in the Permian Basin proceedings overstated the true return to capital because of the accounting procedures used. The rate of return estimates were calculated simply by dividing total profits that producers reported they had received by the total capital that they reported they had invested. However, this method does not account for the extensive time lag in the industry before an investment begins to earn a return. The accounting return on a dollar invested must be far lower in real terms here than elsewhere simply because payment begins 5 years rather than 1 year, after the investment is made; the simple accounting profit rate must be adjusted to take the long lag between exploration and production into account. Producer witnesses in the Permian Basin case estimated that an "apparent yield" of 16 to 18% was due to the lag in production, equivalent to a "true yield" of about 10% Thus, not much can be concluded about market power from the profit figures alone.

[34] Of course, regulation designed to allocate resources efficiently and regulation directed at income redistribution are necessarily mutually exclusive policies. *See* p. 943 *supra*.

[35] *See, e.g.*, Kahn, *supra* note 27.

[36] *See* Tables I and II, pp. 975, 978 *infra*. *See also* HAWKINS 220.

[37] Rising trends in costs of inputs and falling trends in productivity per unit of drilling are reported in NATIONAL PETROLEUM COUNCIL, U.S. ENERGY OUTLOOK ch. 6 (2d Interim Report 1971).

[38] *See* p. 944 *supra*.

[39] *See* Southern Louisiana Area Rate Proceeding, 46 F.P.C. 86, 110–11 (1971).

[40] *See* Southern Louisiana Area Rate Cases v. FPC, 428 F.2d 407, 426 (5th Cir.), *cert. denied*, 400 U.S. 950 (1970).

[41] *See* pp. 958–59 *infra*.

[42] This pattern appeared in the first complete area rate decision. Permian Basin Area Rate Proceeding, 34 F.P.C. 159 (1956), *aff'd in part and rev'd in part sub nom.* Skelly Oil Co. v. FPC, 375 F.2d 6 (roth Cir. 1967), *aff'd in part and rev'd in part sub. nom.* Permian Basin Area Rate Cases, 390 U.S. 747 (1968) (approving FPC decision in its entirety).

[43] *See* 34 F.P.C. at 188.

[44] Additionally, economists favoring regulation upon whom the Commission has closely relied have often rested their case upon a belief that the supply of gas is inelastic—that price has little effect on outputs. *See, e.g.*, Kahn, *supra* note 27, at 508–09. If regulation-induced price changes would not affect output, then the only reason to set price ceilings would be to transfer rents.

[45] 347 U.S. 672 (1954).

[46] Soon after the *Phillips* decision, Congress passed a bill exempting field sales of natural gas from regulation. The bill was vetoed, however, by President Eisenhower, not because he favored regulation, but because he disapproved of certain producer lobbying tactics. *See* Kitch, *supra* note 5, at 256.

[47] HAWKINS 37.

[48] *Id.*

[49] *Id.* at 26.

[50] *Id.* at 78.

[51] SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE OF THE SENATE COMM. ON THE JUDICIARY, 86TH CONG., 2D SESS., REPORT ON THE REGULATORY AGENCIES TO THE PRESIDENT-ELECT 54 (Comm. Print 1960) (Landis report).

[52] Assume that to find and to produce a certain volume of gas and oil from a marginal well costs a certain producer $100,000. Assume further that of this cost, $70,000 is joint, $20,000 represents the ascertainable separate cost of extracting oil, and $10,000 the separate cost of extracting gas. The producer will develop this well and sell both gas and oil provided he can sell the oil for at least $20,000, the gas for at least $10,000, and the two together for at least $100,000. But he will not care whether the extra $70,000 comes entirely from gas sales, entirely from oil sales, or from some combination of the two. The source of the $70,000 will depend upon the relative strength of the demands of gas buyers and oil buyers for the producer's supplies—a factor which will depend upon supply and demand in each industry. *See, e.g.*, I. A. KAHN, THE ECONOMICS OF REGULATION 79–83 (1970).

[53] Thus, the agency regulating the producer described in note 52, *supra*, would permit the well owner to recover $100,000, allowing him to set whatever combination of gas and oil prices would be necessary to obtain the revenue. Similarly, the regulator would allow the owner of an intermarginal well with, say, joint costs of $40,000, separate gas costs of $5,000, and separate oil costs of $10,000 to set whatever prices would obtain a total of $55,000. Since in the latter case total production could be sold for $100,000 in an unregulated market, the producer would lose $45,000 in rent, and gas and oil consumers *together* would pay $45,000 less than the free market price.

[54] The problem of trying to regulate one industry without regulating the other becomes clear if one considers the following procedure. Suppose the Commission were to require producers to submit prices that covered the costs of producing gas only, but which included (1) the ascertainable separate costs of gas extraction, plus (2) joint costs only insofar as they would not be covered by revenues received from the sale of petroleum. Thus, for example, a firm with joint costs of $70,000, separate oil costs of $20,000, and separate gas costs of $10,000, would be allowed to earn up to $80,000 from gas sales which would be calculated as the sum of $10,000 plus the difference between oil revenues (less $20,000 for covering *separate* oil costs) and $70,000. For every dollar less that it earned from oil sales, the company would be allowed to earn a dollar more from gas sales.

Considering the Commission's inability to regulate liquid sales, such a system for regulating gas production prices would have obvious drawbacks. First, it would require information on petroleum sales of the sort that is required of regulated sales. To ask the company to provide estimates of future oil prices would be to ask for exceptionally costly and uncertain information. Second, the Commission would have to regulate the price of oil eventually if it were to squeeze rents out of gas production. Under such a system, the producer would be indifferent as to whether he earned a dollar of rent from an oil or a gas sale. It is possible that he would try to cover as many of the well's costs as possible from gas sales, for if the Commission forced him to charge a lower gas price, he would not know whether he could cover a well's remaining joint costs from oil sales until the oil was sold, perhaps sometime in the future. He must therefore decide to maintain gas prices that included rents and reduce his oil prices, as a strategy to increase total sales or, perhaps, in order to allocate his low-priced oil arbitrarily on the basis of personal favors or otherwise.

[55] *See generally* HAWKINS 44–74.

[56] If, for example, it costs $1.50 to produce a barrel of oil and $0.15 to produce an Mcf of gas, joint costs would be allocated according to the ratio: 10 × the number of barrels of oil/number of Mcf's of gas.

[57] Under this method, if a barrel of oil yielded one million BTU's and an Mcf of gas yielded ½ million, then a company's joint costs would be allocated according to the ratio: 2 × number of barrels of oil/ number of Mcf's of gas.

[58] Thus, if an oil BTU was worth four times a gas BTU, the ratio for allocating joint costs would be: 4 × number of barrels of oil/number of Mcf's of gas.

Note that this is a potentially circular method since "costs" are partly tied to existing prices. *See* HAWKINS: 46–47.

[59] *See* HAWKINS 78.

[60] FPC v. Hope Natural Gas C., 320 U.S. 591, 645 (1944).

[61] Since the number of joint wells has diminished to the point where gas output from them accounts for only about 25% of total gas production, *see* p. 944 *supra*, the problem of allocating joint costs became somewhat less important in the 1960's than it was in the 1950's. Nonetheless, joint expenditures were and are still sufficiently important to make a pricing system that allocates them via these accounting methods an exercise in the arbitrary.

[62] *See generally* W. SHARPE, PORTFOLIO AND CAPITAL MARKETS (1970).

[63] Because of special tax incentives, much new investment by gas production companies is financed out of internally generated funds. *See, e.g.*, INT. REV. CODE of 1954, §§ 611–13 (depletion allowance).

[64] *See* NATIONAL PETROLEUM COUNCIL, U.S. ENERGY OUTLOOK 115 (1972) (showing exploration, development, and overhead costs to be $6.4 billion of $8.9 billion total outlay).

[65] The five areas were (1) The Permian Basin (Texas and part of New Mexico); (2) Southern Louisiana (including the offshore area in the Gulf of Mexico); (3) Hugoton-Anadarko (part of Oklahoma and Kansas); (4) Texas Gulf Coast; and (5) Other Southwest (Mississippi, Arkansas, and parts of Alabama, Texas, and Oklahoma).

[66] 15 U.S.C. § 717d (1970).

[67] With regard to increases in existing contracts, proposed price increases would take effect subject to an obligation of the producer to refund any excess above the "reasonable rate" which the area rate proceeding was eventually to find. Thus, producers tended not to ask for increases above the interim ceiling rate. With regard to new supply contracts, the Commission used its licensing power over producer entry, 15 U.S.C. § 717 (1970), to withhold certificates allowing production to begin unless the producer agreed to sell the gas at the interim ceilings proposed by the Commission as (provisionally) reasonable. While the Commission did not rigidly adhere to these interim guidelines, its object was to hold new gas prices "in line" with those charged in the late 1950's and in 1960. *See generally* FPC, Statement of General Policy, No. 61–1, 24, F.P.C. 818 (1960).

[68] Permian Basin Area Rate Proceeding, 34 F.P.C. 159 (1965), *aff'd in part and rev'd in part sub nom.* Skelly Oil Co. v. FPC, 375 F.2d 6 (10th Cir. 1967), *aff'd in part and rev'd in part sub nom.* Permian Basin Area Rate Cases, 390 U.S. 747 (1968) (approving FPC decision in its entirety); Southern Louisiana Area Rate Proceeding, 40 F.P.C. 530 (1968), *aff'd*, Southern Louisiana Area Rate Case, 428 F.2d 407 (5th Cir.), *cert. denied*, 400 U.S. 950 (1970). The latter case was reopened to raise the ceiling by 25%. Southern Louisiana Area Rate Proceeding, 46 F.P.C. 86 (1971); *see* p. 964 *infra*.

[69] See p. 951 *supra*.

[70] The English have solved this problem by making the gas distributor a single nationalized company, with both monopoly and monopsony power. It can thus offer differential prices to producers based upon their production costs, including prices equal to marginal costs for producers at the margin. It can then ration the cheaper gas by selling to those consumers who bid the most. To be sure, the nationalized distribution company earns large rents, but these rents are simply transferred over to the treasury. *See generally* Dam, *The Pricing of North Sea Gas in Britain*, 13 J. LAW & ECON. 11 (1970). Of course, allowing private pipeline or distributing

companies in the United States to ration the cheaper "old" gas on the basis of consumers' willingness to pay would be undesirable, since producer rents would then be transferred to these private companies, rather than to consumers.

[71] The FPC has generally chosen to increase the reserve backing of existing pipeline customers when given the choice of certifying new pipeline construction with only marginal backing.

[72] *See, e.g.,* FPC v. Transcontinental Gas Pipe Line Corp., 365 U.S. 1 (1961) (upholding FPC decision to deny delivery of gas to utility company for use under boilers in place of coal, partially on ground that this was an "inferior" use); p. 984 *infra.*

[73] *See* pp. 948–49 *supra.*

[74] A deficiency in the supply of the new gas might still occur even if the Commission regulated the old gas only, so long as producers suspected that there would be *future* designations as "old" gas now "new." *See* pp. 984–85 *infra.*

[75] 15 U.S.C. § 717b (1970).

[76] *See* p. 997 & note 118 *infra.*

[77] Note that the discussion here is limited to the Commission's determination of prices for new *gas-well* gas, and that since no joint cost problem would be involved, it was unlikely the Commission would find the market price too low, as was the case in the former individual producer proceedings. *See* p. 957 *supra.*

[78] Thus in the Permian Basin Area Rate Proceeding, 34 F.P.C. 159 (1965), *aff'd in part and rev'd in part sub nom.* Skelly Oil Co. v. FPC, 375 F.2d 6 (10th Cir. 1967), *aff'd in part and rev'd in part sub nom.* Permian Basin Area Rate Cases, 390 U.S. 747 (1968) (approving FPC decision in its entirety), the Commission staff surveyed both major and minor producers to discover their annual total costs for producing new gas for the base year of 1960. Experts employed by the producers, and some employed by retail distributors, made similar surveys. Together they produced a range of estimates of exploration and development costs for each of several different years. See HAWKINS 91–107. Similarly, in the Southern Louisiana Area Rate Proceeding, 40 F.P.C. 530 (1968), *aff'd,* Southern Louisiana Area Rate Cases v. FPC, 428 F.2d 407 (5th Cir.), *cert denied,* 400 U.S. 950 (1970), such analyses were undertaken for the base year 1963.

[79] In Permian Basin Area Rate Proceeding, 34 F.P.C. 159 (1965), the Commission set a new gas ceiling price of approximately 16.5¢ per Mcf. In Southern Louisiana Area Rate proceeding, 40 F.P.C. 530 (1968), it set a new gas ceiling price of 20.0¢ per Mcf. The interim ceilings had been 16.0¢ and 21.0¢ respectively.

[80] *See generally* P. BRADLEY, THE COSTS OF PETROLEUM (1968).

[81] Permian Basin Area Rate Proceeding, 34 F.P.C. 159, 194 (1965).

[82] *See* HAWKINS 106–07.

[83] *Cf.* p. 948 *supra.*

[84] Southern Louisiana Area Rate Proceeding, 40 F.P.C. 530, 543 (1968).

[85] Southern Louisiana Area Rate Cases v. FPC, 428 F.2d 407, 419 (5th Cir.), *cert. denied,* 400 U.S. 950 (1970).

[86] Southern Louisiana Area Rate Proceeding, 46 F.P.C. 86, 110 (1971); *see* Hugoton-Anadarko Area Rate Proceeding, 44 F.P.C. 761, 769–72 (1970) (ceiling price based on settlement). *But see* Texas Gulf Coast Area Rate Proceedings, 45 F.P.C. 674 (1971) (ceiling price based on independent FPC determination).

[87] Thus, for example, in the first *Southern Louisiana* case, the industry probably surmised that the Commission was unlikely to approve any price out of line with past prices or that departed too radically from average historical new gas production costs. It is therefore not surprising that the settlement offered in that case came very close to the "interim" ceiling price. *See* Southern Louisiana Rrea Rate Proceeding, 40 F.P.C. 530, 630 (1968). Once the Commission reopened the proceeding, however, and thereby indicated its willingness to raise the ceiling price to alleviate the gas shortage, the settlement offer produced a price 20–25% higher than the price previously allowed. Southern Louisiana Area Rate Proceeding, 46 F.P.C. 86, 110 (1971).

[88] *See* p. 950 *supra.*

[89] *See Proceedings on Curtailment of Gas Deliveries of Interstate Pipelines Before the Federal Power Commission* (1972).

[90] FEDERAL POWER COMMISSION, BUREAU OF NATURAL GAS, NATIONAL GAS SUPPLY AND DEMAND 1971–1990, at 123 (1972).

[91] *See* MacAvoy, *The Regulation-Induced Shortage of Natural Gas,* 14 J. LAW & ECON. 167, 169–70 (1971) [hereinafter cited as *Regulation-Induced Shortage*].

[92] *See* NATURAL GAS SUPPLY AND DEMAND, *supra* note 90, at xi; FEDERAL POWER COMMISSION, BUREAU OF NATURAL GAS, THE GAS SUPPLIES OF INTERSTATE NATURAL GAS PIPELINE COMPANIES 1968, at 34–39 (1970).

[93] *See* Southern Louisiana Area Rate Proceeding, 46 F.P.C. 86, 110–11 (1971).

[94] In theory at least, this demand for reserves should be reflected in higher contract prices to the pipelines, because a longer waiting period for production imposes higher costs on the supplier. This cost increase was not reflected in significantly higher prices on longer term contracts, however, during the period just before area rate regulation. *See* PRICE FORMATION 262–65.

[95] *Regulation-Induced Shortage* 171–75.

[96] FEDERAL POWER COMMISSION, A STAFF REPORT ON NATIONAL GAS SUPPLY AND DEMAND 18 (1969). Note that 20 years of reserve backing will support only 12 years of delivery at the full initial production rate, because the rate of delivery out of a reserve must fall as gas pressure falls. *See* HAWKINS 42.

[97] *Regulation-Induced Shortage* 172.

[98] Obviously, the proposed model is fallible due to the many problems involved in acquiring data—problems that the Commission itself faced in trying to set prices. Yet we believe that such models should be used by policymakers as evidence that is probative, though not conclusive, of which policies ought to be followed.

[99] Ed.—Professor MacAvoy has previously published a supply and demand model intended to measure the extent to which field price regulation has caused the natural gas shortage. MacAvoy, *The Regulation-Induced Shortage of Natural Gas,* 14 J. LAW & ECON. 167 (1971). Since that time, his thoughts on the subject have somewhat modified, and the model presented herein is a considerably revised and updated version of that previously published and yields different results.

For those familiar with Professor MacAvoy's earlier model, the revised version presented here specifically differs in the following respects. First, the long term pattern of reserve discoveries and wells sunk in a drilling region is taken to be a better indicator of the geological conditions of that region than is the pattern of discoveries and drilling the year before the test year. Second, the level of the crude oil price index replaces that of the all fuels price retail price index as a condition of drilling activity. Third, the capital stock of gas burning furnaces is taken to be a closer measurement of the size of the final market for natural gas than changes in per capita income and population.

In addition, the data used to examine the relative effects of the gas shortage on industrial and residential users has been developed more fully and separates intrastate from interstate production insofar as it is possible to do so.

[100] The test field market is delimited by the pipelines taking gas for resale along the East Coast and in the Middle Atlantic states. The area roughly comprises Texas Railroad Commission Districts 1–7 and 10, Louisiana, Kansas, and Oklahoma.

[101] *See* p. 966 *supra.*

[102] The actual values of "j" are determined for purposes of the supply and demand equations by treating it as a "dummy" variable. *See* note 109 *infra.*

[103] *See* p. 944 *supra.*

[104] The effect of these economic factors on new reserve supply arises, of course, because $\triangle R_{tj}$ is partly a function of W_{tj}.

[105] A diagrammatic exposition of this argument is presented in PRICE FORMATION 37–41.

[106] P. 971 *supra.*

[107] A "least squares" equation is a common statistical method which minimizes the sum of the squared differences between the actual observations and the estimates provided by the fitted equation.

[108] The market-clearing solutions for the endogenous variables $\triangle R_{tj}$, $\triangle Q_{tj}$, W_{tj}, and P_{tj} depend on the outside or "exogenous" variables j, op_t $\triangle \Sigma R_{tj}$, K_t, fp_t, M_j, and i_t. Data series for each of these variables were constructed for the preregulatory period in the eleven drilling regions that provided gas on contracts to pipelines serving the East Coast and Midwest. The data used in the calculations were all obtained from publicly available sources. For the variables $\triangle R_{tj}$, $\triangle Q_{tj}$, W_{tj}, P_{tj}, fp_t, M_j, and i_t, the sources used are summarized in *Regulation Induced Shortage* 197–99. Data for the variables K_t and op_t were obtained from U.S. DEP'T OF COMMERCE, CURRENT BUSINESS STATISTICS, as accumulated over the period 1954–68. For the method of estimating the value of the "dummy" variable j, see note 109 *infra.*

These data were used to fit the supply and demand relations by first stage least squares equations for each of the endogenous variables separately given the exogenous variables, and then the fitted values $\triangle R_{tj}$, $\triangle Q_{tj}$, W_{tj}, and P_{tj} from the first stage were used to find the second stage least squares supply and demand equations. The fitted supply and demand equations were therefore four least squares regressions, one for the supply of new reserves, the second for the supply of wells, the third for new production, and the last for the demand for new reserves.

[109] The equations for the number of wells sunk and for the supply of new reserves for the 1955–60 period were as follows:

$$W_{tj} = -648.60 + \underset{(1.73)}{11.46}\,\hat{P}_{tj} + \underset{(1.75)}{175.52}\,op_t + \sum_{1}^{10} a_i J_i; \quad R^2 = 0.734$$

$$\Delta R_{tj} = -5.41 + \underset{(0.98)}{2.45}\,\hat{W}_{tj} + \sum_{1}^{10} b_i J_i; \quad R^2 = 0.831$$

The sets of variables $\Sigma a_i j_i$ and $\Sigma b_i j_i$ are district dummy variables taking the value "one" for observations from district j and "zero" otherwise. This method of treatment of the geological differences between districts follows from F. FISHER, SUPPLY COSTS IN THE U.S. PETROLEUM INDUSTRY (1964).

As these equations show, there were positive cumulative effects from well drilling, new gas contract prices, and the crude oil retail price index. The elasticity of reserve supply with respect to new contract gas prices was estimated to be equal to 0.51 at the average 1956 price and level of new reserves, so that a 10% price increase would lead to a general 5.1% increase in discovery of new reserves.

The equation for additional production was as follows:

$$\Delta Q_{tj} = -34.33 + \underset{(2.89)}{0.015}\,\Delta\hat{R}_{tj} - \underset{(-2.27)}{27.49}\,i_t + \underset{(2.75)}{11.37}\,fp_t;$$

$$R^2 = 0.693$$

This shows a positive production-reserve relation, a negative production-interest relation, and a positive production-fuel price relation. The elasticity of production with

respect to reserves was approximately 0.40, and was quasi-statistically significant. The elasticity with respect to interest rates was negative, and with respect to the fuel price index was positive. Both coefficients were quasi-significant and had the expected effect on production: the higher the capital (i_t), the lower the production rate; and the higher the price of alternative fuels (fp_t), the higher the gas production rate.

The demand equation was also estimated in the second stage of two stage least squares as follows:

$$P_{ij}=12.22+0.0012\ \Delta R_{ij}-0.00094\ \Sigma\Delta R_{ij}-0.0013\ M_j$$
$$(8.43)\qquad(-1.12)\qquad(-1.95)$$
$$+0.088\ fp_t+0.00083\ K_t;$$
$$(0.99)\qquad(5.02)\qquad R^2=0.616$$

As the equation shows, there were positive coefficients for three variables and negative coefficients for two variables. The elasticity of gas prices with respect to the fuels price index was +0.02, and with respect to the "size" of the resale market (K_t) was +0.05. These values are low, indicating small responsiveness of bid prices to change in the values of these variables. However, the elasticity of demand was substantial; a small change in prices P_{ij} brought forth large changes in total new reserves demanded ($\Sigma\Delta R_{ij}$) so that this elasticity equalled at least —1.6. The other elasticities—for variables ΔR_{ij} and M_j differentiating the drilling regions—were as expected from the economics of pipeline costs and demand.

[110] The results for each of the test years in the late 1950's are as follows:

Average Price (cents per Mcf)

	Actual	Simulated
1955	15.5	16.6
1956	17.0	17.9
1957	18.1	18.4
1958	19.3	18.8
1959	19.1	19.7
1960	18.4	20.0
6-year	17.9	18.6

[111] The actual additions to reserves, and the simulated "unregulated" additions in the 1955–60 period, are as follows:

Reserves (billions cu. ft.)

	Actual	Simulated
1955	7,354	10,678
1956	14,439	10,935
1957	15,236	12,361
1958	13,604	12,578
1959	11,239	12,381
1960	10,036	12,481
6-year	71,908	71,414

The tendency seems to have been for more new reserves to have actually been provided in the earlier years than simulated by the model. This tendency was reversed in the later years. Anticipation of the approaching price controls—with consequent reductions in supply—could have had much to do with this trend.

[112] Three other equation sets were fitted to the data as well. One set used the pattern of reserve discoveries and drilling the year before the test year as an indictator of geological conditions; thus, lagged values of the dependent variables, *i.e.*, $R_{t-1,\ j}$ and $W_{t-1,\ j}$, were used in place of the district "dummy" variable "j." *See* note 109 *supra*. A second set was fitted in the logarithms of all variables, and the third was fitted in the logarithms of the demand variables only. Of the four systems, the one reported in the text and the previous footnotes simulates best the 1955–60 experience in reserves, production, and prices.

[113] *See* note 108 *supra*.

[114] *See* note 109 *supra*.

[115] It is interesting to use the data in Table I to try to compare roughly the extent of reserve backing for actual and simulated new production in the test region. Taking the 8-year period as a whole, simulated additional production is 5% of simulated new reserves, and during the period 1963–68, it is 5.2% of new reserves. This would seem to indicate approximately between 19 and 20 years reserve backing for new production under "unregulated" conditions. See pp. 996–67 *supra*.

However, this calculation really overstates the extent of reserve backing supplied to guarantee new production, because the production figures provided by the model are for *additional* production only—*i.e.*, the quantity of production in excess of production the previous year. The figures do not include the extent of new production in the test years which would have been supplied under "unregulated" conditions to *replace* production contracts expiring in those years. It has been previously estimated that such replacement demands equal 1/14 of *total* production in any one year, based upon the depletion rate of new reserves in 1947. *See Regulation-Induced Shortage* 173–74 & n. 15. Figures for the total production in the test region under "unregulated" conditions are not provided by the model, and therefore replacement production cannot be calculated from the data in Table I. To be sure, inclusion of replacement production would reduce the reserve-to-production ratio below the level of 20 years reserve backing for new production. But, since the model predicts conditions which would "clear" the "unregulated" market, the higher simulated prices would have reduced demand for new reserve backing down to the level of that supplied. And, given higher prices, replacement production is unlikely to be so high as to take reserve backing under "unregulated" conditions outside the range of 14.5 to 20 years considered "optimal" to guarantee future service. *See* pp. 966–67 *supra*.

The *actual* reserve backup provided for new production in the test years was far lower. For the 8-year period as a whole, actual *additional* productions was backed up by 12.8 years of reserves, and during the period 1963–68, reserve backup was only 10.7 years. Because of the necessity eventually to reduce the rate of production out of a reserve as a result of falling pressures, *see* note 96 *supra*, this means that reserves supplied during the latter period would support only about 6.4 years of production at the initial rate. And, of course, if the new-reserve-to-new-production ratio were decreased to reflect new *replacement* production, this figure would be even lower.

[116] *Hearings on Natural Gas Policy Issues Before the Senate Comm. on Interior & Insular Affairs*, 92d Cong., Sess., pt. I, at 192, 268, 270 (1972) Statement of FPC Chairman Nassikas).

[117] *See* P. BALESTRA, THE DEMAND FOR NATURAL GAS IN THE UNITED STATES: A DYNAMIC APPROACH FOR THE PRESIDENTIAL AND COMMERCIAL MARKET (1967). Balestra describes the period referred to in text as that in which gas sales were "reallocated" between classes of customers. He describes 1950–57 as an "innovating" period in which pipelines were built and service begun and 1957–62 as a "maturing" period in which more gas was sold to the same customers.

[118] The substantial increase in the category "Distributors and Intrastate Pipelines" came primarily from sales by unregulated transmission companies. This is demonstrated by data gathered by the authors which show that sales by regulated pipelines to distributors for resale to industry increased at a rate only slightly greater than the rate of increase for "Total U.S. Industrial Consumption." By compiling the interstate pipelines' Form 2 Reports to the FPC, state totals for all pipeline sales were obtained. The percentage of sales to industry in each state was obtained from BUREAU OF MINES, ANNUAL REPORTS ON GAS CONSUMPTION and applied to those state totals to produce the figures, by state, for pipeline sales to distributors for industry. These sales increased by 50% from 1962 to 1968, significantly below the 62% increase registered for total industrial sales by "Intrastate Pipelines and Distributors" given in Table II.

[119] *See* AMERICAN PETROLEUM INSTITUTE, AMERICAN GAS ASSOCIATION, PROVED RESERVES OF OIL AND NATURAL GAS IN THE U.S. (Annual Volumes 1965–70).

[120] PRICE FORMATION ch. 5.

[121] *Hearings, supra* note 116, at 295, 298 (testimony of J. C. Swidler, Chairman, N.Y. Public Service Commission).

[122] Reply Submittal of the Office of Economics, Federal Power Commission, Initial Rates for Future Sales of Natural Gas for All Areas, Docket No. R-389A, at 12, 19 (Oct. 1970).

[123] *Hearings*, supra note 116, at 163, 192, 270 (Statement of FPC Chairman Nassikas).

[124] *Cf.* HAWKINS 212.

[125] *See* p. 975 *supra*.

[126] *See* p. 948 *supra*.

[127] The discussion in text describes in layman's terms what the economist calls "consumers' surplus." Consumers' surplus is defined as the excess over the price paid which consumers are willing to pay for a given amount of a product rather than do without it. *See e.g.*, G. STIGLER, THE THEORY OF PRICE 78 (3d ed. 1966). When a market is at equilibrium, the market-clearing price equals what consumers are willing to pay for the last or marginal unit of output. Since consumers would normally be willing to pay more for intramarginal units of output, the equilibrium price affords them a savings or "surplus" on these intramarginal units. This savings which gas consumers suffering the shortage would have had under unregulated conditions is a measure of the cost to them of the FPC policy. It can be represented diagrammatically as follows on p. 982, note 127 *infra*.

At the level of production supplied under price ceilings (Q_{fpc}), consumers, as represented by the pipelines, were willing to pay a price for gas not only above the FPC ceiling (P_{fpc}), but considerably above the market-clearing price (P_{market}) as well. Moreover, for each unit of additional production up to market-clearing levels (Q_{market}), consumers were willing to pay more than the market-clearing price. Thus, the area of the triangle ABF is equal to the difference between what consumers doing without gas were willing to pay for additional production (Q_{market}—Q_{fpc}) and what they would have actually had to pay for it under market-clearing conditions (equivalent to the rectangle BFHG). This surplus which consumers who actually did without gas would have obtained under hypothesized market-clearing conditions represents the losses to them from FPC price ceilings.

These losses to consumers doing without gas can be compared to the gains by consumers who obtained new gas production. These gains are represented by the area of the rectangle CBED. This area is the difference between the market-clearing and FPC price ($P_{market}-P_{fpc}$) multiplied by the quantity of new gas production they received (Q_{fpc}). Thus, if the area of triangle ABF is at least equal to the area of rectangle CBED, then the gains to those who received gas were offset by the losses by those who had to do without.

[128] In other words, the length of line AB was, in fact, at least twice the length of line BE by the last years of the test period. Since the shortage of new production by 1967–68 exceeded the actual supply of new production, line BF was greater than line CB. Thus, the area of the triangle ABF was at least equal to the area of the rectangle CBED.

[129] Of course, this is somewhat of an overstatement, since the model shows consumer losses being at least equal to consumer gains only with regard to *additional* production during the test years. In reality, the 6 cents

per Mcf reduction in price brought about by FPC ceilings was a gain realized by consumers on other gas as well—*i.e.*, the amount produced under old contracts which would have sold for higher prices when "favored nation" clauses were triggered. *See* p. 946 *supra*. This amount is unknown.

[130] *See* p. 967 *supra*.

[131] *See* note 115 *supra*.

[132] *See, e.g.*, Gerwig, *Natural Gas Production: A Study of Costs of Regulation*, 5 J. LAW & ECON. 69 (1962).

[133] *See Hearings, supra* note 116, at 302 (testimony of J. C. Swidler).

[134] President Nixon's recent proposal, *see* p. 942 *supra*, seems to contemplate adoption of this alternative.

[135] INT. REV. CODE of 1954, §§ 611–14.

[136] 15 U.S.C. § 717(b) (1970); *see* note 5 *supra*.

[137] Atlantic Refining Co. v. Public Service Comm'n of New York, 360 U.S. 378 (1954).

[138] Courts will normally review administrative decisions to see if they are in compliance with law and are supported by substantial evidence on the whole record. *See* Universal Camera Corp. v. NLRB, 340 U.S. 474 (1951).

[139] *See* p. 941 and note 5 *supra*.

[140] Southern Louisiana Area Rate Cases, 428 F. 2d 407, 416 n.9 (5th Cir.), *cert. denied*, 400 U.S. 950 (1970). *See also* Permian Basin Area Rate Cases, 390 U.S. 747, 766–67 (1968) (one who would overturn FPC finding of fact bears heavy burden of proof); Wisconsin v. FPC, 373 U.S. 294, 309 (1963) ("[i]t has repeatedly been stated that no single method need be followed by the Commission in considering the justness and reasonableness of rates"); FPC v. Hope Natural Gas Co., 320 U.S. 591, (1944) ("Under the statutory standard of 'just and reasonable' it is the result reached not the method employed which is controlling.")

SUPPORTERS OF INDEPENDENT SOCIAL SECURITY ADMINISTRATION CONTINUE TO GROW

Mr. CHURCH. Mr. President, in March I introduced legislation to establish an independent, nonpolitical Social Security Administration outside the Department of Health, Education, and Welfare.

This bill, S. 3143, would also ban the mailing of political announcements with social security checks and would separate the transactions of the social security trust funds from the unified budget.

Representative MILLS, the chairman of the House Ways and Means Committee, has also introduced companion legislation, H.R. 13411.

Both of these measures have generated widespread support from Members of Congress and leading organizations in the field of aging, including the National Retired Teachers Association-American Association of Retired Persons, the National Council of Senior Citizens, the National Association of Retired Federal Employees, and others.

Recently the AFL–CIO gave impressive support to the provisions in S. 3143 and H.R. 13411.

Their resolution, which was adopted by the AFL–CIO Executive Council on August 6, provides a powerful case for early and favorable action on this legislation.

Mr. President, I command the AFL–CIO Executive Council resolution in support of an independent Social Security Administration to my colleagues and ask unanimous consent that it be printed in the RECORD.

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

STATEMENT BY THE AFL–CIO EXECUTIVE COUNCIL ON INDEPENDENT SOCIAL SECURITY ADMINISTRATION

The social security system is one of the nation's most successful legislative achievements. In one way or another, social security affects the lives of almost every American family.

The program collects contributions from 100 million workers, covers nearly 200 million Americans, and disburses $4.3 billion a month in cash benefits to 30 million beneficiaries—one out of every seven Americans. More than 90 percent of all people 65 or older are eligible for social security benefits and 80 percent of the men and women aged 21–64 would receive benefits in the event a family breadwinner incurred a severe long-term disability. Ninety-five percent of mothers and dependent children are eligible for benefits if the father of the family dies.

For older Americans, the social security program is the foundation on which their economic security rests. Social security benefits represent over half the income of two-thirds of aged single beneficiaries and one-half of elderly couple beneficiaries. They account for almost the total income of nearly one-third of the single elderly beneficiaries and 15 percent of older couples.

The importance of this program to the nation makes it imperative that the financial integrity and nonpolitical administration of the system be assured. Actions by the Nixon Administration demonstrate how the program can be manipulated to achieve objectives unrelated to the legitimate and intended purposes of the social security program.

Several times President Nixon has brazenly claimed credit for social security increases by including notices sent out with social security checks identifying himself with benefit increases he either opposed or tried to severely limit. Recently the Secretary of Health, Education and Welfare refused to accept one of the AFL–CIO's nominees for the Advisory Council on Social Security solely because of his political activities. No official or political party should be allowed to exploit the program in this partisan manner.

Since 1969, the financial transactions of the social security system have been included within a unified budget which combines regular federal income and expenditures with the largely self-financed social security program. Social security trust funds, including the relatively small amount derived from general revenue, may be used only for the payment of social security benefits and administrative expenses. However, inclusion of the trust funds in the unified budget leads to confusion in the public mind as to whether these funds are used exclusively for social security programs and how well protected are the social security rights of covered individuals.

Furthermore, the inclusion of social security trust funds within the unified budget distorts decisions concerning both social security and non-social security programs. One direct result has been the misleading use of social security trust fund money as a means of reducing the federal budget deficit. Balancing trust fund income against non-social security expenditures makes the unified budget deficit look smaller. Even worse, needed improvements in social security benefits are opposed not on their merits but because they might reduce trust funds and, consequently, increase the overall budget deficit.

In 1973, the Administration proposed to reduce Medicare benefits for the elderly by increasing the coinsurance amounts they must pay under the program. Cutting benefits without making compensating improvements results in a surplus in the Medicare trust fund and thereby reduces the deficit in the unified budget. This fiscal sleight of hand was, reflected in the Administration's budget recommendation but fortunately was rejected by the Congress. The AFL–CIO does not believe that the elderly, one of the poorest groups in the nation, should bear the burden of clever bookkeeping to make any Administration's budget look better.

Social security claims built up by past earnings and contributions are not a proper matter for year-to-year budgetary decisions. The government must rigorously discharge its responsibility as trustees for those who have built up rights under the system. The program must be kept free from political influence or manipulation geared to the ups and downs of the regular budget.

To help assure the nonpolitical nature of the Social Security Program, an independent, nonpolitical Social Security Administration should be established outside the Department of Health, Education and Welfare. This kind of independent role need not change most of the interrelationships between the Social Security Administration and other governmental units. For example, there wouldn't be any change in ultimate congressional control over the Social Security Program. Furthermore, establishment of an independent Social Security Administration need in no way inhibit general revenue financing to meet a significant proportion of social security costs. In this connection, the AFL–CIO reaffirms its support for increasing general revenue financing of social security until at least one-third of the cost is funded in this manner.

In order to achieve these objectives, the AFL–CIO urges Congress to enact legislation which would:

Establish an independent, nonpolitical Social Security Administration separate from the Department of Health, Education and Welfare. The Social Security Administration should be under the direction of a 5-man governing board, including duly designated representatives of management and labor, appointed by the President with the advice and consent of the Senate and with no more than three members from any one political party.

Prohibit the mailing of announcements with social security checks which make reference to any elected officer of the United States.

Strengthen public confidence in the social security system by excluding social security trust funds from the unified budget.

LABOR-HEW APPROPRIATIONS

Mr. BELLMON. Mr. President, on June 28, 1974, the House of Representatives approved by a vote of 201 to 191 an amendment to the Labor-HEW appropriations bill, H.R. 15580, to prohibit the payment of Federal salaries to inspect firms employing 25 or fewer persons to enforce compliance with the Occupational Safety and Health Act of 1970. I commend the House for taking this long overdue action.

However, Mr. President, it is my understanding that during consideration of this bill by the Senate Labor-HEW Appropriations Subcommittee this provision exempting the small businessman from the requirements of OSHA for 1 fiscal year was deleted from the bill. It is for this reason that I am introducing an amendment to H.R. 15580 identical to the language adopted earlier by the House.

This amendment simply states:

None of the funds appropriated by this Act shall be expended to pay the salaries of any

employees of the Federal Government who inspect firms employing twenty-five or fewer persons to enforce compliance with the Occupational Safety and Health Act of 1970.

Mr. President, as a member of the Appropriations Committee, it is my present intention to call up this amendment when H.R. 15580 is considered by the full committee and once again during Senate floor deliberations in the event the Appropriations Committee fails to adopt this language as a part of the bill. Congress has the opportunity by enacting this proposal to provide temporary but much-needed relief for the small employer.

Permanent legislation is needed to provide an exemption for the small businessman and onsite consultative services. By adopting this language we will buy the necessary time and provide the stimulus for the appropriate committees in both the House and Senate to fully consider and bring forth this needed reform of the Occupational Safety and Health Act. It is the small businessman who has suffered gravest injustices under this act. The small businessman acting in good faith simply does not have the expert staff, legal counsel, and specialists at his disposal to digest and fully implement the mass of Federal regulations which have been promulgated pursuant to OSHA.

Although action has been initiated in many States to assist the small businessman in this area by providing consulting services, the truth is that even though 26 States have approved a State agency enforcement of OSHA and 21 States have approved onsite consultative services within their State, only 5 of the 21 States have implemented their plan. In addition, the law simply does not allow onsite consultation and inspection in a majority of the States where the Federal Government is the enforcement agency.

The urgent need for enactment of this proposal is quite clear when one examines the often burdensome and unwarranted interference caused by the current administration of OSHA. The Occupational Safety and Health Act has caused severe and serious hardships on many small businesses and farming operations throughout the Nation. This is certainly the case in my home State of Oklahoma. My office, like those of many other Senators, has literally been deluged with protests from a variety of individual employers, associations, and organizations who have become acutely aware of the oppressive effects of this law. Among those adversely affected in Oklahoma by the implementation of unnecessary regulations are grain and seed companies, cotton oil companies, farm machinery, equipment and implement dealers, hardware stores, lumber yards, steel constructors, mechanical contractors, moving and storage firms, farmers cooperative associations and many others.

Quite simply the implementation of OSHA regulations have gone too far in imposing requirements upon small businessmen. It is clear that enforcement of this law by the Department of Labor has been totally unrealistic and without regard for the crippling consequences it has produced. It represents the imposition of an additional cost on farmers and small businessmen. Unless changed, it will literally force many out of business and add further to unemployment.

Those in charge of administering the program appear in many cases to be more anxious to punish than to make information available in an understandable and useable form and thus gain cooperation. But the basic fault lies within the law itself. Basic changes need to be made. It is with this concept and understanding of the implementation of the Occupaional Safety and Health Act that I am introducing this amendment which is realistic and badly needed.

By exempting the small businessman with fewer than 25 employees, the Congress will help alleviate the financial plight which presently exists in rural America.

Quite simply, the cost of compliance with OSHA regulations is simply too high. Although adequate safety standards must be provided, the Department of Labor has gone too far in implementing burdensome regulations which create an undue economic burden and interference with the operation of the small businessman.

This kind of cost for businessmen can mean the difference between financial solvency and bankruptcy for literally hundreds of enterprises. We are all interested in the safety of the worker but we should also be interested in the unemployment which exists in rural America.

It is for these reasons that I urge my colleagues to join with me to secure passage of this amendment.

Mr. President, I ask unanimous consent that the text of my amendment be printed in full in the RECORD.

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

At an appropriate place in the bill, insert the following:

"None of the funds appropriated by this Act shall be expended to pay the salaries of any employees of the Federal Government who inspect firms employing twenty-five or fewer persons to enforce compliance with the Occupational Safety and Health Act of 1970."

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Mr. WILLIAMS. Mr. President, for some weeks now the Subcommittee on Labor has been conducting hearings on the implementation of the Occupational Safety and Health Act of 1970.

One of the most controversial issues at these hearings has been the extent to which the economic impact should be considered in promulgating particular safety or health standards. The illogic of trying to put a price tag on workers' lives is very eloquently stated in an editorial from the National Observer of August 24 and I ask unanimous consent that the article be printed in the RECORD.

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

WHERE'S THE PROFIT IN SAFETY?

(By August Gribbin)

We Americans have an amazing capacity for callousness. It shows in various ways.

A reporter sees the crassness up close when, for example, a mine company executive forgets he's being interviewed and rails against his workers, "the bastards" who successfully campaign for "exorbitantly costly"—and life-saving—mine-safety measures, and when an auto-company vice president curses safety advocates for causing expensive changes in cars although, he sneers, "it's the damned consumers' crazy driving that causes accidents."

But everyone can glimpse insensitivity when, for example:

Newsmen invade privacy or err in facts through laziness.

Physicians refuse to take tough, but needed, voluntary measures to excise medical abuses and also fight to prevent Government from doing it.

Health insurers (who generally support Federally imposed medical reforms) denounce Government health plans that presumably would aid medically neglected citizens.

Cattlemen continue to provide beef fattened on DES, a growth-stimulating food additive that's been denounced as a cause of cancer in humans.

Plastics makers battle against Government limitations on the use of vinyl chloride, a gas and raw material that many scientists insist causes liver cancer and death. The gas directly threatens 7,000 factory workers plus a large but unknown number of other workers and residents in factory neighborhoods.

Ultimately there's a single reason why so many of us resist drastic reforms even though they may save lives: It's money.

Changing for the sake of safety can slash profit margins incredibly. And when big industries—and several industries simultaneously—suffer reduced profits, gigantic numbers of us face economic peril.

The plastics people argue against reducing the threat of vinyl chloride, for instance, because that might mean not using the chemical for a while. A ban could remove some 2.2 million jobs and cost the nation $90 billion in yearly production, they warn.

If so, that's sobering. Certainly no one wants his standard of living or his job threatened. But can anyone justify clinging to either at the expense of others' lives? Wouldn't that mean putting a money value on presumably priceless human life?

Of course it would. But some safety specialists say that we must do that in these complex times. To think otherwise is simplistic, they say.

Well, they're mistaken. There are alternatives we haven't discerned and won't see unless we change our attitudes.

We might begin, for instance, by accepting the obvious as reality. We've "progressed" to a new age in which our past technological cleverness presents and will continue to produce safety problems that we're responsible for and must solve. We must *want* to save lives and cleanse our surroundings somewhat as the handyman who has done a great job building wants to tidy up the basement, nasty though the chore may be.

Next, we might adjust to the truth that remedying our manufactured problems probably will force on us a lowered standard of living. Businesses and their backers probably will get smaller profits and shrunken dividends. Accept it.

Industrialists, scientists, and technologists might adopt an attitude that many seem to be fighting, the attitude that new profit potential may lie in developing technologies for safety, for purifying our environment, and for retraining individuals so they'll be able to adapt quickly to new, different jobs when old ones disappear in the possible crunch.

Regardless of costs, industries must test their products for safety before marketing and continually safety test manufacturing processes too.

Finally, we might consider all this as straining for the quality of mercy. That's civilized. In fact somebody said mercy's "twice blest." Maybe there's some profit in it.

THE PRESERVATION OF RAILROAD STATIONS

Mr. BEALL. Mr. President, the Saturday, August 10, 1974, edition of the Washington Post carried an editorial entitled "Railroad Station Renaissance." This editorial outlined the need for Federal legislation to encourage the preservation of our historically and architecturally significant rail passenger terminals. I ask unanimous consent, Mr. President, that the text of this editorial be printed in the RECORD at this point in my remarks.

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

RAILROAD STATION RENAISSANCE

Railroad trains, which put this nation on the track to wealth and industrial power, made a habit of stopping at some of our finest buildings. A new function called for new, and often inventive, forms. As a result, our railroad stations brought us exciting architecture that reflected the self-confident arrogance of the railroad age. They are an unexcelled expression of American culture, ranging from romantic little whistlestops, like the 101 year-old railway station in Rockville, to imposing palaces, like Washington's Union Station, rivaling the great monuments of ancient Rome in opulence and splendor.

The rustic Rockville station, which still serves commuters, has just been placed on the National Register of Historic Places and thus has been saved from almost certain destruction by its new competitor, Metro. There is hope that federal funds will help move the old station out of Metro's construction path. Union Station is being converted into a National Visitors' Center, a much-needed service for which the building is eminently suitable. The railroad station in Lincoln, Nebr., was turned into a bank. The handsome Mount Royal railroad station in Baltimore now serves the Maryland Institute's College of Art as a school, gallery and library. The Chattanooga, Tenn., railroad terminal, of "Chattanooga Choo Choo" fame, is being converted into a unique downtown shopping and entertainment center whose stores and restaurants recapture the Victorian splendor and elegance of the old station. The adjacent Choo Choo Hilton houses its guests in restored Pullman cars. Indianapolis hopes to turn its Union Station into a similar attraction.

But these are exceptions. With at least half of the 40,000 railroad stations built in this country already destroyed, these triumphs of American architecture are an endangered species. Our remaining railroad stations, along with the railroads themselves, are victims of tragic and cruel neglect. Although the railroad companies are officially trying to encourage, rather than discourage passenger travel of late, they still show little interest in maintaining their stations. Many are in disgraceful condition, sordid and delinquent symbols of the inner city mess.

We therefore welcome a bill recently introduced by Rep. Frank Thompson Jr. (D-N.J.), that would authorize the National Endowment for the Humanities to help municipalities purchase old railroad stations and turn them to new use. A recent workshop at Indianapolis, sponsored by the National Endowment for the Arts and other organizations, brought local government officials, urban renewers, bankers, developers, railroad officials and preservationists together. The workshop produced many good ideas as well as much technical know-how. The idea we liked best, however, was offered by Lawrence O. Houston Jr. of the Department of Housing and Urban Development. Mr. Houston voiced some impatience with "breezy ideas for saving facades" and "sex change surgery" that converts railroad stations into shopping centers for scented candles and souvenir coffee mugs. "The best way to save railroad stations," he said, "is to expand rail service" and make railroad travel again a matter of pleasure and convenience.

Mr. BEALL. Mr. President, on August 8, 1974, the Senate passed an amendment to the Rail Passenger Service Act which will, if enacted, establish a major new Federal program designed to preserve and rehabilitate railroad stations. In fact, the Magnuson-Hartke-Beall amendment authorizes a far more comprehensive program than H.R. 2446, which was the legislation referred to in the editorial.

Mr. President, on August 12, 1974, I wrote a letter to the editor of the Washington Post outlining the objectives of the Senate-passed amendment and I ask unanimous consent that a copy of this letter be printed in the RECORD at the conclusion of my remarks.

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

U.S. SENATE,
Washington, D.C., August 12, 1974.

DEAR SIR: I have read with considerable interest your recent editorial entitled "Railroad Station Renaissance."

It may be of interest to your readers to know that the Senate approved an amendment to the Rail Passenger Service Act on August 8, 1974. This amendment, which I cosponsored and actively supported establishes a far reaching program of preserving and "reusing" historically and architecturally significant railroad stations. In fact, this amendment which was adopted by the Senate is far more comprehensive than the legislation to which you referred in your editorial.

The Magnuson-Hartke-Beall Amendment authorizes the Secretary of Transportation to provide financial, technical and advisory assistance to efforts to restore rail passenger terminals. The Department of Transportation can preserve stations "that have a reasonable likelihood of being converted" to other uses. The third objective of this amendment would stimulate State and local governments and private individuals or organizations to develop plans for converting passenger terminals into civic, cultural and/or intermodal transportation centers.

This area has a number of stations which constitute an important part of our National heritage. The Mt. Clare Station in Baltimore was the first railroad station in the U.S. Union Station, Point of Rocks, Mt. Royal, and Rockville Railroad Station are just a few of important local terminals which are or should be preserved. If legislation such as this had been enacted several years ago, the Queen City Hotel in Cumberland, the Relay Station near Baltimore, and other historic landmarks such as these could have been saved from demolition. I concluded my floor statement on this amendment by saying "I believe that the era of the 'no return' society has fortunately come to an end. Our resources are finite and our Government must provide leadership in recycling buildings as well as other resources."

With best wishes, I am

Sincerely yours,

J. GLENN BEALL, Jr.

SENATORS GRUENING AND MORSE: A LEGACY OF CONSCIENCE AND COURAGE

Mr. CHURCH. Mr. President, within the space of but a few weeks, the Nation has been robbed of two voices of courage and conscience: Voices that echoed through the Halls in years past calling upon America to stand fast to her constitutional heritage.

I speak, of course, of our late colleagues, Wayne Morse and Ernest Gruening.

Both are now gone. But both leave behind a legacy that will live as long as the Republic. These men were giants.

Mr. President, in the most recent issue of the newsletter of the National Committee for an Effective Congress, there appears a tribute to Senators Gruening and Morse.

I think it appropriate that this tribute be shared by my colleagues, and I ask unanimous consent that it be printed in the RECORD.

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

GRUENING AND MORSE: A LEGACY OF CONSCIENCE AND COURAGE

On August 8th, ten years ago, Ernest Gruening and Wayne Morse stood together, the only Senators to vote against the Gulf of Tonkin resolution. Both insisted that the resolution was unconstitutional, because it was "a predated declaration of war power" reserved to Congress.

Gruening had been supported by NCEC in each of his Senate elections, but in 1968 he was defeated in a primary upset. He had nurtured and led the Alaskan territory into the Union through 14 years of tireless lobbying. "Go north, young man," was his motto. His life, so well described by his autobiography, *"Many Battles,"* covered four-score and seven years of intrepid crusading. Physician, editor, author, administrator, and Senator, he was constantly focused on the human condition. Eskimos, Indians, Puerto Rican Nationalists, anti-Franco Spaniards, all reached for him as their champion.

Amazingly, his incisive mind never tired. Only his body failed to keep pace, and on June 26 he died. But almost to the end he was involved, battling for conservation, for population control, for an effective Congress. A few weeks before his death he phoned NCEC's Washington office to say he would be sending his regular contribution and wanted to discuss the Committee's campaign choices in the coming election. He believed that the congressional outcome this year would set the presidential stage for 1976.

Like his friend Wayne Morse, it has been said of him that all too often he was right too soon. The greatest tribute to Ernest Gruening is that history is confirming his judgments and his warnings.

A novelist once wrote that every Frenchman has two home towns, his own and Paris. In that sense, every American had his own Senators—and Wayne Morse. He was a national senator, transcending party, the Senate's inner club, and all so-called pragmatists. That is why the NCEC supported him, worked with him, argued with him, loved him.

He did not live in the "changeless center," as his colleagues found out when he compelled them to act on civil rights, on education, on facing up to their responsibilities. He made them move by relentlessly driving himself. He was the tiger of the Senate. He was known as "the five o'clock shadow" because each day he would unfailingly take the floor late in the afternoon, delaying ad-

journment for hours, to denounce the latest attempt to give away federal land or to castigate an agency for flouting congressional intent. The President of the United States felt his stinging rebukes for cutting the corners of the Constitution on Vietnam.

He held with Edmund Burke that a representative's first loyalty must be to his own judgment, so he took counsel with his conscience and had the courage to act on it. There was no alloy in his moral metal. As a Republican, he worked to draft Eisenhower in 1952 but left the GOP over the platform and the choice of the running mate, Richard Nixon. Years ago, a dismayed Dixie Senator discovered Morse eating with a Negro friend in the senator's private dining room, and said, "At least, Wayne, you practice what you preach."

Morse's instinct for the jugular was infallible, as five Presidents, Clare Booth Luce, and a host of pompous politicians found out. He was cantankerous, but also he was a superb parliamentarian and legislator, producing a body of fundamental law for education, labor and civil rights.

How does one compress all that this one man did, worked for, and tried to do for an effective Congress in a few lines? He seemed to have the attribute that is lacking in today's politics, something that is missing in today's Senate. What was it that made him so uniquely creative and effective? Was it the fire in the belly, the sharpness of the tongue, the quickness of the mind, the willingness of the heart? How does one say that is missing from today's Senate in a couple of words?

Wayne Morse.

HOW NOT TO FIGHT INFLATION

Mr. WEICKER. Mr. President, I support the President's determination to fight public enemy No. 1—the double-digit inflation that is ravaging our economy.

However, I remain strongly opposed to the establishment of a new Council on Wage and Price Stability within the Executive Office of the President.

Earlier this year, as a member of the Senate Banking Committee, I worked to decontrol our economy completely. Can we so easily forget our agonizing experience with wage and price controls? Can we also forget that only a few months ago we debated and dropped a proposal to create a new monitoring agency to oversee wage and price actions throughout the economy?

I can't forget nor has my position changed in these few months. The new Council on Wage and Price Stability, a monitoring board requested by the President and approved by both Houses of Congress, is an unfortunate and misguided move in the fight against inflation that at best will accomplish nothing and at worst will backfire in its efforts to restore the confidence of the public and the stability of wages and prices.

Mr. President, Mr. C. Jackson Grayson, Jr., dean of the School of Business Administration of Southern Methodist University, and former chairman of the Price Commission during phase 2 of recent economic controls, has written an important article entitled "A Strong 'No' to Price Monitoring," appearing in today's Wall Street Journal. In part, Dean Grayson predicts these near-term results of the new wage-price monitoring agency:

The agency will increase (falsely) expectations that the solution to inflation is closer. It will do little to stop inflation. In fact, it will increase some wages and prices and will prevent decreases.

Mr. President, I ask unanimous consent that the entire text of Dean Grayson's article be printed in the RECORD.

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

A STRONG "NO" TO PRICE MONITORING

(By C. Jackson Grayson, Jr.)

There seems little doubt that the proposed wage-price monitoring agency will pass Congress easily, be signed, and in operation in a matter of weeks.

The near-term results: The agency will increase (falsely) expectations that the solution to inflation is closer. It will do little to stop inflation. In fact, it will increase some wages and prices and will prevent decreases. It will possess power. It will take action.

The longer-term results: It will be harmful to the operation of the competitive market system. It will increase the odds of future mandatory wage-price controls. It will assist a growing movement toward national economic planning.

All of that? After all, the agency is just a "monitoring" group. It will have no subpoena power, no mandatory powers, and a budget of only $1 million. To improve collective bargaining and encourage price restraint, it will simply "review and analyze capacity, demand and supply . . . work with labor and management in sectors having economic problems . . . improve wage and price data bases . . . monitor the economy as a whole." Who could be against that?

Very few. The bill is going through Congress with amazing speed. Business, labor, the administration, and Congress on both sides of the aisle are either for it, neutral, resigned to it as a tranquilizing political expedient, or accepting it as a lesser of evils. On the surface, it seems innocuous and even logical.

But, based on my experiences as chairman of the Price Commission, I want to point out some political, institutional and economic realities and issue some warnings about the agency. I don't think it will be as benign or cosmetic as many think it will be. What you see isn't what you'll get.

POWER AND PRESSURE

First of all, don't be deluded because the agency won't have powers to subpoena records or veto price-wage increases. It will have tremendous power in the form of jawboning, or as they say in Britain, "ear-stroking." The persuaders come in gentle and not-so-gentle forms of pressure. Public hearings can be hinted at or called. Public condemnation can be expressed in the media. Officials can be called to the White House for a public or private "dressing down." Requests can be made to congressional committees to hold investigations. Administrative action can be threatened in other agencies: export controls, import relaxation, delay of decisions, procurement changes and stockpile releases. News conferences can be held; speeches can be put in congressional hands.

Deplorable in the American sense of fair play, these tactics have all been used in varying degrees by past administrations. The effect is to heighten antagonism between the public and private sector, with the public increasingly led to believe that union leaders are all greedy and that businessmen are all price gougers. It doesn't take a government agency to initiate these tactics, but they will be more organized, more frequent and more visible with the agency in existence.

And make no mistake about it, this agency will take action. A common assumption is that this is only a monitoring, not an action agency. Not true! "Action" doesn't have to mean a direct order. The agency can influence other agencies to do that. Moreover, monitoring and reporting is not passive any more than a chaperone with a camera in her hand saying to a couple, "Go right ahead. Don't mind me." What is, and what is not, reported creates public opinion and action.

Reporters will camp on the agency's doorstep: "What about this wage increase in the XYZ industry?" "What about these high profits?" "Are you going to recommend export controls?" "Why not?"

It's a fact of political life that action will be forced on the agency because it exists. Even if the problems weren't apparent, such an agency would find some. You can find problems anywhere, any time, in any labor or business organization, and particularly with a bright energetic staff that won't sit around. It will be a new agency with excitement that will attract good economists and lawyers, who will regard it as their duty to hit somebody, somehow. Many of these people will be "control-oriented," with little direct business or labor experience and unsympathetic to the competitive market system. They will urge action.

It will raise false expectations. And when it proves unable to check rising corn prices, or steel prices or coal miners' wages, public disillusionment will follow, with the cry increasing for more immediate, even stronger measures. Then it will be said that the agency must be given additional powers to enable it to "do its job." Authority for the 1971–74 controls came from a simple amendment by Congressman Reuss to another piece of legislation. No one expected this to turn into 33 months of mandatory controls. But political pressures forced the action.

It isn't good economics. Controls seldom are.

The agency has to go after the larger individual wage and price increases. But not every large wage and price increase is wrong, or inflationary. The increase may represent demand and supply shifts. Yet political pressure on the agency force it to act, with the same distorting result that mandatory controls generate. Shortages and investment in capacity may actually worsen, not improve.

The mere creation of the agency, moreover, will ratchet up some wages and prices for fear of coming mandatory controls. I know from direct experience that this has already occurred as a result of the discussions these past few weeks. Soon "guidelines" are likely to emerge. Business and labor will infer what is regarded by the agency as being within the government tolerance zone. It certainly won't be 5.5% or 2.5%, those famous figures from the past; new percentage yard markers will be created. And, as with direct controls these will be taken not only as ceilings but also as floors.

The agency will tend to operate in the short-run. Its expiration date of June 30, 1975 cries for action now. And generally short-run action is bad economics, which is part of the reason we are where we are now.

If general inflation has not cooled significantly by next spring, there will be even more of a desire to "do something," and then the "something" must be stronger, not weaker. To say it can't happen is to ignore the fact that we dropped controls—and the proposal for continuing the Cost of Living Council as a monitoring agency—only four months ago. And here we are again.

Clearly, my belief is that the agency should not be created at all. But at this point, holding this conviction is about as effective as spitting into the wind. Therefore, my recommendations concern alternations, either before or after passage of the bill, plus some alternatives.

First, don't give this agency any additional powers, now or in the future. If this occurs, we will clearly be on the road to direct wage-price controls.

Second, don't put heavy reliance on this agency to fight inflation. The danger is that

existence of this stopgap agency will reduce pressure to engage in tough, fundamental decisions. Reducing the federal budget, for example, is a basic way to fight inflation. But it will be tough going when Congress and the Executive get down to specifics. Any reduced pressure or zeal because of the existence of this agency would be a real loss.

Public statements notwithstanding, the public will tend to hold this agency accountable for every wage or price increase, and for every jump in the consumer or wholesale price index. The Price Commission surely was, and the proposed names for this agency—"Cost of Living Task Force" or "Council on Price and Wage Stability"—invite similar responsibility.

LOCATING THE AGENCY

Third, reconsider the location of the agency. It is now destined for the Executive Office of the President. I recommend instead that it be a quasi-independent agency, reporting directly to Congress (as does the GAO), or to both the Congress and the Executive Branch (as does the ICC). Location within the Executive Branch exclusively will constrain its activities and effectiveness for two reasons:

—Every time this agency involves itself in a wage or price increase, the prestige and power of the Oval Office is somewhat at stake. If the agency loses a battle, say in forestalling a labor settlement or in not reducing a well-publicized price increase (as happened recently with President Ford and GM), the President stands to lose. Either the agency will tackle only those cases it is sure it can win, or the President will be forced to get the mandatory authority to back it up.

—The agency should analyze and report on practices, laws, and procedures that contribute to inflation, not only in the private sector but also in the public sector. If the agency is based solely in the Executive Branch, it is not likely to recommend any action contrary to the administration's position, nor to criticize the Executive Branch for failure to act. For the same reasons, I think it would not be well placed in the Council of Economic Advisers, also a part of the Office of the President. If it reported to Congress exclusively, the same problem exists, although it is lessened because of the mixed constituencies.

My preferred solution would be to report to both groups. Thus it might take on the character and respect that is accorded the independent British Institute of Economic Affairs, but with access to government resources.

As a final shot, let me propose two alternatives to a separate agency, that might be adopted now or later.

Let the President formally assign this responsibility for coordinating economic policy directly to his Cabinet, most of whom are members of the proposed agency anyway. The Cabinet needs revival anyway as a national management team. Make the Vice President the counsellor to the President for economic affairs, and put him in charge of this function so that he would have the clout to influence economic policies across the entire Executive Branch.

Also, begin work now to revive the proposed Department of Economic Affairs. There is often fragmented and inconsistent economic policy making and a lack of accountability. The new department would gather together various branches now residing in Transportation, Commerce, Labor and others. This would require coordinated effort from both the Executive Branch and Congress to overcome established patterns and vested interests.

RINGING AN ALARM BELL

In summary, I do not argue my position as a blind, free-market ideologue, nor on the principle of nongovernmental interference in the marketplace. Government does have a role in our economic system. In fact, I am very much encouraged by the economic philosophy expressed by President Ford in his address to Congress and by the recent budget control procedures instituted by Congress.

I am ringing an alarm bell on this particular issue because I know from my personal experiences that the proposed monitoring agency can be misinterpreted, misused and can prevent us from fighting inflation at the point where the real battles need to be fought.

The real control over this economy in the long run must not be invested in Congress, the Executive Branch or any monitoring agencies, commissions or planning boards. It must rest in business and labor and the public in the private sector with two of the most powerful inflation fighting tools ever designed by man—competition and productivity.

(Mr. Grayson was chairman of the Price Commission during Phase 2. He is dean of the School of Business Administration of Southern Methodist University and author of the recently published "Confessions of a Price Controller.")

THE CHALLENGES OF COMMUNITY DEVELOPMENT

Mr. TUNNEY. Mr. President, in its July 1974 issue, Western City magazine, the official municipal magazine of the West, carried a series of articles discussing the important challenges of community development, and how three communities in California are working to meet them.

In one of the articles, Mr. Elder Gunter, city manager of Stockton, Calif., describes how that community has sought to put to best use the various forms of Federal community development assistance it receives.

In order to solve the problems of a community—or a nation for that matter—it is incumbent to understand fully those problems, their sources, extent, and means to go about relieving them.

Stockton is taking the lead with the creation of its Stockton neighborhood analysis program (SNAP), which is designed, as Mr. Gunter writes, to provide city management—

With a valuable tool which will provide reliable up-to-date information to assist in making realistic and meaningful decisions, an essential requirement in meeting the challenges of the future.

In order to acquaint the Senate with this innovative local program, I ask unanimous consent to have the above-mentioned article printed in the RECORD.

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

STOCKTON, CALIF.

(By Elder Gunter)

The passage of General Revenue Sharing was met with enthusiasm by Stockton, Calif. city officials for they were well aware of the potential of these funds for their own departmental programs and operations. They soon realized that it was not an easy task to plan for the best uses for these funds. How does one go about prioritizing the apples and oranges of public services? Each of the operating departments had legitimate program needs which had to be addressed by the city manager during the development of his program for spending general revenue sharing funds.

In order to understand the full sequence of events regarding Stockton's preparation for community development, one must go back to the spring of 1972. It was during that time Stockton was invited by the San Francisco Area Office of HUD to participate in the second round of Annual Arrangement Agreements. It was suggested, during early negotiations, that the city manager's office should direct some of its attention towards increasing its planning and management capability with respect to grants. The author recommended that an individual be hired for the purpose of developing a management oriented coordination and review system for the 60 separate grants being administered by the city. The recommendation was approved and on June 1, 1972 a five-year veteran from HUD with community development experience was hired as the administrative assistant for community development.

Fiscal 1972–73 was the year of limited funds and moratoriums which, consequently, resulted in the inability of HUD to fulfill their financial commitments under the Annual Arrangement Agreement. Both HUD and the city agreed that the experience was very worthwhile and it would place us in a better position to plan, coordinate, and manage our own grant funds in a more responsible manner.

Through the advice and recommendations of the assistant for community development, the author developed a Ten-Year Community and Neighborhood Improvement Program. This was the first attempt to coordinate planning and programming of financial resources into an integrated community and neighborhood budget. On a map, 11 areas were marked so as to identify those neighborhoods in need of some type of renewal or rehabilitation activity. Priority consideration was given to those five neighborhoods that were identified in the Community Improvement Report which was adopted by the city council a year before. The remaining six neighborhoods were identified with the assistance of the department heads.

A program budget was submitted to the citizen's committee for consideration prior to the review by the planning commission and final approval by the city council. The document was generally planned for the expenditure of all anticipated grant funds, including general revenue sharing funds, that could be expected to come to Stockton from state and federal sources, coupled with corresponding programs. A subsequent evaluation some months later led to the belief that it was unnecessary to have a separate capital improvement program budget document and a separate grant program budget document.

A few months ago Stockton began to reassess the real goals and objectives of the city and their relationship to community development activities. Since the theory behind general revenue sharing funding and community development is that local government will make their own funding decision, Stockton wasted no time in beginning its preparations. Our office is now attempting to determine a fair and equitable method for distribution of non-categorical grant funds which would be directed toward the implementation of the city's identified community development objectives. The study identifies those areas which need to be given attention in a priority funding plan. Our immediate concerns relate to the high and persistent unemployment rate; gradual physical deterioration of some neighborhoods and the development of the marina and channel area.

We are also working toward a coordinated review and comment on all program dollars flowing into the city from federal or state agencies. Comments would be related to a city-wide human resources plan for the provision of social service activities. Early negotiations with the San Francisco Federal Regional Council is encouraging and suggest

that Stockton, before too long, will be evaluating the physical, as well as the social problem areas of the city in a coordinative plan. The effective coordination of these grants will be realized through a computer program designed to provide the city manager's office with the information necessary for the effective planning, management, and budgeting for physical and human resource programs and projects.

Stockton also developed a Neighborhood Analysis Program (SNAP) in order to provide a data base for in-depth understanding of the problems and conditions of the community's various neighborhoods. First stage of the program was the completion of a "condition" file for the entire community organized around major elements such as crime, housing, health, income, education, land uses and employment. Operational records from various public service systems (crime reports, welfare caseloads, school attendance, etc.) form the basic data for analysis, and computer processing applications have been developed on a cooperative basis with the agencies involved. To date, comprehensive reports on crime, income, education, welfare and housing have been published. Reports on land use, employment and health are in various stages of completion.

The actual neighborhood analysis process will begin upon completion of the series. Each of the basic reports will then be related to one another at the neighborhood level. Defining the complex interplay of factors that affect a particular neighborhood will clarify policy alternatives and increase the likelihood of a coordinated approach in future community development programs of all kinds. Stockton is creating a system of urban analysis which will allow it to allocate its monies according to systematic definition of community needs and thus truly direct its future. We are confident that utilization of the SNAP process will provide management with a valuable tool which will provide reliable up-to-date information to assist in making realistic and meaningful decisions, an essential requirement in meeting the challenges of the future.

CONFERENCE ON SECURITY AND COOPERATION IN EUROPE

Mr. BUCKLEY. Mr. President, almost unnoticed in the events of the past 2 months have been developments in Europe concerning the Conference on Security and Cooperation in Europe. The degree of security in Europe has important implications not merely for Europeans but for U.S. citizens as well. For over two decades, the frontline of the U.S. defense has not been the Atlantic Ocean, but the Elbe River. While we have been preoccupied with domestic politics, the outcome of the CSCE is of great interest to Europeans. There is some evidence to suggest that the Soviets may be taking advantage of the U.S. preoccupation with domestic politics to maneuver diplomacy for their own advantage. The opposition party in Germany, the Christian Democratic Union, has produced a very useful and comprehensive analysis of the debate on CSCE within the Federal Republic of Germany. I ask unanimous consent that this statement be printed in the RECORD so that those concerned with this problem here can have the advantage of understanding the issues in CSCE from a European perspective.

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

BONN, *July 5, 1974.*

CONFERENCE ON SECURITY AND COOPERATION IN EUROPE (CSCE)

The "Conference on Security and Cooperation in Europe" has entered a decisive stage during its second round: The participants are debating and editing the final documents. The Soviet Union is pressing for convocation of a final Conference in this month, in the shape of a "summit" of heads of state and government.

Information available suggests that also some of the major Western nations may be persuaded into agreeing to a premature conclusion of the Conference on the basis of questionable compromises which would unilaterally impair European, and in particular German interests.

The CDU/CSU Caucus, therefore, considers it imperative that the German Federal Government present comprehensive information to the German public on the content and scope of this important Conference, thus paving the way for an indispensable political public debate which has been missing so far, probably also due to the confidential nature of negotiations.

The CDU/CSU caucus bases an assessment of the negotiating results achieved so far as well as of the prospects of this Conference primarily on the following criteria:

If the Conference is to genuinely promote security and cooperation in Europe, it will have to serve a lasting mutual understanding and unimpeded coexistence between the people and nations of Europe. Not a negative delineation, but a positive development of intra-European and intra-German relations must be purpose and objective of the Conference. We expect that the results of the Conference will directly benefit all people in both Western and Eastern Europe. In this connection, we call to mind the statement by the former Minister for Foreign Affairs, Walter Scheel, of July 3, 1973 in Helsinki, where he said: "People want to feel the fruits of detente in their every-day lives, they want at long last to grasp them with their hands".

True security and cooperation in Europe are not guaranteed as long as there are people and nations on our continent who are still deprived of their basic liberties, but in particular of the right to freedom and self-determination.

This criterion is of special importance to the German people. That means:

The CSCE must not harden the externally imposed division of Germany and the unnatural separation of its people. On the contrary, it must pave the way for an alleviation of the heavy burdens of this separation and allow all Germans to regain possession of human rights. That is in accordance with the political aim of the Federal Republic of Germany, namely "to work towards a state of peace in Europe in which the German people can regain its unity in free self-determination" (Letter on Germany Unity, which was transmitted to the parties to the German-Soviet and intra-German treaties and which has legal force).

The CSCE must not loosen the degree of integration of the free part of Europe achieved so far, nor must it aggravate or obstruct its development into a European federation.

The CSCE must not perpetuate Soviet hegemony over Central and Eastern Europe. On the contrary, it has to meet the hopes and claims of European people and nations living within the present Soviet power sphere to guaranteed human rights and basic liberties.

We therefore ask the Federal Government:

1. (a) What are the Conference objectives and present negotiating positions regarding the essential political issues on the part of the Federal Government, our Allies (EC, NATO), the other Western nations?

1. (b) What changes evolved in the course of negotiations?

1. (c) What are the experiences of the Federal Government concerning cooperation of the European Community—member states and Commission—during the preparation and conduct of the Conference, and what conclusions is the government drawing from these experiences for the future shaping of European Political Cooperation (EPC)?

1. (d) What are the government's experiences regarding cooperation of the European Community with the other Alliance members, in particular the United States, during the preparation and conduct of the Conference, and what conclusions is it drawing from these experiences for the future shaping of European-American partnership?

Reasons:

The common intellectual and political values of European culture and history, the manifold economic and social ties in the free part of Europe and its progressing efforts for unification and security constitute logical and—as the CSCE has fortunately proven so far—actual foundations of a worldwide community of interests of the free nations and states in Europe.

German politics in this connection is charged with the special task to ensure that the German interests—that means, the interests of the entire German people which the Federal Republic of Germany always has to take into consideration—remain imbedded in European interests. In these endeavors the foundations of a policy enabling a solution of the German question, have to be maintained and strengthened. That includes in particular the connection between the German legal position and the rights and duties of the Three Western Powers in correspondence with the treaty on Germany of 1952/54.

The Federal Government as the first Western state pledged to the Soviet Union in a binding declaration of intent in Moscow in August 1970 to do all in its power for the preparation and successful conduct of the CSCE. It is up to the government to explain what the purpose is of this originally Soviet initiative, later endorsed by the German government, and what it will do to maintain the community of interests with Western Europe and North America—which is of vital importance to Germany—at that Conference.

2. (a) What are the CSCE objectives and present negotiating position of the Soviet Union and—if deviating—of the GDR and the other Warsaw Pact states?

2. (b) Did the Conference rounds in Helsinki and Geneva so far reveal any changes in the Soviet Union's former objectives?

Reasons:

Since 1954—despite some variations—Moscow seems to be aiming at the following objectives in pursuit of the Conference project:

Consolidation of Soviet domination of Central and Eastern Europe, either by express international recognition, or a solemn confirmation of the territorial and political status quo on the part of the west, the political implications of which equal such recognition by international law.

Solemn multilateral sanctioning of the European status quo, in particular on the basis of the final division of Germany which would eliminate the modus-vivendi character of the bilateral Eastern treaties with Moscow, Warsaw, and Prague as well as preclude a final solution of the German question, which the intra-German treaty keeps open.

Exploitation of West Europe's economic and technological potential, in order to replenish expanding Eastern shortages and to overcome bottlenecks in the supply and buildup of Warsaw Pact infrastructure.

Greater exertion of influence on Europe by means of a permanent all-European consultation and control body to be set up by

the Conference as well as by means of an all-European collective security system which would gradually replace the existing alliances.

Paralyzing of West European unification and of West Europe's partnership with North America by means of advocating the alternative of an "all-Europe" under Soviet leadership.

Gradual removal of the allegedly "alien-territory" presence of the United States from West Europe by means of creating a European system which is to make American presence appear as bothersome and obsolete to a growing number of Americans and Europeans in the years to come.

3. What is to be the quality of international law and the political quality of the final documents of the Conference according to the will of the Federal Government and according to the will of the other Western participating states?

Reasons:

According to the recommendations worked out by the first phase of the Conference (in Helsinki) which were adopted by the Foreign Ministers of the participating states on July 3, 1973, the commissions of the second Conference phase (in Geneva) were charged with the "preparation of drafts for recommendations, resolutions, declarations and other final documents".

These documents concern the three Agenda Items and related issues, formulated in the recommendations of Helsinki:

1. "Questions of security in Europe" (basket I)

(a) Principles governing relations between CSCE participating states

(b) Confidence-building measures in the military area

2. "Cooperation in the fields of economics, science, and technology as well as environment" (basket II)

(a) Trade

(b) Industrial cooperation and projects of common interest

(c) Science and technology

(d) Environment

(e) Cooperation in other fields

3. "Cooperation in humanitarian and other issues" (basket III)

(a) Human contacts

(b) Information

(c) Cooperation and exchange in the field of culture

(d) Cooperation and exchange in the field of education.

Furthermore, the coordinating committee of the second Conference phase is to examine follow-up measures to implement the decisions of the Conference. These measures include the "permanent all-European security body demanded by the Soviet Union".

The political and international law qualities of the final documents to be worked out with regard to the above areas are of decisive importance for the implications of the CSCE for the development in Europe. The German public has a legitimate claim to be informed in time as to whether and to what exent the German government and the other Western governments are willing to enter into political and/or legal commitments within the CSCE framework and what degree these commitments are to be accorded with respect to the above individual areas.

4. (a) What are the political and international law qualities to be accorded to the final documents according to Soviet intentions and—if deviating—to those of the governments of the other Communist states?

4. (b) Does the Soviet Union continue to aim at according above all the "principles guiding relations between the CSCE participating states" a binding international quality or a political-diplomatic importance of such impact as to permit the emergence of a regional international law confined to Europe?

Reasons:

The USSR has in the past attempted to use the CSCE in order to change the principles of general international law which are bindingly laid down in the UN Charter and in the "Declaration on the Principles of International Law Regarding Friendly Relations and Cooperation Between States" by changing the order of principles and turning parts of them into separate issues, by unilateral interpretation of the conceptional substance of the principles according to Soviet objectives.

Such an alteration of substance would impose the West outlines of a regional international law—influenced by "Socialist international law"—which would contradict the principles of general international law.

On the other hand, the Soviet Union claims priority of the so-called "Socialist international law" over the general international law, e.g. priority of the principles: "Proletarian-Socialist Internationalism; limited sovereignty of Socialist states."

Over the principles of general international law, such as sovereign equality, non-intervention, territorial integrity, self-determination, renunciation of force and others.

These attempts are best exemplified by the Soviet formulation of an absolute principle of the "inviolability of borders" (cf. question No. 6).

5. (a) What has the Federal Government done to maintain the Western interpretation of the treaties with Moscow, Warsaw, Prague and the inner-German treaty vis-a-vis the CSCE policies of the Soviet Union which is now trying to enforce Eastern interpretation of these treaties on a multilateral level?

5. (b) What has the Federal Government done to draw attention of Allied and friendly states at the Conference to the paramount importance of a reliable guarantee of the modus-vivendi nature of the treaties for the fundamental interests of the divided German people?

Reasons:

The Federal Government in concluding the Moscow and the inner-German treaties through the "Letter on German Unity" and the German Bundestag in passing the treaties of Moscow and Warsaw through its Joint Resolution of May 15, 1972—which has received the seal of international law as a notified document of the Federal Republic of Germany—have stated as the authentic and binding German interpretation of the treaties that the treaties constitute a modus vivendi which keeps open the German question as well as the final establishment of the borders pending an arrangement for all of Germany via a peace treaty. In this context the Federal Government has underlined that the treaty on Germany and the related declarations continue to have unrestricted validity. The Federal Government emphasized before the parliament that the treaties serve the aim of promoting solidarity and unity of the German people in a process of increasing detente during the transition period pending a peace treaty encompassing all of Germany.

The Soviet Union and its allies, on the other hand, increasingly propagate their contention—in particular at the CSCE—that the principle of the "inviolability of borders" is an absolute principle, i.e. that it is neither inferior to another principle, such as that of self-determination or renunciation of force, nor that it may be restricted by exceptions in favor of an agreed peaceful change of borders. If this illegal claim were to prevail, it would practically mean immutability of the present territorial and political status quo in Europe as well as international legitimization of realities existing in the Soviet sphere of influence which were achieved by violence as a consequence of the War.

6. How does the Federal Government in this context assess the fact that the Communist press "PRAWDA" in a breach of confidentiality of the Geneva talks, on April 23, 1974 published the following formula—which the 35 CSCE nations had allegedly agreed on as a tentative and confidential formula—on the "principle of inviolability of borders":

"The participating states consider all bilateral borders as well as those of all European states as inviolable. Therefore, they will refrain from any assaults on these borders now and in the future. Accordingly, they will also refrain from any claims or actions aimed at conquering and usurping part or all of the territory of any participating state".

Reasons:

This Soviet indiscretion is aimed at committing the participating states to this formula.

In contrast to the Moscow treaty, our specific legal positions and political concerns are not secured by legal provisos in this multilateral declaration.

Therefore, the above formulation would undermine the German legal provisos contained in the "Letter on German Unity" and in the Joint Resolution of the German Bundestag of May 17, 1972.

Any assertion of the right to self-determination of the entire German people after passage of this principle by the CSCE could be attacked as an "assault" on the GDR or as a "claim" or "action", "which is aimed at conquering or usurping part or all of the entire territory (of the GDR)".

The special meaning of this enforcement of an absolute and unrestricted principle of inviolability of borders—celebrated as a decisive victory by the entire Eastern bloc—which could not even be subjected to the principle of renunciation of force, results from numerous comments of the party-controlled mass media of the Warsaw Pact countries.

7. (a) How does the Federal Government now intend to ensure that the interpretation of the treaties of Moscow, Warsaw, Prague and of the inner-German Basic Treaty which keeps the German question open and permits every German government to pursue a policy aimed at maintaining national unity and restituting the unity of the state of Germany without committing a breach of contract, will not be undermined by an absolute and unrestricted formulation of the principle of the "inviolability of borders"?

7. (b) How does the Federal Government intend to ensure in particular that the proviso effect of essential internally binding documents which according to our authentic interpretation are inextricably tied up with the terms of settlement of the bilateral treaties concluded with Moscow, Warsaw and the other part of Germany and which were of vital importance for the approval by our legislative bodies as regards their compatibility with the basic law, the treaties on Germany of 1952/54 as well as with the rights and responsibilities of the Four Powers for Germany as a whole and Berlin, will not be impaired by this contrasting principle enforced by the Soviet Union?

7. (c) How does the Federal Government furthermore intend to ensure that its policy of maintaining and strengthening Berlin's indissoluble ties with the Federal Republic of Germany which the basic law commands and the Four Power Accord on Berlin permits, as well as the German legal position on the status of Berlin which is in keeping with the basic law and has been reconfirmed by the verdict of the German Federal Constitutional Court on the Basic Treaty, dated July 31, 1973, cannot be attacked in the future as a violation of the quoted multilateral principle of "inviolability of borders"—according to Soviet formulation?

Reasons:

Together with the other Western nations the Federal Government—after the Western proposal submitted by France had been dropped—accepted this Soviet formula at the beginning of April in 1974. The absolute and

unrestricted formulation of the principle of inviolability of borders could term any peaceful change in the German question, including the Berlin issue, as incompatible with international law and thus preclude it. The accompanying documents on the FRG's Eastern treaties and the inner-German treaty, i.e., the two "Letters on German Unity" of August 12, 1970 (Moscow treaty) and December 22, 1972 (inner-German Basic Treaty); the Joint Resolution by the German Bundestag, dated May 17, 1972; the relevant note exchanges between the Three Western Powers and the Federal Republic of Germany; the relevant declarations by the Federal Government and the notes by the Three Western Powers on the occasion of the accession by both Germany states to the UN; the authentic interpretation of the Basic Treaty and of the provisions of the basic law pertaining to Germany, contained in the opinion by the Federal Constitutional Court, dated July 31, 1973 are indispensible for a policy pertaining to all of Germany, as provided by the basic law. They constitute the legal instruments to guarantee peaceful change and peaceful progress in direction of full self-determination of the German people.

According to Soviet objectives these very legal positions are to be devalued by an absolute principle of "inviolability of borders", meaning their immutability.

As an immediate consequence of this Soviet formulation of the principle of "inviolability of borders" the East could already attack the German position on the legal status of Berlin—which is in keeping with the basic law and has been reconfirmed by the Federal Constitutional Court—as a violation of this principle reconfirmed by the European states.

8. Has it been ascertained that the principle of international law on the admissibility of peaceful change

(a) will occupy a position in accordance with its positive meaning for inner-German and inner-European detente in the catalogue of principles guiding relations between European states

(b) will be maintained undoubtedly in connection with the principles of renunciation of force and self-determination of peoples

(c) is not subjected to the Soviet interpretation of the principle of "sovereignty of states"?

Reasons:

Soviet policy vis-a-vis the other Warsaw Pact members and vis-a-vis Germany precludes any progress towards a solution of the German question in the sense of the right to self-determination of the German people. While invoking priority of self-determination over the demands for "sovereignty" and "territorial integrity" in the Third World, the Soviet Union employs a reverse tactic in Europe, where it accords priority to the principles of "sovereignty" and "territorial integrity" over that of self-determination.

Soviet attempts to permit mention of the principle of admissibility of peaceful change at best in connection with the principle of sovereignty or territorial integrity, also aim at a legal and political devaluation of this principle. The declaration on the right of sovereign states to unify (cf. memorandum on the treaty of Moscow, page 14, Bundestag publication No. VI/3156) which was made by Soviet Foreign Minister Andrey Gromyko at the conclusion of the treaty of Moscow and quoted by the Federal Parliament during the parliamentary ratification debate, merely contains a matter of course under the terms of international law, but does in our view of the supra-national nature of human rights and self-determination and the resulting claims not correspond with our policy on Germany.

9. (a) Which suggestions concerning enforcement of the principles mentioned in the catalogue of "basket I" have been introduced into the negotiations or been endorsed by the Federal Government or by Allied governments, by non-allied states, by the states of the Warsaw Pact?

9. (b) How is the Swiss proposal of a compulsory arbitration body to settle international differences assessed by the Federal Government, by Allied states, by non-allied states, by the states of the Warsaw Pact?

Reasons:

Enforcement of the principles on the coexistence of European states suggested for solemn confirmation at the CSCE is of vital importance above all to smaller and medium-size European states which depend on the law as a weapon of the weaker.

The Federal Government is requested to report what steps have been taken by it and by other governments at the CSCE to create reliable guarantees against a repetition of interventions by foreign powers to the detriment of national sovereignty and national self-determination of other states and peoples or guarantees against illegal intimidation, pressure, threat or blackmail of any kind.

What precautions were furthermore suggested at the CSCE by the Federal Government, the Allied governments, the non-allied states and—possibly—states of the Warsaw Pact against the Soviet claim of priority of principles of the "Socialist international law", such as the "Proletarian-Socialist Internationalism" and the resulting commitment to "brotherly assistance to defend Socialist achievement and the Socialist camp", over the principles of general international law?

The Swiss proposal for the peaceful settlement of conflicts corresponds with our constitutional decision in favor of immediate validity of the general rules of international law in the Federal Republic of Germany (article 25 of the basic law) and with our political commitment to the progressive principles of order of West European integration. The Federal Government is therefore requested to present its view on this proposal and—if possible—its efforts to promote it.

10. (a) What has the Federal Government done to point out in Geneva that genuine detente and cooperation in Europe presuppose that the human rights are guaranteed in all states of Europe?

(b) What has the Federal Government done to point out at Geneva that preservation of the priority of human rights in the intepretation and application of the principle of sovereignty, above all in the relationship between the two states in Germany, is in the interest of the entire West and of a lasting guarantee of peace?

(c) Has it been ascertained that the conception of the free part of Europe of the principle of human rights prevailing in these states, will be fully adhered to in the Geneva negotiations on the catalogue of principles (basket I) and on the guarantee of freedom of people, ideas, and information (basket III)?

Reasons:

One of the main difficulties to reach common measures for a detente between the two parts of Europe at the Conference lies in the basic difference of opinion concerning human rights and basic liberties between the liberal Western approach and the Soviet Marxism-Leninism approach.

From the liberal point of view human rights are inborn rights of every individual and are superior to state authority. They directly commit any state authority. To the extent that restrictions are indispensible in the interest of common well-being, these must be enacted by law and must not impair the essential substance of human rights. According to the legal position of Communist states dominated by Soviet-Marxism-Leninism, human rights are nothing but relative prerogatives granted by the absolute state whose authority is superior to the individual. They do thus not directly commit the state.

These states therefore do not consider themselves committed to direct adoption of the human rights as they are laid down in declarations, resolutions and accords of the United Nations under the terms of international law, into their national constitutions. Transferral of international law to national law is subject to the will of the states.

According to the outlook of Marxism-Leninism on the rights of the individual there are also no prepositive standards of individual freedom and dignity, but only those of class fight. The human being is bearer of such rights not as an individual in his concrete reality, but merely as a member of the class.

They are granted to him only to the extent that they serve him to fulfill his function in society; individual human rights as well as self-determination of peoples are subjected to the laws and requirements of social development, i.e. class fight on the national and international level or—to put it differently—of world revolution.

11. (a) How does the Federal Government intend to enforce the West's main demand for guarantee of human rights for all Europeans, in particular free movement of people, ideas, and information, at the CSCE?

(b) How does the Federal Government ensure together with the Western Allies that the concrete agreements on the free movement of people, ideas, and information will not be restricted again in basket III—as the Communists are demanding—for example through one general or several preambles which subject these agreements to the principle of a "sovereignty" internally conceived and practiced as an absolute sovereignty and of the reference to "non-interference", and "Observation of national legislation and customs" derived from that conception of "sovereignty"?

(c) Is the Federal Government willing to approve a seemingly positive conclusion of the Conference even on the basis of unsatisfactory resutls regarding the guarantee of human rights for all Europeans, in particular the right to freedom of information?

Reasons:

Confidentiality of negotiations at Geneva must not mean that the public continues to be kept in the dark on the political negotiating guidelines. At CSCE the Communist states insist on subjecting concrete measures which they concede in the operational agreements of "basket III" in favor of certain extensions of the human and basic right, especially in favor of greater freedom for people, information, and ideas, to national legislation as well as to the "customs" of their nations where their own orbit of power is concerned. If the Warsaw Pact gets its way with its additional provisos—either in a general preamble to "basket III" or in separate preambles to the individual agreements—the concrete agreements reached in favor of the people, could be eroded and undermined at any time.

It is the Federal Government's duty to tell the German public whether it is willing to do its part in consistently representing the main Western demand for more freedom and human rights, in particular for the freedom of opinion, conscience, and religion, for greater freedom of people and freer movement of information and ideas beyond the borders, as an essential condition for detente between East and West and as an essential preconditions for security and peaceful cooperation between people and nations.

That does not only apply to the relation-

ship between the states and nations of both parts of Europe, for us Germans that applies in particular to the inner-German relationship.

The Federal Government is requested to make clear whether it is willing to introduce this general criterion into the Conference negotiations and to demand its concrete application to Germany.

The Federal Government is asked to state whether it is willing to accept without protest Communist reference to their sovereignty and the principle of non-interference, if these references are employed against human rights and self-determination of the peoples.

The Federal Government is requested to explain how it intends above all to counter the policy of increased delineation by the GDR, since that government, too, is fighting the demand for greater freedom of people, information, and ideas by cynical references to its "sovereignty". These explanations expected from the government are important also because the Communist regimes are at the same time permitted to meddle in the internal affairs of the Federal Republic of Germany by means of foreign-dominated Communist parties and other organizations through references to their unilateral principle of "peaceful coexistence".

12. (a) Which concrete proposals has the Federal Government submitted or endorsed in order to promote realization of human rights in all of Europe and in particular in Germany and for all Germans?

(b) Is the Federal Government—if it has not already done so—willing to bring up the topic of permanent and institutionalized human rights violations at the inner-German and in the GDR at the Conference?

Reasons:

At the present state of negotiations in Geneva the public is entitled to concrete information on the negotiating results and pending issues of discussion directly concerning people and nations.

More freedom, human rights and self-determination for the people and nations in Europe must be the objective and criterion for a Western detente policy which is committed to the values of European culture.

This constitutes a special commitment for the politics of the Federal Republic of Germany due to its constitutional obligations, its freedom-oriented principles and its responsibilities towards its national history.

The German public is above all entitled to be informed whether and in which manner the Federal Government has introduced the German question not only into the catalogue of principles of "basket I" regarding its political and legal status, but also into "basket III" in regard to its human rights aspects.

13. (a) What are the notions and concrete proposals concerning the "confidence-building measures in the military area" (basket I,2) of the Federal Government, of our Allies, of the non-allied states, and of the states of the Warsaw Pact?

(b) How does the Federal Government together with its Allies intend to approach the connection between political and military security?

(c) Does the Federal Government endorse the view that there is a connection between negotiations on the CSCE on the one hand and those on MBFR and other military East-West discussions on the other with regard to their time-frame and substance?

Reasons:

The final recommendations of the first CSCE stage (in Helsinki) provide that during the second state commissions will prepare recommendations on confidence-building measures—CBM—, such as "advance notification of major military maneuvers" and "exchange of observers at military maneuvers upon invitation of mutually acceptable conditions".

These proposals are to be presented to the full Conference at a later date.

In addition, the questions of advance warning of major military movements are to be examined and the conclusions to be submitted to the full Conference.

The Federal Government is requested to report on the various suggestions and on the present state of negotiations concerning these issues. Items of particular importance are the notions on the geographic area to be covered by these measures, the time-frame of the advance warnings, the size of troop movements to be announced, the addressees of these notifications, and the degree of commitment of such agreements.

USSR and US resistance to the notification of major military movements raises the question about their motives. It should be considered that such measures are not merely meant to make mutual actions transparent and decrease the distrust between the two military alliances. After the experiences of the invasion of forces of the CSSR, GRD, Poland, Hungary and Bulgaria in the CSSR of August 1968, these warnings are to help protect the smaller countries of the Warsaw Pact against Soviet interventions.

Furthermore, the Federal Government is asked to report whether, and if so, which proposals were introduced into the negotiations that exceed the above Helsinki recommendations.

Finally, the Federal Government is requested to state whether in its opinion there are reasons for a connection between the CSCE and MBFR talks and other military negotiations (like SALT) with regard to their time-frame as well as their content. In particular it should explain whether in the absence of an outcome of the MBFR talks the negotiating results of the CSCE achieved so far already justify any mention of progress in favor of the interdependent and interrelated military and political security in Europe.

In this connection, the government is requested to disclose whether the disproportionally increased armament and deployment of Warsaw Pact forces in the GDR, CSSR and Hungary has been discussed at the Conference.

14. (a) Does the Federal Government consider as necessary and feasible comprehensive economic skeleton accords or agreements with East European states at the CSCE which are outside of the areas of competence transferred to the European Community? If so, what could be their content?

(b) If the agreements being worked out within the frame of "basket II" should be concluded, what precedent or other effect would they have on the European Community's full competence on foreign trade matters effective January 1, 1975?

(c) Is the Federal Government willing to resist any further restriction of the area of application of the GATT in its relations with East European states? Does the Federal Government think it possible that all East European states might be persuaded to join the GATT? Has the question been considered as an Agenda Item within "basket II"?

(d) Have members of the COMECON shown their willingness at the Conference to adjust their foreign-economic policies to the international standard?

(e) Does the Federal Government share the view that in addition to the existing all-European means of communication in the ECE, further institutionalized contacts should be established? If so, why?

(f) Will the Federal Government use its influence in the European Community to the effect that granting of most favored nation status to the Soviet Union by the European Community is contingent upon prior Soviet accession to worldwide cooperation in trade and traffic (GATT, CIV/CIM, IATA and others) or upon unequivocal and lasting political concessions in favor of human rights and self-determination?

Reasons:

The areas suggested for "basket II" in the recommendations of Helsinki should be examined with a view to the question whether and to what extent possible "all-European" agreements affect the areas of competence of the existing community institutions and treaties and the further development of these treaties which have priority for the West. In particular it should be examined whether the CSCE agreements on trade and industrial cooperation affect the European Community's full foreign trade competence, effective January 1, 1975, and whether they would impede the required common coordination of the consultative agreements.

Furthermore, the Federal Government should explain to the public its basic attitude on the problem of whether it will approve cooperation within the frame of "basket II" without return favors, or whether it will base its approval of Western concessions on full acceptance of the achieved standard of worldwide cooperation on the part of the Warsaw Pact states or/and on Eastern concessions in the area of the other two "baskets".

The Federal Government is requested to state whether it is willing to introduce the issue of free emigration of Germans from the Soviet Union and East Europe within the framework of a joint initiative of the entire West, in imitation of the Jackson Amendment to the US trade bill in the US Congress.

15. (a) How does the Federal Government assess Soviet demands for the establishment of a permanent all-European consultation and control body?

(b) Does the federal government consider the transferral of CSCE follow-up missions to already existing international organizations (such as the ECE) and/or special commissions as feasible?

Reasons:

One of the main objectives of the Soviet Union at the CSCE was and is the creation of a permanent all-European consultation and control commission, which is to assume administrative tasks as an executive body between further meetings of the full Conference.

This body would give the Soviet Union a say ("droit de regard") in West European developments, while it and its Allies would reject any counter-influence by the West in its own sphere of influence by invoking its exaggerated conception of sovereignty of the "Socialist international law". Besides, this all-European body could have negative implications for the process of West European integration and the expansion of our Atlantic partnership which must have priority.

16. (a) Does the Federal Government consider the present negotiating results sufficient to warrant convocation of a final Conference for the signature of the final documents before the Conference goes into summer recess?

Reasons:

The final meeting in the shape of a summit conference of heads of state and government which the Soviet Union would like to see take place as early as July of this year, would greatly underline consolidation of the territorial and political status quo in Central and Eastern Europe which the Soviets largely achieved under the third principle (of the ten principles guiding relations between European states). Western consent to a date and rank for this final conference would, therefore, only be justified on the basis of satisfactory return favors by the East to promote human rights and self-determination and in favor of a permeability of borders in Europe, i.e. in favor of a progressive liberalization in Central and Eastern Europe.

The negative experiences made with self-imposed time and success pressures in its negotiations with the Soviet Union should warn the Federal Government against a premature summit conference on the basis of dubious compromise and imbalanced favors.

We call to mind what the former Foreign Minister Walter Scheel declared at the Foreign Ministers meeting on July 3, 1973 in Helsinki during the first CSCE stage:

"If in the course of discussions it should become clear that our notions of reality are still too divergent, then I believe it would be a question of honesty to state this clearly. It would not be the end of the detente process either. It would mean only that conditions are not yet ripe to achieve the ambitious goal which we have set for this Conference. We could then continue with our efforts to develop common rules and to include cooperation and communications. We would have to continue these efforts in our bilateral relations. We might perhaps even get together again for a multilateral effort at a later date. But we should tell the European and world public clearly that we need some more time. We would then, to speak with Metternich, have to "hedge behind time and make patience our weapon".

(KARL) CARSTENS, (RICHARD) STUCKLEN and the CDU/CSU Caucus.

CONCLUSIONS FROM HEARINGS ON SUPPLIES AND PRICES OF INDUSTRIAL RAW MATERIALS

Mr. BENTSEN. Mr. President, I wish to report to the Senate today on the main points brought out at the recent hearings of the Joint Economic Committee's Subcommittee on Economic Growth on the adequacy of raw material supplies.

These hearings, which took place the week of July 22, went into various subjects. They include: First, short-run supply and price prospects for various materials, especially metals; second, the likelihood of monopoly pricing in these markets by foreign producers, with special reference to the aluminum situation; third, means of deterring and defending against exploitative pricing; and fourth, the question of the longer run physical adequacy of mineral supplies.

Materials prices on world markets have dropped sharply in the past several months. In the words of Assistant Secretary of State Thomas Enders, in testimony at the hearings—

In competitive markets the steam has gone out of the commodity boom. Fiber prices are down 16 percent since the beginning of the year; rubber prices are down almost 40 percent . . . and non-ferrous metals, more erratic in movement, are down even more sharply. . . . The major reason for the turnaround is the relative weakness in world industrial production.

For copper, tin, and aluminum, this decline was influenced by huge sales from the U.S. stockpile, although it is difficult to estimate how great this influence was.

U.S. domestic prices remained far below world prices during much of the period because of price controls. Although U.S. prices have risen sharply in the 3½ months since controls ended, the decline in world prices has permitted them to adjust to market levels without the huge leaps that otherwise would have occurred. This process of adjustment is still proceeding, as we have seen in the recent price boosts for steel and aluminum.

As the latest wholesale and consumer price releases confirm, moreover, the prospect of stabilization in raw materials prices does little to limit the cost-push impact of earlier increases in raw materials still working their way through the economy.

CARTELS

It was the consensus of most witnesses that new cartels are unlikely to be highly effective in nonfuel minerals, despite what we have seen with oil and aluminum. If they should succeed in escalating certain material prices, all witnesses agreed that their effectiveness would be limited to a relatively short period of time.

The main reasons for this are the inevitable diversity of commercial interests among cartel members, the high likelihood of new supplies within a few years from outside the cartel, and the relative ease of substitution for most such materials. As indicated below, for instance, several widely available materials can be substituted for bauxite at about the present price. The various ferroalloys can be substituted for each other to some extent. In some materials, such as cobalt, tungsten, manganese, and zinc, the U.S. strategic stockpile is large relative to our consumption. In others, the major foreign suppliers seem unlikely to combine for common purposes because of political diversity. All witnesses agreed, moreover, that even substantial increases in mineral prices would never have the dramatic impact on the U.S. economy that the rise in energy prices has had.

Mr. William Eberle, Director of the Council on International Economic Policy, emphasized his belief that inordinate price increases are not in the long-run best interest of the materials-exporting countries themselves. Dr. James Theberge, of the Georgetown Center for Strategic and International Studies, noted, however, that:

We are in an era of more assertive Third World nationalism, and this is radically altering producer-foreign investor relations in favor of the developing mineral producers. . . . They are politicizing trade problems, however, much we may deplore it. The international trading system is under strain because countries increasingly are using trade for political ends.

Dr. James Burrows, a commodities specialist for Charles River Associates, pointed out that cartels motivated by economic gain would never impose a total embargo against any buyer but instead would curtail overall output to a level calculated to exact an optimal price.

I was pleased to see an able discussion of the present outlook for raw materials cartels by Dan Morgan in the Washington Post. The article, entitled "Cartel Threat Seen Easing," is based in part on the findings of our hearings. I ask unanimous consent to print the article in the RECORD at the conclusion of these remarks.

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

(See exhibit 1.)

THE ALUMINUM MARKET

Mr. BENTSEN. Mr. President, among the most significant testimony of the hearings was that by representatives of the aluminum industry that technology for making aluminum from U.S. domestic raw materials now appears to be competitive with aluminum from bauxite. The latter material is almost entirely imported. Bauxite taxes have been increased by one major producing country, Jamaica, by an amount that more than doubles the price of this raw material and adds 8 to 10 percent to the ultimate cost of producing aluminum metal. This move may be followed by other exporting countries.

Mr. C. W. Parry, ALCOA's manager for corporate planning, gave the subcommittee the following testimony on this subject:

There are two sources of alumina in the United States which are of primary interest at the present time to ALCOA. The first of these is a mineral called anorthosite. We have purchased 8,000 acres in Wyoming containing an extremely large reserve of this mineral, anorthosite. This one reserve alone has enough aluminum content in it to supply the present world aluminum industry for 75 years . . . for all intents and purposes the amount of anorthosite in the United States is essentially inexhaustible.

We made a very strong research commitment over the past months to the processes which are necessary for the commercial exploitation of alumina from this mineral. We have been operating a pilot plant at our East St. Louis laboratory for several months now. And this pilot study should be finished by the end of 1974. . . . We could at that time move on, as we expect to, to commercial development of this particular ore.

(Another) source of alumina (aluminum oxide) in the United States is coal waste piles, or co-called "culm" piles, from coal mining activities. . . . One of the greatest difficulties that we are finding in this is to locate the coal pile deposits in a geographical concentration sufficient to justify the establishment of a separation plant. . . . I expect that this will also be finished toward the end of this year or early next year.

. . . We have not yet reached the stage where our cost estimates can be considered firm. We are, however, far enough along to get some very strong indications that alumina produced from several of these sources would be competitive with alumina from Jamaican bauxite under the new tax condition.

I think this is a very significant development that illustrates the consequences likely to ensue from exorbitant tax increases by foreign producer governments or cartels. In response to my questioning, Mr. Parry indicated that it probably would take 2 to 3 years to finalize the design parameters of the new processes and to complete construction of a commercial scale plant.

It is also significant that this view of the feasibility of nonbauxite raw materials was confirmed by a witness representing a joint venture with no investment stake in foreign bauxite mining. Dr. Duane Bloom of Earth Sciences, Inc. testified that his firm in conjunction with two aluminum smelters and fabricators—the Southwire and National Steel Corporations—is in the advanced stage of arrangements for a large-scale plant to begin making alumina from alunite by 1978.

Dr. Bloom gave us the following testimony:

. . . in 1969, when this venture was begun there were no known deposits (of alunite) in the United States meeting our needs. Apparently for this reason, Report No. 278 of

the National Materials Advisory Board . . . in 1970 concluded that alunite has "little potential of being a major raw material of aluminum in this country." In the year that statement was made, the NG alunite deposits were discovered 60 miles northwest of Cedar City, Utah.

Drilling and trenching on the property has proven in excess of 100 million tons of ore grading between 35 and 40 percent alunite. In addition, another 600 million tons of similar grade ore has been placed in the probable category on this property. It appears that the initial plant planned for this deposit, 500,000 tons of alumina per year, could be expanded by a factor of 10, and using ore from this area, could operate for about 20 to 30 years, supply nearly one-sixth of all the aluminum used in the United States during that period.

Mr. Parry stated that Alcoa's decision to proceed with nonbauxite alumina production was determined by the new Jamaica bauxite tax. Dr. Bloom indicated his belief, however, that the alunite process would be economic even with lower bauxite prices, in part because it produces large volumes of potash fertilizer as a byproduct.

As a footnote to the Jamaican action on bauxite, it has come to my attention that a communique by Jamaican Prime Minister Manley and Mexican President Echevarria, issued at the close of Echevarria's visit to Jamaica on August 2, announced their intention to establish a multinational aluminum corporation to produce alumina, aluminum metal, fabricated products in the two countries and possibly other nations in and around the Caribbean.

U.S. POLICY ON COMMODITY TRADE

A number of witnesses addressed the question of augmenting the accepted rules of international trade to govern access to raw materials supplies and of using other diplomatic means to avert behavior disruptive to the world economy.

Ambassador Eberle's testimony outlined a new approach to trade negotiations:

. . . we must focus hard to see that we have a trading system that . . . has rules and guidelines that will keep many of these trade problems out of the political process.

I think it is useful in looking at these possibilities to start with the GATT, which spells out existing international trade rules . . . (on) export quotas and export duties as it does on the import side . . .

One approach which could closely parallel that used successfully to reduce import barriers would be to exchange a commitment by country A not to restrict, or to limit restrictions on exports which are of interest to country B for a commitment by country B of a reciprocal nature. . .

We could even start out by having discussions on binding the export taxes as you do tariffs. Or you could negotiate on exceptions and then bind all other export taxes to zero. . .

We have found other countries quite interested in exploring these concepts with us. . . Now, these exchanges of commitments need not be restricted to measures at the borders but could cover other policy measures governments take to affect conditions of supply or exportable raw materials. . .

. . . the second track that I referred to is designed to avoid or to facilitate the resolution of conflicts that can arise. . . There should be guidelines on what you do generally, and then if you cannot agree, we would hope that there would be some kind of a consultation and procedure that you must go through. . .

Other witnesses pointed out that various instruments could be used to direct both domestic and foreign investments so as to diversify raw materials sources. Secretary Enders testified that the main available instruments to guide overseas investment are Exim credits and OPIC guarantees. At home, the Government can facilitate many aspects of materials development. At this stage, in his view, subsidies and tariff protection for domestic investment do not appear desirable.

There is general agreement, I believe, that we should at least examine the desirability of recasting the authorization for stockpiles of strategic and critical materials to include the objective of averting economic disruption that might ensue from supply curtailments or cartel pricing. At present, the law does not recognize this objective, although such considerations have been an element in stockpile decisions at times.

In considering this issue, however, there are many issues of fact that must be clarified. For instance, what commodities would be stockpiled for this purpose? How much should be stockpiled? What are the costs and the alternative methods of protecting our economy from such shocks? Under what guidelines would stockpile authorities intervene in the market? Should they attempt to stabilize cyclical market fluctuations or only to intervene to resist outright monopoly power? How effective can we expect such an operation to be?

Gen. Leslie Bray, Director of the Office of Preparedness, testified that his staff is studying some of these questions on economic stockpiling. He emphasized that present law does not permit stockpile manipulations exclusively for this purpose. He pointed out as a matter of interest, however, that the Japanese Ministry of International Trade and Industry announced in late July that Japan plans to build up a stockpile of nonferrous metals to prevent economic disruption.

IS THE WORLD RUNNING SHORT OF RESOURCES?

All witnesses before the hearings agreed that mankind is in no danger of running out of resource reserves within the foreseeable future. It may be somewhat more expensive in the future to satisfy our materials needs in ways consistent with environmental protection, but the witnesses felt that the supply of minerals is likely to be quite responsive to higher prices within a period of a few years. Recent supply shortages were attributed more to political disruptions, as in the case of copper from Chile and Zambia, and to inadequate smelting and processing capacity, as in the cases of steel and zinc, than to real scarcity of minerals in the ground.

As stated by Mr. Robert N. Pratt, president of the Kennecott Sales Corp., of Kennecott Copper,

Our nation is blessed with abundant reserves despite dire forecasts one encounters from time to time. The Paley Report of 1952 predicted that the U.S. would be out of copper in this decade. The 1971 Club of Rome study has predicted the same disaster on a worldwide scale in this century.

The fact is, the U.S. has been increasingly self-sufficient in copper over the years despite important growth in demand and decreasing ore grades . . . Continuing technological advances in our industry have made this possible. . . .

The U.S. copper industry has announced plans to expand capacity by about 25 percent during the next four years, and still further expansion is under consideration. This outlook does not include entirely new mining technologies such undersea mining and in-situ mining which we and others are studying and which offer the opportunity to tap vast additional resources.

Similar arguments were made with regard to other minerals by Dr. Burrows of Charles River Associates, whose testimony, incidentally, includes detailed market analyses for a wide range of individual materials.

With regard to undersea mining, Mr. Pratt stated in response to questioning that, so far as technology is concerned, it could begin immediately on a commercial basis. It was the view of Dr. John Morgan, Deputy Director of the Bureau of Mines, however, that many problems remain with commercial application of this technology because of difficulties yet to be solved in operating in deep water far from shore and in separating and refining the various valuable constituents of the undersea nodules.

In one final comment on the question of minerals scarcity and higher minerals prices, it is estimated that America's use of nonfuel, nonagricultural minerals in raw form now constitutes about 3 percent of the total value of our GNP. Dr. Burrows estimated that the impact of minerals prices on the overall national price level would be slightly more than proportional to this ratio. In other words, if all minerals prices should even double across the board, the price index would increase by only 4 or 5 percent. All witnesses concurred that any such price increase would bring forth much greater supplies.

CONCLUSION

In general, therefore, the hearings tended to deflate alarmism that has been generated in some quarters concerning the imminent formation of many new cartels. They indicated that further rapid price escalation for nonagricultural raw materials is not likely in the near future, although it could resume in the future when business conditions improve and markets again become tight. The hearings discounted the thesis that resource exhaustion is close at hand.

Let no one infer, however, that I am providing grounds for complacency or inaction. The fact that problems are not unmanageable does not imply that improvements in policy are not badly needed. It is undoubtedly time to take deliberate steps to improve our security of access to foreign supplies, to make clear that the United States will defend itself against inordinate prices for imported raw materials, and to proceed with new impetus on a balanced policy of resource development at home.

EXHIBIT 1

[From the Washington Post, Aug. 12, 1974]

CARTEL'S THREAT SEEN EASING

(By Dan Morgan)

Ten months after the oil nations closed ranks to impose unprecedented price increases, government experts have concluded

that other potential mineral and commodity cartels could not squeeze the United States very hard for very long.

The generally optimistic assessment has been reached even though senior officials recently acknowledged before a congressional panel that there is not much American aluminum companies can do about Jamaica's decision last June to sharply boost export taxes on bauxite.

The effect of Jamaica's action was to raise the price of bauxite imported from there from $2.50 to $11.72 a ton.

Assistant Secretary of State Thomas O. Enders told a subcommittee of Congress's Joint Economic Committee that two other countries, the Dominican Republic and Guyana, have been "inspired by Jamaica's action and have announced their intention to follow suit.

The three countries account for about 70 per cent of U.S. bauxite imports. The U.S. produces less than 15 per cent of its own requirements of aluminum ores. If passed on, the levies are expected to increase the price of aluminum in this country by about 10 per cent.

"In the near term, the aluminum companies are locked in," Enders told the subcommittee headed by Sen. Lloyd M. Bentsen (D. Tex.). "They have little choice but to pay the higher levies because of the cost of disrupting established supply patterns during the current period of strong demand, their structural dependence on Jamaican-type bauxite and their investments in Jamaica."

Officials concede that the difficulties with the Caribbean bauxite producers show that a few small, less-developed countries can pose economic problems for the United States, over the short term.

However, they add that there are marked differences between the oil cartel and the bauxite producers.

U.S. representatives have quietly been telling leaders of Third World countries that they will lose more than they will gain in the long run if they try to emulate the example of the Organization of Petroleum Exporting Countries (OPEC).

The great danger now, U.S. officials contend, is that Third World nations, carried away by the OPEC euphoria, will enter an economic poker game with the United States and the industrial world, without holding any of the strong cards of the oil nations.

At the congressional hearings, William D. Eberle, director of the White House Council on International Economic Policy, declared that mineral cartels "are not likely to constitute a serious threat in areas other than oil."

In the case of bauxite, the Caribbean producers hold some short term advantages because of the dependence of U.S. aluminum companies on the cheap supplies there.

However, industry and government officials told the Subcommittee that the world has abundant supplies of bauxite, located in many countries. Substitutes which can be used in manufacturing aluminum, such as grey clays in the United States, are available.

Steel and plastic materials can also substitute for aluminum in construction.

"If the tax is continued, future aluminum investment flows will shift to non-Caribbean areas," Enders said.

In the panicky aftermath of last year's oil price increases by OPEC, some economists predicted that the world would see the pattern repeated quickly in other vital resources.

The OPEC actions were widely hailed by many Third World leaders as strong blows against old fashioned economic colonialism of multinational corporations steered from the United States and other industrial countries. Raw material prices, they noted, had failed to keep pace with the price increases of finished products.

Since then, organizations of coffee, mercury and copper producers have met to see what they could do to emulate the OPEC example.

A price-setting arrangement between Algeria, Italy and Spain forced the price of a 76-pound flask of mercury from a 1973 low of $260, to $350 this year. But the price has since begun to drop again and hit $330 two weeks ago.

Several weeks ago, Costa Rica, El Salvador and Mexico, with apparent support from Brazil and Colombia, set up a multinational organization, Cafe Suaves Centrales, to regulate the price and supply of coffee. According to press reports, the organization is counting on financial support from Venezuela, which will take in an estimated $10 billion in oil revenues this year. If OPEC member Venezuela agrees, loans from it would be used to finance a "buffer" stockpile of coffee which could be held off the market to force prices up to acceptable levels.

Coordination between the coffee growing countries until now has been erratic, so that there is presently surplus on the world market. U.S. officials say that "there has been strong evidence" already that Brazil, Colombia and El Salvador have been buying back some of their own coffee on the international market in New York City, to push prices back up.

These examples of producer cooperation have been far outstripped by rhetoric of Third World leaders.

On July 11, Mexican President Luis Echeverria called for a common front of all Third World countries to obtain better raw material prices.

According to U.S. economic experts, the success of any board system of price controls and restrictions on supplies would require heavy financing, to maintain reserves and continue production while stockpiles build up.

In April, Peruvian Minister of Mines Jorge Fernandez Maldonado called for a "convergence" of OPEC with the copper producing organization CIPEC, to which Peru, Chile, Zaire and Zambia belong.

Maldonado spoke of exchanging guarantees of oil for a CIPEC promise to satisfy the oil nations' mineral needs. He also urged a "Mutual defense of oil and copper resources" against speculative markets in the West.

So far, however, the OPEC nations have offered only encouraging rhetoric and token financial support to Third World countries which are reeling under the impact of petroleum price increases.

American officials say that the oil producers seem reluctant to risk any of their new wealth underwriting mineral cartels, although this could change as their income from petroleum sales piles up.

Economists do not all agree with the current assessment of White House, Treasury Department and State Department experts that new cartels would be too diffuse, too economically weak, and too politically diverse to forge well-disciplined organizations.

In a much-quoted article in Foreign Policy magazine, C. Fred Bergston maintained this year that Western nations had vastly underrated the danger of many OPEC-like organizations forming in different parts of the world, and waging economic warfare that would disrupt the established order.

"We are seeing the politicization of international minerals," said James D. Theberge, of the Center for Strategic and International Studies.

"Third world countries are organizing into economic blocs and are trying to establish an economic front. The administration is rather complacent about it."

Theberge told Bentsen's subcommittee, however, that economists "are right to entertain strong skepticism about the long-term prospect of mineral cartels by Third World producers—despite the dramatic success of OPEC."

Meeting in Lusaka, Zambia, a month ago, the copper organization CIPEC was unable to agree on any action to stabilize copper prices and establish a floor price. Instead, a decision was made to study how copper producers could control trading of the mineral at the London metal exchange.

The United States now imports only 17 per cent of its copper needs, and experts say it has sufficient domestic reserves to become self-sufficient.

In addition, the United States now has strong economic leverage over CIPEC-member Chile, whose military backed regime is counting heavily on loans and aid to bail it out of deep financial difficulty left over from the former Marxist regime of the late Salvador Allende.

Experts also note that restricting production of raw materials, unlike restricting petroleum pumping, can cause unemployment.

In and out of government, experts differ over the vulnerability of the United States to some sudden restrictions on foreign imports of raw materials.

The United States imports more than three quarters of its requirements of chrome, manganese, tin, mercury, nickel and half a dozen other minerals. However, Enders told the Subcommittee that more than two-thirds of U.S. imports of major non-fuel raw materials come from Canada, Australia and South Africa all of which are considered reliable suppliers.

Nevertheless, officials in Washington are deeply uneasy about short term economic disruptions that could occur if some new, worldwide system isn't worked out to satisfy the requirements of both consumer and supplier nations.

"We could be wrong," said one official, recalling widespread doubts, only a few years ago that the oil countries would unite.

Economic warfare between rich and poor nations would add to inflation in the industrial world. Ultimately, it could be self-defeating for Third World countries which need foreign investment and financial support.

In Geneva, U.S. officials have been urging members of the General Agreement on Tariffs and Trade (GATT) to accept some plan which would guarantee access to raw materials in return for a fairer, stable price for the resources.

The White House's international economic chief, Eberle, told Congress that "the political dimension of this issue" should not be neglected.

"Arbitrary actions affecting another country's supply of raw materials, and the counter actions these invite, can seriously damage political and security relations between countries."

Eberle called for a new system to even out the "peaks and valleys" in the world's economy caused by shortages and surpluses which produce price summits and dips.

One approach, he said, would be for countries to exchange commitments not to limit exports of commodities each consider essential.

"To put it crassly, the world economic system has got to work on mutual blackmail," said an official. "If you give me this, I'll give you that."

The pros and cons of an "economic stockpile" are also being weighed in Congress. Such a stockpile could be sold off in pressure to raw material cartels' restricting exports or production.

However, policy makers lean away from this idea now because of its cost, and because of its tendency to fix artificial prices.

Enders also noted in his congressional testimony that putting 50,000 tons of tin on the market this year hasn't prevented a price increase of more than 100 per cent.

Policy makers also make clear that the United States still has powerful economic weapons of its own to use a mineral front.

"If we were not able to reach a mutually acceptable accommodation . . . we would have no choice but to seriously examine the contingencies for retaliation in other areas of our economic relationship," Eberle said.

SUPPORT FOR JURY JOB PROTECTION BILL

Mr. SCHWEIKER. Mr. President, yesterday, I indicated that a number of Pennsylvania newspapers have endorsed the concept of providing job protection for persons serving on State and Federal juries.

My bill, S. 3776, would eliminate the kinds of abuses which occurred in the Mitchell-Stans trial, and with the Watergate grand juries, where job threats, or actual firings, adversely affected citizens engaged in jury duty.

The newspaper editorials in Pennsylvania make the point that I stressed, that job protection for jurors, performing civic responsibilities, is a matter of fundamental fairness, and must be a matter of law.

I ask unanimous consent that three additional editorials supporting my jury job protection bill be printed in the RECORD following these remarks.

We must be encouraging, not discouraging, good citizenship, and the fairest possible jury trial system in our judiciary, and I will continue to press for quick action on my bill.

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

[From the Harrisburg (Pa.) Evening News, July 23, 1974]

A JUROR SAFEGUARD

Sen. Schweiker's bill to protect the jobs of people serving on jury duty is an eminently reasonable proposal. If there's anything disturbing about the measure, it's the fact that legal safeguards should be necessary.

But they are. The senator cited job losses by people serving in the Mitchell-Stans trial and on Watergate grand juries as "only the most publicized examples" of individuals suffering economic reprisals for fulfilling their citizenship responsibilities.

It's bad enough that too many people, young and old, try to avoid jury duty on one pretext or another. Justice, after all, requires not only good judges on the bench and good attorneys for prosecution and defense, but good people from all walks of life willing to serve on juries so they can be broadly representative of the community. In his first inaugural address, Thomas Jefferson called trial by jury one of the principles that "form the bright constellation which has gone before us."

For many, jury duty can mean both inconvenience and financial loss. But such service is one of the ways we Americans pay our dues for the system we enjoy. Certainly, those performing their duty shouldn't be subjected to the more serious economic disruption represented by the loss of a job. Employers should understand the broader public interest being served and be willing to put up with temporary loss of their employes.

The Schweiker bill would extend to jurors the same sort of protection military draftees have been granted in the past. That's only fair. In a sense, jurors also have been drafted to protect our way of life. Members of Congress should have few reservations about rallying around the principle contained in this legislation.

[From the Lansdale (Pa.) North Penn Reporter, Aug. 7, 1974]

JURORS AND JOBS

Sen. Richard Schweiker has introduced a bill guaranteeing job protection for persons serving on juries, whether state or federal.

The senator noted that two Watergate grand jurors were fired outright and two others were asked to be executed so they wouldn't lose their jobs. Besides that, Schweiker said, two jurors in the trial of Maurice Stans and John Mitchell were fired by their employers.

"These," says Schweiker, "are only the most publicized of the ever-growing problem of persons being economically penalized simply for trying to be a good citizen."

As Schweiker says, there is no adequate job protection now for jurors. His bill to correct this sorry state of affairs is patterned after the re-employment protection granted to persons called to military service.

"Jury duty is vital to our system," Schweiker sums up. "The jury is an institution that not only protects the legal rights of defendants, but also puts into practice our commitment to government by the people.

"Jurors risk discharge by their employers as soon as they accept jury duty. And the juror who is not permitted to return to his job does not have adequate legal remedies. If we permit the price of this civic participation to be loss of employment, we should not be surprised that citizens shirk involvement in government or that public confidence in government continues to decline."

It could hardly be phrased better. It is contemptible for an employer to fire a person simply because that person accepted jury duty. Yet it happens all too often, even in our own region. Long ago we should have blown the whistle on these narrow-minded bosses.

[From the Somerset (Pa.) American, July 25, 1974]

JURY PROTECTION

A law which provides for financial protection of workers while serving on jury duty has been needed for a long time. Now, it looks as if one will be passed.

Such a bill, guaranteeing job protection for those who serve on state and federal juries, has been proposed by Senator Richard Schweiker.

He pointed out that two members of the Watergate grand jury were fired outright and two others asked to be relieved of jury duty in order to protect their jobs. Two jurors in the Mitchell-Stans trial also were fired.

Jury duty is an obligation of all citizens. Those called should not hesitate to serve and their employers should not hesitate to cooperate in making it possible for them to serve.

As Senator Schweiker has pointed out, many persons trying to be good citizens by serving willingly when called for jury duty are often economically penalized.

And, this is not right.

The Senator has proposed a bill patterned after the reemployment protection granted to people called into military service.

The Schweiker proposal is one which should have the support of the Congress.

THE CALIFORNIA POLITICAL REFORM ACT OF 1974

Mr. TUNNEY. Mr. President, one of the most important matters before us this year has been reform of the election process. I was very pleased that the Senate passed a strong election reform bill last April, including public financing. This measure is now in House-Senate conference.

But the movement for reform of the electoral process has not been limited to Washington. On June 4, 1974, California voters expressed overwhelming support for political reform by casting over 3 million votes—a 2 to 1 margin—in support of proposition 9, the Political Reform Act of 1974. The act was put before the voters by a coalition of public-interest groups and individuals, including People's Lobby, Common Cause, and the League of Women Voters.

The initiative process, through which proposition 9 was brought before the voters of California, has been an active and progressive force in California. Just 2 years before, California voters enacted proposition 20 which provided the first comprehensive coastal protection and planning in the Nation.

In light of the great interest in proposition 9, and the political reform movement, I would like to share with my colleagues a summary of the provisions of proposition 9 compiled by the California Journal, and an article from the Los Angeles Times outlining the genesis of the act. I hope the success of proposition 9 in California, and of the campaign reform bill in the Congress, will usher in a new era of openness and grassroots responsiveness on the part of politicians.

Mr. President, I ask unanimous consent to have the above-mentioned materials printed in the RECORD.

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

[From the California Journal, November 1973]

SUMMARY OF KEY PROVISIONS OF POLITICAL REFORM INITIATIVE

Campaign receipts and expenditures. In every campaign for elective office, at all levels of government, reports of all contributions and expenditures must be filed if at least $500 is raised or spent. The reports are due at specified times:

Candidates and committees must report 40 and 12 days before the vote and 65 days after.

Proponents of ballot measures must report 65 days after qualifying their measure.

Committees supporting or opposing ballot measures must report 35 and 7 days before the election and 70 days after.

Elected officials must report every six months while in office.

These reports must identify all contributors of $50 or more by name, address, occupation and employer's name, the amount given each time and cumulatively. Persons receiving $50 or more and the services they render must also be identified.

Campaign committees must file statements with the Secretary of State. These must include their affiliation, treasurer and principal officers, and the name and office sought by each candidate and title of each measure they support or oppose.

Fair Political Practices Commission. A five-member appointive board, no more than three of whose members can be from the same party, is created to enforce the initiative's provisions and is given a $1 million annual appropriation. The Governor appoints two members, not of the same political party, and the Attorney General, Secretary of State and Controller appoint one member each.

The commission is to investigate charges

of possible violations of the Political Reform Act on the part of agencies, public officials and candidates. It can subpoena records and witnesses, issue cease-and-desist orders, and levy fines up to $2,000.

Campaign spending limits. How much can be spent in statewide campaigns is based upon the number of citizens of voting age in the state as of January of the year preceding the election. Using the 1973 estimate of 14 million voting-age persons, the spending limits are:

Governor—7 cents per voting-age citizen ($980,000) in the primary and 9 cents in the general election ($1,260,000).

Lieutenant Governor, Secretary of State, Attorney General, Controller, Treasurer, Superintendent of Public Instruction—3 cents per voting-age citizen ($420,000) in the primary and again in the general.

Incumbents seeking reelection to statewide office—10 percent less than their challengers' limits.

Party state central committees and affiliated bodies—4 cents a voting-age citizen ($420,000).

Independent committees—$10,000 maximum.

Initiative qualification—No more than 25 cents times the number of signatures required can be spent ($81,376) to qualify statewide measures such as this.

Ballot-measure campaigns—Expenditure limits over $10,000 will be set by the Fair Political Practices Commission. Expenditures for both sides cannot exceed the lesser of the following: 8 cents times the voting-age population ($1,120,000) or $500,000 more than the amount approved by the commission to be spent by one side.

Conflict-of-interest. Public officials must disclose financial holdings that present "a potential conflict with their official responsibilities", and are disqualified from making public decisions in areas of conflict.

Elected state offices, boards of supervisors, city councils, the chief administrative and elected officers of cities and counties, and candidates for election to any of these offices are covered. Disclosure must be made before assuming office, periodically while serving, and on leaving office. The statements include:

Any investments worth at least $1,000, indicating whether their value exceeds $10,000 or $100,000.

Any interests in which at least 50 percent is held.

Income totaling $205 or more in 12 months, indicating if it exceeded $1,000 or $10,000; any gifts valued at $25 or more, with the name, address and a general description of each source.

Income from businesses, if more than $1,000 was received for legal or brokerage services, or $10,000 for other businesses.

All state and local agencies must adopt a conflict-of-interest code that contains:

A list of jobs vulnerable to conflict-of-interest considerations.

The circumstances under which an official must be disqualified from acting.

Ballot pamphlet. The ballot pamphlet sent to voters before each election is revised to include more information in a more readable format. The text of all proposed measures and the existing laws to be repealed are to be inclu ied, along with arguments and rebuttals for and against, and an analysis prepared by the nonpartisan Legislative Analyst.

Incumbency. The fact of holding the office being contested is not a factor in determining the order of placing candidates' names on the ballot. Once an elected state officer files a declaration of candidacy, all mass mailings at public expense must cease.

Lobbyist regulation. Lobbyists must register with the Secretary of State. (They now register with a joint committee of the Legislature.) Lobbyists cannot make contributions and gifts exceeding $10 monthly. They must open separate accounts to handle lobbying funds.

All payments received for their activities must be reported periodically; these reports also include deposits and expenditures in the lobbying account, expenditures of $500 or more in one year made to any business in which a public official or candidate holds interest. The legislative or administrative decisions the lobbyist sought to influence must also be reported.

Those who hire lobbyists or who spend at least $250 a month to influence legislative or administrative decisions must report expenses over $25, gifts to officials, candidates or members of their families, business transactions exceeding $1,000 with firms in which an official or candidate has ownership, the date and amount of political contributions.

Auditing. The Franchise Tax Board audits and investigates reports filed by lobbyists.

[From the Los Angeles Times, June 21, 1974]

PROPOSITION 9—ITS BIRTH PANGS NEARLY KILLED IT

(By Al Martinez)

Proposition 9, the political reform initiative that swept to a landslide victory June 4, was born—and almost died—in the heat of conflict generated by its authors.

An uneasy coalition of Common Cause and People's Lobby came close to collapse several times during the critical months that the measure was being drafted.

There were charges of doublecross, the threat of a lawsuit by Common Cause against People's Lobby, the possibility of a counterinitiative and an almost comic race to see who would file the document first.

In most instances, a representative from the office of Secretary of State Edmund Brown Jr. acted as peacemaker in what seemed at times a futile attempt to resolve the differences between the two political activist organizations.

Said one source: "They got along about as well as the Arabs and the Jews."

People's Lobby believed Common Cause was using the reform measure to strengthen its own position in California, and Common Cause was convinced that the leaders of People's Lobby could not be trusted.

People's Lobby accused Common Cause of dragging its feet, and Common Cause charged that People's Lobby's haste was detrimental to the initiative.

By the time the campaign was over, both organizations were weary of each other, and there is doubt that they will ever work together again.

Despite the overwhelming success of Proposition 9—a better than 2-1 triumph—some of the bitterness between the two groups most responsible for the victory lingers on.

The genesis of the initiative, regarded by many as one of the finest political reform documents in the nation, is difficult to trace because the three major participants claim credit for its inception.

Common Cause, People's Lobby and Brown's office had all worked in the area of political reform, and all trace the roots of the initiative to that work.

But probably it was People's Lobby, specialists in the initiative process, that moved first by drafting a tough measure based largely on a successful Washington state reform initiative.

It was on that basis that Brown suggested a meeting between representatives of his office and the two activist organizations. The meeting was held early in 1973.

The portent for future problems emerged almost instantly. Common Cause, fearing that Brown would "capture" the initiative for political purposes, wanted him to dissociate himself from it.

People's Lobby, suspecting that Common Cause might try to renege on its support, demanded an immediate public announcement of the incipient coalition, and threatened to walk out of the first meeting unless the announcement was agreed upon.

"It was a difference in styles between the two organizations," says Dan Lowenstein a deputy secretary of state who acted as peacemaker throughout the troubled negotiations.

"People's Lobby wanted to move in two weeks and Common Cause wanted to move in three years. Also, it was a power struggle, and there were jealousies."

Even Ken Smith, state director for Common Cause, who worried that People's Lobby was moving too fast, later realized the value of their drive:

"By jumping, Ed and Joyce Koupal (founders and leaders of People's Lobby) provided assurance that something would happen, and galvanized everyone to act. The Koupals were on the move.

"We knew we had to deal with them or they'd have an initiative of their own, and it might lose. If it lost, it might never appear again. This had to be the year."

Mrs. Koupal laid down the law:

"When we commit time and effort, we don't fool around. We feared Common Cause might back out. We didn't want to be delayed beyond the point where we could get the initiative on the ballot and had to say to Common Cause, 'With or without you, we're moving.' "

"I knew there was animosity between the two groups and that it would be difficult keeping them together," Lowenstein said of that first meeting.

"They were reluctant to work together but realized the value of a coalition."

June 1, 1973, was established as target date for the first draft of the initiative and Aug. 1 for the final draft. Both deadlines were met.

Then a major schism developed on the issue of limiting campaign spending.

"The Koupals felt the only way to clean up politics was to spend no money in elections," Smith said. "That was a joke. We wanted liberal limitations, otherwise you'd create an incumbency party."

Mrs. Koupal denies that People's Lobby wanted to eliminate campaign spending.

"The truth is," she said, "Common Cause wanted no limitations on spending. We almost split up over that. They were adamant on that score and we were adamant in our position. Limitations were important to us."

Common Cause, Mrs. Koupal claims, wanted campaign spending in a separate public financing proposal "because it's sexy and would sell the voters. We wanted it just the way it passed."

At this point, Smith said, Common Cause began considering the possibility of pulling out of the coalition and even fighting the Koupal initiative "if it were not a tolerable document. Later we became comfortable with the provision."

A series of meetings were held during the spring of 1973 on two levels. One involved drafting the document, which was done largely by Lowenstein and Robert Stern, elections counsel in Brown's office, and Bob Girard, a Stanton law professor with Common Cause.

The second level of meetings, which involved the Koupals, Smith and others, tried to determine how their union would function and how money for the campaign would be raised.

Lowenstein played a part in these sessions also, and both sides credit him with being the major element in holding the spring coalition together.

"The Common Cause people," Mrs. Koupal said, "often blew up and said, 'You can't do this' and 'You can't do that,' but we would simply say 'We're doing it, it's ours.' "

Meanwhile, the question of when to hold the first press conference to announce a drive for the reform initiative was still being

discussed. At issue was who would make the initial announcement.

Smith remembers:

"We wanted Martin Stone (state chairman of Common Cause) and the Koupals wanted John Gardner (national chairman of Common Cause)—apparently to assure our commitment.

"We said no to Gardner and the Koupals stood up and said, 'That's it, we're out.' Lowenstein kept saying, 'Wait . . .' "

Both sides finally agreed that Brown, Stone and Mrs. Koupal would jointly make the initial announcement.

That problem solved, the pace of the campaign remained an issue of contention.

"The Koupals kept wanting to move, we wanted it slowed down," Smith said. "Our strategy was to push out the meetings to assure drafting time. A good document was the issue to us.

"We felt that if Brown ran off with it, he'd at least run off with a good document."

"The reason Common Cause was delaying," Mrs. Koupal insists, "was they were trying to put together a legislative package. They were making deals behind our back to get out of the initiative and get their stuff moving through the Legislature."

Lowenstein agrees that Common Cause may have been using the initiative to jam its own bills through the Legislature.

"But," he added, "we weren't worried they would pull out of the coalition because we knew they wouldn't get their stuff through."

Meanwhile, another problem had developed when a new Common Cause board took over and, according to Lowenstein, "wanted to reject every People's Lobby item in the initiative. You're going along and, boom, that happens."

Stern, of Brown's office, tried to address the board but, even though he is a member of Common Cause, was denied permission.

Brown intervened and stressed the necessity for moving forward.

"We are all dedicated to the substance of the proposal," he told them. "We have our differences but they are minor to the importance of this initiative."

"There was a great feeling of Common Cause that they wanted to lead this thing," Lowenstein said. "Jerry (Brown) knew they were worried about his presence so he agreed not to be a proponent on the measure, even though he had been assured he would be."

Smith recalls it this way:

"When our full board organized they worried about Common Cause being in bed with Jerry Brown. They got very tense. We tried to tell them that yes, Brown was going to run for governor, but he was still interested in reform.

"Also, several of our board members were concerned the Koupals might muddy up the initiative with nonsense. They respected the Koupals' ability to qualify an initiative but didn't like them shooting off their months."

This problem, too, finally was resolved. The board went along with its staff recommendation to stay with the coalition.

Then another difficulty arose. Lowenstein talks about it:

"Ed (Koupal) telephoned me one day and said he wanted an incumbency section in the initiative. I said no. He said, 'OK, we're out of the coalition.'

"Ten minutes later I called him back and said, 'Al right, it's in—but don't use up all your chips.'

"Ed is a horse trader. When he threatens to walk out he's just bargaining. It was irritating but effective. Usually Ed walked out out of the room but Joyce was still there."

Lowenstein thought that People's Lobby was vital to the success of the initiative:

"Common Cause had the least role in the substance of Proposition 9. But even now Common Cause gets most of the credit. It isn't fair."

Meanwhile, at the drafting sessions, Lowenstein, Stern and Girard hammered the document together. Lowenstein did the lion's share of the work.

"We were always at loggerheads," he said. "We'd argue over this and argue over that—mostly on technical points. An 'and' or a 'but' could make a sweeping difference in what the law was.

"Girard could raise points and stick to them. It made it unpleasant because we were both stubborn, but it was vitally important."

People's Lobby had no representation in drafting of the initiative.

"We stood out of the way," Mrs. Koupal said, "to allow the thing to get written. With our attorneys involved, there might have been more delay. Our concern was getting it together. We didn't want it obstructed.

"As it turned out, Lowenstein and Stern wrote the initiative and Girard nitpicked."

Lowenstein stresses, however, that the input of People's Lobby into the document was of utmost importance.

Mrs. Koupal agrees: "We got everything we wanted, a document that was bigger than Common Cause wanted, stronger than Brown wanted and just perfect for People's Lobby."

The final document was circulated. Changes were made and improvements added. The next step was for three proponents to file the measure with the attorney general's office.

Again the coalition was placed in jeopardy—but this time by a comedy of mistrust.

Everyone had a next-to-last draft of the document. The final draft was being retyped in Brown's office. As it was being retyped, Dick Gregory, the lobbyist for People's Lobby, and Rob Smith, legislative director for Common Cause, were waiting outside.

"At this point," Lowenstein said, "No one trusted anyone else. Gregory and Rob Smith were hanging around but wouldn't say why. I told Jerry something funny was going on and he said not to give the final draft to anyone until we found out what."

Lowenstein was right. People's Lobby feared Common Cause would file first and alone, thereby gaining a measure of control over the initiative's final wording, the right to select other legal proponents and the right to file the subsequent petitions necessary to qualify the initiative for the ballot.

Common Cause was afraid People's Lobby had the same thing in mind.

Says Ken Smith: "We began to feel we had to turn the damned thing in or the Koupals would, and they might turn in anything. Anyone with $200 could file.

"We wanted to control the document and bring in the Koupals later as proponents. Rob Smith had a check in his pocket and was ready to go.

"We argued about it and finally agreed to trust the Koupals. The same day we were talking about it, Gregory filed."

What Gregory filed for People's Lobby was an incomplete document, with the knowledge that there was time to amend later.

When Rob Smith heard of the filing—too late—"he considered a foot race with Gregory to beat him to the door," Ken Smith said.

"My first reaction," Smith added, "was I knew it! Now the Koupals could do anything and there was no way of telling what the hell they'd do. I was ———."

"None of us trusted Common Cause by that time," Mrs. Koupal said. "They are naive and inexperienced. I could visualize horrendous negotiations after the filing.

"It was our job to gather the petitions later, and it was important to have control of it. It had nothing to do with credit."

The Koupals were in Philadelphia to appear on a television show the day of the filing.

In a telephone conversation with Gregory, Mrs. Koupal said she was afraid People's Lobby was about to be double-crossed by Common Cause.

"I told Dick if it looked as though they were going to file, he should file first. He decided Rob Smith was about to file, so he took the necessary action."

That night, Mrs. Koupal recalls, Mike Walsh—who had become chief negotiator for Common Cause—telephoned to charge that People's Lobby had double-crossed them.

"I told him not to worry about it, it wasn't that serious. If they hadn't been playing so many games, Dick never would have filed."

Lowenstein thinks the main concern of the Koupals was to retain the right to file the petitions later—that if Common Cause had preempted the right they might not have filed because they were still working on a legislative program.

He adds:

"Both People's Lobby and Common Cause felt silly about it later. They knew it was foolish. The proper proponents were added and it all worked out.

"Jerry talked to Walsh and the Koupals and utilized their guilt feelings to put it all together. He's the only one who could have saved it at the time. The whole thing might have fallen apart right then."

For a while, Common Cause considered a second initiative and discussed a lawsuit against the Koupals "for their capture of the document."

But, then, Ken Smith said, "we decided that even if we had to eat crow we'd try to repair things. That was the only thing that made sense."

The Koupals, for their part, accepted Walsh as a proponent ("They disliked him least," Smith sourly said) along with Richard Spohn, a Nader's Raider, and Roger Diamond, a People's Lobby attorney.

"Common Cause really thought, 'Here it is, it's all over, everything's ruined,' but we knew better," Mrs. Koupal said. "Had we wanted to mess anyone up we had our chance then. We could have told them to go to hell.

"Actually, the coalition operated as a fantastic team. Fighting makes you learn your subject and made the document so viable and beautiful. They can crab all they want about our nonexpertise but we knew what we were doing."

"At the time," Ken Smith said, "everything seemed so serious. Now it seems funny. But we knew we were playing for high stakes and we had to be tough.

"I've got to say, all things aside, that it was one of the best grass-roots campaigns ever run.

"People's Lobby is really not an organization but two people with a lot of true believers who follow. We felt from the start that we could not work with them, but that we had to—because they could qualify the initiative.

"We also believed that aside from their rhetoric, the Koupals had an honest belief in political reform. They are a monument to what can be done with a low budget and a lot of work."

"At the beginning," Lowenstein said, "we wanted People's Lobby for their knowledge of the initiative process and Common Cause for respectability.

"We went into this thing wondering if People's Lobby were a bunch of kooks. But as time went on we swung from being close to Common Cause to becoming closer to the Koupals. Ed and Joyce are much more sophisticated than the Common Cause staff."

Tom Quinn, then a deputy secretary of state and now Brown's campaign manager in the race for governor, adds:

"The success of Proposition 9 was a microcosm of how our system works. It began in the streets and emerged as a classic document.

"Who could believe that Koupals, in their funny little house, could help shape the destiny of this state?"

SENATOR BYRD OF VIRGINIA

Mr. McCLURE. Mr. President, these have been turbulent times recently and many Americans might be surprised to learn that the work of the Congress has gone on in spite of each day's new events. In this regard, it is somewhat reassuring to find that not all of what has taken place in Congress has gone unnoticed.

I am thinking of the senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the impressive speech he delivered on fiscal policy in this Chamber on August 5, 1974. Anthony Harrigan wrote a column about the Senator's remarks, noting in particular how desperately President Ford is going to need men like Senator BYRD to work with if we are going to bring inflation under control. Certainly, no other family in America has a greater history of promoting sound economic policies than the Byrds of Virginia. I ask unanimous consent that the Harrigan column be printed in the RECORD.

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

MR. FORD AND INFLATION

(By Anthony Harrigan)

President Gerald Ford's primary and greatest concern necessarily will be with inflation. He made this clear within minutes of taking the oath as President. He, like most Americans, realizes that inflation is tearing at the fabric of our national life.

Fortunately, the new President is on record as describing himself as "a conservative on fiscal policy." If ever there were need for a conservative fiscal policy, it is now. But one can be sure that the President will face formidable opposition if he insists on the measures which are necessary for the survival of the American economy.

The union-liberal alliance in the Congress wants to add more fuel to the fires of inflation. The unions are pressing hard for inflationary contract settlements. They are seeking to unionize public employees—at higher cost to the taxpayers. They want an expansion of expensive federal programs. All this spells more inflation.

President Ford has said he will consult with congressional leaders and listen to their advice. If he is looking for an expert on the inflation threat, he need look no farther than the U.S. Senate and to U.S. Sen. Harry F. Byrd Jr. of Virginia. Like his late father before him, Sen. Byrd is the Senate's watchdog over government spending.

In a tremendously impressive speech delivered Aug. 5, Sen. Byrd spelled out the causes of inflation and the way to deal with it. "Massive deficits in the federal budget," he said, "are the chief cause of inflation. . . . The huge deficits which the government has been running have pushed the national debt up to $475 billion. It will pass the half-trillion mark in less than a year."

Sen. Byrd cited the great frequency and soaring cost of federal borrowing. "Certainly," he noted, "it made $71 billion unavailable to most of the private sector, and it played a major role in forcing the prime interest rate up to 12 per cent." Government borrowing, he made plain, makes it extremely difficult for the average citizen to get funds to buy a house or a company to acquire money for expansion.

One of the roads out of the inflationary morass is expansion of manufacturing facilities which can turn out more goods at lower prices. But business finds money for expansion expensive and hard to get. With government spending on the rise, prices go up. And up. And up.

Yet the liberal-union coalition in power in Congress continues to urge more federal spending. Sen. Byrd pointed out that the Senate has just "raised spending for agriculture, consumer protection and the environment by 29 per cent."

He also observed that the bill included "an increase of one billion dollars (from $3 billion to $4 billion) for food stamps, a program which has increased a hundredfold in cost since its inception in 1966."

Is it any wonder, therefore, that food prices are going up and that American families find themselves in a severe bind?

Despite America's grave fiscal problems, the U.S. government continues to give billions of dollars to handout hungry foreign countries. Sen. Byrd insisted in his talk that "One prime area for reduction in the budget is foreign aid." This now totals about $10 billion a year. The giveaways are scattered through a variety of money bills.

At a time of rampant inflation and massive deficits, it is outrageous that the Congress should approve huge outlays for foreign nations. For example, this year the Congress approved a new contribution of $1.5 billion by the United States for the International Development Assn. The next time Mr. Average Citizen attempts to borrow money for a home improvement loan, he should think about that handout to foreign countries that already have squandered $135 billion in U.S. funds since the end of World War II.

One can be sure that the advocates of domestic giveaways and the internationalist share-the-wealth types will attempt to bring pressure on President Ford. It is very important, therefore, that ordinary citizens let the new President and their Congressmen know that fiscal conservatism must be the order of the day. And, of course, it is vital that the voters help President Ford fight inflation by electing more fiscal conservatives in the Fall elections.

CAMPAIGN REFORM

Mr. CHURCH. Mr. President, as we all know, Congress is still considering legislation to reform our campaign procedures. Both the Senate and the House of Representatives have passed campaign reform bills, and we will be considering a conference report soon.

Earlier this year, our colleague from Delaware (Mr. BIDEN) wrote a major article on the question of public financing of elections for the Northwestern University Law Review.

In this article, Senator BIDEN makes an argument in favor of public financing of political campaigns which bears directly on the legislation now pending in Congress. It is a provocative article, and one which should be read by both proponents and opponents of public financing.

I ask unanimous consent, Mr. President, that the article be printed in the RECORD.

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

[From Northwestern University Law Review, March-April 1974]

PUBLIC FINANCING OF ELECTIONS: LEGISLATIVE PROPOSALS AND CONSTITUTIONAL QUESTIONS

(By Joseph R. Biden, Jr.)

During my campaign for the United States Senate in 1972, I paid a visit to certain leaders of a labor union whose members worked in the aircraft industry, and who intended to contribute $5,000 to the campaigns of various Senate candidates. It was an honest and open procedure, and payment was by check. They asked what my chances of winning were, and I explained for perhaps the hundredth time of the campaign why I thought I would win. I want to emphasize that no one asked me to promise my vote on any particular issue, but they did ask, "Well, Joe, had you been in the ninety-second Congress, how would you have voted on the SST?[1] And while you are at it, how would you have voted on bailing out Lockheed?"[2] A candidate does not have to be very sophisticated to know the correct answers to such questions posed by labor leaders.

Later in the campaign, when I began to show strength in the polls and it looked as though I might win, thirteen multimillionaire Republicans from my state invited me to cocktails. The spokesman for the group said, "Well, Joe, let us get right to it. You are a young man, and it looks as if you may win this damn thing, and it appears that we underestimated you. Now, Joe, we would like to ask you a few questions. We know that everybody running for public office feels compelled to talk about tax reform, and we know that you have been talking tax reform, particularly capital gains and gains for millionaires by consequence of unearned income." Then one man leaned over, patted me on the knee in a fatherly fashion, and said—as if to say it was just among us—"Joe, you really don't mean what you say about capital gains, do you?" Again, I knew what the right answer to that question was worth $20,000 in contributions.

I did not give the "correct" answers in either instance, and accordingly, I received no money. But it is no secret that, in similar situations, other candidates have not hesitated to answer "correctly," feeling that it is better to win their elections even while compromising certain principles, than to lose with all their principles remaining intact.[3] Certainly few politicians would choose to be included in a second edition of *Profiles in Courage* at the expense of a long and productive political life. To say the least, a political system which requires such a choice deserves serious re-examination. On the basis of such an inquiry, I have concluded that the present system of campaign financing should be reformed, and a system of public financing of elections consistent with constitutional mandates adopted.[4]

POLITICAL DARWINISM: THE POOR GET POORER AND THE RICH GET ELECTED

There are three principal reasons why existing campaign financing practices should be reformed. First, an electoral system supported solely by private contributions affords certain wealthy individuals or special interest groups the potential for exerting a disproportionate influence over both the electoral mechanism and the policy-making processes of the government. Second, the concept of American democracy presumes that all citizens, regardless of personal wealth, have equal access to the political process.[5] Under the present system of financing, however, the individual of moderate means lacks the financial resources necessary to mount an effective campaign and, therefore, is precluded from attaining elective public office. Third, our current method of financing campaigns tends to "lock-in" incumbents by making it extremely difficult for a challenger to mount a successful campaign.[6]

The source of most of our present problems is the high cost of running for election. In 1972, for example, the average reported expenses for candidates winning closely contested elections[7] to the House of Representatives was more than $100,000.[8] In elections

Footnotes at end of article.

with no incumbent running, the House candidates spent an average of $89,000[9] while their counterparts in Senate elections spent an average of over $450,000.[10] On the other hand, candidates running against incumbents were generally outspent by a margin of two-to-one.[11] These averages, however, tell only part of the story. Certain individual campaigns cost as much as $320,000 for the House of Repuresentatives and $2,300,000 for the Senate.[12] Furthermore, the most expensive House campaigns were run by those candidates who managed to unseat an incumbent. The ten victors over incumbents in 1972 spent an average of $125,000, compared to $86,000 for their opponents.[13] Because of a deficiency in the reporting requirements of the Federal Election Campaign Act of 1971,[14] the exact amount spent in the presidential campaign of 1972 is not known. It has been reliably estimated, however, that President Richard M. Nixon's campaign cost approximately $46 million and Senator George McGovern's $36 million.[15]

Not only are campaign expenses high, but they are increasing at an alarming rate.[16] To the general public this trend may seem disturbing; to a potential candidate, it poses an often insurmountable financial barrier. Without great personal wealth,[17] there is only one way for a candidate to be able to run a competitive race, and that is through donations. Although other reasons motivate an individual to donate money to a political campaign,[18] all too often a contribution is made with the hope of gaining influence with the candidate should he win the election.[19] As Representative John Anderson, an Illinois Republican, has said: [20]

"[T]he cliches and the nice rationalizations of the defenders of the status quo aside, the fact is that the wealthy and the special interests do not simply contribute to campaigns; they invest in candidates and in officeholders."

Such donations are necessarily tainted: minimally they succeed in gaining access to the office holder; [21] at worst, they "buy" his vote.[22] Even if funds are donated without a suspect motivation, the public perceives these transactions, especially the very large ones,[23] as constituting a sale rather than a gift.[24] Whether such a view is justified or not, the resulting lack of confidence that arises concerning public officials is, to say the least, distressing,[25] and reason enough to reform the law in this area.

Special interest group contributions also cause problems for elected candidates. An office holder is frequently forced to choose between the suspicion which results from voting in accord with the position of his major contributors and the prospect of losing financial support from those contributors by failing to do so.[26] The legislator's dilemma may be particularly acute when to vote his convictions would appear to generate a conflict of interest because of certain campaign donations.[27] Furthermore, an interest group tends to have selfish concerns about government; its interest is not necessarily consistent with the public welfare. Frequently, various interest groups contributing funds to campaigns of public officials have conflicting interests among themselves, and some type of "balance of power" is struck. Rarely, however, do any of these groups represent the ordinary citizen,[28] who all too often is ignored in the councils of government. Even if every segment of the public could be represented by its own interest group contributing funds to various candidates, I hardly think it desirable to have a "government by auction."

A second reason for reform is to allow a wider range of individuals to participate as effective candidates. Under our current system of private financing, candidates, typically, are wealthy individuals.[29] The explanation for this fact is simple: generally only the wealthy are able to amass, either through personal resources or contributions from friends, the vast sums of money needed to finance an effective campaign for public office. Many a candidate has had to mortgage his house to finance his campaign,[30] or at least to keep his campaign going until private donations were received.[31] Moreover, all too often money flows to those who have it; in other words, unless a candidate is able to finance his campaign himself, nobody else will be willing to finance it for him. For example, Representative Bertram Podell has said: [32]

"When I ran for Congress the first question asked me was whether I could finance my own campaign. If I had said, "No, I cannot," I would not have been a candidate. When you mention candidates for public office, you are only mentioning men of affluence."

The existing system of campaign financing discriminates not only against the person of modest means, but also against other classes of people such as non-whites [33] and women.[34] In part, this is explained by the fact that these two groups have little access to wealth.

A third reason for reforming our system of campaign financing is that in our time incumbent members of Congress are virtually assured of re-election. Since 1954, well over ninety percent of all incumbents seeking re-election to the Congress has been victorious.[35] Furthermore, those who have gained re-election generally do so without a great struggle. Typically, only about fifty of the four hundred thirty-five elections for the House of Representatives are seriously contested,[36] while in the remainder, the race is a rather one-sided affair.

Of course, it is to be emphasized that many reason unrelated to the financing of campaigns help explain why incumbents are so successful in gaining re-election.[37] For example, incumbents are generally better known than their opponents and during their terms of office can usually gain the attention of the news media through press conferences, announcements and other official ceremonies. In addition, they have the benefit of their office and large staffs, paid for at government expense, and the ability to create goodwill through such tasks as cutting government red tape on behalf of constituents. Also most legislators quite properly avail themselves of the "franking" privilege by sending constituents news letters which during an election campaign serve as a free source of name identification and thereby accentuate the disparity in power between an incumbent and his opponent. In re-election campaigns, these benefits have been estimated to give each incumbent a minimum financial advantage of $16,000 over his challenger.[38]

Moreover, one of the incumbent's foremost advantages over his opponent is his ability to raise funds. During the 1972 congressional campaigns, incumbents generally out-raised and out-spent their opponents by a margin of two-to-one.[39] The reasons for this disturbing statistic are not difficult to discern. In the eyes of many contributors a campaign contribution is effective only if made to a winner and, judging from prior preformance, an incumbent is the most likely to win—again. In the words of Democratic Senator William Proxmire of Wisconsin: [40]

"The point is that the incumbent gets the big contribution because the people who are making contributions want to make them to the winners and not to the losers."

The effect of this resulting financial imbalance is devastating on the challenger, who generally must spend at least as much money as the incumbent, if not more, to have any hope of victory. To gain at least a chance of winning, a challenger is obliged to raise a sizable amount of money early in a campaign, but he often cannot raise the money because he has such a slim chance of winning a competitive race.[41] The result under the current system is a vicious and often fatal circle. Furthermore, the challenger must spend valuable time even late in the campaign to solicit contributions, time that could be better spent seeking votes. On the other hand, the incumbent, being virtually assured sufficient funds, can devote his full attention to the hustings. The importance of this factor was acknowledged in a joint statement issued by a bipartisan group of fifty-five unsuccessful candidates for the House of Representatives in 1972, released through the Center for Public Financing of Elections: [42]

"We found that incumbents uniformly outraised and outspent us by substantial margins. We found that while we were putting our own savings on the line, and begging and borrowing from family and friends, many incumbents had easy access to large pools of special interest money from Washington and elsewhere. . . .

"Some people have expressed concern that public funding would unfairly help the incumbents. As recent candidates, we know that simply is not true. The challenger could never be at a greater disadvantage than he or she now is."

This financial imbalance and the resulting competitive disadvantage has prompted an official of Common Cause to remark that the United States no longer has a two-party system under the Republicans and Democrats; it has a one-party system under the Incumbents.[43]

Thus, the problems inherent in our current system of private campaign financing are clear. It provides a selected few individuals—generally distinguished by their wealth—a disproportionate say in the workings of government. It excludes all but those with great wealth or access to it from any hope of achieving elective office. Furthermore, by giving incumbents virtual life terms, it destroys the competitive political system upon which our government is supposedly based. Finally, the present system places what amounts to an often intolerable burden on the candidate. As Democratic Senator Hubert Humphrey of Minnesota has said: [44]

"I have been in a number of campaigns, and I enjoy the campaigns. I like them. But the most demeaning, disgusting, depressing and disenchanting part of politics is related to campaign financing."

Put rather simply, there must be a better way.

WHAT KIND OF REFORM WILL WORK?

Although the need to change the present system is apparent, the formula for doing so is not so obvious. Many preliminary questions must be considered before deciding upon what type of campaign financing reform should be enacted.[45] The difficulties involved in adopting a fair and workable system are reflected in the large numbers of bills which have been introduced in Congress. Recently, the Senate passed the Federal Election Campaign Act Amendments of 1974,[46] a bill that provided for the public financing of federal elections. Prior to passage of this bill numerous others dealing with election reform had been introduced in both the Senate [47] and the House of Representatives.[48] In addition, President Nixon has put forward his own proposals for campaign financing reform.[49] Before discussing the specific provisions of these proposals, it will be useful to outline the existing laws regulating campaign financing.

Disclosure, Check-Offs, and Media Limitations

The two most recent major enactments dealing with campaign financing are the Presidential Election Campaign Fund Act,[50] also known as the Dollar Check-Off Act, and the Federal Election Campaign Act of 1971.[51] The main provisions of the Campaign Act of 1971 concern media spending, funding of

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one's own campaign, and disclosure of political contributions.

Under the Act, candidates in the general election for a federal office are limited to media expenditures of ten cents for every person of voting age in the district, or $50,000, whichever is greater.[52] No more than sixty percent of this money may be used for advertising through the electronic media.[53] The Act also limits the amount which a broadcasting station may charge a candidate for a political advertisement to the lowest unit charge of the station for a commercial advertisement of the same class and amount of time broadcast during the same period of the day.[54] Candidates in a presidential primary have a ceiling on expenditures for radio or television time similar to that of an individual running for the Senate from that state.[55] These limitations had the effect in 1972 of limiting candidates for the Senate from, for example, Wyoming to the minimum of $50,000 in total media expenditures, while candidates from California would have been limited to $1,394,000.[56] In addition, the Act limits the amount which a candidate or a member of his immediate family [57] can contribute to this own campaign. Candidates for the Presidency and the Vice-Presidency are limited to expenditures of $50,000 out of family funds; candidates for the Senate are limited to $35,000; and candidates for the House of Representatives are confined to a contribution not in excess of $25,000 from family resources.[58] Finally, the Act is best known for its disclosure requirements. Candidates are required periodically [59] to make reports of all receipts and expenditures, including the names and addresses of all contributors of more than $100 and all persons to whom expenditures of over $100 have been made.[60] Political committees, defined as organizations which make expenditures or accept contributions of over $1,000 in a calendar year,[61] are also covered by these requirements.[62] These reports are made to the Secretary of the Senate by Senate candidates, to the Clerk of the House of Representatives by House candidates, and to the Comptroller General by presidential and vice-presidential candidates.[63] In addition, reports must be filed with the Secretary of State of the state in which the candidate seeks election, or in the case of presidential and vice-presidential candidates, of each state in which an expenditure is made.[64] These disclosure requirements made available reliable information on campaign financing for the 1972 elections, for the first time in American history, at least after the April 7th deadline.[65]

The Dollar Check-Off Act represents the first real breakthrough in history in the area of public funding of campaigns. Under this Act, every taxpayer may designate one dollar, or two dollars in the case of a joint return, to be deposited in a Presidential Election Campaign Fund.[66] The money in the Fund is to be used to cover the campaign expenses of presidential general elections. The candidates of major parties—those which received twenty-five percent of the popular vote in the previous election [67]—are, if they so choose, entitled to receive fifteen cents for every person of voting age in the country to be used to finance their campaigns, provided that they meet a number of conditions.[68] First, they must not exceed in expenditures the amount of their share of the public fund and must accept no private contributions; [69] second, they must keep certain financial records for inspection by the Comptroller General.[70] A candidate of a minor party—defined as one whose candidate received between five percent and twenty-five percent of the popular vote in the preceding presidential election [71]—may be funded in the same proportion to the major party subsidy as its previous popular vote bears to the average popular vote of the major parties.[72] A minor party accepting federal funding, unlike a major party, would be allowed to accept private contributions, but only up to the limit of major party funding.[73] A party which received less than five percent of the total popular vote in the previous election is termed a "new party," [74] and is eligible to receive retroactive federal funding if it receives at least five percent of the vote in the current election. If this condition is met, the party's subsidy is calculated by the same formula as the subsidy of a minor party, except that figures for the current election are used.[75] The new party formula may also be used by minor parties, subject to offset for whatever funds it received under the minor party formula.[76]

In its first year of operation, only slightly over three percent of the taxpayers availed themselves of the check-off privilege.[77] A major reason for the disappointing participation in the program was that the check-off was included on a separate form in the income tax materials and was not only difficult to find, but also was not described in understandable language.[78] Many citizens were unaware of its existence and unaware that the dollar donation did not increase their personal tax liability.[79] Thus, the check-off's failure in the initial year of operation did not necessarily indicate a lack of public interest in public campaign financing. Fortunately, in 1974 the check-off box is being placed at line eight of page one on both the long and short tax form. It should be both conspicuous to and understandable by the taxpayer.[80]

REFORM PROPOSALS

Cannon bill

In April, 1974, the Senate passed and sent to the House the Federal Election Campaign Act Amendments of 1974,[81] a bill which provides for the federal financing of campaigns for federal office. In addition the bill imposes limitations on overall campaign expenditures and contributions to a candidate.[82] The funding is optional and extends to both primary and general elections. The proposal provides for matching grants in the primary elections, based on contributions of $250 or less for President and $100 or less for Senator or Representative.[83] Primary condidates would be allowed to spend eight cents times the voting age population, except that candidates for Senator and Representatives from one-district states would be allowed to spend at least $125,000, and candidates for Representative from all other states at least $90,000.[84] Candidates in presidential primaries would be allowed to spend twice the amount allowed Senate candidates from that state.[85]

Major party candidates [86] who opt for public funding could receive in the general election a subsidy equal to the full amount of the expenditure limitations.[87] For all federal candidates the spending limit is twelve cents per voting age person, except that candidates for Senator or Representative in one-district states are allowed at least $175,000 and all other candidates for Representative at least $90,000.[88] Minor party candidates [89] would be allowed funding based on past or current performance.[90] All other candidates would be allowed retroactive funding based on current performance.[91] To make monitoring of spending easier, candidates would be required to establish a central committee and campaign depositories, through which all money must be channelled.[92] The system is to be supervised by an independent commission.[93]

Contributions to a candidate are limited to $3,000 by an individual and $6,000 by a committee or organization. No individual may donate more than $25,000 in total contributions in a year. Other provisions of the bill would amend the equal time provision of the Communications Act of 1934,[95] provide for financial disclosure for all federal office-holders and candidates,[96] and change the date and time of federal elections.[97]

The Cannon bill represents only one approach to the question of public financing of elections. Numerous alternatives to it have been suggested in other recent proposals. Since the bill must be passed by the House and signed by the President before it becomes law, an examination of these other proposals is useful. For example, the House could pass legislation that differs from the Cannon bill, and incorporates provisions taken from these other proposals. Also, even if the House enacts the Cannon bill, the President could veto it; in which case one of these presently dormant bills could be revived. Finally a discussion of the atlernative proposals provides a useful framework for analysis of the policy questions relating to public financing of elections.

The Nixon Proposal

On March 8, 1974, President Richard M. Nixon delivered a message to the Congress setting forth his proposal with respect to campaign financing.[98] In the President's view "the single most important action to reform financing should be broader public disclosure." [99] To this end Mr. Nixon proposes that all candidates in federal elections be required to designate one committee to handle all campaign funds, and that indirect private contributions through organizations be severely limited.[100] In addition, to augment the reform implemented by the disclosure requirements, the President recommends that there be limits placed on individual contributions to campaigns.[101] The President, however, specifically opposes both ceilings on total campaign spending by a candidate and the public financing of elections.[102]

The Hart bill

The Congressional Election Finance Bill of 1973 [103] proposed by Senator Hart is one of the leading congressional bills providing for public financing of elections. Covering nomination and election to Congress but not to the presidency, [104] the bill is most notable for its requirement of a threshold showing of support to qualify a candidate for public funding. A candidate of a major party, [105] if he chooses to participate in the optional program, must post a security deposit of twenty percent of the subsidy which he is entitled to receive.[106] The security deposit, composed of small contributions, [107] will be refunded to the contributors if the candidate receives a minimum percentage of the vote in the election.[108] If the candidate fails to receive an even smaller percentage of votes, he must repay the entire subsidy to the government.[109]

The amount of the subsidy is sufficient to run a relatively strong campaign.[110] Minor party candidates are eligible to receive a smaller subsidy.[111] In addition, a candidate may supplement the subsidy to which he is entitled with money raised from small private contributions.[112] Those candidates who elect not to receive public fundings are not limited either in spending or in contributions.[113]

The Kennedy-Scott bill

The Federal Election Campaign Act [114] introduced by Senators Kennedy and Scott, passed the Senate in late 1973 as a rider to a debt-ceiling bill, but was not enacted into law at that time.[115] It would extend the Dollar Check-Off Act [116] to congressional general elections but not to primaries, and would increase the amount of the check-off from one dollar to two dollars, or to four dollars on a joint return.[117] Private contributions would be prohibited by the Kennedy-Scott Bill in all federal general elections, but again not in the primaries.[118] The amount of the subsidy would tend to maintain present spending levels.[119]

The Stevenson-Mathias bill

The Federal Election Finance Act of 1973,[120] introduced by Senators Stevenson and Mathias, relies heavily on private financing and provides for public financing in all federal general elections, but not in primaries.[121] The subsidy is optional, but the bill provides

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an overall spending ceiling on all primary and general election campaigns somewhat higher than that contained in the Campaign Amendments Bill of 1973.[122] On the other hand, the provisions of the two bills limiting private contributions are similar.[123] Candidates may receive up to one-third the maximum spending amount from the public treasury[124] and may qualify for funding in one of two ways, past performance and submission of petition signatures.[125]

The Mondale-Schweiker bill

The Mondale-Schweiker Bill, also known as the Presidential Campaign Financing Act of 1973,[126] provides public financing for presidential candidates only. It utilizes a variation of the Dollar Check-Off Act[127] for purposes of the general election and a system of matching grants in the pre-nomination campaign. Each dollar designated by the taxpayer will be matched by the treasury in the general election[128] with candidates able to supplement the subsidy with private funds.[129] For pre-nomination campaigns, the fund matches small contributions once the candidate has amassed a "trigger fund."[130] The proposal contains relatively generous spending and contribution ceilings.[131]

The Cranston bill

The Clean Election Financing Act of 1973,[132] introduced by Senator Cranston, provides for a financing system in all federal elections which depends to a very great extent on public subsidies. The program is to be funded on a variation of the Dollar Check-Off Act,"[133] and grants matching payments in the primaries and flat subsidies in the general elections. Individual private contributions are severely limited,"[134] whereas spending ceilings are generous.[135] To qualify for subsidies in pre-nomination campaigns, candidates must raise a "trigger fund" from small contributions;[136] they are then entitled to receive matching payments in the proportion of four dollars for every one dollar raised from private contributions of limited amounts.[137] In general election campaigns, the system provides a grant to major party candidates of eighty percent of the spending limit.[138] Candidates of other than major parties receive smaller subsidies.[139]

The Clark bill

The Comprehensive Election Reform Act of 1974,[140] introduced by Senator Clark, would virtually eliminate the role of private financing in all federal primary and general elections while providing for generous public subsidies based on the Check-Off Act to both candidates and political parties. Under the proposal, primary candidates would qualify for funding by submitting petition signatures.[141] In general elections, major party candidates would be given full funding, and minor party and independent candidates partial funding based on past or current performance.[142] Private money would be prohibited except in petition drives and minor party and independent campaigns.[143] The subsidy would be subject to repayment according to the candidate's electoral performance.[144]

The Anderson-Udall bill

The Clean Election Act of 1973,[145] introduced in the House by Representatives Anderson and Udall, is another matching payment proposal and is perhaps most notable for its provision for free broadcasting time for candidates. The campaign subsidy is provided in all federal primary and general election campaigns.[146] The proposal is unique among the bills in that, in presidential general election campaigns, funding is to be made to party committees rather than to the candidates themselves,[147] the idea being to allow party committees to play a key role in the campaigns of presidential nominees. Once a candidate or committee has amassed a small "trigger fund,"[148] the first $50 of each contribution[149] is matched by the government, until a certain level of subsidy is reached.[150]

Under the proposal for free broadcasting time—to be called "Voter's Time"—federal candidates in general elections may qualify for a certain number of prime time blocks of television time to be aired, in most cases, simultaneously[151] over all stations in the district. Each broadcast must include a substantial live appearance of the candidate and be of a format designed to promote rational political discussion, to illuminate campaign issues, and to give the audience insight into the abilities and personal qualities of the candidate.[152]

THE BIDEN PROPOSAL

The Cannon Bill, as recently passed by the Senate, is a significant step towards the enactment of a plan of publicly financed elections. For this reason I voted in favor of its passage. However, in the process of formulating my own thoughts on the issue of campaign financing, I find that I differ from the Cannon Bill in certain respects. The following is a discussion of what I would propose ideally as a plan for public financing.

Briefly, my proposal would cover both nomination and general elections for all federal offices. It would provide federal subsidies to candidates for nomination based both on petition signatures and on security deposits from small contributions. For general elections it would provide funding for major party candidates, with funding up to the major party amount for other candidates based not on past performance, but on petition signatures or security deposits. Public funding would be adequate to run a competitive race. In addition, subsidies in kind would be given. Small private contributions would be allowed, but cash contributions of $50 or more would be prohibited as well as large contributions from a candidate's personal or family funds. In an effort to offset constitutional objections that expenditure limitations are an infringement on the first amendment, total campaign spending would be limited at either a high level or not at all. To enforce the plan, an independent elections commission would be created. Most importantly, candidates would be required to maintain one central "checkpoint" to monitor all financial transactions.

Which Elections to Cover?

The deficiencies of our present method of financing campaigns are found throughout the entire electoral system. Correspondingly, they should be corrected everywhere. Although the problem of presidential campaign financing is perhaps most visible, reform is also needed with regard to congressional campaigns. The Hart[153] and Mondale-Schweiker[154] bills cover only congressional or presidential campaigns respectively and thus leave the completion of the reform process until a later date. Nevertheless, it seems necessary to cover all levels of the federal election process simultaneously. If, for example, large sums of private money were precluded only from presidential campaigns, they might move to congressional campaigns. Reform of presidential campaign financing at the expense of creating more severe problems for congressional campaigns is no reform at all.

The above problem also arises in connection with any attempt to provide public financing for general election campaigns, while leaving primaries and primary run-offs unregulated. It has been suggested that any public financing system which attempts to include primaries within its coverage has a minimal chance of enactment.[155] If the Congress is serious about reform of the political process, however, primaries should not be ignored. Private money statutorily excluded from the general election may be used to influence the primaries and the evil of its presence at that level of an election is no less real than in the general election itself. In fact, in certain circumstances large contributions may be more influential in the primary than in the general election.[156] Thus, any system of campaign financing which would be both workable and fair would necessarily have to cover primary *and* general elections for all federal elections.

Are subsidies necessary?

Some have commented that the Federal Election Campaign Act of 1971[157] should be given an opportunity to demonstrate its effectiveness before further reform is attempted,[158] or that appropriate limitations on contributions and expenditures should be adequate to cure the current evils.[159] It would seem clear, however, that neither of these two partial reforms is sufficient to correct the widspread shortcomings of current campaign practices.

The disclosure requirements of the 1971 Act, it is argued, were not given a chance to prove themselves in the 1972 elections because of the April 7 loophole.[160] If operative for the entire campaign process, the argument continues, the requirements would be effective and render subsidies unnecessary, because large private contributions cannot stand "the light of day." The public reaction to a candidate receiving special interest contributions and to interest groups making large contributions will be so adverse that both parties will stop the practice. Both fact and logic, however, would seem to demonstrate the remoteness of that possibility. First, although substantial 1972 contributions were made before April 7 to avoid the reporting requirement, most candidates, especially those for Congress, appeared to obey both the spirit and the letter of the law and reported large amounts of interest group contributions.[161] Nevertheless, no large scale public reaction to these contributions occurred. There has, of course, been a great public reaction since the 1972 election to allegations of misconduct involving large presidential campaign contributions. The aim of campaign finance reform, however, is to prevent not just the undue influence of a $400,000 presidential contribution but also of a $5,000 congressional contribution.

The problem of insufficient campaign funds is also the drawback of a statutory system dependent solely on limitations on contributions and spending. If contributions by interest groups were sharply limited, many candidates, especially those challenging incumbents, might suffer from a serious lack of funds. Such a system without the addition of public funding would be likely to "lock-in" incumbents to a greater extent than they are at present. Challengers, especially those without access to wealthy individuals as a source of funds, would be likely to have greater difficulty than incumbents in raising adequate small contributions to compensate for the loss of large contributions. This result would be intensified if low limitations on overall spending were enacted. Incumbents already can secure re-election with little effort; we hardly need to make it easier for them. Thus, the need for public subsidies is demonstrated.

A mixed public and private system

The answer to the problem of creating a campaign finance system which diminishes the influence of interest groups without "locking-in" incumbents would seem to be a scheme of public subsidies supplemented, for constitutional reasons,[162] by small private contributions. The full subsidy should be sufficient to allow a candidate to run a reasonable race, but additional provisions should be made, particularly in the primaries, for partial funding, at least until a candidate is able to take his campaign to the public and thereby obtain sufficient support to qualify for the full amount of public funds.

My proposal would not be based on matching grants for a number of reasons. Matching

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grant proposals provide money for those who already have sufficient financing under the present system, but makes it difficult for precisely those candidates whom the system should be designed to help—the non-wealthy individual. Incumbents, for example, would not find it difficult to raise the funds necessary to receive similar sums from the treasury. A matching grant of $50 as provided for in the Anderson-Udall Bill [163] or $100 as provided for in the Cranston Bill [164] may not sound like a very large amount to raise when compared with some of the huge contributions publicized recently,[165] but it is clearly beyond the capacities of most Americans. If candidates were permitted to use public money only after they had demonstrated strength by raising private money, the well-to-do would maintain their present stranglehold on the supply of public offices.[166] Furthermore, by magnifying the difference in private money raised by the candidates, matching grants place the non-wealthy individual at a "self-perpetuating disadvantage." [167] Every extra dollar raised by an incumbent or a wealthy candidate over his opponent actually becomes two dollars to use to influence the electorate and to raise more money. The less affluent candidate would thus find it increasingly difficult to catch up. A system of matching grants combined with small private contributions would, in short, satisfy one of the three goals of campaign reform—that of curtailing the influence of special interest money—but not the other two. Non-wealthy individuals with no access to the wealthy would still be shut off from running for public office and incumbents would still retain a tremendous advantage over challengers.[168]

The system which I would prefer to see enacted would allow less wealthy individuals greater financial access to the political arena. The full-funding amount would be, for the Senate and the Presidency, ten cents per voting age person in the district in the primary—including the entire pre-nomination period in the case of the Presidency—and fifteen cents per voting age person in the general election. The minimum subsidy would be $100,000 and $150,000 in Senate primary and general elections. Candidates for the House of Representatives would be eligible to receive a full-funding amount of twenty cents per voting age person in the primary and twenty-five cents in the general election, with a minimum full subsidy of $40,000 and $50,000 respectively. A House candidate from a one-district state would, however, receive the subsidy which a Senate candidate from that state would receive because the constituencies and thus the needs of the candidates are the same. Candidates in primary run-off elections would be given half the total subsidy which they had received in the primary.

The amounts would be sufficient to enable a candidate to take his case before the voters. A candidate for the presidential nomination could receive up to $14,000,000 and could spend that amount in any way which he chose to win the nomination; he would not be restricted to spending his subsidy in primaries, but could use it in state or local conventions or at the national convention. A presidential nominee who qualified for the full-funding amount would receive about $21,000,000.[169] The full-funding amount for a candidate for the Senate from, for example, Minnesota would be about $250,000 in the primary and $375,000 in the general election.[170] The amounts for a Senate candidate from Ohio would be $720,000 and $1,080,000 and for New York $1,280,000 and $1,900,000.[171] A congressional candidate from a typical district with 300,000 residents of voting age would receive up to the full subsidy of $60,000 in the primary and $75,000 in the general election.

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In primary elections, funding would be qualified in two ways. The first would be a variation of the Hart Bill's security deposit.[172] As in the Hart Bill, a candidate for the House or Senate would have to raise twenty percent of the full amount of the primary subsidy in contributions of $250 or less.[173] He would then qualify to receive the full subsidy. Also, as in the Hart Bill, if the candidate received ten percent of the vote or more, the security deposit would be refunded to his contributors; otherwise, unless he withdrew from the primary more than one month before the election, it would be forfeited. Unlike the Hart Bill, under my proposal a candidate would not be forced to repay the amount of his subsidy if he received few votes in the election. It hardly seems to be good policy to permit a candidate to risk placing himself in debt for years because he might lose the election. One of the goals of campaign reform is to induce more people to enter the political process. To frighten people away because of a large penalty for failure is inconsistent with that goal.

The security deposit method of qualification would also be available for candidates for the presidential nomination. Because of the great amount of money involved, however, the security deposit would be five percent of the full subsidy, or, for the current population, $700,000 in contributions of $500 or less. The amount would be refunded to the contributors if the candidate attained a minimal level of success, in particular if he received the nomination or if he was one of the top three finishers, in total votes, on the first ballot at his party's convention.

One drawback to the security deposit system is that it would tend to give public money to those already capable of raising a substantial amount of private funds. Nevertheless, the reason for requiring candidates to qualify for public subsidies is to prevent frivolous candidates with no hope of victory from receiving money. It certainly cannot be said that a candidate for the Presidency who is able to raise $700,000 from contributions of $500 or less is a frivolous one. Similarly, an individual able to raise $9,000 from contributions of $250 or less is likely to run a competitive race for the House of Representatives.

Nevertheless, candidates should not be limited to the security deposit method of qualifying for public funds. First, the security deposit would, in practice, be limited to those who have access to substantial amounts of private money. Qualified potential officeholders are not found solely among the rich, but the security deposit system would tend to attract candidates from this group exclusively. Second, since the security deposit is an "all or nothing" device, with no provision for partial funding, it places a premium on immediate celebrity.

Therefore, there should be an alternative method of qualifying for federal funding, namely petition signatures. A candidate for any federal office should, if he submits signatures of ten percent of the registered voters in his potential constituency, receive the full subsidy.[174] Under this system, he would also qualify for partial funding. For each ten percent of the signatures required for full-funding which a candidate submits, he should receive ten percent of the full-funding amount. In other words, if a candidate submitted signatures equaling one percent of the registered voters in his potential constituency, this would amount to ten percent of the amount required for full-funding and he would be entitled to receive ten percent of the full-funding amount. He could then begin his campaign and try to sell the public on his candidacy. If his candidacy "caught hold," he would be able to obtain more signatures and thus receive more money from the government. This method would be especially appealing to potential presidential candidates. An individual could submit the minimal amount of signatures and receive enough money to enter a few primaries. If he did well there, he should be able to obtain additional signatures, sufficient to take his candidacy to primaries in other states. This "snowball" effect might propel to victory a candidate who might otherwise not be able to enter the race at all. In this way candidates would be given the opportunity to prove themselves, and the public would receive the benefit of an influx of new and, in all likelihood, talented individuals into the political process.

In general elections, candidates of major parties—which would be defined, as in present law,[175] as those whose candidates received in the previous election twenty-five percent of the votes for that office—would receive the full subsidy without having to submit signatures or file a security deposit. The danger is present that his proposal would become an "immorality law" for the Democratic and Republican parties because their continual existence would be virtually assured by a guaranteed source of funds for their candidates. Nevertheless, it seems almost certain that their candidates would qualify for full-funding if required to do so. For them to obtain signatures or contributions for a security deposit would amount to mere busywork.

Independent candidates and those of non-major parties, on the other hand, would be required, as in primary campaigns, either to file a security deposit or to submit signatures in order to qualify for public funding. The pending proposals base minor party qualification for funding either on performance in the previous election or, by means of retroactive funding, on the party's performance in the current election, whichever formula generates the greater subsidy. This method, however, has several drawbacks. To base funding on past performance [176] makes it difficult for a new party to become established. A party can rarely become *successful* without money, yet the parties are not eligible to receive money *unless* they have proven relatively successful in the past. The other proposals generally provide for retroactive funding *after* the election for parties which have done well without it. By its very nature, therefore, this subsidy comes after the money could be of any help to fledgling political parties. Retroactive funding is really a reward for past performance, whereas public funding should be a vehicle for achieving future success.

One objection concerning public financing of general election campaigns is that to finance the campaign of the opponent of an entrenched incumbent is a waste of the taxpayer's money.[177] The opponent has very little chance of winning anyway, the argument goes, so it serves no purpose to give him money.

Furthermore, according to this reasoning, it is wasteful to give money to the incumbent since he can obtain private financing so easily. It seems to me, however, that our electoral system could be improved only by promoting vigorous contests between incumbents and challengers. Perhaps incumbents would still win the vast majority of their elections; nevertheless, with an adequately financed opponent they would not be as assured of victory as they are under the present system of financing campaigns.[178] This increased competition would force incumbents to be more responsive to the interests of their constituents, for they would be truly accountable to the electorate at the next election. As one political scientist has observed: [179]

"Elections have become the first and most important article in our unwritten constitutional arrangements. They give people a direct check upon officials. But elections—like the separation of powers—depend entirely upon the counterposing of ambitions of men. Here candidates provide the necessary competition.

"Their campaigns alert the people to the on-coming election; advance their personal qualifications and program [sic]; and supply a searching scrutiny of the opposition record. Only with this kind of vigorous competition are elections meaningful. Without it, they present the people no real choices and are as irrelevant to self-government as the staged elections in authoritarian countries."

The argument that incumbents should not receive money from the government because they are able to raise sufficient private funds overlooks one of the major goals which campaign financing reform is designed to achieve. The object of the proposal is not simply to enable poor people or non-incumbents to run for office, but also to diminish the domination of politics by special interests. To achieve that goal, the reliance of incumbents on large private contributions must be ended.

Payments in kind

In addition to subsidy payments, the government could provide candidates with services, namely reduced postage rates and free broadcasting time. If these proposals are adopted, campaign expenses would decrease and the amount of the cash subsidy could be decreased accordingly. Although I have serious doubts, on a constitutional level, concerning the proposal, the idea of giving candidates free access to the broadcast media has received great attention and has been endorsed by a number of organizations.[180] Television and radio are perhaps the most effective as well as possibly the most expensive means which a candidate has available for reaching the voters. Campaign advertising through these media have been the subject of increasing criticism because of the "slick" techniques used.[181] In fact, most of the criticism directed against the "Madison Avenue" approach to campaigning has been a result of the use of television, particularly "spot advertising" of a minute or less. A proposal such as the Anderson-Udall Bill's "Voter's Time." [182] which provides for free television use in large blocks of time, would go far toward mitigating these problems. By making free time available to all candidates,[183] the use by well-financed campaigns of what has become known as a "media blitz" would be eliminated. At the same time, because the Anderson-Udall Bill provides for campaign broadcasts to be aired over all stations simultaneously, it removes a traditional drawback of long political programs—the tendency of viewers to watch competing entertainment programs instead.[184]

Candidates could also be provided gratuitious services with respect to their use of the mails. Rather than prohibit the use of the "frank" for mass mailing of newsletters during campaigns, as one bill provides.[185] Congress should extend the "frank" to all candidates for federal office for perhaps two free mailings of campaign materials.[186] Without the full use of the "frank" during campaign periods, incumbents are still able before the campaign period to use the "frank" at least indirectly for re-election purposes by means of both mass mailings and personal letters. Fairness therefore dictates that challengers be allowed to use the "frank" as well. Such a measure would also help decrease campaign costs.

Because of the tendency by voters to ignore campaign mailings as "junk-mail," a sounder proposal would be to issue a "Voter's Pamphlet would be less expensive than individual Washington [187] and Oregon.[188] This pamphlet would be published by the government and mailed to all registered voters. Space would be made available to each candidate for a picture and a statement setting forth his personal background and program. The pamphlet," as is already done by the states of mailings, and because it contains information about all candidates, less likely to be discarded without reading. The pamphlet would probably be the best means available to provide voters with information about the various issues and to make intelligent decisions about the candidates. A "Voter's Pamphlet" proposal was made on the floor of the Senate in 1973 in the form of an amendment to a bill. Regrettably the amendment was withdrawn because it had not been studied in committee.[189] It is hoped, however, that such a proposal will be adopted in the future.[190]

Limitations on contributions

The most direct method of curtailing the influence of large contributions on the political process is simply to limit them outright. Because of constitutional considerations,[191] it seems unlikely that contributions can be prohibited entirely. Nevertheless, a reasonable limitation could satisfy the constitutional standard by maintaining an outlet for citizen expression of candidate preference. The $3,000 limitation adopted in the Cannon Bill, [192] however, seems too high to achieve the desired purpose. Many contributions made by special interest groups presently are not above $3,000.[193] An incumbent's campaign for the House of Representatives might cost $75,000, and in such a campaign $3,000 is a significant figure. A limitation of $500 on contributions by individuals or political committees to any campaign or political committee with an overall limitation of $2,500 on all such contributions in a calendar year, would appear more likely to eliminate the undue influence of special interests in the electoral process.

Such a limitation would also be large enough to satisfy constitutional requirements.[194] The limitation on contributions by a candidate or his family to his own campaign, however, should not be quite so small. There are certain "start-up" expenditures involved in any campaign, particularly to qualify for public funding. A limitation of $3,000 from personal and family funds would seem to be sufficiently high for a candidate to begin his campaign and sufficiently low to prevent wealthy candidates from buying their way into office.

Limitation on Expenditures

Although the increasing cost of campaigning has been cause for public concern, the beneficiary of a low limitation on total campaign spending will not be the public, but rather incumbents, who do not need to spend as much money on the campaigns as do their challengers.[195] The Senate-passed Cannon Bill in particular works to the advantage of incumbents,[196] with its $90,000 limitation for House campaigns.[197] The average expenses of all challengers who defeated an incumbent Representative in 1972 exceeded that figure by $35,000.[198] Chances are that, had the $90,000 limitation been in effect in 1972, those defeated incumbents would still be serving in the Congress.

Three posible reasons can be advanced for enacting some limitation on overall expenditures. First, it would prevent an affluent candidate from being able to finance a lavish campaign. Second, it would prevent wealthy contributors from doing the same on behalf of favored candidates. And third, it would prevent the use of sophisticated and expensive advertising techniques which sell candidates to the public as if they were laundry detergents. The first two of these goals, however, are achieved more directly by limitations on contributions.

Furthermore, although the present use of certain advertising techniques is disturbing, as well as debasing, it is not nearly as disturbing as the prospect of providing life terms for incumbent office holders which might occur if a fairly low overall expenditure limitation was enacted into law. Moreover, limitations on contributions would provide a rough check on spending. Limited to $500 per contributor, candidates would not easily procure the funds to allow excessive spending.

Nevertheless, campaign expenditures should be limited, at least to some degree, for two reasons. It would assure that expenditures do not get completely out of hand and it would prevent candidates with access to the wealthy from amassing a large number of $500 contributions. For these purposes an appropriate limitation would be $200,000 each for primary and general election campaigns for the House of Representatives and twenty cents and twenty-five cents per voting age person in pre-nomination and general election campaigns respectively for both the Senate and the Presidency.

The best way to enforce these limitations would be to require each campaign to designate one central "checkpoint" through which all receipts and expenditures would be channeled. Similarly, each campaign would be required to maintain one designated bank account, which would be the sole repository of campaign funds. After the campaign—and, perhaps, at periodic intervals during the campaign—a candidate would be required to make public this account together with all its deposits and withdrawals. Since all campaign expenditures could be withdrawn from this account, the amount of withdrawals could not exceed the limitation on spending. To prevent candidates from evading this requirement there would have to be a prohibition on all large cash transactions—for example, above $50.

Supervision

The 1971 Campaign Act provides for a tripartite system of supervision, with disclosure reports required to be made to three enforcing congressional officers, the Secretary of the Senate, the Clerk of the House of Representatives, and the Comptroller General.[199] In addition, reports must be made to the Secretary of State of the state in which the campaign is being conducted.[200] This system was generally effective in the last national elections; [201] nevertheless, the full-time and vigorous enforcement necessary to carry out campaign reform requires an independent supervisory commission.

In reforming the electoral process one of the major goals is restoring public confidence in the political system. Thus, any enactment must have the appearance of genuine reform. The major drawback of the present enforcement system is that supervision by employees of those who are to be supervised, no matter how effective it may in fact be gives the appearance of only a half-hearted effort at reform. Not only is there an inherent conflict of interest between the supervisory duties of those to whom reports are presently to be made and their position as employees of party leaders and candidates in their own right, but also it is doubtful that they have the staffs or resources necessary to enforce a public financing system.[202]

The system proposed by the Campaign Amendments Bill [203] is an improvement on the present system. It provides for a bipartisan commission composed of members appointed by a process in which the President, congressional leaders of both parties, and Congress itself participate. This commission would have complete enforcement powers including that of initiating criminal proceedings. It has the advantage of being dominated neither by one branch of government, nor by one political party.

An intriguing suggestion has been made by an academician to draw the members of the commission from the ranks of retired judges.[204] The proposal has the advantage of assuring the public that the commission members would be independent. It could be combined with an attractive proposal made by the Director of the Office of Federal Elections of the General Accounting Office that the commission members serve part-time

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and be supported by a large professional staff and a "strong executive director." [205] Talented individuals might be more attracted to serve in a part-time position rather than in a full-time capacity.[206] In addition, the commission should be given, along with its powers to initiate criminal proceedings, the power to initiate civil proceedings and the power to exact civil penalties.[207]

A provision for a commission was originally part of the 1971 Campaign Act, but was removed because of opposition by the House of Representatives.[208] The same fate should not await any bill enacted in the future. Unless Congress wishes to give the impression that it is converting the present statutory campaign finance system, which is "more loophole than law," [209] into one in which violations are difficult to enforce, a strong, independent campaign commission must be created.

Summary

In a fashion similar to the Cannon Bill, recently passed by the Senate, the system which I have outlined here would go a long way towards eradicating the major evils inherent in the current method of financing campaigns. By limiting contributions and by limiting spending, a curb would be imposed on the power of special-interest groups.

The public subsidy would enable more people from diverse economic backgrounds to run for office and would help challengers to run more vigorous campaigns against incumbents. The fulfillment of these last two goals would be served in particular under my proposal by the provisions authorizing an alternative method of qualifying for funding simply by presenting petition signatures, since it would enable individuals without significant access to wealth to run for office and would allow them to receive increasing amounts of partial funding as the campaign progressed.

A CONSTITUTIONAL DEFENSE

Federal regulation of campaign financing poses several potential problems from a constitutional standpoint. Specifically, two general issues are raised by the legislation recommended both by this article and by the other proposals already introduced into the Congress. The first is whether Congress has the constitutional authority to enact such legislation, and the second is whether this type of legislation violates constitutional rights of a candidate or members of the electorate.[210]

Constitutional authority for regulation of elections

With respect to the regulation of congressional elections, the authority of Congress is derived from article I, section 4 of the Constitution, which states: "The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the Legislature thereof; but the Congress may at any time by law make or alter such regulations. . . ." [211] A program which combines federal subsidies with limitations on contributions and expenditures would appear to deal with the "manner" of holding elections and, therefore, to be a proper exercise of congressional authority. This view is supported by a broad interpretation given the phrase "times, places and manner" by the Supreme Court in *Smiley v. Holm*,[212] in which it stated: [213]

"[T]hese comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved."

The *Smiley* Court further ruled that article I, section 4 gave the Congress "a general supervisory power over the whole subject" [214] of congressional elections. It seems apparent, therefore, that, at least with respect to congressional elections, Congress has the authority to regulate federal campaign spending.[215]

The congressional power to impose similar legislation on a presidential campaign presents a more difficult question. The Constitution provides that it is the state which "shall appoint, in such manner as the legislature thereof may direct," its presidential electors.[216] Indeed Congress' express authority extends only to "the time of choosing the Electors, and the day on which they shall give their votes." [217] The propositions, however, that the states possessed exclusive authority over the "manner" of presidential elections was put to rest in *Burroughs and Cannon v. United States*.[218] That case involved a constitutional challenge to a section of the Corrupt Practices Act of 1925,[219] which required that any political committee accepting contributions or making expenditures for the purpose of influencing the election of presidential electors file statements containing the name and address of each contributor. In sustaining the constitutional validity of the statute, the Court expressly rejected the argument that congressional authority in this area was limited merely to setting the date for selection of electors and the date on which those electors were to cast their votes.[220] The Court added that Congress has the power on policy grounds to enact substantive legislation affecting the conduct of elections: [221]

"The importance of [a presidential] election and the vital character of its relationship to and effect upon the welfare and safety of the whole people cannot be too strongly stated. To say that Congress is without power to pass appropriate legislation to safeguard such an election from improper use of money to influence the result is to deny to the nation in a vital particular the power of self protection. Congress, undoubtedly, possesses that power, as it possesses every other power essential to preserve the departments and institutions of the general government from impairment or destruction whether threatened by force or by corruption."

Admittedly, *Burroughs* might be limited on its facts to controversies concerning disclosure laws. In that case, however, the petitioner's constitutional objection was that the statute allowed Congress to invade an area under the *exclusive* authority of the states. Since the Court overruled this objection with respect to a filing requirement, it seems reasonable that an objection to Congress' power to enact a program of federally subsidized elections would similarly be overruled. This conclusion is supported by the broad language employed by the Court in the *Burroughs* opinion. In holding that Congress possessed the power "to pass appropriate legislation to safeguard [a presidential election] from the improper use of money to influence the result," [222] the Court apparently left room for legislation combining government subsidies with limitations on contributions and compaign spending.[223]

A final question with regard to congressional authority to enact one of the proposed reform bills is whether Congress has the power to regulate campaign primaries. Although the Court had discussed the question previously,[224] the first decision on the issue of whether the constitutional grant of power to regulate "the manner of holding elections" [225] extended to primary elections was rendered in *United States* v. *Classic*.[226] An eight-man majority in that case held: [227]

"[T]he authority of Congress, given in § 4, includes the authority to regulate primaries when, as in this case, they are a step in the exercise by the people of their choice of representatives in congress."

Although a victory in the primary in that jurisdiction was tantamount to victory in the general election, that fact was not crucial to the decision of the Court. Moreover, in subsequent cases, the primary has been held to be a part of the general election process without the presence of any such special circumstances.[228]

The constitutional provisions dealing with the regulation of elections have, as these cases demonstrate, been broadly construed. As a result, Congress possesses far-reaching authority to enact measures necessary to protect the integrity of the electoral process. The scope of the authority extends beyond the comparatively explicit constitutional delegation with respect to congressional elections and includes presidential and primary elections. Given the policy motivation for enactment, passage of the proposed program of federal subsidies combined with contributions and spending limits is clearly within the constitutional authority of the Congress.

Limitation on contributions

A number of commentators have expressed doubt concerning the constitutionality of limitations on the size of campaign contributions.[229] Indeed, supporters of public financing themselves have expressed concern in this area. These doubts are based on the belief that a contribution to a political campaign is a means of political expression, and since free political expression is protected by the first amendment,[230] political expression in the form of a campaign contribution is similarly protected. Under this view, the act of contributing is characterized as symbolic speech.

As a threshhold consideration, two factors must be taken into account here. First, it is not at all clear that the act of making unlimited contributions to a political campaign is protected as "speech" under the first amendment. Second, assuming that the act is so protected, the state interest in preserving the integrity of the electoral and governmental processes from the corruptive influence of large contributors might be found to be sufficiently compelling to justify an incidental infringement on first amendments rights.

The first amendment clearly protects more than purely verbal communications.[231] It may well be, however, that courts will not regard a campaign contribution as protected symbolic speech. When pure speech is joined with verbal acts which are not necessary to the communication, the state may regulate that mode of expression.[232] Certainly, a limitation on contributions does not abridge free speech on its face because "there is nothing necessarily expressive about" contributing to a political campaign.[233] Nevertheless, the argument could be made that in particular cases campaign contributions were expressive. The judiciary may, however, hold that the physical act of delivering unlimited is not essential to political expression and that a campaign donation is thus not protected symbolic speech.

To the extent that the right to make unlimited contributions is protected by the first amendment, it is my belief that some limitation on contributions would be constitutionally valid because of the compelling state interest in protecting the electoral and governmental process from the undue influence of excessively large contributions.[234] This view was taken by Mr. Justice Douglas, dissenting in *United States v. United Auto Workers*,[235] a case in which the majority specifically declined to address itself to the question of whether a prohibition on labor union campaign contributions [236] was constitutionally valid. Justice Douglas, joined in his dissent by Mr. Chief Justice Warren and Mr. Justice Black, emphatically stated that the

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absolute prohibition on campaign contributions constituted "a broadside assault on the freedom of political expression guaranteed by the First Amendment." [237] He was careful to note, however, that: [238]

"[I]f Congress is of the opinion that large contributions by labor unions to candidates for office and to political parties have had an undue influence upon the conduct of elections, it can prohibit such contributions."

Thus Mr. Justice Douglas, the jealous protector of first amendment freedoms, adopted the position that large political contributions are not protected under the Constitution to the extent that they exert an undue influence upon the election process.

Justice Douglas' remarks suggest that the constitutionality of limitations on campaign contributions depends upon the particular level of limitation imposed. While Justice Douglas deemed invalid an absolute prohibition on contributions, he recognized that at some point the size of contributions can be restricted because of the very real likelihood of undue influence on the political process. In light of the presumption of constitutionality afforded a congressional act, it would appear, therefore, that a limit on contributions would be held unconstitutional only if it were shown that the limitation was manifestly below the level at which there could be a reasonable fear of improper influence on the recipient candidate.[239]

The level at which restrictions are imposed is a matter largely overlooked by those who would argue that limits on political contributions are unconstitutional. These critics treat a limitation in amount as if it were an absolute prohibition on contributions. The error in so doing is illustrated by *Kovacs* v. *Cooper*,[240] a case which is relevant if a campaign contribution is viewed as symbolic speech. In *Kovacs* the Court [241] upheld against a first amendment challenge an ordinance which forbade the use on public streets of a sound truck emitting "loud and raucous noises." It was noted that an "absolute prohibition within municipal limits of all sound amplification, even though reasonably regulated in place, time and volume, is . . . probably unconstitutional . . . ." [242] The ordinance, however, was upheld because its prohibition applied only to "loud and raucous" noises. Thus, while the absolute prohibition would be unconstitutional, a limitation on the permissible physical volume of the regulated communicative conduct was held valid. In applying this rationale to the issue of campaign contributions, Professor Freund has stated: [243]

"We are dealing here not so much with the right of personal expression or even association, but with dollars and decibels. And just as the volume of sound may be limited by law, so the volume of dollars may be limited without violating the First Amendment."

It might be argued that an overall limit on contributions would be an absolute prohibition on contributions as to those who seek to contribute after the ceiling has been reached. If this situation were to pose a serious obstacle to the passage of the proposed limitations, Congress could enact a program of pro-rata contribution refunds.

Under such a program all who so desired could contribute up to the limit imposed on the individual contribution. If the sum of these contributions exceeded the overall limit on contributions received, the excess could be refunded to all contributors on a pro-rata basis of the size of their original contributions. For example, if total contributions exceeded the overall limit by twenty-five percent, someone who had contributed $80 would receive a refund of twenty-five percent of his contributions, i.e., $20. To avoid the administrative burden of mailing refund checks to each contributor, the amount to be refunded would be turned over to the Internal Revenue Service and would be credited against the contributor's income tax in the following year.

The Supreme Court has held that: [244] "when 'speech' and 'non-speech' elements are combined in the same course of conduct, a sufficiently important governmental interest in regulating the non-speech element can justify incidental limitations on First Amendment freedoms."

In attempting to define the elements of this "sufficiently important governmental interest," the Court in *United States* v. *Oregon* stated: [245]

"[W]e think it clear that a government regulation is sufficiently justified if it is within the constitutional power of the Government; if it furthers an important or substantial governmental interest; if the governmental interest is unrelated to the suppression of free expression; and if the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest."

In view of this standard the proposed limitations on campaign contributions are constitutionally valid. With regard to the first element of the test, it has been previously shown that Congress has power under the Constitution to regulate congressional and presidential elections both at the primary and at the general election levels: [246]

The second element is also satisfied since the limitation on contributions is designed to advance substantial government interests: the independence of elected officials from large contributors and the prevention of fraud and corruption in the electoral process. These interests are sufficiently important to satisfy the *O'Brien* test. In *Ex parte Yarbrough* [247] the Court stated: [248]

"If the government is anything more than a mere aggregation of delegated agents of other States and governments, each of which is superior to the general government, it must have the power to protect the elections on which is existence depends from violence *and corruption*.

"If it has not this power it is left helpless before the two great natural and historical elements of all republics, open violence and *insidious corruption*."

And in another case the Court said: [249]

"To say that Congress is without power to pass appropriate legislation to safeguard [a presidential and vice-presidential] election from the improper use of money to influence the result is to deny to the nation in a vital particular the power of self protection."

The third element of this test is that "the governmental inerest is unrelated to the suppression of free expression." [250] Since the governmental interest in regulating campaign contributions is to preserve the integrity of the election process and the independence of elected officials, this condition would clearly appear to be satisfied, especially in view of the rationale of the *O'Brien* decision. In that case the defendant contended that a statute which prohibited the knowing destruction of a draft card was unconstitutional as to him because the act of burning his draft card was "symbolic speech" protected under the first amendment. The Court upheld the statute and thereby acknowledged that the governmental interest involved was "unrelated to the suppression of free expression." Such a conclusion was justified since the statute did not seek to prohibit communication of the defendant's antiwar beliefs but only to assure the effective operation of the Selective Service by prohibiting the act of draft card burning.

In much the same way the proposed limitations on campaign contributions seek not to prohibit communication of political beliefs, but only to assure the effective operation of the electoral process and to prevent corruption on the part of elected officials. Furthermore, the Court in *O'Brien* attempted to clarify this third element by citing *Stromberg v. California*.[251] In *Stromberg* the Supreme Court struck down a statute which punished those who expressed their "opposition to organized government" by displaying "any flag, badge, banner or device." Under this statute, therefore, a banner or badge could have been prohibited based solely on the written contents contained thereon. The statute did not seek to prohibit the act of displaying a banner nor the act of displaying a banner for the purpose of expressing any abstract idea; it sought to prohibit the expression of a particular idea or belief. Put another way, the conduct was lawful but for the particular idea it sought to express. The majority in *O'Brien* indicated that a *Stromberg*-type statute could not be sustained because it "was aimed at suppressing communication" and, therefore, violative of the third element of the *O'Brien* balancing test.

The case of limitation on contributions is clearly distinguishable from *Stromberg*. An excessive contribution is unlawful under my proposal regardless of the particular political idea or belief which the contributor seeks to express by his act of contributing money. In *Stromberg* the act was illegal only if it were performed for the purpose of expressing an opposition to government. This type of prohibition clearly suppresses expression and is distinguishable from a ceiling on political contributions where only the act of excessive contributions is suppressed without regard to the idea sought to be expressed by that act. It appears, therefore, that the proposed limitation on contributions satisfies the third element of the *O'Brien* test.

Finally, it must be shown that the alleged incidental infringement on first amendment rights is no greater than is necessary to achieve the governmental interest. Critics of limitations have suggested that alternative remedies could insulate the electoral process from undue influence of unlimited contributions without the arguable infringement on free expression. Suggested alternatives include free broadcast time or franking privilege and tax incentives for contributions. While such measures might solve some of the problems of the current system, none would work to improve all problems as would public financing coupled with limitations on contributions. As long as there are limitations neither on expenditures nor on contributions, a candidate can be expected to spend up to and beyond the limits of the funds which he is able to raise. As a result, any right to mail campaign circulars for free or to receive free radio and television time will not reduce the pressure on the candidate, once elected, to repay in one form or another "debts" owed to major campaign contributors. Clearly, the limitation on contributions is essential to the elimination of this potential for undue influence. Furthermore, this final element of the *O'Brien* test is perhaps not quite as rigorous as are the other elements. Elsewhere, the Supreme Court has stated: [252]

"The power of Congress to protect the election of President and Vice President from corruption being clear, the choice of means to that end presents a question primarily addressed to the judgment of Congress. If it can be seen that the means adopted are really calculated to attain the end, the degree of their necessity, the extent to which they conduce to the end, the closeness of the relationship between the means adopted and the end to be attained, are matters for congressional determination alone."

A judgment by Congress, therefore, that limitation on contributions constitutes the only effective remedy is likely to be given great deference by the Court.

Another line of precedent lends support to

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the conclusion that the right to contribute to a campaign may be outweighed by the strong policy considerations inherent in any congressional act designed to limit the right to contribute. These cases deal with the Hatch Act's [253] prohibition of political activity by public employees. In *United Public Workers v. Mitchell* [254] the Supreme Court sustained the validity of a provision of the Act which prevented employees of the executive branch from taking an "active part in political campaigns." [255] The Court justified this total prohibition of political activity by balancing it against the determination by Congress of the "material threat to the democratic system" [256] posed by partisan activity on the part of government employees. *Oklahoma v. Civil Service Commission*,[257] a case decided the same day, upheld a similar ban imposed on state officials whose work was financed in part by a federal agency.[258]

Mitchell was recently reaffirmed by the Court in *United States Civil Service Commission v. National Association of Letter Carriers*.[259] The Court balanced against the infringement of first amendment rights a number of factors which also apply to limitations on contributions: effective and fair operation of the government, protection of the role of elections in representative government, and—a factor not mentioned in the cases discussed thus far—maintenance of public confidence in the government by avoiding the appearance of corruption.[260]

Significantly, these cases upheld a complete ban on all political activity, except the right to vote, on the part of government employees. Such a prohibition was held justified to prevent undue influence on government workers. The proposal made by this article for campaign financing reform would constitute only a partial prohibition on a specific type of political activity—contributions of money. It is designed to prevent undue influences, not on government employees working in a non-political part of the government,[261] but on elected officials. Since the Hatch Act has withstood the constitutional challenge, it seems only reasonable to conclude that limitations on campaign contributions will do so as well.[262]

Limitation on Expenditures

Legislation restricting the amount of a particular campaign contribution may be accompanied by limitations on campaign expenditures. Without the restrictions on expenditures candidates with access to large numbers of wealthy individuals might, despite the limitations on contributions, be able to amass a large campaign treasury from many individual $1,000 contributions. Thus, non-wealthy candidates, without significant contacts among the wealthy, would still be essentially shut off in many instances from effectively seeking elective office. Political offices would remain within the reach of the affluent or those associated with them.[263] To avoid such a result it seems necessary to implement the proposed limitations on campaign expenditures.[264]

Limits on expenditures, however, have encountered many of the same constitutional questions raised by limits on contributions.[265] Since campaign expenditures are viewed as indispensible to mass communication of political ideas, it has been suggested that such expenditures constitute speech plus conduct and are protected under the first amendment.[266] The validity of this suggestion hinges on many of the same factors discussed in relation to whether limitations on contributions would be constitutionally permissible.[267]

Accordingly, the first issue is whether the act of making unlimited campaign expenditures is protected under the Constitution. Unquestionably, campaign expenditures are indispensable to effective political speech, probably more so than contributions. If contributions are limited, the candidate can nevertheless effectively communicate his political message to the voters through expenditure of his own personal resources. Once a limit on expenditures is enacted, however, and that limit is reached by a candidate, the prohibition on *effective* political speech by that candidate is absolute. As a result, one could likely make a stronger argument for a constitutional right to unlimited campaign expenditures than could be made for unlimited campaign contributions. This fact alone, however, does not guarantee the right to make unlimited campaign expenditures. Again the sound truck cases are applicable. In *Saia v. New York* [268] the Su-Supreme Court concluded that amplified speech was deserving of first amendment protection since "loud-speakers are today indispensable instruments of effective public speech." [269] Less than a year later, however, the Court allowed a local government to accommodate the public interest in privacy by upholding a reasonable limitation on amplified speech.[270] The rule to be taken from these cases is that where a sufficiently important governmental interest exists as a justification, a reasonable limitation on the use of an instrumentality indispensible to effective public speech may be enacted.

Application of this rule to limits on campaign expenditures again necessitates the balancing test analysis of *O'Brien*.[271] The constitutional authority of the Congress to regulate campaign expenditures is derived from the same source as is the authority to regulate contributions.[272]

The countervailing governmental interest present in this instance is that both the wealthy and the not-so-wealthy, or those without access to the wealthy, share an equal opportunity to participate in the electoral process. The importance of this objective was emphasized in *Kramer* v. *Union School District*,[273] in which the Court declared that "unjustified discrimination in determining who may participate in political affairs . . . undermines the legitimacy of representative government." [274] Elsewhere, the Court has stated, "wealth, like race, creed, or color, is not germane to one's ability to participate intelligently in the electoral process." [275]

It seems clear therefore, that the governmental interest of fostering equal political opportunity for both those with vast as well as those with meager resources is "important or substantial." With regard to the third requirement of the *O'Brien* test, the governmental interest in equal political opportunity is "unrelated to the suppression of free expression." [276] Any doubt on this point is resolved in favor of limitation on expenditures by the sound truck cases. Finally, without limits on expenditures the candidate who has access to vast financial resources can overwhelm his poorer opponent. Although a ceiling on contributions would prevent an elected official from being unduly influenced by a single large contributor, without a limit on total spending a number of individuals with similar interests could together contribute a large sum of money to a candidate; the same evil of undue influence on elected officials would then be present. Moreover, because of the natural tendency of candidates to spend all available funds, this problem would persist even where a program of federal subsidies would assure a certain level of funds to all qualified candidates. It is apparent, therefore, that a persuasive argument can be made for expenditure limits on the basis of a balancing test analysis.

A second constitutional criticism of campaign spending limits focuses on undue interference with the right of the voter to receive information relevant to his electoral decisions. It is well established that the freedom of speech and press necessarily protects an individual's right to receive information and ideas.[277] Two cases dealing with this right have been cited in support of the position that spending limits are constitutionally invalid.[278] In *Red Lion Broadcasting Co.* v. *FCC*,[279] the petitioner challenged the Federal Communication Commission's "fairness doctrine" [280] on the ground that it denied the petitioner its right to free speech by dictating in certain cases which material would be broadcast. The essence of the petitioner's argument was that the broadcaster enjoyed the same constitutional right of free speech as the individual. In upholding the "fairness doctrine" the Court emphasized that the public's right to receive diverse social and political ideas overrode the broadcaster's right to free speech by radio.[281] In *Mills* v. *Alabama* [282] the Court found invalid a statute prohibiting solicitation of votes on election day. The Alabama Supreme Court had sustained the statute on the ground that it protected the public from the confusion of unverified, last-minute political charges. In striking down this statute, the Court in *Mills* has been heralded as sustaining the public's right to receive political information in situations in which that information might be unverifiable. It should be noted, however, that the reasoning of the Court in *Mills* was based on the right of a newspaper to publish an editorial not on the right of the public to read it.

On the basis of this precedent it has been argued that limits on campaign spending abridge the individual's constitutional right to receive political information. Under this view the ceiling on spending is regarded as a restriction upon the ability of the candidate to convey information to the public and is, therefore, unconstitutional.[283]

In my opinion the effect of the proposed spending limits will be precisely the opposite. Instead of reducing the flow of political information to the voting public, these ceilings will help assure a balanced flow of diverse viewpoints. Without spending limits those candidates having unlimited financial resources are able to dominate the flow of political information to the public. They do this by monopolizing the most effective channels of communication. For example, there is only a limited supply of prime time television advertising slots. If these are all taken by a wealthy candidate who can in essence outbid all other candidates, those political viewpoints that are less than extravagantly financed will be denied this highly effective means of presenting their case to the electorate.[284] Limiting expenditures, however, helps to promote "free trade in ideas" [285] and "provides hopes for access to the political process by the weaker minority interests. . . ." [286] The proposed federal campaign subsidies would make this hope a reality. Thus, the ceilings would protect the flow of political information to the public by preventing the well-financed candidates from overwhelming by sheer volume of spending the communications of other candidates. In this manner the public would be exposed to a greater diversity of viewpoints. Such a result seems highly consistent with the constitutional right of the public to receive information and ideas.[287]

Admittedly, the validity of any limitation might hinge upon the level of restriction. A limit could be set so low as to deny all candidates the chance to present their cases effectively to the electorate. Such legislation would be difficult to justify. Thus, the limitations should be set at a relatively high level, but low enough to prevent the heavily financed candidate from "so overloading the channels of communication as to render his opponent's right to speak virtually worthless." [288] The limitations contained in my proposal set forth in this article would seem to meet that test.[289] Once Congress has set such limits, its judgment in setting the level of

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limitation so as to maximize the flow of political information should be given great deference by the Court.[290]

A final challenge to the constitutionality of spending limits is the contention that such limits favor the incumbent because of the public familiarity which he has acquired prior to the campaign. The argument here is that the only way in which the relatively unknown challenger can overcome the "recognition gap" between himself and the well known incumbent is by outspending the incumbent on media campaigning. Under this rationale a limit on spending is thought to preclude the challenger from any chance to close this "recognition gap." [291]

Proponents of this view cite *Williams* v. *Rhodes*[292] authority for their position. In that case the American Independent Party and the Socialist Labor Party challenged the constitutionality of an Ohio law which required a new political party to obtain petitions signed by qualified electors totaling fifteen percent of the number of the votes in the last gubernatorial election to be placed on the presidential ballot. On the other hand, the Democratic and Republican parties retained their positions on the ballot merely by polling ten percent of the votes in the last gubernatorial election, and were not required to obtain signature petitions.[293] The State of Ohio sought to justify the restriction on the ground that it promoted political stability, and that by minimizing the number of new parties placed on the ballot, it would protect voters from "a choice so confusing that the popular will could be frustrated." [294] The Court, however, found that the effect of this election law was to "make it virtually impossible for any party to qualify on the ballot except the Republican and Democratic Parties." [295] Having concluded that the State had failed to demonstrate any "compelling interest" to justify these restrictions, the Court held them to be a violation of both first amendment and equal protection rights.[296]

Williams calls into question the constitutionality of any election law which tends to lock in the Democrat-Republican, two-party system. Some have argued that limits on expenditures prevent smaller parties from closing the "recognition gap" by effectively denying them the opportunity to outspend the two major parties. On this basis it is urged that the spending limits fall within the prohibition of *Williams*.[297]

The restrictions overturned in *Williams*, however, are clearly distinguishable from the spending limitations contained in my proposal. In the first place, the burden of the spending limits will fall equally on all parties and on all candidates. The unequal burden of the regulation in *Williams* was obvious. This distinction, however, is unlikely to settle the issue since critics of campaign spending limits view the equal burden of the limits as the factor which will most tend to solidify the presently dominant position of the two major parties.[298] A stronger distinction lies in the existence of a more compelling state interest in the case of campaign spending limits. The state interest articulated in *Williams*, namely to protect the electorate from undue confusion, sounds suspiciously like the state interest rejected in *Mills*.[299] On the other hand, the limits on campaign spending are imposed to further a state interest which has on many occasions been upheld: an equal opportunity to participate in the electoral process regardless of ability to pay.

The principle announced in the *Williams* case does not prohibit every measure which restricts the right of a new party to appear on the ballot, but merely holds that in that particular case the regulation was unreasonably restrictive. Restrictions deemed reasonable by the Court have been upheld subsequently. In *Jenness v. Fortson*[300] a Georgia law was challenged which provided that a candidate for elective public office who did not win a political party's primary election could have his name printed on the ballot at the general election only by filing a nominating petition signed by at least five percent of the number of registered voters who voted at the last general election for that particular office.

The Court unanimously upheld the Georgia statute and distinguished it from *Williams v. Rhodes* primarily on the ground that Georgia's election laws, unlike Ohio's, do not operate to freeze the political status quo." [301] The proposed campaign spending limits would likewise not freeze the existing political status quo, which can be characterized as the domination of politics by those with access to vast financial resources. Furthermore, by providing qualified minor party candidates with funds, the program of subsidies would serve to encourage them actively to challenge the dominance of the major parties and might enable them to become more competitive. Such an effect seems entirely consisent with *Williams* and *Jenness*.

As with limitations on contributions, the conclusion here is that reasonable limitations on campaign spending are constitutionally valid. Because campaign expenditures are essential to effective political speech, it appears that such expenditures are protected under the first amendment. The protection of these expenditures does not, however, guarantee to the candidate the right to make unlimited expenditures when a compelling state interest requires limitation. Equal political opportunity for wealthy classes and prevention of undue influence on elected officials are, as demonstrated, sufficiently compelling interests to justify spending limits. Furthermore, instead of infringing on the voting public's right to receive information, the limits can be set so as to enhance that right by assuring that political information flows to the public from viewpoints which might otherwise be drowned out by the more heavily endowed interests. Finally, rather than freezing the status quo," the limitation on expenditures when combined with the proposed subsidy will enable minor party candidates to challenge the major party candidates with unprecedented vigor. On this basis it seems clear that the spending limits are constitutionally valid.[302]

Contribution disclosure requirements [303]

To enforce the limitation on campaign contributions it will remain necessary, as the law now provides,[304] for a candidate to disclose the amount and donor of all political contributions received. While this disclosure requirement raises several constitutional questions, it seems clear upon analysis that such a requirement is constitutionally permissible.

The first question relates to what might be called the first amendment right to anonymity.[305] The rationale supporting this "right" is that, where, because of fear of embarrassment or reprisal a disclosure requirement stifles an individual's freedom of association or speech, the requirement is constitutionally invalid. This doctrine was developed in a series of cases which overturned statutes requiring disclosure of NAACP membership lists.[306] These cases originated in southern communities at a time of violent hostility to civil rights groups. Under these circumstances the fear of reprisals was sufficiently acute that disclosure of membership lists would have severely threatened rights of association. The right of anonymity was also upheld in *Talley v. California*,[307] in which the Court invalidated an ordinance prohibiting the distribution of a handbill which did not have printed on its face the name and address of the person responsible for its printing and distribution. The Court concluded that the ordinance would discourage the expression of unpopular ideas and thereby restrict the freedom of speech. On the other hand, where the government interest was deemed to be sufficiently compelling, disclosure of membership lists have been upheld in spite of the infringement on the right of association.[308]

On the basis of the *Talley* precedent it has been contended that campaign disclosure laws might impose an unconstitutional burden on the freedom of political expression. For example, a resident in a predominantly Republican neighborhood might be discouraged from contributing to a Democratic candidate for fear that disclosure would subject him to social ridicule. The constitutionality of disclosure requirements, however, seems to be established in *Burroughs and Cannon v. United States*.[309] *In* that case the Court upheld the constitutionality of the Federal Corrupt Practices Act of 1925 on the ground that disclosure requirements "would tend to prevent the corrupt use of money to affect elections." [310] It should be noted, however, that the first amendment arguments dealing with the right to anonymity was not raised in *Burroughs*.[311]

Any lingering doubt as to the first amendment constitutionality of campaign disclosure requirements was erased by *United States v. Harriss*.[312] In *Harriss* the Court employed the rationale of *Burroughs* in upholding the constitutionality of a statute which required a lobbyist to disclose the source and amount of any contributions made to him. The majority in *Harriss* declared:[313]

"Congress has . . . merely provided for a modicum of information from those who for hire attempt to influence legislation. . . . It wants only to know who is being hired, who is putting up the money, and how much. It acted in the same spirit and for a similar purpose in passing the Federal Corrupt Practices Act—to maintain the integrity of a basic governmental process."

The first amendment arguments were offered and specifically rejected in *Harriss*.[314] On the basis of *Burroughs and Harriss*, therefore, it seems clear that campaign disclosure requirements do not offend the first amendment.

The second constitutional question raised by the proposed disclosure requirements involves the privilege against self-incrimination. Given that the contributor must report his contribution and that he can be held criminally liable for making a contribution which exceeds the limitation, it would appear that he is compelled to incriminate himself by compliance with the disclosure requirement.[315] This view seems to be supported in *Marchetti v. United States*[316] and *Grosso v. United States*.[317] In each of these cases a statute requiring anyone engaged in specified gambling practices to register and to pay a special tax on gambling activities was held invalid on the ground that compliance would have the unmistakable result of incriminating the registrant.

It is significant to our inquiry that the majority in *Marchetti* made a special point to distinguish and reaffirm *United States v. Sullivan*.[318] In *Sullivan* the taxpayer, a bootlegger, was convicted for failing to file an income tax return despite his claim that filing a return would have necessitated his admission of violations of the National Prohibition Act. The Court in *Sullivan* concluded that the taxpayer could have answered most of the questions on the return without making incriminating disclosures and indicated that he could lawfully withhold answers only with respect to those questions which elicited incriminating answers. *Marchetti* distinguished *Sullivan* on the ground that "every portion of these [gambling] requirements had the direct and unmistakble consequence of incriminating the petitioner," [319] thereby rendering inapplicable the solution of partial compliance suggested in

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Sullivan. The basis for this distinction is that in the case of the income tax return the questions "were neutral on their face and directed at the public at large," [320] while the gambling disclosure requirements were directed at a "highly selective group inherently suspect of criminal activities." [321] In the latter case the disclosure requirement violates the privilege against self-incrimination while in the former it does not.

In applying this test to the campaign contribution disclosure requirements, it seems clear that there is no violation of the privilege. The requirement is neutral on its face and is directed not at some suspect group but at the general public. Furthermore, anyone who makes an illegal contribution can still be required to report all legal contributions he makes. Since the non-incriminating data is severable from the incriminating, the contribution disclosure requirement is analogous to the *Sullivan* case and distinguished from *Marchetti* where selective compliance was impossible without violation of the privilege. On the basis of this distinction the contribution disclosure requirement would not violate the fifth amendment privilege against self-incrimination.

CONCLUSION

Public financing proposals have provoked strong remonstrances from critics, one of the most effective of whom is Representative Bill Frenzel. Mr. Frenzel has charged, among other things, that public financing will have a number of drastic effects on our political system.[322] He believes that, by placing an over-all spending limit on campaigns while inadequately funding them through public subsidies, the re-election of incumbents will be made easier, the influence of political parties will be diminished by direct subsidies for individual candidates and abuse through discriminatory application of the law may result from increased bureaucratic control over our electoral process. Furthermore, taxpayers, in Frenzel's view, will object to government funds provided to candidates whom they oppose. Election for local offices will also be affected by public financing of federal campaigns, Frenzel contends, with one of two consequences: either private money, unable to find an outlet in congressional and presidential campaigns, will flood state and local campaigns; or the entire source of private money will dry up, leaving local candidates unable to fund their own campaigns.

Moreover, special interest groups will concentrate on the non-electoral sources of their power to maintain their control over governmental decision-making, such as increased lobbying efforts. Finally, in Frenzel's view, private financing is not a bad system. Private money, he contends, is not necessarily tainted, and controlled by appropriate limitations it provides an effective "market test" for candidates.

Many of these are valid criticisms. Some of them, such as the possibility of advantage for incumbents, are met through my proposal. Others, such as the possibility of abuse of bureaucratic control, can be prevented by appropriate statutory standards for administration of the system. On balance, however, the advantages of public financing seem to outweigh the potential drawbacks. Although some taxpayers may object to the funding of candidates whom they oppose, it seems better that the public subsidize them rather than allowing special interests to do so. Furthermore, the loss of the "market test" provided by private contributions will be more than offset by its replacement with a system in which the true market test, one in which all citizens participate equally, is that of the election itself.

It is important to recognize that public financing is not a cureall for all the ills besetting our present political system. In particular we cannot expect to see the influence of special interest groups vanish with the enactment of a system of public campaign subsidies. Nevertheless, by eliminating an important source of special interest power, an adequate campaign finance law will go a long way toward reducing the disproportionate political strength of these groups. Similarly, public financing by itself may not provide equal access to elected public office for all those capable and desirous of serving; nor is it alone likely to place incumbents and their challengers on an equal footing. Public financing of elections will, however, constitute a sizeable step in those directions, and that prospect alone should be sufficient reason for its enactment.

FOOTNOTES

[1] Yates Amendment to H.J. Res. 468, 92d Cong., 1st Sess., 117 CONG. REC. 7023–24 (1971); First Senate Committee Amendment to H.J. Res. 468, 117 CONG. REC. 7828–29 (1971).

[2] Emergency Loan Guarantee Act, 15 U.S.C. §§ 1841–52 (1971).

[3] Senator Walter F. Mondale has said, "I think any candid study of American politics shows that that temptation [to receive contributions from the special interests] is almost irresistible." *Hearings on S. 1103, S. 1954 and S. 2417 Before the Subcomm. on Privileges and Elections of the Senate Comm. on Rules and Administration*, 93d Cong., 1st Sess. 29 (1973) [hereinafter cited as *Hearings on S. 1103*]. The pressure, of course, is not always inflicted by the contributor on the candidate. Sometimes the candidate, using the fear of future recriminations as a weapon, pressures the contributor. *See, e.g., id.* at 30 (press release from American Airlines).

[4] It is perhaps presumptuous to speak of "proposing" an idea which, if it were a person, would be of retirement age. Public financing of presidential campaigns was proposed by President Theodore Roosevelt in his State of the Union Message in 1907. 42 Cong. Rec. 78 (1907). President Roosevelt conceded that he was "well aware that it will take some time for people so to familiarize themselves with such a proposal as to be willing to consider its adoption." *Id.*

[5] *Cf.* the observations of Alexis de Tocqueville in 1835 that wealthy men were ill-disposed to seek public office and that the public was less-inclined to elect them. A. de Tocqueville, Democracy in America 182–84, 188–89 (1966 ed.).

[6] A third reason commonly heard for reform is the high cost of the campaigns themselves. Nevertheless, as will be shown, a severe limit on campaign spending would seriously tend to hamper efforts of challengers to unseat incumbents. *See* notes 195–98 and accompanying text *infra*.

[7] An election in which the winning candidate received less than 55% of the vote.

[8] *Hearings on S. 1103, supra* note 3, at 96 (Common Cause study). The exact figure was $107,378. These figures from the Common Cause study represent the first comprehensive spending figures on congressional races ever made public.

[9] *Id.* The Republican candidates averaged $88,375 while the Democratic candidates averaged $89,430.

[10] *Id.* at 97. The Republican candidates averaged $465,264 while the Democratic candidates averaged $496,297.

[11] *Id.* at 96–97.

[12] *Id.* at 102, 105. Moreover, Senate elections were held in neither of the two most populous states, California and New York, where campaigns would tend to be the most expensive.

[13] *Id.* at 105. This trend was not apparent in campaigns for election to the Senate. Two of the five candidates who defeated incumbents spent less than their opponents. *Id.* at 110-11. This difference has been attributed to the greater amount of media attention a Senate race receives as compared to a House race. Thus the need for a Senate challenger to spend money to create name identification is lessened. *Id.* at 142. (remarks of Rep. Bill Frenzel).

[14] 2 U.S.C. § 431 (note) (Supp. II, 1972) [hereinafter cited as Campaign Act of 1971]. The Act did not go into effect until April 7, 1972; thus, many of the expenditures in the presidential campaign went unreported.

[15] *Hearings on S. 23, S. 343, S. 372, S. 1098, S. 1189, S. 1303, S. 1355, & S.J. Res. 110 Before Senate Subcomm. on Privileges and Elections and Senate Comm. on Rules and Administration*, 93d Cong., 1st Sess. 268 (1973) (remarks of Fred Wertheimer, Director, Legislative Activities, Common Cause) [hereinafter cited as *Hearings on S. 372*]. Estimates of the size of President Nixon's campaign fund have ranged as high as $60 million. Reichley, *Let's Reform Campaign Financing—But Let's Do It Right*. Fortune, December, 1973, at 95, 97.

[16] For example the campaigns of victorious Senate candidates in 1972 cost an average of over $500,000. *Hearings on S. 1103, supra* note 3, at 108. The corresponding figure ten years before was perhaps $200,000. Congressional Quarterly Service, Guide to the Congress of the United States, 471–72 (1971).

[18] *See* D. Dunn, Financing Political Campaigns 17 (1972) [hereinafter cited as Dunn]. For example, a common reason for the giving of a campaign contribution appears to be "social." A contributor may desire nothing more than to be able to "show off" a United States Senator as a guest at one of his parties.

[19] *See id.*

[20] *Hearings on S. 1103, supra* note 3, at 323 (remarks of Rep. John Anderson).

[21] Dunn, *supra* note 18, at 17.

[22] Instances of vote-buying through the device of campaign contributions are necessarily hard to document. Nevertheless, in the words of one veteran officeholder, "whether we want to admit it or not, some contributors have at least felt they 'owned' us on certain occasions." *Hearings on S. 1103, supra* note 3, at 86 (remarks of Sen. Frank E. Moss).

[23] In 1972, 18 individuals contributed almost $7.5 million to the Committee to Reelect the President. This was more than the entire amount spent by President Lyndon B. Johnson in his campaign eight years earlier. *Id.* at 66 (remarks of Sen. Adlai E. Stevenson III). One individual alone donated $2 million, almost all of it before the Campaign Act's reporting requirements went into effect. 33 Cong. Q. Wkly Rept. 2382 (Sept. 1, 1973).

[24] This impression is strengthened by the character of many of the contributors. Large contributions have been given by interest groups—organizations of individuals having in common a specialized occupational interest in one aspect of government, for example, businessmen all dealing in the same industry. For a list of 1972 contributions to congressional and presidential candidates of selected interest groups, see 31 Cong. Q. Wkly Rep't 571–88 (March 17, 1973).

[25] *Hearings on S. 1103, supra* note 3, at 34 (remarks of Sen. Hugh Scott).

[26] *Id.* Senator Scott also quoted an expression of former New York Mayor Fiorello LaGuardia: "The most important quality an office-holder can have is monumental ingratitude." *Id.*

[27] *See Hearings on S. 372, supra* note 17, at 207 (remarks of Sen. James Abourezk concerning controversial amendments to a recent farm bill and the donations he received from dairy farmers).

[28] One exception is Common Cause.

[29] In recent years there have been a few noble examples of wealthy candidates, previously politically unknown, gaining electoral victories because of extraordinarily well-financed campaigns. *See* Congressional Quarterly Service, Guide to the Congress of the United States 475–76 (1971). There is no reason for a publicly unknown individual

not to be encouraged to seek public service, and an expensive campaign may be a necessity for such a person to carry his message to the public. Unfortunately, however, if one is neither well-known nor wealthy, his candidacy is often doomed from the start.

[30] Including the author. *See also Hearings on S. 1103, supra* note 3, at 176 (statement of losing candidates for the House of Representatives).

[31] Senator Floyd Haskell recounted his experience in running for the Senate in 1972:

In my case in Colorado, the primary was September 12. That gave me less than 60 days to raise money for the general election. It was necessary to make a commitment the day after the primary for TV productions. If I had not had some money in the bank, I could not have done that and I would not be here today.

Hearings on S. 1103, supra note 3, at 69.

[32] 27 Cong. Q. Wkly Rep't 2434 (December 5, 1969).

[33] *Hearings on S. 1103, supra* note 3, at 254 (remarks of Rep. Barbara Jordan).

[34] *Id.* at 159–61 (remarks of Frances Tarlton Farenthold, chairwoman of the National Women's Political Caucus).

[35] *See* Twentieth Century Task Force on Financing Congressional Campaigns, Electing Congress: The Financial Dilemma 6–7 (1970) [hereinafter cited as Electing Congress]; Congressional Quarterly, Inc., Almanac 1073, 1080 (1970); *Hearings on S. 1103, supra* note 3, at 105, 110–11 (Common Cause study).

[36] *Hearings on S. 1103, supra* note 3, at 144 (statement of Rep. Bill Frenzel).

[37] *See, e.g.*, Electing Congress, *supra* note 35, at 26.

[38] Rosenbloom, *A Background Paper*, in Electing Congress 36.

[39] *Hearings on S. 1103, supra* note 3, at 95–96, 101 (Common Cause study). My campaign was an exception. *See* note 13 and accompanying text *supra*.

[40] 119 Cong. Rec. 14794 (daily ed. July 26, 1973).

[41] *See* note 35 and accompanying text *supra*.

[42] *Hearings on S. 1103, supra* note 3, at 176. Another graphic comment was made by Norma B. Handloff, unsuccessful candidate for the House of Representatives from Delaware:

By election day my husband and I had acquired debts that we shall spend the rest of our lives paying off. . . . To those [who talk to me about running "next time"] I have only one possible answer: What kind of a nut do you think I am?

Id. at 178.

[43] *Id.* at 97.

[44] 119 Cong. Rec. 14985 (daily ed. July 28, 1973).

[45] For example: is disclosure of contributions and spending enough? How much should contributions be limited, if at all? Should contributions by committees and organizations be limited? Should overall campaign spending be limited? How could these limits be enforced? Should presidential and congressional campaigns be financed by the public? If so, to what extent? Should contributions be limited to money or should they also include services? How should third party and independent candidates qualify for funding? Should primary candidates be financed? If so, how can this policy be carried out without opening the floodgates to frivolous candidates? Should the government finance candidates in "one-party districts" to the same extent candidates are funded in more competitive districts? Finally, would any such system be constitutional?

[46] S. 3044, 93d Cong., 2d Sess. (1974), introduced by Senator Cannon, passed, 120 Cong. Rec. 5853 (daily ed. Apr. 11, 1974).

[47] Congressional Election Finance Act of 1973, S. 1103, 93d Cong., 1st Sess. (1973) [hereinafter cited as Hart Bill]; Federal Election Finance Act of 1973, S. 1954, 93d Cong., 1st Sess. (1973) [hereinafter cited as Stevenson-Mathias Bill]; Clean Election Financing Act of 1973, S. 2417, 93d Cong., 1st Sess. (1973) [hereinafter cited as Cranston Bill]; Presidential Campaign Financing Act of 1973, S. 2238, 93d Cong., 1st Sess. (1973) [hereinafter cited as Mondale-Schweiker Bill]; Federal Election Campaign Fund Act, S. 2297, 93d Cong., 1st Sess. (1973) [hereinafter cited as Kennedy-Scott Bill]; Comprehensive Election Reform Act of 1974, S. 2943, 93d Cong., 2d Sess. (1974) [hereinafter cited as Clark Bill].

[48] Clean Elections Act of 1973, H.R. 7612, 93d Cong., 1st Sess. (1973) [hereinafter cited as Anderson-Udall Bill].

[49] 119 Cong. Rec. 3211 (daily ed. March 8, 1974) (message from the President).

[50] Int. Rev. Code of 1954 §§ 6096 (a), 9001–13, 9021 (1972).

[51] 2 U.S.C. §§ 431–42, 451–54; 18 U.S.C. §§ 591, 600, 608, 610–11; 47 U.S.C. §§ 312, 315, 801–05 (Supp. II, 1972). This legislation repealed the earlier largely ineffective limitations on campaign spending and contributions of the Hatch Political Activity Act. 18 U.S.C. §§ 608, 609 (1970). The Act prohibited campaign contributions exceeding $5,000 per year, 18 U.S.C. § 608 (1970); and the receipt and expenditure by any national political committee of more than three million dollars per year, *id.* § 609; and contributions by national banks, corporations and labor unions to federal election campaigns, *id.* § 610. These limitations were to be enforced by disclosure provisions of the Federal Corrupt Practices Act which directed every campaign committee to account for all its receipts and expenditures, 2 U.S.C. § 242 (1970); and to report such data to a clerk of one of the houses of Congress within thirty days after the election, *id.* § 248.

Enforcement of these early limitations on spending and contributions, however, was quite ineffective. The three million dollar limit on receipts and expenditures by any national political committee was avoided by the formation of numerous independent committees that did not conform to the strict definition of "political committee" found at 18 U.S.C. § 591 (1970). The enforcement problems were compounded by the fact that the expenditure ceilings did not apply to primaries, that contributions received by political committees without the candidate's knowledge were exempt from reporting requirements, that there was no required form for a candidate's financial statements and that complete discretion was given congressional clerks in reporting spending violations. 2 U.S.C. §§ 244–46 (1970).

[52] Campaign Act of 1971 § 104(a)(1), 47 U.S.C. § 803(a)(1) (Supp. II, 1972). The statute does not cover primary or run-off elections. The amount is to be increased as the cost of living increases. Campaign Act of 1971 § 104(a)(4), 47 U.S.C. § 803(a)(4) (Supp. II, 1972).

In order to enforce these limitations regulations have been passed pursuant to the Act that require the media before accepting advertisements in support of a candidate to obtain certification from that candidate that the payment of the charge for such advertisement will not violate the applicable expenditure limitation. 11 C.F.R. § 4.4(a) (1973).

[53] Campaign Act of 1971 § 104(a)(1)(B), 47 U.S.C. § 803(a)(1)(B) (Supp. II, 1972).

[54] Campaign Act of 1971 § 103(a)(1), 47 U.S.C. § 315(b) (Supp. II, 1972).

[55] Campaign Act of 1971 § 104(a)(3)(A), 47 U.S.C. § 803(a)(3)(A) (Supp. II, 1972).

[56] S. Rep. 93–170, 93d Cong., 1st Sess. 40–41 (1973).

[57] Immediate family was defined as "a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons." Campaign Act of 1971 § 203, 18 U.S.C. § 608(a)(2) (Supp. II, 1972).

[58] Campaign Act of 1971 § 203, 18 U.S.C. § 608(a)(1) (Supp. II, 1972).

[59] The reports must be filed on March 1, June 1 and September 1 during the election year, and also five and 15 days before the election and January 31 after the election. Any contribution of $5,000 received after the last reporting date before the election must be reported within 48 hours of its receipt. Campaign Act of 1971 § 304(a), 2 U.S.C. § 434(a) (Supp. II, 1972).

[60] Campaign Act of 1971 § 304(b), 2 U.S.C. § 434(b) (Supp. II, 1972).

[61] Campaign Act of 1971 § 301(d), 2 U.S.C. § 431(d) (Supp. II, 1972).

[62] Campaign Act of 1971 § 304(a), 2 U.S.C. § 434(a) (Supp. II, 1972).

[63] Campaign Act of 1971 § 301(g), 2 U.S.C. § 431(g) (Supp. II, 1972), 304(a), 2 U.S.C. § 434(a) (Supp. II, 1972).

[64] Campaign Act of 1971 § 309, 2 U.S.C. § 439 (Supp. II, 1972).

[65] *See* notes 7–15 and accompanying text *supra*. The Act did not go into effect until April 7, 1972; thus all contributions and expenditures made before that date were exempt from its requirements, Campaign Act of 1971 § 406, 2 U.S.C. § 431 (note) (Supp. II, 1972).

[66] Int. Rev. Code of 1954. § 6096.

[67] *Id.* § 9002(6).

[68] *Id.* § 9004(a)(1).

[69] *Id.* § 9003(b). It should be noted that if the amount available to the candidate from the fund is less than the amount he is entitled to, he may make up the difference in private contributions.

[70] *Id.* § 9003(a).

[71] *Id.* § 9002(7).

[72] *Id.* §9004(a)(2)(A). In other words, if party A received forty-five percent of the vote, party B thirty-five percent and party C twenty percent, parties A and B would be major parties and party C a minor party. If parties A and B decided to accept federal funding in the next presidential election they would receive the full subsidy of fifteen cents for every voting age citizen in the United States. Since in our example we have assumed that the average vote received by A and B was forty percent, or twice party C's vote of twenty percent, party C would be eligible to receive half the full subsidy.

[73] *Id.* § 9003(c)(2).

[74] *Id.* § 9002(8).

[75] *Id.* § 9004(a)(3).

[76] *Id.*

[77] *Hearings on S. 372, supra* note 15, at 170 (remarks of Sen. Edward M. Kennedy).

[78] *Id.*

[79] *Id.*

[80] Internal Revenue Service Form 1040, 1040A (1974). In March, the three member Delaware delegation (Senator Roth, Representative duPont and I) at my instigation wrote more than 1600 employers in the state and all local union heads urging them to publicize the check-off provision among their employees.

[81] S. 3044, 93d Cong., 2d Sess. (1974) (introduced by Senator Cannon), passed, 120 Cong. Rec. 5853 (daily ed. April 11, 1974).

[82] This is the second bill passed by the Senate in less than a year that imposes such limitations on campaign spending and contributions. In July 1973, the Senate passed and sent to the House of Representatives the Federal Election Campaign Act Amendments of 1973. S. 372, 93d Cong., 1st Sess. (1973). Since that time the bill has remained in committee in the House.

With regard to spending limitations, the 1973 Campaign Amendments Bill requires that spending by Senate and House candi-

dates in states where there is only one congressional district be limited in primary elections to either ten cents for every individual of voting age in the state or $125,000, whichever is greater. House candidates in other states would be limited to ten cents per voting age individual in the respective congressional district or $90,000, whichever is greater. For general elections, the limit would be fifteen cents per person of voting age or $175,000 for candidates for the Senate or House of Representatives in a state with one congressional district, and $90,000 for other congressional candidates, whichever is greater. S. 372, 93d Cong., 1st Sess. § 20(a) (1973) (to create 18 U.S.C. § 614). Candidates running in a primary for the presidential nomination and candidates for the Presidency itself are allowed to spend in each state the amount which a candidate for Senate might spend for the nomination or in the general election respectively. In addition, expenditures for a vice-presidential candidate count toward the totals of his presidential running mate.

The 1973 Campaign Amendments Bill also imposes limits on contributions. *Id.* § 20(a) (to create 18 U.S.C. § 615). Individuals and independent political committees are restricted to total contributions not exceeding $3,000 for any presidential candidate or for any congressional primary or general election. In addition, an individual is prohibited from making total contributions to all candidates and political committees of more than $25,000 per year. The bill would also increase the limitations on the amount which a candidate could spend out of personal or family funds to finance his campaign to $100,000 for a candidate for President or Vice President, $70,000 for candidate for the Senate, and $50,000 for candidate for the House of Representatives. *Id.* § 18(a)(1).

Every candidate would be required to have one central campaign committee through which all donations and contributions must be channeled. A presidential candidate would be allowed one central committee in each state, as well as one overall national committee. Each candidate would also have to designate one bank as a campaign depository to receive all deposits and to make all payments. *Id* § 9(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create §§ 310, 311). To supervise the law, the bill sets up a Federal Election Commission, similar to that in the Cannon Bill.

In addition, this bill would repeal the "equal time" requirement of the Communication Act of 1934, 47 U.S.C. §315(a) (1970), prohibit the use of the "frank" for mass mailings of congressional newsletters within two months of an election, S. 372, 93d Cong., 1st Sess. § 11 (1973), limit the amounts which citizens could contribute to campaigns and which candidates could spend, and require campaigns to follow certain procedures. For example, a candidate must designate one committee as his central campaign committee through which all financial reports must be channelled. *Id.* § 9(a) (to amend Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 310). A candidate must also designate one checking account to receive all contributions and from which all expenditures must be made. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 311).

[83] S. 3044, 93d Cong., 2d Sess. § 101 (1974) (to create § 503(a) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)). In order to avoid the funding of frivolous candidacies candidates would be required to raise a "trigger fund" before qualifying for the subsidy. The "trigger fund" would amount to: $10,000 for House candidates; twenty percent of the maximum spending allowance or $125,000, whichever is lesser, for senatorial candidates; and $250,000 with not less than $5,000 being received from residents of at least twenty states, for Presidential candidates. *Id.* § 101 (to create § 502 (c) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[84] *Id* § 101 (to create § 504(a) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)). Candidates who elect not to accept public funding are subject to the same limitations. *Id.* § 304(a) (to create 18 U.S.C. § 614(a)(1)).

[85] *Id.* § 101 (to create § 504(a)(2)(A) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)). These limits would be increased in line with the cost of living. *Id.* § 101 (to create § 504(f) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[86] Defined as a party whose candidate in the previous election for that office received at least 25 percent or more or finished in second place while receiving at least 15 percent of the vote. *Id.* § 101 (to create § 501(g) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[87] *Id.* § 101 (to create § 503(b)(1) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[88] *Id.* § 101 (to create § 504(b) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[89] A minority party candidate is one whose candidate received between five and twenty-five percent of the vote in the previous election for that office. *Id.* § 101 (to create § 501 (a) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[90] A minor party candidate would be allowed the amount which bears the same ratio to the major party amount as the candidate's vote (or the vote of the candidate for that party) in the last election bears to the average major party vote. In addition, a candidate who ran for party A in the previous election and received between five and 25 percent of the vote is eligible to receive funding according to this formula even if he switches from party A to party B in the next election. If this candidate does switch to party B, party A nevertheless remains eligible for funding on the basis of his performance as a party A candidate in the previous election. *Id.* § 101 (to create § 503(b)(2) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)). If, after the election, the above formula as applied to the current election would yield a greater amount, the candidate is entitled to retroactive funding in the amount of the difference. *Id.* § 101 (to create § 503(b)(4) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[91] A candidate of a party which is neither "major" nor "minor" who receives five percent of the vote is funded in the amount which bears the same ratio to the major party amount as his vote bears to the average major party vote. *Id.* § 101 (to create § 503(b)(4) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[92] *Id.* § 207(a) (to create §§ 310, 311 of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[93] *Id.* § 207(a) (to create § 308 of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)). The Commission is to consist of the Comptroller General and a bipartisan group of seven other members appointed by the President with the advice and consent of the Senate for staggered seven-year terms. Two of the members are to be appointed from different parties from a list of individuals recommended by the President pro tempore of the Senate with the consultation of the Senate majority and minority leaders. Two of the members are to be members of different parties appointed from a group recommended by the Speaker of the House of Representatives with the consultation of the majority and minority leaders of the House. Of the remaining three members no more than two are to be members of the same parties. *Id.*

The Commission is to be given a wide range of powers, including the power to compel testimony and production of documentary evidence, to initiate civil and criminal proceedings, and to assess civil penalties of up to $10,000. In enforcing these sections the Commission is to take precedence over the Justice Department.

[94] *Id.* § 304 (to create 18 U.S.C. § 615(a)(1), (a)(2) and (d)(1)). In addition, contributions by foreigners are prohibited. *Id.* § 304 (to create 18 U.S.C. § 615(a)(2)(A)(i)). Candidates may not receive from personal or family funds in excess of $50,000 in the case of presidential or vice-presidential candidates, $35,000 in the case of candidates for Senator and $25,000 in the case of candidates for Representative. *Id.* § 302(a)(1).

[95] 47 U.S.C. § 315(a) (1970). The "equal time" requirement compels broadcasting stations which provide air time to a candidate to afford equal broadcast opportunities to his opponents. The effect of this provision of the present law is to prevent stations, particularly in those elections where a great number of minor party candidates are running, from providing free air time to major party candidates. It would be amended to require licensees to provide opponents, in federal elections other than for President or Vice-President, five minutes. *Id.* § 201.

[96] *Id.* § 401.

[97] The first Wednesday after the first Monday in November of all even numbered years would become a national holiday, federal Election Day. *Id.* § 502. All polls in the country in federal elections would close simultaneously at 11 p.m. Eastern Standard Time. *Id.* § 501.

[98] 119 Cong. Rec. 3211 (daily ed. March 8, 1974) (message from the President). The proposal has not been introduced in the form of a bill at this writing.

Other portions of this same presidential message deal with campaign practices, campaign duration, and encouragement of candidate participation. The President proposes that there be enacted federal criminal statutes regulating deceptive campaign practices, such as issuing fraudulent public opinion poll results, placing misleading advertisements in the media, or misrepresenting a Congressman's voting record. In addition, activities involving the use of organized demonstrators to impede entry at a political rally, and practices such as stuffing ballot boxes and rigging voting machines, would become federal offenses. Mr. Nixon recommends that presidential campaigns be shortened by having the primaries and state conventions held no earlier than May of the election year, and urging that the national nominating conventions be delayed until the month of September. The President also urged the Congress to consider possible action to limit the benefits of incumbency such as the 'frank" and large staffs which enhance re-election efforts, and the repeal of the "equal time" provision of the Communications Act of 1934, 47 U.S.C. § 315(a) (1970). Finally the President called for legislation making a libel remedy for public figures more readily available. *Id.* at 3213–14.

[99] *Id.* at 3212.

[100] *Id.* Every donation to the candidate's central committee would have to be tied directly to the original individual donor, except donations by a national political party organization. The exception, of course, is designed to allow individuals to make general donations to a political party without specifying a candidate. *Id.*

[101] Individual contributions to House or Senate campaigns in primary or general elections would be limited to $3,000, and contributions to pre-nomination or general election campaigns for the presidency would be limited to $15,000. Non-monetary campaign contributions, such as the use of a private airplane or paid campaign workers are prohibited when donated by any organization

other than a major political party. If these "in kind" contributions are given by an individual, they are to be covered by the same ceiling applicable to cash contributions. In addition, all loans to political committees are to be prohibited, as are contributions from foreign citizens. The program is to be supervised by a bipartisan Federal Elections Commission. *Id.* at 3212–13.

[102] *Id.* at 3212–13. Mr. Nixon feels as I do, *see* notes 195–98 and accompanying text *infra*, that low spending limitations may unduly hamper the efforts of candidates challenging incumbents.

The major reason for the President's opposition to campaign subsidies seems to be the idea that taxpayers should not be forced to support candidates they oppose. In addition, he makes the point that public financing will not increase but diminish the ability of prospective candidates to enter the political arena:

[I]f we outlaw private contributions, we will close the only avenue to active participation in politics for many citizens who may be unable to participate in any other way. Such legislation would diminish, not increase, citizen participation and would sap the vitality of both national parties by placing them on the federal dole.

Id. at 3213. Many public financing proposals, however, including the one suggested by this article, *see* notes 191–94 and accompanying text *infra*, do not prohibit private contributions.

[103] S. 1103, 93d Cong., 1st Sess. (1973). The program is to be carried out by the Congressional Elections Finance Board. *Id.* §§ 5, 6.

[104] *Id.* § 2(1).

[105] A major party is defined as one whose candidate received at least twenty-five percent of the vote for that office in the preceding election. *Id.* § 3(9)(A). In addition, an independent candidate who received twenty-five percent of the vote in the previous election qualifies as a "major party." *Id.* § 3(9)(B).

[106] *Id.* § 7(a)(2).

[107] The contributions may not exceed $250. *Id.* § 12(a)(1).

[108] The percentage is ten percent. Otherwise, the security deposit is forfeited. *Id.* § 7(a)(1)(B).

[109] The percentage is five percent. *Id.* § 7(a)(1)(C).

[110] A candidate of a major party is eligible to receive the greater of ten cents for every voting age person in the state or $75,000 in Senate primary elections and fifteen cents or $150,000 for the general election. *Id.* § 10(a). Major party candidates for Representative may receive fourteen cents for each voting age resident of the district for a primary election and twenty cents for a general election. *Id.* § 10(b)(1). A candidate for Representative in a district representing an entire state, however, is eligible to receive the same amount as the candidate for Senator from that state. *Id.* § 10(b)(2). It should be noted that unless a candidate elects to receive public funding for a primary election (or unless he does not participate in a primary) he is ineligible to receive funding in a general election. *Id.* § 7(c). If a candidate runs unopposed in the primary, he receives one-third the full subsidy. *Id.* § 8(d).

[111] A minor party is defined as one whose candidate received between ten and twenty-five percent of the vote for the previous election. *Id.* § 3(10)(A). An independent candidate who received between five and twenty-five percent of the vote in the previous election also qualifies as a "minor party." *Id.* § 3(10)(B). A minor party candidate may, if he so elects, receive the greater of one-fifth the major party subsidy or the amount which bears the same ratio to the major party subsidy as his vote total in the previous election bears to the vote received by the major party candidate who received the fewest votes. *Id.* § 10(c)(1). A minor party candidate must, of course, post a security deposit of twenty percent of the subsidy. In no event, however, is the security deposit to be less than $3,000. *Id.* § 7(a)(2). Any other candidate may receive the greater of one-tenth the major party subsidy or an amount calculated by the same formula used to calculate the alternative subsidy for minor party candidates. *Id.* § 10(c)(2). Non-major party candidates can make up in private contributions the difference between their subsidies and the total spending allowance of major party candidates who elect to receive public financing. *Id.* § 11(d). If they receive twenty-five percent of the vote in the current election they are to have their expenses reimbursed to the limit of the major party subsidy. *Id.* § 10(d). In addition, a candidate who is neither from a major or a minor party who receives ten percent of the vote may have his expenses reimbursed to the limit of the minor party subsidy. *Id.* § 10(d).

[112] In senatorial primary campaigns, the limit for private funding is the greater of two cents per voting age resident or whatever sum is needed to reach $100,000 for total campaign funds; in general election campaigns, the limit is five cents or whatever is needed to reach $200,000. *Id.* § 11(b). In elections for the House of Representatives the limit is three cents per voting age person in the primary and five cents in the general election. *Id.* § 11(c). No private contribution may exceed $250. *Id.* § 12(a).

[113] *Id.*

[114] S. 2297, 93d Cong., 1st Sess. (1973).

[115] *See* 31 Cong. Wkly. Rep't. 3177 (Dec. 3, 1973).

[116] *See* notes 66–80 and accompanying text *supra*.

[117] S. 2297, 93d Cong., 1st Sess. § 2(a) (1973). The program is to be supervised by the Comptroller General.

[118] *Id.* (to amend Int. Rev. Code of 1954, § 9012(b)). In addition, individuals not authorized by a candidate may not spend more than $1,000 on behalf of a candidate eligible for public funds. *Id.* (to amend Int. Rev. Code of 1954, § 9012(f)).

[119] *Id.* (to amend Int. Rev. Code of 1954, § 9004(a)(1)). The bill follows the same basic formula as the Check-Off Act in allocating funds between major and minor parties. *See* text accompanying notes 67–76 *supra*. As is provided for in presidential campaigns, major party senatorial candidates are to receive fifteen cents per voting age person, with a $175,000 minimum. *Id.* In elections for the House of Representatives, a major party candidate is to receive the greater of $90,000 or the average major party expenditure in that district for the past two elections. *Id.* Congress is to appropriate funds to make up any deficits after the operation of the check-off. *Id.* (to amend Int. Rev. Code of 1954, § 9006(a)).

[120] S. 1954, 93d Cong., 1st Sess. (1973).

[121] *Id.* § 1(c) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 303(a), present § 303 to be renumbered as § 311).

[122] *See* note 82 *supra*. For presidential candidates there is a limit of fifteen cents per each person of voting age within a state first for the primaries and if the candidate receives the nomination then for the general election. In no event, however, shall a candidate be required to spend less than $175,000 per state in presidential primaries. S. 1954, 93d Cong., 1st Sess. § (c) (1973) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 308(a), (b), present § 308 to be renumbered at § 316). For senatorial primaries and elections the limit is the greater of twenty cents per voting age person or $175,000 and for the House twenty-five cents or $90,000, except for House candidates running in states with one district where the limit is twenty-five cents of $175,000. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 308(d), (e) present § 308 to be renumbered as § 316).

[123] *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 309, present § 309 to be renumbered as § 317). *See* note 82 *supra*. Individual and committee contributions to a single candidate are limited to $3,000 per campaign in the aggregate for both the primary and general election. No limit is made on total donations to all candidates by a contributor. *Id.*

[124] Major party candidates would receive one-third the maximum spending allowance from the public treasury. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 304(a), present § 304 to be renumbered as § 312). The minor party subsidy is calculated by the same formula as in the Hart Bill, *see* note 111 *supra*, except that the *average* major party vote in the previous election is used in place of the *lowest* major party vote. In addition, if a non-major party candidate performs like a major party candidate in the election, he is to be reimbursed his expenses to the limit of the major party candidate's subsidy. A similar reimbursement is provided for in the case of a candidate who before the election qualifies as coming from neither a major nor minor party, but in the particular election performs well enough to meet the requirements of a minor party candidate. Otherwise, such a candidate receives no subsidy funds. S. 1954, 93d Cong., 1st Sess. § 1(c) (1973) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 304, present § 304 to be renumbered as § 312).

[125] The two methods of qualification are implicit in the definitions of major and minor parties. A major party is one whose candidate received twenty-five percent of the vote in the previous election for that office or, in the case of Senate and House candidates, if a party's candidate did not attain the requisite twenty-five percent figure, the party will still be considered a major one if it received twenty-five percent of the vote in that state's previous gubernatorial election. In addition, if a candidate presents to the supervisory commission petitions containing signatures of eight percent of the voting age population of the district, or, in the case of a presidential election, eight percent of the voting age population of half the states, such a candidate would be treated as a major party candidate. A minor party is one which received ten percent of the vote in the previous election or presents signatures of four percent of the voting age population. A presidential candidate would have to present signatures of five percent of the voting population from half the states, ten percent from one-third of the states, or fifteen percent from one-fourth of the states, to qualify as a minor-party candidate. *Id.* § 1(b)(6). In addition, to be eligible for funding a candidate must furnish a security deposit of one-fifth the amount which he is entitled to receive, but in no event less than $3,000. *Id.* § 1(c) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 305(a)(2), present § 305 to be renumbered as § 312). Each candidate must also designate one central campaign committee to make all required reports and receive all subsidies. *Id.* § 1(d).

[126] S. 2238, 93d Cong., 1st Sess. § 4 (1973).

[127] *See* notes 66–80 and accompanying text *supra*. S. 2238, 93d Cong., 1st Sess. § 4 (1973). The bill attempts to remedy the situation which occurred in 1973, when many people were unaware of the check-off provision, by directing the Secretary of the Treasury to publicize it through the use of poster, media publicity, and the like. *Id.*

[128] *Id.*

[129] *Id.* § 7 (to amend Int. Rev. Code of 1954, § 9012(b)).

[130] The first $100 of every private contribution is to be matched by the government, so long as total payments do not exceed five

cents for every voting age person in the United States. *Id.* § 8 (to create Int. Rev. Code of 1954, §§ 9034(a), 9035(a)(2)). To be eligible for payments a candidate must raise $100,000 in contributions of $100 or less during the fourteen months preceeding his party's convention. As soon as he does so, this money is matched. *Id.* (to create Int. Rev. Code of 1954, § 9035(b)).

[131] Candidates may not spend more than $30,000,000 in the general election campaign, *id.* § 6, nor more than $15,000,000 in the prenomination campaign. *Id.* § 8 (to create Int. Rev. Code of 1954, § 9037(a)). Contributions to presidential candidates are limited to $3,000 per candidate per year by an individual and $25,000 by a registered political committee. *Id.* § 10. The bill also limits cash transactions to $100, *id.* § 9 (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 310, present § 310 to be renumbered as § 313), and repeals the "equal time" requirement for presidential and vice-presidential candidates. *Id.* § 11.

[132] S. 2417, 93d Cong., 1st Sess. (1973). The program is to be supervised by a bipartisan commission. *Id.* § 2 (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 502).

[133] *See* notes 66–80 and accompanying text *supra*. Under this bill the amount of the check-off is to be increased from one dollar to two dollars and four dollars for a joint return. In addition, instead of indicating that he wishes to participate, as the program works now, the taxpayer is to "check-off" if he desires not to participate. S. 2417, 93d Cong., 1st Sess. § 4 (1973).

[134] No private contributions may exceed $250. *Id.* § 2 (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972) to create § 507(a)). No matching payment at all is awarded for any aggregate contribution of over $100 from one contributor. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505(b)(2)). In primary elections, candidates may not receive from all sources total contributions which do not qualify for matching funds in excess of $100,000 for President, $10,000 for Senator and $5,000 for Representative. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 507(b)(2)). A candidate is also limited to $250 from personal funds. Family funds are not included in this limitation. *Id.* § 3.

[135] Primary candidates are limited to the following total expenditures: for Senator or President the greater of fifteen cents for every voting age person in the State or $250,000, for Representative, $150,000, or $200,000 if the candidate's state has only one congressional district. *Id.* § 2 (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 506(b)). The spending limits for general elections are, for Senator or President, the greater of $250,000 or twenty cents for each voting age person in the state, and, for Representative, $150,000. The limit for candidates for the House of Representatives in states with one Congressional district is, however, $200,000. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 506(a)).

[136] The trigger fund is $2,500 for candidates for the House of Representatives, $5,000 for the Senate and $50,000 for the Presidency. A candidate for the Presidency must raise $50,000 no matter how many primaries he enters. A candidate for the Senate from a state with only one congressional district need only raise $2,500. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 504(c)).

[137] *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505(b)(1)).

[138] *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505(a)(1)). The definitions of major, minor and new parties are the same as those in the Campaign Act of 1971. Int. Rev. Code of 1954, § § 9002(6), (7), & (8).

[139] Minor and new party candidates are awarded twenty-five percent of the maximum expenditure, with provision for retroactive major party payments if they receive at least twenty-five percent of the vote. In the latter case, they must return all private contributions which exceed twenty percent of the maximum expenditure. *Id.* (to create § 505(a)(2) of the Campaign Act of 1971).

[140] S. 2943, 93d Cong., 2d Sess. (1974).

[141] *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 504(d)). A candidate for Representative must file petitions 210 days before the primary election with the supervisory commission containing signatures of more than two percent of the voting age population of the district. Candidates for President, Vice-President, Senator, or Representative in a state which is entitled to only one representative must file petitions containing signatures of more than one percent of the voting age population of the state in which the primary election is being conducted.

Primary candidates are to receive an amount equal to the entire spending limit. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505(a)). The spending limit for candidates for representative is twenty-five cents for each voting age person. For President, Senator, or Representative in a state with only one congressional district the limit is fifteen cents for each voting age person of $175,000, whichever is greater. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 506(a)(1) and (b)(1)). Where a convention or caucus is held in place of a primary, candidates are limited to ten percent of the amount to which they would otherwise be entitled. *Id.* § 3(a) (to amend the Campaign Act of 1971, to create § 506(c)(3)). All expenditures incurred by any candidate or political party are to be paid by the supervisory commission directly to the person contracting with the candidate or party. *Id.* § 3(a) (to amend the Campaign Act of 1971, to create § 509(d)(1)).

[142] A candidate in the general election for Representative may receive thirty cents for every voting age person in the district. A candidate for Senator or Representative in a state with one congressional district is to be subsidized twenty cents for each voting age person in the United States or $250,000, which ever is greater. Presidential candidates are to be allotted twenty cents for each voting age person in the country. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 506(a)(2) and (b)(2)). Minor party and independent candidates are to be funded according to whichever of two formulae yields the greater amount. Under the first formula, such a candidate is to receive the amount which bears the same ratio to the major party amount as the vote received by the minor party candidate in the previous election bears to the average major party vote. Under the second formula the current election is used in place of the previous election. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505(b)(1)(B) and (b)(2)(B)).

A major party is defined as one whose candidate in the previous election for that office received at least twenty-five percent of the vote or finished first or second. A minor party is any other party. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 501(7) and (8)). A minor party or independent candidate is treated as a major party candidate if he was the candidate of a major party in the previous election for that office, finished first or second in total votes in the previous selection, or received more than twenty-five percent of the vote in the previous election. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505(c)).

Political parties are entitled to payment for expenditures incurred in voter registration efforts, get-out-the-vote drives and nominating conventions. These expenditures are limited during a presidential election year to twenty percent of the amount to which the party's presidential candidate is entitled and during any other year to fifteen percent of the presidential allotment. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505(d)).

[143] *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 507(a)). Minor parties and minor party candidates may accept contributions of $100 or less until the major party entitlement is reached. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 507(b), (c), (d), and (e)). Candidates are allowed to use private contributions in connection with primary election petition drives. In such efforts, a candidate for Representative may spend two cents for each voting age person in the district. Candidates for President, Senator, or Representative in a one-district state may spend one cent for each voting age person or $7,500, whichever is greater. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 508(a)). Each contributor is limited to overall contributions of $1,000 a year, with contributions to be made directly to the commission. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 507 (g) and (h)). Candidates themselves are limited to $1,000 out of personal or family funds. *Id* § 5. The public subsidies are to be financed out the Dollar Check-Off Act, *see* notes 66–80 *supra*, with the amount paid to the campaign fund to be increased to two dollars or four dollars for a joint return. The taxpayer is to "check-off" if he wishes not to participate. *Id.* § 8(a) (to amend Int. Rev. Code of 1954, § 6096(a)).

[144] A major candidate must repay the subsidy if he fails to receive fifteen percent of the votes in the primary or of the delegate votes in the nominating convention or if he fails to receive twenty-five percent of the vote in the general election. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 510(a)(3)). In addition, a candidate who withdraws more than forty-five days before the primary or thirty days before the general election and before receiving twenty-five percent of the subsidy must repay half the amount received. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 510(d)).

Other provisions of the Clark bill would repeal for federal elections the equal time requirement of the Communications Act of 1934, 47 U.S.C. § 315(a) (1970), *Id.* § 6(a), and would eliminate the franking privilege. The Frank would not be allowed within ninety days of a federal election. In its place, all federal candidates would be allowed to mail campaign material at a reduced rate. *Id.* § 4.

[145] H.R. 7612, 93d Cong., 1st Sess. (1973).

[146] *Id.* § 201 (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 402(a), present § 402(a) to be renumbered at § 502).

[147] *Id.* Party congressional campaign committees, as well as congressional nominees themselves are also eligible to receive funding.

[148] The fund must come from contributions of $50 or less. A candidate for the House of Representatives must raise $1,000 and a candidate for the Senate $5,000. Both national party committees and candidates for presidential or vice-presidential nominations must raise a fund of $15,000. *Id.* (to amend the Campaign Act of 1971, compiled at 86

Stat. 3 (1972), to create § 403, present § 403 to be renumbered as § 503).

[149] Individual contributions are limited to $2,500 for a presidential campaign and $1,000 for a congressional one. Contributions to or by political committees are limited to $2,500. *Id.* § 301 (to create 18 U.S.C. § 608 (c), (d), present subsection (c) to be redesignated as (f)).

[150] Total payments from the government fund are limited to ten cents per eligible voter for congressional candidates and candidates for presidential or vice-presidential nomination, and to $15,000,000 for a national party committee and its affiliated congressional campaign committees. *Id.* § 201 (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 403(a)(2), present § 403 to be renumbered as § 503).

[151] *Id.* § 501 (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 603 (c), (d)(1), and (f)(1)). Eligibility for "Voter's Time" depends on the status of a candidate's party. Any party whose candidate finished first or second in either of the last two elections for that office is a "major party." A "third party" is one whose candidate received fifteen percent of the vote in the previous election for that office. A "minor party" for the purposes of presidential elections is one whose candidate appears on the ballot in more than thirty states or, in the case of Senate but not House elections, received over five percent of the vote in the previous election for that office or presents petitions containing signatures of registered voters equal to five percent of the total vote for Senator in the previous election, including signatures from each congressional district in the state equal to at least two percent of the vote in that district. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 602). Under the proposal, presidential candidates of major parties would receive five half-hour blocks of air time with each block to be broadcast simultaneously over all stations and networks in the country. Each third party candidate for President would receive two such half-hour blocks, and each minor party candidate one such block. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 603(a)(1)).

In Senate elections, each candidate would receive three half-hour blocks of time, each block of time to be broadcast simultaneously by every station in the state and, where part of the state is served only by out-of-state stations, by those stations. Each third party Senate candidate is to receive one half-hour block, and each minor party candidate one fifteen-minute block. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 603(a)(2) and (d)(2)).

Major party candidates for the House of Representatives are to receive two half-hour blocks and minor party candidates one fifteen-minute block. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 603(a)(3)). These broadcasts are to be aired over one station, if that station is the only one which substantially serves the district. If more than one station substantially serves the district they are to broadcast the "Voter's Time" simultaneously unless any of them substantially serves a part or whole of an adjoining district not substantially served by another station. In districts where no station is located, the broadcasts are to be carried on a nearby station. In large metropolitan areas where two or more stations serve a number of districts, the Federal Communications System is to allocate broadcasts over the stations, with all broadcasts to be aired simultaneously, provided no broadcasts of competing candidates are aired at the same time. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 603(f)).

[152] *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 603 (h)).

[153] S. 1103, 93d Cong., 1st Sess. (1973). *See* notes 103–13 and accompanying text *supra*.

[154] S. 2238, 93d Cong., 1st Sess. (1973). *See* notes 126–31 and accompanying text *supra*.

[155] *Hearings on S. 1103, supra* note 3, at 39 (remarks of Sen. Hugh Scott).

[156] In order to see how effective large private primary contributions could be, you need only ask any successful politician what particular financial help he valued above any he has received in his career. Almost always the answer will come back that the money that helped him most was the early primary contribution in his very first race. The refrain is certainly familiar to all of us here. "So and so has become one of my closest friends. He helped me back when I really needed it. In those days nobody had ever heard of me and I couldn't raise a dime," is the way most candidates would put it.

Id. at 71 (remarks of Sen. James Abourezk).

[157] 86 Stat. 3 (1972).

[158] *See Hearings on S. 372, supra* note 15, at 81, 93–94 (remarks of Sen. Claiborne Pell).

[159] *Hearings on S. 1103, supra* note 3, at 142–45 (remarks of Rep. Bill Frenzel).

[160] *See* note 65 and accompanying text *supra*.

[161] *See* note 24 *supra*.

[162] *See* notes 240–43 and accompanying text *infra*.

[163] H.R. 7612, 93d Cong., 1st Sess. § 201 (1973) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 402 (a), present § 402 to be renumbered as § 502). *See* notes 145–52 and accompanying text *supra*.

[164] S. 2417, 93d Cong., 1st Sess. § 2(a) (1973) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505 (b)). *See* notes 132–39 and accompanying text *supra*.

[165] One contributor reportedly donated approximately $2,000,000 in the presidential campaign alone. Reichley, *supra* note 15, at 96.

[166] *Cf.* Comment of Sen. Adlai E. Stevenson III that a matching grant system "runs counter to the purpose of reducing or eliminating private moneys in politics." *Hearings on S. 1103, supra* note 3, at 64.

[167] *Id.* at 259 (remarks of Sen. Philip A. Hart).

[168] One writer in a business magazine favored a matching grant system because "businessmen as a group [would] still be able to gain some extra leverage within the political system." Reichley, *supra* note 15, at 162. It is for precisely this reason that a matching grant system should not be adopted. Neither businessmen nor anybody else should be able to buy any more political leverage than they already possess as interested and concerned citizens.

[169] *See* S. REP. No. 93–170, 93d Cong., 1st Sess. 40 (1973).

[170] *Id.*

[171] *Id.*

[172] S. 1103, 93d Cong., 1st Sess. § 7(a)(2) (1973). *See* notes 105–09 and accompanying text *supra*.

[173] Individuals could actually contribute up to $500 to a candidate under my proposal but only the first $250 could be used for the security deposit. *See* notes 191–94 and accompanying text *infra*.

[174] The signatures would be submitted to the supervisory commission which would have the task of verifying them. *See* notes 199–209 and accompanying text *infra*. This process would be potentially difficult and contain the risk of fraud. One method of preventing this possibility which has been suggested is that each registered voter receive a computer card, one each for the offices of President, Senator, and Representative, which he would give to the candidate instead of signing his name on a petition.

[175] Int. Rev. Code of 1954, § 9002(6).

[176] *E.g.*, S. 1103 § 10(c)(1)(B).

[177] *Hearings on S. 1103, supra* note 3, at 144 (remarks of Rep. Bill Frenzel).

[178] Members of the House might have to neglect their duties as congressmen, at least during the second year of their terms, to run for re-election. During this time Congress might come to a standstill. For this reason, the proposal made by, among others, President Richard M. Nixon to amend the Constitution to provide for a four year term of office for representatives should receive careful consideration. 119 Cong. Rec. 3698 (daily ed. May 16, 1973).

[179] *Hearings on S. 1103, supra* note 3, at 188 (remarks of David Admany, Professor of Political Science, University of Wisconsin).

[180] This idea has been endorsed by the National Committee for an Effective Congress, *Hearings on S. 1103, supra* note 3, at 202; the AFL–CIO, *id.* at 347; the Communications Workers of America, *id.* at 359; and Common Cause, *id.* at 140. In addition, a Twentieth Century Fund study recommended providing candidates with air time at reduced rates. Electing Congress, *supra* note 35, at 21.

[181] *See generally* The Twentieth Century Fund, Voter's Time (1969).

[182] H.R. 7612, 93d Cong., 1st Sess. § 501 (1973). *See* notes 151–52 and accompanying text *supra*.

[183] The Anderson-Udall Bill provides for payment by the government to the television station for "Voter's Time."

[184] *See* Dunn, *supra* note 18, at 38–39.

[185] S. 372, 93d Cong., 1st Sess. § 11 (1973). *See* note 82 *supra*.

[186] *See* Electing Congress, *Supra* note 35, at 26; *Hearings on S. 1103, supra* note 3, at 202–03 (remarks of Russell Hemenway, National Director, National Committee for an Effective Congress); *Id.* at 347 (remarks of Andrew J. Biemiller, Director, Department of Legislation, AFL–CIO).

[187] Wash. Rev. Code Ann. § 29.81 (West Supp. 1972).

[188] Ore Rev. Stat. § 255 (1971).

[189] 119 Cong. Rec. 14859–60 (daily ed. July 27, 1973).

[190] This proposal was also recommended in Electing Congress, *supra* note 35, at 23.

[191] *See* notes 240–43 and accompanying text *infra*.

[192] S. 3044, 93d Cong., 2d Sess. § 304(a) (to create 18 U.S.C. § 615(a)(1) (1974)).

[193] *See* note 24 *supra*.

[194] *See* notes 240–43 and accompanying text *infra*.

[195] *See* Electing Congress, *supra* note 35, at 18.

[196] During debate over a similar limitation in the Campaign Amendments Bill of 1973 the following colloquy took place on the Senate floor between Senator John Pastore and Senator Marlowe Cook:

Mr. PASTORE. Is it not a fact that the lower you make the amount [for overall spending] the more you make it an incumbent's bill?

Mr. COOK. That is what bothers me.

Mr. PASTORE. That is just the point.

119 Cong. Rec. 14985 (daily ed. July 28, 1973).

[197] S. 3044, 93d Cong., 2d Sess. § 101 (to create § 504(b) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)). The $900,000 limitation applies if it is greater than an amount equal to twelve cents times the number of voting age persons. In most cases it will be greater.

[198] *See* text accompanying note 13 *supra*.

[199] Campaign Act of 1971 §§ 301, 304, 2 U.S.C. §§ 431(g), 434 (Supp. II, 1972), *formerly*, ch. 368, title III, 43 Stat. 1070 (1925).

[200] *Id.* § 309.

[201] *See generally Hearings on S. 372, supra* note 15, at 33–65 (remarks of Francis R. Valeo, Secretary of the Senate); *Id.* 66–73 (remarks of Phillip S. Hughes, Director, Office of Federal Elections, General Accounting Office).

[202] *See* ELECTING CONGRESS, *supra* note 35, at 19, 48–49.

[203] S. 3044, 93d Cong., 2d Sess. § 207(a) (1974). *See* note 93 and accompanying text *supra*.

[204] *Hearings on S. 1103, supra* note 3, at 228–29 (remarks of Joel L. Fleishman, Director, Institute of Policy Sciences & Public Affairs, and Associate Professor of Law, Duke University).

[205] *Id.* at 283 (remarks of Phillip S. Hughes).

[206] We believe men and women who have demonstrated their ability and integrity would be more easily persuaded to serve part-time, rather than full-time, especially given the intermittent nature of elections.

Id.

[207] *See Hearings on S. 372, supra* note 15, at 91 (remarks of Fred Wertheimer, Director of Legislative Activities for Common Cause).

[208] *Id.* at 190 (remarks of Chairman Pell).

[209] 112 Cong. Rec. 11951 (1966) (message of Pres. Lyndon B. Johnson).

[210] For a discussion of the constitutional questions raised by regulation of election campaign practices see *Hearings on S. 372, supra* note 15, at 356; Court & Harris, *Free Speech Implications of Campaign Expenditure Ceilings*, 7 Harv. Civ. Rights-Civ. Lib. L. Rev. 214 (1972); Ferman, *Congressional Controls on Campaign Financing: An Expansion or Contraction of the First Amendment?*, 22 Am. U.L. Rev. 1 (1972); Fleishman, *Public Financing of Election Campaigns: Constitutional Constraints on Steps Toward Equality of Political Influence of Citizens*, 52 N.C.L. Rev. 349 (1973); Fleishman, *Freedom of Speech and Equality of Political Opportunity: The Constitutionality of the Federal Election Camapign Act of 1971*, 51 N.C.L. Rev. 389 (1973); Redish, *Campaign Spending Laws and the First Amendment*, 46 N.Y.U.L. Rev. 900 (1971); Rosenthal, *Campaign Financing and the Constitution*, 9 Harv. J. Legis. 359 (1972).

[211] U.S. Const. art. I, § 4.

[212] 285 U.S. 355 (1932).

[213] *Id.* at 366.

[214] *Id.* at 367.

[215] The expansive definition of "manner" was first employed by the Court in *Ex parte Siebold*, 100 U.S. 371 (1879) ("manner" held to include authority to provide for election marshalls to supervise congressional elections) and *Ex parte Yarbrough*, 110 U.S. 651 (1884) (sustaining a congressional act which protected voters from intimidation, threat, force or hindrance with respect to exercise of right to vote).

For a discussion of alternative theories concerning the authority of Congress to regulate congressional elections, see Rosenthal, *supra* note 210, at 364–65.

[216] U.S. Const., art. II, § 1, cl. 4.

[217] U.S. Const., art II, § 1, cl 2.

[218] 290 U.S. 534 (1934).

[219] 2 U.S.C. §§ 241 *et. seq.* (1970).

[220] 290 U.S. at 544.

[221] *Id.* at 545.

[222] *Id.*

[223] The view that Congress has broad authority to regulate presidential elections is supported by Mr. Justice Black in Oregon v. Mitchell, 400 U.S. 112 (1970). In an opinion announcing the judgment of the Court and expressing his own view of the cases, Justice Black stated:

I would hold, as have a long line of decisions in this Court, that Congress has ultimate supervisory power over congressional elections. Similarly, it is the prerogative of Congress to oversee the conduct of presidential and vice-presidential elections and to set the qualifications for voters for electors for those offices. It cannot be seriously contended that Congress has less power over the conduct of presidential elections than it has over congressional elections.

Id. at 124 [footnotes omitted].

[224] In Newberry v. United States, 256 U.S. 232 (1921), the Court split four to four on the issue of whether Congress had the constitutional power to regulate primaries, with the ninth Justice reserving the question and holding that, since the statute involved was enacted prior to the adoption of the seventeenth amendment, it did not cover senatorial primaries. His reasoning was apparently that before the passage of the seventeenth amendment senatorial primaries were merely advisory and not binding on the state legislatures, and thus they were not elections within the meaning of article I, § 4. *See* United States v. Classic, 313 U.S. 299, 317 (1941). In addition, United States v. Gradwell, 243 U.S. 476, 489 (1917), discussed but reserved the question of Congress' constitutional power to regulate primaries.

[225] U.S. Const. art. 1, § 4.

[226] 313 U.S. 299 (1941).

[227] *Id.* at 317.

[228] Terry v. Adams, 345 U.S. 461 (1935); Smith v. Allwright, 321 U.S. 649 (1944); Rice v. Elmore, 165 F.2d 387 (4th Cir. 1947), *cert. denied*, 333 U.S .875 (1948).

[229] Ferman, *supra* note 210, at 9–12; Lobel, *Federal Control of Campaign Contributions*, 51 MINN. L. REV. 1, 24 (1966); Rosenthal, *supra* note 210, at 372.

[230] De Jonge v. Oregon, 299 U.S. 353 (1937).

[231] *See, e.g.*, West Virginia Bd. of Educ. v. Barnette, 319 U.S. (1943); Stromberg v. California, 283 U.S. 359 (1931).

[232] Cox v. Louisiana, 379 U.S. 536 (1965); *cf.* California v. La Rue, 409 U.S. 109, 117 (1973).

[233] United States v. O'Brien, 391 U.S. 367, 375 (1968).

[234] An argument advanced by Common Cause on behalf of limitations on contributions has been that they effectuate the constitutional policy of "one person, one vote." Gray v. Sanders, 372 U.S. 368, 381 (1963). *See Hearings on S. 372, supra* note 15, at 364 (Memorandum from Common Cause on the Constitutionality of Contribution and Expenditure Limitations). This argument is not that limitations on contributions are constitutionally mandated, for presumably the element of state action is absent; rather, the argument seems to be that the limitations help assure equality of voting power and that this policy goal outweighs the incidental infringement on first amendment rights. The policy basis of the argument seems to be supported to some extent by language in Columbia Broadcasting Sys. v. Democratic Nat'l Comm., 412 U.S. 94 (1973), a case holding that broadcasting stations were not required by the first amendment—assuming governmental action—to accept editorial advertisements. The Court stated: [T]he public interest in providing access to the marketplace of "ideas and experiences" would scarcely be served by a system so heavily weighted in favor of the financially affluent, or those with access to wealth. . . . Even under a first-come-first-served system . . . the views of the affluent could well prevail over those of others, since they would have it within their power to purchase time more frequently. Moreover, there is the substantial danger . . . that the time allotted for editorial advertising could be monopolized by those of one political persuasion.

Id. at 123. Nevertheless, as a policy justification for incidental infringement of first amendment rights, effectuation of the principle of one person, one vote seems questionable. No matter how much money is spent in a political campaign, each voter retains his equal voice at the ballot box. Thus, the case involving limitations on contributions is not similar in all respects to cases involving malapportioned legislative districts, Reynolds v. Sims, 377 U.S. 533 (1964), or unit voting districts, Gray v. Sanders, 372 U.S. 368 (1963), nor is it like the imposition of financial burdens on the right to vote. Harper v. Virginia Bd. of Elections, 383 U.S. 663 (1966). In fact, this policy basis seems valid only if it is assumed that the principle of one person, one vote is a reflection of a larger constitutional policy of equal political input or "one person, one unit of political power"—an assumption that is dubious at best. For example, aside from financial considerations, some individuals have greater influence over the outcome of elections than others by virtue of their positions as publishers of newspapers, or as leaders of organizations, or even by virtue of their ability as speechwriters or orators. Still, the power of certain people to influence the votes of others most certainly does not violate the policy of one person, one vote.

Fleishman, in his article *Public Financing of Election Campaigns: Constitutional Constraints on Steps Toward Equality of Political Influence of Citizens, supra* note 210, makes the further argument that the current system of private financing of elections is a violation of the federal equal protection requirement incorporated into the due process clause of the fifth amendment, and thus that the courts have an affirmative obligation to require public financing of elections. *Id.* at 352–68. Mr. Fleishman appears to reason that private financing discriminates against the non-wealthy in three ways: first, as Common Cause also argues, it violates the principles of one person, one vote; second, it deprives potential candidates of the right to compete equally for elective office; and third, it denies citizens of the opportunity to vote for non-wealthy candidates. Fleishman translates this discrimination into a denial of equal protection of the laws by asserting, without support of case citation, that there is no "state action" requirement contained in the equal protection guaranty. He adds that, even if the fifth amendment is deemed to require some sort of governmental participation before a finding of unconstitutionality may be made, the requirement is met for two reasons: first, state action is present because of government regulation of campaign financing; and second, Congress by permitting private contributions participates in the present discriminatory system of financing.

There are several problems with Fleishman's analysis. It is highly doubtful that the court would either make the novel ruling that state action is not required for purposes of equal protection or find that it is present in private financing of elections. Although government compulsion of private discrimination constitutes a violation of equal protection, Adickes v. S. H. Kress and Co., 398 U.S. 144, 170 (1970), the element of state action is absent when the government, as it does in campaign financing, merely regulates private conduct. Moose Lodge No. 107 v. Irvis, 407 U.S. 163 (1972). In that case, for example, the granting by the state of a liquor license to a private club even when combined with a number of regulations such as the keeping of financial records did not constitute state action. Fleishman's argument that discriminatory campaign financing is an act of the state because of state permission to finance campaigns would seem to mandate a finding of state action in any case where the government is able to but does not prohibit private action; this argument is dubious at best. *See* Lucas v. Wisconsin Elec. Power Co., 466 F.2d 638 (7th Cir. 1972), *cert. denied*, 409 U.S. 1114 (1973). Moreover, it is questionable whether private financing, even were state action present, would constitute an unconstitutionally discriminatory practice. Of Fleishman's three reasons supporting such a finding of unconstitutionality, the one based on the principle

of one man, one vote has been discussed *supra*. The argument that private financing prevents citizens from voting for non-wealthy candidates is founded on the assumption that non-wealthy individuals are prevented from running for office because of private financing. In truth, they are merely prevented from waging effective campaigns. Private financing does not prevent individuals from voting for non-wealthy candidates, but merely from voting for viable non-wealthy candidates, and it is highly questionable whether there is a constitutionally protected right to vote for a *winning* candidate. On the other hand the argument that private financing discriminates between candidates on the basis of wealth may have some validity, but only if it be assumed that the right to run a viable campaign is a constitutionally protected right. Thus far the Court has not held that the right to wage a serious campaign—as opposed to the right to a place on the ballot—is a fundamental interest. *See* Bullock v. Carter 405 U.S. 134, 142–44 (1972). Finally, there is the problem of what kind of relief the Court could fashion to remedy the discriminatory system of private financing—a problem which Fleishman, to be sure, acknowledges.

[235] 352 U.S. 567 (1957).

[236] 18 U.S.C. § 10 (1970).

[237] 352 U.S. at 598.

[238] *Id.* at 598 n. 2 (emphasis added).

[239] Rosenthal, *supra* note 210, at 373.

[240] 336 U.S. 77 (1949).

[241] Although there was no majority rationale in *Kovacs*, its holding and reasoning were approved by the Court in Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 386–87 (1969).

[242] 336 U.S. at 81–82.

[243] Commentary of Professor Freund, of the Harvard Law School, in Rosenthal, Federal Regulation of Campaign Finance: Some Constitutional Questions (1971) included in *Hearings on S. 372, supra* note 15, at 357.

[244] United States v. O'Brien, 391 U.S. 367, 376 (1968). *See* Sherbert v. Verner, 374 U.S. 398, 406 (1963); NAACP v. Button, 371 U.S. 415, 438 (1963); Bates v. Little Rock, 361 U.S. 516, 524 (1960).

[245] 391 U.S. 367, 377 (1968).

[246] *See* text accompanying notes 211–28 *supra*.

[247] 110 U.S. 651 (1884).

[248] *Id.* at 657–58 (emphasis added).

[249] Burroughs & Cannon v. United States, 290 U.S. 534, 545 (1934).

[250] 391 U.S. at 377.

[251] 283 U.S. 359 (1931).

[252] Burroughs & Cannon v. United States, 290 U.S. 534, 547–48 (1934).

[253] 5 U.S.C. §§ 1303, 1502, 3333, 7311, 7324, 7325, 7327; and 18 U.S.C. §§ 594, 595, 598, 600, 601, 604, 605, 1918 (1970).

[254] 330 U.S. 75 (1947).

[255] *Codified at* 5 U.S.C. § 7324(a)(2) (1970).

[256] 330 U.S. at 99.

[257] 330 U.S. 127 (1947).

[258] Two previous Supreme Court cases dealt with similar issues. In *Ex parte* Curtis, 106 U.S. 371 (1882), the defendant was convicted of violating the predecessor of the Hatch Act which prevented subordinate government employees from receiving money from other government employees. The Court upheld this statute on the ground that the need to "promote efficiency and integrity in the discharge of official duties," justified the prohibition on political contributions. *Id.* at 373. The Court held that the statute was within the legislative power of Congress and that it did not restrict any political privileges of government employees. It "simply for[bade] their receiving [money] from or giving [money] to each other." *Id.* at 372. It should be noted that even Justice Bradley, who dissented on the grounds that the statute was an infringement of government employees' freedom of speech and assembly, observed, "The legislature may make laws ever so stringent to prevent the corrupt use of money in an election, or in political matters generally . . . ." *Id.* at 378. In United States v. Wurzbach, 280 U.S. 396 (1930), the respondent was indicted on charges of having violated an act under which members of Congress were prohibited from receiving contributions for "any political purpose whatever" from any federal employee. The respondent, a member of the House of Representatives, was alleged to have received contributions from United States employees to promote his nomination in a party primary. The Court, per Justice Holmes, dismissed in one sentence the respondent's argument that the act was unconstitutional because of its interference with the rights of a citizen to make a political contribution. *Id.* at 399.

[259] 413 U.S. 548 (1973). A few courts had taken exception to the validity of *Mitchell*. *See* Hobbs v. Thompson, 448 F.2d 456, 472 (5th Cir. 1971); Mancuso v. Taft, 341 F. Supp. 574, 581 (D.R.I. 1972).

[260] 413 U.S. at 564–65.

[261] The employee in *Mitchell* was a roller in the government mint, with no contact with the public.

[262] It should be noted here that the Supreme Court on three occasions has dealt with the absolute prohibition on labor union contributions to federal political campaigns under 18 U.S.C. § 610 (1970). Pipefitter's Local 562 v. United States, 407 U.S. 385 (1972); United States v. UAW, 352 U.S. 567 (1957); *cf.* United States v. CIO, 335 U.S. 106 (1948). Each time, however, the Court failed to address itself specifically to the issue of whether such a prohibition was constitutionally valid.

There is also a ban on corporate contributions which is contained in the same section of the United States Code, 18 U.S.C. § 610 (1970), as the restriction on labor union contributions, but it has never been construed in a Supreme Court case. As a result of the Campaign Act of 1971, the Court may never reach this issue because the Act makes legal accumulation of "voluntary" labor union and corporate funds for the purpose of political contributions. 18 U.S.C. § 610 (Supp. II, 1972).

[263] Some would say that politics has already become a plaything of the wealthy. *See* F. Lundberg, The Rich and the Super-Rich 584–678 (Bantam ed. 1968).

[264] For a discussion of similar issues see Ferman, *supra* note 210, at 24.

[265] Since the existing campaign spending limits have been largely unenforced, there is very little case law dealing with the constitutionality of such regulations. Indeed, State v. Kohler, 200 Wis. 518, 288 N.W. 895 (1930) is the only case reported which addresses itself to this question. The Wisconsin Supreme Court upheld the validity of such ceilings in that case. The court declared:

"It is a matter of common knowledge that men of limited financial resources aspire to public office. It is equally well known that successful candidacy often requires them to put themselves under obligation to those who contribute financial support. If such a candidate is successful, these obligations may be carried over so that they color and sometimes control official action. The evident purpose of the act is to free the candidates from the temptation to accept support on such terms and to place candidates during this period upon a basis of equality so far as their personal ambitions are concerned, permitting them, however, to make an appeal on behalf of the principles for which they stand, so that such support as may voluntarily be tendered to the candidacy of a person will be a support of principles rather than a personal claim upon the candidate's consideration should he be elected. . . . It may be replied that the act seeks to throw democracy back upon itself, and so induce spontaneous political action in place of that which is produced by powerful political and group organizations."

Id. at 565–66, 228 N.W. at 912.

[266] Court & Harris, *supra* note 210, at 220; Ferman, *supra* note 210, at 13.

[267] *See* text accompanying notes 229–62 *supra*.

[268] 334 U.S. 558 (1948).

[269] *Id.* at 561.

[270] Kovacs v. Cooper, 336 U.S. 77 (1949). *See* text accompanying notes 240–42 *supra*.

[271] *See* notes 244–52 and accompanying text *supra*.

[272] *See* notes 244–45 and accompanying text *supra*.

[273] 395 U.S. 621 (1969).

[274] *Id.* at 626.

[275] Harper v. Virginia Bd. of Elections, 383 U.S. 663, 668 (1966).

[276] United States v. O'Brien, 391 U.S. 367, 377 (1968).

[277] Stanley v. Georgia, 394 U.S. 557, 564 (1969).

[278] *See* Redish, *supra* note 210, at 908.

[279] 395 U.S. 367 (1969).

[280] The "fairness doctrine" is the term used to describe the requirement imposed by the Federal Communications Commission on radio and television broadcasters that discussion of public issues be broadcast and that each side of those issue be given fair coverage. The "fairness doctrine" is separate from the statutory provision § 315(a) of the Communications Act of 1934, *as amended*, 47 U.S.C. § 315(a) (1970), which requires that equal time be allotted all qualified candidates for public office.

[281] 395 U.S. at 390.

[282] 384 U.S. 214 (1966).

[283] *See* Redish, *supra* note 210, at 910–11.

[284] At first glance, limitations on spending may seem to be no different for purposes of the right to receive information from the law struck down in *Mills*. Even assuming that the Court in *Mills* was concerned with the right to receive information, see text accompanying note 282 *supra*, there are several distinguishing factors. In *Mills* the prohibition was absolute; in order to protect the public from some potentially false and unrebuttable charges, all election day editorials were banned. Limitations on spending, on the other hand, prohibit individuals from spending money on a campaign only after a certain point—indeed, under the system recommended by this article, after a point which is more than adequate to run an effective campaign. *See* text accompanying notes 195–98 *supra*. The limitations are designed not to protect the public from the evils of potentially false, unrebuttable speech, but from the corruptive influence which it is felt is present in all excessively financed campaigns. Furthermore, the limitations are designed not to stifle speech, but rather to perfect the right to receive campaign information from all sides—to assure that the few hours a member of the public has to devote to politics are not dominated by the din emanating from one or two campaigns. This idea of perfectiing competition in the "marketplace of 'ideas and experiences'" received the approval of the Supreme Court in a somewhat different context in *Columbia Broadcasting Sys. v. Democratic Nat'l Comm.*, 412 U.S. 94, 123 (1973), a case holding that the first amendment did not require broadcasters to sell air time for editorial advertisements in part because of the public interest in receiving a balanced viewpoint on public issues. *See* note 234 *supra; cf.* Justice Stewart's concurring opinion, 412 U.S. at 133.

[285] Abrams v. United States, 250 U.S. 616, 630 (1919) (Holmes, J., dissenting).

[286] Ferman, *supra* note 210, at 24.

[287] It is interesting to note here that the governmental interest in limiting expenditures (i.e., to open the channels of political process and expression to the weaker minor-

ity viewpoints is derived from the same constitutional source as the first amendment rights which have been viewed as the countervailing interest in this balancing test. In the more typical case the constitutional interest is balanced against an interest which derives from the police or health and safety powers of the state, examples being the interest in keeping sidewalks open for pedestrians or in maintaining the efficiency of the Selective Service System. When both interests are constitutionally derived the balancing test will merely weigh the extent to which the regulation serves each first amendment interest. *See* Ferman, *supra* note 210, at 25; Redish, *supra* note 210, at 907.

[288] Rosenthal, *supra* note 210, at 389.

[289] *See* notes 195–98 and accompanying text *supra*.

[290] *See* text accompanying note 252 *supra*.

[291] *See* Fleischman, *Freedom of Speech and Equality of Political Opportunity: The Constitutionality of the Federal Election Campaign Act of 1971, supra* note 210, at 468; Redish, *supra* note 210, at 917–20.

[292] 393 U.S. 23 (1968).

[293] For additional burdens Ohio law places on those seeking to establish a new party *see id.* at 25 n. 1.

[294] *Id.* at 33.

[295] *Id.* at 25.

[296] *Id.* at 30, 34.

[297] *See* Fleishman, *Freedom of Speech and Equality of Political Opportunity: The Constitutionality of the Federal Election Campaign Act of 1971, supra* note 210, at 468; Redish, *supra* note 210, at 919.

[298] *Id.*

[299] *See* text accompanying note 282 *supra*.

[300] 403 U.S. 431 (1971).

[301] *Id.* at 438.

[302] In order to enforce these spending limitations the proposals generally provide that a candidate must certify that a given expenditure will not violate the applicable limitation on spending. Before accepting any campaign expenditure, therefore, a newspaper or radio station must obtain such certification from the candidate's central campaign finance committee. In this manner, however, the candidate is given the veto power over campaign expenditures an independent party might want to make in his behalf. Recently, a federal district court held this type of requirement to be an unconstitutional prior restraint of free speech. ACLU v. Jennings, 366 F. Supp. 1041 (D.D.C. 1973). If this holding is ultimately sustained, it will require implementing an alternative method for enforcement of spending limitations. In that case one possible solution would be to require affidavits of all those making expenditures on behalf of a candidate stating that they are making such expenditures independently of the candidate and not through his central finance committee. In this manner the level of expenditures attributable to the candidate himself could be monitored without the prior restraint of free speech.

[303] For a discussion of the constitutionality of campaign disclosure laws, see Note, *The Constitutionality of Financial Disclosure Laws*, 59 CORNELL L. REV. 345 (1974).

[304] 2 U.S.C. §§ 431 *et seq.* (Supp. II, 1972). *See* notes 59–65 and accompanying text *supra*.

[305] This is the term used by Redish, *supra* note 210, at 925.

[306] Louisiana *ex rel.* Gremillion v. NAACP, 366 U.S. 293 (1961); Shelton v. Tucker, 364 U.S. 479 (1960); Bates v. City of Little Rock, 361 U.S. 516 (1960); NAACP v. Alabama *ex rel.* Patterson, 357 U.S. 449 (1958).

[307] 362 U.S. 60 (1960).

[308] *See, e.g.*, Rabinowitz v. Kennedy, 376 U.S. 605 (1964) (registration of foreign agents); Communist Party of the United States v. Subversive Activities Control Bd., 367 U.S. 1 (1961) (registration of Communist Party members and officials). *See also* Pilcher v. Jennings, 347 F. Supp. 1061 (S.D.N.Y. 1972) where the court dismissed a constitutional challenge to the financial disclosure provisions of the Campaign Act of 1971. 2 U.S.C. §§ 431–41 (Supp. II, 1972). *See* notes 59–65 and accompanying text *supra*. The complaint was dismissed for failure to allege any specific deprivations of first amendment rights.

[309] 290 U.S. 534 (1934).

[310] *Id.* at 548.

[311] The narrow constitutional holding of *Burroughs* was that Congress had authority under the Constitution to regulate presidential and vice-presidential elections. The regulation which was the subject of the constitutional challenge to the power of Congress to regulate presidential elections was a disclosure requirement.

[312] 347 U.S. 612 (1954).

[313] *Id.* at 625 (citations omitted).

[314] *Id.* at 625–26.

[315] The Supreme Court has stated that:

By its very nature, the privilege [against compulsory self-incrimination] is an intimate and personal one. . . . The Constitution explicitly prohibits compelling an accused to bear witness "against himself": it necessarily does not proscribe incriminating statements elicited from another.

Couch v. United States, 409 U.S. 322, 327, 328 (1973).

Since enforcement authorities would acquire knowledge of an illegally large contribution only though the candidate's campaign finance reports, there may well be no self-incrimination questions here because of the personal nature of the privilege. The following textual discussion, however, takes the position that there is a self-incrimination question and demonstrates that even if there is, the disclosure requirements here do not violate the privilege.

[316] 390 U.S. 39 (1968).

[317] 390 U.S. 62 (1968).

[318] 274 U.S. 259 (1927).

[319] 390 U.S. at 49.

[320] Albertson v. Subversive Activity Control Bd., 382 U.S. 70, 79 (1965).

[321] *Id.*

[322] Hearings on S. 1103, *supra* note 3, at 141–58.

INFLATION: ANALYSIS AND CURE

Mr. TALMADGE. Mr. President, I and other Members of the Senate concerned about the economy have been denouncing the irresponsibility of Federal spending policies that have allowed virtually limitless spending regardless of the limits of revenue.

The idea that government could, or even should, be all things to all people is at last being exploded into the fragments of fiscal insanity that it is. The people of the country are, I believe, ready to sacrifice in the short run in order to maintain the economy and our form of government in the long run.

There may well be the need for individual Americans, as well as their Federal bureaucracy, to do some belt tightening. Faced with the example set in Washington, too many families have adopted the practice of living on credit. This private financial folly, like excessive government spending, has got to be halted.

I was given an analysis of inflation cures by Mr. William A. Trotter, Jr., a businessman from Augusta, Ga. It is a very concise view of what I believe to be the mandatory economic course for us to follow immediately. I ask unanimous consent that it be printed in the RECORD.

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

THE PROBLEM—INFLATION ANALYSIS AND CURE

(By William A. Trotter, Jr.)

The commonly accepted definition of inflation is "too much money chasing too few goods". If this is true, there are only two ways of attacking this problem. The first is reducing the amount of money and the second is increasing the production of goods. Both of these corrections have to be applied at the consumer level. Applying the first correction (reducing the supply of money) at the banking level does not solve the problem but actually increases it. To see that this is true, let's look at what this policy has done for us in recent years.

In 1969 when inflation seemed to be getting out of hand, the Federal Reserve Board and the U.S. Treasury instituted a program of tight and expensive money. This had the adverse effect and the rate of inflation actually increased. It was discontinued and the rate of inflation dropped back to a normal 4 to 5 percent per year. In 1973 the inflation rate of 5% per year was deemed intolerable and so again a tight and expensive money policy was instituted. Again it had the adverse effect and the rate of inflation rapidly increased. As it increased, the money managers decided that more drastic action was needed and so they made money scarcer and more expensive. The rate of inflation is now at an annual rate of over 12%. The administration is now trying to get it back to 9% by year end. This policy didn't work in 1969 and it did not work in 1973 or 1974 for the following reasons.

Tight and expensive money which costs the banks from 7½ to 10% and even 12%, has to be loaned at rates which will pay them a profit in addition to their cost of operation. This greatly discourages businesses and factories from expanding since the resultant high cost of amortizing the plant would increase the cost of their products beyond a price at which they can sell them. Two other things happen. When the plants do not expand, new jobs are not created and the unemployment rate goes up. Also, less goods are produced to meet an ever increasing demand and this forces prices to rise.

High cost of money is as of itself very inflationary. There are three major elements in production; labor, capital, and management. It is readily understood that when the cost of labor goes up and higher wages must be paid the resultant price must be passed on to the consumer in the form of an increased cost of the product. Why then is it so hard to understand that you cannot increase the cost of money without increasing the cost of every single thing produced since money is one of the three basic items of production.

To increase the cost of money actually has little effect on consumer demand. The consumers are accustomed to paying service charges or interest rates of 1½% per month. The banks and financial institutions, because of the high price they have to pay for the money, advertise extensively in all of the media for the consumer loans trying to persuade all of the people to buy whatever they want at the moment and pay for it later on. The banks have to favor consumer loans in order to make a profit. This means that in times of expensive money, the buying American public which is not accustomed to denying itself anything, still buys, still can get the financing that they need at prices they are used to paying, and their competition to buy the reduced supply of products available pushes the prices upward.

To correct inflation then, the problem must be attacked in two ways. The first is

that the amount of goods available must be increased. This is done by making money less expensive not more expensive. The second is by reducing the demand for the products. This cannot be done in our time of affluence by promoting the buy now-pay later technique. It can only be done by controlling consumer credit. Inflation must be attacked at the consumer level because it is a disease of retail products and prices primarily.

I suggest that three steps must be taken if inflation is to be cured. First, the government must learn to live within its budget. Deficit financing at the government level is one of the most inflationary forces. The American people, through their representatives in Congress, must learn that they cannot spend money that they do not have. To do so merely reduces the value of the money that they do have and their purchasing power remains approximately the same. We must pay the price, we simply pay it in a different way. I believe that the American public is now well ready to make some sacrifices of expenditures at the national level to stop the erosion of their paycheck.

The second step is to reduce the cost of money and free money for productive use. This will encourage businesses to expand, homes to be built, farmers to plant more land, and bring all of our productive forces into play. The expansion of industry will create jobs and will increase the supply of goods available. This will be deflationary.

The third correction is to institute a credit regulation on consumer financing which would require a minimum of ⅓ down payment on the purchase of any item. This was done, I recall, in the 50's and I believe was called Regulation W. It was very effective at that time in reducing the effective consumer demand. The only way to make the American public trim their buying and postpone their purchases is to require a down payment. They will not deny themselves as long as the means for obtaining their wants is readily available. A reduced effective demand for products will allow our production facilities to catch up and stop the frenzied competition for the goods and services which are in short supply. This will be again deflationary.

Now a prediction of what will happen if these steps are not taken is in order. Historically small businesses and many of the large ones have programmed 87% of the sales price for cost of raw materials, labor, management, overhead, taxes, and any other production costs. The remaining 13% was allocated to cost of money and profit for the investors. At a typical cost of money or return on investment capital of 8%, 5% was left for profit which was a very minimal amount. With the prime rate at 12¼%, most small businesses can't raise prices to meet this increase because the increased prices do not even cover the increased cost of production by virtue of the inflated cost of labor and raw materials. Small businesses and large alike are heading for great difficulty unless the cost of money is drastically cut. It simply is not profitable to stay in business today. The price of money must be paid first as a basic cost of doing business whether it is return on invested capital of the owners or whether it is borrowed from a financial institution.

As these businesses fail, people are going to be put out of work. This increases the welfare rolls and expenditure of the Federal Government while removing from the revenue of the government a major source of income. If the business community of our nation gets into financial difficulty, the owners are hurt, the workers are hurt, and government at all levels is hurt. Our country is geared to run on the free enterpise system and this system must be maintained if we are to preserve our form of government.

One of the best examples can be seen in the home building industry. The going rate on construction loans for the purpose of building homes in our area is now 15–18% including the fees. There is no way that a home builder can produce a house at the increased cost of labor and materials and sell it for a price that will return to him more than 12–15% over and above his direct cost not including construction financing. Builders are therefore going out of business every day and the trend is increasing week by week.

This is greatly hurting the American people because the most optimistic estimates show that this year we are going to be approximately 1,200,000 units short when you consider the number of units needed as a result of demolitions and new family formations and the number of units built. This shortage is increasing every year. This is forcing the price of homes to rise so rapidly that within a very few years no one but the very rich can afford to own their own home. They can't afford to rent either because the price of new rental units has gone up in the same proportion as the price of single family homes. This will take away from the American people a major incentive for the free enterprise system—the desire and ability to own their own piece of this great country. In addition, when homes are not produced, carpets, draperies, furniture, appliances and many other related items are not sold. No single business affects the entire economy as greatly as home building. Home building is grinding to a stop. What will start it again? The freeing of money so that construction loans can be secured at reasonable rates (under 10%) will allow a small profit for the home builder and reduce the amount that he will have to add to the price of his home in order to market it. It is imperative to the health of the entire nation and every person in it that interest rates be reduced. It is not a matter of choice—it is a matter of pure survival

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HOW THE WORLD ECONOMY GOT INTO THIS MESS

Mr. KENNEDY. Mr. President, the economic difficulties we have been facing in the United States are not limited to this country. All the world's market economies—and even some nonmarket ones—are being shaken to the roots by sweeping changes in economic relations within and among states. Inflation is rampant, as the cost of food and fuel rockets upward, and as domestic economies face the export of this inflation from country to country. The international monetary system is in disrepair; patterns of trade are disrupted; and the world's developing countries suffer most of all from economic crisis.

So far, no Lord Keynes has emerged to give us a coherent explanation of what is happening, as he did during the great depression three decades ago. Yet the need for understanding—and for action—is as great now as it was then.

Recently, Mr. Leonard Silk, of the New York Times, wrote an insightful article on the woes of the world's economy, and presented his own program for action—New York Times Magazine, July 28, 1974. I commend it to the attention of my colleagues, and ask unanimous consent that it be printed in the RECORD.

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

HOW THE WORLD ECONOMY GOT INTO THIS MESS

(By Leonard Silk)

The world has been slow to realize that we are living this year in the shadow of one of the greatest economic catastrophes of modern history. But now that the man in the street has become aware of what is happening, he, not knowing the why and wherefore, is as full today of what may prove excessive fears as, previously, when the trouble was first coming on, he was lacking in what would have been a reasonable anxiety. He begins to doubt the future. Is he now awakening from a pleasant dream to face the darkness of facts? Or dropping off into a nightmare which will pass away?

John Maynard Keynes wrote those words in 1930—and the nightmare proved to be all too real. Today, the world economy is again threatened with breakdown and disintegration. Monetary disorder afflicts the entire non-Communist world. Nations coming up against the interlocked threats of trade and payments deficits, inflation, energy shortages and unemployment are growing increasingly nationalistic in their policies. It was beggar-my-neighbor nationalism that brought on the debacle last time, for in the end the nationalism turned demonic and aggressive in Germany and Japan. Such an outcome seems unthinkable today—as it did in 1931. The time has come to review recent economic history, whose chief lesson seems to be that we are again facing a choice between economic chaos and a difficult, unprecedented, peacetime collaboration among major Governments.

History does not repeat itself precisely. One of the great differences today from the world of which Keynes was writing in 1930 is the revolution in national economic policy fathered by Keynes himself—the use of government spending, tax cuts, budget deficits and the pumping of money into an economy to prevent deep depression. Every government, prodded by powerful political forces, has been using the Keynesian medicine for keeping employment at a high level.

An unwanted consequence has been a quickening of inflation, the worst in a generation. Throughout the industrialized world, including the United States and Canada, Western Europe and Japan, consumer prices rose by an average of 12 per cent in the 12 months ending in May, 1974. In Britain the rise was 15 per cent. in Italy 16 per cent. Japan has been boiling along at an annual rate of 23 per cent. One can find far worse rates in some of the developing countries—40 per cent in the Philippines, 47 per cent in Indonesia, 63 per cent in Taiwan and a horrendous 709 per cent in revolution-racked Chile.

In the United States, consumer prices climbed by 10.7 per cent in the 12 months ending last May. But the climb in American consumer prices accelerated to an annual rate of 12.6 per cent in the first half of this year, and wholesale prices shot up at an 18.2 per cent annual rate. Chairman Arthur F. Burns of the Federal Reserve Board warned that "if long continued, inflation at anything like the present rate would threaten the very foundation of our society."

A doomsday mood has been stealing into the thinking of a great many people—stockbrokers, small investors, gold speculators and many ordinary people watching the value of their savings, pensions and insurance policies erode. Even among sophisticated economic observers, worries have been growing that the inflation could end in a crash. Ashby Bladen, a senior financial executive of the Guardian Life Insurance Company, says: "A return to either price stability or financial stability without an intervening crash appears to me to be practically impossible. . . . And the longer the crash is postponed by continuing the inflationary process

of excessive credit expansion, the worse it will be when it does come."

The threat of a crash is worldwide, and has been seriously exacerbated by the enormous deficits being incurred by oil-importing nations as a result of the quadrupling of oil prices after the Arab-Israeli war last fall. David Rockefeller, chairman of the Chase Manhattan Bank, has been warning that the existing financial system may be unable to stand the strain of the sudden transfer of tens of billions of dollars a year from oil-importing to oil-exporting nations. The International Institute for Strategic Studies in London regards the use of the oil weapon by the Arabs, Iranians and other members of the international oil cartel as the greatest immediate threat to world economic and political stability. The rich, industrial countries are threatened, and so are the oil-poor developing nations, such as India, Bangladesh and Pakistan.

How did the world economy get into this pickle? Can we get out of it? I believe that it will take extraordinary measures by the United States and other nations, working together—as they failed to do in the nineteen-twenties and thirties until the roof finally fell in.

A way must be found to achieve the kind of international cooperation that made possible the reconstruction of the world economy after World War II, the most devastating in history. But the United States can no longer call the tune or provide the bulk of resources to resolve the current crisis as it did after the Second World War. "It is no exaggeration," says Dr. H. Johannes Witteveen, the Dutch economist who serves as managing director of the International Monetary Fund, "to say that the world presently faces the most difficult combination of economic policy decisions since the reconstruction period following World War II."

That brilliant job of resuscitation is now taken for granted, but can anyone who in those days saw the grim shattered cities of Europe and Asia, the disease and famine, the desperate mood and the corruption of the people forget it? In the decades after the war, the world economy experienced the greatest upsurge of growth in all history. World trade revived, and the world monetary system was rebuilt as the United States deliberately incurred deficits in its balance of payments to feed dollars and gold out to the world. In effect, the United States was acting like the big winner in a poker game who knows that unless the poker chips are redistributed, the game is over. Those deliberately incurred American deficits made the best of sense, both for the United States and for the rest of the world. The concept of an interdependent world economy was no mere intellectual abstraction, but the basis for shared prosperity and growth.

The reconstructed world monetary system was founded on the strength of the American economy, on the strength of the dollar and on the deficits in the United States balance of payments. Therein lay a serious contradiction: A strong dollar and chronic deficits in the United States balance of payments would in time prove to be incompatible; either the dollar would weaken or the American deficits would have to be ended. There was a further contradiction: If the American deficits ended, the flow of dollars that was providing the monetary reserves for world economic expansion would also cease.

In fact, when the United States decided in the late nineteen-fifties that the reconstruction period was over, it turned out to be extremely hard to end the deficits. One reason was that the United States was reluctant to give up its role as leader of the non-Communist world. The 20th century had acquired the billing, at least in the United States, as "the American century." Both the Korean and Vietnam wars signified American determination to carry the "free-world's burdens"—the equivalent of Britain's "white-man's burden" a century earlier.

America's persistent payments deficits were not due solely to its military actions and economic aid programs. Of growing importance, as the deficits went on year after year, was the overvaluation of the United States dollar in relation to gold and to other currencies. This hurt American exports and made imports, as well as travel and foreign investment, cheaper for Americans. So the migration of American business overseas went on apace, with corporations using abundant and overvalued dollars to buy up foreign assets, start branches and subsidiaries abroad, hire foreign labor and use other foreign resources to increase their worldwide profits.

Foreigners, in the midst of the dollar prosperity, were schizoid about the trend. Many, especially those in close partnership with the Americans, welcomed the growth that United States capital, technology and managerial know-how helped bring. But there was increasing concern in Europe about the inflation that the dollar inflow was also helping to breed. And there was growing opposition to the "American challenge" of economic and political dominance—and about the recklessness of American military policy. Vietnam particularly strained the political bonds between the United States and its European allies. It also sealed the doom of the postwar world monetary system that had been built on a strong dollar and fixed exchange rates between the dollar, gold and all other currencies. For Vietnam accelerated the outflow of dollars from the United States and, even more damaging, increased domestic inflation. President Lyndon B. Johnson unleashed inflation at home by his unwillingness to ask Congress either for a tax increase to pay for the Vietnam war or to cut his Great Society programs to make rom for the war in the Federal budget.

President Nixon inherited the inflation—and eventually made it worse. After a year of trying to stop it by tight money alone, Mr. Nixon brought the country a recession. Finding rising unemployment politically intolerable—especially with the 1972 Congressional elections looming—he switched to a highly expansive fiscal and monetary policy aimed at restoring full employment. For political reasons, he announced—few politicians had ever made it so explicit—"I am now a Keynesian."

Under Nixonian management, the U.S. balance-of-payments deficit worsened. Dollars poured out of the country, and on Aug. 15, 1971, as part of the "New Economic Policy," Mr. Nixon slammed shut the gold window, refusing to pay out any more gold to foreign claimants in exchange for their surplus dollars. Nevertheless, overvalued dollars continued to gush out as expectations of what would once have been unthinkable—a dollar devaluation—grew. Finally, on Dec. 18, 1971, at an extraordinary monetary conference at the Smithsonian Institution in Washington, held amid the trappings and relics of the greatest achievements of American technology, the dollar was devalued by 8 per cent.

The object of the Smithsonian conference, from the American standpoint, was to devalue the dollar enough to produce equilibrium, or, if possible, a big surplus, in the American balance of payments. This would, it was hoped, restore American economic power and prestige; it would also save the "dollar standard," with the United States as kingpin of the world monetary system. For this reason the Nixon Administration was, somewhat paradoxically, eager not to "devalue the dollar" officially, but to make other Governments upvalue their currencies.

Logically, there would seem to be no difference between devaluing one currency and upvaluing others in relation to it—and indeed there is virtually none. However, there was one important difference. The dollar had been regarded as the fixed star of the world monetary system, the star around which all the other national currencies revolved. For the dollar to change its own value—to be devalued in relation to other currencies and to gold—would symbolize a radical change in the conception of the world monetary order, like the Copernican revolution in which the earth was no longer seen as the unchanging center of the universe.

After the Smithsonian devaluation of the dollar, no matter how much the Americans might insist that the dollar was still the fixed center of the world monetary system, the skeptics would go on saying, like Galileo, "But it does move." And in fact, after the Smithsonian agreement, United States officials themselves gradually accepted the new concept of a movable dollar.

The Smithsonian agreement—the "greatest monetary agreement in the history of the world," Mr. Nixon called it—was supposed to be a one-shot realignment of exchange rates that would preserve the fixed-exchange-rate system created by Bretton Woods, N. H., in 1944. However, the Smithsonian agreement failed to hit on a rate structure that would restore monetary stability. With inflation raging at differential rates, that was doubtless impossible. The Nixon Administration, in any case, made virtually no effort to defend the Smithsonian exchange rates. It practiced the doctrine of "benign neglect," smug in the belief that foreigners had no alternative to taking in more dollars unless they would be willing to further increase the value of their own currencies, which the United States still wanted them to do.

The impact of devaluation on inflation caught Washington and most economists by surprise. American economists tend to minimize the importance of foreign trade to the United States, since exports or imports constitute less than 5 per cent of this country's gross national product. But the dollar devaluation, combined with expansive fiscal and monetary policy, intensified inflationary pressures which price controls could barely suppress. Devaluation spurred domestic inflation in the United States, certainly in the short run, by raising the dollar prices here of internationally traded goods, not only those of imports entering the United States but also, and more important, those of all exportable American goods as well. Many American products suddenly looked like a terrific bargain to foreigners, and they rushed to buy—beef in Chicago, oil in Baton Rouge and paintings at Sotheby Parke-Bernet Galleries in New York. The impact on prices was dramatic. As Randall Hinshaw of Claremont Graduate School has found, the effect of devaluation was immediate on primary products, such as food and raw materials, but more gradual on the prices of manufactured goods such as automobiles and tractors, especially under then existing price controls. However, as the prices of such basic internationally traded raw-material "inputs" as iron and steel, copper, aluminum, zinc, lead and plastics have risen, so have the prices of autos, tractors and other manufactured goods. And when price controls were lifted, the prices of industrial goods soared.

Ironically, the devaluation of the dollar initially had a perverse effect on the United States balance of trade and payments. Economists had expected some lag, but it lasted longer than it was supposed to. Indeed, the dollar outflow quickened. The reason was the devaluation increased the dollar price of imports more than it reduced the *volume* of imports, especially as the American economy was expanding more rapidly and sucking in more imports. Simultaneously, devaluation cut the dollar price of American exports, causing foreign demand for cheaper American goods to boom; but the United States

imposed export controls on soybeans and other agricultural goods, restricting the rise of its earnings abroad. Even more important, booming demand at home restricted the growth of United States exports. Hence the American trade position worsened in 1972, and dollars continued to flow overseas to cover the payments gap. The basic United States blunder was to think it could run a devaluation of the dollar without first slowing the economy. It did just the reverse—coupling devaluation with strong fiscal and monetary stimulus.

The fixed-exchange-rate system could not survive the continuing dollar outflow. In early 1973, there was a second dollar devaluation, amounting to 10 per cent, following a dramatic around-the-world flight by Under Secretary of the Treasury Paul Volcker. But instead of calming the foreign-exchange markets, it rolled them further. And in late February and early March, dollars began to flood into West Germany because the mark looked like the safest port in a storm. The German central bank took in over $3,-billion a day, paying out marks to all comers in a vain attempt to keep the mark's exchange rate from rising. After dishing out more than $10-billion worth of marks, German monetary officials finally grew frightened of inflation and threw in the sponge. They stopped defending the fixed exchange rate between the dollar and the mark; so the mark floated upward, and the dollar floated downward.

The Bretton Woods fixed-rate system was dead; the whole world monetary system was afloat But inflation was anything but dead.

The loss of respect for the dollar, the key currency of the world monetary system, brought on a flight from all currencies into anything precious and scarce that would hold its value in a time of monetary crisis—gold, silver, platinum and many other commodities. Overnight, it seemed as though the Club of Rome's long-range forecasts of the exhaustion of world resources were coming true in a rush, with soaring prices the fever gauge of commodity shortages.

Accidents of nature fed the commodity inflation. One of the weirdest was the disappearance of anchovies off the coast of Peru. Why this happened is still unclear. One theory is that the cause was the 1972–73 invasion of a warm-water current called El Niño, which upset the ecology of the cold-water Humboldt Current, drastically reducing the supply of plankton and other nutrients in which the anchovies feed. Most marine biologists doubt this, pointing out that El Niño comes roughly every seven years—it had last arrived in 1957 and 1962—but had not earlier seriously damaged the anchovy stock. Did an influx of predators eat the spawn? Were the young fish blown into hostile waters? Nobody really knows. Whatever the explanation, as Morgan Guaranty Bank economists correctly stressed, Peru's anchovy catch fell from more than 10 million tons to 2 million tons in 1973, wiping out a critical part of the world's fishmeal supply, which is used to feed livestock.

Bad growing weather for cereals, the failure of much of the Soviet crop, the massive Soviet-American wheat deal—a key element in détente—exacerbated the commodity inflation. But the over-all inflationary trend was no fluke. All nations were in a simultaneous boom, and world demand was outrunning supply. The perception of rising prices was transmogrified, as inevitably happens when an inflation lasts long enough, into a public perception that paper money is losing value and is not worth holding. Speculators rushed from currencies into commodities. By October of 1973, world commodity prices had more than doubled from the start of the year. And then, with the outbreak of the Yom Kippur war in the Middle East, the Arabs launched their oil weapon against the West.

World commodity inflation had given the oil producers both the motivation and the opportunity to boost their prices sky high. The rising cost of imports to the Arabs, Iranians and other oil-producing states, the rapidly growing demand for oil, thanks to the simultaneous boom in all the major industrial countries, the disappearance of American buffer stocks of oil—all these factors gave the Organization of Petroleum Exporting Countries, which includes Saudi Arabia, Kuwait, Abu Dhabi, Iran, Libya, Iraq, Algeria, Qatar, Indonesia, Venezuela, Nigeria and Ecuador, the golden opportunity for a financial killing.

The Arab oil embargo, designed to induce the Western powers to force Israel to yield to Arab demands, cut the world oil supply at the critical moment, threw the Western allies into disarray in a mad scramble for oil and paved the way for the fourfold increase in oil prices. The price in the Persian Gulf was jacked up from about $2.10 a barrel to $8 a barrel. That meant the greatest single financial coup in history—a $70-billion haul by the oil producers in a single year. In 1975, their extra take will amount to $90-billion. And, if oil prices hold, they will be taking in over $100-billion a year—year after year. The World Bank estimates that by 1980 the oil-producing countries' holdings of liquid surplus capital will total $400-billion. This would mean that just six years from now they will hold at least 70 per cent of the world's total monetary reserves.

The fantastic transfer of money to the oil-producing states has created an unprecedented shock for the world economy. That shock is, paradoxically, both inflationary and contractionary. The huge increase in oil prices and payments worsens inflation in the United States, Japan and Western Europe by increasing both living costs and costs of production. It puts powerful pressure, both direct and indirect, upon the industrial and the developing countries to increase their export prices, in order to cover their oil deficits. To be sure, high prices are bringing out more oil and curbing demand. There is now, therefore, some downward pressure on prices. The crucial issue is whether the international oil cartel will hang together, even if this means cutting production to hold up prices.

At the same time, the enormous transfer of funds to the oil producers can choke off consumption and productive investment in the West. The build-up of Arab holdings, and the huge deficits that are their counterpart, could cause a breakdown in the world monetary system.

Prof. Richard Cooper of Yale says it is as though the Shah of Iran, the King of Saudi Arabia and the others had levied an annual tax amounting to $70-billion a year upon the rest of the world. Such a tax increase, as modern economic theory teaches us, will have a contractionary effect on national economies unless the money collected is put back into the economies from which it is collected in the form of expenditures on consumer goods or capital goods. If the major share of "oil taxes" collected by foreign Governments is not respent or reinvested in production, it will choke off output and income in the oil-importing countries. Some nations—those that are the best investment bets—will receive major shares of the oil money back; that is likely to be true of the United States and West Germany. Others, less creditworthy, will suffer huge deficits; that is already true of Italy, and it could be true of many others. The nations of the West could fall into economic warfare, each fighting to reduce its own deficit, and blocking imports or depreciating its currency to do so. Competitive deflation could bring on a world depression. The most agonizing peril faces the poor, developing countries, whose markets would contract drastically.

For those nations caught with the worst deficits, there will be severe risks of defaults on their foreign obligations. This is precisely the Italian situation now. In the past two years, the Italians have borrowed more than $10-billion in the so-called Eurocurrency market, taking funds from syndicates of private lenders on the credit of Italian state-owned utilities and other Government agencies. With the Italian balance-of-payments deficit running at a rate of more than $1-billion a month, Italy is having trouble raising more money abroad. Its gold reserves would barely last a year. If the Italians—and a few other governments with heavy balance-of-payments deficits—should default on their debts, some of the biggest and seemingly strongest private financial institutions all over the world would lose hundreds of millions of dollars, and the entire world financial system would be in jeopardy.

Once again, as in 1929–31, the world is facing the danger of a liquidity crisis, which, simply put, is the inability of financial institutions or governments to meet their current debts. Such a crisis, if it hit two or more countries simultaneously, could race like greased lightning through the entire world financial system. That was what happened in 1931 when the Austrian *Creditanstalt* failed. It was the breakdown of the world monetary system in 1931 that turned the sharp 1929–30 recession into the worst depression in history. Not even Keynes expected the nightmare that began in 1931. It is this kind of international catastrophe we must prevent now.

But how? There are many ways to do it, but the above account of how we got where we are today suggests the main elements essential to a solution:

First, the United States, Western Europe and Japan must recognize that they are all in the same boat, and must either work together or they will sink together.

The United States cannot dictate to the others; it does not have the power to do so, and it would only defeat its own purposes if it tried. What is needed now is genuinely shared leadership and the forging of a spirit comparable to that achieved in wartime—and to the reconstruction of the world after the last war.

Second, this cooperation must immediately take the form of preventing any single country, or its major financial institutions, from going under.

One of the reasons we in the United States are not already suffering from a major domestic financial panic is that our central bank, the Federal Reserve System, has been prepared to rescue any major financial institution that gets into serious trouble, as it has done this year in the case of the Franklin National Bank of New York. Internationally, we do not yet have a "lender of last resort." Some national central banks have met in Basel, Switzerland, to work out plans for rescuing endangered financial institutions, though not all central banks have joined the effort and it is not yet clear how far those participating are ready to go. The nations of the Western world and Japan should either create an international lending agency of last resort, or transform the International Monetary Fund into a true world central bank that can rescue major financial institutions and nations themselves from financial collapse.

Third, the world monetary system must be restored to equilibrium.

The most important single step toward that end would be a significant reduction in the price of oil, which would reduce the imbalance of payments between the oil-importing and oil-exporting countries. The oil-importing countries should develop a broad strategy to bring down the price, a strategy that should include: an effective conservation program to reduce the demand

for oil; an accelerated program to develop other energy technologies; a warning that, if necessary, the United States and its allies are prepared to withhold trade and the managerial and technological skills the oil-exporting countries want for their own economic development; and a refusal by this country and its allies to provide arms if the oil-producing states persist in threatening Western economic stability.

But if the oil-producing countries are willing to work with the West for world stability and their own development, the United States and its partners should extend the hand of friendship to them. It should facilitate expansion of their trade and foreign investment, the "recycling" of oil dollars.

Fourth, the Western nations must avoid like the plague the beggar-by-neighbor policies that helped destroy world trade in the thirties.

Such policies broke the world into hostile trading blocs, including the nations that joined in Nazi Germany's barter and rigged-exchange rate deals and Japan's Asian Co-Prosperity Sphere. The Western nations must reinforce their liberal trading policies, banning both import and export controls. They must hold their markets open to one another and seek particularly to create markets for the surplus and distress goods of nations that get into severe balance-of-payments trouble.

The nations should also forswear resorting to competitive devaluations of their currencies aimed at gaining a trading advantage over one another. They must coordinate their fiscal and monetary policies to avoid competitive deflations that could bring on world depression. The Organization for Economic Cooperation and Development (O.E.C.D.) provides a forum for the joint review of national policies; this process should be strengthened to ensure that world employment and trade are mutually sustained.

While the world monetary system remains chaotic, it would be madness to try to repeg exchanges rates; floating rates have reduced the massive money flows from one currency to another that propagated world inflation. In time, the reduction of those money flows should help to bring world inflation under control and enable exchange rates to stabilize. But the nations must work toward stability; a "great leap forward"—or backward—could be disastrous.

Fifth, nations must resolve to check their domestic inflations, controlling the excess claims of special-interest groups that are its root cause.

Inflation, while communicated internationally, originates basically from domestic sources. This is one reason why rates of inflation vary so much from country to country. There is no monetary formula or technical solution that will provide Governments with the political courage and the economic skills to reduce the excessive demands that propel domestic inflation. Governments must resist the multitude of special-interest pressures that distort or waste resources—as in the multibillion-dollar military programs which exacerbate inflation and, even more ominously, increase the danger of arms races and war itself.

Under the sway of Keynesian economic theory, inflation has been regarded by most contemporary economists as a "technical" problem resulting from a gap between the excess demand for all goods and services and what the economy is capable of producing at existing prices. The basic remedy has been to close that inflationary gap by reducing total demand, whether by tax increases, cuts in Government spending or by making less money and credit available to the private economy.

It has become clear that the problem of stopping inflation is not technical but *political* in the large, systemic sense. Inflation is a consequence of the way massive, organizational, pressure-group economies operate. The military-industrial complex is only the most celebrated example of the special interests which capture a huge share of national resources and give less productivity in exchange. Other groups that have won special benefits and protection from Government—whether in the form of subsidies, huge appropriations, tax breaks, tariffs, import quotas or other rules limiting foreign industry, the maritime industry, civil aviation, the highway-building industry and its supporters, dairy producers, wheat farmers, cattlemen, steel producers and textile producers. Labor unions fight for a growing share of the national pie partly by backing the demands for special favors and protection of the industries that employ them and partly by waging side-contests with managements for a bigger slice of the take.

The pressure-group economy not only breeds inflation but biases national choices on *what* is produced and by whom, and how income is distributed. Political power shapes the national use of resources and has a major influence on who gets what. This may be the major long-run lesson of that political fiasco whose code name is Watergate.

An effective program against inflation must be one that faces up to the necessity of curbing the power of the special interests and removing their corrupting influence on Government or, the other side of the coin, curbing the efforts of Government officials to invite bribes in exchange for favors as a means of consolidating political power in a corporate state. The old-style, laissez-faire capitalism is dead. Yet the mixed economy—that is, the mixture of Government and private interests that has replaced it—needs better methods of harmonizing competing group pressures in a noninflationary way and of guiding the economy to serve broad social needs such as protection of the environment, development of crucially needed energy, and provision of medical care, education and other vital services.

Specifically, this nation and other capitalist democracies need an incomes policy, a means of regulating the growing income claims of contending groups, together with their access to money and credit through the banking system. In periods of monetary tightness and very high interest such as the present, the inequities of only general controls on money and credit become obvious, as the most powerful financial groups drain funds away from the least powerful.

Similarly, this nation and many others need more effective and democratic ways of planning their long-run social and economic development. Increasing the supply of resources, human and material, and in the proportions needed, is essential to curbing inflation in a way that will not require periodic bouts of recession, depression and high unemployment.

In an increasingly integrated world economy, such programs need to be international and not merely national in scope. Yet the time for supranational government is not yet. The fundamental decisions needed to get the world through the current economic crisis, which could become a world political crisis as well, still must be taken at the national level. Is such an effort to restore world economic order politically feasible and realistic? It had better be. The potential tragedy of the moment is that all the Governments of the major democracies are in a weakened state—weakened in large degree by the socially and politically debilitating effect of inflation itself. And the crisis of leadership and moral authority is perhaps greatest of all in the United States, on which any coordinated action program among the Atlantic nations and Japan must still depend. We know what we must do; the issue now is whether we have the will and the unity to do it.

KIDNEY DISEASE PROGRAM—VI: 1 YEAR OF OPERATION

Mr. HARTKE. Mr. President, on July 1, the end-stage chronic renal disease program under medicare passed a milestone of 1 year of operation. That program, which was created as the result of an amendment sponsored by the distinguished chairman of the Finance Committee (Mr. LONG) and myself, is designed to provide financial assistance to people of all ages suffering from chronic kidney disease. These are people who need dialysis, a mechanical blood cleansing process that replaces the function of diseased kidneys, or who are suitable for kidney transplantation. With a year's operation of the program behind us, this is a good time to examine its effectiveness.

In October of 1972, the Social Security Amendments of 1972 became law, Public Law 92–603. This legislation included an amendment, section 299–I, to provide medicare benefits to all eligible patients with end-stage renal disease—ESRD. Unfortunately, the past 20 months have highlighted the weaknesses of the Federal bureaucracy in dealing with a relatively small health insurance program serving a small number of patients. By the same token, we in Congress have much to learn from the kidney disease program because it also highlights the difficulty which we have in coping with the bureaucratic process within the Department of Health, Education, and Welfare in order to assure that the laws are faithfully executed.

Since the ESRD provisions were part of the Social Security Amendments of 1972, and benefits are financed through the social security trust fund, the program was initially assigned to the Bureau of Health Insurance—BHI—within the Social Security Administration. BHI is essentially an insurance indemnification agency, well experienced in claims processing, money disbursements, and the like. In the fall of 1972, it was clear that BHI lacked the medical expertise necessary to devise a sophisticated program with such elements as medical review boards, limitations on facilities, minimum utilization rates, and quality of care assurances.

As a result, the medical profession arm of HEW, the Office of the Assistant Secretary for Health, Dr. Charles C. Edwards, asserted its position that it possessed the expertise in health planning and medical care and therefore was a logical choice for the responsibility to design and implement the ESRD program. The Secretary of HEW was persuaded by this argument and assigned the major policy role in the kidney program to the Assistant Secretary for Health.

It should be noted that, at the time, the Office of the Assistant Secretary for Health was in the midst of a reorganizational upheaval, and there was no clear choice of an agency or bureau within that Office for the ESRD program. Policy was thus developed by Dr. Edwards' personal staff in the Office of Policy Development and Planning. However, because that staff lacked experience with kidney

disease, several questionable policy decisions were made, causing much adverse reaction from the medical professional community.

As the new organizational lines for agencies within the Office of the Assistant Secretary for Health became more clearly defined, the Bureau of Quality Assurance was created within the Health Services Administration—all of which were under the Assistant Secretary—to implement the Professional Standards Review Organizations which had also been created by other provisions of the Social Security Amendments of 1972. Because several elements of the kidney program were similar to PSRO functions, the Bureau of Quality Assurance actively sought to put that program under its umbrella. When assigned that program, the Bureau of Quality Assurance also had no staff experienced with kidney disease. BQA then obtained three staff members with experience in the kidney disease field who were detailed from other agencies. These personnel were assigned 10 months after the passage of Public Law 92-603. They came into an atmosphere clouded with bureaucratic infighting involving the Bureau of Health Insurance, the Bureau of Quality Assurance, and the Office of Policy Development and Planning, coupled with the preoccupation within the Bureau of Quality Assurance with PSRO's.

The most immediate result of this bureaucratic and alphabetical jungle was delay. Simple policy decisions often took more than 8 weeks for low level approval, with higher level approval often taking twice as long. In fact, HEW's policy statement which outlined its criteria for operation of the program was first drafted in November of 1973, but did not get approved until April of 1974.

Since July 1, 1973, the ESRD program has functioned under interim guidelines which were drafted in the days immediately preceding the beginning operating date of the program. There is general agreement that the interim program had several flaws which created confusion and aroused opposition among patients, doctors, hospital, and intermediaries. There was no effort made to publish the guidelines in the Federal Register or to make them available for public comment prior to putting them into effect. This procedure leaves significant questions as to the legal basis for the interim program. This is further complicated by the fact that the assignment of the ESRD program to the Bureau of Quality Assurance was never made part of a formal delegation of authority from the Secretary of HEW. This may have had the effect of nullifying BQA's authority to draft and implement the program since the statutory authority for ESRD appeared to be with the Bureau of Health Insurance under its general medicare responsibilities.

While all the wrangling was taking place within the Office of the Assistant Secretary of Health, the Bureau of Health Insurance, within the Social Security Administration, was beginning to realize the importance of the ESRD program as a prototype for any kind of catastrophic or national health insurance program. This realized, coupled with the growing interest within Congress to remove the Social Security Administration from HEW caused BHI to reassert its role in ESRD.

In April of this year, the Bureau of Quality Assurance belatedly announced the broad policy issues on which the ESRD program will be based. It is administering the program under the interim guidelines established by the Office of Policy Development and Planning and has set a timetable for the publication of final regulations in early 1975. So far, minimum utilization rates have not been established, nor have medical review boards been established. Both are required by law. Considering all of the hurdles which the program still has to overcome, it is unlikely that it will be in full swing until late 1975—3 years after Congress passed the legislation.

As national attention focuses on health care, the kidney program underscores the need for Congress to deal effectively with the HEW bureaucracy in order to assure that the laws are faithfully executed. Such diverse topics as national health insurance, health planning agencies, and medical manpower are under active consideration by Congress at this time, but these subjects fall within different committee jurisdictions. If we allow the narrow strictures of committee jurisdiction to cloud our view of this subject, there can be no coherent approach to the national health insurance debate.

We can avoid this pitfall by creating an ad hoc Committee on National Health Insurance to consist of members of the Finance, Labor and Public Welfare, Veterans, and Appropriations Committees, or of the appropriate subcommittees of those committees, to begin joint consideration of national health insurance and provide the Senate with a coherent report on the need for it and the administrative problems which may arise. That is the only way we can take a coherent approach to one of the most important subjects to come before Congress in this half of the 20th century.

The ad hoc committee would make it possible for the various committees with an interest in national health insurance to share information and evaluations of proposed legislation. In the long run, it will also help Congress to oversee the Federal health bureaucracy more effectively.

Mr. President, the end-stage renal disease program is but one example of the failure of the executive branch to implement the law in a proper and timely fashion and of the difficulties which Congress has in performing its oversight function. I intend to do all that I can to make the ESRD program work, but I hope that we all can learn from its mistakes before they are repeated on a massive scale in any national health insurance program we adopt.

ILLINOIS FINDS ERTS VALUABLE

Mr. MOSS. Mr. President, while no line agency in Illinois yet uses ERTS imagery, the Center for Advanced Computation—CAC—at the University of Illinois is finding ERTS data to be a valuable input to an experimental land use mapping computer system being developed at the center.

Mr. President, I ask unanimous consent that the letter I have received from the Honorable Hal Hovey, director, bureau of the budget, State of Illinois, be printed in the RECORD.

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

SPRINGFIELD, ILL., *July 24, 1974.*

Mr. FRANK MOSS,
Chairman, Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR CHAIRMAN MOSS: In response to your letter of June 24 to Governor Walker regarding the merits of establishing an operational ERTS system, please be advised that at present no line agency within the state uses ERTS imagery. However, the Center for Advanced Computation (CAC) at the University of Illinois is finding ERTS data to be a valuable input to an experimental land use mapping computer system being developed at the Center.

Sincerely,

HAL HOVEY,
Director, Bureau of the Budget.

SENATOR MANSFIELD

Mr. BAKER. Mr. President, during the past week, the Senate has noted with pleasure and with pride the historic record of service established by the distinguished majority leader, Senator MANSFIELD.

The Senator from Montana has reacted with characteristic modesty, but it is clear to all who know him that the many tributes have been richly deserved and the many honors have been rightly earned. In setting a new record of tenure, he has carried out his responsibilities with competence and with civility. Each Member of the Senate has personally benefited from his counsel, his consideration, and his cooperation. The people of Montana and, indeed, all the citizens of our land, have been well represented by MIKE MANSFIELD.

It is, I believe, no coincidence that this former professor has become a textbook model of an effective Senate leader. His approach to leadership and life has been hallmarked by rationality and respect for others. His fairness has been especially appreciated by those of us on the Republican side of the aisle. As a result of conversations with my father-in-law, the late Senator Everett Dirksen, I became intimately aware of this quality even before I came to the Senate.

Senator MANSFIELD and Senator Dirksen worked quietly and effectively in moving and scheduling the business of the Senate, just as Senator MANSFIELD and Senator SCOTT do today. This gave a special meaning to the term "joint leadership." In a very subtle manner that is close to the essence of good leadership, they molded and framed the results of what we recognize as the landmark legislative achievements of the past decade.

Senator MANSFIELD's continued leadership, his guidance and good judgment, will be just as important as we face the challenges of the years ahead.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has now expired.

DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1975

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now resume consideration of H.R. 16243, which the clerk will report.

The second assistant legislative clerk read as follows:

A bill (H.R. 16243) making appropriations for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes.

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from Wisconsin (Mr. PROXMIRE), No. 1810. The time on this amendment is divided equally between and controlled by the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Arkansas (Mr. MCCLELLAN). The vote on the amendment is to occur at 11 a.m. today.

Mr. PROXMIRE. I yield myself such time as I may require.

MILITARY AID TO SOUTH VIETNAM

Mr. President, I want to make clear what this amendment does and does not do.

First, it would establish a ceiling on expenditures for U.S. military assistance to Vietnam at the level accepted by the Senate Appropriations Committee last year—that is, 1973, for the 1974 budget.

During consideration of the fiscal year 1974 defense appropriations bill, the full Appropriations Committee reduced military assistance funding to $650 million. About $100 million of this was for Laos.

Since money for Laos is no longer contained in this bill—its in the foreign aid bill—the equivalent figure for Vietnam military assistance as reported out by the Appropriations Committee last year was $550 million.

That is the same level as my amendment would establish. It is not a drastic amendment or a radical amendment or an amendment that would leave Vietnam high and dry. It would give them the same amount the Senate recommended last year.

There is another set of figures we will hear about during this debate. The administration asked for $1.6 billion last year. We ended up giving them a ceiling of $1.126 billion. This happened when the lower figure of $650 million on the Senate side was compromised with a larger House figure.

I do not want to mislead anyone. That was the final figure approved after the conference last year.

But the fact remains that the only time that the Senate voted on the individual item of military assistance to Vietnam last year during the appropriations debate, the Senate accepted $100 million for Laos and $550 million for Vietnam. That was the Senate position. That is what we took into conference. That is what my amendment would restore for the fiscal year 1975 bill—the same amount of $550 million.

Yes, this amendment would be a reduction from what the Pentagon ended up with last year. No, this amendment would not be a reduction from what the Appropriations Committee recommended and the full Senate accepted last year. It would be holding the line at the same level.

UNITED STATES GIVES MORE AID

Last night, Senator KENNEDY perceptively pointed out what U.S. diplomats have been saying about the purpose of U.S. military aid to Vietnam. The purpose, it was stated by U.S. Ambassador Graham Martin, was to keep support for each side in balance. That means that the support the United States would give South Vietnam and the support the Soviet Union and the People's Republic of China would give North Vietnam would be kept in balance.

Has this been the case? We have the definitive figures from the Defense Intelligence Agency to put that into perspective. The estimates by the reputable DIA indicate that except for an increase in aid in 1972, military assistance by the People's Republic of China and the U.S.S.R. to North Vietnam has been declining yearly.

In 1973, the U.S.S.R. gave $175 million in military aid to North Vietnam, and the People's Republic of China gave $115 million, for a total of $290 million. If those figures are not correct, I think we should know the source before impugning them. They come from the Defense Intelligence Agency. They may be wrong. If there are better figures, let us have them, and let us find out why the Defense Intelligence Agency is not telling us the truth.

That same year, the United States spent a total of $5.3 billion in Southeast Asia.

Over the longer period of 1966 to 1973, the Defense Intelligence Agency statistics show that the United States spent 29 times as much in Indochina as the Soviets and PRC combined. This amounts to $2.57 billion from the U.S.S.R. and $1.08 billion from the PRC.

The United States, on the other hand, spent $107 billion in the same period including $10.4 billion in direct military aid. And that figure for U.S. expenditures probably is far on the conservative side. It may be closer to $140 or $150 billion when everything is included related to those expenditures.

Mr. President, who are we kidding? That is not balancing military aid by any stretch of the imagination. If it is, the U.S.S.R. and PRC are getting the better end of the deal. Ask any taxpayer if a military standoff with expenditures 29 times as large on one side as the other is an economic or military victory.

Every year we hear the same cries of doom. If the bill does not contain $700 million, Vietnam will go down the drain. If the bill does not contain $1 billion, Vietnam will go down the drain. If the bill does not contain $1.5 billion, Vietnam will go down the drain.

The latest to issue such an alarmist appeal was the State Department. They said that if we do not appropriate $1 billion, it will weaken the South Vietnamese to the point that they cannot defend themselves, and Hanoi might be tempted to launch another 1972 type offensive.

Well, the Senate and House Appropriations Committee have already violated that rule. According to the State Department, South Vietnam should now be going down the drain.

I cite this letter from the State Department as evidence that the point of doom is whatever the current budget request is. Does anyone find that unusual? To ask for less than the administration requests for anything is to invite disaster. Whatever they ask for is bare bones. Whatever we try to cut is endangering security and inviting disaster. Such is the state of rethoric and the art of jawboning the Congress.

We heard yesterday that to approve the Proxmire amendment is to predetermine that South Vietnam will have to abandon large segments of the country.

And yet both the Frelinghuysen report from the House Foreign Affairs Committee and the testimony of Gen. William B. Caldwell before the Senate Armed Services Committee earlier this year indicates that the Saigon regime has increased its population control by 6 percent since the ceasefire and its control over hamlets by 770.

At one time I thought that the ceasefire established in 1973 meant that both sides were to occupy only the territory where they were at the time.

That is what article 3, section B, of the Paris agreement says:

The Armed Forces of the two South Vietnamese parties shall remain in place.

But that is not what has happened. Both sides have continually violated the ceasefire agreements. Until this time, the government forces seem to have gotten the upper hand in terms of hamlets controlled.

We will also hear that once Vietnam goes Communist, because we cut $150 million from their budget, then Thailand will go Communist, and Burma, and Cambodia and the rest of Southeast Asia.

That is the old domino theory. But I would like to add a new twist to the old theory. It goes like this:

If the Senate does not reduce unnecessary military spending—the largest controllable item in the Federal budget, then inflation will continue to rage, Americans will be able to purchase less, confidence in Government will continue to fall, industry will reduce production, the money market will fail, and we will have economic chaos beyond our wildest dreams. That is a real domino theory to ponder and it is a lot closer to home.

Mr. President, it would be one thing if we knew that the U.S. dollar given to Vietnam went for an efficient and effective purpose. Some support for Vietnam is necessary, we all recognize.

But what happens to our dollars now?

Any man here who has talked with those who have been in Vietnam can give a ready answer to that question. The U.S. dollars go into the pockets of the corrupt bureaucracy in Vietnam. Black market operations abound. Here are some

pictures of black market goods taken from U.S. depots and PX's. You can recognize goods from Sears, Lipton tea, fans, coolers, radios, hi-fi's, electric saws, grinders, scales, thermos, blankets, tennis rackets. Anything you can buy or steal from a PX, a U.S. Government warehouse, or a U.S. supply depot can be found on this black market.

And the person who pays for it is Uncle Sam and the taxpayers of this Nation.

We know about the thousands of "ghost" soldiers added to military payrolls—that is, nonexistent soldiers, soldiers that do not exist, but added to military payrolls—for which the United States pays about 40 percent of the salaries and the corrupt officers and officials reap enormous profits and benefits from it. That has been documented.

South Vietnam's 92 generals have only recently been ordered to cut their personal staffs of chauffeurs, bodyguards, and servants from 36 to 11 each. They have also been told that they must make do with two rather than four motor vehicles. That is where U.S. tax dollars have gone. Think of it. Only 11 chauffeurs and servants each.

Why should the American taxpayer be required to provide that kind of fat and waste and extravagance to South Vietnam in a time of inflation, when we are all being hit as hard as we are?

Evidence has also been uncovered recently that a number of new American A-37's worth $500,000 each—are being dismantled and sold for scrap on the black market in Saigon. A police raid on an illegal scrap operation yielded the wings of 15 planes as well as substantial amounts of other U.S. made military equipment which were being readied for foreign export.

We ship it to them. They tear it down and export it out of the country for a profit. That is where U.S. dollars go.

Obviously, Mr. President, in wartime, we know there is waste. In wartime, we know there is extravagance and, often, corruption. But what we can do about it is to cut the amount available. This is the one action we can take. We cannot administer this program. But we can make the amount available so limited that it will be used for the purposes they have to use it for and should use it for, to defend their country.

Mr. President, there is $150 million that will be used for graft and corruption in this bill if there is a penny. The only thing worse than a dollar spent abroad when we need it here at home is a dollar spent abroad and utterly wasted in corruption.

Mr. President, we are supposed to be keeping South Vietnam strong and free. Unfortunately somewhere along the line the American concept of "free" has been dropped from that phrase.

The distinguished Senator from Rhode Island (Mr. PASTORE), spoke on this yesterday and pointed out the fact that President Kennedy, in that great address he made to the country when he was inaugurated, said that we would meet any burden, no matter how heavy it might be, in the cause of freedom. We believe in freedom. We will help freedom. The question is whether we are helping freedom when we provide this kind of assistance to the South Vietnamese military government that has the track record it has.

I admit it is better than a Communist regime by far, and I admit that we should do everything we can to prevent a Communist regime. But I say we do not do that when we provide such abundant funds that they can have this kind of luxurious, wasteful, expensive, extravagant operation.

I trust that no one here will say that South Vietnam is a democracy where freedom of speech flourishes and dissent is the building block of compromise and moderation.

We are not building democracy in Vietnam. That may well be impossible. The roots of that society are not easily grafted with the American model of democracy and freedom.

So why do we hide under the charade that in some way we are preserving peace and freedom for the people of South Vietnam?

We are supporting South Vietnam for geopolitical purposes. That support should continue for geopolitical purposes. But there is a limit to everything and the American people have met the limit with huge sums of money for the regime in South Vietnam.

The $550 million is enough. It would have built hundreds of hospitals in the United States, provided mass transit for tens of thousands, begun research on new medical cures for the diseases of our people, provided a maintenance income for our poor or even built five new Senate office buildings if you will pardon the reference to our own boondoggle.

Mr. President, it would also provide tens of thousands of houses at a time when housing is so urgently needed and when unemployment in the construction trades is so high.

Enough is enough. Let us draw the line at $550 million and tell the South Vietnamese that their defense rests first on the will of their own people; that they will stand or fall in the long run not by the amount of U.S. aid but in the competition between efficiency and lassitude, good government and corruption, freedom and repression, land reform and oligarchy.

Such has it always been in that region of the world.

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

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

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield the distinguished Senator from Arizona 5 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, we have heard the figure 8 to 1 on this floor quite often in the last few days, and I think this RECORD should be made clear. This is a report I put in the RECORD on July 10 of this year:

Evidence presented in these reports also put the lie to the preposterous new myth that the United States is providing eight to twenty nine times the amount of military aid to South Vietnam as the Soviet Union and China are providing to North Vietnam. Comparing apples with apples, that is hardware with hardware, Communist military aid to North Vietnam is only slightly less, if that, than the comparable level of United States military aid to South Vietnam.

Congressional critics of United States support for South Vietnam would compare estimates of hardware aid alone, such as weapons and ammunitions, by the Communists, with the total program of our aid to the South which includes not just the cost of hardware, but the cost of rations, clothing, transportation from the United States, training, and so forth. These same critics would calculate our program over the period *prior* to the conclusion of the Cease-Fire Agreement, a period when the war was still in full progress, while ignoring Communist shipments *since* the Cease-Fire which, as these reports have revealed, enabled North Vietnam to send illegally over 50,000 soldiers, 1,000 artillery and anti-aircraft pieces, 400 tanks and enormous stockpiles of ammunition to its invading forces in South Vietnam.

Looking again at this ratio of 8 to 1, the latest figures that I have, made available to me by the Department of State on August 2 of this year, however, and using our best estimate based on hardware costs alone, indicate that in 1973, we outspent the Russions and the Chinese at most by a ratio of just over 4 to 3—about $400 million for us as compared to about $290 million for them.

I think, in all due respect to my friend from Wisconsin, he should have this clear, that we not only supply hardware, munitions, and so forth, used for war, but we are building hospitals, we are supplying medical aid, we are supplying food, we are paying for transportation, we are paying for the training of Vietnamese troops, pilots, and so forth, in this country. So let us get this straight in the RECORD: We are doing for South Vietnam far, far more than just shipping them aircraft, tanks, and the hardware of war, and it is not accurate to compare the total costs of all these programs with the cost of Communist hardware aid alone.

Mr. President, I ask unanimous consent that this report from the State Department be made a part of my remarks.

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

COMPARISON OF U.S. MILITARY AID TO SOUTH VIETNAM WITH COMMUNIST AID TO NORTH VIETNAM

Recently released intelligence estimates of Chinese and Soviet military aid to North Viet-Nam have been compared to the cost of our military aid to South Viet-Nam under the MASF (Military Assistance, Service Funded) program, to indicate that we are vastly outspending the Chinese and Soviets in Viet-Nam. Such comparisons are grossly misleading. This is because the estimates of aid to the North include only military hardware costs, while the MASF figures cover the total costs of the program, i.e., not just the cost of the hardware but also the costs of rations, clothing, spare parts, gasoline, maintenance, transportation from the U.S., transmitting, procurement, etc.

It is impossible to be precise in comparing Sino-Soviet aid to the North with our aid to the South because of the necessarily incompletely and fragmentary nature of our intelligence information as well as various costing and accounting difficulties. However, our best estimate, based on hardware costs only, indicate that in 1973 we outspent the Russians and Chinese by a ratio of just over four

to three (about $400 million for us as compared to $290 million for them).

There are several reasons why we have to spend somewhat more money to help the South Vietnamese defend their country than the Chinese and Russians spend to help North Viet-Nam invade it, but the most fundamental reason is that it is more expensive to guard a bank than to rob it. Thus the South Vietnamese defense forces are necessarily larger and more costly to maintain than the Communist forces, because they must defend virtually all of their country—the cities and towns, the roads and railroads, the rice fields and factories—and they must defend it all of the time; while the Communist main forces are free to mass and attack at times and places of their choosing. With a considerably smaller and less expensive force structure, therefore, the Communists can often bring superior arms to bear on any given battlefield in South Viet-Nam.

It has been suggested that regardless of the relative value of U.S. military aid to the South and Sino-Soviet aid to the North, U.S. intelligence estimates indicate that in 1973 the Norh received slightly less than half what it received in 1972, and consequently our aid to the South should be cut correspondingly. In fact, it already has been—in FY 1973 it amounted to $2.3 billion, and dropped to $1.0 billion in FY 1974. This latter level has not been sufficient for us to replace South Vietnamese losses at the one-for-one rate permitted by the Paris Agreement.

Moreover, Sino-Soviet military aid over the years has allowed the North to build up massive stockpiles of equipment and munitions in the South and adjacent base areas in Laos and Cambodia. We estimate these stockpiles could support an expanded North Vietnamese military campaign in the South for about 18 months, even without further replenishment. On the other hand, we have never built up such stockpiles for the South Vietnamese, maintaining only about a two-month inventory of most categories of ammunition and other expendables. Consequently, reductions in our aid to the South have a much more immediate impact than Sino-Soviet reductions in aid to the North.

Finally, basic to U.S. combat doctrine, which we successfully imparted to the South Vietnamese, is the concept of achieving maximum effect with minimal loss of personnel. This requires high equipment utilization and expenditure of ordnance, as compared to the North Vietnamese concept of relatively higher expenditure of manpower. The South Vietnamese (and American) way of waging war costs more money, but it saves lives. Cuts in U.S. assistance and consequent shortages in some military items have already resulted in a relatively higher South Vietnamese casualty rate, and further cuts in our aid would produce an even greater casualty rate.

Mr. PROXMIRE. Will the Senator yield?

Mr. GOLDWATER. Mr. President, I have only a few minutes. The Senator will have to yield on his time.

Mr. PROXMIRE. If the Senator will yield on my time, I ask that I have some time so that I may discuss it briefly with the Senator from Arizona.

I think that the Senator from Arizona makes an excellent point. The fact is that a great deal of what we give is not used for hardware for tough, military purposes. It should be. We have an economic aid program, too. The Committee on Foreign Relations has recommended half a billion dollars, $500 million, of economic aid. This $550 million should be confined to the sinews of war—the ammunition, the tanks, the planes, and so forth.

Mr. GOLDWATER. But it is not.

Mr. PROXMIRE. Well, if the Pentagon is not doing that, all we can do is provide the funds.

Mr. GOLDWATER. I just gave the Senator some figures, and it runs about $400 million, not $550 million.

I suggest to the Senator from Wisconsin that he amend his amendment to knock out all aid to South Vietnam if we are going to chop a little bit off of it and do the damage I think it will do. And I am not one who is generally interested in giving money away. I have never voted for foreign aid on this floor in my life, and I never will.

But I do not want to see Southeast Asia go down the drain, and I think it will unless we continue to give them aid. If the Senator wants to knock the whole thing out, I think it would be interesting to see how this body feels about that. I think the Senator might as well knock the whole thing out as remove $150 million. It has already been cut.

Mr. PROXMIRE. May I just say to the Senator from Arizona that we are proposing that we provide the same amount we provided last year. Under the circumstances, it seems to this Senator that that should be enough, in view of the fact that the Soviet Union and the People's Republic of China have, on the basis of documentation, sharply reduced the amount which they provided last year.

I reserve the remainder of my time.

Mr. GOLDWATER. Mr. President, I have said all I wanted to say on this subject. I just do not want to hear the figure 8 to 1 bandied around on this floor any more, because that is not exactly correct. We are talking about apples, oranges, bananas, hospital supplies, schools, and everything else, not just the hardware of war.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield the distinguished Senator from North Dakota 5 minutes.

Mr. YOUNG. Mr. President, as one who was opposed to getting into the Vietnam war in the first place—it never made sense to me—it is unusual for me to be defending military assistance to South Vietnam. I know that many of the sponsors of big cuts now thought this war was a great adventure about 10 years ago; but after we lost more than 50,000 lives, the thousands who are missing, over 300,000 casualties, and over $150 billion in expenditures, I think it wise that we give some money to salvage something out of this great loss to this Nation.

The President's budget estimate for this purpose submitted by the Bureau of the Budget was $1.4 billion. The Armed Services Committee—and their authorization bill passed both Houses of Congress—called for $1 billion. We have now cut it down to $700 million. I agree with the Senator from Arizona that if we are going to cut it further, we might just as well cut it all out.

We have a new dimension in our foreign policy now, in Secretary Kissinger. I think he has done more for peace in the world than any other man in the history of the United States. He believes that our foreign assistance is a part of his bipartisan foreign policy, and to that extent I am willing to change some of my thoughts of the past and give some foreign assistance, if he believes it necessary, as he does.

Mr. President, I would like to read a letter addressed to Chairman McCLELLAN of the Senate Appropriations Committee, received this morning, signed, in behalf of Secretary Kissinger, by Robert S. Ingersoll, Assistant Secretary. It reads as follows:

AUGUST 20, 1974.

DEAR MR. CHAIRMAN: Secretary Kissinger, who is out of town, has authorized me to send you the following statement concern-the Defense Assistance for Viet-Nam (DAV) funding appropriation that may be discussed in the Senate August 21:

"I understand there may be moves to reduce further the amount to be appropriated for Defense Assistance for Viet-Nam.

"As I stated in my letter to you of August 12, cuts already made in our military assistance, combined with the rapid inflation which has eroded the value of that assistance, have brought the South Vietnamese armed forces to a level of austerity which, if reduced further, might affect their ability to defend their country against continuing Communist military pressure. Even the full $1.0 billion which the Congress has authorized for Viet-Nam military aid would be dangerously austere, particularly in view of the increased North Vietnamese military pressure in recent months. At the $700 million level currently under discussion, I fear that the North Vietnamese will be strongly tempted to increase their pressure still more, and the South Vietnamese will be in danger of running out of military necessities for defending themselves well before the end of the fiscal year. Still further cuts would clearly vitiate our policy of supporting the conditions which made the Paris Agreement possible and would call into question the reassurances President Ford and I have been giving of the continuity and constancy of American foreign policy.

"As I also stated in my August 12 letter, the best hope for a genuine negotiated settlement and eventual reconciliation in Viet-Nam is to maintain the balance of forces which has permitted the progress made thus far. I continue to believe that it is extremely important in furthering progress toward the goals of American foreign policy of the past five years that no further cuts be made in our assistance to South Viet-Nam.

Best Regards,

ROBERT S. INGERSOLL.

Mr. President, I have great confidence in Secretary Kissinger. I think he is one of the most popular men in America today. I believe he is using good judgment; and, as I stated before, he has done more for peace in the world than any other man in the history of this Nation. If he so strongly advocates this $700 million, I am willing to go along.

The PRESIDING OFFICER (Mr. HATHAWAY). Who yields time?

Mr. McCLELLAN. Mr. President, I yield 5 minutes to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator very much for yielding to me.

I have not been able to attend the debate this morning, except to hear the

statement made by the Senator from North Dakota, and I wish to emphasize that I endorse every word of what the Senator from North Dakota has said about the beginning of this war and the continuing of it, and it being part of the foreign policy. That is certainly something we cannot just turn away from, throw down and go off and leave.

I have no complaints as to anyone's position on this bill, of wanting a reduction and wanting to save money. We all do. But those of us who have carried a good part of the load here concerning this year, and legislating on it, have been some of the ones who warned against going in there in the first place; but we stood firmer not to be run out of there, not to be chased out or leave, either, with our POW's left behind.

What the Senator has said about Mr. Kissinger is every bit true. But I want to say that no man has served, under the circumstances, in a finer way than did former President Nixon, when he had the courage and he took all the beating over the head politically and otherwise about withdrawing from this war under conditions where we were not going to be defeated, and under conditions where we were not going to leave until our POW's came with us. So I commend him for that again.

Now, on this matter: In this bill—may we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. Our committee has been dealing with this matter for several years, military aid to South Vietnam, as an exception to the general rule that the Foreign Relations Committee deals with it. We were the ones, in our committee, who first put a ceiling on this amount of $2.5 billion.

Then we brought that down as much as circumstances would allow. This year, now, there is written into the authorization bill a requirement, in hard law, requiring that this money be used under circumstances that require standard accounting methods, whereby the General Accounting Office can go in and chase down every single dollar that may be used in this way. That is an innovation. It is something new, and I think that we are going to have a far better chance to make a real test out of this matter, as to how much they may need, barring one extraordinary thing that no one can foretell, and that one thing is, How hard is North Vietnam going to press this matter for a decision?

In extremity, I judge almost everyone here would be willing to appropriate more money if needed to keep these people, the South Vietnamese, from being exterminated or virtually enslaved.

So I have said this in conference, that no one can actually say how much we will need, but just to get the ordinary things, artillery shells, ammunition, rifles, small arms, and items of that kind, is going to require about just as much as we have in the bill anyway.

It will not buy a lot of planes and tanks and a whole lot of things of that kind. If it has to be had, we have to consider this in a supplemental bill. We had an understanding in the Appropriations Committee that we would make these reductions, and if there was an emergency arose and the administration asked for it, we would consider the facts as they developed then, just to furnish the elementals.

I hear all these stories about the artillery shells being stolen and sold for scrap. We have not had any of that that could be traced down with any authenticity. I do not know, I suppose we have a little stealing going on, thefts here and there, we usually do have, but that is certainly incidental.

The main matter here is—and I am not happy about it, I have never been enthusiastic about a whole lot of foreign aid—are we going to let this ally of ours, which is what we were calling them 2 or 3 years ago, die on the vine and be annihilated as a government and taken over by the Vietnamese Communists with us just standing by? Are we going to give them the minimum—now that is all it is in this bill, a minimum—that will keep them alive militarily, militarily under the ordinary, and they are having heavy lines of battle now, the enemy is closer to Saigon, the capital, than they have ever been.

Coming back to this question, are we going to keep them alive militarily?

I believe an old diehard like I am, to a degree, on military aid to every country in the world, and particularly with the background I have outlined, does not want to see that happen, not repudiate those 54,000 men killed over there and these thousands of others that were wounded, maimed, and their lives partly ruined. We do not want to repudiate them.

Just on that basis alone, I would stand strongly for the minimum.

Now, next year this matter is going to be handled by the——

The PRESIDING OFFICER (Mr. McINTYRE). The Senator's 5 minutes have expired.

Mr. STENNIS. One more minute.

Next year this matter is going to be handled by the Foreign Relations Committee along with all the other foreign aid matters and they will have an excellent chance to take a look and straighten out anything that is the matter with this program.

I think we have cleaned it up very much ourselves, but if we just let them sink into the mire and be defeated or exterminated, it will be too late.

I thank the Senator very much.

Mr. McCLELLAN. Mr. President, I yield 5 minutes to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I ask unanimous consent that my staff member, Mr. John Napier, may be on the floor during the debate on this bill and on H.R. 12628, including the voting on the bill.

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

Mr. McCLELLAN. Mr. President, I ask unanimous consent that Mr. Bill Kennedy, of the appropriations staff, may have the privilege of the floor during future debate on this bill.

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

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

The PRESIDING OFFICER. The Senator has 13 minutes remaining.

Mr. McCLELLAN. I thank the Chair.

Mr. President, it certainly is not with any great enthusiasm or with any real pleasure that I undertake to defend the action of the Appropriations Committee in this instance in placing the amount of this appropriation at $700 million, the same as that by the House.

I say, it is not any pleasure, because I am placed in a different role from any I have experienced in the past. Some who are very enthusiastic about this amendment have possibly over the years supported large sums of foreign aid spending. I have opposed these measures. I have not voted for foreign spending for a foreign aid bill since 1954, and it is not with any degree of satisfaction at all that I support any amount, not one nickel, for Vietnam or for Southeast Asia.

But it is not what I would personally like to do or would not like to do. We have a question here on what is the duty and the responsibility of our country to do under the present circumstances.

When we made the settlement in Vietnam that enabled us to bring our boys home, we called it peace with honor. I do not know, in my judgment—it was not a complete peace nor was it with complete honor, but it did result in the saving of thousands and thousands in American boys' lives. Recognizing that fact I am confident that we made some obligation, I do not think this will be denied, that we made some obligation to help Vietnam militarily, and economically, in the hope and expectation that possibly she could defend herself.

That was the whole theory, let us get out and we will give them help, so that they can defend themselves.

We got out and our boys are home, we are not fighting, we are not dying over there any more. I want to say that at $700 million a year it is a small amount to get our boys home if that is all it is going to cost us.

For that reason, I am going along and supporting this provision again this year.

Now, if we are going to absolutely stop it, let us say so. Let the authorization committee say so. Do not bring out any more authorization for it and let us give them notice a year in advance that we are not going to do it.

We have cut them this year just over 50 percent—51 percent of what amount the administration requested. We are giving them about the same amount they received last year.

I want to add, we are not giving them as much assistance in goods, material, ammunition, and supplies as we gave them last year, because $700 million this year will not buy the same amount of ammunition, it will not buy the same amount of gasoline, it will not buy the same amount of clothing, it will not buy the same amount of food, it will not buy the same amount of hospitalization, the same medical care, so we are cutting them down.

We are not advancing them more than last year. We are gradually cutting them down.

We ought to do one of two things, make up our mind as national policy we are going to stop it altogether, or we ought to do a little to help them sustain themselves. Particularly, that is true, as it has been pointed out here this morning, with the enemy now within 16 miles of the capital city.

I do not doubt that there is corruption. I do not doubt there are many things wrong. There were many things wrong with a whole lot of other countries and governments, and we kept financing them. We have financed dictatorships.

Where we have already invested 50,000 American lives, plus 300,000 other casualties, that is our treasure.

I do not know whether we ever belonged there in the first place. My belief was when we went in there we should have gone in to win, and we did not.

I think our policy has been wrong from the beginning, but now we want out. Our boys are not dying, and after we induced them to agree to the terms of the peace with the understanding that we would give them some military aid, I think, Mr. President, we have some obligation to do it.

Now, let me point out, and I say I do not relish this, but here is a letter I received this morning from the Secretary of Defense.

Mr. President, I ask unanimous consent that it be inserted in the RECORD at this point.

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

AUGUST 21, 1974.

Hon. JOHN L. MCCLELLAN,
Chairman, Department of Defense Subcommittee, Committee on Appropriations, U.S. Senate

DEAR MR. CHAIRMAN: I am concerned about a further reduction in the FY 1975 level of support to South Vietnam below the $700 million recommended by both the House and Senate Appropriations Committees. A reduction below the $700 million level would lead to a serious crippling of the South Vietnamese capability to defend themselves, would have a demoralizing effect on them, and could be taken by the enemy as an invitation to increase hostilities. There is no assurance, for example, that we will be able to provide adequate levels of ammunition stocks since the stated requirement for ammunition and essential operating costs alone exceed the $700 million.

As you know, the Department of Defense originally requested funds in the amount of $1.450 billion. As a result of recommendations of the House and Senate Armed Services Committees, Congress previously provided an authorization of $1.000 billion for this purpose. Notwithstanding the level authorized, both the House and Senate Committees on Appropriations have recommended a funding level of $700 million. Congress also denied the use of about $300 million in unobligated balances from FY 1974 and prior programs. This further compounds the impact of cuts in the FY 1975 request. To avoid the loss of all prospects for a negotiated settlement, I urge your support against further reductions in the program of military assistance for South Vietnam.

Sincerely,

J. R. SCHLESINGER.

Mr. McCLELLAN. Mr. President, I will read a sentence from it:

A reduction below the $700 million level would lead to a serious crippling of the South Vietnamese capability to defend themselves, would have a demoralizing effect on them, and could be taken by the enemy as an invitation to increase hostilities.

I do not know that this allegation is true, but I know it is quite probable. I do know they mean to control that country some day, if they can.

It is perfectly obvious to me, and I do not think anybody can deny it. It is just a question of how much more obligation we feel to try to help these people defend themselves.

Another portion of the letter reads:

Congress also denied the use of about $300 million in unobligated balances from FY 1974 and prior programs. This further compounds the impact of cuts in the FY 1975 request. To avoid the loss of all prospects for a negotiated settlement, I urge your support against further reductions in the program of military assistance for South Vietnam.

Mr. President, I am going to support it this year, the amount that is in the bill, the amount that the House has approved. But I am making reservations, and I do not hesitate to say so. I think the appropriate committees, the Armed Services Committee and the Foreign Relations Committee, ought to look into it very closely. We ought to make a policy that we are going to stand by and live by, and not have this problem every time an appropriations bill comes up. Let us determine what we are going to do, and then do it. We ought to give them notice that within a year's time, or some such time, we are not going to provide any further assistance. If we are going to provide help this year, we should give them notice that within a year's time, or some such time, we are not going to provide any further assistance. If we are going to provide help this year, we should give them enough funds to try to make certain that it will sustain them until we reach that point next year for a final decision.

Mr. President, I do not relish supporting this matter at all. I do not like it. I do not like it a bit. I have not liked it, any of it, in the last 20 years. But we do have a problem here, and we have an obligation, as I see it, at this moment to try to help these people to protect themselves; try to prevent their being overrun and conquered, and their government and their freedom destroyed.

The PRESIDING OFFICER. Who yields time? The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I yield myself such time as I may require.

I am practically through. I do not think we need to spend further time on this.

Mr. President, I think we ought to recognize some of the facts.

Fact No. 1 is what this amendment does is propose that we provide in military assistance for South Vietnam exactly the same as the Senate voted last year, $550 million, not a reduction from what we recommended last year. Last year we did settle for a higher figure. We went to conference. This year we will go to conference and we would presumably settle for some kind of a compromise figure. I am simply recommending that we provide the same amount as last year.

No. 2, in spite of all the argument and all the rhetoric, the fact is that the best evidence we have from the Defense Intelligence Agency is that the People's Republic of China and the Soviet Union have sharply reduced the amount that they have been giving to North Vietnam.

The statistics are very clear. They cut the amount they gave in 1972 by more than one-half what it was. Their figures show that we are providing 8 times as much money to South Vietnam as the major Communist countries are providing North Vietnam.

The Senator from Arizona disputes that, and argues that we include in our military figures not only hard goods but many other things.

I say that is the discretion of the Defense Department. If they want to confine it to planes, tanks, ammunition, rifles, and so forth, good. That is what they should do.

Mr. President, in addition to these points, I would like to discuss the argument that has been made that there has been exaggeration of the corruption in South Vietnam. General Thieu's own paper, the most conservative paper in Saigon, and the paper that supports the administration, was responsible for the evidence that uncovered the fact that a number of new American A-37's worth $500,000 each were being dismantled and sold for scrap on the black market in Saigon.

Furthermore, there is the fact the police raid on an illegal scrap operation yielded the wings of 15 planes as well as substantial amounts of other U.S.-made equipment which was being readied for foreign export.

I realize that corruption does take place under these circumstances. But the one action—the one action—Congress can take to reduce that is to limit the amount of funds available. This is the only way we can put real pressure on the Thieu administration to make sure that this kind of corruption does not take place in the future. As long as they have an abundance of hundreds of millions of dollars, it is predictible that this type of corruption is going to recur.

One further point, Mr. President: It has been said that if we do not provide the full amount the Appropriations Committee has recommended and the Secretary of Defense says he has to have, South Vietnam is going to go down the drain.

This is very hard to accept in view of the findings of congressional committees and the testimony of Gen. William Caldwell. The Frelinghuysen report, for example, and the testimony of General Caldwell before the Senate Armed Services Committee this year, showed that the Saigon regime has increased its population control by 6 percent since the cease-fire and its control over hamlets by 770. This is not what happens when a regime is in dire straits. It is improving its position.

So on every score, from the standpoint of the balancing of the amount of aid on the other side, which has been set by our officials as the principal purpose of our military aid, we are giving more. No matter whether you accept my statistics or the statistics of the Senator from Arizona, that is the case. We are giving more, substantially more. If my amendment is accepted we would still give more than the Communist countries are giving.

There is not any question that we can help put pressure on reducing corruption if we reduce the amount of money available.

There also seems to be little question that, when you look at the facts, the South Vietnamese are not about to go under if we provide a limited reduction in the amount of military assistance. They have been doing well and they will continue to do all right.

Mr. President, I do not know if the Senator from Arkansas has any request for any further time.

Does the Senator from Arkansas wish to yield back his time or have a quorum call with the time taken from both sides?

Mr. McCLELLAN. I will yield 1 minute to the Senator from Mississippi.

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

Mr. President, just for the record, back when we had this matter up for consideration in the Armed Services Committee on Thursday, May 23, 1974, as chairman I issued a press statement calling upon the Department of Defense for a closer surveillance, and so forth, with reference to this program. My recollection is I wrote the Secretary of Defense a letter to that effect, but I have been unable to locate the letter. As a substitute, I will use the press release to describe it.

I ask unanimous consent that a copy of this press release to improve surveillance over the matter be inserted in the RECORD at this point.

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

NEWS RELEASE OF SENATOR JOHN C. STENNIS

Senator John C. Stennis, Chairman of the Senate Armed Services Committee, requested today that "a highly competent individual of top reputation" be assigned to take full charge of the billion-dollar program of military aid to South Vietnam.

Senator Stennis made the request in a statement directed to the Defense Department and the White House. He stressed that a top administrator should have full-time responsibility for the program under the general direction of the Secretary of Defense.

The text of the Senator's statement:

"In recent weeks the Senate Committee on Armed Services has devoted much time to the program of military aid for South Vietnam. That program was originally designed to finance a shooting war in which U.S. troops, South Vietnamese, and others were engaged.

"The after-the-fact accounting procedures which may have been necessary for full-scale fighting with allies are wholly inappropriate for providing aid to a single nation—South Vietnam. I think this program must be tightened up and put on a sound basis, and I am asking the Defense Department and the White House to do that.

"In the pending Military Procurement Authorization Bill, the Senate Armed Services Committee has provided a new accounting format for military aid to South Vietnam. In place of the merged accounting arrangement known as Military Assistance Service Funded, MASF, our Committee has set up for this assistance a separate appropriations account which, in contrast to the present arrangement, would be subject to the same auditing and review procedures as any other appropriations account. Among other things, it would be subject to audit by the General Accounting Office. Obligations would require approval by the Secretary and would be charged immediately against the ceiling set by Congress.

"To administer this new program, I think a highly competent individual of top reputation should be assigned to take full charge and supervise operations here and in South Vietnam.

"I understand that the program will be the general responsibility of the Secretary of Defense and the Assistant Secretary for International Security Affairs, but I want a top-man assigned full-time to this job.

"I favor a reasonable amount of military aid for South Vietnam in the wake of our withdrawal. I am sure, however, that the Program must be put on a new basis which reflects the present situation."

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. If both sides yield back their time——

Mr. McCLELLAN. Has the Senator from Wisconsin yielded back his time?

Mr. PROXMIRE. I yield back, unless the Senator from Arizona wishes to ask a question.

Mr. GOLDWATER. If both sides yield back their time, does the vote occur at 11 o'clock or now?

The PRESIDING OFFICER. The unanimous-consent agreement was for the vote to occur at 11 o'clock. That is the time the vote will occur.

Mr. GOLDWATER. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. I am willing to yield back the remainder of my time.

Mr. PROXMIRE. I had a request from the Senator from Missouri to speak briefly. I will yield to the Senator from Missouri for 2 minutes.

Mr. SYMINGTON. Mr. President, yesterday, I gave reasons why I was going to support the Proxmire amendment. This morning I found that due to a rather intricate formula in the Corps of Engineers, a very important and essential dam for my State, slightly north of Kansas City, has been rejected. I also found that an important dam in Southwest Missouri, where the amount of money being asked was $75,000—$75,000—was rejected. The total project to go to completion would be $18 million.

I have respect for those who believe that we have an obligation to the South Vietnamese. But the longer I am in this body the more I believe that our basic obligation is to the people of the United States, many of whom are poor, many of whom need their water developed, many of whom wonder why it is so necessary for us to spend all these billions upon billions of dollars in foreign countries when they cannot get the opportunity to have the Congress approve a few thousand dollars or in some cases a few million dollars to improve their own quality of life.

I thank the Senator for yielding to me.

Mr. PROXMIRE. May I say to the Senator from Missouri I think he raises one of the most important points of all, one that has been neglected this morning in the debate.

The Senator from Rhode Island discussed it yesterday very eloquently. It is a fact that this inflationary year, when we have to do everything to hold down every nickel of spending we possibly can, when we are denying assistance for health, for education, for well being, for housing, for transportation, for so many purposes that we need—and the House just yesterday made an extremely sharp reduction in the mass transit bill—here is one area of assistance to South Vietnam where a modest reduction back to the level we recommended last year, it seems to me, is in order.

Mr. SYMINGTON. Mr. President, I thank the Senator for his remarks.

May I say that I have been in South Vietnam many times—in 1961, in 1965, in 1966, in 1967, and in 1972—and every time I went there I became more and more convinced that the sooner we got out of South Vietnam, and stopped pouring these billions of dollars down the rathole of that country, the better off it would be for the people of this country.

Mr. PROXMIRE. Mr. President, I thank the Senator.

Mr. HUGHES. Mr. President, I am pleased to join in supporting the amendment of the distinguished Senator from Wisconsin (Mr. PROXMIRE), for I believe that military assistance to South Vietnam can and should be reduced further.

As a result of a compromise in the Senate Armed Services Committee, I supported that committee's recommendation of a $900 million ceiling for this MASF program. As I said at the time, however, I hoped and expected that the Appropriations Committee would examine these requests on the basis of later evidence in order to consider further sensible reductions.

That committee has already seen fit to reduce the funding to $700 million. I believe that recent evidence also justifies a further cut—to the $550 million figure proposed in this amendment.

One of the most significant recent studies of this program was conducted by staff members of the Foreign Relations Committee, whose report was published just 3 weeks ago.

That report makes these major findings:

U.S. officials who study North Vietnam most closely agree that a major Communist attack is unlikely this year and perhaps even next year.

While overall North Vietnamese and PRG military strength has increased about 30,000 men since the Paris Agreements were signed, Saigon has added over 50,000 men.

Both sides have continued military operations to consolidate their respective positions, but Saigon has expanded its control by 6 to 15 percent.

U.S. officials acknowledge that the mass of military equipment poured into

South Vietnam just before the cease-fire has not been well utilized.

And although officials in Washington continue to worry about alleged ammunition shortages in view of congressional cutbacks in MASF, the Foreign Relations Committee staff members report that "no mention of such shortages was made to us in briefings or discussions in Vietnam."

In fact, U.S. officials have no reliable means of verifying expenditures of ammunition by the South Vietnamese.

In view of these facts, I do not see why we should continue to fund this program at nearly last year's level. A $550 million program would be much more in keeping with our desire to phaseout of this huge monetary commitment to Saigon and also to encourage the transition from a military to a political struggle.

After all, the South Vietnamese are far from defenseless. They have the fifth largest armed force in the world, and one of the largest and best equipped air forces. Even this $550 million in military aid will be more than double what North Vietnam received last year from its allies.

The military machine we have built in South Vietnam is also an instrument for repression and the locus of waste and corruption. By continuing massive aid to the Thieu regime, we are in fact undermining the chances for peace or democratic government in South Vietnam.

Cutting military aid to $550 million now is a responsible and a moral action.

Every time one of these requests is debated in the Congress, there seems to be a flood of scare stories from Saigon. We heard dire predictions last winter, when we denied the request for $266 million in the supplemental. We heard more in June, when we cut the request to $900 million. Now we hear them again.

What we do not hear is that plaintive cry for peace, for an end to the violence, which comes from the innocent people caught in the crossfire of the contending armies.

These farmers and orphans and urban squatters do not care who sits in the presidential palace, or who collects the taxes. Or if they do care, they have never been given a free choice or a free vote to express their preference.

The United States, by its own actions, cannot impose peace where there is no will for peace. But we can reduce our own involvement in perpetuating this long and tragic conflict.

This amendment contributes to that worthy goal, and I shall gladly support it.

Mr. McCLELLAN. Mr. President, I yield 2 minutes to the distinguished Senator from Texas.

Mr. TOWER. Mr. President, we do have many pressing domestic problems here, and there are many important Government programs that need to be funded and funded adequately. But this does not obviate the fact that we have a world responsibility. We have to think in terms of the role of the United States in trying to promote a climate in this world in which we can achieve peace and security, a climate in which people can aspire to self-determination and have some reasonable hope of realizing that aspiration. If we do not promote that climate in this world, I think we are going to inflict damage on the security of the United States.

Domestic problems are important. But it is also important that we create the kind of climate in this world in which we can preoccupy ourselves with domestic problems and not with international problems. To walk away from Vietnam and turn Vietnam over to Hanoi—and that is precisely what we would do if the amendment of the Senator from Wisconsin were adopted—would be a dereliction of our responsibility. It would mean that we are saying that 50,000 American have died in vain. It would mean that the Paris agreement, which was so painfully put together, would be treated as a scrap of paper, because we would leave the South Vietnamese without the capacity to defend themselves. Already, in violation of the Paris agreement, the North Vietnamese have built up their forces to the greatest strength ever in South Vietnam.

I do not see how we can, in good conscience, abandon these people to what will be a major offensive and a certain blood bath should we fail to supply them with the military equipment they need.

Mr. PROXMIRE. Mr. President, I say to the Senator from Texas that I am not proposing that we get out of Vietnam. Perhaps I should, but I am not. I am proposing that we allow $550 million, an enormous amount, for military assistance to Vietnam, in addition to the extra $500 million that the Committee on Foreign Relations has recommended we provide in economic aid for South Vietnam. This is more aid than we provide to any other country in the world, more than we provide to all of South America. This is not abandoning our world responsibilities at all.

Further, in terms of the Paris agreement, the fact is that the Soviet Union and the People's Republic of China have reduced their assistance far more than we have—as a matter of fact, far more than we would even if we adopted my amendment.

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

Mr. PROXMIRE. I yield 1 minute to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I appreciate the cooperation of the able Senator from Wisconsin in permitting me to present a matter to the Senate.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT AUTHORIZATIONS EXTENSION

Mr. RANDOLPH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 14883.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 14883) to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a 2-year period, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. RANDOLPH. I move that the Senate further insist upon its amendment.

The motion was agreed to.

DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 16243) making appropriations for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes.

The PRESIDING OFFICER. Who yields time?

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

Mr. McCLELLAN. I yield 1 minute to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I would just remind the Senate that the President of the United States feels very strongly about this appropriation. The Secretary of Defense has written a letter, a copy of which is on the desk of each Senator, showing the importance of this appropriation. The Secretary of State has made a statement strongly favoring this appropriation.

I remind Senators, too, that this amount of $700 million is only four-fifths of 1 percent of the defense budget. Originally, the Defense Department requested $1.45 billion. That was cut to $1 billion in conference with the Senate and the House. The Senate Appropriations Committee has now cut it to $700 million.

Mr. President, if we go below that amount, we are jeopardizing the freedom of the people of South Vietnam. Furthermore, we will not be keeping our commitment there, which was the promise to those people of a talk for a tank, a gun for a gun, so that they can fight their own war and retain their freedom.

I hope that this amendment will be defeated.

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

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

The PRESIDING OFFICER. All time has been yielded back.

Mr. GOLDWATER. Mr. President, would it be in order at this time for me to call up my amendment to the Proxmire amendment?

The PRESIDING OFFICER. The amendment would be in order.

Mr. GOLDWATER. I call up my amendment, Mr. President, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 1, line 2, of amendment No. 1810, in lieu of "$550,000,000" insert "0".

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

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, will the Senator yield for a question?

Mr. GOLDWATER. I yield.

Mr. STENNIS. I did not hear the last word in the proposed amendment.

Mr. GOLDWATER. The word is "zero."

The PRESIDING OFFICER. The clerk will state the amendment again.

The assistant legislative clerk read as follows:

On page 1, line 2 of amendment No. 1810, in lieu of "$550,000,000" insert "0".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona (Mr. GOLDWATER) to the amendment of the Senator from Wisconsin (Mr. PROXMIRE). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE) and the Senator from New York (Mr. JAVITS) are necessarily absent.

I also announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "nay."

The result was announced—yeas 21, nays 71, as follows:

[No. 373 Leg.]

YEAS—21

Abourezk	Hartke	Schweiker
Biden	Haskell	Scott, William L.
Burdick	Hatfield	Symington
Church	Hughes	Tunney
Cranston	Mansfield	Weicker
Eagleton	Muskie	
Fulbright	Pell	
Hart	Ribicoff	

NAYS—71

Aiken	Dominick	Metcalf
Allen	Eastland	Metzenbaum
Baker	Ervin	Mondale
Bartlett	Fannin	Montoya
Bayh	Fong	Moss
Beall	Goldwater	Nelson
Bellmon	Griffin	Nunn
Bennett	Gurney	Packwood
Bentsen	Hansen	Pastore
Bible	Hathaway	Pearson
Brock	Helms	Proxmire
Brooke	Hollings	Randolph
Buckley	Hruska	Roth
Byrd, Harry F., Jr.	Huddleston	Scott, Hugh
Byrd, Robert C.	Humphrey	Stafford
Cannon	Inouye	Stennis
Chiles	Jackson	Stevens
Clark	Johnston	Stevenson
Cook	Long	Taft
Cotton	Magnuson	Talmadge
Curtis	Mathias	Thurmond
Dole	McClellan	Tower
Domenici	McClure	Williams
	McIntyre	Young

NOT VOTING—8

Case	Kennedy	Percy
Gravel	McGee	Sparkman
Javits	McGovern	

So the amendment was rejected.

The PRESIDING OFFICER (Mr. MONTOYA). The question now recurs on agreeing to the amendment of the Senator from Wisconsin (Mr. PROXMIRE). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. JOHNSTON (after having voted in the negative). Mr. President, on this vote I have a pair with the senior Senator from Massachusetts (Mr. KENNEDY). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE) and the Senator from New York (Mr. JAVITS) are necessarily absent.

I also announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) and the Senator from Illinois (Mr. PERCY) would each vote "nay."

The result was announced—yeas 44, nays 47, as follows:

[No. 374 Leg.]

YEAS—44

Abourezk	Haskell	Nelson
Bayh	Hatfield	Packwood
Bible	Hathaway	Pastore
Biden	Huddleston	Pell
Brooke	Hughes	Proxmire
Burdick	Inouye	Randolph
Cannon	Magnuson	Ribicoff
Church	Mansfield	Schweiker
Clark	Mathias	Scott, William L.
Cook	Metcalf	Stevenson
Cranston	Metzenbaum	Symington
Eagleton	Mondale	Tunney
Fulbright	Montoya	Weicker
Hart	Moss	Williams
Hartke	Muskie	

NAYS—47

Aiken	Dole	Long
Allen	Domenici	McClellan
Baker	Dominick	McClure
Bartlett	Eastland	McIntyre
Beall	Ervin	Nunn
Bellmon	Fannin	Pearson
Bennett	Fong	Roth
Bentsen	Goldwater	Scott, Hugh
Brock	Griffin	Stafford
Buckley	Gurney	Stennis
Byrd, Harry F., Jr.	Hansen	Stevens
Byrd, Robert C.	Helms	Taft
Chiles	Hollings	Talmadge
Cotton	Hruska	Thurmond
Curtis	Humphrey	Tower
	Jackson	Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Johnston, against.

NOT VOTING—8

Case	Kennedy	Percy
Gravel	McGee	Sparkman
Javits	McGovern	

So Mr. PROXMIRE's amendment was rejected.

Mr. MCCLELLAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

STATE, JUSTICE, COMMERCE, AND JUDICIARY APPROPRIATIONS—TIME LIMITATION AGREEMENT ON NELSON-ERVIN AMENDMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to ask for a 1-hour limitation on the Nelson-Ervin amendment which will be offered to the State Department appropriation bill. This has been cleared with the manager of the bill.

I wish to ask if the distinguished ranking Republican would agree, as has the distinguished ranking Republican of the subcommittee.

Mr. YOUNG. I have no objection.

Mr. MANSFIELD. And the chairman of the subcommittee.

Mr. PASTORE. I have no objection.

Mr. HRUSKA. I have no objection.

The PRESIDING OFFICER. There being no objection, it is so ordered.

J. ALLEN FREAR BUILDING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1064, S. 3815.

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

There being no objection, the Senate proceeded to consider the bill (S. 3815) to designate the Federal office building located in Dover, Del., as the "J. Allen Frear Building" which had been reported from the Committee on Public Works with an amendment on page 1, in line 5, strike out the words "the late" 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 Federal office building located in Dover, Delaware, is designated as the "J. Allen Frear Building", in honor of Senator J. Allen Frear.

SEC. 2. Any reference to such building in any law, rule, document, map, or other record of the United States is deemed to be a reference to such building by the name designated for such building by the first section of this Act.

Mr. ROTH. Mr. President, I thank my colleague from Delaware for his support of this bill to name the new Federal office building in Dover, Del., the J. Allen Frear Building. I have spoken on this matter on two previous occasions, so my remarks shall be brief.

Mr. Chairman, I believe that Federal buildings should be more than concrete and steel—they should embody and complement the community in which they stand. Federal buildings can do this by bearing as their name the name of a distinguished member of the local community. In Dover, Del., such a man is former U.S. Senator J. Allen Frear.

J. Allen Frear's entry in the Biographical Directory of the American Congress reads as follows:

Frear, Joseph Allen, Jr., a Senator from Delaware; born on a farm near Rising Sun, Kent County, Del., March 7, 1903; attended the Rising Sun rural school and Caesar Rodney High School; graduated from the University of Delaware in 1924; president and

owner of a retail business in Dover, Del.; Commissioner of Delaware State College 1936–1941 and Delaware Old Age Welfare Commission 1938–1948; director, Federal Land Bank Board, Baltimore, Maryland 1938–1947, being chairman of the board the last two years; director of the Farmer's Bank of Dover and the Baltimore Trust Co., of Camden, Del.; president of Kent General Hospital, Dover, Del., 1947–1951; during World War II served in the United States Army as a major, with overseas service in the European Theater of Operations with the Military Government, 1944–1946; delegate to Democratic National Conventions in 1948, 1952, and 1956; elected as a Democrat to the United States Senate in 1948 for the term commencing January 3, 1949; reelected in 1954 for the term ending January 3, 1961; unsuccessful candidate for reelection in 1960; appointed to the Securities and Exchange Commission on March 15, 1961, resigned in October 1963; elected a vice president of the Wilmington Trust Co., in Delaware, 1963; is a resident of Dover, Delaware.

This entry is enough to tell us that former Senator Frear has led a worthwhile life of community service, that he has done much for the people of Delaware. But it does little to point out the essential humanity of this man—his perception, his warmth, and his good sense; the qualities that have earned him friendship as well as respect, and deserve note.

Mr. President, in a time when suspicion is widespread that many in public office are not worthy of trust, it is important that we honor those who have lived a public life that is worthy of trust. For that reason I sponsor and urge my colleagues to support S. 3185, to designate the Federal office building located in Dover, Del., as the J. Allen Frear Building.

Mr. President, shortly after I first suggested that the Federal office building in Dover be named for former Senator Frear, an article appeared in the Delaware State News supporting that idea. I ask unanimous consent that it be inserted in the RECORD at this time.

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

[From The Delaware State News, July 9, 1974]

NAMING OF FED BUILDING FOR FREAR IS GOOD IDEA

(By Harry C. McSherry)

A proposed action that was met with pleasure by all persons learning about it was the one to name the new Dover federal office building in honor of former U.S. Sen. Allen J. Frear of Dover.

The fact that the former Senator is a prominent Democrat apparently did not deter U.S. Sen. William V. Roth, a Republican, from suggesting it and, further, indicating he planned to confer with the proper Senate Committee concerning the matter.

As a supporter of civic matters, either in public, or privately, the former Senator has been acknowledged in the front ranks of affairs locally for a long term of years.

His pleasant manner has brought him an untold number of friends and has likewise aided his efforts in many activities.

It is needless to say the local public will be greatly pleasured should the proposal of Senator Roth be successful.

Mr. BIDEN. Mr. President, I have cosponsored S. 3815, a bill to designate the new Federal Office Building in Dover, Del., as the "J. Allen Frear Building."

At the request of Senator ROTH, I have had the bill reported out of the Public Works Committee of which I am a member. The Public Works Committee in its report stated that,

The committee believes that it would be most appropriate to name the New Federal Office Building in Dover the "J. Allen Frear Building."

J. Allen Frear served as the U.S. Senator from Delaware for two terms from 1949 to 1961. Senator Frear has dedicated his entire life to public service. A person of the highest moral integrity, Senator Frear has conducted himself in both elected office and his many public service activities, in a fair, impartial, nonpartisan manner. He has always placed the interests of the Nation and the people of the State of Delaware before self or party.

The best indication of this is demonstrated by the fact that my Republican colleague from Delaware first came up with the idea to name this building after Senator Frear, a Democrat.

I, therefore, in recognition of his outstanding record of public service, urge your support of S. 3815 when it comes before the Senate for consideration.

The amendment was agreed to.

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

VETERANS EDUCATION AND REHABILITATION AMENDMENTS OF 1974—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a report of the committee of conference on H.R. 12628, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12628) to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and other persons; to make improvements in the educational assistance programs; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of August 19, 1974, at pp. 29015–29040.)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of not to exceed 5 minutes on the consideration of the conference report.

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

Mr. HARTKE. Mr. President, I rise to urge the Senate to adopt the conference report to H.R. 12628, the Vietnam Era Readjustment Assistance Act of 1974. The conference report before you has reconciled the differences between the Senate and the House versions and has been agreed to unanimously by the Senate and House conferees. Mr. President, this bill is not all that we had hoped for but by and large it does contain the vast majority of the provisions passed by the Senate on June 19 of this year.

The one item which occasioned the greatest opposition from both the administration and from the House conferees was the partial tuition assistance provision which would have provided up to $720 a school year in additional educational allowances. While the tuition provision was dropped from this compromise bill, the conferees have agreed to a provision directing the Veterans' Administration to carry out a thorough study and to report to Congress and the President within 12 months on the opportunities for abuse and administrative difficulties arising from a tuition assistance program if one were to be enacted. Various interested organizations and agencies are to be consulted and their views solicited as part of the study process. The study would draw its context from the findings of abuses in connection with the World War II GI bill program and from an investigation of these problems as presently being experienced under the GI bill tuition assistance programs such as chapter 31, vocational rehabilitation, correspondence courses, flight training and PREP, and would include recommendations by the Veterans' Administration as to legislative or administrative ways in which any such abuses and difficulties could be prevented and mitigated under present or future programs.

Mr. President, I believe such a study would be valuable and may put to rest some of the persistent fears that exist with respect to any tuition assistance program. I must be candid and admit that I am disappointed that this provision was not agreed to, because it remains my contention that the concern over possible abuses in the GI bill program does not rest so much in the level or manner of payment as it does either with the quality of services offered by some institutions presently eligible to participate in the VA program or with deceptive, erroneous, or misleading advertising sales or enrollment practices by them. I am thus gratified that new and important controls added by the Senate which should mitigate against those abuses have been retained in the compromise version. Perhaps with the prospective study by the Veterans' Administration and the operation of these new controls added by the Senate, we will be able to approach the issue of tuition with increased knowledge, decreased concern and reduced emotion.

Mr. President, there have been some suggestions that this bill is inflationary and that more "compromise" is needed. I believe this suggestion is not in accord with the facts and ignores the extensive amount of compromise which has occurred already. The Senate by receding on the partial tuition assistance allowance has agreed in effect to a net reduction in the original Senate bill approved by a vote of 91 to 0 of almost $500 million. I believe any objective observer will

agree that this represents a substantial compromise on the part of the Senate.

Second, the 22.7-percent increase clearly does not outpace the inflation which has been and continues to be experienced by our younger veterans. Since the effective date of Public Law 92-540 in 1972 the increase in the basic cost of living alone has reached almost 19 percent as of today and can easily be expected to reach 23 percent by the end of this year. But even this fails to take into account that increases in the consumer price index have consistently been outpaced by increases in the cost of education. It should be remembered that the educational assistance allowance scheduled to be increased by 22.7 percent is meant to cover both subsistence costs and educational costs. Thus I believe that the increases that we have provided in the compromise agreement are responsible and thoroughly warranted measured by any standard including our justifiable concern over inflation and the impact of governmental expenditures on it. I am hopeful that President Ford will realize that this is a responsible and necessary measure, because I am convinced that Congress and the American people view it as such.

Mr. President, the American people became increasingly disenchanted with President Ford's predecessor, whose actions were so often at variance with his words. Veterans particularly noted the disparity between President Nixon's rhetorical praise for those who sacrificed for their country and his actions which so often belied that praise. Perhaps most shocking to our Nation's veterans was the pocket veto of two important veterans' measures in 1972—the first such vetoes in over 30 years. Of course, both bills were overwhelmingly passed in the following Congress and signed into law, but the distress created by those vetoes was lasting.

I am most hopeful that President Ford will take the opportunity to demonstrate his genuine concern for those who sacrificed for their country by signing the bill promptly when it is presented to him. Some schools have already begun and the overwhelming majority will begin shortly. It is important that this legislation be signed now so that veterans can get on with the task of educating themselves and becoming more productive citizens.

Mr. President, before I briefly summarize the provisions of the conference report, I want to take this opportunity to express my deep gratitude and appreciation to each member of the committee, which I am privileged to chair, for their hard work, their dedication, and their typically bipartisan approach to this bill which has characterized their efforts with respect to all veterans legislation which has been considered by the committee. The Senator from Georgia (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Iowa (Mr. HUGHES), the Senator from California (Mr. CRANSTON), the Senator from Wyoming (Mr. HANSEN), the Senator from South Carolina (Mr. THURMOND), the Senator from Vermont (Mr. STAFFORD), and the Senator from Idaho (Mr. MCCLURE) have all worked hard on this bill and have contributed to the final product which you see before you.

I particularly want to commend them for the unity they displayed in our conference with the House.

GENERAL SUMMARY OF THE PROVISIONS OF THE VIETNAM ERA VETERANS READJUSTMENT ASSISTANCE ACT OF 1974

Mr. President, there are five titles in the Vietnam Era Veterans Readjustment Assistance Act of 1974 as agreed to in conference. Briefly summarized, they are as follows:

TITLE I

Title I amends title 38 as follows:

First, increases the rates for the monthly educational assistance allowance by 22.7 percent fo religible veterans under chapters 31 and 34 and for eligible wives, widows, and children training under chapter 35. The monthly allowance for a single veteran with no dependents is increased from $220 to $270. A married veteran's allowance is increased from $261 to $321 monthly. The allowance for a married veteran with a child is increased from $298 to $366 a month with provision for $22 for each additional dependent.

Second, increases by 22.7 percent the monthly training assistance allowance payable to eligible veterans or persons pursuing a full-time program of apprenticeship or other on-job training program. The initial monthly allowance for a single veteran with no dependents is increased from $160 to $196.

Third, liberalizes eligibility requirements for disabled Vietnam veterans to train under the vocational rehabilitation provisions of chapter 31 to equalize them with those in effect for veterans of World War II and the post-Korean conflict.

Fourth, clarifies and liberalizes the circumstances under which disabled veterans training under the vocation rehabilitation provisions of chapter 31 may qualify for individualized tutorial assistance.

TITLE II

Title II amends title 38 as follows:

First, permits the initial 6 months of active duty training by Reserve and National Guard members to be counted toward entitlement for educational assistance under chapter 34, if the Reserve or Guard members subsequently serve on active duty for a consecutive 12 months or more.

Second, extends the maximum entitlement of educational benefits to veterans from 36 to 45 months.

Third, clarifies and strengthens certain administrative provisions of the veterans VA educational assistance programs to prevent and mitigate against abuses by providing that courses with vocational objectives must demonstrate that at least 50 percent of the course graduates obtained employment in the occupational category for which the course was designed to provide training.

Fourth, provides that the Administrator shall not approve enrollment of an eligible veteran or person in any course which utilizes significant avocational and recreational themes in its advertising, or in any proprietary below-college level course in which more than 85 percent of the eligible students are wholly or partially subsidized by the Veterans' Administration.

Fifth, clarifies and strengthens certain administrative provisions of the VA educational assistance program to prevent abuses.

Sixth, authorizes up to 6 months of refresher training for veterans eligible under the current GI bill to update knowledge and skills in light of the technological advances occurring in their fields of employment during and since the period of their active military service.

Seventh, liberalizes the veteran-student service programs by raising the maximum work-study allowance from $250 to $625—increasing the maximum number of hours a veteran may work from 100 to 250 hours—and removing any statutory ceiling on the number of veterans who can participate in the program.

Eighth, liberalizes the tutorial assistance program by extending the maximum assistance period from 9 to 12 months and increasing the monthly tutorial allowance from $50 to $60.

Ninth, liberalizes permissible absences for courses not leading to standard college degrees by excluding customary vacation period established by institutions in connection with Federal or State legal holidays.

Tenth, permits any joint apprenticeship training committee which acts as a annual reporting fee of $3 for each eligible veteran or person enrolled in VA educational programs in return for furnishing the VA with the reports or certificates of enrollment, attendance, and terminations of such eligible veterans.

Eleventh, increases by 22.7 percent the educational allowance payable to eligible veterans or persons who are enrolled in PREP, flight training, or pursuing a program of education by correspondence.

Twelfth, provides that occupational-vocational courses not leading to a standard college degree but offered on a clock-hour basis may in the alternative be measured on a credit-hour basis, provided that there is a minimum 22 hours of attendance per week.

Thirteenth, provides that the Administrator shall not approve the enrollment of any eligible veteran or person in any course offered by an institution which utilizes erroneous, deceptive, or misleading advertising, sales, or enrollment practices of any type.

Fourteenth, directs the Administrator to measure and evaluate all programs authorized by title 38 with respect to their effectiveness, impact, and structure and mechanisms for the delivery of services, and to collect, collate, and analyze, on a continuing basis, full data regarding the operation of all such programs and to make available to the public and the Congress on a regular basis such information and the results of his findings.

Fifteenth, increases the allowance payable to the Administrator for administrative expenses incurred by the State approving agencies in administering educational benefits under title 38.

Sixteenth, clarifies and strengthens the Administrator's functions and responsibilities under the VA outreach pro-

gram to include greater use of telephone facilities and peer-group contact.

Seventeenth, establishes a veterans representative program to station a full-time VA employee at each educational institution where at least 500 veterans are enrolled to serve as a liaison between the VA and the school and to identify and resolve various problems with respect to the educational assistance program.

Eighteenth, directs the Administrator of Veterans' Affairs to seek to achieve maximum feasible effective coordination and interrelationship of services among all Federal programs and activities affecting veterans, and to seek to achieve the maximum coordination of their programs with the programs carried out by the Veterans' Administration.

TITLE III

Title III amends title 38 as follows:

Authorizes supplementary assistance to veterans or eligible wives, widows, and children by direct loans to such individuals from the Veterans' Administration—utilizing the National Service Life Insurance Trust Fund—of up to $1,000 a school year to cover educational costs not otherwise provided for in title 38 or other Federal loan or grant programs.

TITLE IV

Title IV amends title 38 as follows:

First, extends chapter 41 benefits of job counseling, training, and placement services to wives and widows eligible under chapter 35.

Second, expands and strengthens the administrative controls which the Secretary of Labor is directed to establish in order to insure that eligible veterans, wives, and widows are promptly placed in a satisfactory job or job training or receive some other specific form of employment assistance; also requires the Secretary of Labor to establish standards for determining compliance by State public employment service agencies with the provisions of chapters 41 and 42.

Third, clarifies and strengthens existing law requiring that Federal contractors take actions in addition to job listing in order to insure affirmative action to employ and advance in employment qualified disabled and Vietnam era veterans.

Fourth, provides that it is the policy of the United States to promote maximum employment and job advancement opportunities within the Federal Government for qualified disabled and Vietnam era veterans, and provides for special Federal appointment authority and other mechanisms to carry out that policy.

Fifth, provides for clarification and recodification into title 38 of existing law on veterans' reemployment rights, and further extends those rights to veterans who were employed by States or their political subdivisions.

TITLE V

Title V provides:

All amendments become effective on the date of enactment except that the rate increase will be effective September 1, 1974, and the new loan program will be effective November 1, 1974. Veterans or dependents eligible for a loan on or after November 1, 1974, shall be entitled to a loan amount reflective of the full amount of their tuition and all other costs of attendance which they incur for the academic year beginning on or about September 1, 1974.

Mr. President, I also ask unanimous consent that the joint explanatory statement of the committee on conference which explains the compromise bill be inserted in the RECORD at this point.

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

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12628) to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and other persons; to make improvements in the educational assistance programs and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text and made a title amendment.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment and with a title amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I. VOCATIONAL REHABILITATION AND EDUCATIONAL, AND TRAINING ASSISTANCE ALLOWANCE RATE ADJUSTMENTS

Both the House bill and the Senate amendment liberalize eligibility requirements for disabled Vietnam era and post-Korean conflict veterans to receive training under the vocational rehabilitation program in chapter 31 so as to provide all post-Korean conflict veterans equal treatment for purposes of these benefits with veterans of service during World War II and the Korean conflict. The conference agreement provides for this liberalization of chapter 31 benefits—made available to any veteran with a 10-percent compensable service-connected disability or higher—for any veteran of World War II service or later service.

The House bill provides for increasing the rates of monthly educational assistance and training allowances by 13.6 percent for eligible veterans and dependents under chapters 34 and 35 and a comparable percentage increase for the vocational rehabilitation subsistence allowance under chapter 31 for service-connected disabled veterans. (This would increase the monthly educational assistance allowance for a single veteran with no dependents from $220 to $250 for full-time institutional study.) The Senate amendment provides for an increase in these rates of 18.2 percent and includes as an integral part of the rate increase package a partial tuition assistance allowance program, under which an additional allowance of up to $720 per school year would be paid to eligible veterans and persons under chapters 34 and 35, the VA paying according to the following formula: 80 percent of a school's yearly tuition charges up to $1,000 after excluding the first $100 of tuition. (The basic monthly educational assistance allowance for a single veteran with no dependents under the Senate amendments is increased from $220 to $260 for full-time institutional study plus the tuition assistance allowance entitlement, as appropriate, which would average out to approximately $31 more per average veteran per month—a total educational assistance average payment of $291 per month.)

The conference agreement provides for an increase in the monthly educational assistance, training, and vocational rehabilitation subsistence allowances of 22.7 percent, an increase for the single veteran with no dependents of from $220 to $270 for full-time institutional study. The conference did not approve the tuition assistance allowance portion of the Senate amendment, after the most extensive and careful consideration. The conferees instead substituted a provision (section 105) directing the Veterans' Administration to carry out a thorough study, and to report to the Congress and the President within 12 months, on the opportunities for abuse and administrative difficulties arising from a tuition assistance program if one were to be enacted. Various interested organizations and agencies would be consulted and their views solicited as part of the study process. The study would draw its context from the findings of abuses in connection with the World War II GI bill program and from an investigation of these problems as presently being experienced under GI bill tuition assistance programs such as chapter 31 vocational rehabilitation, correspondence courses, flight training, and PREP, and would include recommendations by the Veterans' Administration as to legislative or administrative ways in which any such abuses and difficulties could be prevented or mitigated under present or future programs.

TITLE II. EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

The Senate amendment clarifies and liberalizes the circumstances under which service-connected disabled veterans training under the vocational rehabilitation program in chapter 31 may qualify for individualized tutorial assistance. The House bill contains no comparable provision. The House recedes.

Both the House bill and the Senate amendment, by an amendment to the section 1661 (a) entitlement provision, permit the initial six months of active duty training by Reserve and National Guard members to be counted for entitlement for educational assistance under chapter 34 if such members subsequently serve on active duty for 12 or more consecutive months. The conference agreement provides for this new eligibility by amending the definition of "active duty" in section 1652(a)(3) in order to provide greater clarity.

The Senate amendment extends the maximum entitlement to educational assistance for eligible veterans and eligible dependents from 36 to 45 months. The House bill contains no comparable provision. The House recedes.

Both the House bill and the Senate amendment extend to 10 years the current 8-year delimiting date for veterans and chapter 35 eligible dependents to complete their programs of education (and exclude in computing such delimiting date the period of time that such veteran-civilians were held as prisoners of war during the Vietnam conflict). The conference agreement does not contain such a provision since the conferees decided during the course of their deliberations to separate this agreed-upon item and proceeded to pass S. 3705 in early July, which has now been enacted into law as Public Law 93-337 (July 10, 1974).

The Senate Amendment clarifies and strengthens certain administrative provisions governing the chapters 34 and 35 educational assistance program in order to prevent and mitigate against abuses by requiring that courses with vocational objectives must demonstrate a 50-percent placement record over

the receding two-year period in the specific occupational category for which the course was designed to provide training; by prohibiting enrollment in courses which utilize significant avocational or recreational themes in their advertising; and by providing that not more than 85 percent of eligible students enrolled in proprietary below-college level courses may be wholly or partially subsidized by the Veterans' Administration or the institution. The House Bill contains no comparable provisions. The conference agreement includes these provisions, clarifying that the 50-percent placement requirement does not apply where it is clear that the individual graduate is not available for employment or trained during active duty. Situations in which a graduate could be regarded as not available for employment would include a graduate who becomes disabled, is continuing schooling, is pregnant, or undergoes a change in marital status which compels the graduate to forego a new career. In addition, a graduate who unreasonably refuses to cooperate by seeking employment should not be counted in determining whether the placement percentage has been attained. Such a lack of cooperation can include unreasonable demands as to job location, remuneration, or working conditions. (The "reasonableness" of graduate cooperation should be tested, in part, against normal expectations created by the nature of the training offered by the institution and the advertising, sales, or enrollment practices which it utilizes.)

In addition, the conferees have agreed to add a parenthetical provision so as to exclude from the computation of the 50-percent placement requirement those numbers of persons who receive their vocational training while on active duty military service. The purpose of this modification is merely to avoid imposing an unreasonable requirement on such vocational institutions to follow such servicemen throughout their period of military service—which might be a matter of several years—in order to determine whether appropriate job placement had been secured following release from active duty. On the other hand, the conferees do not intend by this modification to manifest any less concern about the quality of training which active duty servicemen obtain under the GI bill, and the conferees continue to expect, as expressed in connection with consideration of Public Law 92-540 in 1972, that the base education officers and education program of the Defense Department will generally continue adequately to counsel active duty servicemen and to monitor closely the utilization by such servicemen of their GI bill entitlements.

The conference agreement also deletes the word "specific" in modification of the term "occupational category." This deletion was agreed to in order to permit the Veterans' Administration somewhat more latitude in writing regulations to carry out this requirement. The conference has been made aware that use of the Dictionary of Titles is in some cases obsolete or unduly restrictive. Accordingly, as defined by VA regulations, closely related employment obtained by course graduates could also qualify in determining placement figures. In providing for this flexibility, however, the conferees stress that it is still their intention that this requirement be interpreted in light of the very specific discussion and examples contained in the Senate committee report (No. 93-907) on pages 64 through 72.

The conferees are aware of the inherent difficulties in locating all course graduates and intend that a statistically valid and reliable sample approved and verified by the Veterans' Administration will satisfy the requirement of this section without necessitating that the institution secure information about each course graduate. The conferees would also anticipate that, in implementing the placement requirement under this section, the Veterans' Administration will allow schools a reasonable period of time to collect and submit the required data.

Both the House bill and the Senate amendment authorize up to six months of refresher training for veterans with current GI bill eligibility in order to update knowledge and skills in light of the technological advances occurring in their fields of employment during and since the period of their active military service; however, the House bill permitted such refresher training to be initiated not later than 6 months after the veteran's discharge. The House recedes.

Both the House bill and the Senate amendment liberalize the veteran-student services program by raising the maximum work-study allowance (the House bill from $250 to $500 and the Senate amendment to $625), commensurately increasing the maximum number of hours a veteran-student may work (the House bill from 100 to 200 hours and the Senate amendment to 250 hours), and removing any statutory ceiling on the number of veterans permitted to participate in this program. The Senate amendment also limited to $250 the amount of the work-study educational assistance allowance which may be paid to a participating veteran in advance. The House recedes.

The Senate amendment liberalizes the tutorial assistance program by extending the maximum assistance period from 9 to 12 months and increasing the maximum monthly tutorial assistance allowance from $50 to $60. The House bill contains no comparable provision. The House recedes.

The Senate amendment liberalizes permissible absences from courses not leading to a standard college degree by excluding customary vacation period established by institutions in connection with Federal or State legal holidays. The House bill contains no comparable provision. The House recedes.

In this connection, the conferees note that in numerous places in the bill, the Senate amendment and the conference report have deleted the words "below the college level" and inserted in lieu thereof "leading to a standard college degree". The House conferees have agreed to these stylistic changes only with the very explicit understanding, which is also shared by the Senate conferees, that this change in terminology makes no substantive alteration in the scope and applicability of all of the sections being so modified.

Both the House bill and the Senate amendment extend to eligible dependents under chapter 35 eligibility for farm cooperative training under the same terms and conditions as apply to eligible veterans under chapter 34. The conference agreement contains this provision.

The Senate amendment increases the allowance payable by the Administrator for the administrative expenses incurred by State approving agencies and administering educational benefits under title 38. The House bill contains no comparable provision. The House recedes.

Both the House bill and the Senate amendment permit any joint apprenticeship training committee which acts as a training establishment to receive the annual reporting fee of $3 for each eligible veteran or person enrolled in educational assistance programs in return for furnishing the VA with required reports and certificates of enrollment, attendance, and terminations regarding such eligible veterans. The conference agreement includes this provision.

Both the House bill and the Senate amendment permit an educational institution offering courses not leading to a standard college degree to measure such courses on a quarter- or semester-hour basis provided certain specific measurements of the academic, laboratory, and shop portions of such courses meet minimum requirements. The House bill adds a proviso that in no event shall such course be considered a full-time course when less than 25 hours of attendance per week is required; the Senate amendment reduces this minimum requirement to 18 hours. The conference agreement provides that 22 hours of attendance per week shall be required.

The Senate amendment repeals the current 48-month limitation on any person training under more than one VA educational assistance program. The House bill contains no comparable provision. The Senate recedes.

The Senate amendment provides that the Administrator shall not approve the enrollment of any eligible veteran or dependent in any course offered by an institution which utilizes erroneous, deceptive, or misleading advertising, sales, or enrollment practices of any type and provides that a final cease and desist order entered by the Federal Trade Commission shall be conclusive as to disapproval of such a course for GI bill enrollment purposes. The House bill contains no comparable provision. The conference agreement contains the Senate provision without the above described FTC-order-conclusiveness provision.

The Senate amendment provides for a new subchapter under which the Administrator is directed to measure and evaluate all programs authorized by title 38 with respect to their effectiveness, impact, and structure and mechanisms for service delivery, and to collect, collate, and analyze on a continuing basis, full data regarding the operation of all such programs and to make available to the public the results of his findings. The House bill contains no comparable provision. The conference agreement embodies the essence of the Senate provision, although somewhat revising and condensing the language in order to provide for greater focus and more specificity.

The conferees wish to stress that in condensing the new section 219 (evaluation and data collection), as added in section 213 of the conference report, the requirement in subsection (c) of the original Senate provision, that, whenever feasible, the Administrator should arrange to obtain the specific views of program beneficiaries and program participants with respect to evaluations of such programs, was deleted as unnecessary. The conferees believe that the Administrator already possesses inherent authority to do this, and that it would be desirable for him to exercise that authority. The conferees also believe that the most effective evaluations are those conducted by fully independent personnel.

The Senate amendment clarifies and strengthens the Administrator's functions and responsibilities under the VA outreach program provisions to include a greater use of telephone and mobile facilities and peer-group contact, as well as providing for certain stress on bilingual services in certain areas and providing explicit contract authority with respect to certain outreach activities. The House bill contains no comparable provision. The conference agreement contains the Senate provisions, except that it eliminates the requirement that contract authority be exercised for outreach activities, and any statutory specification of mobile facilities.

The conferees do not intend by the deletion of specific statutory reference to the use of "mobile" facilities to indicate in any way their disapproval of or lack of support for the appropriate use of such facilities as mobile vans and wish to stress, moreover, their belief that these vans, which hitherto have generally been employed only in rural areas,

could serve as useful a purpose in urban areas with high population concentrations.

The Senate amendment establishes a veterans representative (Vet Rep) program to provide for a full-time VA employee at, or in connection with, each educational institution where at least 500 GI bill trainees are enrolled, to serve as a liaison between the VA and the institution and to identify and resolve various problems with respect to VA benefits, especially educational assistance, for veterans attending each such insitution. The House bill contains no comparable provision. The House recedes.

In adopting this provision, the conferees were keenly aware of the concerns which have been expressed to members of both bodies about the implementation of this program which has already been undertaken administratively by the VA, and of the assurances received from the Office of Management and Budget, the White House, and the VA with respect to the intended operation of this program. Of specific concern is the understanding, most recently embodied in the Senate Appropriations Committee report (No. 93-1056) on H.R. 15572, the Fiscal Year 1975 HUD-Space-Science-Veterans Appropriations Act, that VA regional offices, with the concurrence of the Chief Benefits Director, will have considerable flexibility in the assignment of these new Vet Reps in terms of particular campus needs. This same flexibility is provided for in the conference report. In those instances where a Vet Rep can perform more effectively in terms of carrying out the special responsibilities of liaison with the campus veterans, assignment of the Vet Reps to regional offices should be carried out in order to improve the capacity of those offices to provide effective services. At the same time, the conferees wish to call attenion to the conference report provision which is intended to avoid any situation in which an educational institution might be in any way compelled to accept such an on-campus assignment by the VA (new section 243(a)(4) provides that the "inappropriateness of assignment of veterans' representatives to a particular educational institution" shall be grounds for reallocation of such Vet Reps to other educational institutions or to the regional office). The conferees expect that such assignment matters will be resolved amicably in close consultation and coordination with individual institutions, GI bill trainees at such institutions, and other interested parties.

The Senate amendment establishes an Inter-Agency Advisory Committee on Veterans Services to be composed of the heads of various Federal departments and agencies (with the Administrator as Chairman) to promote maximum feasible effectiveness and coordination of and interrelationship among all Federal programs affecting veterans and dependents, and to make recommendations to the President and the Congress regarding the annual budget and the development, coordination, and improvement of Federal programs and laws affecting veterans and their dependents. The House bill contains no comparable provision. The conference agreement provides that the Administrator shall seek to achieve the maximum feasible effectiveness, coordination, and interrelationship of services among all Federal programs and activities affecting veterans and seek to achieve the maximum coordination of their programs with the programs carried out by the Veterans' Administration. The conferees expect the Administrator to specify in his annual report the results of this new process.

TITLE III. VETERANS AND DEPENDENTS EDUCATION LOAN PROGRAM

The Senate amendment authorizes supplementary assistance to veterans and eligible dependents by direct loans to them from the VA (utilizing the National Service Life Insurance Trust Fund) of up to $2,000 a year to cover educational costs not otherwise provided for in title 38 or other Federal loan or grant programs. The House bill contains no comparable provision. The conference agreement provides for such a supplementary loan program, reducing the maximum yearly loan to $1,000, increasing the maximum amount of the loan fee which the Administrator may charge for such loans, directing the Administrator to collect any delinquent amounts in loan principal and interest payments in the same manner as any other debt due the United States, and directing the Administrator to report to the Congress annually on the default experience at each institution. The conferees are concerned that excessive default rates at certain institutions might jeopardize the success of the program, and both Committees will closely monitor default experience and expect the Administrator to do so as well. In this connection, the conferees direct the Administrator to utilize his new authority under new section 1796, added to title 38 by section 212 of the conference report, with respect to deceptive and misleading advertising, to take affirmative steps to prevent any questionable sales or enrollment practices utilizing advertising about the availability of the new loan program as a promotional technique. The Administrator should, in this regard and as part of fulfilling his notification requirement under section 502 of the conference report, promulgate in regulations a model loan description which shall be used by institutions in their advertising if they wish to refer to the loan availability.

TITLE IV. VETERANS, WIVES, AND WIDOWS EMPLOYMENT ASSISTANCE AND PREFERENCE AND VETERANS' REEMPLOYMENT RIGHTS

The Senate amendment extends chapter 41 benefits (job counselling, training, and placement services) to wives and widows eligible for educational assistance benefits under chapter 35. The House bill contains no comparable provision. The House recedes.

The Senate amendment expands and strengthens the administrative controls which the Secretary of Labor is directed to establish under chapter 41 in order to ensure that eligible veterans, wives, and widows are promptly placed in a satisfactory job or job training opportunity or receive some other specific form of employment assistance, and requires the Secretary to publish standards for determining compliance by State Public Employment Service agencies with the provisions of chapters 41 and 42. The House bill contains no comparable provision. The House recedes.

The Senate amendment clarifies and strengthens existing law requiring that Federal contractors and all of their subcontractors take particular actions in addition to job listing in order to give "special emphasis" to the employment of qualified service-connected disabled and Vietnam era veterans. The House bill contains no comparable provision. The conference agreement provides further clarification in this provision by making clear the intention of the Congress that affirmative action is to be taken by all Federal contractors and all of their subcontractors with respect to their employment practices in order to promote the greatest possible employment and advancement in employment of qualified service-connected disabled veterans and veterans of the Vietnam era. It is the conferees' objective in making this clarification to ensure that the goals of the program, as spelled out above, will be achieved according to an orderly and effective timetable, backed up by an effective compliance mechanism. The provision in the conference report is thus substantially identical in language and intended scope with the provisions of section 503 of the Rehabilitation Act of 1973 (Public Law 93-112).

The Senate amendment includes a provision stating that it is the policy of the United States to promote maximum employment and job advancement opportunities within the Federal Government for qualified service-connected disabled and Vietnam era veterans, and providing for special Federal appointment authority and other mechanisms to carry out such policy. The House bill contains no comparable provision. The House recedes.

The Senate amendment provides for the codification into title 38 of existing law on veterans' reemployment rights, and further extends such rights to veterans who were employed by States or their political subdivisions. The House bill contains no comparable provision. The House recedes.

TITLE V. EFFECTIVE DATES

The House bill makes all amendments effective on the date of enactment except for rate increases which are to be effective on the first day of the second calendar month which begins after the date of enactment. The Senate amendment makes the provisions in titles II and IV of the Senate amendment effective on the date of enactment (improvements in GI bill provisions and in employment assistance), the new loan program in title III effective on September 1, 1974, and the rate increases and other provisions of title I effective on July 1, 1974. The conference agreement makes all amendments effective on the date of enactment except that the rate increase will be effective September 1, 1974, and the new loan program will be effective November 1, 1974 (except that veterans or dependents eligible for such loan entitlement on or after November 1, 1974, shall be entitled to a loan amount reflective of the full amount of their tuition and all other costs of attendance which they incurred for the academic year beginning on or about September 1, 1974).

TITLE AMENDMENT

The Senate amendment amends the title of the bill to reflect the provisions in the Senate amendment. The conference agreement amends the title to reflect the provisions in the conference report.

Mr. HARTKE. Mr. President, beyond the joint explanatory statement I believe that a few additional remarks are in order.

PARTIAL TUITION ASSISTANCE ALLOWANCE

Mr. President, as I remarked earlier I believe the concept of a partial tuition assistance allowance to be quite important and I would hope that a truly good faith study would be promptly implemented by the Veterans' Administration. The interest in this program continues to be quite intense and I ask unanimous consent that the letter I recently received cosigned by 27 senators be made a part of the hearing record. There being no objection the letter was ordered printed as follows:

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

U.S. SENATE,
Washington, D.C., August 19, 1974.

Hon. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your efforts in drafting a conference report on the Vietnam Era Veterans Readjustment Assistance Act of 1974 are to be congratulated. The provisions of this legislation as approved by the Conferees will go a long way toward bringing veterans educational benefits in line with today's needs.

We are concerned, however, over the decision not to include in the final bill the partial

tuition assistance allowance which was an essential element in the Senate version of this legislation and which was approved unanimously by your Committee and the entire Senate.

Your Committee's report on S. 2784 stated, "The creation of a partial tuition assistance allowance (is) necessary as part of an effort to deal effectively with the G.I. bill educational assistance comparability problem." We believe that need still exists.

The effectiveness of the improved benefit as approved by the Conferees will continue to vary dependent upon the availability of low-cost, readily accessible, public, post-secondary schools. Despite the increased benefits in the conference bill, some form of variable tuition payments is needed to ameliorate the differences in educational costs incurred by veterans residing in different states with different systems of public education and to restore equity among these veterans.

We understand the need to gain quick Congressional and Presidential approval of improved educational benefits legislation so that plans for the fall can be made by the veteran. The intransigence of some members of the House conference stands in the way of a timely implementation of a tuition grant program. Therefore, we will support the conference report on the Senate floor.

We would recommend that, during the fall, your Committee continue to work with the Veterans Administration to design a tuition grant program that will protect against potential abuses and that will provide equity to all veterans regardless of their state of resistence. We recognize and appreciate your own strong commitment to this objective. Given that this issue has already been examined in depth and received broad bipartisan support, we are certain that a tuition bill can be reported to the floor of the Senate and considered early in the 94th Congress.

Sincerely,

GEORGE MCGOVERN,
CHARLES MCC. MATHIAS, JR.,
WILLIAM D. HATHAWAY,
MIKE MANSFIELD,
Majority Leader.
JOHN O. PASTORE,
EDWARD W. BROOKE,
DANIEL K. INOUYE,
BOB DOLE,
WALTER F. MONDALE,
HUGH SCOTT,
THOMAS F. EAGLETON,
HUBERT H. HUMPHREY,
JAMES ABOUREZK,
JOHN TUNNEY,
DICK CLARK,
ABE RIBICOFF,
HARRISON A. WILLIAMS,
EDMUND S. MUSKIE,
ROBERT TAFT, JR.,
QUENTIN BURDICK,
PHILIP A. HART,
FRANK CHURCH,
TED MOSS,
DICK SCHWEIKER,
CLIFFORD P. CASE,
HOWARD M. METZENBAUM,
JACOB K. JAVITS,
United States Senators.

VETERANS' LOAN PROGRAM

Mr. HARKE. Mr. President, I am particularly pleased that the bill before you contains the new veterans' and dependents education loan program which authorizes supplemental assistance to veterans and eligible dependents by direct loans to them from the Veterans' Administration of up to $1,000 a year to cover educational costs not otherwise provided for in title 38 or other Federal loan or grant programs. It is fitting I think that these loans are to be made from the $7 billion National Service Life Insurance Trust Fund which consists entirely of paid-in Government life insurance premiums by our Nation's veteran population. It is a good example of one generation of veterans lending a helping hand to a succeeding generation.

Mr. President, I believe this program is needed particularly with the partial tuition assistance allowance omitted from the final bill. As my colleagues will recall, I authored a similar loan program in 1972 which unanimously passed the Senate but was not included in the compromise version of the Vietnam Era Veterans Readjustment Assistance Act of 1972, enacted as Public Law 92-540. The compromise version of the Vietnam Era Veterans Readjustment Assistance Act of 1974 however does include the loan provision although the conference agreement limits the total amount a veteran could borrow in any school year to $1,000 rather than the $2,000 as originally passed by the Senate.

While I believe that the higher $2,000 figure was and is warranted for those veterans choosing to attend the higher cost institutions, there was some reluctance on the part of the House conferees to authorize such a figure without first having an opportunity to view the loan program in operation. I am most hopeful however that House members will favorably consider increasing the amount once the program has demonstrated that it can operate successfully, and the need for the higher amount can be justified.

The conference agreement provides that the loan program shall become effective on November 1, thus giving the Veterans' Administration some time to set up the new program. Once in process however the veterans or dependents eligible for such loan entitlement on or at November 1, shall be entitled to a loan amount reflective of the full amount of their tuition and all other costs of attendance which they occurred for the academic year beginning on or near September 1.

Mr. President, I urge that the Senate adopt the conference report.

CONTROLS AGAINST ABUSES

Mr. President, as you know since becoming chairman of the Senate Committee on Veterans' Affairs I have been most concerned about the quality of education received by veterans enrolled in courses with vocational objectives as well as with the advertising sales enrollment practices of some schools whose courses are approved by GI bill benefits.

Amendments I authored in 1972 as part of Public Law 92-540 were helpful in establishing more equitable refund policies for those who drop out before completing as well as establishing a 10-day cooling off period followed by a formal reaffirmation in order to give veterans an opportunity—away from high pressure salesmen—to reflect on whether or not they in fact wished to enroll in a given school or course of education.

I believe the amendments which I authored this year requiring a 50-percent placement course graduates as well as the prohibition against erroneous, deceptive or misleading advertising sales or enrollment practices are equally important. I will not dwell at length on the amendments which have been accepted by the conferees because their intent and scope have been clearly defined in the Senate report, but it should be observed that there is perhaps no more important investment a person can make than the investment he makes in his education, for this is an investment in his future. As such it is not unreasonable to expect that the performance of a school should match its promises either expressed or implied. And for schools with a vocational objective, attainment of appropriate and satisfactory employment is perhaps the most important indicator of whether a school is performing as it should. I wish to emphasize that many schools are performing an outstanding job and I do not wish the amendments adopted here today to be considered as a reflection on them. We are only concerned with those schools who do not deliver what they either directly or indirectly promise they will.

These amendments are intended to aid the veteran and the Senate committee will be monitoring the program closely in the coming months to see that it does. If the operation of these provisions is in fact detrimental to the well-being of the veteran I believe Congress will be responsive in making whatever adjustments are necessary.

Finally, I also wish to note that the proposed trade regulation rules for private vocational home study schools recently announced by the Federal Trade Commission complements the actions taken by Congress in Public Law 92-540 and the bill which we are considering today.

This rule would require a pro rata refund provision and a 10-day cooling off reaffirmation provision closely similar to those adopted in the Vietnam Era Veterans Readjustment Assistance Act of 1972.

In addition the rule would require that prospective students be provided with information which may aid them in making an informed and intelligent decision as to whether or not to enroll in a school. This should provide additional protection for veterans training under the GI bill as well as other prospective students. The proposal rule would require that all employment and earning claims be substantiated by the school's actual experience in placing these graduates and enrollees in jobs; and further, that the school furnish the prospective student with a disclosure statement which contains the dropout rate and the number and percentage of enrollees and graduates who got a job as a result of the school's training. I believe the intent of these provisions is consistent with what we have done and are continuing to do to aid and protect veterans and dependents training under the GI bill. I would ask unanimous consent that the text of the proposed rule be inserted in the RECORD at this point.

There being no objection the rule was ordered printed as follows:

ADVERTISING, DISCLOSURE, COOLING OFF AND REFUND REQUIREMENTS CONCERNING PROPRIETARY VOCATIONAL AND HOME STUDY SCHOOLS

[Notice of Public Hearings and Opportunity to Submit Data, Views or Arguments Regarding Proposed Trade Regulation Rule]

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, *et seq.*, the provisions of Part 1, Subpart B of the Commission's Procedures and Rules of practice, CFR, 1.11 *et seq.*, and Section 553 of Subchapter II, Chapter 5, Title 5, U.S. Code (Administrative Procedure), has initiated a proceeding for the promulgation of a Trade Regulation Rule concerning proprietary vocational and home study schools.

Accordingly, the Commission proposes the following Trade Regulation Rule:

Section I. Definitions.

For the purposes of this Rule, the following definitions shall apply:

(a) *Seller.* (1) Any individual, firm, corporation, association or organization engaged in the operation of a privately owned school, studio, institute, office or other facility which offers residence or correspondence courses of study, training, or instruction purporting to prepare or qualify individuals for employment or training in any occupation, trade, or in work requiring mechanical, technical, business, trade, artistic, supervisory, clerical or other skills or purporting to enable a person to improve his skills in any of the above designated categories.

(2) Nothing in this Rule shall be construed to affect in any way those engaged in the operation of not-for-profit residence or correspondence, public or private institutions of higher education which offer students at least a two year program of accredited college level instruction which is generally acceptable for credit toward a bachelor's degree.

(b) *Buyer.* Any individual who purchases any correspondence or residence course of study, training, or instruction from any seller purporting to prepare or qualify individuals for employment or training in any occupation, trade, or work requiring mechanical, technical, business, trade, artistic, supervisory, clerical or other skills or purporting to enable a person to improve his skills in any of the above designated categories.

(c) *Total contract price.* The total price paid or to be paid by the buyer for the property or services including any and all equipment; ancillary services, such as but not limited to, charges for room and board which are the subject of the contract; and any finance charges determined in accordance with the Federal Reserve Regulation Z (12 CFR 226.4).

(d) *Course.* The term "course" means, but is not limited to education, training, or instruction consisting of a series of lessons or classes sold collectively, including lessons or classes which consist of several parts and are coordinated, arranged, or packaged to constitute a curriculum or program of instruction and sold collectively.

(e) *Combination course.* Any course that consists of both correspondence lessons and residence classes shall be treated as a residence course for the purpose of applying the advertising and disclosure requirements of this Rule.

(f) *Enrollee.* A buyer who has affirmed his enrollment contract, whether or not he completes his course of study.

(g) *Failure to complete a course of study.* Includes any enrollee who drops out, is expelled, fails for academic reasons or does not complete a course within the time that is scheduled for that course's completion, including any enrollee who takes a leave of absence.

(h) *New course.* Any course of study which has substantially different course content and occupational objectives from any course of study previously offered by seller and which has been offered for a period of time less than three (3) months after the graduation of one class, if offered by a residence school, or less than three (3) months after the completion of one fiscal year, if offered by a correspondence school.

(i) *New school.* Any school that has been in operation for a period of time less than three (3) months after the graduation of one class if a residence school or less than three (3) months after the completion of one fiscal year, if a correspondence school.

Section II. The Rule.

In connection with the sale or promotion of any course of instruction by a proprietary home study or residence vocational school in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair method of competition and an unfair or deceptive act or practice for any such seller to fail to comply with the following requirements:

(a) *Employment and earnings claims.* (1) No written or broadcasted claim, direct or indirect, whether disseminated through the media, mails, or in any other manner shall be made with respect to:

(i) The general conditions or employment demand in any employment market now or at any time in the future; and

(ii) The amount of salary or earnings generally available to persons employed in any occupation.

(2) Unless it is substantiated according to the standards and confined to the format prescribed herein, no written or broadcasted claim, direct or indirect, disseminated through the media, mails, or in any other manner, shall be made with respect to:

(i) The specific employment opportunities available or demand for buyers who purchase seller's course of study; and

(ii) The specific amount of salary or earnings available to buyers who purchase seller's course of study.

(3) Written or broadcasted claims subject to the exception in paragraph (a)(2) above shall be limited to claims substantiated by the seller's actual knowledge of his buyers' experiences in obtaining placement at specific salary levels in the employment positions for which seller's course of study prepares buyers. Actual knowledge shall be verified, at a minimum, by a list including the following information for each enrolled person who meets the requirements of paragraph (a)(4) below.

(i) his name, address and telephone number;

(ii) the name, address and telephone number of the firm or employer who hired each enrollee;

(iii) the name or title of the job position obtained;

(iv) the date on which the job position was obtained;

(v) his monthly or annual salary.

(4) Employment and earnings claims covered by paragraph (a)(2) above shall be confined to the following statements and no others, for each course for which such claims are made and if any one permitted statement is made, it shall be accompanied by the others;

(i) For correspondence courses of study, a statement of the total number of buyers whose enrollment terminated during the school's last fiscal year and who obtained positions of employment within three (3) months of leaving the school in job positions for which seller's course of study prepared them; a statement of the monthly or yearly range of salaries obtained by such buyers; a statement of the percentage ratio of such buyers by salary ranges to the total number of buyers who were enrolled in the seller's course during the last fiscal year; and a statement of the percentage ratio of such buyers who graduated, by salary ranges, to the total number of graduates who graduated from seller's course during the last fiscal year. For purposes of this subparagraph (i), the last fiscal year shall be the most recent fiscal year that terminated at least three (3) months before the claim is made.

(ii) For the residence courses of study, a statement of the total number of buyers whose enrollment terminated during the period that begins with the entrance and ends with the graduation of the school's most recent graduating class and who obtained positions of employment within three (3) months of leaving the school in job positions for which seller's course of study prepared them; a statement of the monthly or yearly range of salaries earned by such buyers; a statement of the percentage ratio of such buyers by salary ranges to the total number of buyers who were enrolled in the seller's course during the period that begins with the entrance and ends with the graduation of the school's most recent graduating class; and a statement of the percentage ratio of such buyers who graduated, by salary ranges, to the total number of graduates who graduated from seller's course during the period that begins with the entrance and ends with the graduation of the school's most recent graduating class. However, these statements must be based on the experiences of enrollees who resided at the time of their enrollment in the metropolitan area or State where the statements are made. For purposes of this subparagraph (ii) the most recent graduating class shall be that class which graduated at least three (3) months before the claim is made.

Provided however, That where an employment or earnings claim covered by this paragraph (a) is made, the written or broadcasted claim must be presented so that each of the permitted statements appears in the same portion of the written or broadcasted claim and each is made in precisely the same form and with the same emphasis, including, but not limited to, the same size type or print, as all other statements covered by this paragraph (a).

(5) The foregoing (paragraph (a)(1) to (4)) shall not apply to any new course of instruction offered by seller or a course of study offered by seller at a new school.

In lieu thereof seller shall confine any advertisement or any representation covered by paragraph (a) to actual job commitments made in writing by businesses and other prospective employers, wherein such prospective employers indicate that they will offer a specific number of jobs at specific salaries to buyers who complete seller's course of study.

Provided further, That seller's advertisements and representations shall be limited to the following statements:

This school has not been in operation long enough or this course of study has not been offered long enough to indicate how many enrolled students will obtain employment in positions for which this course trains them. However, [number] employers have indicated that they will make available [number] jobs to students who complete this course of study. [Number] jobs represent [%] of our expected total enrollees which will be [number].

(b) Affirmative disclosure of drop-out rate and placement record.[1] After buyer has signed an enrollment contract seller shall make the following disclosures to buyer in the manner and method prescribed by paragraph (c) below:

(i) the total number of buyers who fail

[1] See Appendices A and B for illustrations of Disclosure and Affirmation Forms for Correspondence and Residence Schools.

to complete the full course of study for the seller's most recent graduating class[2] if a residence school or the seller's most recent fiscal year[3] if a correspondence school.

(ii) the percentage of buyers who fail to complete the full course of study, expressed as the percentage ratio of the number of buyers who fail to complete the full course of study as defined in paragraph (b) (1) (i) above to the total number of buyers who enrolled in that course of study for the seller's most recent graduating class[2] if a residence school or seller's most recent fiscal year[3] if a correspondence school.

(2) If seller has made any oral, written or broadcasted earnings or employment representations to buyer then, after buyer has signed the enrollment contract, seller shall make the following disclosures to buyer in the manner and method prescribed by paragraph (c) below:

(i) For correspondence courses of study a statement of the total number of buyers whose enrollment terminated during the school's last fiscal year and who obtained positions of employment within three (3) months of leaving the school in job positions for which seller's course of study prepared them; a statement of the monthly or yearly range of salaries obtained by such buyers; a statement of the percentage ratio of such buyers, by salary ranges, to the total number of buyers who were enrolled in seller's course during the last fiscal year; and a statement of the percentage ratio of such buyers who graduated, by salary ranges, to the total number of buyers who graduated from seller's course during the last fiscal year. For purposes of this subparagraph (i) the last fiscal year shall be the most recent fiscal year that terminated at least three (3) months before the claim is made.

(ii) For residence courses of study a statement of the total number of buyers whose enrollment terminated during the period that begins with the entrance and ends with the graduation of the school's most recent graduating class and who obtained positions of employment within three (3) months of leaving the school in job positions for which seller's course of study prepared them; a statement of the monthly or yearly range of salaries obtained by such buyers; a statement of the percentage ratio of such buyers, by salary ranges, to the total number of buyers who were enrolled in seller's course during the period that begins with the entrance and ends with the graduation of the school's most recent graduating class; and a statement of the percentage ratio of such buyers who graduated, by salary ranges, to the total number of buyers who graduated from seller's course during the period that begins with the entrance and ends with the graduation of the school's most recent graduating class. However, this disclosure must be based on the experiences of enrollees who resided at the time of their enrollment in the metropolitan area or State where the disclosure is being made. For purposes of this subparagraph (ii) the most recent graduating class shall be that class which graduated at least three (3) months before the claim is made.

(3) For each of the disclosures covered by paragraph (b) above, seller shall maintain complete records as provided in paragraph (a) (3) above.

(c) *Method of making disclosure of drop-out rate and placement record.*[4] (1) After buyer signs an enrollment contract, seller shall mail to buyer, by certified mail, return receipt requested, a written form, in duplicate, containing the following information, and none other, except the Affirmation Statement required by paragraph (e) below, in bold face type of at least ten (10) points for each course of study offered to the buyer.

Disclosure and affirmation form for drop-out and placement record for [course] for period [date] to [date].

(1) Total enrollments [number].

(2) Total who failed to complete the course [number]. (as provided in paragraph (b) (1) (i) above.)

(3) Percentage who failed to complete the course [%] (as provided in paragraph (b) (1) (ii) above.)

(Seller shall use number (4) below if no oral, written or broadcasted earnings or employment representations have been made. If seller has made oral, written or broadcasted earnings or employment representations to buyer, seller shall use numbers (5), (6), (7), (8), and (9) below).

(4) This school has no information on the number or percentage of its students who obtain jobs in the occupation for which we train them. Consequently, this school and its representatives have no basis on which to make any representations or claims about job opportunities available to students who take [name of course]. Prospective students are advised that enrollment in this course should not be considered vocational training that will result in employment in job positions for which this course offers instruction.

or,

(5) Total number of students who obtained employment in the position for which this course of study trained them [number]. (as provided in paragraph (b) (2) above.)

(6) Percentage of students who obtained employment in the position for which this course of study trained them [%]. (as provided in paragraph (b) (2) above.)

(7) Number and percentage of total enrollees who obtained employment in the following salary ranges [expressed in $100 increments for monthly salaries or $1000 increments for yearly salaries]. [Dollars] to [dollars] per [month or year]: [Number] students which is [%] of total enrolles. (as provided in paragraph (b) (2) above.)

(8) Percentage of graduates who obtained employment in the position for which this course of study trained them [%]. (as provided in paragraph (b) (2) above.)

(9) Number and percentage of graduates who obtained employment in the following salary ranges [expressed in $100 increments for monthly salaries or $1000 increments for yearly salaries]. [Dollars] to [dollars] per [month or year]: [Number] students which is [%] of total graduates. (as provided in paragraph (b) (2) above.)

(2) Where seller has instituted a new course of instruction or where seller has established a new school, the seller's disclosure as required by paragraph (b) of this Rule shall contain the following information, and none other, except the Affirmation Statement required by paragraph (e) below, in bold face type of at least ten (10) points:

IMPORTANT INFORMATION

This school has not been in operation long enough or this course of study has not been offered long enough to indicate how many enrolled students will complete their course of study or to indicate how many students who take this course of study will obtain employment in positions for which this course trains them.

Except that where the seller has received actual written job commitments from businesses and other prospective employers, seller may add the following statement to the disclosure required above:

However, [number] employers have indicated that they will make available [number] jobs to students who complete this course of study. [Number] jobs represent [%] percent of our expected total enrollees which will be [number].

(d) *Ten day affirmation and cooling-off period.*[5] An enrollment contract between a seller and buyer will not be effective unless the buyer affirms that enrollment contract by signing and returning to seller the Disclosure and Affirmation Form specified in paragraph (e) below within ten (10) days of his receipt of that Form. If the buyer fails to affirm the enrollment contract within the ten (10) day period, seller shall consider the contract null and void, and within ten (10) business days of the expiration of the affirmation period, shall refund all monies paid by the buyer and cancel and return to buyer any evidence of indebtedness.

(e) *Disclosure and operation of ten (10) day cooling-off period.*[6] (1) After receiving from the buyer his signed enrollment contract, seller shall mail to buyer, by certified mail return receipt requested, a one page form, in duplicate, that contains the placement and drop out disclosures required by paragraphs (b) (1) and (2), above, in the form required by paragraph (c), above; and at the bottom of the same form the following unsigned Affirmation Statement printed in bold face type of at least ten (10) points:

NOTICE TO THE BUYER:

The enrollment contract that you signed with [name of school] on [date] to enroll in [name of course] is not effective or valid unless you first sign this statement and return it to the above named school within ten (10) days from the time that you received this statement. You are free to cancel your enrollment and receive a full refund of any monies you have paid to the school by not signing or mailing this statement within ten (10) days. At the expiration of this ten (10) day period the school has ten (10) business days to send you your refund (if any) and to cancel and return to you any evidence of indebtedness that you signed.

However, if you do want to enroll in the above named school, you should sign your name below and mail this statement to the school within ten (10) days. Keep the duplicate copy for your own records.

(Date) and (signature).

(2) The Disclosure and Affirmation Form shall not contain any information or representations other than the drop out and placement disclosures provided by paragraphs (b) (1) and (2), above, and the Affirmation Statement in (1) above. Seller shall not send any document or material to buyer other than the Disclosure and Affirmation Form during the ten (10) day affirmation and cooling-off period that commences with buyer's receipt of the Disclosure and Affirmation Form.

(3) Sellers who are subject to the provisions of this Rule are exempted from compliance with the Federal Trade Commission's Trade Regulation Rule concerning a Cooling-Off Period for Door-to-Door Sales effective June 7, 1974.

(f) *Refund upon cancellation.* (1) Upon cancellation of an affirmed contract the seller shall not receive, demand or retain more than a pro rata portion of the total contract price, plus a registration fee of five percent (5%) of the total contract price but not to exceed twenty-five dollars ($25).

(2) The pro rata refund shall be determined by dividing the number of classes at-

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[2] As most recent graduating class is defined in paragraph (a) (4) (ii).

[3] As most recent fiscal year is defined in paragraph (a) (4) (i).

[4] See Appendices A and B for illustrations of Disclosure and Affirmation Forms for Correspondence and Residence Schools.

[5] See Appendices A and B for illustrations of Disclosure and Affirmation Forms for Correspondence and Residence Schools.

[6] See Appendices A and B for illustrations of Disclosure and Affirmation Forms for Correspondence and Residence Schools.

tended by buyer or held up to the time of buyer's cancellation or, for correspondence courses, the number of correspondence lessons submitted by the buyer prior to cancellation, by the total number of classes or lessons contained in the course, and then by multiplying the total contract price by the result thereof. This amount shall constitute the buyer's total obligation. The difference between this amount and the amount the buyer has already paid the seller shall constitute either the buyer's refund or the amount of the buyer's remaining obligation to the seller.

(3) Within ten (10) business days of the date of notification of cancellation, the seller must provide the buyer with his correct refund payment, if any, and must cancel that portion of the buyer's indebtedness that exceeds the amount due the seller under the refund formula of this Rule.

(g) *Disclosure of cancellation and refund.*

(1) The seller shall furnish the buyer with a fully completed copy of the buyer's enrollment contract and in close proximity to the space reserved in the contract for the buyer's signature, and in bold face type of at least ten (10) points, include the following statement:

Notice to the buyer: Do not sign this contract before reading the provisions under the caption "cancellation and refund".

(2) For correspondence courses of study, the seller shall include in the contract in bold face type of at least ten (10) points the following provision:

CANCELLATION AND REFUND

You are free to cancel this contract at any time. You will have to pay only for lessons submitted to the school plus a registration fee of five percent (5%) of the total contract price, not to exceed twenty-five dollars ($25).

You may cancel the contract by mailing or delivering to the school a signed and dated copy of the "notice of cancellation" sent to you by the school or by mailing or delivering to the school your own written letter of cancellation. Cancellation will be effective on the date of mailing or delivery. You may also cancel by failing to submit a lesson for ninety (90) days.

The amount you will have to pay for the lessons submitted will be determined by dividing the number of lessons submitted up to the time of your cancellation by the total number of lessons contained in the course. If, prior to cancellation, you have paid more than this amount plus the registration fee, the excess will be refunded to you within ten (10) business days.

(3) For residence courses of study, the seller shall include in the contract in bold face type of at least ten (10) points the following provision:

CANCELLATION AND REFUND

You are free to cancel this contract at any time. You will have to pay only for those classes the school has held prior to your cancellation plus a registration fee of five percent (5%) of the total contract price, not to exceed twenty-five dollars ($25).

You may cancel the contract by mailing or delivering to the school a signed and dated copy of the "notice of cancellation" sent to you by the school or by mailing or delivering to the school your own written letter of cancellation. Cancellation will be effective on the date of mailing or delivery. You may also cancel by not attending scheduled classes nor in any other manner utilizing the school's facilities for thirty (30) days.

The amount you will have to pay for those classes the school has held will be determined by dividing those classes held up to the time of your cancellation by the total number of classes contained in the course. If, prior to cancellation, you have paid more than this amount plus the registration fee, the excess will be refunded to you within ten (10) business days.

(4) For a combination correspondence and residence course of study, the seller shall include in the contract in bold face type of at least ten (10) points the following provisions:

CANCELLATION AND REFUND

You are free to cancel this contract at any time. You will have to pay only for those correspondence lessons you submitted to the school and those residence classes held by the school prior to your cancellation plus a registration fee of five percent (5%) of the total contract price, not to exceed twenty-five dollars ($25).

You may cancel the contract by mailing or delivering to the school a signed and dated copy of the "notice of cancellation" sent to you by the school or by mailing or delivering to the school your own written letter of cancellation. Cancellation will be effective on the date of mailing or delivery. You may also cancel by failing to submit a correspondence lesson for ninety (90) days or by not attending scheduled classes nor in any other manner utilizing the school's facilities for thirty (30) days.

The amount you will have to pay for the lessons submitted and the classes held will be determined by dividing those correspondence lessons submitted and those residence classes held up to the time of your cancellation by the total number of correspondence lessons and residence classes contained in the course. If, prior to cancellation, you have paid more than this amount plus the registration fee, the excess will be refunded to you within ten (10) business days.

(h) *Method of cancellation.* (1) After buyer has signed and affirmed an enrollment contract, seller shall furnish buyer with a postage pre-paid card, plus duplicate card, addressed to seller and captioned:

Notice of cancellation.

I hereby cancel this contract

(Date) (Buyer's Signature).

The buyer's cancellation is effective on the date that the buyer mails or delivers to the seller a signed and dated copy of the above described cancellation notice or any other written notice or, in the alternative;

(2) The buyer's cancellation is effective on the date that buyer gives the seller constructive notice of his intention to cancel his contract by failing to attend residence classes or failing to utilize residence instructional facilities for such a period of time, of 30 days or less, that the seller should reasonably conclude that the buyer has cancelled the contract; or for correspondence courses of instruction, by failing to submit a lesson for any period of 90 days.

(i) *Packaged courses and/or services.* Where seller offers a course of instruction involving two or more segments, and sells them together as a unit at a single price, then seller shall add the segments together and use the entire period in calculating buyer's refund, even if one or more of the segments is offered as "free". Where seller offers a course of instruction consisting of both correspondence lessons and residence classes, the total number of lessons and classes shall be added together for the purpose of calculating the refund.

APPENDIX A

Disclosure and affirmation form (for correspondence schools that have made earnings or employment representations.)

(Name of school).

Drop out and placement record for air conditioning and refrigeration course for the period January 1, 1973 to December 31, 1973.

1. Total enrollees, 1500.

2. Total who failed to complete the course, 1050.

3. Percentage who failed to complete the course, 70%.

4. Total number of students who obtained employment in the position for which this course of study prepared them, 60.

5. Percentage of students who obtained employment in the position for which this course of study prepared them, 4% of total enrollees.

6. Percentage of graduates who obtained employment in the position for which this course of study trained them, 11% of graduates.

7. Number and percentage of total enrollees and graduates who obtained employment in the following salary ranges:

$5,000–$5,999 per year: 30 students which is 2% of total enrollees and 7% of total graduates.

$6,000–$6,999 per year: 30 students which is 2% of total enrollees and 7% of total graduates.

Notice to the buyer:

The enrollment contract that you signed with (*name of school*) on (*date*) to enroll in (*name of course*) is not effective or valid unless you first sign this statement and return it to the above named school within ten (10) days from the time that you received this statement. You are free to cancel your enrollment and receive a full refund of any monies you have paid to the school by not signing or mailing this statement within ten (10) days. At the expiration of this ten (10) day period the school has ten (10) business days to send you your refund (if any) and to cancel and return to you any evidence of indebtedness that you signed. However, if you do want to enroll in the above named school, you should sign your name below and mail this statement to the school within ten (10) days. Keep the duplicate copy for your own records.

(Date) (signature).

APPENDIX

Disclosure and affirmation form (for residence schools that have made earnings or employment representations)

(Name of school.)

Drop out and placement record for computer programing course for the last graduating class (January 2, 1973 to June 29, 1973).

1. Total enrollees, 200.

2. Total who failed to complete the course, 150.

3. Percentage who failed to complete the course, 75%.

4. Total number of students who obtained employment positions for which this course of study prepared them, 20.

5. Percentage of students who obtained employment in the positions for which this course of study prepared them, 10% of total enrollees.

6. Percentage of graduates who obtained employment in the position for which this course of study trained them, 35% of graduates.

7. Number and percentage of total enrollees and graduates who obtained employment in the following salary ranges:

$5,000–$5,999 per year: 10 students which is 5% of total enrollees and 17% of total graduates.

$6,000–$6,999 per year: 10 students which is 5% of total enrollees and 17% of total graduates.

Notice to the buyer:

The enrollment contract you signed with (name of school) on (date) to enroll in (name of course) is not effective or valid unless you first sign this statement and return it to the above named school within ten (10) days from the time that you received this statement. You are free to cancel your enrollment and receive a full refund of any monies you have paid to the school by not

signing or mailing this statement within ten (10) days. At the expiration of this ten (10) day period the school has ten (10) business days to send you your refund (if any) and to cancel and return to you any evidence of indebtedness that you signed. However, if you do want to enroll in the above named school, you should sign your name below and mail this statement to the school within ten (10) days. Keep the duplicate copy for your own records.

(Date) (signature).

EMPLOYMENT ASSISTANCE FOR VIETNAM VETS

Mr. President, I was particularly heartened to hear that President Ford, in his address to the Veterans of Foreign Wars in Chicago last Monday, acknowledged serious unemployment problems that continue to exist particularly among our younger veterans. This was in marked contrast to his predecessor who for over a year and a half has been insisting that the problem was over, so President Ford's candor in Chicago was most welcome. I am therefore pleased that there are significant provisions in the Vietnam Era Veterans Readjustment Assistance Act of 1974 which further strengthen and clarify provisions in Public Law 92-540, designed to aid unemployed and disabled Vietnam era veterans. The strengthening of the employment provisions added by the Senate amendments and accepted by the conference should, if properly implemented, go a long way to provide the sort of affirmative action to aid veterans which the Senate and Congress has intended for some time.

INCREASE IN ELIGIBILITY FROM 36 TO 45 MONTHS

Mr. President, although the increase in eligibility from 36 to 45 months is not particularly costly, having a first-year cost of only approximately $55.5 million, I believe it is a particularly valuable provision. Because of the previously low levels of the GI benefits many veterans have been unable to take a full course load thus making it impossible for them to obtain an undergraduate degree within the normal 4 years. This additional year of eligibility will enable those veterans to complete their education and obtain their degree. If the amount of mail my office has been receiving is indicative of the importance of this provision, there are many veterans who are in this position and could use the additional entitlement. Of course other veterans will be able to use this entitlement for a year of graduate study if necessary. I believe this is also consistent with our philosophy of enabling veterans to become economically competitive in our society. Additional education beyond the baccalaureate degree is becoming more important with each passing day and in many ways it has become as important for the veteran of today as the simple baccalaureate degree was for the veteran of World War II over 30 years ago.

Mr. HARTKE. Mr. President, we are going to ask for only a voice vote on this conference report.

This is done following discussion with the ranking minority Members. At this time I think that a record vote might prolong debate upon this matter, and in our judgment it is better to go ahead and proceed with a voice vote with the understanding that we can proceed much more expeditiously.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

Mr. HANSEN. Mr. President, the distinguished floor manager of the bill and, I think, most of us on my side have agreed upon the procedure that he has indicated here this morning.

I would be less than fair to the President if I were to fail to observe that with the cascading of innumerable issues upon him, he has not had as much of an opportunity as he might have wished to have been able to make input on this bill.

But, nevertheless, I am in complete agreement with the procedure that has been suggested by the distinguished Senator from Indiana.

Mr. THURMOND. Mr. President, I rise in support of the conference report on H.R. 12628.

While this bill is not a panacea for all of the problems of our young veterans, I am convinced that, on the whole, it is a good bill and merits the full support of the Senate.

Unfortunately the student-veterans, like all others in our present day society, are caught up in the spiraling effects of inflation. While this bill provides an approximate 23 percent across-the-board increase in the subsistence allowance, it represents no windfall to the veteran. Much of this projected increase has already been diminished by the decreasing buying power of the dollar. It is therefore prudent at this time, I believe, to admonish the student-veterans that this increase will not mean extra money in their pocket. It will only go toward helping them to keep abreast of the rising cost of living.

Mr. President, while on the one hand this bill represents an approximate $50 increase per month in the fulltime student's subsistence rate, it also represents a tremendous outlay in Federal dollars. The initial first-year cost, when calculated with the 2-year extension of the delimiting date already signed into law, is in excess of $1½ billion.

The outlay of these additional funds, and their effect on the economy, concern me. Mr. President, we are truly engaged in a war against inflation. The crux of this battle lies in not incurring new debts through increased spending or in the creation of new obligations. The GI bill is, however, an old and overdue debt, whose payment we are just now making.

Mr. President, the cost of this bill should not be minimized, but neither should the dividends of past expenditures on the GI bill.

An analysis of the economic return of the GI bill substantiates this fact.

In 1965, the Department of Labor and the Department of Commerce analyzed the incomes of veterans and nonveterans in the same age groups. Approximately 10 million World War II and Korean conflict veterans enrolled for education or training under the GI bill. The total cost to the Government was $19 billion.

The income of the veteran who received GI bill assistance averaged from $1,000 to $1,500 a year more than those who did not. On this basis, it was estimated that the trained and educated veterans generated additional income taxes in excess of $1 billion per year for over 20 years. This represented a $20-billion return in the taxes alone on the $19 billion cost of the program.

Additionally, the skill levels of those who participated in the program were raised significantly. Around 45 percent of the World War II veterans, 29 percent of the Korean conflict veterans, and 8 percent of the Vietnam era veterans had less than a high school education when they entered training under the GI bill.

Since World War II, the GI bill has provided an impressive part of the Nation's professional and skilled manpower. The number of jobs added to the national productive capability is revealing: 523,000 in engineering; 350,000 in education; 365,000 in the life sciences, physical sciences, and health sciences; over 1 million in business, commerce, and law; and almost 4 million in skilled trades, crafts, and industrial pursuits.

In each instance, the veteran has not been the only beneficiary. Society as a whole has benefited from the training and educational pursuits of veterans under the GI bill. It has paid for itself many times over.

Mr. President, while the cost of this program ranges to $1.5 billion during the coming year, I am convinced it is in the best interest of both the Nation and the veteran to recommend its early enactment. I am convinced that the American people will reap the benefits of the authorization of these funds today. These funds represent not merely an outlay, but an investment in the future of our country.

The American people reposed a great trust in the young men who served us on the field of battle. These young men met the demands which were put before them with the courage and stamina consistent with what the American people expect of their soldiers.

Mr. President, the House has accepted the great majority of the Senate amendments. I take great pride in the progress represented by other provisions in the bill. Greater employment benefits and reemployment advantages, changes in the vocational rehabilitation program, and programs to provide on-campus assistance to student-veterans, are all included in this bill.

The tuition assistance proposal which was included in the Senate bill is not included in the final version. It was deleted in conference after extensive consideration.

The conferees substituted a provision which directs the Veterans' Administration to carry out a thorough and intensive study on the opportunities for abuses and the administrative difficulties which would be encountered if a tuition assistance program were to be enacted. Further, the conferees have requested:

Recommendations by the Veterans' Administration as to legislative or administrative ways in which any such abuses and

difficulties could be prevented or mitigated under present or future programs.

Mr. President, I look forward to the findings of the VA study, and anticipate that further legislative proposals for tuition assistance can and will be drafted to obviate the difficulties which the VA study might expose.

On the whole, Mr. President, this bill is a good one. I urge the Senate to adopt it.

Finally, Mr. President, I would like to pay tribute to the chairman of the conference, Senator HARTKE, who did an outstanding job. His willingness to listen to opposing views and to guide the conference was commendable.

Also, I want to express my thanks to the ranking minority member, Senator HANSEN, who always does an outstanding job. The distinguished Senator from Wyoming knows the problems of our veterans, and is always willing to go the extra mile in an effort to resolve them.

Other members of the committee, on both the majority and the minority side, have worked diligently on this bill.

It is indeed a pleasure to work with the distinguished Senators on the committee. Each one is dedicated to the best interest of the veteran and the country. As much can be said for the conferees on the part of the House. The Senate Veterans' Affairs Committee did a fine job on this bill.

Mr. President, I am pleased to join with the other conferees in urging the adoption of the conference report.

Mr. McCLURE. Mr. President, I rise in support of the conference report on H.R. 12628, the Vietnam Era Veterans' Readjustment Act of 1974.

To be candid, I believe this could be a better bill in several respects. But I have signed the conference report with the feeling that after more than 2 months of negotiations, this bill represents the most equitable compromise we could achieve for our veterans at this time.

I am not at all happy that the tuition provisions contained in the Senate bill were dropped from the final conference version. Over the last 25 years, the increasing cost of education has exceeded the cost of living threefold. Yet, rather than meet those costs directly, we have been limited to a cost-of-living increase coupled with an educational loan program. Do not misunderstand me. The assistance increase and loan program are a substantial step forward in our efforts to assure that sufficient educational benefits are within the reach of all veterans wanting to take advantage of them. But a partial tuition grant would have met directly the one factor which prevents veterans from having comparable educational opportunities—high and varying educational costs.

Combined with the present high cost of tuition are the family responsibilities nearly one-half of our Vietnam veteran trainees have. Even in relatively low-cost education States, as is Idaho, many of these veterans find it impossible to attend school either full time or continuously. Yet we have not provided a tuition grant to help with their transitional training period.

Historically, the intent of the GI bill has been to provide a readjustment benefit which would allow a veteran who took full advantage thereof to complete a vocational or 4-year college program. However, the high cost of education coupled with family responsibilities and an inflationary economy, the loss of credits involved in transferring from one institution or educational objective to another, and the previous low benefits have all combined to make it unlikely that many Vietnam-era veterans will complete their basic educational objectives in 4 years.

For these individuals who are compelled to forego full-time educational training or cannot complete such in 4 years, we have added another 9 months of entitlement eligibility. Thus we have guaranteed all veterans sufficient time in which to attain a standard college degree or vocational objective.

I do have strong reservations, however, about the language providing for such a 9-month benefits entitlement increase. Without restrictive language as to use of eligibility I fear we are unwittingly exceeding the clear historical purpose of the GI bill. To be blunt, that purpose is not to provide a veteran with advanced degrees. The clear congressional intent has been to help the veteran with basic educational attainment. I firmly believe that 36 months is adequate for those veterans who have no educational difficulties or who are seeking advanced educational attainment.

Mr. President, I also have strong reservations about the probable cost of an unrestricted 9-month entitlement increase. The VA estimates first-year costs of this program will be $55 million, decreasing to about $20 million in succeeding years. I fear, however, that succeeding years' costs will actually be closer to $40 million.

I also have reservations, Mr. President, concerning the method of determining educational benefits entitlement. Basically, a veteran is entitled to 1½ months of benefits for each 1 month of active duty served. After serving 18 months, he automatically becomes entitled to the maximum educational benefits of 36 months. This entitlement system fits the 2-year draft, with its usual 1-year Vietnam tour. But under the proposed 45-month maximum entitlement, a new peacetime veteran who has had no threat of the draft or Vietnam over him will be entitled to nearly 3 months of benefits for each 1 month of peacetime active duty. For those who served in time of war or involuntary servitude, such an increase is valid—so far as is needed to obtain a basic degree or vocational objective. But if the GI bill is to be continued for peacetime veterans, total entitlement should be based on no more than 1½ months per 1 month of active duty up to the proposed maximum entitlement.

A valuable provision in this bill is one to place VA representatives on college campuses to aid veterans there in resolving problems relating to VA benefits. Recently, we received a letter from President Dallin H. Oaks, of Brigham Young University in Provo, Utah, indicating his concern that the bill might be construed as imposing these Federal employees upon religiously connected private institutions against their will. We have, therefore, expressed in the conference report that our intention is to avoid any situation in which an educational institution might in any way be compelled to accept such a campus assignment by the VA. We expect that such assignment matters will be resolved amicably by consultation and coordination between the institutions and the regional VA offices.

Mr. President, I ask unanimous consent that President Oaks' letter be included at the end of my statement.

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

(See exhibit 1.)

Mr. McCLURE. Mr. President, I believe the other provisions in this bill provide a good basis from which to assess the criteria of comparability. In my view, this bill provides comparable benefits to those of World War II and Korea. It is a step forward in our efforts to assure that sufficient educational benefits are within the reach of all veterans who wish to take advantage of them.

Mr. President, I urge my colleagues to adopt this measure.

EXHIBIT 1

BRIGHAM YOUNG UNIVERSITY,
Provo, Utah, July 23, 1974.

Re S. 2784—Vietnam Era Veterans' Readjustment Assistance Act of 1974.

Hon. VANCE HARTKE,
U.S. Senate,
Washington, D.C.

GENTLEMEN: I am writing you on behalf of religiously connected private universities to express the concern we have related to the above mentioned legislation. Since this matter is about to be considered by the Conference Committee, I strongly urge that the Conference Committee include a clarifying statement in its report to avoid a possible misunderstanding outlined below.

We are afraid that Section 243 of the bill, providing for Veterans' representatives on college campuses, might be construed and applied in such a way as to invade the traditional separation of church and state and the privacy of private educational institutions. Our own institution provides, through its staff, all of the counsel, advice and assistance which the veterans need on campus. We have a very harmonious relationship with the Veterans Administration and there is no apparent need for additional persons to be placed on our campus at the expense of the United States.

On the other hand, Section 243 (a) (one) provides that the administrator of the Veterans Administration "shall assign" certain personnel to college campuses except in circumstances outlined in clause (four) of Section 243. We feel that the words "shall assign" might be interpreted or applied to require the administrator to inject or impose a representative on a private religiously connected institution which does not desire and does not need such a representative. We have real concerns about having government employees assigned to and housed on the campus of a college or university that has traditionally worked to preserve its independence and separation from government programs.

In Senate Report 93-907, at page 96, the Senate Committee recognized that the director of the appropriate VA Regional office based upon demonstrated lack of need, or in consideration of other factors indicating in-

appropriateness of assignment of veterans' representative to a particular educational institution, may provide for other use of the veterans' representative. Apparently, therefore, it is not the real intent of Congress that the representative be forced upon a private religiously connected educational institution against its wishes. However, as indicated, the legislative history may not now be entirely free from doubt in view of the words "shall assign" mentioned above.

This matter could be clarified by an appropriate insertion in your Conference Report that it is not the intention of the Congress that the veterans' representative be imposed upon a religiously connected private institution against its will. We urge that your report so state.

We are sympathetic with the objectives of seeing that veterans are given all necessary assistance to permit efficient and effective use of their benefits. On the other hand, on campuses such as our own where the veterans are getting all required assistance, it would be much preferred if the available resources were used in another way to assist the Veterans Administration in carrying out its program. If this were done, efficiency would be improved and the government would not be invading the privacy of religiously connected private educational institutions.

If we can be of any assistance to you in clarifying this matter, please do not hesitate to call on our Washington representative, Mr. Robert W. Barker, telephone 833-9800.

Sincerely,

DALLIN H. OAKS.

VETERANS EDUCATION BILL

Mr. DOLE. Mr. President, the final passage of the Vietnam veterans education bill is the culmination of many months of effort by the junior Senator from Kansas and his colleagues.

SIMILARITIES NOTED

For 39 cosponsors of a veterans education bill I originally helped introduce last year, this legislation is especially significant. It contains several provisions similar to those in the bill we introduced last year. The 23-percent increase in monthly assistance is an example of one of those similar provisions.

HIGHER ASSISTANCE RATES

The low assistance rates in the early stages of the Vietnam-era GI bill are an important reason to increase the tuition and subsistence payments along the lines proposed in this bill. Many of these men and women who could not afford further schooling earlier now have families and financial commitments. Increasing financial assistance will provide these and also those with marginal jobs the means to get advanced training to improve their career potential.

The figures from Kansas show that Vietnam veterans need a higher level of financial assistance. Tuition and fees at public universities in Kansas range from $390 to $544. With an assistance rate of $1,980 for single veterans in a 9-month academic year, each veteran must make up a difference of $600 to $1,500 each year, according to the individual's curriculum and living expenses. The situation is even more difficult for veterans with dependents. VA assistance falls short by $1,300 to $3,000 or more every year. The differences between VA assistance and school expenses are difficult or impossible to make up in part-time or summer jobs for many veterans.

ENTITLEMENT AND WORK-STUDY PROGRAM

Two other provisions similar to the bill I helped introduce are extension of entitlement from 36 to 45 months and reduction of limitations on the work-study program. The first measure will be of great benefit to veterans in obtaining the more sophisticated and longer education programs being offered today. With all professions becoming more technical, the length of training necessary to be proficient is constantly growing. I believe the extension of entitlement from 36 to 45 months will be beneficial to the country as a whole.

Reduced limitations on the work-study program should be of benefit in allowing veteran-students to help themselves. The wages they earn there will help defray the school expenses they must meet. In addition, the manpower veteran-students contribute to the VA should help improve the services provided by that organization.

This bill contains several other provisions which should be helpful to Vietnam-era and other veterans. Of particular significance are the provisions to provide for education loans to veterans to improve reemployment benefits.

VETO RUMORS

There have been numerous reports in the press recently about a possible veto of this bill. The Senator from Kansas would hope these rumors will be proven untrue.

Fiscal responsibility is of critical importance; however, I am in concurrence with the majority of Congress in viewing benefits for Vietnam veterans as an investment in America's future. It is an investment that will more than repay by far our initial investment. We will benefit directly from increased tax revenues and more productive employment coming from better trained veterans. This measure should benefit the entire Nation—and veterans as well. It is clear, in my view, that an improvement in veterans' education benefits is greatly needed before the beginning of this school year.

TUITION PAYMENTS

The decision not to include partial tuition assistance allowance in this final version of the bill is of great concern to me. It was an essential element in the Senate version of this legislation and was approved unanimously by the Veterans' Affairs Committee and the entire Senate. It is my recommendation that, during the fall, the Senate Veterans' Affairs Committee continue to work with the Veterans' Administration to design a tuition grant program that will protect against potential abuses and that will provide equity to all veterans regardless of their State of residence. Given that this issue has already been examined in depth and received broad bipartisan support, I am hopeful that a tuition bill can be reported to the floor of the Senate and considered early in the 94th Congress.

The importance of and need for getting improved education assistance to veterans for this school year is paramount. It would be self-defeating to delay this bill longer in an effort to obtain tuition payments. However, the experiences of nearly three decades ago should not be permitted to breed blind fear and opposition to the development of a meaningful tuition payments provision with adequate safeguards to prevent abuses.

I believe the Vietnam-era veterans education bill we are considering today will be beneficial to all the veterans eligible for assistance under it. I give my wholehearted support to this measure and am pleased to have cosponsored it.

Mr. CRANSTON. Mr. President, I rise to give my full support, and to urge my colleagues in the Senate to approve the pending measure, the Vietnam Era Veterans Readjustment Assistance Act of 1974 (H.R. 12628), as reported from the committee on conference.

INTRODUCTION

Mr. President, as the principal coauthor of the reported bill with the distinguished chairman of the Committee on Veterans' Affairs, the Senator from Indiana (Mr. HARTKE), I believe the bill we are considering today will provide the most comprehensive extension of benefits of any veterans' measure considered in the Congress in the last several years. It is a fine bill, the provisions of which will go far in dealing with the widest possible range of education, training, and employment programs and problems for the veterans and his or her family. Although one major compromise had to be made during deliberations with the House, I am confident that the bill we have reported from conference is the best possible bill we could achieve and will come very close to providing a true measure of comparability of GI bill educational assistance for Vietnam-era veterans with the level of benefits provided after World War II and the Korean conflict.

Mr. President, I am fully aware of the importance of both compromise and cooperation—two of the four "c's" our new President stressed in his recent address to a joint session of Congress. I believe this bill is a symbol of such compromise and cooperation, not only between the House and the Senate Veterans' Affairs Committees, but also between the Congress and the executive branch. The major point of contention—the Senate's tuition assistance program—was objected to strongly by President Nixon in a July 30, 1974, letter to Chairman HARTKE. That provision costing $585 million the first full year, has been dropped, thereby reducing the overall cost of the conference report by $490 million in view of the $270 rate figure.

I strongly support this spirit of compromise and cooperation, and I will do my best to further it.

But the time has come, Mr. President, for definitive action, not just words connoting the arrival of an era of good feeling. Vietnam-era veterans have waited too long for a benevolent executive branch to seek for them the benefits they earned by their military service. They have watched too often as their promised benefit increases have been compromised away in lieu of such excessive military hardware as the SAM-D or the CVN-70, or overseas troop support. Further compromises are unacceptable now. The hour has come for a decision—a decision concerning our national priorities.

Mr. President, I am totally in agreement with President Ford's desire to cut the budget, to reduce Federal spending. I have been deeply concerned and involved in efforts to cut wasteful Government spending since coming to the Senate. Combating inflation and attempting to right our economy-gone-awry by reducing veterans' benefits, however, is, in my opinion, not responsible budgeting.

There is no question, Mr. President, that one of the first responsibilities of a democratic society is the maintenance of a stable economy—an economy which will provide all citizens with a fair opportunity to find work and earn a decent living. I have no argument with this, and I congratulate President Ford for his determination to achieve this goal.

This cannot be done, however, by asking young veterans to continue to make double and triple sacrifices. They have already given up 2 years or more to military service, often risking their lives and limbs. Yet, in the name of combating inflation, the past administration has steadily resisted congressional efforts to get additional funds for badly needed programs for veterans. Most young veterans have thus encountered difficulty in completing or even beginning their educations; many cannot find jobs, and some cannot get adequate medical care for their disabilities.

Mr. President, in November 1970, as chairman of the Veterans' Affairs Subcommittee of the Labor and Public Welfare Committee, I chaired hearings on unemployment and readjustment problems among young veterans. I stated then that there was great irony, as well as tragedy, in the economic recession and high unemployment.

The Vietnam war had been a major cause of our runaway inflation, and the Nixon administration instituted a number of fiscal year monetary policies to stop that inflation. All those policies succeeded in doing was depressing the economy and increasing unemployment. Most paradoxically, among the principal victims of unemployment were the young servicemen returning from the very war that brought about the inflation—and the administration's recessionist policies—in the first place.

Mr. President, in the spirit of the justice and conciliation sought by the new administration, we must correct this great injustice. Providing equitable benefits and services, employment opportunities, and quality medical care to our Nation's veterans is a cost of war that we can no more avoid than the costs of bombs and bullets, airplanes, and tanks—the necessities of waging war. Providing the funds necessary to afford veterans this just readjustment assistance is a cost of war we must and will pay. And we must do so willingly, not begrudgingly.

Mr. President, there is no room for compromise in this regard. The men and women who served in Vietnam cooperated when they were asked to serve their country. They did not ask about the cost. I believe it is our moral obligation to reconcile the sacrifices they made by insuring Vietnam-era veterans of adequate readjustment assistance.

I would point out, Mr. President, that not only is this a cost of war which we are morally obliged to pay, but the amounts involved in the conference report represent sound fiscal policy, as well. This morning, at the inaugural hearings of the Senate Committee on the Budget, on which I am privileged to serve under the distinguished leadership of the Senator from Maine (Mr. MUSKIE), we heard testimony from two impressive but rather conflicting authorities: Honorable Arthur F. Burns, Chairman of the Board of Governors of the Federal Reserve System; and Prof. Walter W. Heller of the University of Minnesota, former Chairman of the Council of Economic Advisers. Much of their testimony focused on whether or not there was a need for significant cuts in the fiscal year 1975 budget for Federal Government spending. These gentlemen differed with regard to this point, at least insofar as the magnitude of such proposed cuts.

They did not differ, however, on one very salient point. Chairman Burns stated that along with the need for the Congress and the executive branch to make certain substantial cuts in the Federal budget which he was advocating, there must be compensatory increases in Federal spending for certain programs too. I will quote the word he used. He said we must "ameliorate" the impact which inflation has already had on certain groups in our society.

Professor Heller, who probably would define this group of inflation victims more broadly than Chairman Burns, made the same point and termed such "amelioration" as "reparations" for the sacrifices and hardship which these groups of individuals have experienced at the hands of our devastating inflation rate.

That, Mr. President, is really what this conference report is all about: restoring the purchasing power, in terms of education and subsistence of GI bill educational assistance and training allowances. This purchasing power already has been badly eroded and eaten up by the ravaging inflation of the 18 months since the last GI bill increase. Anyone who has tried to pay for an education in 1974 with the same amount of money needed to purchase an education in 1972, obviously knows that the 22.7-percent increase in the conference report is fully justified.

So, Mr. President, I point out that in essence what we have here is a reparation in the war on inflation which we owe to our Vietnam-era veterans in terms of their right to adequate education and training benefits, to facilitate their readjustment.

Mr. President, during the 5½ years in which I have been deeply involved in matters affecting our Nation's veterans, particularly Vietnam-era veterans, I have learned to expect, as a matter of course, threats of Presidential vetoes of legislation providing for badly needed increases in benefits to veterans, or administration recommendations of pitifully small budgetary increases in veterans' benefit programs.

I was encouraged, therefore, with aspects of President Ford's address to the Veterans of Foreign Wars—VFW—convention on Monday, August 19, 1974. Particularly noteworthy, I think, was his expression of concern for the appalling rate of joblessness among young veterans and minority veterans, as well as his demand for the highest quality of care in VA hospitals and humane treatment for every veteran. These are concerns I share and long have been working to deal with. In the past, however, my concerns have fallen on deaf ears. The Nixon administration was long on rhetoric with regard to helping veterans, but short on action. President Ford's apparent awareness of the importance of these matters gives me hope that he will also recognize the great need to enact into law all the provisions on H.R. 12628, as reported from conference.

Mr. President, the reported bill is a tribute to the skill, dedication, and perseverance of the distinguished Senator from Indiana. Through his leadership, Chairman HARTKE has brought all members of the Veterans' Committee together behind this very broad, comprehensive measure. It has been a great privilege for me to collaborate with him in producing this very broad-based measure, and I want personally to thank him for all his cooperation and that of the committee staff and congratulate him for having produced such a truly beneficial and important measure.

SUMMARY AND DISCUSSION OF MAJOR PROVISIONS OF REPORTED BILL

Mr. President, in my remarks during Senate consideration and approval of the bill reported from the Senate Committee on Veterans' Affairs, H.R. 12628, as amended, this past June 19, 1974, I discussed, in detail, the many comprehensive provisions of the bill. At this time, I would like to focus on the major provisions of the bill reported from the committee on conference on Monday, August 19, 1974.

INCREASE IN RATES

Mr. President, in the committee bill as introduced, the basic monthly educational assistance allowance rate was set at $270 in an attempt to restore comparability with World War II GI bill rates. This rate was based on the $250 level which had been adopted unanimously, both in committee and in the Senate, in 1972, which our calculations showed were necessary to achieve GI bill benefit comparability at that time. This $250 figure was then adjusted by the cost-of-living increase—CPI—from fall 1972 to late fall 1973, when S. 2784 was introduced—December 6, 1973—which required about an 8-percent increase over this $250 figure. This basic GI bill rate was lowered to $260 per month in order to allow for the tuition assistance allowance program provision added to the bill in committee. The partial tuition assistance allowance program was considered, by the committee, to be an integral part of the rate increase package. The two together were a substitute for the original 22.7-percent rate increase included in S. 2784, as introduced last December 6.

In view of the House conferees' insistence that the tuition assistance pro-

vision be dropped from the bill, I am pleased that we were successful in insisting that the 23-percent increase in rates be restored.

NINE ADDITIONAL MONTHS OF GI BILL ELIGIBILITY

Mr. President, during Senate committee consideration of S. 2784, I proposed an amendment to increase the total GI bill entitlement period by 9 months, from the present 36-month period to 45 months. I am especially gratified that this amendment accepted by the committee is retained in the conference report, as I believe it improves significantly the overall educational assistance program. Many veterans, who must take reduced credit loads in order to work to supplement their incomes, will be insured of the additional months of educational assistance they may need to complete their education, as a result of this provision.

Mr. President, the GI bill educational assistance program was originally designed to assist veterans in their readjustment to civilian life. Particularly, during this period when an undergraduate degree is absolutely necessary to achieve minimum competitiveness in today's job market, the GI bill should at least provide a fair opportunity for all veterans to obtain a bachelor's degree.

However, the high cost of education, the loss of credits involved in transferring from a 2-year college to a 4-year college, and the lack of adequate GI bill benefits until very recently, have combined to make it difficult, if not impossible, for many veterans to complete baccalaureate degree requirements within 4 school years.

Further, Mr. President, VA statistics indicate that 48.8 percent of all GI bill trainees have dependents. Many of these veterans are forced to take reduced workloads in school in order to take jobs to support their families. The American Association of Community and Junior Colleges noted in testimony before the committee that "most veterans averaged only 12 credit-hours for an average semester." Under current law, veterans can receive full monthly benefits for 12 credit-hours of study. But as the National Association of Concerned Veterans—NACV—pointed out, 12 credit-hours per semester adds up to 96 credit-hours after 4 school years, or 24 credit-hours short of the 120 required for graduation. On a quarter system, 4 years of the minimum requirement will accumulate 144 or 36 credits short of the 180 necessary for graduation.

Additionally, many lower cost public institutions, where most veterans turn for their education, are overcrowded. As a result, it is often difficult for veterans to gain admission to required courses. According to a recent survey, it took 690 veterans an average of 5 years to complete their degrees at the California State University at Fullerton and the University of California at Irvine.

Mr. President, a final consideration is reflected in a recent report by the Carnegie Institute on Higher Education, which points out that educational requirements imposed by employers, State licensing agencies, and professional certification boards demand increasing periods of higher education. In plain terms, what a bachelor's degree would qualify a veteran for in 1948 or 1955 in terms of salary and job responsibility may very well require a master's degree in 1974. Although the extension of monthly entitlement from 36 to 45 months is primarily intended as a means to insure that all veterans may obtain at least an undergraduate degree, I believe this provision will do much to enhance the ability of many veterans to be economically and educationally competitive with their nonveteran peers.

PROGRAM EVALUATION AND COLLECTION OF STATISTICAL DATA

The Senate-passed version of H.R. 12628, as amended, provided for a new subchapter under which, for the first time, the Administrator of Veterans' Affairs would be required to provide for independent measurement and evaluation of the impact and effectiveness of all programs authorized under title 38, and their mechanisms for service delivery, and to collect, collate, and analyze on a continuing basis, full data regarding the operation of all such programs. The Administrator would be required to make available to the public the results of his findings.

Presently, Mr. President, the VA's evaluation activities are sporadic and limited. The evaluation provisions in the new section 219 contained in the Senate-passed bill—in subsections (a) through (f)—are based directly on the evaluation provisions in sections 401 and 402 of the Rehabilitation Act of 1973—Public Law 93–112, of which I was a principal author with Senators RANDOLPH and STAFFORD, who are also members of the Veterans' Affairs Committee, and who collaborated along with Senator HARTKE and me on this provision in the Senate-passed bill. Interim regulations regarding these Rehabilitation Act provisions were published in the Federal Register on July 2, 1974.

Since the House-passed bill contained no comparable provision, I am most pleased that the conference agreement embodies the essence of the Senate provision, although somewhat revising and condensing the language in order to provide for greater focus and more specificity.

In the joint explanatory statement, however, the conferees stressed that in condensing the new section 219—evaluation and data collection—as added in section 213 of the conference report, the requirement that, whenever feasible, the Administrator should arrange to obtain the specific views of program beneficiaries and program participants with respect to evaluations of such programs, was deleted as unnecessary. The conferees further stressed their belief that the Administrator already possesses the authority to do this, and that it would be desirable for him to exercise that authority, in addition to providing for evaluations conducted by fully independent personnel rather than those directly responsible for program operation and administration.

PROGRAM

STATUTORY AUTHORITY FOR VA'S VET REP

Mr. President, another provision I authored in the Senate-passed bill, establishing a veterans representative—Vet Rep—program, was accepted by the Conference Committee. This program will provide for a full-time VA employee at, or in connection with, each educational institution where at least 500 GI bill trainees are enrolled, who will serve as a liaison between the VA and the institution and identify and resolve various problems with respect to VA benefits, especially educational assistance, for veterans attending each such institution.

Mr. President, Senators may recall that on May 31, 1974, the White House released a formal announcement concerning the Veterans' Administration's new man-on-the-campus program. Earlier in May, the Veterans' Administration had briefed the Congress on its plans to implement this program designed to improve service relationships with veterans, their dependents, and veterans' service organizations. The man-on-the-campus, or Vet Rep program involves placing VA counselors on college and university campuses to identify and resolve VA educational assistance allowance problems.

Mr. President, in the weeks that followed the original VA announcement of these plans, there was considerable confusion, and much concern expressed by those persons already involved in campus veterans' programs. Specifically, Veterans cost-of-instruction—VCI—program campus coordinators, who are responsible for planning, implementing, and directing the full-time offices of veterans affairs established under a provision I authored in the Education Amendments of 1972, Public Law 92–318, feared their programs were about to be taken over by the VA. The VCI program was designed to provide incentives and supporting funds for colleges and universities to recruit veterans and to establish the kinds of special programs and services necessary to assist many veterans in readjusting to an academic setting.

VCI programs achieved a high level of success in their first year of operation despite the fact that in many cases VCI coordinators were unable to plan and develop special programs because they were forced to devote far too much of their time to the task of assisting veterans with VA-related problems, especially late arrival of GI bill checks. VCI coordinators were, in many cases, simply acting as a liaison between the veteran and the VA in the veteran's frustrating battle to receive VA educational benefits.

Unfortunately, Mr. President, the VA's early plans and job descriptions for the Vet Reps appeared suspiciously duplicative of the responsibilities already being met by VCI coordinators. VA memos concerning the Vet Rep program contained terms such as "outreach" and "peer counseling"—activities specifically required by law of VCI programs. Aggravating the situation was the fact that the VA, in the weeks just after announcing the program, made no attempt to consult VCI coordinators or to include them in any of the initial planning and imple-

mentation of this program, a program which directly would affect these already existing programs.

This understandably led to much hostility on the part of VCI coordinators and other campus veterans representatives across the Nation. My staff worked closely, during this period, with the Veterans' Administration, the Civil Service Commission, the Office of Management and Budget, and the White House to work out details of the program, and to insure that the concerns of VCI coordinators would be taken fully into consideration before plans for the program were finalized.

In connection with the Vet Rep provision, in the conference report, the joint explanatory statement offers the following explanation:

In adopting this provision, the conferees were keenly aware of the concerns which have been expressed to members of both bodies about the implementation of this program which has already been undertaken administratively by the VA, and of the assurances received from the Office of Management and Budget, the White House, and the VA with respect to the intended operation of this program. Of specific concern is the understanding, most recently embodied in the Senate Appropriations Committee report (No. 93-1056) on H.R. 15572, the fiscal year 1975 HUD-Space-Science-Veterans' Appropriations Act, that VA regional offices, with the concurrence of the Chief Benefits Director, will have considerable flexibility in the assignment of these new Vet Reps in terms of particular campus needs. This same flexibility is provided for in the conference report. In those instances where a Vet Rep can perform more effectively in terms of carrying out the special responsibilities of liaison with the campus veterans, assignment of the Vet Reps to regional offices should be carried out in order to improve the capacity of those offices to provide effective services. At the same time, the conferees wish to call attention to the conference report provision which is intended to avoid any situation in which an educational institution might be in any way compelled to accept such an on-campus assignment by the VA—new section 243(a)(4) provides that the "inappropriateness of assignment of veterans' representatives to a particular educational institution" shall be grounds for reallocation of such Vet Reps to other educational institutions or to the regional office. The conferees expect that such assignment matters will be resolved amicably in close consultation and coordination with individual institutions, GI bill trainees at such institutions, and other interested parties.

VETERANS' OUTREACH

Mr. President, in 1970 and 1972 I authored and coauthored with Senator HARTKE, respectively, major new programs to provide special assistance to high school dropout veterans. These were the predischarge education program—PREP—the special tutorial assistance program, the refresher, deficiency on-campus program, and the veterans outreach services program in 1970 in Public Law 91-219; and expansions and improvements of those programs and the addition of the veterans-student-services program in Public Law 92-540.

Unfortunately, the implementation of these programs by the Veterans' Administration has continued to be less than adequate and less than enthusiastic. There is a substantial need for improvement in the scope of the VA's outreach program and the methods which it employs to reach out to returning veterans, particularly educationally disadvantaged veterans, to attempt to encourage them to use their GI bill eligibility to receive education and training. I find the figures in a study by the General Accounting Office, in terms of the lack of actual knowledge on the part of returning veterans about their benefits, to be very discouraging and to be evidence of a very haphazard implementation by the Veterans' Administration since we inaugurated the program in 1970.

Mr. President, in the conference report we have adopted the Senate provisions to increase the tutorial assistance allowance from $50 to $60 a month and the number of months of tutorial assistance entitlement during which such allowance may be paid from 9 to 12 months. As I indicated above, I originally authored this provision, in the 1970 GI bill amendments, Public Law 91-219, to provide tutorial assistance to veterans in academic difficulty.

In addition, the veteran-student services program which we placed into law in Public Law 92-540, and which I originally proposed in 1970 in the Senate-passed S. 3657, and again in 1971 in S. 740 with Senator HARTKE, would also be improved and expanded by provision in the conference report. When we originally passed this program in the Senate in 1972—as well as in 1970—there was no limitation on the number of veterans who could participate in this work-study program. However, in 1972, in working out the provisions which became Public Law 92-540, we agreed with the House to try this program out on the basis of about 16,000 so-called work/study agreements, effectuated through the limitation to 800 man-years of work contained in section 1685 of the present law. We also agreed to limit the number of hours that any veteran could work to 100 hours per academic year.

Given the experience with this new program and comments we have received from various VA regional offices and others, the conferees agreed to the Senate provision to expand the program so as to permit up to 250 hours of work for each individual veteran over an academic year and to remove the limit on the number of veterans who can participate during any one fiscal year.

We see this program as a major way for the VA to improve and expand outreach efforts, pursuant to the new directions and authorities made by other amendments in the Conference report, especially on college campuses under the supervision of the new veterans' representatives, provided for in section 214 (4) of the Conference report, and also strongly believe that the program, as indicated in the provisions of the present law itself, should be directed far more to providing work/study veterans to carry out certain functions in connection with the VA medical program—a statutory function which has been virtually totally overlooked by the Veterans' Administration in its implementation of the present program.

PROVISION OF EMPLOYMENT ASSISTANCE TO VIETNAM-ERA AND SERVICE-CONNECTED DISABLED VETERANS

Mr. President, in 1972 in title V of Public Law 92-540, we enacted the Veterans Employment and Readjustment Act of 1972, which was derived directly from the provisions of S. 2091 which Senator HARTKE and I had introduced in June of 1971. Given our experience with the implementation of the various provisions added to title 38 in 1972 in chapters 41 and 42, Senator HARTKE and I proposed a series of strengthening amendments, which have been retained in the conference report.

First, Veterans Employment Service job counseling, training, and placement services would be expanded to serve wives and widows who are eligible for chapter 35 GI bill assistance.

Second, the Secretary of Labor is directed to establish stronger, expanded administrative controls under chapter 41 in order to insure that eligible veterans, wives, and widows are promptly placed in a satisfactory job or job training opportunity or receive some other specific form of employment assistance. The Secretary is also required to publish standards for determining compliance by State Public Employment Service agencies with the provisions of chapters 41 and 42.

Mr. President, the need for such mandatory specificity regarding this annual report was made very clear to us by the ridiculous three-page annual report concerning the implementation of existing chapter 41 provisions submitted—4 months after it was due—by the Secretary of Labor, and by the failure of the Secretary to carry out the chapter 42 "special emphasis" program.

Third, with regard to the chapter 42 "special emphasis" program the conference report clarifies and strengthens existing law by requiring that Federal contractors and all of their subcontractors take particular actions in addition to job listing in order to give "special emphasis" to the employment of qualified service-connected disabled and Vietnam-era veterans. The conference agreement provides further clarification in this provision by making clear the intention of the Congress that all Federal contractors and all subcontractors under Federal contracts—not just prime subcontractors—are to take affirmative action in their employment practices in an effort to promote the greatest possible employment and advancement in employment of qualified service-connected and disabled veterans and veterans of the Vietnam era.

Mr. President, this provision is essentially a clarification and a refinement of the existing provision in section 2012 of title 38. The language of the modified provision was worked out in close consultation with the Department of Labor;

the Department seems committed to doing better in terms of hiring veterans. The existing provision, given the Department's very restrictive interpretation in the regulations governing this section, has clearly not been carried out as Congress had intended.

Unemployment continues to be a substantial problem among young veterans, of whom more than 9.5 percent are presently unemployed. The unemployment rate for young minority group veterans was 19.5 percent for the second quarter of 1974, more than twice as high as that of other young nonminority group veterans, and on the west coast, 30,000 veterans in the 20- to 24-age bracket were out of work during the second quarter of 1974, with an unemployment rate of almost 12 percent. Nationwide, the July unemployment rate for young Vietnam-era veterans is 9.6 percent, with 130,000 young veterans out of work.

Thus, we felt it necessary, not only to try to provide greater focus to the efforts of the Veterans Employment Service, but also to provide the Department of Labor with greater statutory specificity with respect to its efforts to promote employment of Vietnam-era veterans and service-connected disabled veterans in the private sector.

Mr. President, in clarifying this provision, it was the conferees' objective to insure that the goals of the program, as spelled out above, would be achieved according to an orderly and effective timetable, backed up by an effective compliance mechanism. The provision in the conference report is thus substantially identical in language and intended scope with the provisions of section 503 of the Rehabilitation Act of 1973 (Public Law 93-112), a law I coauthored with Senators RANDOLPH and STAFFORD, who also serve with me on the Veterans' Affairs Committee, and who collaborated with me in the revised section 2012 in the conference report.

Fourth, the conference report also includes a provision I authored with Senator HARTKE stating that it is the policy of the United States to promote maximum employment and job advancement opportunities within the Federal Government for qualified service-connected disabled and Vietnam-era veterans, and providing for special Federal appointment authority and other mechanisms to carry out such policy.

Fifth, the conference report provides for the codification into title 38 of existing law on veterans' reemployment rights, and further extends such rights to veterans who were employed by States or their political subdivisions.

EDUCATION LOAN PROGRAM

Mr. President, the conference report contains, with some modification, the Senate provisions proposing a new education loan program for eligible veterans and chapter 35 eligible dependents, which was in the Senate amendment. This is very similar to the measure Senator HARTKE and I had proposed originally in 1972 in S. 2161 and which the Senate had passed at that time. Unfortunately, in our consultations with the House on that legislation we were unable to convince them of the necessity for that program. I am pleased that we were able to do so this time.

Mr. President, the new loan program should provide the wherewithal for veterans in high- and higher-cost institutions to receive loans to cover their tuition and other expenses at low interest rates and with the principal and interest payments deferred until after they have completed their education. This loan program now represents our efforts to enact some program to deal with the variable tuition costs among universities and colleges and particularly the education costs as they vary from State to State depending upon the availability of lower-cost public education.

Mr. President, I think the fact that the VA estimates that approximately 136,000 veterans would receive these loans—permitted up to $1,000 per academic year in the revision in the conference report—in the first full year of operation of the new program is probably the most telling argument showing the need for such a program. This very high rate of projected use for the first year of such a new program clearly demonstrates the difficulty which GI bill trainees are experiencing in obtaining regular education loans even under the program of federally insured loans under the Higher Education Act of 1965.

The new loan program certainly should fill this gap by providing a substantial benefit for veterans and eligible dependents who cannot obtain Higher Education Act federally-insured loans.

INTERAGENCY ADVISORY COMMITTEE ON VETERANS SERVICES

Mr. President, the conference agreement—in a new section 220 added to title 38—provides that the Administrator shall seek to achieve the maximum feasible effectiveness, coordination, and interrelationship of services among all Federal programs and activities affecting veterans, in addition to the maximum coordination of their programs with the programs carried out by the Veterans' Administration. The conferees expect the Administrator to specify in his annual report the results of this new process.

This provision gives the Administrator for the first time a central role and responsibility in coordinating and stimulating all Federal programs affecting veterans. It is hoped that this responsibility will insure far more efficient implementation of these programs designed to help veterans. This was the purpose of the original provision I authored in the Senate amendment to establish an Inter-Agency Advisory Committee on Veterans Services, a structure which the House conferees found unnecessary to achieve these goals.

CONCLUSION

Mr. President, in closing, I again want to express my congratulations to Senator HARTKE and the other members of the Veterans' Affairs Committee for having worked so hard to produce what I consider to be such a significant and far-reaching measure. I am equally grateful to the leadership in the other body for their accommodating spirit, dedication to veterans, and hard work. The House committee staff did a fine job throughout, as did our staff on this side.

This bill when enacted will help literally millions of veterans, particularly Vietnam-era veterans, and dependents in our Nation. As I have said many times in the past, what these veterans really are asking for is no more than they deserve and are entitled to—that is, simple justice and equity, and comparability in benefits with what their fathers and brothers received after their service in prior wars.

I would like to stress, once again, Mr. President, that this conference report is a symbol of compromise and cooperation. We must not ask Vietnam veterans to wait for further compromises. They have waited long enough.

I strongly urge a unanimous vote of approval by my colleagues for this vital and comprehensive measure.

THE VIETNAM ERA VETERANS' READJUSTMENT ASSISTANCE ACT OF 1974

Mr. CLARK. Mr. President, inflation has been officially recognized as this country's No. 1 domestic problem. Our Vietnam veterans, however, have been well aware of that problem for several years.

Thousands of these veterans have written, telephoned, and testified that the current GI bill is insufficient to cover the cost of continually rising tuition rates and today's inflated living expenses. The Vietnam-Era Veterans' Readjustment Assistance Act of 1974 should go a long way toward rectifying that situation. That is why I support it, and recommend its passage by the full Senate.

This legislation would provide Vietnam-era veterans with a 23-percent increase in educational benefits—the biggest increase since World War II. Economists predict that by the beginning of the 1974-75 school term, the cost of living will be 18 percent higher than it was 2 years ago—when the Congress approved the last hike in the monthly educational assistance allowance.

Under the bill, benefits would be increased for single veterans from $220 a month to $270; for married veterans from $261 a month to $321; and for a married veteran with one child from $298 to $366 a month. Veterans also would receive $22 monthly for each additional dependent compared to the previous $18.

This legislation would extend a veteran's eligibility for educational benefits from 36 months to 45 months—a total of 5 school years. This provision complements another bill, recently signed into law, which increases from 8 to 10 years the time in which a veteran is able to utilize the GI bill once he or she leaves military service.

Unfortunately, a Senate provision to provide partial tuition assistance of up to $720 a year was not acceptable to the House of Representatives. This provision would have restored equity among veterans residing in different States with divergent systems of public education, and it would have been an important step forward. The Senate bill provided specific

controls to offset the possibility of abuse that characterized the post-World War II tuition program. Nevertheless, some Members of the Congress adamantly opposed this provision, and it was not included in this piece of legislation.

I am hopeful that a tuition program for veterans will be approved by both Houses of Congress in the future because I am convinced that only this kind of tuition assistance will allow Vietnam-era veterans to get the educational benefits that were available to World War II veterans. A bill will be introduced in the next session of Congress to accomplish this goal, and it will have my full support.

Given these reservations, I believe that this compromise legislation is excellent, and I will vote for its approval, with the full confidence that it will be speedily approved by the Congress and signed into law by the President.

Vietnam veterans served their country during a period in history when it was not always easy to serve. They more than deserve the benefits contained in this bill.

Mr. RANDOLPH. Mr. President, it is a privilege to cosponsor and support the Vietnam-Era Veterans' Readjustment Assistance Act of 1974. The conference report on this measure should be adopted and I am hopeful President Ford will sign it into law to assist our men and women who were involved in the longest and most controversial war in this Nation's history.

The able and distinguished chairman of our Committee on Veterans' Affairs (Mr. HARTKE) has outlined the details of the vital measure and the basis for our conference agreement. I will comment only briefly on the reemployment rights provisions which I introduced on April 18, of last year, and which have been incorporated into this bill. These provisions extend reemployment rights to veterans employed by State and local governments prior to entering the service. Those who held jobs with the Federal Government or private industry will be assured that their job rights are protected. This has not been the case with those veterans who previously held jobs as schoolteachers, policemen, firemen and other State, county and city employment.

Some State and local jurisdictions have demonstrated an unwillingness to rehire such veterans. Or if they do, they seem unwilling to grant them seniority or other benefits which would have accrued to them had they not served their country in the military. For 1973 over 600,000 veterans were discharged from military service. More than 50 percent were employed prior to entering service.

This legislation leaves no doubt for State and local government employers that Congress feels all veterans should receive equitable treatment in the matter of reemployment rights.

Also section 2023 of the bill provides that Postal Service employees retain the right to appeal veterans' reemployment rights to the Civil Service Commission. Because of past precedents it is the committee's position that the Postal Service Commission be considered a Federal agency for the purpose of veterans' reemployment rights.

The reemployment provisions reaffirm that legal proceedings shall be governed by equity principles of law, specifically by barring the application of State statutes of limitations. The equity doctrine of laches will accomplish the application of any time-barred defense in cases under this law. This very important amendment made necessary by several court decisions which misconstrued the 1940 act by erroneously applying State statutes of limitations to reemployment actions, makes explicit Congress' original intent that laches is the governing doctrine in determining whether such actions are time barred.

Mr. President, the coverage of State and local employees under this bill is not legally retroactive. However, it is my strong hope and the committee's intent that those veterans employed by State and local governments, who were separated from military service prior to enactment of this measure, will be accorded the same rights and protection as returning veteran employees covered under this bill.

In addition to the effective coverage of this bill, the broad mandate of the reemployment rights section should give the Department of Labor, through its Office of Veterans' Reemployment Rights, to the fullest extent possible, the right to assist State and local employees who are not actually covered under the bill to attain their reemployment rights.

I am aware of a case currently pending in Wheeling, W. Va., in which the 1-year statute of limitation has been asserted in an action by a disabled veteran to gain reemployment rights. The veteran contacted the Department of Labor within 1 year of the denial of reinstatement to employment. However, due to efforts by the Department of Labor and the U.S. attorney in investigating, negotiating, and preparing the case, suit was not filed until approximately 2 years after the denial of reinstatement. If a 1-year statute of limitation is allowed to bar this reemployment action—which I understand to be one of great significance insofar as the rights of disabled veterans are concerned—I believe a great injustice will be done not only to this veteran but to the veterans' reemployment rights as a whole. The enactment of reemployment rights will preclude such an injustice.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HARTKE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HANSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 16243) making appropriations for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes.

AMENDMENT NO. 1811

Mr. PROXMIRE. Mr. President, I call up my amendment, No. 1811.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

At an appropriate place in the Act, insert a new section as follows:

SEC. —. None of the funds, appropriated by this Act may be used to support more than two hundred and eighteen enlisted aides in the United States Armed Forces.

Mr. HARTKE. Mr. President, I wish to pay a special compliment to the members of the committee who worked so diligently on this matter with us. It took a lot of hours and time. There could be no committee which would respond more affirmatively and cooperatively than this committee has on this very important legislation.

The staff members have worked long hours, over weekends and nights, to make it possible for the veterans to have their opportunities for the future.

In particular, Mr. President, I would like to commend the staff director, Frank J. Brizzi, and the general counsel, Guy H. McMichael III, for their invaluable assistance. Professional staff members, Mary Whalen, John Szabo, and Larry Chernikoff, were also of valuable assistance in obtaining the final product we have today. We are also fortunate in our committee that we are able to work closely with the minority staff and I particularly want to single out the minority counsel, Tyler Craig, and professional staff members, John Napier and Jim Fields, for their work on the bill.

Mr. PROXMIRE obtained the floor.

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

Mr. PROXMIRE. Yes, I yield to the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. 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. PROXMIRE. Mr. President, I shall be very brief.

Mr. President, there should be no need for this amendment today. Of all the issues brought before the Senate during debates on the military bills the last 2 years, the question of military servants has been resolved in the clearest possible manner.

On two occasions this body has voted to restrict the number of military servants to 218. In 1973, we voted the 218 ceiling by a margin of 78 to 4. Just this year, we again voted to restrict the number to 218 by a 74-to-4 margin.

SENATE POSITION IS CLEAR

What could be clearer? What could be more precise? How could there be any confusion on this point by the Department of Defense? The message is plain.

We have told the Defense Department to cut back on their servant program, to find other alternatives because time is running out.

And yet, even given these overwhelming votes, we still have 675 servants in the service of 450 generals and admirals worldwide. Two years of Senate votes have been frustrated in the conference committee.

Mr. President, the amendment I offer today is exactly the same as the amendment worked out by the distinguished Senator from Mississippi (Mr. STENNIS), chairman of the Armed Services Committee, during the procurement bill debate. At that time, the chairman, the Senator from Georgia (Mr. NUNN) and the Senator from Wisconsin agreed to a compromise amendment which would limit the number of servants to 218. That ceiling was passed in a 74-to-4 vote.

The fact is that we have far more servants than that, we have about 675 servants in the military and I am very hopeful that we can have reconsideration of this.

Of course, that was on the authorizing bill and the bill before us today appropriates funds for the Department of Defense.

Here too, the precedent is clear and convincing. Last year, the Senate Appropriations Committee provided only enough funds to cover the support for 218 servants in the Senate bill.

The record then is without qualification. The Senate's position is that no more than 218 military servants be allowed for the generals and admirals.

Amendment No. 1811 will return us to that position.

If we do not return to that stance, the effect will be to institutionalize the present number of military servants at 675—a figure the Senate has rejected time and time again.

Mr. President we are faced with this issue again this year because the overwhelming Senate position on military servants has been dropped in conference after conference with the House. There have been four conferences with the House the last 2 years on the two major military bills. At each time, the Senate conferees have given way to the House position for more military servants.

During the conference on the fiscal year 1975 military procurement bill, the Senate conferees did not even retain a numerical limitation. They took in a vote of 74 to 4 for 218 servants and they came out with no ceiling, a report, and a commitment to hold hearings.

Now, I understand how the conference process works. There is give and take. There is compromise. That is normal. But for 2 years, it has been all give by the Senate and all take by the House on this issue. I could understand this if there were close votes in the Senate. But that has not been the case. The vote has been overwhelming.

WHO ARE THE SERVANTS?

Mr. President, who are these men I refer to as servants in uniform?

What are the facts? Are these men really servants?

The answer is an emphatic "yes." According to scientific interviews conducted by the General Accounting Office, these men prepare food, serve meals, clean quarters, perform gardening on the grounds of the quarters, provide maintenance on the rent-free homes of the generals and admirals, bar-tend for official and private parties, do the grocery shopping, run errands, and chauffeur the officers around.

In the Navy, they spend an average of 4 hours a day preparing and serving meals in the homes of the admirals and 3.1 hours cleaning their homes. In the Air Force they spend 2.4 hours preparing and serving meals and 4 hours cleaning quarters. The comparable figures for the Army are 2.5 and 4.2.

Twenty-eight percent of the representative sample of servants interviewed said they were required to do the laundry of the officers' dependents. Twelve percent reported being required to prepare lunch for the officers' dependents even though the officer was not home and did not eat at the same time.

The GAO concluded that the tasks performed by these men are those normally associated with domestic servants.

They are servants—plain and simple. About that there can be no dispute.

As with any servant, they come in handy when entertaining is required. A full 100 percent of the Navy and Marine Corps officers reporting to the GAO said they used their servants for official entertaining—meaning as bartenders, for clean up and food preparation; 97 percent of the Army generals and 91 percent of the Air Force generals reported using servants for the same purpose.

But official entertaining is not the only requirement for a personal servant. They must also serve drinks and clean up at unofficial parties put on by the brass—private parties for their personal friends.

They use military men and American tax dollars for private parties that have no official function. Seventy-eight percent of the Army generals, 83 percent of the Navy admirals, 82 percent of the Air Force generals and 57 percent of the Marine Corps generals reporting to the GAO said they used their servants for unofficial private parties. In other words, if they were having a few friends over for a drink or entertaining relatives from out of town, their personal military servants do the work. They purchase the food at cutrate commissary prices, serve the beverages and food and clean up afterwards. All courtesy of the American taxpayer.

The average number of parties of each officer is 4.5 a month or a little over 1 per week for which their personal servants are called upon to work. Not a bad life.

What about the men involved? Who are they and where did they come from?

We have often heard that these men are volunteers. It is in the regulations that these men be volunteers. Unfortunately, this simply is not true. The GAO interviewed about 25 percent of all the military servants in the continental United States. Contrary to the Pentagon argument about being volunteers, it was found that over 12 percent of these men were assigned to their jobs. They did not volunteer. They were assigned to be servants.

WHO HAS SERVANTS?

Right now there are 675 servants in the service of 450 generals and admirals. All members of the Joint Chiefs of Staff have five servants each. Five men personally assigned to them to care for their every need. Five human beings receiving on the average of between $7,000 and $8,000 per year. This means that every member of the Joint Chiefs has the personal use of about $40,000 of manpower for his personal convenience and that of his family.

Thirteen other Army generals, 8 admirals, 1 Marine Corps general and 14 Air Force generals all receive 3 servants each courtesy of the American taxpayer.

The unfortunate remaining officers of the 450 have to make do with one or two servants with the exception of the Superintendent of the Naval Academy who gets four for some reason.

These servants are attached almost permanently to an individual officer. They go where he goes. They serve where he serves. They are an integral part of his family. If they complain about their working conditions, they can be informally disciplined, as many have been, by sending them to do undesirable jobs or by refusing promotions. I presented evidence of one such case during the procurement bill debate.

Of the 675 servants, 189 are based in the Washington, D.C. area. Washington is the capital of the military servants because so much of the military brass is based here.

Outside of Washington, we have military servants for our brass in Italy, England, Belgium, Taiwan, Japan, Germany, Korea, Brazil, the Canal Zone, Okinawa, Turkey, Thailand, Guam, Spain, and Holland.

JUSTIFYING SERVANTS

How does the Pentagon justify these military servants? Let us go into each justification and I will demonstrate just how sterile, just how unbelievable the rationale is.

The Pentagon makes the argument that military servants are necessary because generals and admirals have duties affecting the welfare of thousands of men and women in uniform. They are said to be responsible for billions of dollars in materials and Government funds. Therefore, these men should not be required to take care of their own laundry, cars, food, or homes.

Mr. President, for those who would defend the use of military servants under this justification, I would ask do not Senators and Congressmen have similar responsibilities? Does not the Secretary of Defense or the Secretary of the Air Force, Army or Navy have responsibilities as great as any of our generals and admirals? What about the Justices on the Supreme Court?

Do mayors of this Nation's cities have large civic responsibilities? Do they not look after the welfare of millions and handle billions of dollars in Government funds?

And do they have servants provided to

them at the expense of the beleagured American taxpayer? No, not one.

Perhaps the supporters of the military servant program would be willing to introduce legislation to authorize military servants for every taxpayer who has large responsibilities and handles great sums of money.

The Pentagon also states that military servants are needed because these high ranking officers work long hours.

Now I ask you: Are generals and admirals the only people that work long hours in this country? Do other citizens have to come home from a long day's work and do their own chores? Of course they do.

The brass would also have us believe that they need servants because of all the parties they have to put on. Think of that argument for a moment. Our mighty military machine demands servants because it has so many parties to give.

What kind of defense force do we have on our hands? What war are we preparing to win on the party circuit?

Granted, sometimes official entertainment is required, but let that come on a case by case basis from a manpower pool instead of having full time personal servants.

The GAO found that generals and admirals want servants because they claim their wives have to attend social and military functions and take part in civic duties and charity work and therefore, they cannot do the housework.

What makes military wives so special? Military wives are not the only women in this country that have social obligations and take part in civic and charity work. And yet other American women either manage to do their own housework or pay for it out of the family budget. At the same time their tax dollars go for free servants for the brass. Is that fair?

The most recent argument in favor of military servants is that these unfortunate generals and admirals have the bad luck to be living in free housing—large homes provided by the Government. These spacious and sometimes quiet elegant homes need constant upkeep, the Pentagon states now. Although the Pentagon is arguing this point, only 8 percent of the generals and admirals replying to the GAO mentioned this issue. Obviously, there is a lack of communication here, or maybe just some good public relations work.

What other reasons have been given for justifying military servants? Some generals have said they were bachelors and needed the help because they had no wives. Some said they had to host women's groups. Some said they were the only high ranking officer in the area. Some said they had to promote good community relations. Imagine that—promoting community relations by using taxpayers' money for their own personal servants.

During the Civil War, we had an easy answer to this military servant problem. Title 12, section 594 of chapter 200 stated that when an officer used another soldier as a servant he had to reimburse the Government for the full wages and allowances of that soldier. That was a good law. It is too bad that it was taken off the books. We should have it now. Then we would see how many generals and admirals really needed personal servants.

Well, Mr. President, the time has come for this body to come again to a vote on the military servant issue.

Perhaps this is a small question in terms of money. After all, the total cost involved is only about $5.4 million or so. But in terms of policy, in terms of human dignity, in terms of what we say about the American way of life by our actions, in view of economy, and considering the effect on civil rights, this vote carries a significance far beyond its immediate impact.

If we want a strong military, an efficient and economy minded military; if we want to show the world the true value of the American sense of justice and equality, then the Senate should once again send a message across the Potomac that it is time that military servants be eliminated.

I have discussed this with the distinguished chairman of the Appropriations Committee and I understand he is sympathetic and would be willing to consider taking this to conference. I have also talked with the distinguished Armed Services Committee chairman, Senator STENNIS, and the ranking Republican member of the Committee on Appropriations, the Senator from North Dakota (Mr. YOUNG), and as I understand it, it is acceptable to go to conference with this amendment.

Mr. McCLELLAN. Mr. President, I have no strong feelings on this proposed amendment, since the Senate has voted at one time to substantially reduce, and I am perfectly willing if there is no objection, to take it to conference.

I am not sure what the attitude of the House will be, but I am willing to take it to conference and present it as the Senate's position.

Mr. STENNIS. Will the Senator yield to me?

Mr. McCLELLAN. Yes, I yield.

Mr. STENNIS. I have only a brief statement.

Mr. President, when the authorization bill was before us, and the Senator from Wisconsin is correct, we had an understanding and kind of a compromise figure of 218.

Now, I want to assure the Senate that we went to conference, with all deference to everyone, and we tried very hard to get some kind of a figure adopted in this conference. We made propositions far above the 218, but finally did not get anything.

But I want to doubly assure everyone that we spent almost an entire afternoon on it and about an hour of another afternoon. Frankly, I think that is enough for 1 year.

But we did not get any agreement. Last year there had been an agreement worked out on this high figure—that did not go into effect until September 1974, and I think that is one reason why the House conferees were so adamant—that had an agreement by the conferees a year before to a certain plan, and it had not gone into effect and had not been tried.

I frankly think an $81 billion bill is not an earth-shaking issue. I say that with all respect to my friend. I think in taking it to conference the chances are that it will be highly unsuccessful. I want to be frank about that part now.

But it is a matter he has worked on, and with credit to the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin (Mr. PROXMIRE).

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 42, line 4, beginning with the word *"Provided,"* strike out all down through the colon in line 7.

Mr. HATHAWAY. Mr. President, this amendment, which is cosponsored by the distinguished Senator from Rhode Island (Mr. PASTORE), would strike from the defense appropriation bill the provision that no funds shall be used for the payment of a price differential on contracts made for the purpose of relieving economic dislocation.

This has greatly inhibited the program. I have discussed it with the chairman of the committee and I believe that it is acceptable.

This language in the bill has come to be known as the Maybank amendment. It was named for Senator Burnet R. Maybank, who offered the amendment in 1953. Its restrictive language has the effect of severely limiting the Government's program of aiding areas of high unemployment through the award of contracts under the labor surplus area procurement program.

The Maybank amendment was first inserted in the defense appropriation bill over 20 years ago to prevent negotiations of contracts at premium prices with firms in labor-distressed areas. At that time the New England textile industry was moving south, and in an effort to keep some of the textile industry in New England, the Defense Department was inclined to award contracts at a higher price to New England mills than to southern mills.

During that period southern mills were able, because of lower labor costs, to bid much lower on contracts than the New England mills were. The Maybank amendment was intended to prevent the Secretary of Defense from awarding a contract to a New England textile mill at a higher price than he would award the same contract to a southern textile mill, in order to keep the New England mills where they were.

The problem that existed then has now taken care of itself. Most of the textile mills have moved south and very few are left in the New England area. Even though the problem, which the amendment addressed itself to, has been taken care of, the prohibitory language has been included in the Defense Appropriations Act year after year for more than 20 years.

In my opinion, the Maybank amendment is an idea whose time has passed. It has outlived its usefulness, and we

should reconsider the purpose of this provision in the light of present economic conditions.

Although the language of the Maybank amendment does not specifically state that it applies to the labor surplus area procurement program, as authorized in Defense Manpower Policy No. 4, it has been interpreted by the procuring agencies, as well as the Comptroller General, to apply to that program.

The labor surplus area program was initiated in 1952 to encourage full utilization of existing production facilities and workers in preference to creating new plants or moving workers. By channeling Government contracts into areas of high unemployment, the program helps preserve management and employee skills, maintains productive facilities, improves utilization of the Nation's total manpower, and helps assure timely delivery of required goods and services.

There are three categories of labor surplus areas under the program: First, areas of substantial unemployment, second, areas of sustained unemployment, and third, areas of concentrated unemployment or underemployment.

Under the program, certain Government contracts are set aside for bidding by firms in labor surplus areas. In other words, in such a set-aside, only firms located in areas of high unemployment may bid on the contracts. At that point the problem arises with the application of the Maybank amendment. The prohibitory language of the amendment requires the guarantee that any contract which is awarded as a result of preference procedures to firms that qualify for labor-surplus-area assistance must be awarded at the lowest possible price.

To meet this required guarantee of the lowest possible price, every procurement set-aside for labor surplus area firms must be split. One part of the procurement is open for unlimited competitive bidding by any firm interested in bidding on the contract. The other part is set aside for exclusive award to labor surplus area firms.

Once the price has been established for the part of the procurement that is open to competitive bidding throughout the country, that is the price the Government will pay for the remaining part of the procurement made available for firms in labor-surplus areas.

This complicated procedure greatly restricts the labor-surplus-area program by making only partial set-asides rather than total set-asides available to labor-surplus-area firms.

The amendment I offer today would delete from the Defense Appropriation Act the recurring restrictive language of the Maybank amendment and assure that labor surplus areas get a greater share of Defense Department contracts by allowing total set-asides for labor-surplus-area firms rather than partial set-asides.

In fiscal year 1973 civilian and defense procuring agencies total contract expenditures amounted to $45 billion. Only 0.4 percent, or $195.7 million, was awarded under the labor surplus area program.

Several witnesses testifying before the Government Procurement Subcommittee of the Small Business Committee on this program last year agreed that, without the Maybank amendment restricting the program, labor surplus area procurement would surely expand.

In 1952, when the labor surplus area program was initiated, unemployment was 3 percent. From the most current data, for July of this year, it is 5.3 percent. Unemployment today is more grave than it was when this program was initiated. Expanding the labor surplus area program would be one means of combatting this unemployment problem, but unfortunately the restriction imposed by the Maybank amendment against total set-asides for labor surplus area firms is one of the reasons the program is not more effective. I think it is time to look at the program in terms of giving it new life and direction.

With the deletion of the restrictive language of the Maybank amendment from the defense appropriations bill, procuring agencies would have the right to set aside totally an appropriate procurement for firms which qualify under the labor surplus area program. They would no longer be required to go through the complicated process of splitting the procurement.

This does not mean that the Defense Department would be allowed to confine bidding to a particular labor surplus area in, say, New England, or California, or in any other specific geographical area of the country. It would mean that firms in any labor surplus area would have an opportunity to bid, so there would be bidders on the contract all the way from Maine to Hawaii.

The program does not favor any particular section of the country. Classified sections of concentrated unemployment or underemployment include parts or all of 421 cities, 677 counties, in all states, 31 Indian reservations, and the Commonwealth of Puerto Rico.

Firms in labor surplus areas are fully competitive businesses.

The facts do not indicate that contracts awarded under a total labor surplus area set aside, now prohibited by the Maybank amendment, would be at substantially higher prices. In a total set-aside, that would allow only labor surplus area qualified firms to bid, those qualified firms from all over the country would be competing among themselves and their prices would necessarily be competitive. If in the opinion of procurement officials the lowest bid is considered excessive, compared with current prices in the marketplace, then the Government could, and indeed it should, cancel the set-aside and readvertise the procurement without restriction.

A high percentage of the contracts awarded under the labor surplus area program go to small businesses. It is a valuable means of placing more contracts with small business and there can be no more worthy goal than that. By helping small businesses to grow, we are investing in their long-term growth, with attendant new job opportunities.

The cost of the program is very reasonable. During hearings held by the Government Procurement Subcommittee, a witness from the Department of Labor testified that the cost per placement of a person under this program is only $40, as compared with $1,000 to several thousand dollars per individual placement under other job preparation and training programs.

Operation of the program under the encumbrance of the Maybank amendment also makes the program more costly. The requirement that no price differential is to be paid necessitates the splitting of the procurement into two or more contract awards. This increases the time, work, and resulting expense to the procuring agencies. Instead of one contract award there are two or more contracts to award, two or more contract performances to administer and close out and more contractors to pay. These additional measures necessarily add to the cost of administering the contract. Costs are also increased by the Government's not being able to take advantage of greater quantity discounts which would be available if the procurement were not split.

The restrictive language of the Maybank amendment is highly detrimental to the labor surplus area program. In my opinion this obstacle, which is no longer relevant to the evil it was designed to avoid, should be removed.

The labor surplus area program holds out promise for relief of our unemployment problem. It should not be fettered with an outdated restriction which prevents it from fully operating to supply an ever-growing need. In the interest of aiding business, particularly small business, and adding stimulus to a much needed program, I urge my colleagues to join with me in striking from the Defense appropriations bill the restrictive language of the Maybank amendment.

Mr. McCLELLAN. Mr. President, I have considered this matter. It has been in the law for a long time. It would appear now that it is more or less obsolete, and no longer needed. I have agreed to take it to conference. Unless the House has some strong position about it, I would have no objection to its passage.

If there is no objection on the part of anyone, I will agree to take it to conference.

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

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. McINTYRE. Mr. President, I call up my amendment now at the desk to the pending bill, H.R. 16243, making appropriations to the Department of Defense for fiscal year 1975.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. McINTYRE. Mr. President, I ask unanimous consent that we dispense with further reading of the amendment.

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

Mr. McINTYRE's amendment is as follows:

On page 25, lines 9 and 10, strike out "$1,749,152,000" and insert in lieu thereof "$1,796,152,000".

On page 25, lines 17 and 18, strike out "$2,979,612,000" and insert in lieu thereof "$3,005,712,000".

On page 26, lines 2 and 3, strike out "$3,144,460,000" and insert in lieu thereof "$3,165,460,000".

Mr. McINTYRE. Mr. President, the distinguished Senator from Arizona (Mr. GOLDWATER) is a cosponsor of this amendment.

The purpose of my amendment, Mr. President, is to restore $94.1 million of the $933.2 million reduction recommended by the Committee on Appropriations in the research, development, test, and evaluation appropriations. But before addressing the specifics of my amendment, I want to congratulate the chairman of the Committee on Appropriations on having accomplished the most difficult task of making a substantial reduction in the Department of Defense budget. This task, to say the least, is most difficult.

I must add, too, at this time, that I wish to congratulate the able manager of this bill for the manner in which he has put the appropriation bills into such good shape as we have them at this moment. It has been due not only to the fine work of the Appropriations Committee but, undoubtedly, to the leadership of the able and distinguished Senator from Arkansas.

Our most serious problem today is inflation and the economy. In this we are all agreed. The need to reduce Federal spending, and to restrain the overflow of dollars into military as well as domestic programs is acute. However, we must be extremely careful to avoid being stampeded in this process. Arbitrary budget cutting can be more detrimental to the overall well-being of our Nation than even the erosive effects of inflation. What value is a sound economy if the price is to weaken our present and future national security? The vultures circle over a weakened and fluttering bird, but scatter to avoid a strong and vigil eagle.

And this, Mr. President, brings me to the substance of my amendment. As chairman of the Research and Development Subcommittee of the Armed Services Committee for the past 6 years, I have come to understand some very basic facts. And this did not happen overnight. Each and every year the Department of Defense, from the Secretary of Defense and the Chairman of the Joint Chiefs of Staff down, every principal witness, has emphasized the need to maintain a strong technology base to insure the continued qualitative superiority of our weapons to meet any future challenge by any enemy. The former Director of Defense Research and Engineering, Dr. John Foster, was the most outspoken and emphatic proponent of this basic truism. I was pleased to hear his successor, Dr. Malcolm Currie, state this premise with equal conviction and force. And the Research and Development Subcommittee has consistently upheld this principle, although at the same time recommending substantial reductions in specific programs for which the justifications were found lacking.

But, Mr. President, the recommendations of the Appropriations Committee have, with all due respect to its fine membership, in my opinion, been too severe in the technology area of the research and development program. In fact, even the overall reduction recommended in the R.D.T. & E. program is disproportionate to the overall reduction in the Defense budget. Let us examine the facts.

The committee recommends a decrease of $5.5 billion, or 6.4 percent, in the $87.1 billion requested for the fiscal year 1975 Defense budget. Within this total, the research and development appropriations are reduced by $933.2 million, which is 10 percent of the $9.3 billion requested for R. & D. Therefore the R. & D. appropriations are being cut by 50 percent more than the overall reduction in the Defense budget. In gross terms, even this disparity could be argued. But, the situation is even more acute in the technology programs which are a substantial part of the research and development program. For the benefit of my colleagues who may not be familiar with the details of research and development, let me explain that the technology program covers the basic inventive work which is done by Defense industry, including the thousands of companies of all sizes from the major aerospace corporations down to the smallest research companies which employ a handful of scientists and engineers.

The technology program does not include the major weapon system, the airplanes, missiles, tanks, and ships which appear in our daily publications. It includes the thousands of individual efforts being supported in industry, in our military laboratories, in private laboratories, in our educational and other institutions which lead to advances in the building blocks that are put together to form the most modern weapons that can be fashioned.

Today's transistors, for example, are the product of yesterday's technology. Tomorrow's breakthrough in fluid dynamics of fluidics could revolutionize missile-control systems of the future. Laser technology, which may change the nature of warfare, has had a dramatic spinoff in the medical field and is used in surgery every day to save eyesight.

The problem with technology, Mr. President, is that it is not only perishable and fragile, but more importantly it has tenure. Technology is not a sometime thing which can be turned on and off like a faucet. It is a living, breathing aggregation of our most talented scientific, technical, and engineering minds who are relentless in their pursuit of solutions to technical problems, and in the furtherance of man's knowledge.

They must be supported at affordable and realistic levels on a sustaining basis so that their vital work will not be interrupted. Surely, they do not all succeed, but mistakes and failures are the essence of this trial and error technical world. A major cut of 10.4 percent in this ongoing work technology, as would be imposed by the Appropriations Committee recommendations, would have a critical effect on thousands of individual basic and applied research tasks. It would force the wholesale termination of numerous small contracts throughout the country and set the pursuit of technology back for many years to come.

These losses could not be recovered even if increased amounts of funds were provided in future years. Effective teams of scientists and engineers would be disrupted in their work and their talents dispersed as they were forced to seek employment elsewhere.

Before addressing the specific details of the technology program, Mr. President, let me take a moment to clarify an important point about the overall research and development program amounts.

The R. & D. request for fiscal year 1975 amounts to $9.3 billion. Superficially, this seems to be $1.2 billion higher than was appropriated originally for fiscal year 1974. However, in fact, only $494 million, or less than half, was for increased work. The larger portion, or $740 million, includes $515 million for inflation which may prove to be inadequate, and $225 million for items transferred from other appropriations.

To give an example of that, the component improvement programs, like airplane engines, were removed from procurement requests and included in R. & D. requests.

Therefore, only $494 million could be reduced without bringing the fiscal year 1975 program below that for fiscal year 1974.

Measured against the requested real increase of $494 million, the reductions already made in the authorization act and by the House on the appropriations bill aggregate $532.4 million which brings the fiscal year 1975 appropriation $38 million below the fiscal year 1974 level in real effort.

The recommendations of the Senate Appropriations Committee would reduce this by another $400.8 million. In terms of real buying power on a basis comparable with fiscal year 1974, this would bring the fiscal year 1975 program down to $438 million below the 1974 level. As Secretary Schlesinger stated last Sunday when he was interviewed on television, this large reduction in research and development is mortgaging the future of the United States.

Mr. President, my amendment would restore $94.1 million of the $167.8 million reduced by the committee in its action on the technology programs. This will involve 38 individual programs for the Army, Navy, and Air Force out of 102 individual technology programs reduced by the committee.

I request unanimous consent to have a complete list of these 38 programs and amounts, which add up to the $94.1 million covered by my amendment, inserted in the RECORD at the conclusion of my remarks. These 38 items and amounts represent the highest priority technology programs which have been provided informally at my request by the Department of Defense.

(See exhibit 1.)

Mr. McINTYRE. I have not addressed the separate issues relating to other major program reductions recommended by the committee.

Instead, I have concentrated on the technology program which I consider to be of very great importance and which does not have a broad based and effective constituency. This should not be interpreted as prejudicing my strong support for some of the other major R. & D. programs reduced by the committee. The Department of Defense will reclaim these to the conferees of the House and Senate when they meet to resolve differences in the bill.

There is a need to elaborate and emphasize the point I have made regarding the lack of an effective constituency for the technology program. There are literally thousands of small research and development companies spread through every one of our 50 States. These are the spawning grounds and incubators where most American technical genius breeds. This is where our basic scientific and technical problems meet their greatest challenge, where our most competent independent minds translate visions and dreams into the dramatic technical breakthroughs which have made the United States the most advanced industrial and military nation in the world; and more importantly, which will keep us in that position only as long as we continue to provide the necessary financial resources. These small companies are coupled closely with our technical universities and colleges. Together, they cover the whole field of technology.

Yet, this critical, fertile source of our technology generally lacks the political, corporate, or bureaucratic influence to compete with the powerful combinations that develop in support of major weapon systems.

The irony, Mr. President, is that hundreds of millions of dollars have been wasted over the years on major weapon system developments because of unwarranted duplication, oversophistication of design, overstatement of performance requirements, and gold plating, because of corporate and bureaucratic momentum. Yet basic R. & D., our critical technological base, is a political orphan.

The restoration of $100 million for technology will prevent the serious interruption and termination of the vital work done by thousands of small contractors, colleges and universities, and other institutions. This is a simple voice, I would hope that others would join me in expressing their strong support for the technology program.

I should take this opportunity to express my disappointment that the committee did not delete or reduce the $77 million strategic initiatives package which was the subject of an amendment that I introduced during the debate on the authorization bill. My amendment was vigorously debated and was defeated by a small margin. The Nation would be far better off if these three programs had been denied and the $77 million applied instead to technology.

In conclusion, it may interest the Members to know that Dr. Currie heads a new team of Assistant Secretaries for Research and Development of the three services who are facing their first full year of managing the defense research and development program. The cut recommended by the committee will handicap their efforts and could undermine the organization and program which they were appointed to manage. Let us give them a fair chance. Restoration of the technology cuts would be a strong vote of confidence.

Mr. President, the distinguished chairman of the Appropriations Committee, my good friend, the able and senior Senator from Arkansas, has advised me that he shares my concern regarding this large reduction in the technology program, and that the substance of my amendment will be a matter of special consideration during the conference with the House.

EXHIBIT 1

FISCAL YEAR 1975 R.D.T. & E.

[In millions of dollars]

Program element and title	Request	Reduction	Restoration
ARMY			
62202A—Acft Avionics Tech	6.5	1.3	1.3
63209A—Air Mobility Spt	7.5	4.8	4.8
62303A—Missile Technology	25.5	3.9	3.9
63307A—Msl Effectiv Eval	16.1	2.7	2.7
63403A—Navstar Global Pos Sys	4.0	1.0	1.0
64619A—Mine Systems	15.8	3.0	3.0
31011A—Crypto Activs	(1)	2.8	2.8
33401A—ComSec Equip	(1)	.9	.9
63707A—Comms Development	7.9	4.6	4.6
63711A—Electronic Warfare	(1)	5.3	2.3
64711A—Electronic Warfare	(1)	3.2	3.2
64712A—Jt C3P	6.0	2.9	2.9
64713A—Combat Feed, Cloth & Equip	4.4	.9	.9
64723A—Svl, Tgt Acqn & Nt Obs Sys	15.5	2.4	2.4
65707A—Spt OT&E Cmbt Equip	2.9	1.9	1.9
65709A—Eval of Foreign Components	9.5	5.1	5.1
64209A—A/C Survivability Equip	7.2	3.3	3.3
Total, Army			47.0
NAVY			
65152N—Stds & Anal Spt,N	10.1	.7	.7
65154N—Center for Nav Anal, N	6.9	1.7	1.7
64258N—Aerial Tgt SysDevelop	14.6	5.3	5.3
63358N—Weaponizing (Prototype)	6.2	3.0	3.0
63553N—Surface ASW	13.4	4.7	4.7
33131N—Spt. of MEECN	3.1	1.5	1.5
62762N—Electronic Device Tech	13.0	1.1	1.1
62765N—Energy & Environ Prot Tech	9.1	3.7	1.7
63713N—Ocean Engr Tech Dev	9.9	1.3	1.3
63720N—Education & Training	6.9	1.0	1.0
63791N—Reliab & Maintainability	1.0	.4	.4
65866N—Navy Telecom Sys Arch Spt	4.2	3.7	3.7
Total, Navy			26.1
AIR FORCE			
65101F—AF Project RAND	8.7	2.1	2.1
62201F—Aerospace Flt Dynamics	38.1	4.5	3.0
62203F—Aerospace Propul	34.0	2.0	2.0
62204F—Aerospace Avionics	51.1	4.0	2.0
63428F—Space Survl Tech	21.9	6.1	4.1
63431F—Adv Space Comms	24.7	3.0	3.0
62602F—Conventional Munitions	16.7	1.4	1.4
63605F—Adv Radiation Tech	(1)	11.5	2.0
63728F—Adv Computer Tech	3.0	1.4	1.4
Total, Air Force			21.0

[1] Classified.

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

Mr. McINTYRE. I yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, Senator McINTYRE is to be commended for the amendment he is offering and I wish to be added as a cosponsor.

I am glad to know that the distinguished chairman of the Committee on Appropriations will give these important R. & D. programs special consideration during the conference. However, I would prefer that the amendment be accepted here rather than only be considered in conference. Nevertheless, I am confident my friend from Arkansas is fully aware of the importance of these programs.

I would like to say, Mr. President, that I believe we are making a mistake when we cut basic R. & D. technology programs. There is danger in destroying the technology base that will produce those programs that will be essential to our future defense needs. That, in essence, is what we do when we cut the basic technology area.

About a month ago I wrote to the Secretary of Defense expressing my concern that the Department of Defense was possibly not adequately funding the basic technology area in research and development. I am pleased to report that the Deputy Secretary of Defense agreed with my concern and indicated that special attention was always given to this vital area. Therefore, Mr. President, I wish to stress to my colleagues that reductions in this area can well be false economies that will impact upon our future defense capabilities.

Mr. President, I ask unanimous consent that the exchange of correspondence I referred to be printed in the RECORD at this point.

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

THE SECRETARY OF DEFENSE,
Washington, D.C., August 7, 1974.

Hon. BARRY GOLDWATER,
U.S. Senate,
Washington, D.C.

DEAR BARRY: I would like to thank you for your letter of June 26, 1974, expressing your concern about the erosion of Defense-sponsored basic science and engineering. I welcome the opportunity to indicate that I share your concern and to outline steps that we are taking to reverse this trend.

Your perceptions are generally correct. The level of effort in the Defense research science (6.1) program elements has decreased in the past decade. However, your choice of 1969 as a base year tends to make the situation appear even worse than it is. The following table summarizes the DoD research funding for several key years and shows that research has been approximately level-funded over the past decade. 1969 was an exception in that additional funding was provided for the "THEMIS" program to create centers of technical excellence at a number of universities.

DEFENSE RESEARCH SCIENCE

[In millions of dollars]

	Fiscal year—				
	1964	1969	1970	1974	1975
Army	64	73	65	68	62
Navy	104	116	104	103	105
Air Force	73	91	81	73	73
Defense agencies	34	45	44	35	39
Total	275	325	293	279	280

Note: All figures are rounded.

Of course, as you perceive, level funding means that the level of effort in terms of

number of researchers supported has been decreasing due to inflation. In order to reverse this trend, I directed some time ago that the funding level of the Defense research sciences program elements be increased in FY 76 to provide a three percent increase in level of effort. The intent was to increase the funding to compensate for inflation and add an additional three percent real increase. Our action in stopping the erosion of the technical base efforts reflects the conviction that changes in the management of the technology base over the last few years have resulted in streamlining and tightening the program to the point where there is no room for further compression without elimination or reduction of quality efforts in potentially important areas. My action in providing a modest increase in FY 76 and my intention to continue this trend in the out years reflects my belief that the country must have an adequate base of long-term research.

Unfortunately, it now appears that internal readjustments in the overall DoD FY 76 RDT&E budget, necessitated by inflationary pressures, will result in an inability to compensate for the anticipated inflation-induced losses in the 6.1 category and, at the same time, provide a 3% increase in level of effort. In the event that circumstances should change prior to submission of the FY 76 Budget to the Congress, I will endeavor to carry out my original plan.

As you have also perceived, the principal reduction in effort has been levied on the contract research programs in the universities and industry. The following table, taken from the National Science Foundation's *Federal Funds for Research, Development and Other Scientific Activities* indicates the extent of the increase in the in-house (intramural) research activities.

[Dollar amounts in millions]

	Fiscal year—			
	1964	1969	1970	1974
DOD total	$260	$277	$247	$274
Intramural	82	90	96	116
Percent intramural	32	33	39	42

This shift in balance has not been the result of a conscious effort to reduce our involvement with the university and industrial community. To the contrary, we subscribe completely to the philosophy that the talents and attitudes of our colleagues in the university community and in industry are vital to a well-balanced research program. The change in balance has been largely a reflection of the difficulties attendant to reducing the size of the in-house establishment.

To that end, I have commissioned the creation of a plan for reorganizing our DoD laboratory structure, including reduction, consolidation and improvement of our laboratories and their management. The Director of Defense Research and Engineering is currently directing a tri-Service effort in this direction. We recognize from previous studies that the means for accomplishing these ends will be difficult and will require diligent effort on the part of DoD and the support of Congress. We believe, however, that the step is long overdue and is necessary to revitalize our R&D process. Once the details of this plan have been worked out, we will be pleased to discuss them with you to receive the benefit of your comments and solicit your support.

We have underway, or are initiating, a number of additional efforts to attempt to revitalize our relationships with the scientific community, especially with the universities. I am quite concerned that a whole generation of younger faculty members have come on the scene during a time when interaction with DoD was not popular. Thus, while we continue to fund university research, we are gradually learning to have a true interaction with the academic community like that which characterized our relationships in the 50's and 60's. We are considering some programs which would allow us to get younger faculty members more involved in the Defense community and will keep you apprised of our progress.

Sincerely,

BILL CLEMENTS,
Deputy.

U.S. SENATE,
Washington, D.C., June 26, 1974.

Hon. JAMES SCHLESINGER,
Secretary of Defense, Department of Defense, Washington, D.C.

DEAR JIM: When you took office, I have the feeling that, you were as disturbed as I was and am now, over the recent history of our investment strategy in defense research. I give two reasons: first, I sense that the steady erosion of Defense-sponsored basic science and engineering may have already affected our future; second, I must conclude that the continued endorsements of research and technology from Defense officials over the past five years have been largely lip service.

Jim, my understanding of scientific matters is necessarily somewhat limited. But as one who has devoted most of his public life to matters of national security, I must conclude that our past investments in defense research have been remarkably productive. It is my understanding that research of the 1930's revolutionized military affairs through research leading to nuclear weapons, radar, sonar, the jet engine, and modern aircraft and submarine structures; that defense research of the 1940's led to solid state electronics, rocket engines, digital computers, and supersonic aircraft; that defense research of 1950's revolutionized microwave systems, structural materials, aircraft propulsion and space and missile capabilities; that defense research of the 1960's has given us the laser, vital reconnaissance and surveillance systems, fantastic electronic capabilities, and the striking capability associated with precision weapon delivery. I am aware of these contributions of defense research partly because you and your predecessors have told me of them.

We in the Congress have in the main recognized the validity of Defense requests for RDT&E. This recognition is evidenced by the increase in the Defense RDT&E appropriation from $7,730 million in FY 69 to $8,333 million in FY 74. Yet, over this same five-year period despite all of the progress and fine testimony provided to us, Defense research science (6.1) has dropped from $330 million to $276 million. I do not believe that the intent of the Congress in adopting the so-called "Mansfield Amendment" of a few years ago was to force the Department of Defense to de-emphasize research. The intent rather was to bring about a more substantive relationship of defense research to military objectives, and testimony has indicated that this objective had been accomplished.

But beyond questioning the wisdom of the reductions in defense research as a whole, I simply cannot understand why virtually the entire reduction in Defense research science has been taken in the contract and grant programs. For example, of the $54 million reduction in Defense research over the past five years, $39 million appears to have been taken in the readily identifiable extramural research offices alone. In addition, there are rumors of plans to "consolidate and reduce" these offices and their programs, which would appear to further accentuate this extramural reduction.

While some of the advances over the past forty years were born in Defense in-house laboratories, most came from research in university and industrial research laboratories. It is not clear whether the present shift toward a predominantly in-house Department of Defense research program is intentional or the result of following the course of least resistance in the absence of policy. It may not be important, for the results are the same; the Defense Department is turning inward.

The data on which I base my concern are incomplete. I would appreciate more explicit information on trends in both the total investment and the breakout between in-house and contracted Defense research science programs. I would also appreciate statements of the rationale for research strategy decisions over the past five years, of Defense policy on in-house versus extramural research performers, and your intentions for future defense research levels in relation to overall defense RDT&E.

With best wishes,

BARRY GOLDWATER.

Mr. McINTYRE. Mr. President, I express my appreciation to the distinguished Senator from Arizona for his remarks. He serves with me on the R. & D. Subcommittee and is an able performer, does his homework, and is of great assistance. It is pleasing to me to know that he recognizes that what I am saying about this technology base is true.

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

Mr. McINTYRE. I yield.

Mr. SYMINGTON. Mr. President, I wish to ask what the budget for research and development was last year, as approved by the Senate.

Mr. McINTYRE. Approximately $8.1 billion was in the appropriations bill.

Mr. SYMINGTON. And what is the figure recommended by the administration this year?

Mr. McINTYRE. Recommended by the administration? It was $9.3 billion.

Mr. SYMINGTON. What was the figure authorized by the Senator's subcommittee?

Mr. McINTYRE. $8.9 billion, a reduction of approximately $400 million.

Mr. SYMINGTON. What is the figure that the Appropriations Committee has approved?

Mr. McINTYRE. $8.4 billion.

Mr. SYMINGTON. I thank the Senator.

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

Mr. McINTYRE. I yield to the distinguished Senator from North Dakota.

Mr. YOUNG. Mr. President, I have a great deal of feeling for the amendment which the Senator from New Hampshire has offered. I do not know of anything more important than research and development, to develop new and more sophisticated modern weapons of war.

We have always been behind most countries in the development of modern weapons of war. This was particularly true at the start of World War I and World War II, and even in the Mideast war.

Our committee was faced with the problem of having to cut at least $5 billion. This is one of the more difficult items for me to vote to cut.

Another amendment will be offered

later today to cut still another billion dollars from this bill. That amendment will receive a large number of votes. If that amendment is agreed to, research and development probably will have to be cut still more.

While I have great sympathy for the position taken by the Senator from New Hampshire, I hope he does not persist in his amendment. This item will be in conference.

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

Mr. McINTYRE. I yield.

Mr. DOMENICI. Mr. President, I, too, want to thank the distinguished Senator for his amendment and for the ideas he has expressed so eloquently on the floor of the Senate.

I do not want my support for the amendment to be misunderstood. I also wholeheartedly support the efforts of the chairman of the committee. I did not think we could cut the budget for the military as much as he has proposed, but I can say that I will support the proposal he has brought to the floor of the Senate.

I have joined frequently in trying to get the overall budget cut, and I am prepared to say that we should cut the military, also.

So I commend the chairman for the $5.1 billion or $5.2 billion cut. I think it is going to be difficult to live with it, but I believe that the Senator from New Hampshire raises a very good issue. Research and development just cannot be turned off and on like a water faucet. It is a continuous stream, and the stream is made up of all kinds of ingredients that fall apart when you turn the spigot off.

I think that by zeroing in on those R. & D. projects that have a great deal of basic science in them, the Senator has zeroed in on the water stream that has the kind of ingredients that will literally fall apart if the faucet is turned off.

It is so easy to cut projects that we will not see the effects of until tomorrow morning. But America's military strength—indeed, its economic supremacy—is predicated upon applied science; that is, its technological supremacy. That is the same in the military as it is in our economic supremacy.

I compliment the Senator for reminding us that indeed, this sounds like a small amount of money. It seems it is the small projects on which we are saying, let us wait and let them just disappear. When we try to put them back on stream, I submit that the lagged time and, indeed, great human talent, will not be put back together for the same price.

The technology that we are seeing today is the combined result of possibly 20 years of R. & D. and the kind of programs you are asking that we maintain. So I compliment the distinguished Senator, and I ask unanimous consent that I be added as a cosponsor.

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

Mr. DOMENICI. Mr. President, I rise today to associate myself with the remarks of the Senator from New Hampshire.

I am convinced that we must have a vigorous research and development program to maintain a necessary margin of technological superiority. There can be no doubt that the achievement of technological superiority has been a primary instrument of Soviet national policy for more than 20 years.

I am not an advocate of technological superiority just to be "No. 1." My advocacy of this principle is based on the fact that this Nation will never be able to produce and maintain military forces levels of the magnitude of our potential adversaries. In short, we are at a disadvantage in terms of quantity and we must have a quality advantage through technological superiority to offset this quantity disadvantage.

In these times of competing needs for limited resources, there is an understandable tendency to make the cuts where the effects are least visible. Unfortunately, the benefits of Defense research and development programs fall into this category of great susceptibility.

However, I believe money appropriated for research and development is an investment in the future. The military strength we enjoy today is the product of research conducted as long as two decades ago. If we are to maintain this posture in decades to come, we must contribute to an ongoing effort for research and development. A reduction in appropriations in this important area today will undoubtedly affect the posture of peace in the next decade and perhaps in the next century.

Mr. McINTYRE. I thank the Senator from New Mexico. His support of this amendment is very much appreciated. For his information and for the information of my colleagues generally, what we are talking about here is what we call, for example, in the authorization the 6.2 program, exploratory development and some advanced development.

I thank the Senator. I now yield to the distinguished floor manager of the bill.

Mr. McCLELLAN. Mr. President, I am not at all unsympathetic with this amendment. I say to my colleagues that when we undertake to cut $5 billion from this bill, the cuts have to come from somewhere. They are not all easy. Occasionally, I find something that I might disagree with, that I think is a waste or unnecessary, or not an adequate weapon, or we are spending too much here or there. But it is not easy.

We went thoroughly through these technology requests. We reviewed them. And, Mr. President, there are 340 continuing programs which have a total request in the budget for $4,066,000,000.

We only made some reductions, and they are slight, comparatively, in 102 of these onging programs—102 from 340. In other words, 238 of them we did not touch.

The budget request for that we made these reductions in the bill that has passed the House is $1.6 billion.

There is, in my judgment, an excessive number of these programs. Much of this work is duplicative in nature, some of it lacking in priority in terms of pressing military requirements, some duplication of effort may be unavoidable. However, the existing level of duplication based on basic technology is unwarranted and we cannot afford it.

Let me say this to my distinguished friend from New Hampshire. I am under no illusions at all that this will be sustained in conference. I am sure that the Senate will have to yield, and maybe should yield, in some instances. But this points to the Defense Department to take a look at these programs and come in here and point out to us that they are not duplicative, that they are important, and that we should not make some of these cuts.

We shall have an opportunity to get that information, and we shall go to the House, go to the conference with it, and where there is definite need that can be demonstrated, I just say for myself—and I think that would be true of my colleagues, who will likely be in on the conference—we shall certainly yield. There is no desire on the part of any of us, any more than on that of the distinguished Senator from New Hampshire or from New Mexico, to cripple these programs.

But, Senators, they do need a look-see. In the situation we are in today, we need to make every dollar we can spend count and get results, productive results. That is what we are doing here. If we go through this bill, as we did, and try to do some cutting here, make a little sacrifice here or somewhere else, we shall finally come up with a more balanced budget. But if we make the habit of returning some of these things, then we are going to be faced with an across-the-board slash.

This way, we can evaluate a bill and put the money where it will do the most good. I am hopeful that my colleagues understand that, that this is the attitude with which we are trying to approach it. With that understanding, I hope we will be permitted to take this to the conference and work out, on the basis of merit and on the basis of proper priority, where cuts can be made and where they should not be made in so many of these programs.

I am glad to yield the floor to the distinguished Senator from Mississippi. I hope our position is sound. It is not going against him. It is just that there are so many of them that a good look-see at them, I think, would be advisable.

Mr. STENNIS. Mr. President, I want first to—I do not have the floor, as I understand it.

Mr. McCLELLAN. Oh, yes, you have the floor.

Mr. STENNIS. First, I want to say to the chairman of the committee, the Senator from Arkansas, that I think I fully understand his position about this item for research and development, particularly the basic research or the technology, or whatever we wish to call it. He has a highly commendable attitude about wanting to get into it, and also, there will be an open, free conference on it for further examination with the willingness to make proper adjustments.

I have talked with the Senator from North Dakota, who has the same attitude about this. In fact, if he had not had that attitude, I would have felt com-

pelled to offer an amendment with reference to this identical item.

This brings me to the point of the splendid work that the Senator from New Hampshire has done for the last several years in getting into the very heart, the very innards, of this entire $9 billion research and development program. That includes a lot of costs for tests and evaluation and development, which is prototype planes, for instance. But he also went into it, in a microscopic way, the first time it had ever been done in the Senate—at least started about 5 years ago—in a detailed way, into this basic technical research. He recommended very definite reductions, I believe about $400 million in the Senate bill, and the Senate committee adopted that recommendation.

But, of course, in conference, it is understood that our system of government demands a spirit of give and take and compromise that is called for. In conference, we had to give up a part of that reduction that had been made by the Senate Committee and the Senate. The House conferees did the same.

Then, on top of that, the Committee on Appropriations figures are imposed. First, the House made some reductions, and then the Senate made a further reduction.

In my judgment, those figures ought to be reconsidered by the legislative process, and that next step is the conference committee. Far more can be done their than can here on the floor, on this particular subject. It is virtually impossible to handle it to the satisfaction of the membership, here on the floor.

So I commend the Senator from New Hampshire for his attitude.

I want to especially thank him for the splendid work in this field that he has carried on, with highly competent staff assistance. As a matter of fact, years ago when I was handling the appropriation bill one year for the late great Senator Russell, I was challenged on these very items, and did not know enough about them to properly explain them. That was what I had on my mind, when I became chairman, in asking the Senator from New Hampshire to get into this subject matter, where he has done such a wonderful job, and has strengthened, not weakened but strengthened these programs, I am sure with less money.

Some of our friends in the Pentagon honestly think that the legislative branch should not even look at these items. That is the extreme view; as Senators know, the scientists think they are the only ones who understand all the ramifications. But, before I get to rambling myself, I want to come back to the proposition that the Senator's amendment is certainly worthy of consideration. I think that he, the Senator from Arkansas, and the Senator from North Dakota are following the best course in getting at the very innards of this thing, by presenting it in the way he is doing.

As a prospective conferee—I am not a candidate for conferee, but as a prospective conferee I would certainly be working toward the end which he has in mind, which is consistent with the efforts of the subcommittee and the full committee.

The committee reduced the research, development appropriation requests by $400.8 million. Combined with the House cut of $144.3 million, and the authorization cut of $388.1, this makes a total reduction of $933.2 million. This is about 10 percent of the $9.3 billion requested and approaches the 12.6-percent reduction in the procurement area.

While I am in full accord with the committee recommendations on the bill, I want to emphasize that I support the need for a strong research and development base. We need a solid technology program to guarantee that our future weapons will be the most modern and able to defeat those of any potential enemy.

Let me expand for a moment on this part of the program. The budget request for technology, which primarily covers the research, exploratory development, and advanced development areas, was $3.482 billion. This was reduced by $176.8 million in the authorization act, and an additional $26.9 million by the House action on the appropriations bill. The Senate Appropriations Committee recommendation would cut this by another $157.4 million, making a combined reduction of $361.1 million or 10.4 percent.

Several important programs which were reduced by the House were restored by the committee. These include $20 million for the Navy VFAX low-cost fighter and $23 million for the site defense program to increase it to the $123 million authorized.

I will continue to support a strong research and development program so that our future weapons will be the most advanced, and second to none.

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

Mr. STENNIS. I yield.

Mr. McCLELLAN. I am sure that the Senator will be a conferee, and I would say further to the authors of the amendment that if they have any specific project where they feel that a reduction should simply not be made, I would be glad, as manager of the bill and representing the Senate in the conference, to have any specific information that the Senators wish to submit. I do not want to be arbitrary at all, and where there is real merit, we could very well yield to the House conferees on the point. But we do want something substantial. We need that, and should have it.

Mr. McINTYRE. Mr. President, for the information of the Senator from Arkansas—first, before concluding my remarks, I would like to thank the distinguished chairman of the Armed Services Committee, who has been such a great leader of that committee and so fair in the handling of all of our problems. I thank him for his kind remarks, and hope that, as a conferee, he will be able to assist in these areas I am trying to point out.

I state to the distinguished Senator from Arkansas that included in my remarks, and thus in the RECORD, are 38 separate programs of the 340 the Senator mentioned, that I consider to be of high priority.

Mr. McCLELLAN. Would that be 38 out of the 102 where we actually cut?

Mr. McINTYRE. Yes. These are the high priority programs that I think deserve special consideration, and I hope some of them can be restored.

Did I correctly understand the Sentor was willing to accept the amendment and take it to conference?

Mr. McCLELAN. I could hardly accept it, because it would be an increase. If we accepted the amendment, we would not be in conference on it.

I have said I will take the Senator's amendment to conference, not accepting it as a part of the bill, because then I would not have anything in conference, but I want to do in conference what I have assured the Senator I will do, and I will have at my right-hand side for assistance, of course, the distinguished chairman of the Armed Services Committee, who is deeply concerned, as is the Senator from New Hampshire.

In the meantime, before I conclude I certainly want to thank the distinguished Senator from New Hampshire and the distinguished Senator from New Mexico for their kind references to the efforts we have been making in the Appropriations Committee to do our job and to meet the situation that confronts us today concerning the necessity of scrutinizing the expenditures in the military and other areas of government cost, and trying to reduce them and hold them down so as to reduce, and eliminate if we can, any deficit in our expenditures.

Mr. McINTYRE. Mr. President, with the assurance and the understanding remarks of the distinguished Senator from Arkansas, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn. The bill is open to further amendment.

AMENDMENT NO. 1834

Mr. MUSKIE. Mr. President, on behalf of myself and the distinguished Presiding Officer of the Senate (Mr. HATHAWAY), I call up amendment No. 1834, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

At an appropriate place in the Act, insert a new section as follows:

SEC. . None of the funds appropriated by this Act, may be used for the development of the Conus Over-The-Horizon (OTH) radar system during the period beginning with the date of enactment of this Act and ending May 31, 1975.

Mr. MUSKIE. Mr. President, this amendment, which I have discussed with the distinguished manager of tne bill, has a simple and limited purpose: that of obtaining sufficient time to resolve a number of questions which have been raised concerning the proposed site of the receiver antenna for the over-the-horizon-backscatter radar system in Washington County, Maine.

For several years, the U.S. Air Force

has been investigating possible sites in Maine for the radar system. However, it was not until June 25 of this year—after Senate passage of the military procurement authorization bill—that the Air Force announced the selection of a "preferred" transmitter site in western Maine and a receiver site in eastern Maine.

The receiver site, involving 1,000 acres of valuable farmland, has generated the most concern among Maine citizens. The land in question produces 6 percent of Maine's total blueberry crop, with an estimated annual cash value of $347,000.

As a result, Maine citizens and State officials seek adequate opportunity both to point out to the Air Force the adverse economic impact of the selected site and to solicit from the Air Force information as to the availability and cost of alternative sites which would still meet the technical requirements of the system.

Public hearings on the Draft Environmental Impact Statement have been scheduled for September and the Air Force has encouraged public comment. At the same time, however, there are indications that development of the proposed site is proceeding apace. Therefore, the hearings may not provide an adequate opportunity for Maine citizens to convince the Air Force of the importance of the land in question to our economy. The purchase of land options on some tracts involved in the system are scheduled to take place prior to the hearing. Also, potential contractors were requested on July 25 to submit detailed proposals and cost estimates on site development.

This amendment is intended simply to limit any further action on site acquisition and development of the prototype receiver until additional information on the matter of site selection is obtained. It is not our intent to prevent the Air Force from proceeding with development of the radar technology and other research activities associated with the OTH system.

I believe the delay I am urging is reasonable and will assure that Members of Congress and the citizens of Maine will have ample opportunity to resolve the questions which have been raised.

We are currently holding discussions with the Air Force, and I am hopeful today's vote—evidence of the sensitivity of the Senate to the problems concerning the proposed receiver site for the OTH system—will generate the kind of cooperative spirit which we need to have in order to resolve the problems.

I ask unanimous consent to have printed in the RECORD at this point some recent correspondence I have had with the Air Force concerning this matter.

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

AUGUST 13, 1974.

Maj. Gen. M. L. BOSWELL,
Director, Legislative Liaison, Department of the Air Force, Washington, D.C.

DEAR GENERAL BOSWELL: On August 9, Colonel Horace Wood briefed my staff on the Administration's plans to build a prototype Over-The-Horizon-Backscatter (OTH-B) radar system in the State of Maine. In the course of the briefing, several questions were raised which Colonel Wood suggested would best be answered in writing for the record.

Specifically, the following questions were raised about which I would like to know the Air Force's thinking: How does the OTH-B improve the current DEW line? How likely is it that an operational OTH-B would be able to detect the kind of subsonic missiles that an adversary might employ? How does the planned development of an OTH-B system relate to the Executive's projected reductions in the Air National Guard? What consideration was given to the economic impact of constructing the OTH-B on the State of Maine and, specifically on Washington County? Finally, what criteria were used for choosing the receiver site in Township 19, as opposed to another nearby site with less adverse economic impact?

Since the Congress is currently considering the FY '75 Military Procurement Appropriations Bill, I would appreciate the favor of an early reply.

Sincerely,

EDMUND S. MUSKIE,
U.S. Senator.

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., August 21, 1974.

Hon. EDMUND S. MUSKIE,
U.S. Senate.

DEAR SENATOR MUSKIE: This is in response to your letter of August 12, 1974, requesting the Air Force view on several questions concerning the Over-the-Horizon Backscatter (OTH-B) Radar Program.

Specific answers to your questions are contained in the attachment. In addition, a copy of the Revised Draft Environmental Impact Statement filed with the Council on Environmental Quality on July 30, 1974, is forwarded for your information. It is important to note that the location of the transmitter and receiver stations will not become finalized until after Federal and State agencies and the public have had an opportunity to comment on the Draft Statement. They may submit their comments to the Special Assistant for Environmental Quality, Office of the Secretary of the Air Force, or at one of the open hearings scheduled for September 11, 12, and 13. The deadline for comments is September 23.

After all comments are considered, we will prepare and issue a Final Environmental Impact Statement setting forth our decisions. No action can be taken to implement the decision until 30 days after release of the Final Statement.

If we can be of further assistance in this matter, please do not hesitate to contact us.

Sincerely,

ROBERT B. TANGUY,
Brigadier General, USAF, Dep. Dir. Legislative Liaison.

OVER-THE-HORIZON BACKSCATTER (OTH-B) RADAR PROGRAM

1. Question: How does the OTH-B improve the current DEW Line?

Answer: The present Air Force program and long-range plans call for two OTH-B radars, one sited in the Northeast in the State of Maine and one sited in the Northwest portion of the Continental United States (CONUS). When operational these two sites will preclude an end run of the DEW Line in the north. The initial phase is to design and develop a limited coverage prototype and conduct a test and evaluation for one year for the purpose of validating system concepts and definitizing performance and costs before building the operational sites.

2. Question: How likely is it that an operational OTH-B would be able to detect the kind of subsonic missiles that an adversary might employ?

Answer: Although it is possible for an OTH-B radar to detect the missiles to which you refer, the primary mission of the CONUS OTH-B system is aircraft detection. The distinguishing characteristics of an OTH-B radar is its ability to use the ionosphere to reflect the high frequency (HF) signals around the earth's curvature, typically on the order of 4,000 kilometers. This capability provides a potential to provide a quantum improvement in the range at which aircraft can be detected, and at all altitudes down to the earth's surface. It will be possible, therefore, with an operational OTH-B radar to detect and provide warning of an adversary aircraft before they penetrate to the range necessary to launch their subsonic missiles.

3. Question: How does the planned development of an OTH-B system relate to the Executive's projected reductions in the Air National Guard?

Answer: The long-range surveillance and tactical warning which is possible with the OTH-B system is more vital than ever in view of the projected reductions in the Air National Guard Interceptor Force and our ability to react and intercept potentially hostile aircraft entering our sovereign airspace. The OTH-B system will significantly increase the warning time available to alert National Command Authorities such that appropriate action can be taken to determine the identity and purpose of the intruder.

4. Question: What consideration was given to the economic impact of constructing the OTH-B on the State of Maine and, specifically, on Washington County?

Answer: Consideration of site locations during the concept formulation phase was based primarily on technical and operational criteria. Once the State of Maine was considered optimum under these criteria, extensive consideration of the economic impact in the local areas within the State was factored into the final site selection. Recommendations were solicited and received from the State of Maine Land Development officials on possible site locations, and the preferred site takes into consideration the availability of land and the economic conditions.

5. Question: What criteria were used for choosing the receiver site in Township 19, as opposed to another nearby site with less adverse economic impact?

Answer: The detailed criteria used for choosing the receiver site are contained in the Revised Draft Environmental Statement and include minimum Radio Frequency Interference (RFI distances), economic impact, population densities, existing soil and foliage densities, topography, and other associated impacts and costs. The selected site in Township 19 was considered optimum in this case. Surveys in the areas around the Township 19 site determined that the topography was less than technically desirable due to orientation and size. Construction in the possible surrounding areas would, therefore, necessitate extensive land mass relocation and grading with much higher costs and environmental impact.

Mr. MUSKIE. I appreciate the patience of the distinguished floor manager of the bill, the Senator from Arkansas (Mr. MCCLELLAN), in giving consideration to this amendment.

Mr. MCCLELLAN. Mr. President, if the Senator will yield, as I understand, we are not taking the money out of the bill, we are simply providing for no expenditure until some of these problems can be further considered and hopefully worked out.

Mr. MUSKIE. The Senator is correct.

Mr. MCCLELLAN. It is not killing the project, but it is trying to make an accommodation so that there can be a spirit of cooperation and good will as a part of

the procedure. Does that state it substantially?

Mr. MUSKIE. That states it precisely, may I say to the Senator. We have no interest in blocking the project. We are just concerned with the particular aspect of it that I have described.

Mr. McCLELLAN. If my distinguished colleague, the Senator from North Dakota (Mr. YOUNG), has no objection on his side of the aisle, I see no objection to the amendment, and I would be willing to accept it and take it to conference.

Mr. YOUNG. I have no objection. In fact, I think the Senator from Maine makes a good case.

Mr. MUSKIE. May I express my appreciation to both of my colleagues.

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

The amendment was agreed to.

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

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

DISTRICT OF COLUMBIA CRIMINAL JUSTICE ACT—CONFERENCE REPORT

Mr. EAGLETON. Mr. President, I submit a report of the committee of conference on S. 3703, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3703) to authorize in the District of Columbia a plan providing for the representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the District of Columbia and for other purposes, having met, after full and free conference, have agreed to recommend and do recommended to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of August 15, 1974, at pp. 28395–28397.)

Mr. EAGLETON. Mr. President, I move the adoption of the conference report on S. 3703.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri.

The motion was agreed to.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. NUNN) laid before the Senate a message from the President of the United States submitting the nomination of William R. Crawford, Jr., of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cyprus, which was referred to the Committee on Foreign Relations.

DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 16243) making appropriations for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes.

Mr. EAGLETON. Mr. President, what is the pending order of business?

The PRESIDING OFFICER. H.R. 16243.

Mr. EAGLETON. Mr. President, I call up my amendment No. 1836.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 50, between lines 20 and 21, insert a new section as follows:

SEC. 848. No funds in excess of $81,000,000,000 may be appropriated pursuant to this Act.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the distinguished junior Senator from Delaware (Mr. BIDEN) be added as a cosponsor to the amendment.

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

Mr. EAGLETON. Mr. President, the amendment I propose today to the defense appropriations bill is motivated by two important considerations: First, that waste and mismanagement due to several years of overspending have diminished rather than expanded the effectiveness of our conventional forces; second, that the severe inflation facing our economy today and in the foreseeable future necessitates a real reduction in budgetary outlays for fiscal year 1975 and beyond.

The distinguished chairman of the Appropriations Committee knows that I greatly admire the work he has done on this bill. But despite the reductions that have been made, the defense budget continues to grow disproportionately while the American people have less to show for it.

Last year, General Brown, now chairman of the Joint Chiefs of Staff warned:

We are going to be out of business if we don't find ways to cut costs.

But the $82.1 billion budget we consider today is permeated with wasteful programs which add nothing to the national security. And, as such, it is a disincentive in the search for managerial innovation in the important areas of weapons procurement and manpower utilization.

Each year we hear the symptoms of mismanagement—cost overruns, weapons failures in combat, reductions in quantities of arms due to excessive costs, burgeoning headquarters personnel, and excessive numbers of support forces. It is no longer possible to argue that more money will give us a stronger national defense. And there is no time more appropriate than during this period of rampant inflation to establish a budget ceiling which will encourage change.

It is my firm belief that there is no more intelligent and creative group in these United States than the men and women of our military services. When you add the managers and employees of the largest corporations in America, you have a force which is indeed formidable. But in recent years that force has been misdirected by a budgetary process which encourages deceit and punishes innovation. And Congress must share the blame.

During the 5 years I have served in this body, I can think of only one defense debate—excluding Vietnam—which provided congressional and public exposure of the issues equal to their importance. That was the ABM debate. Senator McINTYRE's excellent efforts on Trident and counterforce notwithstanding, we have generally failed in providing an adequate forum for debate on some of the most crucial issues of our time. And the defense bill has grown heavy under the burden of unnecessary weapons and programs.

We have also failed to scrutinize the defense budget because too often such spending is considered worthwhile in "Grand Rapids" and a "wasteful boondoggle in Oklahoma," as it was so aptly put by President Ford in a slightly different context.

But I am optimistic. I do not believe that parochialism need doom Congress to a perpetual inability to reduce or eliminate specific items in the defense budget. Today, however, we must recognize the obvious political reality and act accordingly. We must seek ways to consider this budget on a national scale and reduce it to its proper level.

Though there is always a measurable limit to our economy's ability to support both defense needs and consumer demand, a strong defense and a healthy economy are not mutually exclusive goals. Both are vital to our national well-being and both should entail national sacrifice. It is our job to find the lines beyond which we cannot venture—at the upper extremity lest we stimulate more inflation—and at the lower extremity lest we weaken our defense posture.

It is my firm conviction that an $81 billion ceiling on new budgetary authority is more than adequate to maintain the effectiveness of our military forces. My only concern is that it may still be too high to help in the battle against inflation.

In that regard, it is important to understand that, due to the peculiar nature of defense spending, any savings we can effect in this budget will be particularly helpful in countering inflation in the current fiscal year and beyond. In the jargon of the economist, defense spending is

"inherently inflationary" due to its "nonproductive demand generating nature." In plain English, defense expenditures translate into consumer demand, but for every dollar that goes into defense production, there is one less potential dollar for the production of consumer goods. The increase in consumer demand resulting from defense spending and the simultaneous reduction in supply create a classic inflationary environment.

Furthermore, other than increasing consumer demand, defense spending has a limited impact on economic growth. Private spending—or even nonmilitary public spending—can create capital goods which can add to the total productive capability of the economy and also create more jobs. Goods produced for military purposes have no such return.

It is not my intention to base my entire case today on economic theory. I recognize that any theory has a countertheory, especially in the field of economics. But I do believe it is necessary to characterize the nature of the Federal spending my amendment seeks to reduce.

President Ford has reaffirmed his predecessor's goal of reducing outlays in fiscal 1975 below the $305 billion originally requested. Congress, for its part, has also resolved to cut the budget; $5 billion is the goal most frequently cited, although the Senate has twice gone on record as favoring a $10 billion cut. But according to the most recent budgetary scorekeeping report, appropriations bills and other legislative spending measures enacted as of August 2 place us $1.1 billion over the administration's request.

Of the $305 billion Federal budget, only $84 billion are in the controllable category; that is, items not already designated for payment by other legislative measures. Of that $84 billion, $58 billion, or 70 percent, is attributable to defense spending. There, if we cannot establish an $81 billion ceiling on this appropriations bill, I think it will make it more difficult for us to tell our constituents that Congress is going to cut the Federal budget.

I have heard no one proclaim that the fight against inflation is a 1-year battle. In this regard, a reduction in this budget will help in curbing budgetary outlays in later years as well, since much of the procurement and research money we will appropriate will not be spent in this fiscal year.

As I said earlier, we have overspent for defense in the recent past. There is no better illustration of that assertion than to examine the unexpended balances on hand at the end of the past 4 fiscal years. This amount has risen steadily from $31 billion in fiscal 1972 to an estimated $44.1 billion at the end of fiscal 1975.

This means that, increasingly, goods and services for which the Defense Department has contracted are being delivered at a slower pace than appropriated money is being poured into the system. We are appropriating more money than the delivery system can keep up with. While there will always be unexpended balances, they should remain steady or decrease, except in wartime. The current trend is causing a serious distortion which my amendment would help rectify.

In his book, "The Politics of the Budgetary Process," Aaron Wildavsky said the most successful tactic in assuring the financial growth of a bureaucracy was the technique of "incrementalism." In other words, an agency should ask Congress for just a little more than it wants even while it wants a little more than it needs. In the past 2 years the Defense Department has probably caused Mr. Wildavsky to want to rewrite his book.

Soon after the fiscal 1974 budget was approved, DOD asked for a supplemental appropriation of $6.2 billion. The very day they asked for the $6.2 billion as a supplemental the Pentagon submitted its fiscal year 1975 request calling for an $11.4 billion increase. But even that request did not stand. Budget amendments were received in the spring which raised the fiscal year 1975 request to $87.1 billion. Thus, if the fiscal year 1974 supplemental is included, the total increase requested by the Defense Department since the fiscal year 1974 budget was enacted on December 20, 1973, is $19 billion.

In action to date Congress has reduced those requests by only $6.5 billion—this includes a $1.5 billion reduction of the fiscal year 1974 supplemental and the reduction of $5 billion approved by the Senate Appropriations Committee. It seems clear that the Defense Department's mastery over the politics of the budgetary process is unsurpassed.

Now, as we debate an amendment which would allow an increase in the defense budget of $6.8 billion over the amount appropriated last year we hear calls of alarm from those who would rather ignore the total DOD request—the supplementals, the budget amendments, the special aid for the Middle East war—and the admission that at least $1.5 billion in outlays was put into the budget for economic purposes rather than defense purposes.

This budget is a model for the technique of "incrementalism." It is still more than the Pentagon wants, to say nothing of what it really needs.

Mr. President, as I said at the outset, it is my hope than an $81 billion budget would encourage positive managerial change within the Defense Department. This year I had the opportunity to examine one of the more current managerial innovations at Defense, the so-called "design-to-cost" program. It was adopted with great fanfare in 1969 at the insistence of then Deputy Defense Secretary David Packard.

On January 28, 1974, approximately 5 years after Mr. Packard made "design-to-cost" an official DOD policy, I asked about the current status of the program. I wanted to know the cost goals that had been set for each weapons system.

I was amazed to find that the vast majority of systems were not yet under the program 5 years after David Packard had put it into place. Indeed, my letter forced the military services to sit down for the first time to determine how and whether weapons programs would come under a "design-to-cost" requirement.

"Design-to-cost" is a good program, but there is simply no incentive to care about cost goals when there are so many tax dollars to be spent.

David Packard posed a general cure for the problems which afflict our Defense Establishment when he said:

> We are going to have to stop this problem of people playing games with each other. Games that will destroy us, if we do not bring them to a halt.

The "game playing" to which Mr. Packard referred is the most debilitating symptom of our failure to bring efficiency to defense. Unfortunately, the budgetary process itself may inspire the most destructive tendencies.

For example, military planners understand that the public seeks dramatic, not marginal, improvements in the performance of a particular weapon. Imaginations, therefore, work overtime in establishing performance goals that are frequently unattainable, often unnecessary and sometimes downright impractical.

Next, it is felt necessary to understate costs. In this the military services have ready allies. Contractors abound who are willing to bid low to buy in. And when the Pentagon comes before Congress to certify the low cost of a new system, it does so with the support of industry.

The military planner also understands that it is difficult to sell long-range projects. Consequently, a schedule is drawn up which shows quick progression from milestone to milestone. Scarce margin is left for error and the pressure to deliver often leaves little time for adequate preproduction testing.

The direct consequence of this excessive concurrency in weapons development is the cost overrun. We have all heard the incredible toll these overruns take. In 1972, according to GAO, 77 major systems had accumulated overruns totaling $28.7 billion. This year a GAO study of 55 major systems revealed overruns of $26.3 billion.

There is simply no getting around it, from the contractor to the military project officer to the Secretarys of Army, Navy, and Air Force, the message is clear: cutting costs is not the way to get ahead. It is time that Congress sent a new message to the decisionmakers at the Defense Department.

Mr. President, I have said repeatedly today that the budget that we are considering contains waste—that $81 billion is more than adequate to maintain the effectiveness of our forces. While I am sure the vast majority of American people would agree that the defense budget does contain waste, I would not expect any Member of this body to support a ceiling on military expenditures that could not be supported by specific suggestions of areas where reductions can be made. Congress has a constitutional responsibility to assure that our military forces are properly equipped to maintain our security.

I would also concede that in enumerating areas where further reductions could

be made, my judgment is not infallible. I will, therefore, discuss reductions totaling twice as much as are necessary to achieve the $81 billion ceiling. Certainly, the defense experts on whose recommendations I will base my suggestions must be correct at least half the time.

Mr. President, we will begin discussing several different weapon systems and Defense Department programs, the sum aggregate of which will be close to double what I am recommending insofar as a cut in this year's budget is concerned.

In addition, I have attempted to steer away from programs and systems which I believe have been subjected to the debate and decision of this body. Systems such as the Trident submarine, the B–1 bomber, counterforce and programs such as MASF aid to South Vietnam most certainly require our continued surveillance, but they will not be part of my list of potential savings.

If I may, Mr. President, I will now go into an item-by-item analysis of where I think substantial cuts can be made in this budget.

MILITARY PERSONNEL

Mr. President, I will begin my discussion of potential reductions in the manpower area.

The committee has made a noteworthy step in dealing with the problem of excess forces stationed overseas. A withdrawal of 25,000 troops is to be completed by March 31, 1975. This requirement combined with the reduction in total end strength of 24,211 could mean that the Department of Defense will make major dollar savings from the overseas withdrawals.

On the other hand, the Senate Armed Services Committee in their report on the authorization bill outlined many areas where additional personnel costs could be saved, primarily in the area of support functions. Altogether, they recommended a total reduction of 49,000, some 25,000 more than the reduction now before us. Since the Armed Services Committee emphasized cuts in support personnel and the Appropriations Committee dealt primarily with overseas forces, I believe the work of both committees could be combined to justify a larger savings to the taxpayer.

It is clear, for example that an additional 25,000 personnel could be deactivated with no perceivable effect on national security. If one-half of the direct costs—$12,500 per person—can be saved this fiscal year, the net reduction would be at least $156,250,000. With this additional reduction, the end strength level would approximate that recommended by the Senate Armed Services Committee. I would add that the full potential of such a reduction would be $300 million.

I will draw upon the report of the Senate Armed Services Committee on the authorization bill, S. 3000, which described cuts totaling 31,560, to delineate the 25,000 reduction I feel is feasible:

First. Reduce the active duty manpower request for the Air Force an additional 5,500. The Air Force has decided that any increases in strategic airlift manning—C–5A and C–141 aircraft—should be achieved through Reserve components. An earlier reduction of 2,810 for this purpose was mandated in the fiscal year 1975 authorizing legislation already enacted into law.

Second. Cut active duty levels by 10,850, to achieve a 7-percent reduction in military personnel assigned to training functions. Overall, the proportion of staffs, overhead and support personnel compared to student load in the Department of Defense is extremely high. For example, using both military and civilian staff and overhead personnel, the Senate Armed Services Committee found an unacceptable ratio of students per staff in each of the services. Mr. President, I ask unanimous consent that the Armed Services Committee study of this problem, taken from the committee report on S. 3000, be printed in the RECORD.

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

STUDENT PER STAFF RATIOS

Students per staff:	
Army	1.6 to 1
Navy	1.5 to 1
Marine Corps	1.8 to 1
Air Force	1.6 to 1
Total DOD	1.6 to 1

If training base support personnel were included in the above ratios, it would reduce the overall Defense Department ratio to almost one instructor or staff man for every student. That is much more than other school systems in the country. For comparison, student to staff ratios for several kinds of non-Defense schools are shown below:

Students per staff:	
Public high schools	18.9 to 1
Public post high school vocational schools	From 4.6 to 2 to 70.4 to 1
Private post high school vocational schools	From 28.6 to 6 to 123.7 to 1
Colleges	15.0 to 1
Local school system	15.0 to 1

The committee is aware of the fact that military training differs substantially from the training and education in the civilian sector. It is also aware of the accounting differences that make exact comparisons difficult. However, the difference in staffing is so wide, the committee believes that much more can be done to tighten down on staffs and overhead for training. As a minimum, the committee feels that the following avenues should be vigorously pursued to achieve reductions in training manpower and expects a report on actions taken in each area prior to the FY 1976 manpower request.

Reduction of the levels of staffing in training activities.

Consolidation of schools and courses to eliminate duplication within each service and between Defense components.

Use of educational technology to substitute equipment for training personnel.

Use of improved systems for on-the-job training instead of formal individual training.

Reduction in the scope of career development education as opposed to job related skill development.

Mr. EAGLETON. Mr. President, I am pleased to yield to the distinguished acting majority leader, the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I merely wish to ask whether or not it would be agreeable to enter into a time limitation on this amendment.

Mr. EAGLETON. I would propose the following, Mr. President: I do not think I will use the time I am going to propose, but I did talk to some other Senators who want to speak on this subject. In order to protect them, I would propose 4 hours to a side on this amendment. I realize that I probably will not use that much time and, knowing the Senator from Arkansas, I am almost positive he will not use that much.

Mr. McCLELLAN. Mr. President, in my earlier discussions with the Senator from Missouri, I thought he meant 4 hours equally divided.

Mr. EAGLETON. No, sir, I did not.

Mr. McCLELLAN. Four hours to each side?

Mr. EAGLETON. The problem is that other Senators who are cosponsors want to speak, and this would give me the widest latitude in protecting them. I do not think we will use that much time, and I will be eager to yield back time.

Mr. McCLELLAN. I suggest, then, that we do not have an agreement on time, that we talk until we are through, and I will expedite it on this side. I would like to complete action on the bill today.

Mr. EAGLETON. I think we will, but I am trying to consider those Senators who are not in the Chamber and who want to speak on the subject.

Mr. McCLELLAN. Eight hours from now will be about 9 o'clock tonight. I hope we can do a little better than that.

Mr. EAGLETON. I plan to move expeditiously, I say to the Senator.

Mr. McCLELLAN. I suggest that we wait a while, to see how the debate progresses. I would like to dispose of the bill late this afternoon.

I have no intention, I may say, of speaking anywhere near 4 hours. I probably will speak 15 or 20 minutes myself, and a few other Senators may wish to speak. I think we could take an hour on this side. I would be willing to accept a 3-hour limitation and give 2 hours to the Senator from Missouri and take 1 hour on our side. I am just trying to expedite the matter and shorten the proceeding, and not deny anyone the right to be heard.

Mr. ROBERT C. BYRD. My question was for the purpose of hoping to expedite the matter. If we entered into an agreement that there would be 4 hours to a side, Senators would not be obliged to take that much time. They could yield back such time as they wish, and that would be an outside limitation. Without an agreement, the debate could go on throughout the day and into tomorrow.

Mr. McCLELLAN. I would like to vote on it today.

Mr. EAGLETON. I can assure the Senator that this amendment will be voted on today, well before sundown.

Mr. ROBERT C. BYRD. Will the Senators agree to this proposal: that the Senator from Missouri have not to exceed 4 hours and that the Senator from Arkansas have——

Mr. McCLELLAND. Not to exceed 2 hours.

Mr. ROBERT C. BYRD. And the Senator from Arkansas have not to exceed 2 hours on the amendment?

Mr. EAGLETON. That is fine with me.

Mr. McCLELLAN. I will agree to that.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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

Mr. EAGLETON. I thank the distinguished Senator from West Virginia.

Mr. President, I had completed item 2 of my discussion, and I shall continue.

Third. Cut 12,750 or 5 percent of the 255,000 active duty personnel requested for base operating support. This support includes many varied functions involved in operating bases for active duty and reserve military and civilian personnel and their dependents. It includes such items as the operation of commissaries, laundries, and theaters, the providing of base transportation, supply and food services, building and road maintenance and construction, providing utilities, fire and public services and running the base headquarters and administrative actitvities.

Since fiscal year 1973, the Department of Defense has announced 463 base closures or realinement actions that have eliminated 69,400 military and civilian jobs. However, these reductions are not reflected in the DOD manpower request for base support personnel. In fact, the DOD request included an increase of 5,000 in military personnel above fiscal year 1974 levels for base support.

Fourth. Cut 2,460 or 3 percent of the 82,000 military personnel requested for medical support. According to the Armed Services Committee report—

These personnel are for "fixed site" medical facilities such as hospitals and include all the various kinds of people from doctors to administrative clerks who operate these facilities. This category does not include the medical personnel and units that directly support Army and Marine divisions. Navy ships or Air Force direct support clinics and dispensaries. Although the overall number of military personnel has declined and the Defense Department reported a decrease in medical workload (i.e. patients), the DoD request included an overall increase in the number of medical support personnel and in the ratio of medical support personnel to military manpower.

The committee went on to make the following recommendations:

The committee felt that the number and proportion of medical support personnel in the military services should not be increased. The committee has no intention of decreasing medical care, but there are compelling reasons to hold up increases in medical support personnel at this time.

First, a major study of Health Personnel is underway with participation of Defense, HEW and the Office of Management and Budget. This study, which is to be completed in late 1974, will examine the requirements for medical personnel and is seeking to find ways of making Defense health care delivery more efficient. The reduction would hold medical support at current levels until the study is completed.

Second, medical personnel are difficult to recruit and retain in an all-volunteer situation. The reduction would deny increases in medical support until the recruiting situation is clearer and there is more experience with the medical bonus.

Third, defense medical costs have been increasing rapidly. "Fixed site" medical support costs, including civilian salaries, totaled $1.6 billion in FY 1960 compared with $2.8 billion in FY 1975. These medical costs on a per man basis have risen from $470 per man in FY 1970 to $1,280 per man in FY 1975—up 2.7 times.

Mr. President, it is clear that the Armed Services Committee has made responsible recommendations in this important area which, if adopted, will bring considerable savings to the taxpayer. Perhaps even more import the recommendations will go far in trimming the fat of excessive support personnel from our conventional forces.

CIVILIAN PERSONNEL

Mr. President, another area of the Defense budget with excellent potential for substantial savings this year is in reductions of Department of Defense civilian personnel. I would propose reductions from the committee-approved level of civilian manpower which would result in a savings of approximately $153 million.

The committee has approved funding for 995,000 direct hire civilians who are employed to perform military functions administered by the Department of Defense. The Committee on Armed Services, under the distinguished leadership of Senator STENNIS, earlier proposed funding 982,727 civilian personnel. This would be a reduction of 12,273 below the Appropriations Committee level and 4 percent under the Pentagon request.

I endorse Senator STENNIS' proposal, the reduction proposed by the Armed Services Committee, and feel that this further trimming of civilian personnel levels is easily justified by the inflationary pressures on our economy. Furthermore, Mr. President, a reduction of an additional 12,273 civilian personnel can be accomplished without laying off a single employee of the Defense Department. In fact, the 4-percent cut in the Pentagon request for civilian manpower was, as the Senate Armed Services Committee report on the fiscal year 1975 authorization bill stated, "largely a denial of increases of civilians in the Defense Department request."

DOD employed 994,000 civilians on January 1, 1974, according to the Armed Services Committee report. That is equivalent, I might say, to the population of the two largest cities in my State, St. Louis and Kansas City. That is how many civilians the Department of Defense employed on January 1, 1974.

The Armed Services Committee, therefore, simply rejected the increase of 33,000 civilians and recommended a further 11,600 reduction from the January 1, 1974, level. This further reduction of 11,600 could be accomplished, the Armed Services Committee report went on, "by not filling new job vacancies and by normal attrition, rather than by any layoffs."

The report further stated:

The Defense Department reported that about 215,000 new civilians would have to be hired just to keep the number of civilians in FY 1975 about equal to the number in FY 1974. A reduction of less than 10 percent of the new hires would more than accomplish that part of the Committee reduction that would reduce strength below actual on-board levels.

Mr. President, civilian manpower is a significant portion of the Pentagon's annual budget that has been largely overlooked. Yet 17.4 percent of total Defense Department outlays for fiscal year 1975 were slated for the civilian personnel payroll according to Defense Secretary James Schlesinger's fiscal year 1975 posture statement. That meant that $14.9 billion in outlays was planned for civilian pay alone.

This figure is incredible when it is considered that we are not talking about paying for military personnel to fight in combat, but rather another part of the massive support elements needed, ostensibly to keep the troops prepared for fighting. Senate and House Armed Services and Appropriations committees have commented at one time or another in the last few years about the large combat-to-support ratio which is such a costly burden in the military budget. Yet the support category referred to in this poor teeth-to-tail ratio does not even include almost one million civilians.

Indeed, while many point to the skyrocketing manpower costs in today's Defense Department budgets, which reach about 55 percent of the Pentagon's budget, it is frequently not realized that 17.4 percent of the 55.4 percent manpower costs go for civilians. The stark statistics are provided in Dr. Schlesinger's posture statement. I ask unanimous consent that the table used in that statement to show the pay costs for DOD manpower categories be inserted in the RECORD.

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

ESTIMATED PAY COSTS FOR DOD MANPOWER IN FISCAL YEAR 1975

Category	Fiscal year 1975 outlays	Percent of DOD outlays
Civilian personnel payroll	$14,929,000,000	17.4
Military personnel payroll	19,030,000,000	22.2
Military special pay and allowances	6,655,000,000	7.8
Family housing	878,000,000	1.0
Military retired pay	6,011,000,000	7.0
Total manpower outlays	47,504,000,000	55.4

Mr. EAGLETON. Mr. President, it is clear that DOD employs a massive number of employees costing a large amount of money. In fact, while the Defense Department employs almost a million civilians, the Department of Health, Education, and Welfare, frequently cited as an example of an overgrown bureaucracy, employed 142,159 employees as of June 1974 or, I hasten to add, Mr. President, about one-eighth as many civilian employees as DOD.

The Monthly Report on Federal Personnel and Pay of the Joint Committee on Reduction of Federal Expenditures' statistics as of June 1974, demonstrates that, excluding the quasi-Federal Postal Service, the Defense Department employs about as many civilians as do all other Federal agencies combined.

The Senate Armed Services Committee report also pointed to many categories of civilians which are not included in the number authorized by that committee. They include:

First, employees performing civil func-

tions administered by DOD, the largest of which is the Corps of Engineers civil works activities. This category includes about 29,000 employees in fiscal year 1975.

Second, indirect-hire employees who are hired by host nations in support of U.S. troops stationed abroad. There are about 103,000 persons included in this category.

Third, employees in special employment programs for students and disadvantaged youth, such as the stay-in-school campaign and the temporary summer aid program. The number in this program varies from about 22,000 at the end of fiscal year 1973 to a summer peak of 40,000 employees.

Fourth, employees of the National Security Agency who are excluded because their employment statistics are classified.

Fifth, schoolteachers in the Department of Defense Overseas School System who are not included because they serve on a 9-month basis and are not on the DOD payroll at the end of the fiscal year. There are approximately 8,000 schoolteachers in this category.

Sixth, employees paid from nonappropriated funds—including those working at base exchanges, commissaries, and clubs. There are an estimated 150,000 personnel in this category.

All these exceptions, some of which have to be paid for by the taxpayers and some of whom are paid for through internally generated funds, bring the total worldwide Defense Department force to well over 1.3 million people. A reduction of a mere 12,273 seems insignificant in comparison.

There are 1.3 million civilians working worldwide for the Defense Department. If memory serves me correctly, this is a number of people greater than about 20 of the States of the Union.

I just added the name of the distinguished Senator from Delaware (Mr. BIDEN) as a cosponsor to this amendment. I am not sure as to the precise population of Delaware, but I suspect that it is under a half million. I know Delaware has one House Member. The number of civilian personnel, worldwide, for DOD is then greater, I think, than the total of about 20 States in the Union. Thus, in terms of what Senators represent in terms of States, I should say that DOD's work is already so well represented here, they should have about 30 Members of Congress assigned to them, based on their population.

The distinguished chairman of the Armed Services Committee, Senator STENNIS, has more than once expressed his dissatisfaction with the number of civilians requested by the Pentagon. In his opening comments at the manpower authorization hearings for fiscal year 1975 on March 21, 1974, Senator STENNIS said:

> I am concerned that the Defense requests before us today include a substantial increase in civilian personnel, some 30,000 and a nearly stand-pat situation in the military strengths requested. It looks as though the taxpayer is not getting much economic benefit from any improvements in Defense efficiency. It seems to me he ought to get some.

Last year the House Appropriations Committee expressed a similar unhappiness with Defense Department civilian manpower levels. In its report on the fiscal year 1974 Defense Department appropriations bill, the committee, chaired by Representative MAHON, stated:

> For the past few years the Committee has been concerned about the high number of civilians being employed by the Defense Department. It has been unsatisfied with the extent of reductions.

The House Appropriations Committee report also gave several reasons why civilians jobs should be cut:

> 1. The ceasefire in Vietnam and the withdrawal of U.S. combat forces from Indochina.
> 2. The reduction in the number of military personnel and equipment.
> 3. The proposed closing of some military installations.
> 4. New production techniques and mechanization which should take over some of the civilian workload.

That committee, the Mahon committee, called for action to bring about decreases in its report on the fiscal year 1975 appropriations bill when it pointed out that for fiscal year 1974:

> The Congress made a reduction of about 15,900 positions as an indication of its interest to encourage the Department to carefully monitor and control its civilian employment practices. The Department, however, did not make the reductions recommended but, in lieu thereof, submitted a supplemental budget request in civilian positions of about 19,000. Thus the Department requested about 35,000 more civilian positions than the Congress approved.

In short, Mr. President, it is clear that substantial reductions can be made in the civilian personnel area. I am recommending a cut of only 12,273 personnel to the level approved by the Senate Armed Services Committee with the attendant savings of about $153 million. Yet it is clear from the evidence presented by various congressional committees and distinguished military experts, that we can make even further reductions from that which I propose. My proposal will, I repeat, lead to no layoffs nor will it harm U.S. security interests.

AWACS

In the weapons system area, I will begin with a program I have followed closely for almost 3 years—the airborne warning and control system—AWACS. The savings I believe can be derived in this area are typical of the subsequent recommendations I will make. They are savings designed to slow down the development of a weapons program to assure that it is properly tested before it is procured. As I will explain in detail, the risk we take in moving ahead too fast on the AWACS program is not simply that the system may end up not working well. It is that AWACS may not work at all in performing its primary mission.

AWACS, an overland look-down radar and tracking system housed in a modified Boeing 707, was originally assigned the primary task of strategic air defense.

In February 1970, a revision to a DOD development concept paper added a secondary role—tactical command and control. But that secondary role was not given serious consideration until August 1973, when Secretary Schlesinger assigned the tactical NATO role as the new primary mission. At about the same time, he deemphasized the air defense mission stating in his March 1974 posture statement that:

> A CONUS air defense system structure primarily for peacetime surveillance (the current air defense mission) would not require an AWACS force.

In November 1973 the Defense Systems Acquisition Review Council met to decide the future course for the AWACS program. A main concern of the participants was the fact that the aircraft scheduled for procurement with fiscal year 1975 funds were to be built in the strategic, or core, configuration—the configuration suitable for the obsolete air defense role. They were, in short, stuck with a configuration that was to perform the function that no longer existed.

A letter from the Chairman of the Review Council, Deputy Secretary William Clements, to the Secretary of the Air Force pointed out the need for major changes to achieve a design capable of performing the much more complicated tactical job—the job recently created for AWACS.

> It is evident that a more capable configuration than the core is essential to support general purpose tactical forces. The effective integration of command and control in joint operations requires additional (intelligence) equipment . . . identification (devices), communications, data transfer, command and control and a measure of self defense.

Secretary Clements then directed the Air Force to conduct extensive tests to determine what the tactical configuration should be. That configuration has yet to be defined, and could not possibly be validated until operational tests have been performed. This rather obvious point was made in a highly critical GAO report on AWACS sent to me in March 1974.

In testimony before the Armed Services Committee, GAO defense analysts even more explicitly described the problems of designing the new version of AWACS:

> The change in the primary mission emphasis from strategic to tactical requires that more and better equipment of all types, computers, processors, displays, and particularly communications equipment, be on board the aircraft. Thus, the question exists as to whether all of the needed systems can be installed in the aircraft, can be integrated so as to function properly together, can interface with a large number of command and control systems now being operated in Europe by U.S. and NATO ally forces, and whether the system will have the needed tracking and communication capacity to accomplish its mission.

The GAO went on to recommend that Congress "defer funding for production models of the AWACS until the Air Force verifies and demonstrates through tests that a viable and useful tactical configuration can be developed." There is good reason for that recommendation for caution, for there are grave doubts that AWACS will ever be viable in the tactical environment of Europe.

When a GAO technical consultant pre-

pared mathematical calculations showing that AWACS could be completely blacked out by ground-based jammers from within 200 miles of the Iron Curtain, the Air Force protested that the calculations were based on a more limited capability than the AWACS radar actually possessed. But these calculations were based on the official specifications for the radar given to the contractors.

Now, we have a study performed by the Air Force itself which shows clearly that AWACS can be jammed with inexpensive and unsophisticated jammers which could virtually render the $80 million plane useless.

In analyzing this Air Force study, the GAO took the Air Force's "bombs-over-target" effectiveness estimates for AWACS and concluded that because self-screening jamming could be used against the system, the unenhanced version—the version we will buy with fiscal year 1975 dollars— contributed "nothing to the air defense of Europe." The GAO did point out that the Air Force has suggested two techniques for at least minimizing the impact of the jamming threat, but also states that:

> Neither of the two techniques for overcoming self-screening jamming has been demonstrated in tests nor evaluated as to effectiveness.

It is important to understand the difference between the mission originally conceived for AWACS and its present task. Whereas in the air defense role AWACS would have only to detect and track a wing of slow-moving turbo-prop bombers flying toward the United States over large expanses of ocean and wasteland, in the tactical role AWACS will confront literally thousands of tracks of fast-moving fighter aircraft. These aircraft will have to be detected and sorted out by AWACS' computers and then tracked as intercepts are attemped.

In the air defense role AWACS has no ground?based jamming threat to consider and there are no fighter aircraft to pose a threat to its survivability. AWACS would naturally be a high priority target for the numerous enemy aircraft we will confront in a European air battle and, according to GAO, if these aircraft were equipped with jamming devices, AWACS would have a "nearly zero probability of surviving."

The principal mission for AWACS is in the European theater, and yet our NATO allies have not decided whether they will purchase the system. NATO is currently studying the question of whether to buy AWACS and no decision will be made by our allies until the end of the calendar year 1975.

I will not speculate on the eventual decision NATO might make but I do not believe that we would be fulfilling our obligation to the taxpayer if we funded the procurement of AWACS before we know whether and how many systems NATO will buy.

Perhaps, the most compelling reason to delay procurement of AWACS in fiscal 1975 is the recommendation by the Senate Armed Services Committee that an independent group of radar experts study whether AWACS will ever be capable of performing its primary mission against ground-based jamming. This group will provide the Secretary of Defense and Congress with a full report on this most vital question.

It seems obvious that no money should be appropriated for procurement of AWACS until we know whether NATO feels AWACS is worth the invstement and whether the system will ever be capable of performing in Europe. It is clear that a reduction of procurement funds would help to avoid an excessive amount of concurrency—and the resultant overruns in later years—and, at the same time, save $311.1 million approved by the committee for procurement of 4 aircraft and initial spares.

SITE DEFENSE

Now, Mr. President, I move on to the next system I will use as an illustration to prove wherein the budget can be prudently, and safely cut without sacrificing one iota of national security—site defense.

One might have assumed that the ABM issue died with the signing of the ABM treaty.

Mr. President, General MacArthur said "old soldiers never die, they just fade away." Well, weapons systems, Mr. President, never die and, believe me, they never fade away; no, sir. So we still have an ABM kicking around, and it is called site defense.

Site defense is being developed as an upgrade for the Safeguard system around our ICBM site at Grand Forks, N. Dak. While it cannot be deployed, it is said that it is needed as a "hedge" against a possible Soviet abrogation of the ABM Treaty.

But in July of this year that treaty looked stronger than ever as the United States and Russia agreed to protocol limiting each side to only one ABM site.

I have to digress there, Mr. President, and reminisce, if I may, about a former colleague of ours in the Senate who, I think, had as intriguing a way of putting things as anybody I have ever known. That was the former distinguished Senator from Minnesota, Gene McCarthy. He was in the Senate the first 2 years I was here. I was here in 1969 and 1970, and he was completing his term in the Senate at that time.

If the Members will recall, he took a trip to the Soviet Union. He was not only a Senator but had been a candidate for the Presidency of the United States, so he went to Moscow and he met with the Soviet leaders. I think he met with Brezhnev and Kosygin.

He told me of the conversation that he had with one of those Russian leaders, I think I can share that conversation with the Senate. I do not think he would mind.

He said that—let us assume it was Breshnev—Breshnev asked him, "Why are you people building the ABM?"

McCarthy, in that wonderful way of his, answered very quickly, "We are building it, Mr. Chairman, because it does not work."

Now, the Russian, not being used to the McCarthyesque, sense of humor, said, "We do not understand. Why are you building a system that you know does not work?"

"Ah, ha," said McCarthy, "if we build a system that does not work you will build a system that does not work because you want to be just as good as we are, and both of us could keep very, very busy building systems that do not work in the public interest."

I just add that as an irrelevant footnote. But since it is so irrelevant, it is a true testimonial to ABM, which is a living irrelevancy; and it is a true testimonial to site defense which is an irrelevancy superimposed on top of an initial irrelevancy.

Even without that tangible reflection of support for the strategic doctrine of limiting defensive missiles, it is generally conceded that neither we nor the Russians want to throw money down the drain on defensive systems that are generally obsolete when deployed due to advances made in offensive weaponry—the Gene McCarthy theory of planning notwithstanding.

For the purpose of this discussion, however, I will assume a worst case—that we do need a "hedge" against the rather remote possibility that the ABM Treaty will one day be no more. What should that "hedge" be comprised of? Should we build a system which could be made obsolete by the latest Soviet technology? Or should we continue to research in the area of defensive strategies . . . to perfect the difficult task of "hitting a bullet with a bullet?"

Until recently, the site defense program called for the development of a prototype demonstration model which would have been ready for deployment under original plans, in 1977, when the 5-year ABM Treaty expires. According to the Senate Armed Services Committee report on the authorization bill, site defense is composed of "a state-of-the art phased array radar, a third generation commercial data processor and related software, and a modified Safeguard Spring interceptor missile, called Sprint II."

As is clear from that description, the components of site defense are not unique. But the program did have one unique quality which distinguished it from the other ABM programs in which we are engaged. It was to have been a prototype program. Site defense would tie the various ABM components together for testing. General Leber, the head of all the Army's ABM programs, described the principal need for site defense this way:

> It is system technology. It is not component technology. The component technology is done over in the advanced technology program.

But the conference report on the military procurement bill completely transformed the site defense program. That report states that "the primary objective of the site defense program should be development of subsystems and components to advance the technology in such elements as sensors, missiles, and software." The report goes on to state that site defense should no longer be "directed toward a prototype demonstration. . . ." Site defense, in short, is now the same component technology "done

over in the advanced technology program."

It is also now a totally redundant program for which there is no further use. The work on ABM component technology is being done under the advanced ballistic missile defense research program, for which $91 million has been approved in this budget. That is more than enough to spend for a "hedge" against an unlikely occurrence.

The Armed Services Committee have, therefore, answered our question—it is not worthwhile to build a system which could be obsolete when it is deployed. As General Leber said in discussing the rapid technological progress being made in the ABM field:

> Site Defense isn't the end of this thing. Five years from now they will look back on it and say that it is ancient.

Although I have attempted to avoid recommending the elimination of programs, I believe site defense is an obvious waste of title V R. & D. funds. We do not need a redundant program and we do not need a system which, if built, would be "ancient" when deployed. The demise of site defense would represent a savings to the taxpayer of approximately $103 million, leaving $20 million for termination costs.

Moving on to yet another system, which I have discussed a bit already, Safeguard.

SAFEGUARD

If site defense would have been ancient 5 years hence, its intended predecessor, the Safeguard system is already in that category. Safeguard sits, uncompleted, around our ICBM site at Grand Forks, N. Dak.

It is limited, under the ABM Treaty, to 100 missiles which are intended to protect our ICBM's.

But recent studies, including a classified GAO analysis, show that our ICBM's do not need protection. Soviet missile accuracy is not sufficient now, nor will it be in the future, to threaten our land-based missiles. These missiles are, of course, deployed in hardened silos.

If, in the future, the Soviets develop their MIRV system, an ABM system comprised of only 100 missiles would be easily overwhelmed. When the Soviet MIRV becomes a reality—assuming that, in the meantime, we do not reach a warhead-limitation agreement—then we should consider what measures we should take to protect our land-based deterrent. If we decide at that time that an ABM is needed—and I personally would oppose such a choice—then we will be able to design a system to meet the current threat.

But the most compelling reason of all to eliminate funds for Safeguard in this year's budget, is the decision by the Pentagon itself to mothball the system soon after it becomes fully operational later this year. That such a decision has been made was recently confirmed by a Defense Department spokesman.

Now, think of it, Mr. President, in the Pentagon they want more money, a little over $135 million, to complete a system that they have already decided to mothball.

Instead of allowing funds to complete Safeguard and maintain it for a full year, I would give the Army exactly what it needs to put the system in mothballs. The savings here, therefore, would be $80 million, leaving $55.8 million to phase out the program.

I repeat for emphasis, Mr. President, what I am doing with these systems is trying to show by adding the dollar amounts, that would be able to safely cut the budget in excess of over $2 billion. But I am not even, as I said earlier, asking for $2 billion. I might be half wrong, so I cut it in half to about $1 billion.

SAM-D

The SAM-D program has received the careful attention of Senator BAYH and the General Accounting Office. Senator BAYH has made a very responsible recommendation to slow down this program to keep it out of the engineering development phase before it is tested. But the token $11 million cut made in this bill will not accomplish that purpose.

SAM-D, which is a medium altitude surface-to-air missile system designed to replace the Nike-Hercules and improved Hawk for air defense purposes, has experienced a unit cost growth of almost 400 percent.

Mr. President, I emphasize, a unit cost growth of almost 400 percent.

The program is at least 76 months behind schedule and the unit cost is almost eight times as much as that of the improved Hawk, the system it is designed to replace.

Prior to January 1974, the SAM-D was a full-scale engineering development program. The Defense Department had overlooked its own fly-before-buy guidelines in allowing the program to proceed to this stage even though crucial elements of the technology, most notably the TVM—target via missile—guidance system and the warhead fuse, had never been adequately tested. Secretary Schlesinger recognized this serious concurrency problem and on January 10, 1974, he ordered that the program be reoriented so that the testing would be completed at an earlier stage. Although the Secretary's decision was intended to reduce the concurrency problem, the program experienced no fundamental change except in its scheduling. Fully half of the fiscal year 1975 funds—$58.5 million—are to be spent for engineering development of tactical versions of the system. Thus, while a decision was made to reduce concurrency, that decision has not been fully implemented.

The sole justification for the SAM-D as articulated by the Army and OSD has been its requirement to defend the 7th Army forces stationed in Europe against conventional attack by high-performance Soviet-built aircraft. Perhaps the most telling comment on the cost-effectiveness of SAM-D has been the flat refusal of every NATO country—with the exception of Germany—to even indicate an interest in purchasing the system.

Although Germany has indicated a potential interest in acquiring the system once it is fully developed, there has been no attempt to gain financial participation on the part of that country in the developmental stages. Just as in the case of AWACS, our NATO allies are apparently willing to allow the United States to bear the expense of developing a system designed to defend Europe.

A full-scale cost-effectiveness analysis of SAM-D was undertaken this past year by OSD in conjunction with the General Accounting Office. This study was delivered to Congress on April 15, 1974. Its major conclusion is that we are unnecessarily duplicating air defense weapons systems at high cost. In its comments on the study April 29, 1974, the GAO noted.

> Cost effectiveness of the SAM-D or its variants apparently cannot be proven based on realistic assumption . . . It would appear that even if the SAM-D technology works and even if the threat materializes, the SAM-D will probably not be necessary if F-15's are available.

It is important to note that although the OSD study assumed that the technology testing program would be successful and would not increase costs—an unlikely assumption—it also concluded that two wings of F-15's could reduce the successful penetration by the enemy in the NATO area to close to zero.

In recent developments, the Army has programed $10 million out of fiscal year 1975 funds for research on a backup guidance system. This most certainly cannot be read as reflecting confidence in the proposed TVM guidance system. Furthermore, the $10 million will be spent on exploring the feasibility of one of the two types of guidance techniques now employed in current—state-of-the-art—systems. This would indicate that the case for SAM-D superiority over present systems—based on its TVM technology—is on most uncertain ground.

It would appear that little more than the Army's prestige in having a new missile in development is keeping SAM-D alive.

It is the same sad story, Mr. President, of not letting a system die which should have had a laudable death years ago. Why cannot a weapon system go to the grave with decency? Why must it linger on and on, eternally, long after it has outlived even an imagined useful role? But SAM-D goes on and on.

While I suspect this program will be terminated or completely revised in the near future, I will not make such a recommendation at this time. Instead, I would propose to save $60 million above the reduction recommended by the committee. This $60 million is earmarked for continued engineering development. This action would return the program to the advanced development stage until the TVM guidance system is tested, as Senator BAYH has so many times and so wisely suggested.

SHIPBUILDING PROGRAMS

Mr. President, as I have pointed out in each of the past 4 fiscal years the Defense Department's unexpended balance at the end of the year has increased, indicating that the funds being appropriated for the Defense Department are beginning to exceed the Department's ability to spend them. This is especially true in the shipbuilding business where orders for new ships have overwhelmed the delivery system. In addition, the inflationary impact of these programs on the economy is substantial. Both of these conditions make it essential that we

examine with great care several ship construction programs.

The three major private shipyards are Litton Industries in Pascagoula, Miss., Newport News Shipbuilding and Drydock in Newport News, Va., and the Electric Boat Division of General Dynamics in Groton, Conn. These 3 yards are presently building 63 of the 66 ships which the Navy has under construction and they have all the work that they can handle. Several factors contribute to this situation. Private yards have experienced a large increase in commercial ship construction and are presently working at a higher percentage of capacity than they have experienced in several years. Many yards also find commercial contracts more attractive than Navy contracts because the commercial specifications and quality standards are somewhat lower than the Navy's. Commercial ships are easier to build, are being ordered in large batches, leading to long profitable production runs while Navy ships—especially auxiliaries such as the destroyer tender and fleet oiler requested in the present budget—are built a few at a time. As a result, they are less profitable and less desirable from the point of view of the contractors. And as we all know, dealing with the Government bureaucracy is somewhat more difficult than dealing with private buyers, except when you get to that thing called "bail out." But we are not to that point yet with ships.

Many ships now under construction are experiencing substantial delays. The DD-963 is one of those and appropriating funds for seven more ships this year will simply add to those delays.

It would be less inflationary if we appropriated for three instead of seven of these ships. By doing so some $264 million could be saved this year. The appropriation for the four additional destroyers could be deferred until next year.

Litton's Pascagoula yards have had serious labor problems. Due to inadequate labor supply as well as technical problems with a new yard and new methods, Litton's programs have experienced delays and cost increases. At present, according to the most recent figures available, the last of the DD-63's will be delayed some 18 months. The cost of each ship has increased from $86 million per unit to $108 million. By slowing the rate of procurement we can ease the pressures on Litton and give them time to get the bugs out of their construction techniques so that the remaining ships built will be of higher quality.

The impact of this proposal on the capabilities of the fleet would be minimal. The U.S. Navy is already ahead of the Soviet Navy in numbers of ocean escorts—destroyers, frigates, and other escorts—and will continue to be in 1980 even if we stretch out the procurement of these destroyers. The Navy has some 191 destroyers, frigates, and escorts, compared to 188 for the Soviets. In addition, our destroyer-type ships are generally larger than the Soviet's and some of ours are nuclear powered while the Soviets have no nuclear powered surface ships.

The current budget also calls for appropriating $502.5 million to build three in a series of 36 SSN-688 Los Angeles class nuclear attack submarines. However, it would be more prudent to appropriate funds for two instead of three this year at a savings of some $167.5 million. Again, the shipyard situation has a direct bearing on this program. Five of these submarines are being built at Newport News and the other 18 at Groton, Conn. Both of these yards are backed up with considerable work. Newport News, in addition to building the five SSN-688 submarines is also building two other submarines of a different class, four nuclear frigates, and two CVAN's—nuclear powered attack carriers. The first of these two carriers will be delivered more than 3 years late. This is partly the result of a severe manpower shortage which will surely be made worse by making further demands for additional ships.

This problem can be eased by slowing the pace of procurement somewhat. As Admiral Frank Price of the Chief of Naval Operations Office recently pointed out, reducing the SSN construction rate allows industry to "catch up on their present contracts and to be able to proceed with nuclear attack submarines and Trident at the same time." If funds for only two of these submarines are appropriated this year the United States will have 90 attack submarines in 1981 rather than 91. The difference in one submarine will not have a significant impact on the fleet's capabilities.

In considering this proposal, we should take a close look at comparative United States and Soviet capabilities in this area. The United States at present has 61 nuclear attack submarines in commission plus 27 under construction and funded for a total of 88. The Soviets have approximately 35 nuclear attack submarines and 40 nuclear powered submarines with cruise missiles. The Soviet's overall submarine force has been declining in recent years and will continue to do so, despite the growth of its nuclear submarine force toward the maximum allowable under SALT.

A large part of the existing Soviet submarine force consists of approximately 153 obsolescent diesel attack subs which will very likely be retired in coming years. In addition, experts such as Admiral Rickover and Admiral Moorer have repeatedly told us that U.S. submarines are qualitatively superior to their Soviet counterparts. Admiral Moorer has pointed out that the 688 class is both quieter and has better sonar than the best of the Soviet Union's attack submarines.

It should be pointed out that the SSN-688 is very large and displaces almost 7,000 tons. This is larger than many World War II type cruisers presently in the Soviet Navy. The Navy has said it would be desirable to develop and build a new class of smaller and less expensive nuclear attack submarines than the 688 class, which presently costs about $200 million per ship. It might be wise, in light of current national economic problems, to build fewer 688-class submarines and urge the Navy to move ahead more quickly in developing a smaller and less expensive submarine.

The Navy has requested some $81 million to build a fleet oiler—AO. This would be the first of a class of 10 ships which together with other support ships are projected to cost a total of approximately $2 billion. The purpose of these ships is to deliver fuel to operating ships at sea. Currently, the Navy has 27 fleet oilers, or 1 for every 8 major surface combatants. It is my view that these funds should be deleted from this year's appropriation and deferred for at least 1 year.

There are several considerations which I think justify this position. First, it should be kept in mind that the oiler is an auxiliary—not a combat ship. Thus, while some of the existing oilers are old, retaining them in sevice for 1 or 2 more years will not reduce significantly the combat efficiency of the fleet. At the same time, many of the existing 27 oilers are among the newest, largest, and most modern replenishment ships in the world. Furthermore, the new class that the Navy wants to build will have about the same capacity as present AO's. Thus, they will not add significantly to the Navy's capabilities. The Navy also has nine oilers under construction in the "build for charter" program.

We should also keep in mind that the role of the oiler in providing fuel for Navy ships is declining as more and more ships become nuclear powered. For example, the Navy will soon have 3 nuclear powered aircraft carriers in operation and a total of 14 nuclear ships by 1980. This, of course, reduces the need for oilers.

Finally, the shipyard crunch is important here. Ships such as the oilers seem to be the least popular to build by private shipyards. The Navy has two submarine tenders and one destroyer tender for which funds were appropriated in prior years—fiscal year 1972, 1973—that are not yet under contract because of lack of interest by the shipbuilding industry.

The House Appropriations Committee report should be paid special attention in this regard. The committee concluded that the request for funding an oiler was premature by a year and urged that the amount be denied without prejudice until the Navy has determined the extent of interest by the shipbuilding industry in building this ship and at what cost.

We should keep in mind that if past experience is any indication, even if we appropriate funds for this ship for fiscal year 1975, it may be 1 or 2 years before a contractor is found to build it.

As was suggested by the House Appropriations Committee, the Navy should first determine the interest in the shipbuilding industry and then return for funding.

Mr. President, the appropriations bill calls for the funding of a new destroyer tender—AD—at a cost of $116.7 million. The initial Senate authorization bill excluded all funds for the AD. The Senate Armed Services Committee report justified this action, stating that:

> The Committee recommends denial of $116.7 million for one destroyer tender. Three tenders approved by Congress in FY 1972 and 1973 are not yet under contract, and until such time as these ships are under con-

tract and the costs and schedules are known, authorization of additional tenders will not be authorized.

The House prevailed, however, and the tender was put back in by the conference committee.

The purpose of a destroyer tender is to provide minor repairs and services for destroyer-type ships at forward bases. The U.S. Navy has and plans to maintain about 200 destroyers and related types of ships which are serviced by destroyer tenders.

The Navy currently has 12 tenders, or 1 tender for every 16 destroyer-type ships. The existing 12 tenders are more than enough to provide for those regularly stationed overseas with the 6th and 7th Fleets. The majority of tenders are stationed at naval bases here in the United States.

A 1-year deferment in the construction of a new tender would not affect the readiness of the destroyer force. Minor repairs or services required can be supplied by the existing 12 tenders, augmented if necessary by naval shipyards and shore-based facilities.

Thus, Mr. President, the total savings in the shipbuilding area—the area most responsible for the rise in unexpended military balances—would total $629.2 million. Again the slowdowns and the delays I have recommended would enhance rather than hinder our military effectiveness.

M60A1 TANK

Another reduction which is budgetarily feasible and which will not undermine national security, concerns the rate of production of the M60A1 tank to the original rate of production planned by the Department of Defense. In hearings before the Senate Committee on Armed Services this year, Secretary Schlesinger said that the Defense Department originally planned to increase the rate of production of the M60A1 to 515 per year through fiscal 1976, but that "the lessons learned from the recent Middle East war" have made the Defense Department increase the production of M60A1's to 667 per year over the next few years.

Using the Middle East war for justification of increased tank production is very misleading. Tanks sent to Israel are sold through MAP, which does not affect the bill we are currently considering. Also, Israel pays us back for the tanks it purchases. In the fiscal 1974 supplemental, the Defense Department was given the funds required for enabling attainment of the planned buildup in production rate. Thus, the fiscal year 1975 request will not affect in any way our aid to Israel.

The Pentagon is using the Middle East war as the reason for accelerating the modernization of M60A1's for the Army and the Marine Corps. In fact, the Marine Corps plans to end their modernization program in fiscal 1976. The Defense Department has given Congress no real reason why these modernization programs have been accelerated, and why the original rate of production is no longer feasible.

According to the House report on the authorization bill "fiscal year 1975 M60A1 procurement requests have been based on the maximum rates of production that the assembly lines can deliver, particularly since there is only one remaining willing supplier-subcontractor of the traversing turret." I do not believe it makes sense to approve a maximum rate of production that only one supplier-subcontractor is willing to produce, and might have trouble meeting.

I propose that we restore the original rate of production—a cutback of 150 tanks for fiscal 1975. We would not be halting the production line; we would not be cutting off new production lines; and we would not be violating contracts. We would simply be slowing down the rate of production, which in turn would guarantee that the rate of production is met. The savings to the American taxpayer would be $50 million in fiscal 1975. This is a prudent reduction which does not go beyond the original request of the Department of Defense.

CH-47C CARGO TRANSPORT HELICOPTER

The Senate Committee on Appropriations recommended restoration of $41.4 million for the procurement of 19 CH-47C cargo transport helicopters. This seems to be questionable funding item in light of the fact that the House Appropriations Committee recommended denial of these funds. This is what the House committee said about the CH-47C request:

> The Army requested $41,400,000 for 19 CH-47C Chinook cargo helicopters. This would represent a last buy of this helicopter. The Army has initiated a three-year research and development program to improve the maintainability, reliability, survivability and safety of the CH-47A/B models of this helicopter, while reducing operating costs. In some respects, they will be an improvement over the CH-47C model. The asset position of these helicopters is such that these 19 CH-47C helicopters need not be bought. The Committee recommends the funds be denied and the Army wait until the CH-47A/B helicopters are improved before buying additional ones, if this becomes necessary.

I very much agree with Chairman MAHON'S statement. The need for the CH-47C seems minimal, especially in light of ongoing research to build a better version. This purchase could easily be eliminated without endangering national security and with substantial savings for the Nation.

WAR RESERVE STOCKS

On to yet another subject, Mr. President. I shall not dwell too long on this, because I believe that at a later point in this debate, Senator KENNEDY of Massachusetts may offer a specific amendment on this point. But I should like to speak very briefly to what are called war reserve stocks.

In 1973 the Department of Defense initiated a new program which was called war reserve stocks for Allies; $23 million was budgeted for these stocks in fiscal year 1973—which is not so terribly much in 1973, and for the Pentagon, $23 million is just about their daily paper clip account. But that amount has grown to the request we have before us today, which is approximately $529.6 million.

It should be noted that this program is not for our NATO allies, but was created to help support certain Asian allies—allies such as South Vietnam, Thailand, and Cambodia. These stocks are in addition to our own inventory needs, but because they remain in U.S. inventories unless and until they are needed by our allies, the program was not considered a military assistance program or a military assistance service funded program. But by whatever name is contrived by the Pentagon, it is clear that this is a backdoor military aid program.

The Senate passed an amendment offered by Senator KENNEDY on June 6, 1974, to the military procurement bill, to bar the supply of stockpiled war materials or equipments to any Asian country unless specifically authorized by Congress. Sadly, the amendment was dropped in conference, but the Senate is on record as disapproving the war reserve stock concept.

It is not easy to find the appropriation for the war reserve stock program in the budget since the $529.6 million that has been approved by the committee is hidden among various accounts in the procurement section of the bill. In fact, the committee has been able to ascertain the exact amounts in each account only after great effort. I think that the reason for this is obvious: such a program would not survive an up or down vote in the Congress. I hope we shall have a chance to prove that with Senator KENNEDY'S amendment.

Although I will personally vote to completely abolish this program, I will not assign a savings of $529.6 million—the total for War Reserve Stocks in the budget—because a more conservative approach has been taken by certain members of the House Committee on Appropriations. These members have suggested deleting the ammunition portion of the stocks which, because they have a limited shelf life, would require continued replenishment. Such a requirement would involve an endless commitment of money. I would therefore suggest leaving $180 million in this program so that certain obsolete tanks and aircraft could be maintained. Thus, the potential savings to the taxpayer would be at least $350 million.

The most conservative saving that I can point out to you would be $350 million. If it were up to me, I would vote to do away with the whole $529, but I am trying to come up with a very conservative estimate.

It should be obvious after this lengthy discussion—may I digress, Mr. President. It has not been my purpose, it is not my purpose to debate this amendment at undue length. We have already agreed to a time limit. I am not a filibusterer, either by talent or persuasion. But I felt it was necessary to discuss at some not inordinate length certain facets of this budget.

As I said at the outset, we purposely omitted those matters that have been discussed previously, whether it be the Trident or the B-1. We tried to get down to some programs that first, the Committee on Armed Services itself had already frowned upon, or that the House Committee on Armed Services or the House Committee on Appropriations disapproved of, even programs that the military itself was not too satisfied with.

But I have only recommended two programs for elimination, the two that are so patently redundant and unnecessary that they should be eliminated; to wit, site defense and Safeguard—and I have left money in the budget for termination costs. In the personnel category, wherein I am supported very strongly by Senator STENNIS and his committee, I have simply taken the recommendations of the Senate Committee on Armed Services, a committee which I believe is eminently qualified to discuss such matters. Likewise, the slowdown in SSN-688 procurement and the delay of one year in purchasing a tanker and a tender, are programs designated by the Senate Committee on Armed Services for the reductions I have suggested.

So I am really in accord with Senator STENNIS again on all of those.

The elimination of the last buy of CH-47C helicopters was strongly recommended by Chairman MAHON of the House Committee on Appropriations due to the on-going development of a more modern version. I feel that my suggestions to slow down the AWACS and SAM-D programs will help in eliminating excessive concurrency and assist in avoiding cost overruns in later years. The reserve stocks program is a form of backdoor foreign aid which the Senate has previously gone on record as opposing.

Therefore, we get to the bottom line, Mr. President. The total savings to the taxpayer in the areas I have discussed up to now would come to just over $2 billion. This, of course, is twice as much as is necessary to bring the committee bill down to the $81 billion level. If my colleagues cannot accept all of my suggestions, I would hope that they could accept half.

The cut I am recommending in my amendment, joined by many distinguished cosponsors, is $1.1 billion. I feel we have been able to demonstrate a $2.1 billion cut.

Well, perhaps they can say I am half wrong. If I am half wrong in every item that I have saved, then it still comes down to just about my amendment, $1.1 billion. If I am half right, if you want to approach it from the viewpoint of the positive, then it still comes down to $1.1 billion. So, half right or half wrong, the figure that we recommend in this budget is minimal.

Obviously, the list of suggested savings that I have put forth is not exhaustive. Such programs as Phalanx, the surface effect ship, the sea control ship, the heavy lift helicopter, the CH-53E helicopter and the patrol frigate have all been severely criticized by the General Accounting Office in reports sent to Congress. I am sure that a careful examination of these programs would find areas where immediate savings could be made that would help us to avoid cost overruns in the future.

As I stated at the outset, I have not included programs such as the B-1, Trident and counterforce, which have been focused upon extensively by Congress.

Finally, it is important to note that the Secretary of Defense need not accept my suggestions if my amendment is enacted. He would have the discretion to reduce programs which he felt were of low priority. I would venture a guess, however, that many of the programs the Secretary of Defense would choose would be among those which have been discussed in my speech today.

Mr. President, for years Congress provided little or no check on the military budget. But we have seen an important reversal of that attitude of unquestioning submissiveness. Much of the credit for that important turnaround goes to the distinguished chairman of the Appropriations Committee (Mr. MCCLELLAN). He has made the tough decisions concerning this bill and he has made them with courage and determination. While I obviously feel strongly that further reductions can be made, my suggestions are based on the firm foundation of Senator MCCLELLAN'S work.

Today we have more reason than ever before to assure that there is no fat . . . that there is no waste in this budget. Indeed, we must assure that there is no waste in the entire Federal budget, and I have voted consistently to reduce that budget to assure that it does not feed the fires of inflation—to be sure that, if belt-tightening is required within the American economy, that the Federal budget will be an example to all sectors. The Defense Department cannot be excluded from the general effort to reduce the Federal budget—and it need not be excluded. Reductions on the level I have recommended today would not endanger the security of the United States one iota.

Mr. President, I am hopeful that my discussion today will not be interpreted as "just another gratuitous slap at the military." For it is not intended as such. I have great admiration for the men and women who are assigned the awesome task of defending our Nation. Those Defense Department officials who have urged Congress to reject my amendment are doing so because they sincerely believe that it is in the best interests of the Nation.

But the Nation cannot continue down the path toward internal economic destruction as it strives to defend itself against external forces. Whether my amendment is successful or not today, I call upon the military and civilian employees of the Defense Department to use their exceptional talent to effect managerial change to cut costs. I urge those individuals to respect the American tax dollar and to spend it only when a tangible benefit to our national defense can be derived.

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

Mr. EAGLETON. I am pleased to yield to the distinguished Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I rise for two purposes: First of all, to commend the distinguished Senator from Missouri for an exemplary statement, an outstanding service in the area of defense expenditures. I think it is possibly one of the most thorough and well-documented statements that has ever been presented in the Senate.

The Senator from Missouri was kind enough to make his statement available to Senators earlier so we had a chance to see what he is going to say. I, for one, am grateful for the monumental work he has undertaken, and I would like him to know that I should like to be associated directly with his endeavors.

I think this is one of the more important developments in the area of defense expenditures during my long experience in the Senate. I thank the Senator, and commend him on behalf of the American people, who know that we have to make some defense expenditure cuts that will enable us to bring the budget under control, and at the same time not imperil our security.

The Senator's statement was made without malice, without being derogatory, and without any effort to abuse the military; and I think we are all indebted to the Senator from Missouri.

Mr. EAGLETON. I thank the Senator. Mr. President, I ask unanimous consent that the name of the distinguished junior Senator from Minnesota be added as a cosponsor of the amendment.

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

Mr. EAGLETON. Mr. President, we are rapidly approaching the hour of 2:30. May I ask the distinguished majority leader what his wishes are? I yield to the majority leader on my time.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

APPOINTMENT OF A COMMITTEE TO ESCORT THE PRESIDENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair be authorized to appoint a committee to escort the President of the United States into the Chamber.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). Without objection, it is so ordered.

The Chair appoints the following Members of the Senate to escort the President of the United States into the Chamber: Senators MANSFIELD, ROBERT C. BYRD, MOSS, BIBLE, FULBRIGHT, ERVIN, METZENBAUM, HUGHES, HUGH SCOTT, GRIFFIN, COTTON, BENNETT, TOWER, BROCK, AIKEN, and GURNEY.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATOR CURTIS, AND FOR THE SENATE TO TAKE A RECESS AT 2:35 P.M.

Mr. MANSFIELD. I ask unanimous consent that the Senator from Nebraska (Mr. CURTIS) be permitted to proceed not beyond the hour of 2:35 p.m., at which time the Senate will stand in recess.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nebraska is recognized.

SUMMIT CONFERENCE ON INFLATION

Mr. CURTIS. Mr. President, on August 19 I addressed the following letter to the President of the United States:

DEAR MR. PRESIDENT: The vast majority of Americans approve of the plan to have a Summit Conference on Inflation. It is believed that the placing of facts concerning the various segments of our economy out on the table will assist in arriving at sound solutions.

No segment of our economy has a greater stake in retarding and ultimately stopping inflation than does agriculture. We urge that those in chrage of this summit meeting develop fully the case in reference to the increased costs imposed upon the farmers. These relate to everything the farmer must have in order to carry on the production of food and fiber for our economy. We would mention such things as tractors, trucks, other machinery, repair parts, tractor and truck fuel, fertilizer, pesticides, land taxes, payroll taxes, seed, the requirements relating to safety, health, sanitation and pollution, freight, labor, fencing, and the countless other items of cost which our farmers face.

We are aware that all of our citizens are experiencing the harsh treatment that inflation brings. We are aware of the public sentiment against rising prices including the protest that is voiced against the cost of food in the marketplace. It is important and necessary that the full facts be adequately demonstrated to the public and that misinformation be avoided and corrected. If this is not done, many well-intentioned citizens will arrive at an erroneous decision in reference to food costs. It is an open opportunity for the demagogue. It is the costs added after the food leaves the farm which make food expensive.

We call attention to the disastrous, unwise and unfair policies of the government some months back in placing a ceiling on beef without across-the-board ceilings and control on everything. This did not lead to a mere loss of profits. It spelled disaster to many people. It drove some out of business. It wiped out the assets of some. It dislocated the orderly production, feeding and marketing of cattle resulting in surpluses, shortages, scarcity, disastrously low prices and, later, higher prices to the consumer. This action was taken without any justifiable economic reason. It was opposed by all who are knowledgeable in agriculture. It was stubbornly kept on too long. We submit that unwise and unfair actions which cannot be justified economically should not be taken for political purposes.

We suggest that those who select the participants and plan the agenda for the Summit Conference on Inflation see to it that all the facts are presented; that the full story is given to the American consumers concerning the non-farm cost that contributes to the cost of food in the marketplace; that the whole story in reference to the increase in the costs that farmers must pay be vividly placed before the American public; that the facts in reference to the percentage of the income of the American consumer which is spent for food both historically and currently be presented, and that these figures be compared to the other nations of the world; and that the facts in relation to the price increases of non-food cost-of-living items be fully developed and compared.

We believe that American farmers have a greater stake in the fight against inflation than any other segment of our economy because of agriculture's inability to pass on added costs. American agriculture wants knowledgeable people to chart a course for fighting inflation—people who have the capacity and the will to examine all facts and the courage to apply real solutions.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate.

Mr. CURTIS (continuing).

We commend you for the steps that you are taking and we are sure that there are many individuals in the field of agriculture who can make a distinct contribution for the good of our entire economy.

With kindest personal regards, I am

Respectfully yours,

And it is signed by the junior Senator from Nebraska.

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

RECESS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess awaiting the call of the Chair.

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

Thereupon, at 2:32 p.m., the Senate took a recess.

The Senate reconvened at 2:38 p.m. when called to order by the President pro tempore.

VISIT TO THE SENATE BY THE PRESIDENT OF THE UNITED STATES

At 2:39 p.m., the President of the United States entered the Chamber accompanied by Senators MANSFIELD, ROBERT C. BYRD, MOSS, BIBLE, FULBRIGHT, ERVIN, METZENBAUM, HUGHES, HUGH SCOTT, GRIFFIN, COTTON, BENNETT, TOWER, BROCK, AIKEN, and GURNEY.

The PRESIDENT pro tempore. It is my distinct pleasure and privilege, on behalf of the Senate, to welcome the President of the United States to the Senate. The President will now address the Senate.

[Applause.]

ADDRESS BY PRESIDENT FORD

The PRESIDENT. Mr. President, Senator MANSFIELD, Senator SCOTT, Members of the United States Senate, I wanted to stop by today just to say hello to those with whom I had an opportunity to get better acquainted and to officially inaugurate Pennsylvania Avenue as a two-way street. [Applause.]

It is wonderful to be back in a Chamber where so much of America's history for almost 200 years has been written and, I say without any hesitation, one of the greatest experiences of my life was the privilege of presiding here, though for a relatively short period of time. [Applause.]

Although my tenure was quite short, I think it was long enough to convince me that the U.S. Senate is one of the greatest legislative bodies in the history of mankind. [Applause.]

I think in the days and months ahead all of us must draw upon the great traditions of the Senate. Our job, both in the legislative as well as in the executive branch, is to restore the people's faith in the history and tradition of our American Government. No single man and no single woman can possibly do this all alone. It is a job for all of us working together to achieve.

As Governor Rockefeller said yesterday, we must deal with some very hard and somewhat harsh realities. We are not always going to be on the same side. It would not be America if we were. I do not think that really matters. It only matters if we end up by being on the best side for America from one State to another. [Applause.]

I would be very, very remiss if I did not express my appreciation for the Senate and the House going more than halfway on several measures of major importance in the last week or so.

I speak here specifically of the Cost of Living Council proposal, some actions taken on appropriation matters, the action on housing, the action on pension legislation, and the legislation affecting education.

I think what has taken place and transpired in these various proposals is indicative that we can march toward the center in achieving some good results for our country as a whole.

Now, I do not intend to talk specifically about any prospective legislation. I think I would probably be out of order, and I certainly shall respect the rules or traditions of the Senate in that regard.

As we go ahead, we must look not only at our problems at home, but also at our problems abroad.

I believe we have a good team in the executive branch of the Government, and I can assure you that that team will be working with this team, the House and the Senate, in the months ahead.

Thank you very much.

[Applause, Senators rising.]

The PRESIDENT pro tempore announced that Senators would assemble to greet the President.

Thereupon, the President was greeted by Senators in the well of the Senate Chamber.

DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 16243) making appropriations for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes.

The PRESIDENT pro tempore. The Senate will come to order. Let us have order.

The Senator from Missouri is recognized.

Mr. EAGLETON. While Senators are still on the floor, I ask for the yeas and nays on the pending amendment.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, I will momentarily yield the floor to Senators JACKSON and BROOKE for a colloquy on a related subject.

Before yielding, Mr. President, I must confess my senatorial naivete. As I was concluding my remarks and saw——

Mr. STENNIS. Mr. President, may we have order?

Mr. EAGLETON. I thank the Senator from Mississippi.

The PRESIDENT pro tempore. The Senate will come to order. Senators will take their seats.

Mr. EAGLETON. As I was concluding my prepared remarks, I noticed that the visitor galleries started to fill up and the press galleries started to fill up. I thought that the "word of wisdom" had gone forth in this citadel of deliberative intelligence and that the press and thousands of people were coming to hear "the word." [Laughter.]

My aide quickly corrected my erroneous judgment and whispered to me, "President Ford is coming to speak to the Senate."

In further explanation of my naivete, I then thought that President Ford had perhaps heard "the word" and was coming to make a public endorsement of my amendment. But, sadly, he did not.

As I marched down to shake hands with our fine, new President, accompanied by Senator HATHAWAY—and not too far away was Senator NELSON—I mumbled to Senator HATHAWAY and said:

> Is it too late too ask unanimous consent to change the vote that three of us made last year?

But, since Senator LONG is on the floor and he objects to all such unanimous-consent requests, I shall make no such request.

Yes, there were three who voted "No" on the nomination of Gerald Ford to be Vice President. We did so for such reasons as each of us felt appropriate at that time. I, as one of the three, pray to God that my judgment passed at that time was wrong. History will determine the future course of this country. History will determine the wisdom, or lack thereof, of my vote.

I have been mightily impressed by what I have seen of and heard from our 38th President.

If my judgment was wrong last year, then so be it.

I think I speak the sentiments of all Senators who are here today when I say that we have been deeply touched not only by what the President said to us, but by the fact that he came to this Chamber to say it to us, face to face.

I am an honored individual, indeed, to have been here today.

I now yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I yield first to the distinguished Senator from Massachusetts (Mr. BROOKE).

Mr. BROOKE. Mr. President, it is not my intention to take a great deal of the Senate's time in discussing the "strategic initiatives" advocated by Secretary Schlesinger. At the initiative of the distinguished junior Senator from New Hampshire the Senate, in closed session, discussed this issue in some depth during debate on the fiscal year 1975 defense authorization bill.

Nor is it my intention to propose the deletion of funding in this appropriation bill for several strategic programs—the terminally guided MARV, guidance improvements for Minuteman III and the MARK 12A warhead and reentry vehicle—which I believe to be premature reactions to admittedly disturbing developments in Soviet strategic programs. Given the evident belief by large majorities in both Houses that the United States should proceed with research and development in these areas, such an amendment would be futile.

I term these funding proposals premature because I have yet to find convincing reasons, either in deterrence theory or by examination of the linkages between technological possibilities and our strategic policies, to believe that the initiatives proposed by Secretary Schlesinger will result either now or in the future in an enhancement of our national security through increased stabilization of the deterrent relationship between ourselves and the Soviet Union. This objective must be the criterion by which we judge any proposed alterations in our strategic posture.

The most disturbing aspect of the proposed "strategic initiatives" is the possibility that they foreshadow deployment programs that will eventually undermine the stability of the superpower deterrent relationship. Such stability is predicated, to a great extent, on the assumption that neither side will have an incentive to strike first in a crisis situation. However, a marriage of significant accuracy improvements with increased yield that results in one or both sides achieving a significant silo-busting capability will inevitably increase the incentives to strike first in extreme crisis situations. As a noted British strategist has written:

> Especially at a moment of acute political anxiety, the existence of that capability, whatever the intention behind it, is bound to force a nervous adversary to consider whether he can afford not to strike first, lest he allow himself to be at least partially disarmed.

This would be especially true if one of the adversaries maintained the major portion of his strategic inventory in fixed land-based missiles as is the case with the Soviet Union. On the other hand, the pressures on a power emphasizing the sea-based deterrent, such as the United States, will be less intense because less of its strategic inventory will be threatened by an effective silo-busting capability. Nevertheless, it too would likely experience increased pressures to consider a first strike under certain conditions.

I am also troubled by the implicit assumption in the Secretary's proposals that nuclear war can be waged at various levels of intensity and that escalation from one level to another can be controlled. Fortunately, we have no practical experience by which to judge whether or not this is the case.

More importantly, I fear that deterrence may be weakened by emphasis on planning for war scenarios having escalatory nuclear exchanges as a prime focus. This creates the impression that sooner or later the nuclear threshold will be breached and it is only prudent to plan for that eventuality. Such fatalism, unfortunately, may prove self-fulfilling to the degree that it inspires alterations in our strategic posture that decrease the inhibitions regarding use of nuclear weapons. The "strategic initiatives" suggested by Secretary Schlesinger threaten to be such alterations.

The assumption that proposals to exploit technical possibilities in the accuracy-yield combination will influence the Soviet Union to adopt policies more conducive to the U.S. position on a permanent limitation on offensive strategic systems is also open to question. Many respected analysts of Soviet military policy seriously question whether Soviet planners will give much heed to such a blunt signal. The more likely reaction in the Kremlin will be to continue development of MIRVed delivery vehicles while stepping up efforts to achieve a Soviet form of efficient accuracy-yield combination. I seriously doubt that we can substantially affect the tempo of Soviet strategic developments through initiatives that appear to be a direct challenge to the survivability of their own strategic forces.

It is also disturbing that many readily accept the view that research and development on these "strategic programs" is only a first step in a process that can easily be arrested at any time. In theory this may be the case. However, past practice leads me to believe that the temptation to deploy such capabilities once they are fully developed will likely prove irresistible regardless of whether or not world conditions or our own self-interests justify such deployment.

MIRV deployment is a case in point. Had a moratorium on MIRV testing been achieved and had the United States shown some unilateral restraint in MIRV deployment, concern over the possible evolving Soviet MIRV threat to our land-based ICBM's would have been much less today and there would be far less reason to give serious attention to the initiatives advocated by Secretary Schlesinger.

The perceptual affect of these research and development decisions may be far more pervasive than is commonly thought. Once the U.S. research and development phase has been completed on these programs, a prudent security planner in the Kremlin may feel compelled to assume deployment will take place regardless of congressional actions. One can count missiles and staging platforms but it is impossible to verify, short of on-site inspection, whether or not yield and accuracy improvements have been deployed. Hence, the Soviet Union will likely feel pressured to fashion its strategic policies and weapons to take account of assumed deployment of U.S. silo-busting capabilities regardless of whether or not such deployment actually takes place. This, in turn, may stimulate many of the destabilizing tendencies I have already mentioned.

In pointing out the real or potential

negative implications of these "strategic initiatives," I do not mean to imply that I am unconcerned about the threat posed to our security by the dynamic nature of ongoing Soviet strategic programs. It would be dangerous and injurious to U.S. security and world stability if we allowed ourselves to become strategically inferior in any significant respect to the Soviet Union.

I share Secretary Schlesinger's view that we must take the steps necessary to insure that this does not happen. However, I do not believe that the course of action proposed by the Secretary is the only or necessarily the best alternative open to us.

Other strategic alternatives do exist. Indeed, the United States has an active strategic program, disregarding the counterforce initiatives, that will deny the Soviet Union any miltary advantage should it continue its strategic missile buildup to a point where it threatens to achieve a significant disarming capability against our fixed land-based strategic forces. One needs only point to the Trident or B-1 programs as well as the active investigation of various modes for mobile ICBM's to substantiate this assertion.

It is my belief that in the next few years, as the debate over the U.S. strategic posture continues, the Congress and the Executive should thoroughly explore alternative strategic approaches emphasizing the ability to deny the Soviet Union any benefits it might attempt to achieve through seeking a disarming capability vis-a-vis any of our strategic forces. At the same time we should eschew any similar attempt to deploy a disarming capability against fixed land-based missiles or other strategic systems of the U.S.S.R.

Through continued efforts to achieve success in the SALT negotiations and through a strategic policy that seeks to avoid offensive first-strike threats to any of the components of the Soviet Union's deterrent forces while denying a similar disarming capability to the Kremlin vis-a-vis any segments of our strategic Triad, we can best hope for the establishment of greater security for ourselves and others and for a lessening of the dangers of the nuclear age. This should be our overriding goal and should guide decisions involving the modification or development of U.S. strategic nuclear weaponry.

Mr. President, the committee report quotes Secretary Schlesinger to the effect that a principal feature of U.S. strategic policy should be,

> The avoidance of any combination of forces that could be taken as an effort to acquire the ability to execute a first-strike disarming attack against the USSR.

Hopefully, we all support that view. However, to talk of a "first-strike disarming attack" in such general terms ignores the possibility that one could seek a disarming capability against a certain portion of an adversary's nuclear arsenal, such as fixed land-based missiles, and still maintain that the "combination of forces" sought for deployment would not give one the ability to execute a first-strike disarming attack against the U.S.S.R.

In order to forestall any misconceptions in this regard, the report also states that the committee construes the Secretary's statement to mean that the United States will not seek to deploy a first-strike disarming capability against fixed land-based or other strategic systems of the U.S.S.R. I interpret this to mean that it should continue to be U.S. policy to eschew any attempts to achieve an accuracy-yield combination on our missiles that would provide us with an efficient silo-busting capability that could be construed by a reasonable opponent as an effort to achieve a disarming capability vis-a-vis his fixed land-based missiles. Does the Senator from Washington agree with my interpretation?

Mr. JACKSON. The question, as I understand the matter posed by the distinguished Senator from Massachusetts, essentially refers to the statement in the report of the Committee on Armed Services quoting Secretary Schlesinger as follows:

> A principal feature of United States strategic policy should be the avoidance of any combination of forces that could be taken as an effort to acquire the ability to execute a first-strike disarming attack against the U.S.S.R.

The Appropriations Committee goes on to construe this to refer to "such a deployed capability against fixed land-based or other strategic systems of the U.S.S.R."

I take it that the Senator's question essentially is, Do I agree with this construction of Secretary Schlesinger's remarks?

The answer is, "yes." It is not the strategic policy of the United States to deploy systems that could execute a first strike attack against land-based or other strategic forces of the U.S.S.R. It should be pointed out, however, that the strategic policy of the United States should not be limited to the single option of attacking the civilian population of the Soviet Union. The report of the Senate Armed Services Committee, with which the Appropriations Committee associated itself, is clear on that point.

Taking both the growth of Soviet forces and future developments at SALT into account, we should be working to design a strategic policy that will provide for enhanced flexibility in our strategic forces.

Continuing research and development along the lines of the strategic initiatives advocated by Secretaries Schlesinger and Kissinger is an essential part of that effort, and I am glad that the Committee on Armed Services and the Committee on Appropriations have recognized that fact and supported those programs.

Mr. BROOKE. Mr. President, in my conversations with the Senator from Washington he stated that the "strategic initiatives" proposed by Secretary Schlesinger were research and development initiatives only. He stressed that a clear distinction must be made between research and development efforts and production-deployment decisions. I fully agree with this view. However, at some point in the future pressures are likely to occur for deployment of the accuracy-yield capabilities that are likely to be developed through the proposed "strategic initiatives" programs. In contemplation of these pressures, I wonder if the Senator from Washington has any views regarding what, if any, conditions would justify deployment of an accuracy-yield capability that would provide the United States with an efficient silo-busting capability, "efficient" referring to a 2-to-1 or 1-to-1 ratio of warhead to silo destruction.

Mr. JACKSON. To state it another way, as I understand the Senator's question, under what circumstances would I favor moving from the research and development of a missile with a significant silo-killing capability to the actual deployment of such a weapon?

First, let me say that there can be no hard and fast answer to that question. But I think it is useful to discuss the factors that would go into any decision to deploy missile systems capable of destroying Soviet silos on a 1-to-1 basis. These factors are, first, the future growth of Soviet forces. If the Soviets exploit their throw-weight advantage by deploying a significant number of accurate MIRVs or additional missiles, they could acquire the capability to destroy a large fraction of our land-based forces utilizing only a small fraction of theirs.

This would place the United States at an unacceptable disadvantage, and in my judgment we would require a capability to destroy their reserve forces as an essential part of any American retaliatory attack.

The second factor relates to future developments at SALT.

We need to achieve a SALT II agreement based on essential equivalence. Such an agreement is unlikely to include limitations on accuracy, since there is no way to verify accuracy. I do not believe that we could have a stable SALT II agreement over the long run if the technological quality of our forces were allowed to deteriorate in comparison with Soviet forces.

We must assume that the Soviets will continue to improve their technology and that we will, therefore, have to continue to improve ours. With a SALT II agreement that provides for reductions to a level of equality, we might be able to defer indefinitely the deployment of extremely high accuracy-high yield missiles. Without such a SALT agreement, we might not. It is simply too soon, I think, at this point in history to come to a final conclusion.

Mr. BROOKE. Then, as I understand it, we are in agreement on the distinction between research and development efforts and production and deployment decisions? There seems to be no question of that point.

Mr. JACKSON. That is right. We have made a clearcut distinction in this appropriation bill, together with the authorization bill, Mr. President, between research and development on the one side and actual deployment and production.

Mr. BROOKE. What we are doing in this appropriations bill is merely re-

search and development, is that not correct?

Mr. JACKSON. The Senator is correct.

Mr. BROOKE. And prior to any time we move to production and deployment decisions, we will again have to assess the posture of the U.S.S.R. as far as its strategic posture is concerned and determine what the proper course of action should be to maintain our own security.

Mr. JACKSON. That is correct.

Mr. President, I ask unanimous consent to place in the RECORD that section of the report of the Committee on Armed Services dealing with the authorization bill, pertaining to aspects of the bill concerning the strategic initiatives, research and development. I do that, Mr. President, because we have, of course, the language of the report of the appropriations bill before us, but we do not have this item.

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

ASPECTS OF BILL OF SPECIAL INTEREST

STRATEGIC INITIATIVES—RESEARCH AND DEVELOPMENT

Defense Department proposal

Both in his testimony before the committee and his posture statement, Secretary Schlesinger presented a thoughtful, comprehensive analysis of U.S. strategic policy. One of Secretary Schlesinger's major themes was the importance of strategic flexibility. While pointing out the importance of the assured destruction mission, Secretary Schlesinger highlighted its limitations, stressing, in particular, that the President must have a full range of strategic options to cover a variety of contingencies. The Secretary argued strongly that the United States must not limit its strategic objectives to the threat to destroy millions of innocent civilians as the sole—or even the principal—response to potential Soviet actions.

To provide for a necessary range of options, Secretary Schlesinger announced a new emphasis in targeting policy. As outlined to the committee, this emphasis in targeting doctrine does not represent a major departure from past U.S. policy. Indeed it is consistent with the committee's longstanding conviction that the United States must have the capability to destroy a variety of selected targets, military and civilian, if and when necessary.

In addition, several new R&D programs have been proposed in an effort to develop a broader range of strategic options. The following programs have been proposed:

Navy:

Submarine Launched Cruise Missile

Terminally Guided Maneuvering Reentry Vehicle

Air Force:

Air Launched Cruise Missile

Mobile Intercontinental Ballistic Missile

Improved Yield for Minuteman

Improved Accuracy for Minuteman

Increased Number of Minuteman Reentry Vehicles

According to Secretary Schlesinger, these specific R&D programs in large measure represent hedges against the potential growth and development of Soviet strategic forces as well as the outcome of SALT II.

Finally, Secretary Schlesinger reported to the committee on the relentless momentum of Soviet strategic weapons development. As Secretary Schlesinger declared in his posture statement, "In summary, the new Soviet ICBM program represents a truly massive effort—four new missiles, new bus-type dispensing systems, new MIRVed payloads, new guidance, new-type silos, new launch techniques, and probably new warheads." The breadth and depth of the new Soviet missile development is both surprising and disturbing.

Committee action

In assessing the strategic initiatives proposed by the Defense Department, the committee shares a fundamental commitment to the principles of deterrence and to the maintenance of a U.S.-U.S.S.R. strategic balance based upon parity. Although making some minor dollar reductions, the committee felt that the new strategic initiatives were necessary to maintain and implement these principles and should be supported.

By its action the committee seeks to insure that the necessary resources are available to the United States in order to maintain its technological margin in the face of Soviet strategic advancements. Under the provisions of the interim agreement on strategic weapons, Soviet strategic missile forces are numerically superior to our own. Moreover, they deploy three times the missle throw weight of the comparable U.S. forces. A vigorous program of research and development on the part of the United States is essential to our effort to maintain the stability of the strategic balance.

The committee believes that the strategic programs recommended to be authorized for fiscal year 1975 are a particularly appropriate means of maintaining the technological margin of our strategic missile forces in a period of rapid Soviet technological development. The programs are not primarily designed to make numerical additions to our existing strategic forces. On the contrary, the major thrust of these research and development programs is to upgrade our existing forces so as to enable them to be used with greater discrimination and with less unintended damage over a broader range of selected options.

Finally, the committee wishes to reaffirm, as it has in the past, its hope for a successful and stabilizing follow-on agreement at the SALT negotiations.

The nature and extent of the deployments that these strategic initiatives will enable us to make will inevitably reflect the outcome of present and future negotiations at SALT as well as the evolution of Soviet strategic forces. It is worth pointing out that the new strategic programs now underway in the Soviet Union, which have given rise to great concern within the committee, have all come to light since the conclusion of the ABM treaty and the Interim Agreement on Offensive Weapons. In authorizing these programs, the committee intends to demonstrate, with unmistakable force and clarity, its resolve never to allow the Soviets to obtain strategic superiority. These new R&D programs create the most compelling incentive for Soviet restraint in the technological exploitation of its numerically superior strategic forces and for a genuine effort to conclude a stabilizing SALT II agreement.

The improved accuracy-yield issue

The primary focus in the deliberations on strategic initiatives was on the issue of whether it was in the best interests of the United States to improve the accuracy and yield of U.S. missiles. The $77 million request was as follows: Improved Guidance to increase the accuracy of the Minuteman force, Maneuvering Reentry Vehicle (MaRV) with terminal guidance for increased accuracy of the Trident missile, and Mark 12A to increase the yield of the Minuteman force.

The committee voted to support the proposed accuracy-yield program for a variety of reasons. There were, however, as discussed below, four principal points upon which a broad consensus was achieved.

First, the committee has long been concerned to sustain the technological excellence of our strategic forces and, wherever possible, to improve the efficiency of those forces. Improving the accuracy of our strategic forces enables us to broaden the range of options available to the President and to minimize the collateral damage associated with a retaliatory strike in the event that deterrence fails. Moreover, improved accuracy enhances the values of our existing strategic forces by permitting one strategic launch vehicle to accomplish a strategic mission that might, with less accurate weapons, require several such weapons.

Given the growth and development of Soviet strategic forces, a deterrent posture based principally on the threat to retaliate against Soviet civilians, knowing that such a strike would almost certainly lead to the destruction of millions of American civilians, is less and less credible. Development of the technology required for a range of more discriminating—and more credible—responses is, in the judgment of the committee, simple prudence.

Second, a purposeful failure to improve the accuracy and yield of our strategic warheads would be a gratuitous self-constraint. Since the growth of Soviet strategic forces, especially that reported to the committee by Secretary Schlesinger, appears to be accelerating such a unilateral constraint on our part would give the Soviets the strategic initiative.

Third, several members emphasized that the development of these yield and accuracy improvements would not be a commitment to deployment. At a relatively modest cost, these developments provide an important hedge against future as well as developing Soviet programs in addition to preserving flexibility.

Fourth, the committee was extremely sensitive to the importance of negotiating from a position of strength in the complex SALT deliberations. In reviewing SALT I it was noted that favorable Congressional action on the ABM program enabled us to do precisely that. The Secretary of Defense will advise the committee of any developments affecting Soviet strategic capabilities, including the conclusion of further agreements at SALT, that may bear on the committee's assessment of the strategic initiatives authorized in this bill.

The committee would also like to stress that these improvements are not intended to provide the United States with a first-strike capability. The committee agrees with Secretary Schlesinger that a principal feature of United States policy should be, "The avoidance of any combination of forces that could be taken as an effort to acquire the ability to execute a first-strike disarming attack against the USSR."

Conclusion

In summary, the committee considers that maintaining technological superiority in strategic weapons, even more so than in other areas of weaponry, is critical to the future deterrent posture of the United States. The line of demarcation between research and development and production is clearly defined. The Soviets have thus far made it clear that research and development is in no way constrained by the agreements reached at SALT I. In fact, their own rate of development nearly underlines this point. Thus, the committee recommends supporting the strategic initiatives proposed by the Defense Department.

Mr. EAGLETON. I ask the distinguished Senator from Washington how long his colloquy with the junior Senator from Massachusetts will go on?

Mr. BROOKE. We have concluded our colloquy. I wanted the opportunity to discuss with the Senator from Washington his views as far as the question of a first-strike capability is concerned.

Presidential statements and those of the Secretary of Defense confirm that it is U.S. policy not to seek a first-strike capability. I want to be sure that it is understood that in appropriating this money for R. & D. on increased accuracy and yield, we are not changing our strategic doctrine. I think the Senator from Washington has agreed that this does not represent a change in the strategic doctrine of the United States.

Mr. JACKSON. The Senator is correct. I want to compliment the distinguished Senator from Massachusetts for his able assistance in our joint effort to agree on report language in the bill which is before the Senate. That language does have the informal concurrence, as I understand it, of the Secretary of Defense, speaking for the administration.

Likewise, the language in the report in connection with the Defense authorization bill for the current fiscal year, which I previously referred to, represents, to my knowledge, a view that is concurred in by the Secretary of Defense, speaking for the administration.

Mr. BROOKE. Mr. President, I had the intent, first, of offering in the Defense Appropriations Subcommittee and then, failing there, in the Committee on Appropriations and, failing there, on the floor of the Senate, an amendment which would have deleted the approximately $77 million for R. & D. on accuracy and field improvements. I feel strongly that these programs may be interpreted as a sign that we might be moving in a direction of seeking a first-strike capability at least against fixed land-based strategic systems.

After discussion with the distinguished chairman of the Senate Committee on Appropriations and subsequently with the distinguished junior Senator from Washington, report language was worked out which clearly indicates that such is not the intent of the Committee on Appropriations in recommending these funds. Moreover, from the quoted remarks of the Secretary of Defense, I assume it is the intent of the administration not to seek a first-strike capability against either fixed land-based or other strategic systems of the U.S.S.R. Moreover, I assume there is no change between the intent of former President Richard Nixon, and President Gerald Ford in this regard.

I am very grateful to the distinguished Senator from Washington for joining in this colloquy and for working together with me on the report language which is provided in the report of their Committee on Appropriations.

Mr. JACKSON. I thank the Senator. Let me just conclude by repeating the report language, quoting Secretary Schlesinger:

> A principal feature of United States strategic policy should be, "The avoidance of any combination of forces that could be taken as an effort to acquire the ability to execute a first-strike disarming attack against the USSR."

I think that speaks for itself, and I believe that my distinguished colleague from Massachusetts agrees that the combination of the statement of the Secretary of Defense, the statement of the Committee on Appropriations, and the statement of the Committee on Armed Services, in the reports of those bills, conforms to his understanding and my understanding.

I thank the Senator for his very helpful dialog here.

Mr. BROOKE. I thank the Senator.

Mr. JACKSON. The dialog has been one that I hope will dissipate the confusion.

Mr. BROOKE. Mr. President, I ask unanimous consent to have printed at this point in the RECORD four articles pertaining to this subject matter.

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

[From the Scientific American, May 1974]

NUCLEAR STRATEGY AND NUCLEAR WEAPONS

(By Barry Carter)

"Should a President, in the event of a nuclear attack, be left with the single option of ordering the mass destruction of enemy civilians, in the face of the certainty that it would be followed by the mass slaughter of Americans? Should the concept of assured destruction be narrowly defined and should it be the only measure of our ability to deter the variety of threats we may face?"

The questions asked in the preceding quotation, taken from President Nixon's first foreign-policy report in 1970, have been cited repeatedly in the past few months by Administration spokesmen in an effort to explain and justify some significant changes that are being made in U.S. policy regarding its strategic military forces. The new strategy, spelled out most clearly in Secretary of Defense James R. Schlesinger's annual report for the fiscal year 1975, released in March seeks "to provide the President with a wider set of much more selective targeting options," and hence greater "flexibility," in choosing an appropriate response to "any kind of nuclear attack."

As the opening quotation illustrates, much of the official rhetoric concerning this new development in U.S. strategic policy has been more misleading than illuminating. To criticize the "assured destruction" doctrine of the past decade or so as planning only for massive retaliation against Russian cities ignores the fact (belatedly acknowledged by Schlesinger) that U.S. strategic forces have for years had the capability, both in weapons and in planning, for a "flexible response." More important, the broad hypothetical issues invoked by such public statements have tended to obscure the more immediate real issues presented by this Administration's recent actions.

The real issues are serious ones. The primary operational question at present is whether or not the U.S. should develop missiles with an improved capability for attacking "hardened" targets in the U.S.S.R. The main rationale offered for developing such an improved "counterforce" capability (so called because it is aimed at an opponent's military forces) is that it is "impermissible" for the U.S. not to "match" certain Russian counterforce developments. There is also the suggestion that these missiles would minimize "unintended collateral damage."

The preceding question in turn raises the subtler issue of how the active promotion of such programs for improved counterforce capabilities affects the stability of the strategic nuclear deterent and hence the likelihood that there will be a nuclear war. Before one can address these two issues one must understand why public debate should properly focus on such questions and not (at this time anyway) on the kind of questions posed in President Nixon's 1970 remarks.

In the late 1950's and early 1960's U.S. strategic policy went through a series of transformations. By 1962 American military planners recognized that the U.S. would have many more missiles than the U.S.S.R. could have for several years and in fact many more missiles than were required to devastate every major city in the U.S.S.R. A counterforce strategy therefore held out the attractive option of limiting damage to U.S. cities by destroying a substantial part of the Russian strategic forces. In language that sounds remarkably familiar today, Secretary of Defense Robert S. McNamara said in a speech in Ann Arbor, Mich.: "The United States has come to the conclusion that, to the extent feasible, basic military strategy in a possible general nuclear war should be approached in much the same way that more conventional military operations have been regarded in the past. That is to say, principal military objectives, in the event of a nuclear war stemming from a major attack on the alliance, should be the destruction of the enemy's military forces, not of his civilian population."

The Russians, however, continued to deploy land-based intercontinental ballistic missiles (ICBM's) and submarine-launched ballistic missiles (SLBM's). As a result, even if the U.S. sought to limit damage to itself by the partial destruction of the Russian strategic forces, there would still be more than enough Russian forces left to kill tens of millions of Americans. Recognizing this fact, McNamara increasingly emphasized by the mid-1960's the concept of "assured destruction," which he said in 1968 meant the "ability, even after absorbing a well-coordinated surprise first strike, to inflict unacceptable damage on the attacker." This criterion he defined explicitly: "In the case of the Soviet Union, I would judge that a capability on our part to destroy, say, one-fifth to one-fourth of her population and one-half of her industrial capacity would serve as an effective deterrent."

Few concepts have been as maligned or misunderstood as that of assured destruction. Critics label it genocide or use the acronym of "mutual assured destruction" to call it MAD. In fact, the concept seems well designed to serve two purposes. First, by planning the size of U.S. forces on the basis of the "worst case" scenario of an all-out Russian surprise attack, it ensures that the U.S. possesses the ultimate threat: to be able to wipe out the U.S.S.R. or any attacker in retaliation. Second, since the destruction criterion is reasonably precise, the concept provides a useful basis for limiting strategic-weapons procurement and for evaluating arms-control proposals.

While retaining the assured-destruction concept, McNamara and his successsor, Clark Clifford, supervised the development of the wide array of weapons that constitutes today's U.S. strategic arsenal. Both the numbers and the characteristics of many of these weapons were consistent with the assured-destruction concept, partly because the U.S. possesses a "triad" of strategic offensive forces and partly because of the hedge against the "highest expected threat." The triad approach seeks to maintain a major retaliatory capability in each component of our strategic offensive forces: ICBM's, SLBM's and long-range bombers. Justified on the grounds that each component presents a different problem for an attacker, difficult and costly problems for his defense and a hedge against unexpected failures in one or both of the other components, the net result of the triad approach is to provide in the aggregate a high degree of confidence that the assured-destruction mission could be carried out.

The hedge against the highest expected threat, as projected in the National Intelligence Estimates, meant that weapons would be developed and sometimes procured as a

cushion against Russian developments that, although not considered likely, were possible. The predictable result was that the U.S. came to possess much more powerful forces than were shown by subsequent events to be required for assured destruction. For example, one of the main justifications offered for developing multiple independently targeted reentry vehicles (MIRV's) was to hedge against a greater-than-expected Russian deployment of an anti-ballistic-missile (ABM) system on the theory that increasing the number of incoming warheads would enable the U.S. offense to penetrate the Russian defense more easily.

Of course, some of the development and procurement decisions also reflected inevitable political and bureaucratic pressures. For example, faced with pressures from the military and from Congress, McNamara apparently thought he could not ask for fewer than 1,000 Minuteman ICBM's

Finally, the proponents of the assured-destruction concept in the latter half of the 1960's quietly subscribed to secondary strategic objectives, in particular the desire to retain some ability to respond flexibly in the case of an actual attack. If the U.S. were subjected to a "limited" nuclear attack—possibly with a small number of missiles or because of an accident launch—most thought the President should have a range of options from which to choose. This factor helps to explain why, for example, the Minuteman II warhead, which was first deployed in 1966, could be programed for up to eight alternative targets, and why there was flexibility in the actual targeting plans.

As a result the U.S. ended up with strategic-war capabilities considerably greater than the assured-destruction concept required. That this situation was rarely acknowledged publicly was a serious mistake, the results of which we are now reaping in public misunderstanding of the policies of the past and, more important, in the sometimes surprising ignorance about the present capabilities of the U.S. strategic forces. The simple fact, which cannot be stressed too strongly, is that the U.S. strategic forces are now capable of carrying out a large array of alternative missions, far in excess of assured destruction.

To begin with, assured destruction does not require many forces. Assuming zero or low Russian ABM levels (a reasonable assumption given the 1972 Moscow Treaty limiting ABM systems), the delivered warheads of 220 Minuteman III ICBM's could kill about 21 percent of the Russian population from immediate effects alone and destroy about 72 percent of the Russian industrial capacity. The delivered warheads from 170 Poseidon missiles (which is fewer than the total carried by 12 submarines) could cause a similar level of damage [*see illustration on page 24*]. Projections of bomber survivability vary greatly, but most experts would estimate that enough B-52's could reach their targets to satisfy easily the traditional assured-destruction criterion.

The total of U.S. strategic forces is, of course, much larger. There are at present 1,054 ICBM's, of which 1,000 are Minuteman missiles and 54 are the older, larger Titans. Of the Minuteman missiles 550 have been or are in the process of being converted to the Minuteman III, which can carry up to three warheads. These MIRV's are estimated to have an accuracy of 1,500 feet or less (expressed in terms of "circular error probable," which means that 50 percent of the warheads are expected to fall within a radius of 1,500 feet of the target). The explosive power, or yield, of each warhead is equivalent to between 170 and 200 kilotons of TNT, or at least 11 times the size of the 15-kiloton bomb dropped on Hiroshima. Rapid retargeting of the Minuteman III will be possible soon with the advent of new computer-software systems, such as the Command Data Buffer system. (All estimates of the numbers and characteristics of U.S. forces used in this article are taken from the statements of U.S. officials, from publications of the International Institute of Strategic Studies and from other reliable publications.)

In addition the U.S. arsenal includes 656 SLBM's, 496 of which are scheduled to become Poseidon missiles. The Poseidon can carry up to 14 MIRV's, but it is usually deployed with 10. Although accuracy might be reduced by uncertainties about the submarine's location, it still is probably less than 3,000 feet. Moreover, even though each warhead is smaller than Minuteman's, there are many more of them and each is still about three times the size of the Hiroshima bomb. Like the Minuteman III warheads, the Poseidon warheads can be retargeted quickly.

Bombers are often viewed as the stepchild of the U.S. strategic triad. The approximately 400 B-52's and 65 FB 111's are unaccountably ignored in many comparative tables of American and Russian strategic forces, notably in President Nixon's first three foreign-policy reports. This is surprising given the fact that an estimated 40 percent of the U.S. budget for strategic offensive forces is spent on bombers. Moreover, from the standpoint of nuclear strikes the per-sortie attrition rate of about 3 percent suffered by the B-52's in their attacks on heavily defended Hanoi demonstrated high survivability. Indeed, most places in the U.S.S.R. would not be as heavily defended as Hanoi, the B-52's would not be making the more vulnerable high-altitude attacks they made there and the bombers would use nuclear warheads to silence air-defense batteries. Each B-52 carries between four and 24 nuclear weapons, the load being a variable mix of gravity bombs and air-to-surface missiles. The bombs can be in the megaton range (that is, equal to 1,000 kilotons) and can be delivered with very high accuracy.

(This accounting of the U.S. strategic forces does not include the extensive U.S. "tactical" nuclear forces, many of which could attack targets in the U.S.S.R. In addition to the more than 7,000 tactical nuclear weapons in Europe, many such weapons are deployed in Asia and on forward-deployed ships in the Atlantic and the Pacific.)

In short, the U.S. already has a considerable potential for "limited" strategic strikes. Exactly how much capability depends on the critical assumption of who strikes first and how, as well as on one's assumptions about the nature of the Russian threat. In any case three important factors should be remembered about potential targets in the U.S.S.R.:

1. There are many nonmilitary, industrial targets outside urban centers that would require only one or two nuclear warheads each; such targets include manufacturing plants, power plants and the two construction yards for missile submarines.

2. Except for "hardened" targets, most military targets could be destroyed by only one or two warheads each; such targets include air-defense sites, military airfields, major army bases and submarine bases.

3. Even for hard targets such as missile silos, nuclear-weapons storage facilities and command posts, the use of small numbers of warheads will create a high probability of destruction. For instance, three Minuteman III warheads delivered against three Russian missile silos with a "hardness" about the same as that of the U.S. silos when they were first built would have approximately an 80 percent chance of destroying one silo, whereas seven Minuteman III warheads would have a similar 80 percent probability of knocking out one silo three times as hard. Presumably many Russian missile silos have a hardness in this range.

As a result, even with existing missiles a limited strike by the U.S. that employed 100 missiles or fewer could do substantial damage to the U.S.S.R. and could knock out some Russian ICBM's.

In calculating the sufficiency of our strategic forces, one should not forget the Chinese. For any conceivable "crisis scenario" the total expenditure of U.S. warheads against China could easily come from the present surplus exceeding the weapons needed for the assured-destruction mission against the U.S.S.R. Not only could the U.S. destroy most of the nascent Chinese nuclear forces, but also it has been estimated that a few warheads detonated over 50 Chinese urban centers would destroy half of the urban population (more than 50 million people), more than half of the industrial capacity and most of the key governmental, technical and managerial personnel. Indeed, against fixed targets such as cities the U.S. could use its B-52's, which could return to their bases for other missions.

Not only does the U.S. have this multifaceted capability but also its nuclear strategy has always included plans for attacks other than massive ones on Russian cities. This conclusion is logically inescapable when one realizes that the U.S. has had thousands of strategic warheads since the mid-1960's, has about 7,500 now and is expected to have almost 10,000 by 1977. There are only about 200 major cities in the U.S.S.R. Either the U.S. has aimed a superfluously large number of warheads at each major city or it has planned for other targets all along. Any doubts on this score were resolved by Secretary Schlesinger's statement in March that "our war plans have always included military targets."

President Nixon has made it very clear from the early days of his Administration that he wanted changes in U.S. strategic policy. Neither he nor any other high official, including Secretary Schlesinger, has ever rejected the assured-destruction concept. Rather they have defined assured destruction narrowly to mean only massive retaliation against cities and have said that more options are needed. To date the Nixon Administration has really presented two different sets of what "more" is needed. First there were the "sufficiency criteria," which were publicized in the period from 1970 to 1972. This past year has seen the emergence of a new set of criteria.

The sufficiency criteria, which President Nixon first hinted at in 1970, were spelled out by Secretary of Defense Melvin R. Laird in 1971. They are:

1. Maintaining an adequate second-strike capability to deter an all-out surprise attack on our strategic forces."

2. "Providing no incentive for the Soviet Union to strike the United States first in a crisis."

3. "Preventing the Soviet Union from gaining the ability to cause considerably greater urban/industrial destruction than the United States could inflict on the Soviets in a nuclear war."

4. "Defending against damage from small attacks or accidental launches."

These four criteria have been explained further, including the fact that the deterrence is for the benefit of U.S. allies as well as the U.S.

The publication of the sufficiency criteria at least moved the public debate off the misleading view that U.S. policies and forces only envisioned massive retaliation against cities, but beyond that there is little new in the criteria. This is partly because they were never clearly explained; accordingly they remained more Delphic than definitive.

The first criterion is simply a basic statement of the assured-destruction concept. The third is a result of the assured-destruction assumption at meaningful levels of destruction; beyond the ability of either side to inflict 75 million fatalities and between

50 and 75 percent industrial damage—levels that would finish either country as a viable society—relative differences in the ability to inflict urban or industrial damage seem insignificant. Besides, much higher levels of destruction can only be achieved with considerable difficulty, since either country soon reaches a point of rapidly diminishing returns in terms of urban or industrial destruction per additional warhead.

The fourth criterion was clearly justification for the Safeguard ABM system. Without getting into the debate over such issues as whether or not the advantages of damage limitation against small attacks or accidental launches outweighs the disadvantage of the Russians' misinterpreting the purposes of any ABM deployment, suffice it to say that the Administration as early as May, 1971, was committed to insignificant ABM levels in the ongoing Strategic Arms Limitation Talks (SALT). The fourth criterion thus became "inoperative."

That leaves the second criterion. It clearly enunciates a desirable objective in strategic policy: to avoid strategic forces or actions that would be destabilizing in a crisis. Although this objective was not explicit before, it was inherent in the assured-destruction objective of providing highly survivable forces that would thereby reduce the incentive for a first strike. The second sufficiency criterion fails to delineate what more, if anything, was needed.

The criteria are silent about the kinds of option other than assured destruction that the President was so concerned about. Moreover, should the U.S. react to protect its allies (still undefined) in the same way that it would to protect its own territory? And what are U.S. strategic objectives with regard to China? In short, except for the flirtation with the ABM possibility, the sufficiency criteria only hinted at new strategic policies rather than establishing them.

Instead of trying to amend the sufficiency criteria, the Administration decided about a year ago simply to scrap them and to start anew in redefining strategic policies. This time Secretary Schlesinger has been the principal spokesman. After some of his press conferences late in 1973 and early in 1974 led to confusion among journalists and other observers as to what the new policies encompassed, the appearance of Schlesinger's annual report in March clarified the issues considerably. At one place in that report the "Principal Features of the Proposed Posture" (a posture Schlesinger clearly likes to refer to as "essential equivalence") are listed:

1. "a capability sufficiently large, diversified, and survivable so that it will provide us at all times with high confidence of riding out even a massive surprise attack and of penetrating enemy defenses, and with the ability to withhold an assured destruction reserve for an extended period of time."

2. "sufficient warning to ensure the survival of our heavy bombers together with the bomb alarm systems and command-control capabilities required by our National Command Authorities to direct the employment of the strategic forces in a controlled, selective, and restrained fashion."

3. "the forces to execute a wide range of options in response to potential actions by an enemy, including a capability for precise attacks on both soft and hard targets, while at the same time minimizing unintended collateral damage."

4. "the avoidance of any combination of forces that could be taken as an effort to acquire the ability to execute a first-strike disarming attack against the USSR."

5. "an offensive capability of such size and composition that all will perceive it as in overall balance with the strategic forces of any potential opponent."

6. "offensive and defensive capabilities and programs that conform with the provisions of current arms control agreements and at the same time facilitate the conclusion of more permanent treaties to control and, if possible, reduce the main nuclear arsenals."

These factors plus the accompanying text in the report provide the best available insight into the proposed new policies. The first factor, combined with the second's requirement of bomber survivability, constitutes essentially a restatement of the assured-destruction concept. It needs no further elaboration here except to note that assured destruction does not require immediate response; indeed, the emphasis on a "second strike" capability and on the survivability of U.S. forces reflects the goal of having time in which to consider what the appropriate response should be.

Skipping briefly to the fourth, fifth and sixth factors, they raise a host of diverse issues—touching on all offensive and defensive strategic programs. There is not sufficient space to treat them comprehensively here; instead the focus will be on their impact on the Administration's concepts of strategic flexibility and limited nuclear war.

The third factor and the balance of the second address the questions of flexibility and limited strategic war directly. The underlying questions can best be summarized as follows: (1) Should the U.S. have a number of response options? (2) Should the U.S. develop missiles with improved counterforce capabilities? (3) Should the U.S. actively promote the idea of improving counterforce capabilities for fighting, if necessary, a limited nuclear war? Since the first question is essentially noncontroversial, the remaining two define the immediate issues.

Schlesinger reports that most of the targeting options in the past have involved "relatively massive responses." He wants to provide the President with a "wider set of much more selective targeting options." There is general agreement among strategic analysts that the U.S. should have a variety of response options other than massive retaliation against cities. These options could be useful, for example, in deterring a limited strategic attack. As Paul C. Warnke, a former Assistant Secretary of Defense, has put it: "There can . . . be little objection to the concept that our targeting plans should be sufficiently flexible to provide the President with a variety of options in the event of a nuclear attack." Warnke believes "we might be better positioned to deter a less than all-out Soviet attack if we have the refinement of command and control to push only one or a few buttons rather than the entire console . . . to respond with less than our Sunday punch."

This broad consensus includes those options that draw on the capabilities of present forces and those already well along in development. As we have seen, our present forces already have the accuracy-yield combinations to be used effectively to destroy almost anything except hard targets. Even against such hard targets as ICBM silos these forces could destroy large numbers of targets, but they would not do it "efficiently."

Schlesinger makes it clear, however, that he wants more than flexibility, that he wants counterforce options that require new or improved weapons. The incremental options are ones "minimizing unintended collateral damage" and providing a hard-target kill capability that "matches" that of the Russians. To be able to achieve these options Schlesinger seeks programs to develop missiles with improved counterforce capabilities.

The proposed defense budget for the fiscal year 1975 includes a number of such programs. The programs appear to fall into two categories.

First, there are the short-term programs, the ones that involve relatively minor changes and for which initial deployment might easily begin by the late 1970's. The major programs in this category include procurement of more Minuteman III missiles; refinement of the existing guidance system of the Minuteman III to increase accuracy (probably from 1,500 feet down to 700 feet or less); a higher-yield warhead for the Minuteman III identical in configuration with the existing warhead, and a general program to improve and measure the accuracy of SLBM's. The proposed budget also includes funds to flight-test a Minuteman III with a larger number of smaller reentry vehicles. Whether this program will increase counterforce capabilites or not depends on the accuracy and yield of the new warheads.

Second, there are two major long-term programs. Both will require considerable development time, and initial deployment would seem unlikely before 1980. Advanced development will be initiated for a terminally guided "maneuverable reentry vehicle" (MARV) for possible "retrofit" into both ICBM's and SLBM's. Although a MARV warhead has been programmed for some time for the advanced Trident I SLBM, it is not to be terminally guided, being designed for evasion of ABM interceptors rather than for improved accuracy. A new terminally guided MARV, however, will presumably have an accuracy of a few hundred feet. This would give even warheads the size of the Poseidon's a very effective hard-target kill capability.

Further research and development is needed to decide exactly how the new MARV will work. By definition, after the MARV has separated from the "bus," or postboost vehicle, that holds all a missile's warheads, it can maneuver almost up to impact in order to correct its flight path. The corrections could be accomplished in two ways. The most likely development is the homing MARV, what some call the true MARV. A sensor in the warhead would acquire an image or images of the target or of prominent terrain features nearby (or perhaps would simply acquire an "altitude profile" of the terrain along its flight path). An on-board matching device would match this information with a map stored in its memory. The warhead's flight path would then be corrected either by gas jets or by aerodynamic vanes.

An alternative approach is to use an inertial guidance system in the warhead as well as in the bus. Since the reentry vehicle often separates from the bus early in its flight, an on-board guidance system would allow much later changes in trajectory. The information on position would come, however, from the system's gyroscopes, from stars or even from satellites and not from the target area itself. As a result this approach in theory would probably not be as accurate as the homing approach.

The second long-term program is the development of an entirely new ICBM for the 1980's. This missile, which may even be an air-mobile missile, would include a new guidance system (presumably a terminally guided MARV), which Schlesinger says would give it "a very good capability against hard targets."

How reasonable or necessary is it to develop missiles with improved counterforce capabilities in order to minimize collateral damage or to match the Russians' hard-target kill capability?

It is particularly difficult to understand how these missiles will minimize collateral damage. The warheads Secretary Schlesinger is proposing will probably have at least the yield of the present Minuteman III and Poseidon warheads. Such warheads would cause extensive damage over a wide area. For example, a "small" 100-kiloton bomb exploding in the air over a target would cause substantial fatalities and damage from

immediate effects alone over a circle with a radius of 2.5 miles. Since the possible improvement in accuracy for the Minuteman, for example, is at most about 1,000 feet even in the long run, the number of civilian fatalities will hardly be reduced significantly if a warhead at least three to 11 times the size of the Hiroshima bomb lands a few hundred feet closer to the intended target.

A substantially smaller warhead that still provides an improved hard-target kill capability is unlikely to be ready for deployment until the 1980's, since a very accurate terminally guided MARV is needed to allow a significant "trade-off" between lower yield and higher accuracy. Furthermore, the value of much smaller warheads in saving lives must be put in perspective.

First, the way to minimize fatalities, if nuclear weapons must be used, is careful target selection, in other words aiming at targets distant from urban centers. Air-defense sites or air bases in the Arctic and isolated army posts or industrial sites are good examples. For a very limited exchange the differences in fatality levels from an attack on such targets with warheads of, say, 50 kilotons as against five kilotons would not be significant.

Second, if there is a large-scale nuclear exchange, then there simply is no way of keeping civilian damage at a low level. The effects not only of immediate blast but also of radioactivtiy would kill millions.

Third, in an actual nuclear exchange the successful continuation of a U.S. policy aimed at miniminzing civilian casualties depends in large part on what the Russians do, and the Russians have never seemed much attracted to this objective. Their strategic warheads have always been large. Even though they necessarily reduced the size of individual warheads on their ICBM's in order to deploy MIRV's on them, some if not all of the warheads are still in the megaton range.

Schlesinger's main justification for the new counterforce programs is that the U.S. to match that of the U.S.S.R. This seems a questionable refinement of the broader theme of "essential equivalence." Schlesinger has on occasion defined essential equivalance to suggest overall balance. For example, he recently testified: "We do not have to have a match for everything in their arsenal. They do not have to have a match for everything in our arsenal."

Whether or not such an overall balance exists today and for the foreseeable future is a question that deserves public debate; a good case can be made for the affirmative. Most important, both the U.S. and the U.S.S.R. have a high-confidence ability to carry out a wide variety of retaliatory options. In terms of static indicators the Russians do have more missiles and greater missile "throw weight." The U.S., however, has more bombers, more warheads (now and for the rest of the decade) and about equal throw weight (if bombers are included in the calculations). In terms of qualitative factors U.S. missile submarines are much quieter and hence harder to find than the Russian ones, and U.S. bombers are more modern. Finally, to maintain or even enhance some of its capabilities, the U.S. already has a number of strategic programs well along: the conversion of older missiles to larger Minuteman III and Poseidon missiles, the B-1 bomber and the Trident submarine with its advanced missiles.

Schlesinger, however, avoids the complex question of whether the general U.S.-U.S.S.R. strategic picture is one of overall balance—of essential equivalence. Rather, he selectively focuses on relative counterforce capabilities against ICBM silos (Selective vision is not exactly a new tactic in military analysis. The "missile gap" of 1960 is a classic case; the heated debate over the number of U.S. ICBM's compared with the number of Russian ICBM's ignored the massive U.S. bomber force. Schlesinger's selective vision is even blurred within its own field. Although the Russians are clearly developing new missiles and MIRV's, they apparently have not pursued the accuracy aspect of a counterforce strategy with much zeal. As General George S. Brown, the chief of staff of the Air Force, recently remarked about the new Russian programs, "MIRVing alone won't [take out the Minuteman force]. Accuracy is the other key element and we haven't seen evidence of accuracy improvement in their work which we would expect to see."

Is there some reason why the U.S. and the U.S.S.R. should have essential equivalence in the capability to destroy missile silos? The arguments against this course of action seem persuasive. There is no benefit in terms of traditional strategic analysis in being able to kill efficiently very large numbers of the other side's silos. As we have established, the U.S. can already destroy some silos, although at a cost of a few U.S. missiles each. Inefficient, limited destruction of silos should suffice for the war scenarios that some envision, in which the U.S. feels it necessary to destroy silos as a way of showing its "resolve." Killing many more silos would not minimize damage to the U.S.; everyone agrees that the U.S. cannot expect to destroy a large enough fraction of the silos or other strategic offensive forces of the U.S.S.R. to limit damage to this country in any meaningful way.

Finally a critical assumption underlying the preceding discussion is that the silos will have missiles in them when they are destroyed. In fact, the flight time of a Minuteman missile to the Russian missile fields is about 30 minutes. If the Russians were to deploy early-warning satellites, they could detect almost instantaneously the launch of U.S. missiles, which means that the U.S.S.R. could probably have the option of launching many, if not all, of its missiles before the U.S. warheads arrived. Using U.S. warheads against empty silos in empty fields seems a particularly questionable policy.

The full cost of these new programs is unclear. Much depends on the size of the deployments and the extensiveness of the modifications. A useful benchmark is the Minuteman III program; the conversion of 550 older Minuteman missiles into Minuteman III's will cost between $5 billion and $6 billion. Although the costs of some of the new counterforce programs might be comparatively small, the total cost of all the new programs would greatly exceed the Minuteman III costs.

Added to the questions about the analytical reason for the new counterforce programs and the inevitable costs must be the distinct possibility that these programs will be destabilizing and will make arms limitations more difficult to negotiate.

Assuming a crisis situation, a substantial U.S. counterforce capability against Russian ICBM's is more likely to create an incentive for the U.S.S.R. to adopt a hair-trigger, launch-on-warning posture; the Russian leadership would fear that the U.S. might attack first in an attempt to limit damage to itself. These fears would make it even more likely for the U.S.S.R. to attack first in a crisis in order to destroy some of the U.S. ICBM's that had become more tempting targets as a result of the new U.S. counterforce programs.

Schlesinger deplores this instability (as in his fourth feature, cited above, of the new posture), but he and other high officials say that the new U.S. programs are not extensive enough to create such Russian fears. The conceivable accuracy and yield improvements on 1,000 Minuteman missiles, however, even without the terminally guided MARV, could give the U.S. the capability, on paper at least, of destroying between 80 and 90 percent of the Russian ICBM force. The deployment of the MARV or the use of improved SLBM's against the Russian missiles would push that percentage even higher.

The Russian leadership, moreover, might be more conservative than the U.S. leadership in assessing Russian strengths and weaknesses. This conservatism would be based at least partly on the fact that, unlike the balanced reliance in the U.S. on all three elements of the strategic triad, in the U.S.S.R. ICBM's are the primary component of the strategic offensive forces. The U.S.S.R. is allowed up to 1,618 ICBM's under the SALT I Interim Agreement (compared with 1,054 for the U.S.), and the Russians are actively developing four new ICBM's. Moreover, these missiles are under the command of the Strategic Rocket Forces, which since it was created in about 1960 has been one of the most important branches, if not the most important one, of the Russian military. Unlike the U.S. Air Force, which has responsibility not only for ICBM's but also for bombers and many tactical forces, the primary responsibility of the Strategic Rocket Forces is the Russian ICBM force; consequently this organization has every incentive to enhance its role in strategic planning. The Long Range Aviation command, which has responsibility for the Russian bombers, has never had the bureaucratic strength of the Strategic Rocket Forces, and the Russian navy has responsibility for a number of other forces besides missile submarines.

The strategic-planning emphases of the U.S. and the U.S.S.R. differ particularly on the subject of bombers. At present the U.S. has more than 450 intercontinental bombers, about a fourth of which are kept on "ready alert" at a large number of air bases (so that they can avoid being destroyed even in case of surprise attack). The Russians have about 140 long-range bombers. These are qualitatively inferior even to the B-36 bombers deployed by the U.S. in the 1950's, are not kept at as high readiness and are located at just a few air bases. Although a new Russian bomber (named the Backfire by the Pentagon) is just beginning production, it seems primarily intended for targets on the periphery of the U.S.S.R. In any case it is not certain how many Backfires will be built, and the plane appears to lack the critical range and low-altitude capabilities of the B-52's.

As for SLBM's, the U.S.S.R. is building new missile submarines and is allowed more boats and SLBM's than the U.S. under the terms of the SALT agreements. In contrast to the active U.S. MIRV programs for both ICBM's and SLBM's and the new Russian MIRV programs for ICBM's, however, the Russians have not begun testing multiple warheads on their new SLBM. The U.S.S.R., moreover, usually keeps only five or six missile submarines on patrol at any one time, compared with 40 percent of the 41 U.S. boats. In sum, the U.S.S.R. does not seem to give missile submarines the same priority in strategic planning as the U.S.

Schlesinger essentially hinges his denial that first-strike fears by the U.S.S.R. would be enhanced by the planned U.S. improvement in its capabilities against ICBM's on the relative invulnerability of the Russian missile submarines. Compared with the U.S. missile submarines, however, the Russian boats are noisier—an important qualitative disadvantage—and must operate in ocean areas where it is easier for the U.S. to locate and detect them. In addition the U.S. has under way a large, aggressive antisubmarine-warfare program for tactical and strategic uses. It has been reliably estimated that U.S. expenditures in the fiscal year 1972 for antisubmarine warfare were $2.5 billion and that by 1974 they would rise to more than $4 billion. The Russian leaders might well fear, at

some future crisis point, that the U.S. had developed a significant antisubmarine-warfare capability, making Schlesinger's suggested ultimate reliance on their missile submarines less than completely reassuring.

One "crisis scenario" that is often concocted to show the danger of the growing Russian counterforce capability against Minuteman and to justify developing improved U.S. counterforce capabilities is an attack or threat of attack by the U.S.S.R. against U.S. ICBM's. The scenario envisions the following chain of events: (1) a real or threatened Russian attack against Minuteman; (2) a realization by the U.S. leadership that it is left or will be left with no more than a capacity to attack Russian cities; (3) major concessions or even surrender by the U.S.

This scenario has an obviously fantastic quality. Even if the internal logic of the scenario were accepted, it still does not justify improving U.S. counterforce capabilities. It does not matter whether the U.S. missiles destroyed are highly accurate or not. What matters is what other U.S. forces can do if these missiles are destroyed. Indeed, as we have seen, by presenting an increased threat to the U.S.S.R., U.S. development of highly accurate missiles might actually make the Russians more likely to attack, thus making the scenario less implausible.

More important, the underlying logic of the scenario is simply wrong, as should be evident to both the U.S. and the Russian leadership. First, the Russians would have to consider that Minuteman might be launched against Russian targets in the 30-minute warning time between the launch of the Russian ICBM's and their arrival at the Minuteman silos. Second, even if a surprised or reasonably cautious U.S. leadership did not launch on warning, a few Minutemen would survive even the most careful attack. Also surviving would be at least the bombers on alert and most if not all of the U.S. missile submarines in the water. (If the attack occurred after an initial crisis period, more bombers than usual would be on alert and more submarines would be in the water.) These combined forces would provide the U.S. with the capacity to carry out a number of limited strikes while still retaining an assured-destruction hedge.

Finally, some U.S. retaliation would seem very likely to the Russian leadership since tens of millions of Americans would be killed in any "Minuteman only" attack. In attacks against silos the bombs are set to explode as close to the ground as possible, thereby picking up much dirt and debris. The fallout from the explosion of thousands of megatons of nuclear weapons over the Minuteman fields would be tremendous, and winds would carry the lethal contamination over many major U.S. cities. Such calculations of fallout do not even include the possibility of a few Russion warheads going off course and directly hitting populated areas, nor the collateral damage by Russian attacks against other targets, such as bomber bases, many of which are near cities.

Even not assuming a crisis, the consequence of these new U.S. counterforce developments might be to push the U.S.S.R. toward accelerating or expanding programs, or starting new ones. The arms race is not as mechanically "action-reaction" as some have suggested, but a substantial new U.S. capability against the primary strategic offensive force of the U.S.S.R. will surely fuel justifications within the Russian bureaucracy for some kind of reaction. This should be particularly true when U.S. antisubmarine-warfare programs, noted above, are also considered.

If the U.S. counterforce programs are allowed to continue beyond the rhetoric of announcing them, these programs would operate to undercut any progress at SALT. Of course, if announcing these programs is just a short-term ploy designed to strengthen the U.S. bargaining position for the impending SALT II agreements, then little real harm will result. There is no evidence, however, that top Administration officials intend to turn these programs off quickly. And even if there are such intentions, new weapons programs tend to gain a momentum of their own once they are announced. High-level officials become publicly committed to rationales for them, rationales that include more than the systems' just being "bargaining chips." Bureaucracies are created with a vested interest in the continuation and expansion of these programs. Moreover, improvements in accuracy and yield would be particularly difficult to limit explicitly in SALT, making it harder to rationalize publicly any subsequent termination of the program.

Accuracy improvements are generally accepted as being among the most difficult weapons characteristics to limit in an arms-control agreement, because of problems of both definition and verification. Drafting a workable, direct limit on accuracy seems impossible, since the counterforce potential of a warhead depends on the accuracy-yield combination. Moreover, a simple numerical limit on accuracy would not be verifiable. A photograph of a silo or even the missile gives little clue to the kind of small but important differences in accuracy that are being considered here. Closer examination through on-site inspection, even if such inspection could be negotiated, would be insufficient. On-site inspection could indicate whether the warhead was a terminally guided MARV, but this would not establish any particular accuracy. Moreover, on-site inspection includes a heroic assumption that the latest warheads are on the missile and not stored nearby in an area excluded from the on-site inspection provisions.

Surveillance of Russian missile-testing may give some indication of accuracy. The indication, however, is indirect and not conclusive. Test data tells one about the ballistic coefficient (or pointedness) of the warhead, its reentry speed and similar information, all of which helps in estimating accuracy. An outside observer, however, can never be sure what the actual target is. Similarly, course corrections by the warhead would indicate a maneuvering capability but not necessarily terminal guidance or particularly high accuracies.

An indirect way to limit or impede accuracy improvements through SALT would be by placing a strict limit on the number of missile tests. This would make it more difficult to develop advanced guidance techniques and to test them often enough so that the military would have confidence in them. The low limits necessary seem nonnegotiable, however, since they represent a direct challenge to all new strategic programs. Even without accuracy improvements the Pentagon will want to do extensive research and development and operational testing of the new Trident missile and further operational testing of the Minuteman and Poseidon missiles. Similarly, the Russians will want to flight-test extensively their four new ICBM's and their new SLBM as well as their existing arsenal of missiles.

Limits in SALT on the yield of warheads might be more possible, but they would be of uncertain significance. The two sides could limit yield by an agreement that warheads not be larger than a given yield or a given weight. The effect of any such limitation could be circumvented, however, by increasing the number of warheads and by increasing their accuracy. Moreover, it would be difficult to verify the exact yield of a warhead. Even elaborate on-site inspection would not ensure that "advanced" warheads were not hidden nearby. Surveillance of flight tests only gives an estimate of the size of the warhead, and yield per pound of warhead can be varied by warhead design and the richness of the nuclear "fuel" used.

In short, the practical difficulties of fashioning limitations in SALT on the type of counterforce improvements now planned by the U.S. make such limitations unlikely and will instead presumably create strong pressures in the U.S.S.R. to expand old programs or to start new ones that either match or compensate for the U.S. programs. This in turn can only work against other limitations on strategic arms.

Allied concerns about the credibility of the U.S. deterrent are another reason offered for developing missiles with improved counterforce capabilities. Occasionally a specific scenario—a Russian attack in central Europe—is given as a justification for such improvements. Neither the scenario nor the more general invocation of allied claims is persuasive.

The European scenario supposedly demonstrates that the U.S. needs the ability to respond with nuclear weapons in order to show its resolve and to destroy some of the attacking Russian forces. There are, however, already sizable U.S. forces in Europe that could accomplish both of those objectives. Even if the U.S. decided to employ strategic weapons, existing U.S. forces could carry out a wide variety of selective attacks.

As for the broader claims of allied concerns, Morton Halperin, an authority on nuclear strategy, has remarked: "The credibility of the U.S. deterrent to an Ally is primarily a result of the overall U.S.-Ally relationship, which includes economic and political considerations as well as military. To the extent that Allied leaders evaluate U.S. military capabilities, they look especially to the U.S. conventional and nuclear forces in that particular theater of operations. Fine distinctions in the U.S.-Soviet strategic balance or in U.S. strategic policy are unimportant to Allied leaders. Among those Allied analysts who care, opinion is probably split between those who favor the U.S. possessing an efficient silo-kill capability and those who do not."

Among the European strategic analysts who oppose such deployments is Ian Smart, formerly assistant director of the London-based International Institute of Strategic Studies. Smart writes: "Producing and deploying much more accurate strategic missiles . . . is to be regretted and even feared since . . . it can only reduce the stability of the strategic balance in any period of acute tension." At least part of this European concern can be attributed to the fact that, in a strategic exchange, the industrialized European countries are very likely targets—if only because of the U.S. forces deployed in or near those countries.

Finally, even assuming that the allies (or even the American people) accord considerable political significance to fine distinctions in the "strategic balance," Schlesinger's proposed counterface improvements are not very helpful politics. The supposedly important distinctions are usually visible ones such as the number of delivery vehicles, the number of warheads or the throw weight. Schlesinger's accuracy and yield improvements do not affect these indicators, except possibly in the counterproductive way of reducting the number of warheads in order to allow larger ones.

On balance, then, there seem to be strong arguments against developing missiles with improved counterforce capabilities. Collateral damage can best be minimized by shifting targets, not improving accuracies by a few hundred feet. The ability to destroy efficiently large numbers of missile silos in order to "match the Russians" seems not only unnecessary and expensive but also destabilizing. SALT might well be undercut and the supposed concerns of our allies about the U.S. deterrent are not answered by such programs.

As one gets caught up in considering nuclear-war scenarios and nuclear-weapons capabilities there is a dangerous tendency to

forget that the primary objective of nuclear strategy is to avoid nuclear wars, not to fight them.

Given the destructive power of nuclear weapons and the world's lack of experience in using them, crossing the "nuclear threshold" would be a profoundly destabilizing event. It is a delusion to believe one country could employ nuclear weapons, even on a limited scale, and have a high degree of confidence that the response by another nuclear power would be predictable and proportionate. The particular first use might be estimated by the opposing country's observers to be greater than it actually was, or the use might have created more damage than expected (for example through greater-than-expected fallout). The opposing country might not have readily available weapons of the same yield or similar targeting options and decide to escalate. The political reaction in the opposing country might lead to escalation. In short, the possible causes for matters getting out of hand are endless.

To make deterrence work, a country must carefully consider its public attitude toward nuclear war and cautiously select its retaliatory options. This does not mean that the U.S. should have only the single strategic option of massive retaliation against cities. This country already has ample capabilities for lesser options, and it seems appropriate to have the flexibility, at a minimum, for possible responses to accidental or limited launches.

The Nixon Administration, however, is going beyond this. It is seeking the additional capability to attack efficiently large numbers of Russian missile silos. Not only might this counterforce option be destabilizing in itself but also the Administration's promotion of the option and its general public advocacy of a counterforce strategy might have a pervasive, if subtle, tendency to reduce the inhibitions against the use of nuclear weapons—in effect, to lower the "nuclear threshold." New bureaucracies, with vested interests in the hardware and rationales of a counterforce strategy, are created. In trying to gain public approval of new policies and programs, leaders find themselves taking more simplistic positions than the uncertainty of nuclear warfare warrants. In this climate some of the risks of nuclear war are downplayed. Unrealistically precise calculations suggest that limited nuclear war can be kept limited and even result in positive gains.

There are some disturbing parallels here to the vogue of limited conventional war in the early 1960's. In pushing for changes in conventional strategy and new procurement, advocates of limited conventional war ignored some of the pitfalls and costs of such a strategy. The searing national experience of the war in Vietnam was needed to demonstrate these oversights.

Exactly where the line should be drawn on "selective targeting options" is not at all clear. It seems most inadvisable, however, to take the gamble of developing missiles with improved counterforce capabilities, whether this is to match a specific Russian capability or for any other reason.

Opponents of U.S. counterforce improvements, nonetheless, must recognize certain practical limits to their arguments. Even if Congress declines to fund the new and accelerated development programs Schlesinger is proposing, continued U.S. testing of strategic missiles and various researchand-development efforts already under way inevitably will lead to some improvements in missile accuracy. (As Schlesinger has pointed out, some refinements in existing guidance systems will occur almost as a matter of course—through better software programs, greater purity in rocket fuel, better measurement of the earth's gravitational field and numerous other factors. The development of a terminally guided MARV, something further beyond the state of the art, requires more of a conscious bureaucratic decision to proceed.) Besides U.S. advances, moreover, Russian counterforce improvements are likely to continue, raising serious questions about Russian intentions.

Faced with these likely developments, the solution is still not to follow the Schlesinger approach. Rather, the solution should be to seek actively to negotiate for limits on MIRV's and for the reduction of vulnerable strategic forces.

Limits on MIRV's would be designed to slow the perceived threat to U.S. ICBM's, a Russian threat that many consider destabilizing. In return for the U.S. slowing certain of its strategic programs, for example, the U.S.S.R. might agree to limits on the deployment of the SSX–18, the "follow on" missile to the large SS–9. This would push at least a few years further into the future the time when analysts would estimate that only a particular level of Minuteman could survive a Russian counterforce attack.

Negotiating missile reductions represents another approach: to limit not only the threatening forces but also the threatened ones. This approach would essentially mean bilateral reductions in ICBM's, presumably in a way that would retire the more threatening ICBM's, so that the remaining ICBM's would be less vulnerable. Some asymmetrical reductions might also be considered. For instance, the U.S. could reduce its ICBM's, whereas the U.S.S.R. (having less to fear in the short run about the vulnerability of its ICBM's) could reduce some ICBM's plus other forces.

Reductions in the land-based missiles of both sides would reduce the importance of this strategic strike force. It would thereby undercut the rationale for an expensive contest of matching counterforce improvements. More important, it would reduce the greatest potential source of instability in a crisis. Both countries would have less incentive to adopt an unstable, launch-on-warning posture or to launch an attack out of fear of a preemptive strike.

The reductions approach has received support recently from such diverse sources as the Federation of American Scientists and Fred C. Iklé, director of the Arms Control and Disarmament Agency. It was even accorded the status of a possibility in Schlesinger's recent annual report.

Rather than focusing on how to match the U.S.S.R. in a particular capability when such matching does not bode well for either country, the strategic debate in the U.S. in the coming months should focus on MIRV limits, force reductions and other measures designed to minimize the chances of nuclear war and to decelerate the arms race.

[From the F.A.S. Public Interest Report, February 1974]

COUNTERFORCE 10 YEARS LATER: PLUS CA CHANGE

On January 10, 1974, Secretary of Defense Schlesinger revealed a quiet change in U.S. central war strategy. (See box, page 3). He announced that, several months before, he had begun the process of improving the accuracy of U.S. missiles, that we were now targeting Soviet military targets, and that we were preparing to fight less than all-out nuclear wars. This was a fundamental and far-reaching decision reversing a position which had previously been debated for more than a decade under the heading of "deterrence" versus "counterforce".

Several questions arise. First, why was the decision taken in secret when it is of such importance, and when it seems to contradict policy statements made by President Nixon, Senator John Stennis and others, only a few years ago.

Second, the decision is partly justified on grounds involving the SALT Agreements limiting missile numbers, but the decision is clearly *not* to be negotiable at SALT.

Third, will the decision encourage limited nuclear war both by acknowledging that we are prepared to fight a controlled nuclear war if initiated by the other side, and by making our own preparations for initiating one? Thus, will the decision enhance or undermine U.S. safety?

Fourth, will the decision make future SALT agreements more or less difficult? In what direction is the arms race now heading?

COUNTERFORCE VERSUS DETERRENCE

In the early fifties, the United States thought of nuclear war as a prolonged (sixty day) campaign of exhaustion. Both cities and military targets were to be devastated. Later, the United States gradually realized that its preponderance of strategic weapons should be aimed initially at the time-urgent targets that could retaliate against us—a counterforce strategy evolved. Still later, during the missile gap period, the United States was preoccupied with defending itself against counterforce threat-possibilities to its bombers, threats that never materialized.

But by 1962, it was evident that the United States would have far more missiles than the Soviet Union for several years—and more missiles than were necessary to strike Soviet cities. The excess of missiles had been purchased for esentially political reasons—Secretary McNamara did not feel that he could come into Congress with a request for fewer than 1,000 although it was conceded, inside the Administration, that 400 would do for military reasons. (By 1965, the United States had a four-to-one lead over the Russians at about 1,000 to 250, in land-based missiles). In 1962, Secretary McNamara said, in a famous speech at Ann Arbor:

"The U.S. has come to the conclusion that to the extent feasible, basic military strategy in a possible general nuclear war should be approached in much the same way that more conventional military operations have been regarded in the past. That is to say, principal military objectives, in the event of a nuclear war stemming from a major attack on the Alliance, should be the destruction of the enemy's military forces, not of his civilian population".

The rationale for this decision was not particularly strong. If we were not going to strike first, it was asked, would we not be aiming at only empty holes? DOD said the Soviets might have a "reload capacity". In fact, DOD was assuming, as usual, that the war would begin in Europe with a Soviet aggressive act and that the United States might well strike first on the nuclear level. Underlying the arguments and the rhetoric was an excess of missiles for which there simply were not enough civilian targets. Supply produced its own demand.

As the Soviet Union built submarines, Secretary McNamara moved away from this pronouncement. His rhetoric became that of "deterrence" rather than "counterforce". Undoubtedly, U.S. missiles remained targeted upon Soviet missiles. But the Soviet missile force was growing beyond the ability of the U.S. force to keep up—at least on a missile for missile basis. In the sixties, counterforce became a generally discredited term.

In the research institutes, however, there was a solution: MIRV. It could make each missile count for several. Thus it could make possible a continued economical effort to target many Soviet missiles. Secretary McNamara would not purchase MIRV for this (counterforce) purpose. But he would, and did, buy it to overwhelm any possible Soviet ABM. In this regard, it was the perfect penetration aid, requiring that each "decoy" be destroyed because each was a warhead.

This kept MIRV alive. And much was said about it being defensive only. It was argued that the small (2–10 times Hiroshima) size precluded use against enemy missile silos only. For President Nixon's assertions in this regard, see box above.

In fact, however, it was considered inevitable among the more sophisticated observers that the Defense Department could not be prevented from putting high accuracy on these small warheads. There were too many temptations. At that point, DOD would have a really potent counterforce threat.

We had the potential for 3,000 200-kiloton warheads on our 1,000 Minuteman missiles (three such warheads on each). And we had programmed 5,000 warheads on 31 Polaris submarines (16 missiles with 10 warheads each on each submarine of 50 kilotons each.)

The warheads were relatively small but, in such calculations, accuracy is much more useful than yield. An eightfold diminution in yield (megatonnage, payload capability) can be compensated for by a doubling of accuracy. Thus a giant Soviet missile with 25 megatons and ½ mile accuracy is only as effective as a U.S. one-megaton missile with 1/6th mile accuracy. The United States did indeed lead the Soviet Union in accuracy by a factor of two to three. And these accuracies were getting to the point where even with the smallest programmed Hiroshima-type bombs, hardened missile silos could be threatened.

Furthermore, as with Secretary McNamara, when there are too many warheads to target on civilian targets, what can one do or say to prevent the Defense Department from targeting military targets? And once this is conceded, what can one do to prevent the missile targeting from being done with high accuracy? Thus did cynics argue.

People did try. Senator Edward W. Brooke wrote a long series of letters to President Nixon and Secretary of Defense Laird. The responses were favorable in tone but equivocal read literally. The heart of the often repeated response was:

"We have not developed, and are not developing a weapon system having, or which could reasonably be construed as having, a first strike potential."

In addition, the President denied that he was funding a *specific* program for improving accuracy to which Air Force General Ryan had referred with pleasure and anticipation as providing "hard-target" killers. But this was all. The evident loophole ("reasonably be construed") is now being exploited.

Our own MIRV was first tested in August, 1968. By 1970, it was being deployed. It was evident to the same experienced observers that this deployment meant the beginning of the vulnerability of our own land-based force. The Soviet Union would never be stopped from catching up. On August 17, 1973 when the Soviet Union had finally and belatedly tested a MIRV, *five years late*, Secretary of Defense Schlesinger responded to a question about the chances for MIRV controls by saying:

"I think that the minimal point that one can make is that the Soviets are unwilling not to demonstrate a technology that the Americans have demonstrated. The imagery is something that presumably is not particularly appealing in the Kremlin."

If only we had argued this way in 1968 we might have tried harder to negotiate.

Now that our own MIRV is deployed, and the ABM danger has evaporated in a SALT Agreement precluding ABM, the question naturally and predictably arises in the Defense Department of completing the process—putting on the high accuracy.

The rationale being used is partly foreshadowed and partly new. In the foreshadow part, Secretary Schlesinger argues that the strategic situation is now so stable that a counterforce strategy cannot be considered a "first-strike" potential. After all, the Russians have submarines.

Presumably he does not argue that the Soviet Union will like it. When Secretary McNamara made his speech, Marshall Sokolovskii said "McNamara's statement shows concrete and practical evidence of preparation of a preventive war" (Red Star, July 19, 1962). And when the Defense Department, in 1969, projected similar Soviet capabilities against our land-based force, Secretary Laird said there was no question they were preparing a "first-strike" threat.

Secretary Schlesinger's new argument is based on asserting that the Soviet Union might, in 1980, have a counterforce capability itself if it learns what we know *now*.

"If the Soviets were able to develop these improved technologies presently available to the United States in the forms of guidance, MIRVs, warhead technology, at some point around 1980 or beyond they would be in a position in which they had a major counterforce option against the United States and we would lack a similar option" (January 10, 1973).

He goes on to say that this capability might be used in a novel way. The counterforce option he has in mind is selective, or reasonably all-out, attacks on U.S. land military targets notwithstanding the existence of a secure sea-based force. In effect, he fears that the increasingly stable nuclear balance might permit limited strategic attacks that avoided cities. The U.S. might then be faced with an ultimatum to avoid retaliation lest the Soviet attacks further escalate to cities. Presumably, the Soviet purpose would be a show of force.

These limited attack possibilities are not only feared by Secretary Schlesinger. They are also *welcomed*, as a way of solving a strategic dilemma in Europe. In arguing for flexibility before the Senate Armed Services Committee on June 18, 1973, Secretary Schlesinger said, in support of the plausibility of such attacks,

". . . or to take another example, the United States' pledge to come to the aid of the NATO alliance, which would mean that we would be forced if we had to rely exclusively on the assured destruction options, to destroy Soviet cities and in consequence of this have destruction of American cities". He would prefer limited strategic attacks instead. Indeed, such demonstration attacks on a very limited basis—are said to be programmed already in the event of war in Europe.

It seems evident that these apocalyptic considerations are sufficiently important and interesting to the body politic that they should have had much greater airing. As late as two years ago, Senator John Stennis, Chairman of the Armed Services Committee, was arguing in support of the Defense Department against putting high accuracy on our MIRVed warheads:

"DOD AND SENATOR STENNIS OPPOSED COUNTERFORCE IN 1971

"On October 5, 1971, Senator James L. Buckley (Conservative—Republican, N.Y.) proposed amendment No. 448 to the Military Procurement Authorization and asked that "not less than $12,000,000 shall be available only for the purpose of carrying out work in connection with providing counterforce capability for the Minuteman III system."

"Scattered excerpts from the debate follow:

"Senator Buckley: The amendments I have offered will not provide us with a first-strike capability for two reasons.

"First of all, these are designed only to modify the warheads within existing missiles. We simply do not have enough missiles to mount enough warheads. For a first-strike effort, with the improved accuracy, we should need in excess of 12,000 warheads if we were ever to try a first strike against the Soviet Union . . . [Editor's note: 8,000 are now programmed on missiles alone].

"Second, it should be kept in mind that there are innumerable situations where flexibility is urgently desired. Let us assume that either from the Soviet Union or from some other country there are indications that they acquired the capability for a first strike capacity. Let us assume that their first strike knocks most or all of our strategic weapons. We would then have our submarine and additional weapons. We would then face the choice of aiming those at the civilian population of the enemy, thereby destroying tens of millions of human beings in the Soviet Union or trying to defend ourselves by directing our missiles at a second strike against the remaining weapons held by the enemy.

"Senator Stennis: The explanation of this amendment includes the word "counterforce". Those familiar with these terms know that essentially means a first-strike capability. We have stayed within the terms of deterrence, deterrence, deterrence. That is what we are talking about at the SALT talks.

* * * * *

"Here is what [the Defense Department says] in their position paper on proposed Amendments No. 448 and 449.

" 'The Defense Department cannot support the proposed amendments. It is the position of the United States to *not* develop a weapon system whose deployment could reasonably be construed by the Soviets as having a first-strike capability. Such a deployment might provide an incentive for the Soviets to strike first.'

* * * * *

"I stand squarely on that ground. It is not often that the Department of Defense comes out against an amendment that would put more money in a bill.

". . . we do not need this type of improvements in payload and guidance now, the type of improvements that are proposed, in order to have the option of attacking military targets other than cities. Our accuracy is already sufficiently good to enable us to attack any kind of target we want, and to avoid collateral damage to cities. The only reason to undertake the type of program the amendment suggests is to be able to destroy enemy missiles in their silos before they are launched. This means a U.S. strike first, unless the adversary should be so stupid as to partially attack us, and leave many of his ICBM's in their silos for us to attack in a second strike." (See pages 35059, 35062, 35064 of Congressional Record, Senate, October 5, 1971).

COUNTERFORCE AND SALT

The counterforce decision is put forward by the Secretary as if it had much to do with SALT—in fact, however, it is non-negotiable. He does emphasize that we cannot permit the other side to have a relatively credible counterforce capability if we lack the same" (January 10). And he emphasizes that the other side might have the capability by 1980 in the form of 7,000 one-megaton warheads. (The U.S. will soon have more than that number of warheads, and, as noted, with the accuracies anticipated these will be quite adequate for target-killing. Indeed, for limited strikes one wants *less* collateral damage; a force of smaller warheads would be better.)

But he notes that the targeting strategy change "has taken place" and that it is "quite distinct" from our SALT position (January 10, 1974 backgrounder). In this sense, the current furor about SALT and the Interim Agreement is an irrelevant smokescreen. Even if the SALT Agreement had provided for forces of quite equal size, the Secretary would presumably have wanted this same targeting doctrine and the same accuracy. Why?

It is true that the Secretary puts great emphasis, as do military men, on the politi-

cal consequences of letting the other side get more than our side possesses in some dimension of armament. It is assumed in such statements that the side with the most megatonnage might be able to frighten the other. (Why the side with the most warheads or accuracy—our side—might not be able to gain the upper hand is never clear.)

Indeed, no measure is sufficient to make much difference. The fact is, and the literature of "limited strategic attacks" reveals it, that shows of force or resolve in a contest where neither side can disarm the other have to do with psychology rather than with weaponry. If one is "chicken" no amount of additional megatonnage will help. If one is bold, and willing to take risks to coerce the other side, no weapon inferiority need matter as long as a secure retaliatory force is maintained.

These facts are much blurred in the declarations of the Secretary of Defense, which are further tied to SALT negotiating strategy. He notes with repeated emphasis:

"We must maintain essential equivalence between the forces available to the Soviet Union and the forces available to the United States. There should be no question in the minds of the Soviets as we negotiate with them of our willingness to achieve that essential equivalence" (January 10).

Even as SALT strategy, this can be questioned. Why should there be "no doubt"? Might we not, just as well, argue that there should be "no doubt" in Soviet minds that the U.S. was not going to try to keep up with the nuclear Jones mindlessly? Obviously, much turns on the felt political relevance of militarily irrelevant force imbalances. Unfortunately, on-going SALT negotiations tend to exacerbate concern about imbalances that would otherwise be seen to be politically irrelevant as well.

EVOLUTION OF NIXON ADMINISTRATION DOCTRINE

The link between strategic weapons and resolve has long preoccupied this Administration. The link began to be emphasized in the 1970 State of the World Message where the Administration began to take pot-shots at the existing strategic posture. It criticized the theory of "assured destruction" as one which believed:

"Deterrence was guaranteed if we were sure we could destroy a significant percentage of Soviet population and industry after the worst conceivable Soviet attack on our strategic forces".

It suggested that the previous Administration believed that, if this criterion were satisfied, "restraint in the build-up of strategic weapons was indicated regardless of Soviet actions."

The Administration called for "strategic sufficiency" which, despite its name, was designed to require more weapons than "assured destruction" under a somewhat cooler label than the discredited "strategic superiority".

There was not—as there had been in the late fifties—concern that the Soviet Union might be able to disarm us. Significantly, the 1970 State of the World expressed concern about the "Soviet threat to *the sufficiency of our deterrent;* the 1971 statement talked of the possibility that the Soviet Union might seek forces that could destroy *"vital elements* of our retaliatory capability" (italics added).

Indeed, the 1970 statement indicated that the overriding purpose of our strategic posture was *political:* "to deny other countries the ability to impose their will on the United States and its allies under the weight of strategic military superiority".

In both the 1970 and 1971 statements, the Administration emphasized that it must not be "limited to the indiscriminate mass destruction of enemy civilians as the sole possible response to challenge" (1971). (It also mentioned, without much conviction, that "sufficiency also means numbers, characteristics and deployments of our forces which the Soviet Union cannot reasonably interpret as being intended to threaten a disarming attack".)

In 1972, the President re-emphasized what he had said in 1971:

"In its broadest political sense, sufficiency means the maintenance of forces adequate to prevent us and our allies from being coerced. *Thus the relationship between our strategic forces and those of the Soviet Union must be such that our ability and resolve to protect our vital security interests will not be underestimated"* (italics added).

In short, the Administration had shifted the standard for strategic forces from a measurable strategic goal to a goal that was open-ended, depending ultimately on its own sense of psychological vulnerability. It was concerned that its sense of "resolve not be underestimated". But in a balance of terror, as noted, no amount of additional weapons can be certain of satisfying that criterion. Thus, sufficiency, defined this way, was an open ended invitation to weapons procurement.

In short, the decision to change our central war strategy was really quite independent of SALT. It grew out of the Administration's unwillingness to fall behind by any measure, no matter how militarily irrelevant the measure. It grew out of the double standard with which the Administration strategists cannot help but measure what constitutes "essential equivalence". And it grew out of the excessive number of warheads which we have programmed—an excessive number that forces the Administration to targeting and accuracy decisions for Parkinsonian reasons. The problem is simple: *weapons in search of a target.*

COUNTERFORCE AND THE LIKELIHOOD OF WAR

The United States is now legitimizing the notion of limited strategic attacks. In preparing for the possibility ourselves, and in talking of the fear that the Soviet Union might engage in this possibility, we are improving the prospects for limited nuclear war. This assertion can hardly be doubted. It takes "two to play" controlled war and if the other side is clearly not prepared, one would be foolish to try. By advertising our consciousness of the possibility, we are moving a giant step closer to having the Russians try out the ultimatums that we previously shrugged off as an impossible joke. This is not good.

Furthermore, if we plan limited nuclear attacks and talk about it enough, to this extent, we might try such a strategy. This is a dangerous course. The Russians are less likely than we to have invested in, and to be able to rely upon, the command and control that is necessary to play limited nuclear war. They, more likely than we, would just salvo their weapons or not fire at all. If counterforce targeting means kidding ourselves about these facts, then the security of the United States will be undermined by it.

Finally, the Secretary does not plan to purchase just the forces necessary to strike a few Soviet targets as a show of force: this ability we have already had for many years. He plans to purchase high accuracy and install it on the Minuteman and Poseidon MIRVs. The result will be an enormous boost in the capability of our forces to attack all of Soviet land-based missiles.

DOD thinks that by not specifying exactly what military targets they are planning to aim at, they can confuse the issue. But once higher accuracy is purchased, it will provide enough capability to attack all of the Soviet retaliatory weapons—obviously these will then be the ones aimed at. And high accuracy is needed for nothing else.

SALT AND COUNTERFORCE

The Interim Agreement limits the number of silos in which the two sides can place their missiles. Thus it pins down the targets at which counterforce weapons would be aimed. How long will the two sides be willing to abide by the agreements limiting missile force numbers if these forces become vulnerable?

Growth in missile forces is probably not the answer to their dilemma, of course. New forms of missile deployment would have to be arranged. With each side gaining several thousand target-killing warheads, multiplying the existing forces in number will not seem cost-effective. After all, it is cheaper to buy an attacking new warhead than an entirely new defensive missile.

One answer, of course, is the one FAS provides. Throw away the land-based missiles and they will cease to be aimed at each other, with the benefits described on pages 1 and 2.

It should be noted, however, that this solution will not prevent the targeting of other less important military targets. Nor will it prevent shows of force, limited nuclear war (or limited strategic attacks) or whatever. These could still be carried out by submarine based missiles.

What our solution will provide, however, is a very small difference between the results of striking first and of striking second—in this sense it will increase the stability of the nuclear balance by providing the smallest possible incentive to strike first in a major way.

In the absence of such a solution, there will presumably be land-based missiles in other modes: mobile-based or based in silos under mountains and so on. Nothing could be more ridiculous at this stage of the arms race. But in light of the history summarized in this Report, no arms race procurement possibility can be ruled out as too bizarre.

RISE AND FALL OF NUCLEAR SURPRISE ATTACK

Consider the decline of the nuclear surprise-attack scenario. It began in the late fifties when exaggerated estimates of Soviet missile production suggested the USSR would have missiles while the U.S. still had only bombers.

Scenario (1958–61): The USSR launches large numbers of missiles at U.S. bombers on their bomber bases, destroying the deterrent.

Problems: The attack is hard to effect because the bomber bases in question were all over the world; to hit them at the same instant meant launching the attacking missiles at different times, thereby providing some warning. Also, U.S. had nuclear weapons in Europe and on carriers. (Especially important, the Soviets did not in fact ever have the missiles on which the attack is premised.)

But, at least, the USSR attack made sense on paper and in concept.

By the mid-sixties the situation was much different. The United States had 1,000 land-based (Minuteman) intercontinental missiles and a fleet of 41 ballistic-missile-firing (Polaris) submarines, with 16 missiles each, more than half on station at any one time. The Soviet attack scenario became at least ten times less plausible. Here it is.

Scenario: (mid to late sixties): The USSR launches missiles attacking not only U.S. bombers but 1,000 U.S. missiles as well. In order to cope with the retaliatory strike from our Polaris submarines, the USSR plans to shoot down hundreds of such missiles with an antiballistic missile system.

Problems: No sane military or civilian planner in any country would rely upon a ballistic missile defense to shoot down hundreds of missiles. For this reason, this attack did not make sense, even on paper. (Further, the Soviet Union did not have a ballistic missile defense. Still further, the Soviet Union did not have the capacity to destroy even the U.S. land-based targets.)

Notice especially, how much harder this is to believe than the earlier scenario. This plan may make conceptual sense but it does not make practical sense.

In recent years the scenario *further* declined:

Surprise Attack Scenario: (1969–71): The Soviets launch large numbers of missiles against our land-based missiles and bombers.

Problem: No solution whatsoever is provided for neutralizing our sea-based deterrent. The scenario is badly incomplete.

Notice that, by this time, the Soviet Union can not even be assumed to have a ballistic missile defense. By 1972, there is even a SALT agreement precluding all but two (strategically irrelevant) missile defense sites. As a result, the surprise attack scenario for this period is simply incomplete—on paper or in concept. In short, by 1970, there was no surprise attack scenario based on current Soviet forces or any proclaimed extrapolation of them!

The result was a new political addition to the scenario:

Surprise Attack Scenario (1973—): The Soviet Union launches large numbers of missiles against U.S. land-based missiles and then issues an ultimatum against U.S. responses with sea-based ballistic missiles.

Problems: The attack on our land-based forces does not significantly change the deterrent situation. Why then would the Soviets risk it?

Our sea-based forces could respond against any Soviet targets they wish, issuing a counter ultimatum—that full scale attacks on U.S. cities would result in a full scale attack on Soviet cities.

Soviet attacks on our land-based forces would inevitably cause widespread fallout and many millions of casualties. No Soviet planner could assume that we would carefully and restrainedly calculate after that. Nor could he be sure that we could distinguish this attack from an all-out attack. Nor could he be sure that we could restrain our sea-based forces with suitable communications once the crisis began for our airborne bombers.

The entire scenario is bizarre—enormous risks for no point. The enemy disarms his land-based missiles in order to disarm our land-based missiles (with the sole advantage that they are disarmed over our territory rather than over his). Each side retains a deterrent as before, based on sea-based missiles.

One can only imagine that the Joint Chiefs have been smoking pot. The most incisive way to see the flaw in this scenario is to imagine that, some months before the attack, the United States had unilaterally dismantled all of its land-based forces. What would be the significance then of this scenario? We would have removed the targets for the attack but would have retained a totally adequate strategic deterrent.

STATUS OF THE FAMOUS FOUR CRITERIA

In 1971, the Administration allowed as it had four secret criteria for determining what strategic forces it needed and how to negotiate. For those who are insufficiently cynical about such things, it is revealing to see how little attention is paid to them.

By 1972 and 1973, these criteria were public. By now they seem to have been all but abandoned. Of course, the first criterion is still with us: "Maintaining an adequate second-strike capability to deter an all-out surprise attack on our strategic forces."

But the fourth criterion "Defending against damage from small attack or accidental launches" was given up when the SALT agreement prohibiting a thin ABM over the entire country was reached.

The third criterion was:

"Preventing the Soviet Union from gaining the ability to cause considerably greater urban/industrial destruction than the United States could inflict on the Soviets in a nuclear war".

Without doubt the destructive capabilities of each side have reached the point where any differences are irrelevant. But the Administration itself signed an Interim agreement at SALT which did provide the Soviet Union with much greater payload capability.

Finally, the last criterion is very much at issue today:

"Providing no incentive for the Soviet Union to strike the United States first in a crisis".

The only method for doing this today is to get rid of land-based missiles. Indeed, destruction of U.S. Minuteman missiles—whether done unilaterally or as part of a bilateral reduction—would dramatically reduce the difference between a U.S. retaliatory blow before or after a Soviet attack. Thus it would precisely fulfill the criterion above by providing no Soviet incentive to strike first.

[From Arms Control Today, January 1974]

FLEXIBILITY: THE IMMINENT DEBATE

In his 1970 "State of the World" message President Nixon asked, "Should a President, in the event of a nuclear attack, be left with the single option of ordering the mass destruction of enemy civilians, in the face of the certainty that it would be followed by the mass slaughter of Americans?" While it was obvious that the President believed that he needed greater flexibility in the employment of nuclear weapons, the specific implications of this remark for American nuclear strategy and strategic weapon programs were unclear at the time, and remained so for the next four years. Now, it is expected that the missing details at last will be spelled out in the President's 1974 "State of the World" message and in Defense Secretary Schlesinger's defense budget report.

Congress and the American people would do well to scrutinize these documents closely because it is very likely they will raise fundamental questions for the nation concerning what type of nuclear doctrine it should adopt. Furthermore, the choice of nuclear doctrines will have obvious consequences for American political relations, arms control efforts, and weapon procurement policies. Most importantly, the issue will not be whether the U.S. *should or should not* adopt greater strategic flexibility in the employment of its nuclear weapons, as some would imply, but rather *what kinds of actions* in the name of strategic flexibility would most contribute to American security—and what kinds would most detract from it.

While "strategic flexibility" is a concept which does not lend itself readily to definition, former Defense Secretary Richardson explained it last year in congressional testimony as "having the plans, procedures, forces, and command and control capabilities necessary to enable the United States to select and carry out the response appropriate to the nature and level of the provocation." Even more recently, Defense Secretary Schlesinger stated that a change in the "targeting strategy" of the American strategic forces had taken place and therefore the U.S. now has "targeting options which are more selective and which do not necessarily involve major mass destruction on the other side."

These statements imply—erroneously—that the previous American doctrine of "assured destruction" lacked the capacity for flexibile options. The implication that new types and numbers of strategic weapons are required is similarly groundless. In a recent article in *Foreign Affairs* Wolfgang K. H. Panofsky pointed out that there is no inherent technical reason that prevents existing American retaliatory forces from being employed in a limited manner. Similarly, as Schlesinger himself recently reaffirmed, the U.S. does have strategic weapons which could be used in a "limited counter-force role." Furthermore, the U.S. has maintained such a capability for some time: Alain C. Enthoven and K. Wayne Smith in their 1971 work, *How Much Is Enough?* noted that even with the "assured destruction" doctrine, American strategic weapons could be used to perform "limited and controlled retaliation."

What neither the U.S. nor the Soviet Union has today is an *efficient* counterforce capability against *hard targets* or *hardened missile silos*. This type of counterforce capability would be comprised of a substantial number of nuclear weapons, each with a high probability of destroying a hardened missile silo. For example, the U.S. could presently destroy some of the Soviet missile silos with a high degree of confidence, but only "inefficiently"—by means of targeting 3 or 4 Minuteman missiles on each Soviet silo. With an "efficient" counterforce capability the number of missiles required to be targeted at each silo might be reduced to the more favorable ratio of one or two Minuteman missiles per Soviet missile silo.

In sum, the doctrine of mutual assured destruction (MAD) characterized as inflexible by President Nixon and other critics is not inflexible at all.

Several events during the first term of the Nixon Administration have fundamentally increased the degree of strategic flexibility available to the U.S. and should not be overlooked. For one thing, the ABM Treaty has significantly enhanced the ability to respond at a low level since every small attack does not have to overwhelm the adversary's defenses. In addition, noteworthy advances in command and control capabilities can now make available to the President an unlimited number of strategic targeting options for the American missile forces. One example of this is the current deployment of a computerized retargeting system which vastly reduces the amount of time required to change the target selections of each missile. Therefore, it is clear that not only did the previous American forces contain a substantial degree of flexibility, but present American forces have acquired even more in recent years. If the present nuclear force structure is already inherently flexible, then what further capabilities could the President and Defense Department desire? Although it is likely that certain improvements could be made in U.S. command and control capabilities to increase flexibility, the only step which remains to be taken in the area of counterforce capabilities is the development of an efficient "silo-killing" counterforce capability. While at the present time the Nixon Administration has not explicitly stated that the development of such a capability is an American strategic objective, Secretary Schlesinger in recent weeks has implied that the capability to destroy Soviet military targets, including missile silos, would be one way of enhancing American "strategic flexibility." The forthcoming foreign policy message and defense report are expected to provide the details.

In our view the development of such a capability would be not only unwarranted but also dangerous. Moving to a counterforce doctrine would also represent a major policy shift since in the past President Nixon and other top officials have frequently assured the Congress and American public that the U.S. would neither develop a counterforce capability nor any weapons "which the Soviets could construe as having a first-strike potential." While it is possible to argue that "technically" a hard-target counterforce capability does not constitute a *disarming* first-strike potential since both sides will maintain relatively invulnerable sea-based missiles and bombers, the fact remains that both nations will *perceive* such a capability as an attempt to achieve such a capability and therefore highly provocative, regardless of what is "technically" correct. It is difficult

to believe that those Americans who for years have been most concerned about the vulnerability of the U.S. ICBM force to a Soviet MIRV attack will not be able to comprehend that even a "limited" U.S. counterforce potential can generate uncertainties in Soviet eyes about our intentions, create instabilities in the strategic balance, and foster suspicions between the two nations. What are Soviets doing right now?

The acquisition of such counterforce capabilities would increase the likelihood of nuclear war and the potential for crisis instability. The likelihood of nuclear war will be increased since a counterforce doctrine and related capabilities will make nuclear weapons seem more "useable" in addition to making their attractiveness as a viable policy option superficially greater. Crisis stability will be decreased since with hard-target counterforce capabilities and vulnerable land-based forces each side will perceive in a crisis situation the incentive of even a limited first-strike upon its adversary's missile force. The attractiveness of counterforce targets in a second-strike attack could never equal those of a first-strike attack. Consequently, an incentive will exist for the side which seizes the initiative to strike first. Yet, any benefits gained from such a first-strike attack would be only short-sighted and illusory since each nation will still retain more than enough nuclear weapons to ultimately destroy the cities of the other. In addition, the development of a hard-target counterforce capability will only promote further strategic arms competition between the U.S. and Soviet Union, while impeding progress in arms control efforts such as the SALT II negotiations and the Comprehensive Test Ban.

In light of the disadvantages of such a capability, the United States should make the basic choice to increase strategic flexibility through further improvements in command and control capabilities rather than by the development of a provocative hard-target counterforce capability.

Finally, the ultimate solution to the problem of an increasingly vulnerable land-based missile force will be found, not in the development of more efficient "silo-killing" weapons but rather in the negotiation of mutual limitations on MIRV flight-testing and deployment as a preface to the eventual reduction of the land-based missiles on both sides.—*John C. Baker.*

[From the Economist, Mar. 2, 1974]

THE SCHLESINGER GAMBLE

After the energy conference, Nato: Mr. Kissinger has scored another point in America's relations with Europe. He has been arguing that the United States and its European allies need a better method of regular consultation. Now, from next month, the political heads of 14 foreign ministries—everybody in Nato, including France, except Iceland—will meet frequently with the Nato permanent council. This provides a new level of consultation, between the twice-yearly meetings of ministers and the stodgy gatherings of the permanent council meeting alone. The change is needed: the recent publication of the American defence budget is a vivid reminder not only of the preeminence of the United States in matters of defence but also of the two-way dependence with its allies.

The new items in the American defence budget, plus some major changes in emphasis, have set the United States off in a fresh direction. This budget is very much the creature of the new Secretary of Defence, Mr. Schlesinger. The hallmark is flexibility. He wants to have several possibilities for response in any situation. Not only does he want the power to fight a conventional war, he wants a rich variety of nuclear options as well, so that even nuclear action can be tailored to the shape of any particular crisis.

There are three distinct results of this budget; all are, or ought to be, highly controversial, and not looked upon simply as this year's ration for the American military establishment. First, the bad news for America's European allies is that Mr. Schlesinger's nuclear flexibility is apparently to be achieved at the expense of some kinds of conventional forces. Although widely billed as America's biggest defence budget since the second world war, it is actually smaller in real money terms than any since 1951. It does not directly reduce the American forces in Europe, but it does cut about 20,000 men out of the armed services as a whole. If this kind of budget becomes routine over the next few years it will certainly generate pressures of its own for reductions in Europe; a sizeable part of the Defence Department could find itself allied with the isolationists in Congress.

The second result of this budget will be to make the current round of Strategic Arms Limitation Talks (Salt) much more difficult. The negotiators are confronted with America's proposal to produce lots of different new weapons. There are now not only bombers and land-based and submarine-carried missiles (and numbers of warheads) to be considered. There is a new quiet missile submarine, smaller than the 24-missile Trident; there are missiles with maneuverable warheads; there are also, in one of the sharpest budget increases, new cruise missiles which can be launched from submarines or aircraft. None of these new weapons is here yet; most are years away. But the American defence budget, with its tradition of revealing nearly everything about American plans, is itself a major instrument in arms politics. And this one, with its bewildering array of strategic possibilities, cannot fail to make Salt-2 a very complex operation indeed.

The third result of this budget may be a sharp acceleration of the arms race. The Americans' nuclear strategy has passed through several distinct stages. There was President Eisenhower's "more bang for the buck", which was massive nuclear retaliation for any attack by the Soviet army. This was followed by flexible response, which has never seemed entirely convincing because Nato has never been willing to provide enough troops to hold off a Soviet attack for more than a few days. Then the advent of anti-ballistic missiles (ABMs) threatened to break the nuclear balance. The Salt-1 agreement tried to put the lid back on this box by limiting the numbers of ABMs. But in retrospect Salt-1 may have been a hollow triumph; certainly the tacit agreement by both sides to deploy only one of their two allowed ABM systems was due in large part to the realisation that offensive technology is moving faster than defence. The new American budget pushes this technology a stage further with all its hints of new attacking weapons to come. The nuclear arena is, once again, the centre of the American-Russian competition.

SEE WHAT WE CAN DO

Of course, the American budget is not the only factor which threatens to destabilise things. The Russians have built a lot more missiles over the past few years than the Americans have, and have lately tested several new long-range missiles; they have also developed multiple independently-targetable re-entry vehicles before western intelligence predicted they would. Mr. Schlesinger's announcement that some American warheads are being re-targeted on to Russian missile sites is part of the response to that. (It is also the result of the increased number of Poseidon missiles in America's inventory. With Poseidon's multiple warheads, there are so many warheads available that they are literally running out of city targets.) The budget is another part.

So this year's American defense proposal—which is all the budget is at this point—may simply be a historical milestone in a process that began several years ago. There is a strong argument that the nuclear flexibility this budget represents can be used to make war less likely. And if the budget brings home to the Russians the breathtaking range of possibilities available to the technological power of the United States, Mr. Brezhnev may decide to make Salt-2 the great breakthrough to cooling off the cold war which most of the world hopes it will be. But if Salt-2 fails, 1974 will have introduced the idea of a flexible nuclear response and could be the beginning of an extremely expensive round in the arms race.

Mr. KENNEDY. Mr. President, I would like to associate myself with the remarks of my distinguished colleague from Massachusetts. I believe there is a strong case against developing an increased capacity to destroy Soviet land-based missiles.

First, it is an illusion to believe that the United States can develop a capability for limited nuclear war that will significantly reduce casualties in a war with the Soviet Union. Even if both sides directed highly accurate weapons against exclusively military targets, the associated civilian damage would be immense, both from direct blast effects and from fallout. Casualties would still be in the millions on both sides.

To be sure, it is important for the United States to have many options in its nuclear strategy. Yet we have had these options for many years, including the targeting of many of our weapons against Soviet military sites. Having options might, indeed, increase the chances of stopping a nuclear war—especially one that started by accident. But we would only fool ourselves if we believed that these options—or the new programs we are considering—would in a nuclear war prevent death and destruction the like of which has never been seen on this planet.

Second, we must consider the risks of destabilizing the balance of mutual assured destruction between the two superpowers. It may be that hard analysis would indicate that even a U.S. ability to destroy the Soviet Union's land-based missiles would not provoke them to launch a preemptive attack against us, and that we would not be provoked to launch a preemptive attack if the Soviet Union could destroy our Minuteman and Titan missiles. There are simply too many nuclear weapons on both sides that would still get through—bombers, weapons based at sea, and land-based missiles not effectively destroyed—for either power to escape massive destruction in any nuclear war. Such a war would remain an act of insanity, and would most likely end civilized life in our two countries and elsewhere.

Yet even if the possibility of a successful attack against land-based missiles alone would be unlikely to provoke a nuclear war based on cold logic, we must still consider the imponderables—the psychological factors that so often govern men's actions. Any country whose land-based missiles were vulnerable to destruction in a first strike would be likely to consider adopting a strategy of "launch on warning," thus returning us to the hair-trigger days of the 1950's. This strategy might be adopted out of fear—

wrongly in my judgment—even though other weapons systems remained invulnerable. Yet no national leader—either here or in the Soviet Union—should once again be faced with the awful responsibility of potentially deciding on nuclear war in the few precious minutes between the word of an impending attack and its occurrence. No leader should be placed at the mercy of fallible machines to tell him whether or not an attack has actually been launched.

Each superpower has gained from the sure knowledge that a devastating nuclear response is possible, what ever the other side does first. In no way should we undermine that strategic and psychological assurance—which underpins the current relaxation of tensions between the superpowers. And we should demand that the Soviet Union take no action that would do likewise.

Third, I concur with Senator BROOKE that it would be very difficult for the Soviet Union to distinguish between developments we make in the yield, accuracy, and maneuverability of U.S. warheads, in order to destroy Soviet land-based missiles; and the actual deployment of these weapons. Unlike deployed missiles, themselves, these new warheads cannot easily be counted—if at all. Hence, once development is completed, the Russians will never be entirely sure that we have not deployed them. They will very likely act as though we had done so, just as our military planners believe that later in the 1970's they will have to count on a full deployment of Soviet MIRV's, whether or not Moscow actually decides to follow this course.

The time for restraint, therefore, is now, before new doubts are raised in the minds of Soviet planners about our intentions, and before they use these doubts to argue for the building of yet more Soviet nuclear weapons.

Finally and most important, I believe we must assess very carefully the effect of these new developments on the prospects for reaching a firm agreement at the SALT II talks—an agreement in the interests of both sides. To be sure, we must be prepared to meet any Soviet challenge to our ability to respond effectively to any Soviet nuclear attack. To be sure, we must be mindful of the relative balance of nuclear forces on both sides for psychological reasons. We must seek a substantial overall equality, in both quantitative and qualitative terms, between the nuclear forces of both sides. We must seek by every means to gain Soviet restraint in the arms race—restraint particularly in the possible deployment of new, large missiles which the Soviet Union has been testing.

Yet it is important at this critical stage of arms negotiations for the United States to take no action that is likely to stimulate further Soviet nuclear weapons deployments. For if we do so, we will only play into the hands of the Soviet marshals, against those officials of the Soviet government who may genuinely seek an end to the nuclear arms race.

Following my trip to the Soviet Union last April, I am firmly convinced that it is possible to reach an effective SALT II agreement, provided that both sides are prepared to exercise restraint. And I am even more convinced that the time to do so is now. Secretary Kissinger himself has stressed the problem of coping with a rapidly-approaching nuclear environment in which there are thousands and thousands of nuclear weapons on both sides, of every conceivable type and characteristic. It will not be easy to cope with the growth of nuclear technology in any event; but it will be immensely more difficult if either side goes forward with new deployments or develops new capabilities that are read by the other side as implying new deployments.

These new U.S. hard-targeting programs would take several years to develop, and would not improve our ability to survive a Soviet first strike and respond effectively. But if that is true, then we have nothing to lose and everything to gain by waiting—waiting to see whether a small measure of U.S. restraint will lead to the Soviet restraint that we earnestly seek in deployment of new, large missiles.

In light of the limited accomplishments in arms control at the last summit—a failure to make any substantial progress—and in light of the imperative need to move forward at SALT II, I believe that we should not muddy the diplomatic waters. We should hold off on these programs, and challenge the Soviet Union to hold off on its new deployments.

Mr. President, it is for these reasons that I join with Senator BROOKE in opposing these new research and development programs.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the pending amendment, No. 1836, be temporarily laid aside and that I be permitted to yield the floor to the distinguished Senator from Massachusetts (Mr. KENNEDY) so that he may call up his amendment.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Will the Senator yield briefly?

Mr. KENNEDY. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the final vote on the pending business occur at 4:45 this afternoon.

Mr. EAGLETON. Is that on the pending amendment?

Mr. MANSFIELD. The pending business, the bill.

The PRESIDING OFFICER (Mr. HELMS). Does the Senator also ask that rule XII be waived?

Mr. MANSFIELD. Yes.

Mr. GRIFFIN. What about the vote on the Eagleton amendment?

Mr. MANSFIELD. That is on controlled time. I do not anticipate that the opponents will consume anywhere near the 2 hours that have been allotted.

Mr. KENNEDY. Mr. President, reserving the right to object, I have an amendment I would like to be able to offer. I have discussed it briefly with the Senator from Arkansas. He has indicated a willingness to take it to conference.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. I want to make sure that we will have an opportunity to consider the amendment and discuss it briefly. I am not interested in an extended period of debate.

Mr. McCLELLAN. Mr. President, I was not in the Chamber a moment ago. What is the request?

Mr. MANSFIELD. That the vote on passage occur at 4:45.

Mr. McCLELLAN. I have no objection, I am perfectly willing.

What is the question of the Senator from Massachusetts?

Mr. KENNEDY. It is with respect to my amendment, which we discussed. I understood that we were going to have a brief exchange.

Mr. McCLELLAN. I indicated to the Senator that I would be willing to take the amendment to conference, so that we would not unnecessarily take up a lot of time arguing it and discussing it. If the Senator is willing to do that, I think we can proceed.

Mr. KENNEDY. The distinguished senior Senator from Missouri has been extremely interested in this matter, and I am wondering whether I could have an opportunity to talk with him briefly, and then if the majority leader would propound such an agreement, I am sure there would be no objection.

Mr. EAGLETON. I can say, on behalf of my colleague, that he would be amenable to the unanimous-consent request.

Mr. MANSFIELD. Does the Senator want a quorum call?

Mr. KENNEDY. Yes.

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

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I wish to repeat my earlier unanimous-consent request that the vote on final passage occur at the hour of 4:45 p.m. and that rule XII be waived.

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

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW, AND FOR SCHEDULE OF BUSINESS

Mr. MANSFIELD. Mr. President, if this bill is disposed of tonight, I ask unanimous consent that the Senate convene at 9 a.m. tomorrow; that there be an appropriate period for the recognition of special orders and the joint leadership, with a brief morning hour; and that the vote on passage of the State, Justice, and Commerce appropriation bill, which will be the pending business, occur not later than 3 p.m. tomorrow, with rule XII waived.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 16243) making appropriations for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes.

AMENDMENT NO. 1835

Mr. KENNEDY. Mr. President, I call up my amendment No. 1835.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

Mr. KENNEDY's amendment (No. 1835) is as follows:

On page 50, line 21, insert a new section as follows:

SEC. .(a) No funds appropriated for the use of the Department of Defense by this or any other Act in fiscal year 1975 may be used for the purpose of stockpiling war materials or equipment for use by any Asian country except to the extent authorized by title VII of this Act or by the Foreign Assistance Act of 1961 or the Foreign Military Sales Act.

(b) Any materials or equipment stockpiled by the Department of Defense on the date of enactment of this Act for future use by any Asian country may not be transferred to any such country except to the extent such transfer is specifically authorized by law.

Mr. KENNEDY. Mr. President, this is an amendment that deals with the war reserve stocks for allies. The amendment was initially accepted by the Senate last June, as part of the Defense Authorization bill, but it was dropped in conference because of the opposition of the House conferees. Hopefully, they will have a different attitude this time in conference.

Specifically, Mr. President, this amendment will prohibit $529 million from being used for war reserve stocks for allies. This ambiguous account is reportedly used to obtain weapons and ammunition on a contingent basis for the support of forces in the event of a future war involving South Vietnam, South Korea, or Thailand.

This new funding account, quietly built up in the last 2 fiscal years, has not gone through the authorizing committees of the Congress. It is a back-door means of bolstering increased procurements by the Defense Department.

When the disguised account was discovered by Senator FULBRIGHT last spring, the Defense Department explained it as being used for supporting these three allies—South Vietnam, South Korea, and Thailand. At the same time, the Defense Department stated that the equipment remained in stockpiles controlled by the United States. However, the Department would not state that, in the event of hostilities, congressional authorization was required before these weapons could be turned over to other countries.

In fact, when the General Accounting Office reported its findings to the Senate Foreign Relations Committee last month, the Defense Department objected to the GAO's use of the word "authorization" as being required prior to the transfer of stockpiled items to these Asian allies. The Department argued instead that only "consultation" with the Congress was required.

I find this appropriation objectionable on two counts. First, it could mean that congressionally established ceilings—on aid to Vietnam, for example—could become meaningless if the Defense Department can circumvent those ceilings by commingling U.S. and allied reserve stockpiles, and thereby escape congressional control over their distribution. Second, it means that we are being asked—at a time of difficult economic circumstances—to boost our own Defense budget for the purpose of meeting the future military needs of South Vietnam, South Korea, and Thailand. Clearly, this major item should be considered as part of the foreign aid request, not as a disguised account in the DOD appropriations bill.

The Defense Department now argues that much of the new equipment purchased by this account goes directly to the U.S. active military forces and the U.S. Reserves. If that is the purpose of these funds, then they should not be categorized as "war reserve stocks for allies."

Moreover, the GAO has informed me that there is a circle at work: Even if some of these weapons go to U.S. troops in the field, the weapons that are replaced go to the Reserves and/or to the stockpile. Then, once in the stockpile, there is a clear tendency for the supplies to be declared excess and turned over to South Vietnam, South Korea, and Thailand. Thus, the will of Congress can be thwarted by the backdoor.

The process is misleading in another way. For example, in fiscal year 1973, the Defense Department listed $24.3 million in excess stocks as going to South Vietnam, $6.4 million as going to Thailand, and $8.3 million as going to South Korea. But those figures are what the DOD calls actual value, not the acquisition cost of the supplies. The GAO found that the Department of Defense was listing those weapons at 8.9 percent of their acquisition cost. Thus, the acquisition of weapons declared excess and turned over to those countries in fiscal year 1973 was approximately $390 million. In fiscal year 1974, the acquisition cost of equipment declared excess and turned over to those three countries was approximately $620 million. And in fiscal year 1975, the Defense Department plans, according to the GAO, to turn over to those three countries weapons and equipment whose acquisition cost is approximately $738 million.

I see no reason for the U.S. Congress to approve $529 million in an account listed as war reserves for allies and designated for South Vietnam, South Korea, and Thailand, at the same time that the Department of Defense contemplates turning over excess items costing an estimated $738 million to those countries.

If there are stockpile needs that are not being met for U.S. active duty forces, let the Defense Department ask specifically for that equipment as it usually does in its normal procurement requests. If this is a legitimate foreign military aid request, then let it be properly considered under the foreign aid bill.

Mr. President, it is also important to note what this amendment does not do:

First, it does not affect in any way the Department's service-funded program of aid to South Vietnam. The committee has recommended $700 million for that fund.

Second, it does not affect in any way the level of assistance which may eventually be approved by the Congress under the authority of the Foreign Assistance Act or the Foreign Military Sales Act—$300 million has been requested for South Korea and Thailand under those programs. This amendment is unrelated to congressional approval or rejection of those requests.

Finally this amendment does not affect the approximately half-billion dollars worth of stocks which have already been set aside for these Asian allies in the past 2 fiscal years. But it does put a halt to adding another half-billion dollars worth of weapons to that stockpile this year, until the purposes of the stockpile are more clearly explained to Congress, and the implications of such foreign aid have been properly deliberated.

Mr. President, I have grave doubts whether such foreign aid should be authorized at all. Certainly, it should not be done without the consent of Congress. But primarily, I wish to stress that such foreign aid does not belong in this bill. This is a budget bill to provide funds for the operation and maintenance of the Department of Defense. Foreign assistance appropriations should not be mixed with appropriations for the U.S. armed services.

The only foreign assistance fund appropriated along with funds for the services in this bill is the assistance for South Vietnam. All other foreign assistance is authorized in the Foreign Aid bill, under the military assistance program. This is true even of the $2.2 billion in military assistance authorized for Israel last year.

The Armed Services Committee report on the Defense authorization bill strongly emphasizes the same point:

As it did last year, the Committee is again recommending reductions of the items included for war reserves for allies. The Committee does not agree that these items should be procured for storage for allies in a title that is intended for the procurement of items for U.S. forces.

In this year of the war powers bill and economic belt-tightening, Congress cannot avoid its responsibility to guarantee that such programs are fully justified in terms of foreign assistance, and that there are proper controls over transferral of these weapons. We have had enough of Presidential wars.

Mr. President, I ask unanimous consent that the recent study prepared on this subject by the General Accounting Office may be printed in the RECORD at this point.

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

DEPARTMENT OF DEFENSE STOCKPILING OF WAR RESERVE MATERIALS FOR USE BY UNITED STATES ALLIES

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: This report is in response to a May 6, 1974, letter requesting information on the stockpiling of war reserve materials by the Department of Defense (DOD) for possible future use by Asian allies.

Our study concentrated on the scope of the program, the statutory authority being relied on by DOD for stockpiling these materials, and the authority under which they could be turned over to any of the allied forces. Our work was performed at DOD in Washington, D.C.

Because of the short time allowed to meet the Committee's needs, we have been unable to verify the information provided by DOD or to obtain a legal analysis of the propriety of the program. However, we have included our views and interpretations and believe this report will be helpful during the upcoming foreign assistance authorization hearings.

We have not submited the report to DOD for its official position; however, we have discussed the observations with DOD officials and have considered their views.

SCOPE OF THE PROGRAM

According to a DOD directive, the total quantity of a defense item authorized for peacetime acquisition includes the quantity estimated (1) to equip and sustain U.S.-approved force levels in peacetime and in wartime for periods specified in planning documents, (2) to equip and sustain allied forces by satisfying approved requirements of the Military Assistance Program, the approved requirements of the Foreign Military Sales Program, and approved wartime requirements for those allies specified in current program planning documents, and (3) to provide support for other U.S. Government departments and agencies. The term used to describe the above procurement requirement is approved force acquisition objective.

This objective includes a quantity to be stockpiled abroad and in the United States for future national emergencies—war reserves. These reserves are intended to sustain operations until production can be expanded to match combat consumption.

DOD believes that the war reserves are essential to rapidly deployable combat forces so that the United States has the future capability to respond and be supported in combat for whatever period the national interest requires.

We determined from DOD planning and programing documents that the approved force levels used to plan future requirements included the estimated number of allied forces that might need logistics support in future Asian hostilities. Estimated allied requirements add to but do not replace U.S. requirements.

DOD stocks of munitions and equipment have traditionally been available for transfer to allies pursuant to appropriate military assistance legislation, as well as for use by U.S. Forces. Specific identification of war reserve stocks for possible future transfer to allies in DOD budget documentation planning began with the development of the fiscal year 1972 Defense program. Some available assets were allocated for this purpose in fiscal year 1973. However, funds were not requested in budget submissions to the Congress until fiscal year 1974.

Items held in reserve that are planned for potential allied use are not segregated from other reserve stocks, and almost all the same kinds of items are also required as war reserves for U.S. Forces. If necessary, the war reserves for allied forces could be used to support U.S. Forces.

DOD considers that war reserve stocks for allies are not yet committed or authorized for transfer to any nation. They are for "allies" in theory only and, according to DOD officials, will remain U.S. property until the President, with appropriate congressional consultation determines that such stocks should be released to a specific ally. DOD officials said that the portion of the total war reserve stocks designated for future allied use is based on an arbitrary decision and it is the total (United States and allied) war reserve requirement that has validity.

DOD planners for fiscal year 1973 allocated $23 million of its reserve assets toward the total allied requirement; for fiscal year 1974, $494 million was allocated. For fiscal year 1975, $529 million of the total procurement request has been proposed for application toward allied requirements. Some of each of the following types of items are proposed to be procured from the fiscal year 1975 funds.

Army

Small arms ammunition.
Artillery ammunition.
Tank recovery vehicles.[1]
Portable radar sets.[1]
Minor miscellaneous items.
Spares and repair parts.
Mortar ammunition.
Tanks.[1]
Machine guns.
Rocket launchers.[1]
Landing boats.[1]

Air Force

Air-to-ground munitions.
Tanks, racks, adapters, and pylons.

LEGAL AUTHORITY CITED BY DOD FOR STOCKPILING AND TRANSFERRING STOCKS

We were told by officials of the Office of General Counsel, DOD, that DOD's legal authority to both stockpile war reserve assets and transfer these assets to allies is contained in:

The annual DOD authorization and appropriation acts;

The Foreign Assistance Act of 1961, as amended; and

The Foreign Military Sales Act, as amended.

No specific sections of these acts were cited.

AUTHORITY FOR STOCKPILING AND TRANSFERRING STOCKS—GAO VIEWS

Time did not permit us to perform a search for all possible means available to stockpile war reserves and to transfer these stocks. However, our brief look at the legislation mentioned by DOD disclosed that the general authority to procure U.S. defense material is contained in the annual DOD authorization and appropriation acts. This authority does not provide for the procurement of war reserves but rather for specific defense items (for example, Procurement of Ammunition, Army). Nevertheless, through backup data submitted with appropriation requests and the testimony of witnesses, the congressional committees responsible for DOD authorizations and appropriations were aware of DOD's program of stockpiling for possible future allied use. Thus, the legislative history of the annual DOD authorization and appropriation acts suggests that the committees intended to authorize this stockpiling.

However, the congressional committees responsible for authorizing military grant and sales assistance to foreign allies apparently were not aware of the stockpiling program.

We were informed that the Senate Foreign Relations Committee was unaware of the planned stockpiling, even though transfers to allies (as well as the transfer of any defense articles to foreign governments, except Vietnam) would go through programs under the jurisdiction of the Committee.

Authority to transfer procured defense stocks is separate from the authority to stockpile war reserves. Authorizations relating to transfers are contained in various sections of the Foreign Assistance Act of 1961, as amended; the Foreign Military Sales Act, as amended; the Foreign Military Sales Act Amendments, 1971, as amended; and the annual DOD authorization and appropriation acts (Military Assistance Service Funded). Some of the pertinent sections of these acts are discussed below. (See app. I through III.)

Foreign Assistance Act—Military assistance

Section 503(a) of the Foreign Assistance Act of 1961, as amended, gives the President the authority to provide military assistance to friendly countries and international organizations. In fiscal year 1974, the Congress authorized the President to spend either through loans or grants up to $512.5 million for this assistance, although actual appropriations amounted to $450 million.

Section 503(c) provided that, when defense articles are loaned to foreign countries or international organizations, under section 503(a), the military assistance appropriation will be charged only for out-of-pocket expenses and depreciation. In our report to the Chairman, Committee on Foreign Relations, in March 1973,[1] we indicated that previously DOD had leased defense articles on the basis of different law (10 U.S.C. 2667).

This law authorizes leasing of nonexcess defense articles when it is in the public interest or will promote national defense. However, the law has no relation to foreign assistance and was enacted to authorize the leasing of defense plants and production equipment to private commercial interests. In our report, we specified that articles were leased under law (10 U.S.C. 2667) at no cost to foreign governments or international organizations and that it appeared the use of this provision circumvented the Foreign Assistance Act of 1961, as amended. Our view was that such loans or leases constituted military assistance and should be subject to restraints imposed by the act.

Additionally, under section 506(a), if the President determines it is in the security interests of the United States, he may order up to $250 million in defense articles from stocks—in addition to the $450 million appropriated—and reimbursement will be provided in subsequent appropriations available for military assistance. He exercised this authority during fiscal year 1974 by authorizing the transfer of up to $200 million in defense articles to provide additional military assistance to Cambodia.

Under section 614(a), the President also may authorize assistance, in an amount not to exceed $250 million, without regard to any provisions of the act. However, the President may only use funds already appropriated under other sections of the act. During fiscal year 1974, the President exercised his authority under section 614(a) five times for pur-

[1] All new procurement of these items will go directly to U.S. Army active and reserve units. The older pieces of equipment displaced by the new procurement will go into the war reserve stockpile that could be used to replace U.S. or (with proper authorization) allied combat losses in some future conflict. Therefore, this procurement, although labeled as allied reserve, modernizes the U.S. Army Force structure while increasing the total assets available as war reserves.

[1] "Use of Excess Defense Articles and Other Resources to Supplement the Military Assistance Program," B-163742, Mar. 21, 1973.

poses of military assistance. The total amount authorized by the President was $133.4 million.

These and other related sections of the act are shown in appendix I.

Foreign Military Sales Act

Although the Congress placed a ceiling on the total credit sales and guarantees under sections 23 and 24 of the Foreign Military Sales Act (see app. II), no similar restrictions are placed on cash sales under sections 21 and 22 of the act. Thus, an unlimited quantity of defense stocks could be sold under sections 21 and 22. During fiscal year 1974, DOD estimates that credit sales will amount to $730 million, the authorized ceiling, and cash sales will amount to approximately $7.2 billion.

Military assistance service funded authority

The provisions in annual DOD authorization and appropriation acts (see app. III) give DOD authority to use its appropriated funds to transfer any defense articles, including war reserve material, to support South Vietnamese forces, subject to the $1.126 billion ceiling.

Foreign Military Sales Act amendments—Excess Defense articles

Excess defense articles are items in excess of DOD-approved force requirement level. The authority to transfer excess defense articles is contained in section 8 of the Foreign Military Sales Act Amendments, 1971, as amended. (See app. II.)

In our report to your Committee in March 1973, we indicated that excess defense articles were generated through modernizations of forces and changes in authorizations of articles to equip and sustain the approved forces. The decision as to what portion of the DOD inventory will constitute the approved force requirement level and what assets may be transferred as excess defense articles rests entirely with DOD. Excess articles are continuously available in vast quantities and have been used in military assistance programs since the inception of foreign aid. Use of excess articles to supplement the regularly funded military assistance program has increased since 1968 because of reduced military assistance appropriations.

At the time of our earlier review, "value" was defined as not less than one-third of the amount the United States paid when the articles were acquired (acquisition cost). Since then, the law has been changed and value is now defined only as actual value plus the cost of repairing, rehabilitating, or modifying the article, which could range from as low as salvage value to as high as acquisition cost. A recent sampling by DOD showed the actual value of excess articles averaged only 8.9 percent of acquisition cost, considerably less than the one-third minimum required under previous legislation.

Orders for excess defense articles are to be considered expenditures of military assistance funds. However, those articles generated abroad are charged to the appropriation only if the aggregate actual value during any fiscal year exceeds $150 million. Under the old definition of value this would equal about $450 million (3 x $150 million) in excess articles, based on acquisition cost. Now, however, if DOD decides to use the 8.9 percent (1/11) figure as actual value, approximately $1.65 billion (11 x $150 million) in excess articles, based on acquisition cost, could be granted to foreign countries without charge to the military assistance appropriation. This is over three times more than the value of excess defense articles granted through the military assistance program during any single previous year.

The proposed Foreign Assistance Act of 1974 would further liberalize the use of excess items. Our analysis of the proposed act showed that the theoretical ceiling of $1.65 billion could be increased to $4.4 billion. We believe that consideration should be given to providing more congressional control over excess defense articles.

The stockpiling of defense assets for potential use by allies adds another level to the DOD procurement base. We previously mentioned that new Army procurement will modernize U.S. active and reserve units and the older articles being replaced will make up the war reserve stockpile. It is conceivable that once these U.S. Forces have been modernized, DOD will modernize the war reserve, and thus make large quantities of defense assets excess and available for transfer to foreign governments, including those for which the stockpile was originally intended.

More importantly, however, is the fact that DOD has the authority to decide what portion of the DOD inventory will make up the approved force requirement level. Since the war reserve for allies represents a portion of the total war reserve in excess of U.S. approved force requirements, DOD can now stockpile older items that would immediately become excess upon replacement. If a future emergency arises overseas, DOD could reduce the approved force requirement level and immediately make the war reserve for allies available as excess for transfer to whichever country may need them. All this could be accomplished without adversely affecting the total U.S. approved force requirements.

CONCLUSION

In conclusion, we feel that the President and DOD at the present time have considerable statutory authority to transfer reserve materials to allies if they are needed. It should be pointed out that the authority to transfer U.S. defense stocks under these provisions applies to any defense item in the inventory, whether planned for future use by allies or U.S. Forces.

The broad authority is especially prevalent in the area of excess defense articles. Under present authority DOD is permitted to transfer vast quantities of excess items to foreign governments with little or no charge to any future increase in available excess items (1) because of the modernization of forces and/or the reduction in the approved force requirement level and (2) because of the proposed liberalization of the no-cost transfer ceiling, the Committee may wish to consider tighter controls over the quantity of excess articles that can be transferred to foreign governments. This may include retaining section 8 of the Foreign Military Sales Act Amendments of 1971, but modifying it (1) to establish actual value at not less than 33⅓ percent of acquisition value and (2) to require that excess programs be stated in congressional presentation documents in terms of acquisition cost.

We recognize that there is legislation pending on the DOD procurement authorization bill that would forbid the stockpiling of defense assets for possible future use by allied forces. Although passage would eliminate the war reserve for allies, it would not strengthen control over excess defense articles.

We plan no further distribution of this report unless you agree or publicly announce its contents.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

EXCERPTS FROM FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

MILITARY ASSISTANCE

Section 503—General Authority—(a) The President is authorized to furnish military assistance on such terms and conditions as he may determine, to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the United States and promote world peace and which is otherwise eligible to receive such assistance, by—

(1) acquiring from any source and providing (by loan or grant) any defense article or defense service; or

(2) assigning or detailing members of the Armed Forces of the United States and other personnel of the Department of Defense to perform duties of a noncombatant nature.

(b) In addition to such other terms and conditions as the President may determine pursuant to subsection (a), defense articles may be loaned thereunder only if—

(1) there is a bona fide reason, other than the shortage of funds, for providing such articles on a loan basis rather than on a grant basis;

(2) there is a reasonable expectation that such articles will be returned to the agency making the loan at the end of the loan period, unless the loan is then renewed;

(3) the loan period is of fixed duration not exceeding five years, during which such article may be recalled for any reason by the United States;

(4) the agency making the loan is reimbursed for the loan based on the amount charged to the appropriation for military assistance under subsection (c); and

(5) arrangements are made with the agency making the loan to be reimbursed in the event such article is lost or destroyed while on loan, such reimbursement being made first out of any funds available to carry out this chapter and based on the depreciated value of the article at the time of loss or destruction.

(c) (1) In the case of any loan of a defense article or defense service made under this section there shall be a charge to the appropriation for military assistance for any fiscal year while the article or service is on loan in an amount based on—

(A) the out-of-pocket expenses authorized to be incurred in connection with such loan during such fiscal year; and

(B) the depreciation which occurs during such year while such article is on loan.

(2) The provisions of this subsection shall not apply—

(A) to any particular defense article or defense service which the United States Government agreed prior to the date of enactment of this subsection to lend; and

(B) to any defense article or defense service, or portion thereof acquired with funds appropriated for military assistance under this Act.

Section 504—Authorization—(a) There is authorized to be appropriated to the President to carry out the purpose of this part not to exceed $512,500,000 for the fiscal year 1974: *Provided,* That funds made available for assistance under this chapter (other than training in the United States) shall not be used to furnish assistance to more than thirty-one countries in any fiscal year: *Provided further,* That none of the funds appropriated pursuant to this subsection shall be used to furnish sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, to any underdeveloped country, unless the President determines that the furnishing of such weapons systems is important to the national security of the United States and reports within thirty days each such determination to the Congress. Amounts appropriated under this subsection are authorized to remain available until expended. Amounts appropriated under this subsection shall be available for cost-sharing expenses of United States participation in the military headquarters and related agencies program.

Section 506— Special Authority—(a) During the fiscal year 1974, the President may, if he determines it to be in the security interests of the United States, order defense articles from the stocks of the Department of Defense and defense services for the purposes of part II [military assistance], subject to subsequent reimbursement therefor from subsequent appropriations available for military assistance. The value of such orders under this subsection in the fiscal year 1974 shall not exceed $250,000,000. (b) The

Department of Defense is authorized to incur, in applicable appropriations, obligations in anticipation of reimbursements in amounts equivalent to the value of such orders under subsection (a) of this section. Appropriations to the President of such sums as may be necessary to reimburse the applicable appropriation, fund, or account for such orders are hereby authorized.

GENERAL PROVISIONS

Section 610. Transfer Between Accounts.—(a) Whenever the President determines it to be necessary for the purposes of this Act, not to exceed 10 per centum of the funds made available for any provision of this Act (except funds made available pursuant to title IV of chapter 2 of part I [Overseas Private Investment Corporation]) may be transferred to, and consolidated with, the funds made available for any other provision of this Act, and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 20 per centum of the amount of funds made available for such provision. * * *

Section 614. Special Authorities.—(a) The President may authorize in each fiscal year the use of funds made available for use under this Act and the furnishing of assistance under section 506 in a total amount not to exceed $250,000,000 and the use of not to exceed $100,000,000 of foreign currencies accruing under this Act or any other law without regard to the requirements of the Act, any law relating to receipts and credits accruing to the United States, any Act appropriating funds for use under this Act, or the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611 et seq.), in furtherance of any of the purposes of such Acts, when the President determines that such authorization is important to the security of the United States. Not more than $50,000,000 of the funds available under this subsection may be allocated to any one country in any fiscal year. The limitation contained in the preceding sentence shall not apply to any country which is a victim of active Communist or Communist-supported aggression.

(c) The President is authorized to use amounts not to exceed $50,000,000 of the funds made available under this Act pursuant to his certification that it is inadvisable to specify the nature of the use of such funds, which certification shall be deemed to be a sufficient voucher for such amounts. The President shall promptly and fully inform the Speaker of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign Relations of the Senate of each use of funds under this subsection.

Section 652. Limitation Upon Exercise of Special Authority.—The President shall not exercise any special authority granted to him under section 506(a), 610(a), or 614(a) of this Act unless the President, prior to the date he intends to exercise any such authority, notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this Act under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority.

Section 653. Change in Allocation of Foreign Assistance.—(a) Not later than thirty days after the enactment of any law appropriating funds to carry out any provision of this Act (other than section 451 [Contingency Fund] or 637 [Administrative Expenses]), the President shall notify the Congress of each foreign country and international organization to which the United States Government intends to provide any portion of the funds under such law and of the amount of funds under the law, by category of assistance, that the United States Government intends to provide to each. Notwithstanding any other provision of law, the United States Government shall not provide to any foreign country or international organization any funds under that law which exceeds by 10 per centum the amount of military grant assistance or security supporting assistance, as the case may be, which the President notified the Congress that the United States Government intended to provide that country or organization under that law, unless the President (1) determines that it is in the security interests of the United States that such country or organization receive funds in excess of the amount included in such notification for that country or organization, and (2) reports to Congress, at least ten days prior to the date on which such excess funds are to be provided to that country or organization, each such determination, including the name of the country or organization to receive funds in excess of such per centum, the amount of funds in excess of the per centum which are to be provided, and the justification for providing the additional assistance.

(b) The provisions of this section shall not apply in the case of any law making continuing appropriations and may not be waived under the provisions of section 614(a) of this Act.

APPENDIX II—EXCERPTS FROM FOREIGN MILITARY SALES ACT AMENDMENTS, 1971 AS AMENDED

EXCESS DEFENSE ARTICLES

Section 8. (a) Subject to the provisions of subsection (b), the value of any excess defense article granted to a foreign country or international organization by any department, agency, or independent establishment of the United States Government (other than the Agency for International Development) shall be considered to be an expenditure made from funds appropriated under the Foreign Assistance Act of 1961 for military assistance. Unless such department, agency, or establishment certified to the Comptroller General of the United States that the excess defense article it is ordering is not to be transferred by any means to a foreign country or international organization, when an order is placed for a defense article whose stock status is excess at the time ordered, a sum equal to the value thereof shall (less amounts to be transferred under section 632(d) [Reimbursement Among Agencies] of the Foreign Assistance Act of 1961) (1) be reserved and transferred to a suspense account, (2) remain in the suspense account until the excess defense article is either delivered to a foreign country or international organization or the order therefor is cancelled, and (3) be transferred from the suspense account to (A) the general fund of the Treasury upon delivery of such article, or (B) to the military assistance appropriation for the current fiscal year upon cancellation of the order. Such sum shall be transferred to the military assistance appropriation for the current fiscal year upon delivery of such article if at the time of delivery the stock status of the article is determined, in accordance with section 644 (g) and (m) [definitions of "excess defense articles" and "value"] of the Foreign Assistance Act of 1961, to be nonexcess.

(b) In the case of excess defense articles which are generated abroad, the provisions of subsection (a) shall apply during any fiscal year only to the extent that the aggregate value of excess defense articles ordered during that year exceeds $150,000,000.

(c) For purposes of this section, the term "value" has the same meaning as given it in section 644(m) of the Foreign Assistance Act of 1961.

(d) The President shall promptly and fully inform the Speaker of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate of each decision to furnish on a grant basis to any country excess defense articles which are major weapons systems to the extent such major weapons system was not included in the presentation material previously submitted to the Congress. Additionally, the President shall also submit a quarterly report to the Congress listing by country the total value of all deliveries of excess defense articles, disclosing both the aggregate original acquisition cost and the aggregate value at the time of delivery.

(e) Except for excess defense articles granted under part II of the Foreign Assistance Act of 1961, the provisions of this section shall not apply to any excess defense article granted to South Vietnam prior to July 1, 1972.

CASH AND CREDIT SALES

Section 21. Cash Sales From Stock.—The President may sell defense articles from the stocks of the Department of Defense and defense services of the Department of Defense to any friendly country or international organization if such country or international organization agrees to pay not less than the value thereof in United States dollars. Payment shall be made in advance or, as determined by the President to be in the best interests of the United States, within a reasonable period not to exceed one hundred and twenty days after the delivery of the defense articles or the rendering of the defense services.

Section 22. Procurement for Cash Sales.—(a) Except as otherwise provided in this section, the President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of defense articles or defense services for sale for United States dollars to any foreign country or international organization if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due.

(b) The President may, when he determines it to be in the national interest, accept a dependable undertaking of a foreign country or international organization with respect to any such sale, to make full payment within 120 days after delivery of the defense articles or the rendering of the defense services. Appropriations available to the Department of Defense may be used to meet the payments required by the contracts for the procurement of defense articles and defense services and shall be reimbursed by the amounts subsequently received from the country or international organization to whom articles or services are sold.

Section 23. Credit Sales.—The President is hereby authorized to finance procurements of defense articles and defense services by friendly countries and international organizations on terms of repayment to the United States Government of not less than the value thereof in United States dollars within a period not to exceed ten years after the delivery of the defense articles or the rendering of the defense services.

Section 24. Guaranties.—(a) The President may guarantee any individual, corporation, partnership, or other juridical entity doing business in the United States (excluding United States Government agencies) against

political and credit risks of nonpayment arising out of their financing of credit sales of defense articles and defense services to friendly countries and international organizations. Fees shall be charged for such guaranties.

(b) The President may sell to any individual, corporation, partnership, or other juridical entity (excluding United States Government agencies) promissory notes issued by friendly countries and international organizations as evidence of their obligations to make repayments to the United States on account of credit sales financed under section 23, and may guarantee payment thereof.

(c) Funds made available to carry out this Act shall be obligated in an amount equal to 25 per centum of the principal amount of contractual liability related to any guaranty issued under this section, and all the funds so obligated shall constitute a single reserve for the payment of claims under such guaranties. Any funds so obligated which are deobligated from time to time during any current fiscal year as being in excess of the amount necessary to maintain a fractional reserve of 25 per centum of the principal amount of contractual liability under outstanding guaranties shall be transferred to the general fund of the Treasury. Any guaranties issued hereunder shall be backed by the full faith and credit of the United States.

Section 31. Authorization and Aggregate Ceiling of Foreign Military Sales Credits.—(a) There is hereby authorized to be appropriated to the President to carry out this Act not to exceed $325,000,000 for the fiscal year 1974. Unobligated balances of funds made available pursuant to this section are hereby authorized to be continued available by appropriations legislation to carry out this Act.

(b) The aggregate total of credits, or participations in credits, extended pursuant to this Act and of the principal amount of loans guaranteed pursuant to section 24(a) shall not exceed $730,000,000 for the fiscal year 1974, of which amount not less than $300,000,000 shall be available to Israel only.

APPENDIX III.—EXCERPTS FROM DOD AUTHORIZATION AND APPROPRIATION ACTS

DOD APPROPRIATION AUTHORIZATION ACT, 1974

Section 801. Subsection (a)(1) of section 401 of Public Law 89-367, approved March 15, 1966 (80 Stat. 37), as amended, is hereby amended to read as follows:

"(a)(1) Not to exceed $1,126,000,000 of the funds authorized for appropriation for the use of the Armed Forces of the United States under this or any other Act are authorized to be made available for their stated purposes to support: (A) Vietnamese and other free world forces in support of Vietnamese forces, (B) local forces in Laos; and for related costs, during the fiscal year 1974 on such terms and conditions as the Secretary of Defense may determine. None of the funds appropriated to or for the use of the Armed Forces of the United States may be used for the purpose of paying any overseas allowance, per diem allowance, or any other addition to the regular base pay of any person serving with the free world forces in South Vietnam if the amount of such payment would be greater than the amount of special pay authorized to be paid, for an equivalent period of service, to members of the Armed Forces of the United States (under section 310 of title 37, United States Code) serving in Vietnam or in any other hostile fire area, except for continuation of payments of such additions to regular base pay provided in agreements executed prior to July 1, 1970. Nothing in clause (A) of the first sentence of this paragraph shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos: *Provided*, That nothing contained in this section shall be construed to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of United States forces from Southeast Asia, or to aid in the release of Americans held as prisoners of war."

DOD APPROPRIATION ACT, 1974

Section 737. (a) Not to exceed $1,126,000,000 of the appropriations available to the Department of Defense during the current fiscal year shall be available for their stated purposes to support (1) Vietnamese and other free world forces in support of Vietnamese forces; (2) local forces in Laos; and for related costs on such terms and conditions as the Secretary of Defense may determine: *Provided*, That none of the funds appropriated by this Act may be used for the purpose of paying any overseas allowance, per diem allowance, or any other addition to the regular base pay of any person serving with the free world forces in South Vietnam if the amount of such payment would be greater than the amount of special pay authorized to be paid, for an equivalent period of service, to members of the Armed Forces of the United States under section 310 of title 37, United States Code, serving in Vietnam or in any other hostile fire area, except for continuation of payments of such additions to regular base pay provided in agreements executed prior to July 1, 1970; *Provided further*, that nothing in clause (1) of the first sentence of this subsection shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos. *Provided further*, That nothing contained in this section shall be construed to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of United States forces from Southeast Asia, or to aid in the release of Americans held as prisoners of war.

(b) Within thirty days after the end of each quarter, the Secretary of Defense shall render to Congress a report with respect to the estimated value by purpose, by country, of support furnished from such appropriations.

Mr. KENNEDY. I appreciate the consideration of this amendment by my colleague and friend from Arkansas, and I hope that he will be willing to take the amendment to conference and fight for it there.

Mr. McCLELLAN. Mr. President, I have discussed this amendment with its distinguished author, the Senator from Massachusetts (Mr. KENNEDY). I have considered it first in the light of the fact that apparently it is legislation on an appropriation bill; that was my first reaction to it, and I think that is true, and it might be subject to a point of order.

However, this same language, as I understand it, has been considered by the authorization committee and was reported out and passed here in the Senate—no, it was a floor amendment agreed to in the Senate earlier this year, to the authorization bill; am I correct?

Mr. KENNEDY. The Senator is correct.

Mr. McCLELLAN. Therefore, the Senate having acted upon it legislatively, I feel inclined, as I have said—and I do not find any objection to it from those with whom I have conferred—to go ahead and accept the amendment and let it go to conference and see what we can do with it there.

I have no objection to the objectives and purposes of the amendment, if it can be accepted. It is an attempt to get control and keep control of expenditures and of materials and supplies that we may be appropriating for and trying to give away as assistance, and we have not made a provision in this bill with respect to even the sale of weapons, and so forth, to other countries, to try to get better control of that so we will know what is going on, and requiring reports.

So I have no objection, unless there is objection on the part of some other member of the committee—and I hear none—to accepting the amendment and doing the best we can with it.

Mr. KENNEDY. I thank the Senator.

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

The amendment was agreed to.

AMENDMENT NO. 1836

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Senate revert once again to the consideration of amendment No. 1836.

The PRESIDING OFFICER (Mr. HELMS). The Chair will advise the Senator that that is automatic.

Mr. EAGLETON. Mr. President, I yield 10 minutes to the distinguished junior Senator from Illinois.

Mr. STEVENSON. Mr. President, I want, first of all, to commend the junior Senator from Missouri for the extraordinary effort with which he has invested this amendment, and for bringing it to the floor of the Senate, and I also commend the chairman of the Appropriations Committee for his work and the work of that committee. It has done a good job of cutting excessive spending from the defense budget, though it has not, Mr. President, in my judgment, gone far enough.

When it comes to national survival, we all agree that such sums as are necessary for national security must be raised and spent. The tragedy is that we stumble through our debates about national defense with no reliable definition of national security and no reliable standard for determining what is necessary.

An adequate definition of national security includes not just military hardware and personnel, but the confidence of the American people in their Government; the confidence of the world in our country for enlightened leadership; a healthy domestic and world economy, and the conditions of a good life at home.

In order to rationally determine military policy, we need a coherent foreign policy. It is asking too much of the Congress and the military to forge a rational defense and military strategy if they do not have a clearly defined and articulated foreign policy.

We do not have such a foreign policy. What we have had, instead in recent years, are promises, slogans, contradictory gestures, and personal diplomacy.

An opening by the U.S. Government to the People's Republic of China, was appropriate and long overdue. But President Nixon's Peking visit was handled in

a way—by secret arrangements and shock announcements—that demoralized our Allies in Asia and undermined our position in the United Nations with respect to Taiwan. And when the U.N. accepted the logic of his action, President Nixon chastised the U.N.

President Nixon's visit this year to the Soviet Union was at best unnecessary. None of the heralded arms limitation agreements materialized. And in order to make some gesture of success for global television, President Nixon signed a limited nuclear test-ban treaty which implies that the United States and the Soviet Union are not very serious about stopping nuclear proliferation. This comes at a time when worldwide interest in obtaining nuclear reactors is rapidly accelerating. The visit—and the administration's continuing conduct—suggest American indifference to the repression of personal freedom in the U.S.S.R.

What the United States has gained from these exercises in Presidential diplomacy remains to be seen and, whatever it is, it could have been achieved without President participation and without the shocks we suffered in East Asia, South Asia, and Europe, as a result of our bilaterial maneuverings. Presidential posturing is no substitute for a prudent and thoughtful worldwide foreign policy which recognizes the world's pluralism and the Nation's multitude of interests in all its parts.

Drift and weakness in foreign relations and economic policy have direct and dangerous results in defense policy.

The notion persists that world power and influence and national security are directly related to the size of the defense budget. As mistakes of foreign policy, or more accurately the absence of a principled foreign policy, produce from Southeast Asia to Eurasia U.S. weakness, the pressure increases to spend more money on the military—and so the wheel takes another turn.

Military spending by itself does not bring us added security in the world. Each increased expenditure usually brings a response from the other side, leaving us by and large in the same relative position, but always poorer and a little closer to the flash point.

The notion also persists that increased defense spending can stimulate a troubled economy. The idea that domestic problems might be solved simply and quickly by throwing dollars at them finds no advocates. Yet, the same notion drives us to compulsive expenditures for weapons, military personnel, and power.

Military spending does not stimulate the economy. It is an unhappy fact that excessive military spending contributes heavily to inflation. It diverts resources from productive uses—housing, health, energy, transportation, education—to nonproductive uses. Unlike most forms of Government spending, defense spending increases demand, without increasing supply.

Other nations, notably West Germany and Japan, rose from the ashes of World War II to become our principal competitors in the world marketplace by spending little on the military—much on their economies. Now, our heavily weighted economy is crumbling. It is experiencing inflation and recession. Consumer prices are increasing at a rate of 12.6 percent, while wholesale prices increased in July at an incredible annual rate of 44 percent. Unemployment in July was 5.3 percent and rising. And productivity increased only 1 percent last quarter.

The economic consequences of runaway military spending—inflation, the diversion of funds from demonstrable needs, declining productivity, unemployment—are as destructive to the national security as an inadequate defense budget.

It is wrong to argue, as President Ford does, that inflation can be halted by cutting in the domestic sector but not in the defense sector of the budget. Some Government spending in time is deflationary. Initiatives in health, housing, energy, and transportation could increase productivity and supply demand. Agricultural production can be increased in part at Government expense—to meet growing demands for food at home and abroad with deflationary consequences. President Ford, like his predecessor, appears to have his priorities mixed up. If he offers more of the same, the Nation will suffer more of the same.

The defense appropriations bill for fiscal year 1974 as reported by the Appropriations Committee provides funds for the Department of Defense over and above those necessary for an adequate military posture. Reductions can be made without impairing the ability of the military forces of the United States to carry out those missions essential to our national security.

The bill would provide $82,079,358,000 in new appropriations and transfers. On December 20, 1973, the House and Senate agreed to the conference report on the fiscal year 1974 Department of Defense appropriations bill providing a total of $74,218,230,000. It was signed into law by the President on January 2, 1974.

On February 4, 1974, about 1 month later, the President transmitted to Congress a fiscal year 1975 defense budget totaling $85,582,297,000. This represented an increase of $11,364,067,000, a 15-percent increase over the amount provided by Congress 1 month before. At the same time, the President transmitted a fiscal year 1974 defense supplemental request of $6,200,421,000, made up of $3,412,741,000 for a so-called readiness requirement due to the Middle East crisis and $2,787,680,000 for pay increases. On May 30 and June 24, 1974, the President transmitted budget amendments totaling $1,475,200,000 for fuel price increases and certain personnel benefits, increasing the fiscal year 1975 Defense budget to a new total of $87,057,497,000. Thus, between February and June 1974, Congress was requested to consider a total increase of $19,039,688,000 for the Defense Department.

To date, the Congress has by law reduced this increase by a mere $4,873,032,000. The House recently passed a military appropriations bill of $83.4 billion for a further reduction of $3.7 billion. And the Senate Appropriations Committee has reported out a military appropriations bill with an additional reduction of $1.4 billion. Yet, we still have left an increase of $11 billion.

This increase in defense appropriations comes when the United States is militarily powerful and not at war. The involvement in Southeast Asia has been wound down—yet the spending winds up.

When President Nixon signed the military procurement authorization bill into law on August 5, he said that he was not completely satisfied with the bill because "A number of provisions authorize spending for unneeded equipment and could thus inflate defense spending unnecessarily in a time when we all should recognize the need to avoid waste."

This amendment to the defense appropriations bill will establish a ceiling on new budgetary authority of $81 billion, and help eliminate some of the wastes to which the President referred.

Next year the new Budget Committee will establish ceilings such as the one we are recommending. This method is also used by the Office of Management and Budget within the executive branch to establish priorities for the Federal budget. It is an approach which has been used extensively in the past to control and delimit the categories of the Federal budget, and now has been adopted by the Congress for the future.

The Nixon administration asked that the Federal budget be reduced by $5 billion in outlays to help control inflation. President Ford has indicated that he would seek reductions in Federal spending, and some predict that he will ask for greater cuts. A reduction in outlays of $5 billion would require a reduction in budgetary authority of $11 to $12 billion. If this goal is to be reached, the proportionate reduction in the defense budget would be in the $6 to $7 billion range. The $81 billion ceiling we propose is on the high side of such a formulation.

If Congress is serious about reducing the Federal budget as a means of controlling inflation, it cannot overlook the fact that 70 percent of the controllable portion of that budget is attributable to the military and due to the nonproductive, demand-generating nature of defense spending, reductions made in the defense appropriations bill, dollar for dollar, will be more effective in countering inflation than any other cuts.

Congress has appropriated more money over the past 4 years than the delivery system—the defense industry—can keep up with. This is illustrated by the steady increase in unexpended balances—money obligated but not spent—over the past 4 fiscal years. In effect, the delivery of goods and services cannot keep up with the orders placed for them. An $81 billion ceiling on this year's budget can help rectify this unhealthy distortion of the appropriations process.

Mr. President, the Senate Appropriations Committee should be commended for the diligent job it has done in examining the defense budget. It has, after months of work, reported out a bill which cuts over $5 billion from the administration request.

However, the committee has not pared away all the waste and fat in the defense budget, nor will this amendment. But it would encourage the Defense Department to give the highest priority to real defense needs and to curtail those programs not essential for the defense of the Nation.

An $81 billion ceiling on expenditures will encourage managerial innovations in weapons procurement and manpower utilization—a more efficient use of the defense dollar.

The United States is today the strongest military power in the world. Despite the tendency of the military to poormouth U.S. defense capability at budget time, the United States retains important advantages over the Soviet Union militarily—as well it should. The United States is about 5 years ahead of the Soviet Union in the development of MIRV's, multiple warheads which can be aimed at separate targets. The United States has more than twice as many nuclear warheads as the Russians and will have this superiority well into the 1980's no matter what the Russians do. The naval balance of power still favors the United States, a status which the Soviet Union is not likely to be able to change in the near future.

For all my misgivings about Soviet Union intensions, the United States is militarily strong enough to cut an additional $1 billion from the defense budget without adversely affecting our real military strength.

This amendment will encourage the Defense Department to give the Nation what it needs—a lean, highly disciplined, well-equipped professional military force.

Mr. President, an $81 billion ceiling is not an arbitrary figure. A few examples of possible budget cuts suffice to demonstrate how the Defense Department could comply—comfortably.

First. Military assistance to Vietnam: Our policy in Indochina, with all its contradictions, has already cost the United States dearly in blood, dollars economic vitality, self-confidence, and world influence. We should phase out our military assistance to South Vietnam's autocratic regime as quickly as possible. By providing large sums of money to the Thieu government, we are prolonging an Americanized war.

The administration asked for $1.45 billion in new appropriations for military aid to South Vietnam; the Appropriations Committee has recommended $700 million. An additional $150 million can reasonably be cut from military assistance to Vietnam in order to accelerate the phaseout of military aid. Without aid, the Vietnamese will fight it out on the ground where the war will be won or lost—or they will make peace.

Second. Airborne warning and control system—AWACS: The Air Force asked for $550 million to initiate production of 12 aircraft and $220 million to continue development of AWACS technology. The Appropriations Committee has recommended $311.2 million for procurement of four aircraft and advance procurement of parts and the $220 million for research.

AWACS was originally being developed to provide air defense in the United States against a Soviet bomber attack. The military belatedly recognized that a bomber threat to the United States no longer existed. But instead of giving up AWACS, it shifted it from a strategic to a tactical mission.

The General Accounting Office—GAO—has reported that the change in primary mission should have caused a slowdown in the AWACS production schedule.

The main radar component of AWACS must be redesigned. And it is possible that AWACS can be jammed by enemy ground-based units. Further studies are necessary. They could show that AWACS will not be capable of performing its new primary mission. Under these circumstances, research should proceed, but the $311.2 million in procurement funds could be cut this year.

Third. Site defense: The site defense system cannot be deployed under the ABM treaty and the conference report on the military procurement bill instructs the Army to forgo development of a prototype demonstration model and instead use the money authorized for research and development.

ABM technological research is already being done under the advanced ballistic missile defense system program. A total of $91.4 million is being spent on this ABM hedge in addition to the $5 billion already spent.

Since site defense is a totally redundant program, it could be cut by $103 million leaving $20 million to phase out.

Fourth. Safeguard: This is our operational ABM.

The Defense Department intends to use $120 million to complete the Safeguard base at Grand Forks, N. Dak., which will be put in mothballs 6 months after it becomes operative. The United States cannot afford to build bases and then close them 6 months later. We cannot recoup the $5 billion spent on the ABM system, but we can safely save this $120 million for the U.S. taxpayer.

Fifth. War reserve stocks for allies:

This program is not for our NATO allies, but for certain Asian allies. These war reserve stocks are in addition to our own inventories. But because they remain in U.S. inventories until shipped to our Asian allies in the event of war, the program is not considered a military assistance program.

This program increases U.S. war stock inventories beyond their authorized level and circumvents congressional scrutiny over foreign military assistance programs; $350 million could be cut from the $529.6 million 1975 budget and an investigation made by the GAO to determine whether the entire program should be deleted from the Defense budget.

Sixth. Cruise missile: The Navy has asked for $45 million to continue its development of a strategic cruise missile—a sea-launched, low-flying, jet propelled missile.

The United States has currently deployed 41 submarines with 656 Poseidon and Polaris missiles. It is spending billions of dollars to develop the Trident submarine missile system. The U.S. Navy does not need another missile system. Redundancy in weapon systems is pure waste.

The committee has recommended an appropriation of $30.9 million for the Navy's cruise missile program. This research and development program can be terminated to save the U.S. taxpayer $30.9 million.

Seventh. SSN-688 attack submarine: The Navy has requested $502.5 million for procurement of three SSN-668 attack submarines and the committee has recommended this appropriation.

Twenty-three of these submarines have already been funded and now the Navy is designing a smaller and less costly attack submarine. The SSN-688 program could be slowed down to allow the procurement of a more cost-effective submarine. As recommended by the Armed Services Committee, only two boats instead of three should be built in fiscal year 1975 for a savings of $100 million.

Eighth. The Armed Services Committee also recommended a delay in purchasing a fourth AD-destroyer tender. This would save $116.7 million. The three tenders approved in fiscal years 1972 and 1973 are not yet even under contract. Where the Pentagon has not yet even begun to consider additional funds for the same program until such time as the cost and schedules are known and the funds needed.

Nineth. The House Appropriations Committee recommended the elimination of $41.4 million for 19 more CH-47C helicopters.

The Army has initiated a 3-year program to improve the maintainability, reliability, survivability, and safety of a similar cargo helicopter, the CH-47A/B model; it can do without these 19 helicopters this year. An approved and more cost-effective model may soon be available.

Tenth. DD-963 Spruance class destroyer: The committee has accepted the Navy's request of $655.4 million for the procurement of the last seven ships of the 30-ship program.

This program could be streched out by slowing down procurement to three instead of seven ships for a savings of $264 million.

The unit cost of this oversized and rapidly obsolescing destroyer is nearing $100 million. At the very least, the program should be decelerated until the overrun and technical problems are resolved.

Eleventh. Tanks: The Middle East war raises serious questions about the role of the tank in modern warfare where effective antitank missiles are used. The Pentagon response has been to accelerate procurement of M60 tanks—$237 million—and to revive the main battle tank—XM-1—killed by Congress in 1971. The committee has cut the Army's request and recommends $172.6 million for procurement of the M60 combat tank and $65 million for development of a new main battle tank. Additional tanks are needed, but not so many.

Development of super tanks is hardly

justified. The appropriation for tanks could be reduced $50 million in fiscal year 1975.

These 11 items represent a possible additional savings in the defense budget of more than $1.5 billion.

The PRESIDING OFFICER. Let us have order in the Senate.

Mr. STEVENSON. They do not include overdue manpower reductions or cuts in strategic programs such as the B-1 bomber, Trident submarine and counterforce programs which have been the focus of considerable controversy.

From $300 million to $1 billion could be saved in the defense budget if manpower levels are designed to produce a lean and professional Military Establishment. As recommended by the Appropriations Committee, the Department of Defense manpower levels as of June 30, 1975, will be 2,128,000 active duty military personnel and 985,000 civilians.

As of March 1974, the United States maintained approximately 465,000 land-based troops overseas—300,000 in Western Europe and related areas and about 165,000 in Asia. These overseas troops are the costliest component of our general purpose forces.

I am cautious about unilaterally withdrawing substantial U.S. combat forces from Western Europe with negotiations for mutual and balanced force reductions underway. On the other hand, I am skeptical about the need to maintain 165,000 troops in Asia.

Even after the end of direct U.S. military involvement in the fighting in Southeast Asia and 22 years after the Korean conflict ended, we maintain 35,000 in Thailand, 57,000 in Japan, 38,000 in Korea, and 5,000 in Taiwan. Many of these forces can be reduced without adversely affecting our defense posture and the remaining troops and our 7th Fleet could continue to provide stabilizing evidence of continued American interest in Asia. Withdrawal and demobilization of 100,000 U.S. military personnel in Asia would yield savings of approximately $300 million.

There are now more commissioned and noncommissioned officers than seamen and privates in the Armed Forces. We have more colonels, captains, generals, and admirals than we had in 1945 when the military had 12.1 million men under arms.

If the abundance of officers reflected the requirements of sophisticated 20th century warfare, no one could complain. But the Pentagon ranks now also include over 7,000 civilian employees who earn between $27,000 and $39,000. The military is plainly topheavy. And about 66 percent of the defense budget goes into paying and supporting defense personnel.

Another way to save money is to cut personnel levels substantially. A cut of about 66,000 personnel as proposed by the Appropriations Committee is too modest. The deadwood must be dropped out, overall levels reduced, the number of high ranking officers and civilian personnel cut, and the wage and fringe benefits of the military—such as uniformed servants, helicopters serving as limosines and unearned flight pay—must be cut to levels comparable to those in civilian life.

Nowhere are the twin dangers of economic folly and military explosion more forbidding and dangerous than in the field of strategic weapons policy.

To the extent that the United States now has any strategic policy, the policy is—quite rightly—to sustain an adequate nuclear deterrent.

Currently, the United States has 1,054 deployed Minutemen and Titan missiles, 41 submarines with 656 Poseidon and Polaris missiles and a force of B-52 bombers capable of delivering twice as many nuclear bombs as the Russians. These survivable strategic systems can destroy the Soviet Union several times over. Once would be enough.

Unfortunately, the debate is too often muddled by bargaining chip theories, and by strategic arms limitation agreements which, by limiting numbers only, accelerate the qualitative arms race. The policy is also clouded at times by rank nationalism, carefully timed leaks about real or contrived Soviet buildups and interservice rivalry.

For all my misgivings about Soviet intentions, I find it difficult to accept the notion that the United States can decelerate the arms race by accelerating it.

Even though we currently have a massive and modern strategic system, this year's defense appropriation contains hundreds of millions of dollars for new strategic systems and improvements in the deployed systems many of which are redundant. For example, there is about $300 million for counterforce programs. Advanced counterforce weapons would introduce a dangerous element into the strategic equation. If construed by the Soviets to threaten their entire land-based missile deterrent, the counterforce program could provide a strong impetus to the arms race.

President Ford has called upon the Soviet Union to join the United States "in an intensified effort to negotiate an equitable limitation of strategic arms." Certainly some, if not all of the counterforce money, could be cut from this year's defense budget. If we start a counterforce program now, as in the case of many weapons systems, once they are started, it will be virtually impossible to stop. Ultimately, such programs can cost the U.S. taxpayer billions of dollars and then, as with the ABM which cost $5 billion, never be deployed.

Other considerations aside, which makes more military sense? To invest $1 billion each in a few large new submarines, their missiles, and the enormous new bases they would require, only to gain marginally greater range and silence? Or to spend less money on more smaller submarines which would increase the number of target points a potential enemy would have to find? To invest $61.5 million on a deep penetration bomber when bombers are increasingly vulnerable to sophisticated air-defense systems? Or to build a less expensive plane which could stand off the coast of a potential enemy and shoot a cruise missile into the target?

This year's defense appropriation includes $400 million for the B-1 bomber and $1.363.8 billion for the Trident submarine program.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. EAGLETON. Mr. President, I yield 3 more minutes to the distinguished junior Senator from Illinois.

Mr. STEVENSON. Both of these programs could be pruned. The B-1 bomber program research could at least be slowed for a savings of about $40 million, and about $800 million could be cut from the Trident program by procuring one boat instead of two per year, and then by developing the less expensive, more cost-effective Narwhal.

The President wants to give SALT II a chance. We ought to give our negotiators a chance before lurching ahead once again. We ought also to give other nations less of an incentive to catch up in the deadly race to join the nuclear club.

As the Senator from Missouri has shown, this billion dollar cut can be made with the knowledge that our military forces will still have the ability to deter aggression and, if necessary, to protect our national interests. What is more, the Defense Department has a fund of over $10 billion of unobligated and unexpended funds which it can reprogram with congressional approval for high priority programs without increasing the budget we finally approve.

Mr. President, we dare not sacrifice national security by appropriating funds for excessive and wasteful military weapons and personnel. Our national security is neither measured nor insured alone by tanks, planes, missiles, warships, and armed men, but by the fundamental strength, unity, and confidence of our people in our institutions, economy, and society. We do not protect, but *instead* endanger, that security with excessive military spending. As President Eisenhower said:

> Every addition to defense expenditures does not automatically increase military security. Because security is based upon moral and economic, as well as military strength, a point can be reached at which additional funds for arms, far from bolstering security, weaken it.

The United States has passed that point. We, indeed the world, simply cannot afford this madness any longer.

To reestablish American priorities and American principles, I join with the Senator from Missouri (Mr. EAGLETON) in urging the adoption of this amendment to establish a $81 billion ceiling on the Defense budget.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, I thank the distinguished Senator from Illinois. I am pleased to yield 4 minutes to the distinguished Senator from Massachusetts (Mr. KENNEDY).

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am a cosponsor of the Eagleton amendment, and I am extremely hopeful that it will be acted upon favorably in the Senate this afternoon.

I think that all of us who have reviewed the very commendable work of the Appropriations Committee in cutting back some of these requests are heartened by its actions. But I think that the proposal of the Senator from Missouri is sound, first of all, from a security point of view, and that is our overriding concern and our overriding interest. It is also sound from a fiscal responsibility point of view.

In effect, with the passage of the Eagleton amendment, we will have increased the Defense appropriation more than 10 percent from what it was last year, which is basically the increase in the cost of living, plus approximately $1 billion.

We are talking about an increase of this nature, Mr. President, in spite of the fact that we have seen the end of the war in Southeast Asia, in spite of a very important and commendable step toward normalization of relations with the People's Republic of China, and in spite of the commendable efforts of the administration in trying to reduce tensions in East-West relations and in signing agreements on strategic weapons.

These are three extremely important and significant developments that have taken place in recent years. Yet in spite of these three important developments, we find that the defense spending has continued up and up and up.

I think all Americans listened to the President of the United States the other evening when he urged Congress to cut back approximately $5 billion in Federal spending.

As the Members of this body know, the areas where we can cut back primarily center on military budget. The military budget contains approximately 70 percent of the controllable items, while the remaining 30 percent lies in the areas of health, education, housing, and other people's programs.

If we are talking about trying to tighten our belts, then I believe that it is only appropriate for us to find ways in which there can be some cuts in Defense appropriations. The Senator from Missouri has outlined a variety of different ways in which the figure of $81 billion can be reached. He is reflecting the good sense and the aims of many entrepreneurs and leaders of corporations in this country: when they are given a budget they live within it, and make choices between various alternatives. In like manner, the administration should choose among competing weapons systems and make decisions based upon the national interest.

Leaders in the Defense Department are the experts and can make the judgments, rather than our debating the merits of weapons system after weapons system, as we have done in the past.

The eminent good sense of this approach will leave it up to the professionals in the Defense Department in judging how cuts best can be made.

I think that through a review of bidding practices, contract practices, and special arrangements made by Pentagon officials with major companies and corporations, the Defense Department can easily find ways in which this appropriations figure can be reduced to the $81 billion provided for in the amendment of the Senator from Missouri.

We can reduce manpower, centering on the support manpower built up in recent years.

All we have to do is look at the ratio of support to combat manpower, to see the possibility for reduction in the former. We can look at the number of supergrades in the military. Often we hear complaints about the number of high-salaried people working in education, health, and other areas. But as the Senator from Missouri knows, we have more supergrades—generals, admirals, and colonels—leading Armed Forces of 3 million people today than we had leading the world's greatest military force, 12 million people, at the conclusion of the Second World War.

These cuts can be made, and certainly not in the combat arms and in the essential areas of national defense. But they can be made in a variety of areas: procurement, research, and manpower.

So I commend the Senator from Missouri. I think he has put forward a responsible position for the Senate this afternoon. It is in the interest of the security of this country, and in the interest of those concerned about fiscal responsibility.

I commend him, and I hope the Senate will support his efforts this afternoon.

I see a number of appropriate areas where significant reductions can be made:

First, in the area of manpower, we can achieve significant reductions in appropriations by a modest lowering of the levels of manpower.

By merely adding an additional 75,000 end-year cut in Active Military Forces, by adding an 18,000 end-year cut in civilian forces, and by cutting the end-year level of reserves by 44,000, we can achieve a savings of appropriations of $650 million in actual pay and in reduced operations and maintenance. In future years, this would represent a $1.2 billion cut.

It should be noted that the Senate Armed Services Committee itself recently reported a bill with a 49,000-man reduction in Active Military Forces and recommendations for additional cuts of 11,000 in noncombat forces abroad.

The appropriations bill merely provides for a 24,000-man reduction. In addition, the Secretary of Defense has testified that there is a slow draw-down of our forces planned in Thailand and South Korea.

The Armed Services Committee has also questioned the 225,000 level of military base support personnel.

In these areas as well as in other noncombat support areas, reductions could be made by the Secretary.

The suggested civilian manpower reduction of 18,000 includes a recognition that the Senate Armed Services Committee proposed a 44,600 cut in civilian manpower, compared to the Appropriations Committee recommendation of 32,000.

The proposed reduction of reserves reflects the actual request of the Secretary of Defense, which was increased by the authorizing committees.

An additional $529 million also could be cut by the Secretary by terminating the "war reserve stocks for allies" account in which weapons and ammunition are obtained on a contingent basis for the support of foreign forces in South Vietnam, South Korea, and Thailand.

This reserve stock funding account has not gone through the foreign relations and armed services authorizing committees.

It is a back-door means of bolstering the actual procurement by the Defense Department.

When it was discovered by Senator FULBRIGHT, the Defense Department explained it as being used for supporting these three allies—South Vietnam, South Korea and Thailand.

At the same time, the Defense Department stated that the equipment remained in stockpiles controlled by the United States.

However, the Department would not state that congressional authorization would be required before these weapons could be turned over to allies.

In fact, when the GAO responded to the requests of the Senate Foreign Relations Committee with a report, the Defense Department objected to the GAO's use of the word "authorization" as being required prior to the transfer of stockpiled items to these Asian allies, arguing instead that only "consultation" with the Congress was required.

I find this position objectionable on two counts.

First, it could mean that congressionally established ceilings—on aid to Vietnam for example—could be meaningless if the Defense Department believes that it can turn this equipment over to Vietnam without further congressional authorization.

Second, it means that we are being asked—at a time of difficult economic circumstances—to boost the defense budget for the purpose of planning for South Vietnam, South Korea, and Thailand's future military aid needs. I say, this subject should be considered as part of the overall foreign aid request.

Subsequently, the Defense Department has argued that much of this new equipment goes directly to the U.S. Active Military Forces and the U.S. Reserves.

If that is the purpose of this reserve, then it should not be funded under this category.

But, the GAO has informed me that there is a circle at work, in which even if some of these weapons go to U.S. troops in the field, the weapons they are replacing go to the Reserve Forces or to the stockpile.

In recent years, there have been substantial increases in the item, "war reserves for allies."

In fiscal year 1973, the Defense Department set aside $25 million.

In fiscal year 1974, the figure jumped to $494 million.

And in fiscal year 1975, the current figure is $529 million.

These figures are based on the acquisi-

tion cost of suplies placed in the stockpile.

Once in the stockpile, there is a strong tendency for these supplies to be declared excess and turned over to South Vietnam, South Korea and Thailand.

Thus, in fiscal year 1973, the Defense Department listed $24.3 million in excess materials going to South Vietnam, $6.4 million going to Thailand, and $8.3 million going to South Korea.

But those figures are what the DOD calls actual value, not their acquisition cost.

The GAO found that the Department of Defense was listing those weapons at only 8.9 percent of their acquisition cost.

Thus, the acquisition cost of the weapons declared excess and turned over to those countries in fiscal year 1973 was in fact approximately $390 million.

In fiscal year 1974, the acquisition cost of the equipment declared excess and turned over to those three countries was approximately $620 million.

And in fiscal year 1975, the Department plans, according to GAO, to turn over to those three countries weapons and equipment whose acquisition cost is approximately $738 million.

I see no reason for the U.S. Congress to approve $529 million for the current fiscal year, in an account listed as war reserve stocks for allies and designated for South Vietnam, South Korea, and Thailand, at the same time that the Department of Defense plans to turn over items costing an estimated $738 million to those countries.

In addition, there are other areas where cuts are desirable in the overall Defense appropriations. I would note that the Senate Armed Services Committee has recommended that only two nuclear attack submarines be authorized this year, rather than three. The committee felt that there would be no negative impact on our security, since 23 of these vessels have been funded but have not yet been delivered; and for a substantial portion of them, the construction stage has not yet begun. A reduction of one attack submarine would mean a reduction of $334 million.

Similarly, the Armed Services Committee has recommended a deletion of the request for a destroyer tender, noting that three other tenders have been funded in prior years, yet contracts have not yet been awarded. In the committee's view, prudence suggests deleting the $116.7 million request from the appropriations bill now before us.

Another area of procurement where reductions can be made is in the F–14, where current appropriations of over $600 million are planned, for the purchase of 50 F–14's. This plane has been a subject of considerable controversy and questionable utility; and work is now underway on lighter weight replacements. Cutting in half the order of 50 planes to 25 would permit a savings of $300 million from this year's appropriations bill. It also should be noted that purchase of 80 F–14's by Iran will insure that the production line for these planes will not be measurably affected by a decision to reduce the U.S. level of procurement this year to 25 planes.

The Appropriations Committee also added, in the area of the ABM, an additional $38.8 million over the House funding for continued research and development on the new site defense system and the older "Safeguard" system. With the United States-Soviet agreement to limit each country to one ABM, I see no need for funding two ABM's, and surely not for adding money beyond what was voted by the House.

Finally, I would suggest that the Secretary could effectively reduce the $700 million level of assistance for Vietnam by an additional $150 million, to reduce the so-called MASF program for South Vietnam to a level well below the Senate's fiscal year 1974 funding.

In sum, these are specific areas, totaling nearly $2 billion, from which I believe reductions could be selected by the Secretary in order to reduce the level of Defense appropriations by $1.1 billion, thereby meeting the $81 billion ceiling, without affecting our national security in the slightest.

I would also emphasize to my colleagues that additional reductions are also possible in other areas—for instance, by slowing slightly a number of major ongoing programs: The Trident, which has appropriations this year of $1.6 billion; the B–1 bomber, with appropriations of $449 million; the Minuteman III conversions, with appropriations of $597 million; and the 7 DD–963 destroyers, with appropriations of $457 million.

In examining the Department of Defense appropriations bill, I believe that the items I have listed are susceptible to reduction without affecting our security. They would easily permit a reduction to meet an $81 billion ceiling, and they would help to ease the current economic situation by reducing the excessive inflationary pressure of Government spending. We have not mandated specific reductions as part of our amendment, because we believe the Secretary should have the authority to make the final determinations within the ceiling.

Nevertheless, this list of potential reductions is persuasive evidence that an $81 billion ceiling is not only well within the reach of Congress, but also within our basic national interest.

Suggested cuts totaling $1.9 billion

[In millions]

Total reductions:	
Manpower and operations and maintenance	$650.0
MASF—Vietnam	150.0
F–14—reduce buy from 50 to 25	300.0
SSN 688 Nuclear attack submarines—reduce buy from 3 to 2	167.0
Site Defense—reduce to level of House appropriation	23.0
Safeguard—reduce R. & D. funds to level of House appropriation	15.8
War reserve stocks for Allies	529.0
Destroyer Tender—delay buy, as recommended by Armed Services Committee	116.7
Total	1,951.5

Mr. YOUNG. Will the Senator yield?

Mr. McCLELLAN. I yield to the distinguished Senator from North Dakota such time as he desires.

Mr. YOUNG. Mr. President, this defense budget has already been cut $5.5 billion, the deepest cut that has ever been made on a regular defense appropriation bill in my time in the Senate, and that is nearly 30 years.

If we had cut it $10 billion, there would have been the same amendments offered to decrease it, with much the same arguments.

I would like to take exception to one of the many proposals, and they are all based on inaccuracy or misinformation, on the long statement of the Senator from Missouri (Mr. EAGLETON) under Safeguard.

I wish to quote, and this is in respect to the Safeguard:

> But recent studies, including a classified GAO analysis, show that our ICBM's do not need protection. Soviet missile accuracy is not sufficient now, nor will it be in the future, to threaten our land-based missiles. These missiles are, of course, deployed in hardened silos.

Mr. President, we have six Minutemen missile wings and not one of them has hardened silos. They are in the process now of hardening the Minutemen silos in one wing in Wyoming and one wing in North Dakota.

I read further:

> But the most compelling reason of all to eliminate funds for Safeguard in this year's budget, is the decision by the Pentagon itself to mothball the system soon after it becomes fully operational later this year. That such a decision has been made was recently confirmed by a Defense Department spokesman.

I do not know who that spokesman was. He is not identified.

Before I go further, Mr. President, let me read from a letter from the Department of Defense.

I ask unanimous consent that the entire letter be placed in the RECORD.

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

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., August 9, 1974.

Hon. MILTON R. YOUNG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YOUNG: Secretary Schlesinger has advised me of your conversation with him and your interest in the information that appeared in the Congressional Record and in the Press concerning DoD plans for the Safeguard site.

There are no DoD plans to close down the site. The Safeguard site is an important element of our strategic defensive posture at which we do not now plan to assume any status characterized by the word "mothballing." We are, as you know, giving continuing attention to taking every possible measure to reduce costs within the Department of Defense. One of the options being preserved would be to reduce somewhat—many months hence—the level of operation of portions of the Safeguard site. Final decision to execute this option could only be made if the future international situation and the status of the arms control negotiations warranted such a change in status. In any case, there are no plans—tentative or otherwise—to make such a change prior to fiscal year 1977.

The FY 75 Defense Program includes funds for R&D and operation of the Safeguard site. This program will permit us to acquire the essential operational experience necessary to support future R&D. The program also will assure that this Safeguard site can be operated to provide the protection it uniquely affords. Our planning of strategic forces necessarily includes assumptions on the degree

of strategic warning that we might receive prior to a severe crisis. When it is possible to make the appropriate assumptions about strategic warning and when we have acquired the necessary operational experience it will then be possible to consider whether this site could be safely maintained at a reduced level of operational readiness.

I hope that this information will clarify some of the misconceptions that could easily have arisen from material recently available on this subject.

Sincerely,

JOHN M. MAURY.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., August 7, 1974.

Memorandum for:

Major General John A. Wickham, Jr., Military Assistant to the Secretary of Defense.

Major General Raymond B. Furlong, Principal Deputy Assistant Secretary (LA).

Colonel Robert L. Burke, Director for Defense Information.

Mr. Charles Hinkle, Director for Security Review.

I have responded as follows to this question from Les Gelb of the New York Times:

Q: Has there been a decision to mothball the Safeguard site?

A: There is a decision to protect an option to phase down portions of the Safeguard site in an orderly way in the outyears beyond FY 1976 resulting in a reduced readiness status. Obviously this option might not be exercised and the planning could change depending on the international situation and the status of arms control negotiations. Full operation of the site in the period before FY 1977 will provide us with essential R&D information and operational experience and will insure the capability to restore the site to full readiness in a timely manner if it should in fact be placed in a reduced status. The decision to protect this option to reduce readiness in the out-years has been fully discussed with the Congress throughout the year including the Secretary's classified Defense Report of last March.

JERRY W. FRIEDHEIM.

Mr. YOUNG. This letter is dated August 9, addressed to me:

DEAR SENATOR YOUNG: Secretary Schlesinger has advised me of your conversation with him and your interest in the information that appeared in the Congressional Record and in the Press concerning DoD plans for the Safeguard site.

There are no DoD plans to close down the site. The Safeguard site is an important element of our strategic defensive posture at which we do not now plan to assume any status characterized by the word "mothballing".

That story also appeared in the New York Times, that we are going to mothball the ABM site. That statement is utterly false.

Mr. President, I now read the last paragraph of the Eagleton statement:

Instead of allowing funds to complete Safeguard and maintain it for a full year, I would give the Army exactly what it needs to put the system in mothballs. The savings here, therefore, would be $80 million, leaving $40 million to phase out the program.

Mr. President, since the Safeguard program was first started by President Johnson, we spent approximately $6 billion in research and development, and testing, and about $300 million on the site in Montana, which we abandoned, and about $805 to $810 million on the site in North Dakota.

It would take $60 million to complete the ABM site in North Dakota.

Would it not make sense, Mr. President, to complete the site after over $800 million has been spent on it when it only requires $60 million more to complete it?

One thing they have been able to develop through this ABM project is a radar that is five times as strong as any other radar we have deployed any place in the world. That is one of the results.

Mr. President, this is only one of what I believe to be many errors and inaccuracies contained in the Senator EAGLETON statement.

May I say again, what a horrible mistake it would be after spending $6 billion on this Safeguard system to abandon the one site we have about completed, where it would only take $60 million more to complete it. The Russians have one site and they are going on improving theirs day by day.

The PRESIDING OFFICER. Who yields time? The Senator from Missouri is recognized.

Mr. EAGLETON. Very briefly, Mr. President, the Defense Department spokesman I failed to mention by name is Jerry Friedheim.

I ask unanimous consent to have printed in the RECORD at this point an article from the New York Times of August 8, 1974, by Leslie H. Gelb, which deals with mothballing the Safeguard and contains the quote from Mr. Friedheim.

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

HOUSE VOTES MISSILE SITE PLANNED FOR 6 MONTHS' USE

(By Leslie H. Gelb)

WASHINGTON, Aug. 7.—The House of Representatives voted $135-million yesterday for the completion of a missile defense site that the Pentagon plans to place in mothballs six months after it becomes operative, according to a number of Congressmen and Administration officials.

The impending mothballing could not be stated in the floor debate on the defense appropriations bill because the Pentagon has kept the information classified.

Most members of the House Defense Appropriations subcommittee who were aware of the mothball plans, nevertheless, recommended passage of the measure. Their arguments were that some research lessons might be learned and that $5 billion had already been spent on the project.

Representative Robert N. Giaimo, Democrat of Connecticut, offered an amendment to reduce funds for the project by about $85 million.

URGINGS IGNORED

He and a number of his colleagues urged their fellow Congressmen during the debate on the amendment to go over to the floor managers' tables and read the page in the classified record that described the mothballing plans. Only a handful went over to look at the text. The amendment was defeated, 182 to 219.

"Assistant Secretary of Defense Jerry W. Friedheim acknowledged in a telephone interview that "the decision has been made to protect the option to phase down some parts of the defense missile site" after 1975.

He added that the decision would "save money" and "give us the option to come back with the site" in an emergency.

Other Pentagon officials, however, maintained that it would take about three months to get the site working again once it had been phased down as planned.

Mr. Friedheim did not explain why the mothballing plans needed to be classified.

The House passed yesterday a Defense Department appropriations bill of nearly $84 billion, some $3.6-billion less than the Administration had requested. This figure does not include an additional $6-billion for other military programs such as foreign military aid, civil defense and development of nuclear warheads done by the Atomic Energy Commission.

WEAPONS PROGRAMS PROTECTED

The bill will allow the Pentagon to proceed with almost all of its planned new weapons programs.

At the same time, however, Representative George H. Mahon, Democrat of Texas and chairman of the Appropriations Committee, warned the Pentagon not to ask Congress for more money because of inflated costs. In recent years, the Pentagon has sought supplements after its budget had been approved and was expected to do so again this year.

The House also passed two key amendments contrary to the positions of its own Appropriations Committee and to the Administration.

MISSILE SITES LIMITED

By 233 to 157, the House voted to cut military aid to South Vietnam to $700-million, or $300-million below the committee recommendation and $900-million under the Admin-

* * * * *

By a vote of 214 to 186, the House also killed Administration plans to begin the production of a binary system for the delivery of nerve gas. Binary nerve gas production had been proposed by the Pentagon to match Soviet developments in gas warfare and opposed by the Arms Control and Disarmament Agency as an obstacle to negotiations under way in Geneva to ban chemical weapons.

The background to the vote on the missile defense site was frequently cited by Mr. Giaimo and others to justify their opposition to the measure.

In 1972, the United States and the Soviet Union signed a treaty limiting each side to two antiballistic missile sites. During the Moscow summit several weeks ago, both sides further agreed to a one site limit for each.

In between these two agreements, the Pentagon decided to begin research and development on a new type of missile defense system known as "site defense." The technology of the systems limited by Soviet American treaties. The House yesterday approved $100-million for the new site defense program.

On April 25, 1974, Gen. Walter P. Leber, the chief of the Safeguard defensive missile system that is limited by the Soviet-American accords, informed the House Defense Appropriations Subcommittee in classified testimony of the following Pentagon plans:

1975 COMPLETION

If Washington and Moscow agreed to limit the Safeguard system to one site, Washington would choose Grand Forks, N.D., the site nearest completion.

With the $135-million requested in the new budget, the Grand Forks site would be completed some time in 1975.

Since this one site would be without strategic significance, the Pentagon would keep it in operation for about six months for research, then phase it down to a low state of readiness.

Pentagon plans remain as stated then by General Leber. His testimony is what Mr. Giaimo and others were referring to in the House debate yesterday.

Mr. Giaino's amendment would have budgeted only enough funds to close out the

Grand Forks site. He and others argued the following: The research benefits to be gained by completing the Grand Forks site could not be used elsewhere since by treaty the United States is limited to one site and could not be transferred to the new site defense system since the two technologies are so different.

Speaking in favor of completing the program, Representative Robert L. F. Sikes, Democrat of Florida, said: "If we stop now, we will have nothing to show. For $5-billion we have nothing to show—nothing."

In a telephone interview, Mr. Mahon stressed that it was important for the United States to possess the technology "used by our troops in our country," since the Soviet retain an operational site near Moscow.

The Senate Appropriations Committee has not yet taken action on this matter or on the Defense Department appropriations bill.

Mr. EAGLETON. May I say to my friend from North Dakota, it seems like 5 years ago or so when we were debating ABM and Safeguard. We need not repeat 5 years of history, nor the enormity of debate, which consumed many, many days. We take diametrically opposite viewpoints as to the advantages of Safeguard.

I predict to my good friend from North Dakota that the biggest thing North Dakota will get out of Safeguard will be a State park. In terms of its utilitarian qualities, its defense utilization, it is worthless.

I presume I might view it in a somewhat different context were it in my home State, although I fought like the devil to keep it out of my State of Missouri when they threatened to propose it for Sedalia, Mo. They wanted to Safeguard us to death with a nonoperable, useless, wasteful system.

The Pentagon did me a perverse favor when they said it would no longer go to Missouri, as a threat of punishment. I accepted their decision and I have obtained more political mileage out of it than if they had put it there.

Nevertheless, it is in North Dakota, and I presume it will stay there.

I can assure the distinguished Senator from North Dakota it is going to be mothballed and will not be used. It does not make any difference. It could not have been used anyway.

Mr. YOUNG. Will the Senator yield?

Mr. EAGLETON. Yes.

Mr. YOUNG. It was not a request of mine nor the people of North Dakota that the ABM site be placed in North Dakota. There are two big air bases in our State, about 300 Minutemen, and the ABM. If North Dakota seceded from the Union, we would be the third biggest nuclear power in the world. We did not ask for these installations. It was a Defense decision that placed them there. We did not object to it. Our people thought if the country needed them for national security they would accept them.

Mr. EAGLETON. I thank the Senator from North Dakota.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. I yield to the Senator from Mississippi such time as he may desire.

Mr. STENNIS. Mr. President, I thank the Senator very much.

Mr. President, I think everyone should really follow the route this bill has taken: the authorization part, to start with, by a committee of the Senate and by a committee of the House, and then a conference committee meeting between each on the authorization bill which went over the entire matter for weeks—I think 5 weeks over a period of time. Then come back for a moment to the history of this matter.

The original budget was considered most exhaustively by our committee. As pointed out this morning by the Senator from New Hampshire, research and development was carefully considered, and considerable reductions were made.

The same thing happened with reference to procurement.

Reference has been made to ships. There was one group where the chief control ship was finally eliminated altogether. They are going to take a new start somewhere in that field. That was a legislative act.

We brought a bill to the floor of the Senate for authorization.

Consider the manpower, aid to South Vietnam, the civilian manpower, plus the military procurement, plus the R. & D. We took out, in round numbers, between $2.5 billion and $3 billion. That is including the manpower and the foreign aid.

We went to conference. We did not have that much of a saving, but we had well over $1.5 billion.

This went to the House of Representatives where they have a staff that works year in and year out. They came back with a lot of very valuable information that led to reductions in this bill.

The Senate Committee, under the guidance and leadership of these two Senators, the Senator from Arkansas and the Senator from North Dakota, worked further on the bill.

Do not think this is trivial work. I know the Senator from Missouri does not think so because he did some good work once on a tank, and I commend him publicly and privately. So he is a worker, too.

Do not think that these men are not workers. They and their staff—and the rest of us helped them some—really put a fine-tooth comb all the way through this matter. Let us not say to the people of America that we are just throwing away money, putting it in for this and putting it in for that.

There has been more time taken up and lost on these bills, arguing about beagle hounds and items of that kind, than there has been of these real weapons. The members of the committee have been through it from bottom to top. They have come up with some recommendations that are really down to the bone. I do not think they have cut any muscle, but they have got down pretty close to it.

This amendment, with all deference to our friend from Missouri, would lock this committee in by this vote, putting a ceiling on this of $81 billion. That means that we go through the formality of appointing conferees and they will go to represent the Senate at the conference. That means they will have to go into the conference and say to the House conferees, "We cannot go above $81 billion because of the Eagleton amendment, and that means the House will have to yield to us on everything."

Their bill calls for about $83 billion. So we would be $2 billion under them to start with. We could not go above $81 billion. Then we have to bring back a bill that is not below the lowest figure of the two nor above the highest figure of the two.

It just means we would be locked in and that is all we could do or say. We would very quickly get an answer.

Mr. President, I shall discuss in some detail the extent to which the Defense budget has already been reduced under our congressional process—that is what happened during the authorizing process to which a large portion of the budget is subject, and what has happened in the appropriation process, which has overall jurisdiction over the entire Defense budget. The Senate will see that this request, as it now stands, which has been reduced from $87 billion to $81.5 billion, has undergone a most intensive review by four committees.

RESULTS OF AUTHORIZATION REVIEW

As the Senate knows, appropriations cannot be made for substantial portions of the Defense budget until the appropriation has been authorized. This requirement covers the procurement of all major military hardware, all research and development, the fiscal year end-strengths for military and civilian personnel in the Department of Defense, and military assistance for South Vietnam.

Those portions of the Defense budget not subject to authorization include the entire O. & M. account, portions of the personnel account, parts of the procurement account, and various other sundry items.

Mr. President, the Senate version of the authorization bill reduced the Defense budget by $3 billion, 244.7 million. These cuts were as follows: Procurement, $1 billion, 110.1 million—8 percent—R. & D. $372.6 million—4 percent—the 49,000 military cut and the 44,600 civilian personnel cut would have resulted in savings of approximately $1.2 billion annually; military assistance for South Vietnam cut $550 million—38 percent—from the request of $1 billion, 450 million. The Senate committee cuts, Mr. President, were not increased or decreased on the Senate floor.

RESULTS OF CONFERENCE ON THE AUTHORIZATION BILL

In conference, Mr. President, a portion of these cuts were restored. However, the record should reflect that the final authorization act reduced the Defense budget by a total of $2 billion, 135.2 million from the request. The major reductions were as follows: Procurement cut $810.9 million—5.9 percent—R. &. D. $388.1 million—4.2 percent—personnel $488 million; Vietnam assistance cut $450 million—31 percent.

FURTHER REDUCTIONS IN TWO APPROPRIATION COMMITTEES

The overall cut, Mr. President, made by the House Appropriations Committee in the defense budget was slightly over $4 billion.

SENATE APPROPRIATIONS ACTIONS

Mr. President, proceeding with the same comparisons the Senate made further reduction in the overall budget which totaled $5.5 billion. This includes further reductions in the procurement, R. & D. and personnel accounts. The Vietnam assistance, which as the Senate may recall, was reduced an additional $300 million in the House, remains at that figure in the Senate, which, as we know, is now $700 million from a total request of $1 billion, 450 million.

FINAL COMMENT

Mr. President, these figures speak for themselves. This is one of the tightest Defense budgets we have had in years. It still permits a strong national defense, but, at the same time, there have been far greater cuts in this budget than any I have known in the Congress so far this session.

Mr. EAGLETON. Will the Senator yield for a question on that point?

Mr. STENNIS. Yes.

Mr. EAGLETON. This cut is to be made in the discretion of the Secretary of Defense, if you came back to the floor of the Senate with an $81.5 billion bill, hypothetically. He could so do, in my opinion, with the discretion lying with the Secretary of Defense, were he to cut off that extra $0.5 million figure.

Mr. STENNIS. You did not let me finish my story. I was going to say what would happen in the conference.

You would not get any kind of an offer back on any kind of negotiation or anything else. Their own self-respect would make them say, "We are not going to yield to the Senate on that figure, and we are not going to lose our time in arguing about it. We are not going to have a conference, if you are going to stand on that amendment."

So, of course, the Senate would have to yield on that amendment before you could get down to any kind of negotiations. Do not say it would not happen that way, please, unless you have been through the thing I am talking about.

Mr. McCLELLAN. Will the Senator yield?

Mr. STENNIS. Yes, I yield.

Mr. McCLELLAN. As this amendment is worded, I think it means whatever we appropriate, the appropriation, the overall total, must be that. It does not cut any item in the bill.

It does not increase any item in the bill as it is now. It simply puts on a ceiling. If I interpret it correctly—and I think that is the interpretation placed on it by the author—it means that we would abrogate our power and authority and responsibility to appropriate, but we would delegate that power to the Secretary of Defense. I do not believe that is the best way to do it.

Mr. STENNIS. I do not think so.

Mr. McCLELLAN. I do not know where he would cut. He might not cut in the places that the distinguished Senator from Missouri has suggested that cuts would be made.

Mr. STENNIS. The House is not going to agree to anything like that. We might just as well recognize that now. The conferees would have to yield or come back for further action of some kind, under the parliamentary procedure.

We have to be practical and realistic. We are prepared to defend this bill. It is not a product of any one person's arbitrary idea. It is a product of the judgment of those of us who have been working on it, particularly led by the two Senators to whom I have referred.

We are not going to get anywhere with the House conferees by going in there with a mandate. With respect to any particular item that has to be voted on, it may be too late now to offer an amendment. But any particular weapon or any particular amount was subject to attack, or any particular item could have been left out.

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

Mr. STENNIS. I yield.

Mr. EAGLETON. I do not have a particular amendment in mind, but I should like to ask the distinguished Senator from Mississippi, the chairman of the Armed Services Committee, what he thinks about the wisdom of cutting additional civilian personnel from the Defense Department payroll? I quoted at great length an excellent report by the Senator's committee about the lavish civilian personnel quotas of the Defense Department. I ask the Senator what his current attitude is with respect to that?

Mr. STENNIS. My attitude is rather well reflected in the bill as it exists.

I do not recall the figures at this time, but 30,000 additional places were requested, and the Senate Armed Services Committee turned down virtually all of them, plus some more. I cannot recall the exact figure, but it was about 39,000 which could have been taken care of by attrition. That was compromised somewhat in the conference with the House on authorizations. The House Appropriations Committee then took that authorization as the top figure and reduced it somewhat. The McClellan subcommittee reduced it more, and it now stands at about 32,000, as I recall. That is not only the best judgment I have; it is the composite judgment of many of us who have worked on this subject.

We held extensive hearings on this matter, and we are already holding some hearings on manpower for next year. The military manpower has been gone over in the same fashion. We recommended a reduction to which the House did not agree.

Mr. President, that is about the only contribution I can make. There has never been a bill that has been considered and reconsidered and evaluated and measured and weighed and examined and analyzed, with a composite made, any more than this one. In fact, I believe that this bill has had more treatment along that line than at any time since I have been on the Armed Services Committee.

As I have said, we have already started working on next year's bill, because I believe the membership is pretty well satisfied with this one, the way it is now.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, we are awaiting the senior Senator from Missouri, and I am ready to close on my amendment.

I yield the floor.

Mr. McCLELLAN. Mr. President, I yield 5 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to speak in opposition to the Eagleton amendment.

I remind Senators that the President of the United States, in the 1975 budget estimate, sent a request asking for $87 billion. Congress has considered this request in the pending bill. The House Armed Services Committee went into it in detail and fine-combed it. The Senate Armed Services Committee went into it in detail and gave it thorough consideration. The House Appropriations Committee has given it thorough consideration, and they have come up with a bill of $83 billion. The Senate cut that. The decrease recommended by the Senate is $1.5 billion. In other words, they cut it to $81.5 billion, a reduction of $5.2 billion from the original administration request.

Mr. President, how much more can we cut it? The idea of just saying that we want to cut off a billion dollars sounds good. It is nice to go back home and say that we voted for an amendment to save a billion. But where is it being saved? It is being saved from the only thing that can keep America free.

In this time in history, when Communist dictators are trying to devour the world, when they have 36 percent of the world's population and want to take the rest of it, how are we going to keep this country free? How are we going to defend the free world, unless we keep strong militarily?

The only language the Communists know is power. In order to have power, we must have a strong defense program. We cannot have a strong defense program if we are going to cut into the very sinew of a defense bill that has been considered by 4 committees, which they have reduced and reduced, and it cannot be reduced any more without peril to this country. I hope the Senate will think over this matter well and realize that it is important to keep this country strong.

Under the amendment that the distinguished Senator from Missouri is advocating, key decisions would be transferred from Congress to the Department of Defense. That is the very thing we are trying to get away from. We have said that the executive branch has too much power, that we have to bring it back to Congress. But under this type of amendment the Defense Department is going to make the decisions that we should make, and the members of these committees have tried to make these decisions in a sound manner. If the committee has made some errors—and no doubt we have made some; nobody is perfect—it can be corrected in conference. But just to take a meat ax and cut a billion dollars from the defense of this country does not make sense to me.

I repeat that the survival of this Nation, the survival of this Government,

the survival of freedom in this country, depends on the military strength of this country.

I remind the distinguished Senator from Missouri and my colleagues that we read in this morning's newspapers about our President trying to negotiate a multilateral reduction. If we reduce unilaterally, we are taking away from the President the strength he needs. We are depriving him of the sinews he needs to say to the Communists, "We want to reduce, but we want you to reduce, too." But if only we are going to reduce, we cannot expect negotiations to be successful.

We cannot expect to go into conferences and to reach agreements that are beneficial to this country and for the welfare of this Nation.

The PRESIDING OFFICER. The Senator's 5 minutes have expired. Who yields time?

Mr. THURMOND. Mr. President, I wish to say in closing that I hope the Senate will defeat this amendment.

Mr. EAGLETON. Mr. President, to conclude the presentation of the proponents of amendment No. 1836, I am very pleased to yield to my distinguished colleague from Missouri.

No one in the Senate, Mr. President, with all due respect to the fine Senators on the floor and those who have been on the floor today, no other Member of this body has had the awareness of and the knowledge of matters relating to military affairs—to the armed services—to the national security of this country, than my senior colleague. His experience in the executive and legislative branches of the Government—in the Defense Department and on the Armed Services Committee—makes his advice and counsel most valuable.

Thus, although normally, the sponsor of the amendment would close on it, I am eager to adopt such thoughts as my distinguished colleague will say in support at this time.

Mr. SYMINGTON. Mr. President, first, I deeply appreciate the very kind remarks by my able and distinguished colleague from my own State. I know he knows how grateful I am for what he has just said.

Mr. President, yesterday, on the floor of the House, in answer to President Ford's request on Monday night for the cooperation of the Congress in reducing the Federal budget in effort to combat inflation, by a vote of 257 to 155 the mass transportation bill was slashed from $20 billion to $11 billion.

The categories in this bill were cut on the basis of a certain percentage and not, to the best of my understanding of the debate, justified on a program-by-program basis. In other words, this was an across-the-board cut of almost 50 percent.

Why cannot the same criteria be applied to the Defense Appropriation bill? Why not an across-the-board cut of some 8 percent for the sake of efficiency and the state of our national economy?

I support the amendment proposed by my colleague from Missouri and commend him for his thoroughness in researching the various items in the Defense bill which he believes should be reduced below the level recommended by the committee.

I congratulate him on the detail with which he went into it in his effort. But, in this time of rampant inflation, is it really necessary for us to go into such detail in recommending a less than 2-percent reduction in an $87 billion Defense budget—less than 10 percent if you include the $5 billion reduction recommended by the committee.

Why is an 8-percent reduction in our defense bill so much more unacceptable when it comes to fighting inflation than an almost 50-percent reduction in the mass transportation program?

Anybody who has large cities in his State knows only too well the growing problem of the strangling of our cities because of the lack of such transportation. It is for those reasons that I believe that mass transportation is desperately needed to move forward as rapidly as possible.

Time after time I have heard many of my colleagues say that we should not interfere in this or that program in the Defense budget because the Congress does not really understand these programs as well as the civilians and military in the Pentagon and they are the ones who should make the decisions about our defense posture.

Well, if they are the experts, then let them decide where to spend the money; but let the Congress assume its responsibility to the American taxpayer to try to stem the rising tide of inflation by telling the Pentagon that they have only so much to spend. This would be the business-like approach to the problem.

This is the way the problem was approached by the President who probably knew more about the Pentagon than any President, General Eisenhower.

As I have said before, a sound economy with a sound dollar is as important to national security as weapons systems, especially in that some of the latter are clearly questionable.

I find incredible the argument that a modest reduction in the Defense budget, in this year of double-digit inflation, would make the United States a "second-rate power."

For these reasons, I plan to vote for the amendment presented by my distinguished colleague now before the Senate, and would hope that all my colleagues who are truly interested in reducing inflation will do likewise.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I have listened to much of the discussion this afternoon on this amendment. At times, I was otherwise occupied and did not, therefore, hear all of the argument that has been made. But, Mr. President, there is no need for a lot of argument. The issue here is pretty simple. The question is, do you want to have appropriations by line item, duly examined and approved by the regularly constituted committee of this body, which has a mandate to do just that, and then to report its findings and recommendations to this body? That is our system. That is the way we should proceed.

The opportunity to have proceeded in that way was available to the distinguished author of this amendment, who is a member of the Committee on Appropriations. As I examine his remarks this afternoon, I find he has suggested 12 specific large areas, where he thinks reductions could be made and should have been made, and within those suggestions, there are smaller items, I am sure. I have not examined it in all detail.

I suggest to you, Mr. President, and to my colleagues that if these areas are susceptible of cuts, they should be cut as proposed in his remarks, but not as in the amendment before us. The logical thing, the proper thing, and the best thing that could have been done would have been to present to the Committee on Appropriations the specific amendments to make the cuts at the places where the remarks of the Senator today now suggest.

Some of them may be good and some of them may have been accepted or may have been modified and accepted. I do not know. But I do know, Mr. President, that when we delegate to the Defense Department the authority to spend $81 billion any way it wants to, or delegate the authority and mandate it to cut a billion dollars from whatever we appropriate here, we are abrogating our responsibility.

I do not think it is very becoming of us to do that, and I do not want us to do that. I want us to keep this system whereby we hear evidence on these appropriations, on the budget, and on the proposed appropriations, and weigh them. And then, after discussion and judicious consideration, make a decision and submit a recommendation. That recommendation will not always be wise, will not always be the best. But I submit, Mr. President, that it is a far better system, and that far fewer errors in judgment and actions will occur by coming through that process than by simply submitting on the floor of the Senate a provision which states:

> No funds in excess of $81 billion may be appropriated pursuant to this act.

Well, there is more than that in the bill. What does this cut? What does it affect, if it simply places a ceiling without approving any specific item in the bill?

Mr. President, it is a blank check, a delegation of power to the Defense Department to spend $81 billion any way they want it. I do not agree that they should have the final say. Often we defer to their judgment. I have before, and will in the future continue to defer where I am sure they are better informed and better advised than I. But I want to reserve the right, and I want the Senate to reserve the right, to examine the budget, pinpoint items, and say, "For this item, for this plane, for this submarine, for that much ammunition, for that much provisions, for that much fuel, you can spend so much and no more."

That is the way it should be done. That is the only way, Mr. President, that Congress can keep control of the purse strings of this Nation. If we are going to delegate to department heads the power to dispense and dispose of a total appropriation without specific directions as to

how it can be spent, we are moving in a dangerous direction.

I do not know; perhaps some of these cuts could be made. But I say this amendment does not make a single cut where our distinguished friend says they perhaps could be made and should be made. Not a single cut such as he proposes is made by this amendment. He says they could be made there, but they are not made. It would be doing the thing in an irresponsible way. In my judgment, if the Senate thought that we had appropriated too much money, and that the committee's recommendations were unsound, the proper procedure would be to recommit this bill with instructions to the Appropriations Committee to bring in a bill not to exceed $81 billion in appropriations.

That is the right way to do it. That is the right way, Mr. President; then we could weigh these things. But I submit that the $5 billion cut that we have already made is not modest and it is not insignificant unless, Mr. President, we are entering into a process of disarmament, of reducing our military strength to where we will be a second-rate power.

I know no Member of this body wants that. Not a Member of this body, on a vote that clearly presented that issue, would vote to make America a second-rate power.

But let me point out something to my colleagues. We have in the past, on two occasions immediately preceding World Wars, been unprepared. Those wars may have occurred because we were not adequately prepared. Under existing conditions, with the technology and the stage of scientific advance at that time, we had the opportunity to get ready and to meet the enemy.

Mr. President, we do not have time on our side any more. There is enough power harnessed today, in the hands of one potential enemy, that if unleased could destroy this Nation, unless we stay prepared to immediately inflict comparable damage to our adversary. And when the day comes that that adversary feels that by a first strike they could destroy this Nation, I do not want us to be unprepared.

I do not know what it will take. No one knows today. But I do know if we are not careful—and I have been concerned about this question, Mr. President; as I recommended this $5 billion cut I have been concerned about it. Are we sending a signal that may be interpreted as an indication of our retreat from meeting the challenge that is posed?

I hope not. I do not know what next year will bring forth. I will tell you what I think it could mean. I think that as we go out with this bill of $5 billion less than requested, we could make it a signal, and determine from the response whether there is any genuine, true purpose on the part of our potential adversaries to negotiate in good faith for disarmament. This could be a suggestion that, "Yes, we are ready to start negotiating disarmaments with you."

We will know pretty soon whether there is any reaction of that kind to this action we are taking voluntarily. If that reaction in response to this cut does not come, it may later be well to look more carefully into the extent to which we are crippling our defense potential.

I do not want to talk any longer. Senators have their minds made up. Either they are going to vote to handle the appropriation as in the amendment, or vote to stand by the rules and the system that guarantees the opportunity to inspect, to examine, to inquire about, and then to make judgments. But if we do it by this amendment, we lose that power and that prerogative, and I think it is irresponsible.

Yes, Mr. President, I would like to reduce this bill. I would like to wipe it off the books. I wish the condition of civilization today would permit us to do that.

But, Mr. President, we are living in a world of reality, not fantasy. The dangers are real. They are not imaginary. And I would like to leave this thought with my colleagues as I conclude, Mr. President; I am not sure that we have not already cut too much. I can find many places we can still cut. I could put a list of them into the RECORD. Here are a dozen places where we could cut, but it would mean starting down the road to disarmament, and I do not think we can afford that. Let me say this, Mr. President, in conclusion:

The turbulence and instability of international affairs, the capability of potential aggressors to wage wars of conquest instantaneously with unprecedented weapons of catastrophic destructive force and power, and the ever-present and calamitous danger these tragic and realistic conditions present, clearly and irrefutably preempt us from disarming and from reducing our military arsenal to a level that will relegate our Nation to a second-rate power.

It is imperative that we support and maintain a defense posture of deterrent proportions. To do less is to incur unacceptable risk—it is to invite provocations and impositions, and possibly an assault—a challenge to war.

The price of keeping a deterrent strength—of preparedness—comes high I know. But it prevents war and insures peace; it is more than worth the cost and the sacrifices it entails.

We hear a lot today about priorities in Federal spending. We are compelled to measure and compare the relative importance and need of proposed appropriations, and that is what we have undertaken to do, Mr. President.

But I would remind my colleagues that as the highest priority for any of us as individuals is the preservation of life itself, so is it with our Nation. We must be ever ready, able, and willing to provide adequate defense for its security and survival.

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

Who yields time?

Mr. McCLELLAN. Mr. President, I do not know how much time I have left, but I yield myself 1 more minute.

The PRESIDING OFFICER. Does the Senator have more time remaining?

Mr. EAGLETON. Mr. President, I yield the Senator such time as he may desire.

Mr. McCLELLAN. No.

Mr. EAGLETON. I am prepared to yield back the remainder of my time. I am prepared to yield to any Senator on either side or one who is neutral.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. I understand the vote on the final passage of the bill must occur at 4:45, is that correct?

The PRESIDING OFFICER. That is the previous order; that is correct.

Mr. STEVENS. Mr. President, I would like to raise a question concerning one of the comments in the reports on this defense appropriations bill. When the matter was before our full Appropriations Committee, I briefly discussed the subject with our distinguished chairman, the Senator from Arkansas (Mr. McCLELLAN), and with the chairman of the Armed Services Committee, the Senator from Mississippi (Mr. STENNIS).

There is a reference in the report to propose reductions in headquarters staff. In the past few months, I have discussed with my good friend, Senator STENNIS, the problem regarding the Alaska Command. I have also written to him to convey my views concerning the future of the Alaska Command.

We have had seven Unified Commands and the Alaska Command has represented less than 5 percent of the personnel involved in the headquarters of these commands. In 1970, the Blue Ribbon Defense Panel recommended to the Department of Defense that the Alaska Command be disestablished. At that time, I protested this action to the Department of Defense, and after review of the problem the Under Secretary of Defense, David Packard, disagreed with the Blue Ribbon Defense Panel and determined that the Alaska Command would remain intact, although there was a substantial reduction in the number of personnel at the Alaska Command headquarters.

Now we have been informed of a similar recommendation that is designed to disestablish the Alaska Command.

In my recent letter to Senator STENNIS, I pointed out that the situation in Alaska is not the same as exists in the other 49 States. We are not only separated from the continental United States, we have an extremely close proximity to the U.S.S.R. In Alaska there is a mixture of forces and commands that have vital roles in our national defense. We have the Air Force, the Army, the Coast Guard and the Strategic Air Command. In addition, there are separate functions such as the Navy Research Laboratory, the Test Command and a large National Guard. The Alaska Command has mobilized the facilities for joint training for all of these components and for the joint utilization of facilities and equipment, not only of the military but of other functions of the Federal Government which are directly related to defense, such as the Alaska Railroad.

We are not only the last frontier, our Alaska terrain represents one-fifth of the land mass of the United States. When our State became a part of the Union, President Eisenhower was so convinced of the strategic defense implications of

northwestern Alaska that he requested, and Congress approved, section 10 of the Alaska Statehood Act, which provides special powers to the President of the United States quite similar to those involved in martial law to be exercised in the event the President determines it is necessary in the interest of national security.

Additionally, the Alaska Command has served the Nation extremely well in times of national disasters in Alaska such as the great Good Friday earthquake of 1964 and the disastrous Fairbanks flood in 1967, at which times it was the Alaska Command that provided the nucleus for coordination of all Federal activities.

I feel very strongly that the Alaska Command is necessary to maintain the unity and the responsiveness necessary for defense forces in times of peace and in times of crisis in the event of war. We know that Alaska would probably be isolated in the event of a major war, and in any event we feel the planning for the defense of Alaska that is not done in Alaska cannot recognize the unique and developing problems in our great State.

Above all, Alaskans feel that if the Alaska Command is disestablished, our military forces will be supervised by what amounts to middle management—and in the event of a crisis requiring augmentation of our forces, there would not only be the necessity to augment the troop strength but there would also be the necessity of imposing on our defense structure a top management team that would be unfamiilar with the circumstances.

Working with the Alaska Command and its Advisory Council, I have explained to the Department of Defense an Alaskan proposal for the consolidation of the component headquarters while at the same time maintaining the Alaska Command. The advantages of this proposal are many: first, it would meet the request of our congressional committees for manpower savings in headquarters personnel; second, it would provide for the best possible coordination of the military effort in Alaska under the circumstances; third, by maintaining a unified command the responsibility for defense activities is in clear focus and would thus permit a closer relationship with our State and local communities; fourth, by preserving the Unified Command the true function of a command headquarters would be maintained along with the direct responsibility to the national level for activities in our State which, as I said, is one-fifth of the size of the rest of the United States.

The coordination plan set forth by Alaskans, including the military in Alaska, could effect a savings in excess of the manpower savings that would be realized if the Alaska Command was disestablished.

This is not an idle problem so far as I am concerned. Since I have come to the Senate I have attempted to support those bills—both authorization and appropriations—which I felt would maintain an effective defense establishment within our financial capability. And I have done this while watching the Alaska Command reduced 21 percent since 1970. I believe it could be shown that there are fewer military personnel in Alaska today than there were before Pearl Harbor—and while I completely support the concept of détente, it is to me a concept that will succeed only if our Nation maintains its strength.

I have, as I have informed our two distinguished chairmen, been in contact with the Department of Defense again concerning the proposal to disestablish the Alaska Command. I have the distinct impression that the Department of Defense feels that it must respond to indications from the Congres, and particularly from the Senate, which the Department of Defense believes require the disestablishment of the unified commands. And in doing so it is ignoring the advice that has come from the individual services and the unified command structure in Alaska concerning the necessity for the maintenance of this unified command in Alaska.

In effect, I have the distinct impression that there are portions of the Department of Defense which believe that the proposed action to disestablish our Alaska Command shows a responsiveness to the Senate. I have conferred with the Secretary of Defense, Mr. Schlesinger, regarding my feelings concerning this matter, and he has agreed to visit Alaska and meet with the Alaska Command and Alaskans concerning this problem prior to acting on the recommendation to disestablish Alcom.

What I now fear is that the references in the report on this appropriations bill could be interpreted to add to the "pressures" that some people in the Department of Defense feel they have already received from the Senate—they could be interpreted as an approval, or at least a request, for additional action to disestablish headquarters. I sought the support and guidance of my good friend, the Senator from Mississippi (Mr. STENNIS) in the past and now I seek not only his advice and counsel, but also that of the distinguished chairman of the Appropriations Committee (Mr. MCCLELLAN). And with this recitation of the background and my feelings on the problem, I would like to inquire: Is there anything in this report which could be interpreted by the Department of Defense as a request or direction to proceed with the disestablishment of the Alaska Command?

Second, would the two distinguished chairmen comment for the record we are making here on the proposal to consolidate the headquarters of the individual components of the Alaska Command, while at the same time maintaining the Unified Command. As I previously stated, I am informed that the personnel reduction involved in that consolidation could be equal to or greater than the personnel savings involved in the disestablishment of the Alaska Command. And I would seek the assistance of my two colleagues and great friends in attempting to convince the Department of Defense that the previous requests from the Senate pertain to the elimination of unnecessary command structures—with the goal of achieving manpower savings, but that the Senate has not and does not seek the disestablishment of command structures which are necessary to carry out the plans for the defense of our Nation.

Alaskans are most proud of their unique relationship in the Nation today—we soon will be providing a substantial portion of our Nation's energy resources and our potential for producing strategic metals and minerals is even greater. But we are not unaware of the fact that Alaska with its remoteness from the South 48 and its proximity to Asia is in a unique geographical location. Our location offers strategic advantages to our Nation, but at the same time it presents an apparent weak spot in our defense—and we believe that the defense posture for our military forces in Alaska must maintain defense and readiness that was not present in Alaska at the beginning of World War II. To Alaskans the Alaska Command is the symbol of preparedness—take it away and I think our State will lose confidence in the commitment of the Nation as a whole to maintain our ability to defend Alaska.

I would be happy to have the comments of my good friends on these questions at this point if they would care to respond to my remarks.

Mr. MCCLELLAN. Mr. President, I have been advised that the Department of Defense is currently reviewing the unified command plan and in all likelihood will recommend that changes and realinements be made. The review is expected to be completed in about 6 months and is a part of the Defense Department's program to reduce headquarters staffs and increase combat manpower in the Armed Forces.

I believe that revisions to the unified command plan that will reduce headquarters staffs are feasible; however, the actions described on page 34 of the committee report, under the title "Achieving Savings in Support and Headquarters Personnel" are not intended to approve any specific changes that may be proposed by the Department upon completion of its review. The committee will carefully examine the proposed changes to the unified command plan. I can assure the Senator that the committee does not seek, and will oppose the disestablishment of command structures which are necessary to carry out our national defense.

Mr. STENNIS. Mr. President, my response to the Senator from Alaska is as follows:

I am inserting in the RECORD a copy of a letter from me to the Secretary of Defense dated October 24, 1973. In that letter I urged reductions in the manpower levels at headquarters.

In that letter, nor in any other letter, nor orally or otherwise, have I ever recommended the disestablishment of a military command. That is a judgment for the military and the Department of Defense to make.

I ask unanimous consent that the letters may be printed in the RECORD.

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

OCTOBER 24, 1973.

Hon. JAMES R. SCHLESINGER,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: As you know, one of the amendments recently considered on the Senate Floor in connection with the FY 1974 Military Procurement Authorization Bill was a proposal by Senator Proxmire which would have required as a matter of law certain reductions in the headquarters and headquarters staff. These reductions were suggested in the Committee Report as illustrative of reductions which could be made in support and headquarters activities. The Committee Report indicated that over 10,000 positions might possibly be saved in this area.

The amendment was defeated and I opposed the adoption of the amendment. I would not want my vote as well as that of many Senators to be mis-interpreted as meaning that no reductions in headquarters personnel are desirable or possible. The reason for opposing this amendment was based on the Committee position that while substantial cuts should be made, the Secretary of Defense should apportion the cuts and have the latitude to make the cuts wherever he deemed best, as part of his management responsibilities. The Committee Report cited the headquarters activities among a number of others as being illustrative of areas where reductions might well be made in noncombat activities.

I realize that many times the Congress makes what might be termed as "gestures" in support of manpower reductions but these are never made mandatory as a matter of hard law. The Services understandably do not take these actions too seriously if they are not specifically required by law.

The point I can not too strongly emphasize in this letter is that if the Department of Defense does not make rather substantial reduction in the one million men in headquarters and support activities in the coming months, you can be sure that the Armed Services Commitee will be compelled to take more stringent action next year in order to achieve some results. I recognize that over the years headquarters and support activities, especially NATO, have become institutionalized and there is great resistance in reducing un-needed or marginal functions. This results in a tendency on the part of the Services to make any mandated reductions in combat activities.

I am sympathetic to the severe problems you face in achieving meaningful reductions in this area. I write this letter to put the Services on notice of the Committee's intention next year, so far as I am concerned, if demonstrable results are not otherwise achieved.

Sincerely,

JOHN C. STENNIS.

DECEMBER 3, 1973.

Hon. JAMES R. SCHLESINGER,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: In my letter of October 24 I strongly emphasized the fact that if the Department of Defense does not make substantial reductions of manpower in headquarters and support activities in the coming months, the Armed Services Committee will be compelled to take more stringent action next year to achieve some results.

I understand that you have a study underway on the impact of 10, 20 or 30 per cent reductions in the headquarters staffs of the Services and Defense Agencies. However, I am very concerned, based on my understanding, that this study will not be completed in time to reduce the FY 75 budget and manpower request. Studies are needed but are not enough. As I said in my earlier letter, demonstrable results must be achieved.

I intend to closely watch progress on this matter. I would like you to provide me a monthly report of actual, on-board manpower for each Service and Agency broken down by the mission and support categories of this statutory Manpower Requirements Report. That strength would be compared with previous months and years, as well as the planned end-year strength. Differences from the previous months actual strength should be explained in terms of the specific headquarters, organizations and units that are affected. I would appreciate receiving the report on the 15th of each month for the prior month beginning on December 15 for the month of November.

Thanking you for your attention on what I know is a problem to you—the field of personnel, I am

Most Cordially yours,

JOHN C. STENNIS.

THE SECRETARY OF DEFENSE,
Washington, D.C., December 24, 1973.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I agree with the view expressed in your letter of December 3 that demonstrable results must be achieved soon in terms of headquarters manpower reductions. The headquarters review I have directed will achieve such results. Moreover, our emphasis on the elimination and consolidation of functions and headquarters will permit significant manpower savings without damage to essential command and management functions. While this approach requires more thoughtful study, it is preferable to arbitrary across-the-board reductions. I plan to use the resources released by reductions in command structures to improve combat capability.

As we reach key decisions on the various parts of the headquarters structure, I have asked the Assistant Secretary of Defense (Manpower and Reserve Affairs) to keep you personally informed. Although the full study will not be completed in time for inclusion in the President's FY 1975 budget and manpower request, our testimony before your Committee next spring will cover the results achieved by that time. These results can therefore be reflected in the FY 1975 manpower program.

I would appreciate it if we might consider reporting format alternatives to that specified in your letter. The Services do not routinely report strength information in the Annual Report manpower categories. Thus while an occasional special report can be prepared, regular reports do pose greater difficulty which I would like to explain more fully. Therefore, I have asked Mr. Brehm to discuss the problem with your staff and suggest alternatives which will meet your needs and are within our current reporting capability.

With warmest regards.

Sincerely,

J. R. SCHLESINGER.

The PRESIDING OFFICER. Does the Senator from Missouri yield back the remainder of his time?

Mr. EAGLETON. I am happy to yield such time to the Senator from Virginia as he may desire.

Mr. HARRY F. BYRD, JR. I wish to ask the chairman of the Appropriations Committee this question. As I understand it, the Appropriations Committee started out with a budget request from the administration of, in round figures, $87 billion.

Mr. McCLELLAN. It was $85 billion-something to begin with, but we got an amended request that brought it up to $87 billion-plus.

Mr. HARRY F. BYRD, JR. So with the amended request the Department of Defense sought a total appropriation of $87 billion-plus.

Mr. McCLELLAN. Yes.

Mr. HARRY F. BYRD, JR. And after the Appropriations Committee went over the matter carefully it now recommends to the Senate a reduction of some $5½ billion from that request.

Mr. McCLELLAN. $5½ billion in new obligational authority; that is what they asked to spend, that is what they asked, $87.57 billion in obligational authority requested, and we have reduced it to $82.7 billion, I believe.

Mr. HARRY F. BYRD, JR. So the committee brings in a proposal which represents a reduction from the request by the Department of Defense and the administration of some $5.5 billion.

Mr. McCLELLAN. Between $5 billion and $5.5 billion in round numbers in total authority.

Mr. HARRY F. BYRD, JR. Yes.

Mr. McCLELLAN. And over $5 billion in actual reduction in funds.

Mr. HARRY F. BYRD, JR. The Senator from Virginia has developed figures on defense appropriations.

Mr. McCLELLAN. Sir?

Mr. HARRY F. BYRD, JR. The Senator from Virginia has developed some figures on defense appropriations going back to 1960 which, at the appropriate time, I will ask to be inserted in the RECORD.

For the moment, however, I want to just point out several figures. In 1960, the Department of Defense appropriation was $39 billion, in round numbers. In fiscal 1975, if the Appropriations Committee's proposal is approved, it will be $82 billion, so that is an increase of a little more than double during that time.

But now, if one compares that—and that is a substantial increase—with the appropriations for HEW, we find that in 1960 the total HEW appropriations were $4 billion. They are now $36 billion—last year, 1974, they were $36 billion, a ninefold increase during that period.

If we take another date, if we take fiscal 1969, we find that the Department of Defense appropriations were $77 billion. That compares with $82 billion which the Appropriations Committee recommends to the Senate, or an increase of about 6 percent during that period of time.

Now, if we take the HEW appropriations we find that in 1969 the figure was $16 billion, and it is now $36 billion for 1974, more than double.

Under the able leadership of the senior Senator from Arkansas, the Appropriations Committee has done an outstanding job in attempting to get defense expenditures under control and to eliminate many questionable items from the request made by the Department of Defense.

I doubt if any other piece of legislation has been brought before the Senate which carried a reduction as high as $5.5 billion.

I support the reductions in military

appropriations recommended by the committee.

I commend the able Senator from Arkansas.

I ask unanimous consent that a table showing appropriations for Defense and HEW be inserted at this point in the RECORD.

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

HEW and Defense appropriations, fiscal years 1960 through 1975 (figures rounded)

[In billions]

	DOD	HEW
1960	$39	$4
1961	40	4
1962	47	5
1963	48	5
1964	48	6
1965	48	7
1966	59	10
1967	70	13
1968	74	15
1969	77	16
1970	74	17
1971	71	22
1972	75	27
1973	78	32
1974	78	36
1975	82	35

Source: Office of Management and Budget except 1974 and 1975 are Senate Appropriation Committee.

Mr. McCLELLAN. Mr. President, will the Senator yield for just a moment?

Mr. HARRY F. BYRD, JR. I yield.

Mr. McCLELLAN. I would like to state, as I did in my initial and opening remarks on this bill, I pointed out that in 1950 outlays for national defense were about 50 percent of the Federal budget. In 1960 they were 40 percent. In 1970 they dropped to 30 percent, and this year they will be 29 percent. So we are constantly going down. That is true with respect to the gross national product, and so forth.

We are constantly going down; whereas the Senator mentioned some of the other things, social security has gone up 283 percent during that time; health services, including medicare and medicaid, increased from $496 million to $22.4 billion. So the great increase in the cost of Government is not attributable to the rise in military spending. We are doing everything we can to hold it down.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. EAGLETON. Mr. President, I ask unanimous consent that amendment No. 1836 be temporarily set aside for not to exceed 3 minutes so that I may yield to the Senator from Maryland and so that he may bring up a related subject and dispose of the same within the hour of 4:45.

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

The Senator from Maryland.

Mr. MATHIAS. I wish to call up an amendment which I have sent to the desk.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk proceeded to read the amendment.

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

The amendment is as follows:

On page 22, line 20, strike the period after "1977" and insert in lieu thereof a colon and the following: "*Provided*, That not more than $90,100,000 of the funds provided herein may be expended for the procurement of the A-7D aircraft, and $128,000,000 of the funds provided herein shall be available only for the procurement of the A-10 aircraft."

Mr. MATHIAS. I am offering this amendment on behalf of my distinguished colleague from Maryland (Mr. BEALL) and both of the distinguished Senators from New York (Mr. JAVITS and Mr. BUCKLEY).

It is an amendment which seeks to bring some equity into the appropriations provided for the procurement of military aircraft and, particularly, to bring about some equity between a new aircraft, the A-10 which has been specifically requested by the Defense Department, and what is proposed to spend on a much older and less useful aircraft, the A-7 that has not been requested by the Defense Department.

I offer for the RECORD, and ask unanimous consent to have printed, a comparison of the amounts which are provided in the bill for the different airplanes and a table showing the amounts if cuts are distributed proportionately.

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

[Dollar amounts in millions]

	Authorization and house levels	Senate committee level	Cut (percentage)
A-10	$159.2	$118.0	25.9
B-1	455.0	399.9	12.1
F-15	757.0	691.0	8.7
A-7D	100.1	100.1	0
Total	1,471.3	1,309.0	11

If all the above aircraft systems shared equally (by percentage i.e., 11% cuts each) the burden of procurement cuts, the following appropriation levels would result:

[In millions]

A-10 (up 20.1% from committee recommendation)	$141.7
B-1 (up 1.25% from committee recommendation)	404.9
F-15 (down 2.5% from committee recommendation)	673.7
A-7D (down 11% from committee recommendation)	89.1
Total	+1,309

From the above comparisons, it is clear that both the B-1 and F-15 come reasonably close to suffering an appropriate proportional share of the procurement cuts for aircraft systems. On the other hand, the A-10 would have to be increased substantially (20% higher than the Committee recommended) and the A-7D reduced substantially (11% below the Committee's recommendation) if true parity is to be achieved.

Mr. MATHIAS. I yield to my colleague from Maryland.

Mr. BEALL. I thank my colleague from Maryland for yielding.

I rise in support of his amendment. I think he has made an excellent point that we should pay some attention in this debate to the requests from the Department of Defense.

I would suggest as this bill goes to conference, the conferees will recognize that if there are going to be cuts they should be shared equitably among all the producers of airplanes.

Mr. President, I would like to join my distinguished colleague, Mr. MATHIAS, in expressing my strong disapproval of the recommended reductions in the A-10 program. I understand and fully support the committee's desire to cut the fiscal year 1975 budget. I believe, however, that all segments of the Federal budget must share an equal burden in our effort to overcome the serious double digit inflation which continues to threaten the economic health of our Nation.

But, Mr. President, I do not believe that the A-10 program should be slashed 25.9 percent while other programs of dubious value and effectiveness, such as the A-7D, continue to receive full funding. The A-7 was a good aircraft, in its day, but I believe the time has come for us to move forward to the newer, more versital A-10. The Chief of Staff of the Air Force has stated that the A-10 will help form the core of the force structure for the Tactical Air Command in the next decade.

There are two additional points I would like to make in this debate:

First. Now that the A-10 has been extensively flight-tested, it is far more economical to produce the aircraft in large numbers. The committee cutback would reduce the number of aircraft produced in fiscal year 1975 from 30 to 20, thus increasing the per unit cost.

Second. During his testimony before the House Appropriation Committee, Defense Secretary Schlesinger strongly objected to Congress "thrusting" money on the Pentagon for projects it has not requested such as the A-7. In fact, the administration has not requested funding for the A-7 program for the last several years.

Mr. President, I support a strong national defense because I believe that it contributes to our national security as well as world peace. If we expect to get efficient use out of our defense dollar we must stop wasting them on outdated equipment and purchase instead modern-effective weapons that will make the free world more secure.

Mr. MATHIAS. Mr. President, I would ask if the managers will give us some light on this subject.

Mr. McCLELLAN. I understand what the Senator really wants to do is not to increase appropriation, but transfer some item, the item on the A-10, take how many million out of that?

Mr. MATHIAS. Ten million.

Mr. McCLELLAN. Ten million out of that and place it on another plane, the A-7?

Mr. MATHIAS. From the A-7 to the A-10.

Mr. McCLELLAN. From the A-7 to the A-10.

Well, I do not know, Mr. President, this is a matter that should be considered, of course, by the full committee.

I would say this, as the Senator knows, frequently the Department of Defense asks for reprograming, and if it finds that it needs more on the plane the Senator is interested in and submits a reprograming request to the Appropria-

tions Committee, all I can say for this one is that it will be given most careful consideration.

We do not always approve every request they make, but if there is justification for it and they feel this plane ought to have more impetus, needs more appropriation, and it could take it from the other without injustice, I would not have any objection.

Mr. MATHIAS. Mr. President, since that is exactly the situation, since there was a large budget request for the A-10, I would assume our chairman is telling us that in conference he would take a similar view of that situation.

Mr. McCLELLAN. Certainly, I have an open mind on it. The Senator will understand we will try.

You see what has happened here today, we tried to find places to reduce this budget.

I have said many times, I do not see that where we made the cuts necessarily was always the best, but we did our best. If the Department of Defense would come and show us that within the appropriations made, it needed or would be wiser to spend some of the money here than there where we appropriated, within bounds, I would consider it.

Mr. MATHIAS. I have already discussed this question with the distinguished Senator from North Dakota, the ranking minority member, and I know how he would feel in conference.

Mr. YOUNG. Well, the A-10 is an excellent plane, it competes with the A-9, in the flyout test it won.

I think this will be in conference and I am sure I will give it sympathetic consideration.

I do not think we made a perfect job saying how much money should be spent for each plane, but this will be in conference.

Mr. BUCKLEY. Mr. President, I believe the decision to reduce funding for the A-10 program is a serious mistake, for the following reasons:

First. The importance for effective close air support was demonstrated by the experience of the October war in the Middle East. Only a truly survivable aircraft—one of high performance at low altitudes will suit modern requirements.

Second. The A-10 was explicitly designed to suit this need. Its excellence has been demonstrated in an exhaustive series of tests.

Third. The Air Force has a well-documented, urgent need to replace the World War II vintage, propeller-driven aircraft such as the A-1, with modern aircraft needed to provide infantrymen with adequate protection under modern battlefield conditions. This means we must speed the production of the A-10.

The proposed reduction in outlays for the A-10 this year would result in an improvident delay in the deployment of this plane in the quantities necessary to maintain a high level of effectivenes.

I join the Senator from Maryland in urging restoration of adequate funding.

Mr. TAFT. Mr. President, in Senator MATHIAS' comments, he has noted the importance of the A-10 program.

In the Armed Services Committee, we gave the A-10 a thorough and complete evaluation. We asked for the results of the A-10/A-7D fly-off. These were presented, with the A-10 clearly winning the fly-off for the close air support mission.

Gentlemen, I will not attempt to address the need for the A-7D in the Air National Guard, but I would like to assure you that in the A-10 this country is developing an outstanding aircraft to meet an important mission.

In this country, few systems have been developed that so closely met all their requirements within the prescribed costs. All the contracts are in place to keep these costs and schedules under control on both the aircraft system and the supporting ammunition. Let us not disrupt that by starting, stopping, and delaying a well-run program that fills an important need in our Nation.

Mr. JAVITS. Mr. President, I fully subscribe to the comments of Senators MATHIAS and BEALL. I fully support the action of the Appropriations Committee to reduce by an overall 5.1 percent this year's appropriation for the Defense budget; however, I believe where reductions are made for solely budgetary reasons and where a specific weapons system has amply demonstrated its ability to perform the assigned mission in a cost effective manner, such weapons systems should not be unduly reduced.

The specific case here is the A-10 program, the prime contract for which is being carried out by Fairchild Industries. The A-10 has won, hands down, two fly offs, has experienced no cost overruns and is a weapons system that, as amply proved from the lessons learned in the most recent war in the Middle East, will be an essential element of the tactical air force when it enters the Air Force's active inventory. In addition, the introduction of this aircraft into the active inventory will enable the release of modern aircraft that are much needed into the Air Force Reserve and the Air National Guard.

The Appropriations Committee reduced this program's procurement by 10 aircraft or $41.2 million, which is a percentage of roughly 25 percent. This percentage is considerably above any reduction in certain other Air Force aircraft programs, and in my judgment, in a case such as the A-10 program which is not experiencing development problems or cost overruns, it would be a far more even-handed approach to reduce the program on a percentage similar to other programs. I hope that the conferees appointed for this bill will take this into consideration and make the reductions equitable. Such action, of course, would not involve the adding of more money to the total bill before us.

Mr. MATHIAS. Mr. President, in view of the sentiments expressed by the distinguished managers of the bill, I would withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. TOWER. Mr. President——

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I ask that the pending business be laid aside for an amendment which I have at the desk.

The PRESIDING OFFICER. The clerk will report it.

The assistant legislative clerk read as follows:

On page 14, line 16, strike out "$265,700,000" and insert in lieu thereof "$309,300,000".

Mr. TOWER. Very briefly, Mr. President, this amendment——

The PRESIDING OFFICER. The Chair will observe that there is no time remaining.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended for 2 minutes.

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

Mr. TOWER. By way of explanation, Mr. President, this simply does two things. It replaces the helicopter given to the South Vietnamese, places them in the Army inventory, and keeps the production line open, because there is no other existing line, and it enables us to continue sales and competition.

Mr. McCLELLAN. It was not our intention to close down any assembly line, but we did this year. Last year we put in money for the airplane to keep that line going. This year we did not put it in.

I just cannot go along with that this year because there is no budget for it and we have cut and cut.

But out of deference to the situation here, I am advised that it will require, and that the Department of Defense wants, $18.5 million in order to keep this production line open and keep it going.

On that understanding, I am willing to accept the amendment and take it to conference.

Mr. TOWER. I accept that assurance.

Mr. McCLELLAN. If the amendment is modified to $18.5 million.

Mr. TOWER. I accept the modification suggested by the Senator.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Texas (Mr. TOWER).

The amendment was agreed to.

Mr. HUGHES. Mr. President, I am happy to join my colleagues in supporting this amendment by the distinguished Senator from Missouri (Mr. EAGLETON).

Clearly, Government spending has to be reduced if we are to combat inflation with actions and not merely words. And this battle cannot be won unless the good soldiers in the Pentagon do their part.

The people of Iowa and, I believe,

across the Nation, overwhelmingly favor cuts in military spending.

Economic good sense requires it.

And careful attention to the facts of America's military strength makes it possible.

As a member of the Senate Armed Services Committee, I am well aware of numerous examples of waste, inefficiency, and overkill in this Defense budget. Important cuts have already been made during the authorization and appropriation process. Regrettably, other reductions which I favored were put to a vote and failed to receive majority support.

Those matters are not at issue now. Whether or not we can agree on specific line item reductions, we can certainly agree that there is still a billion dollars worth of flexibilty or padding in this budget.

Under this amendment, the Secretary of Defense would have to make the hard choices, avoided until now, on which additional activities are only marginal, which programs can be slowed down or deferred until later.

Even with an $81 billion ceiling, we could still have sufficient capability to deter any attack. Our arsenal of strategic nuclear weapons remains three times that of the Soviet Union. Our nuclear submarines remain invulnerable. We will continue to build and buy the most modern weapons—although we have a disturbing tendency to sacrifce quantity for only marginally better quality.

None of this muscle would be cut if we had an $81 billion ceiilng. Instead, the Pentagon would have to do what every other agency of Government is doing, and what every hard-pressed American family is doing.

The American economy is caught in the vise-grip of inflation and recession. The remedy for inflation is reduced spending; to overcome the recession, we need job creation.

Defense spending makes both of these problems worse, for it produces goods which consumers cannot buy and it adds less than other Government spending to increased employment and productive capacity. Most economists agree that more jobs would be created, and our economy put on a sounder base in the future, by directing spending away from the military and into more socially useful programs such as education, housing, and health.

As Yale Prof. Bruce Russett concluded after studying the relation of Defense spending to the economy over the past 30 years:

> An extra dollar for defense in any one year has, on the average, reduced investment by 29 cents and the level of output in the economy has been permanently diminished by the order of six or seven cents per year for each defense dollar.

If invested, he points out, that dollar would have produced 25 percent more in additional production, in perpetuity.

After all, the strength of America does not rest in its weapons alone. Our national security also depends upon the health and well-being of our people, the vitality of our economy, the preservation of our freedoms, and the removal of the vast inequities which deny quality living to large segments of our population.

We have been so obsessed by the threat of external attack that we have ignored or neglected the clear signs of our internal stagnation and decay. Families which are struggling to pay skyrocketing bills for food, clothing, housing, and education are nevertheless taxed hundreds of dollars each year to prepare for hypothetical contingencies in dozens of countries around the globe.

We have become prisoners of fear, rather than hopeful workers for a truly peaceful world.

Our defense planners have gone largely unchallenged, and the end result has been a military-technological-budgetary spiral that takes more from our pocketbooks and gives us less real security in the long run.

We can take up this challenge. We can demand a more prudent Defense budget which preserves our military strength without weakening the society to be defended.

The amendment before us now gives us another opportunity to move toward this goal.

Mr. MUSKIE. Mr. President, the problem of rising Federal expenditures is no where more dramatically presented than in the budget for national defense. A strong American Defense Establishment has proved necessary to the safety of our people, and the preservation of world peace. But principles of fiscal prudence demand that in defense, as in all other areas of Federal spending, unnecessary Federal expenditures be cut from the budget.

My distinguished colleague from Missouri, Senator EAGLETON, has proposed that the level of defense funding in the appropriations bill pending before us today be restricted to $81 billion. His proposal would set the level of defense spending $1.2 billion below the $82.1 billion recommended by the Senate Committee on Appropriations. It would still allow an increase of $3.1 billion from the level of appropriations in the last fiscal year.

Whether or not a defense spending level of $81 billion is sound depends on two kinds of considerations—whether or not that gross figure reflects an appropriate allocation of national resources compared with other Federal programs, and whether or not the specific reductions in defense activities which would have resulted from the funding level are justified. I believe that the case has been made for the $81 billion funding level on both these grounds.

From the standpoint of total national priorities, the prudent reduction proposed by Senator EAGLETON makes sense.

Of the $140 billion of this year's fiscal budget which is controllable by the regular appropriations process, well over half will go to national defense. National security is certainly a high-priority need, but there are others. Just as we must be prepared to pare down spending for social programs to an appropriate level within the total budget amount, we must be prepared to make tough budgetary choices in the area of defense. A reduction of defense funding to $81 billion would still allocate 27 percent of the entire Federal budget, and 57 percent of controllable funding, to this purpose.

And with respect to specific cuts, I believe that the careful analysis of the defense budget reveals that additional saving from the level recommended by the Senate Appropriations Committee can be justified.

The underlying case for a substantial defense spending reduction has already been made by the Appropriations Committee in its current recommendations to the Senate. That committee, and its Subcommittee on Defense, both chaired by the able Senator from Arkansas (Mr. MCCLELLAN) have made a compelling argument for the $5 billion reduction it proposes from the level of the budget request.

In presenting this amendment calling for the $81 billion level, however, Senator EAGLETON has argued that additional, specific cuts are justified. He points out, for instance, that the $1.2 billion reduction in defense spending could be accomplished by cuts that can be attributed to 10 specific defense programs. This analysis concludes, in fact, that over $2 billion in additional savings can be achieved—more than enough to meet the $81 billion ceiling. I do not agree with Senator EAGLETON on all these proposals.

But, earlier this year, on May 30, 1974, I had occasion to prepare my own analysis of the Defense budget in preparation for a debate sponsored by the American Enterprise Institute on defense spending. At that time, I concluded that significant additional reductions amounting to at least $5 billion would not be unreasonable, and would certainly not be unsafe to our national interests. Among the examples I cited at that time were cuts in manpower costs; cuts in spending for conventional weapons for general purpose forces; through elimination of "gold plating" weapons with expensive and unnecessary "extras," and increased emphasis on less expensive weapons systems; cuts in strategic weapons spending, including costly programs for development of the B–1 bomber and counterforce capability of our long-range missiles; and cuts in wasteful foreign military assistance. I ask unanimous consent, Mr. President, that the statement I made to the American Enterprise Institute on May 30, containing this analysis, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MUSKIE. Our consideration of appropriations bills this year, and my endorsement of an $81 billion defense spending level proposed in this amendment, must of necessity be made without the benefit of the budget review process. That newly established process will be based on detailed analysis of the individual components of the budget, and comprehensive study of the effects of specific ceiling levels on the ability of the Government to meet its responsibilities to the American people. The budget review process now being implemented, which will be fully effective for the fiscal year 1977 budget, will be based on a year-

long, and continuing analysis that will provide us with the information to allow us to make judgments about whether specific budget cuts are appropriate and effective.

A "ceiling" approach to budget cuts, without the background of that analysis, must be based on a careful balance of the information we do have available now. The most important component of our existing budget decisionmaking process is the work of the Appropriations Committee. But the report of the Appropriations Committee, of course, should not be the last word in the Senate on the spending level we approve. It is perfectly appropriate that the committee's proposals should be open to review, and subject to revision or approval by the Senate as a whole. In the debate on this defense appropriations bill, and the amendment proposed by Senator EAGLETON, I believe a case has been made for a deeper defense budget cut than that committee recommends.

EXHIBIT 1

MAY 30, 1974.

STATEMENT BY SENATOR EDMUND S. MUSKIE

Earlier this year, I spoke at the U.S. Naval Academy on the subject of our foreign policy. My thesis was that the United States is on the verge of a new coherence in its foreign policy, a new sense of direction and common purpose, and a restoration of the bipartisan tradition in America's foreign relations.

This restored bipartisanship, I argued, is based on a broad popular consensus on four fundamental principles of American foreign policy: first, that an isolationist policy is not a viable option for America; second, that the general direction of détente with the Soviet Union and China is an important American interest; third, that our alliances with Europe and Japan are still vital, notwithstanding progress toward détente, and should be emphasized; and fourth, that our policies must reflect the growing interdependence between the developed and underdeveloped world.

A foreign policy based on these principles requires that America be strong militarily. I believe in a strong national defense. The issue in this debate is not whether America should be strong or weak—rather, it is whether the Congress can make any significant cuts in the Administration's defense spending request for fiscal year 1975 without undermining our security interests or our foreign policy objectives. I am prepared to argue that it can.

The President's total budget request for FY 1975 is $304.4 billion. Of that, $141.8 billion is controllable by Congress through the regular appropriations process. Of this portion of the budget which Congress can control, well over half goes to national defense. That is a sizeable amount. Fiscal conservatives who have spoken eloquently on the tendency of government to overspend—and of modern bureaucracies to develop their own entrenched interests—should surely look with some skepticism at a defense budget of this magnitude.

Economists may disagree among themselves on how large the federal budget should be in a particular year—whether we should have a budgetary surplus or deficit, and how large the balance or shortfall should be. But within any given budget ceiling, we politicians cannot look to economists to tell us how to order our budgetary priorities. That is an obligation we have as representatives of the people, and how we make decisions on budgetary priorities affects not only our own political futures but, far more important, the future well-being of the entire nation.

It is the job of the President to propose a distribution of federal priorities, and it is the responsibility of the Congress actually to make the hard choices. The Congress, through the appropriations process, must decide how much to spend on defense; how much federal assistance to give to state and local governments; how much assistance should go to health, transportation, education, or environmental improvement.

Congress has the responsibility to make spending decisions which reflect the needs of the people. The nation's security is certainly a high-priority need, but there are others: federal funding for education is now only $7.5 billion; funding for drug abuse enforcement and prevention is only $750 million; for community development and housing, only $6.4 billion; for pollution control, only $700 million; for energy research, only $2.1 billion. Compare these figures to the Administration's defense budget of $92.6 billion.

In ordering our budget priorities, the Congress must be prepared to trim back in one category in order to increase spending in another. My own view is that significant cuts can be made in the President's proposed defense budget for FY 1975 which would free up several billion dollars of additional resources for helping to reduce the present tax burden, for reallocating to other areas of the federal budget, or possibly for both.

There is a pernicious view among those who habitually oppose cuts in defense spending reflected in the oft-heard slogan "Where national security is concerned, money is no object." This is a fine-sounding platitude, but the fact is that our total resources are always limited and must be allocated among many competing needs in our society. The nation has always compromised on national defense—even in wartime.

So tough budgetary choices must inevitably be made in defense, as in all areas of federal expenditure. While no President or Congress wishes to shortchange the defense effort, the unavoidable fact is that our society has other needs besides military power. Former Defense Secretary Robert McNamara expressed it well when he said some years ago: "I do not mean to suggest that we can measure national security in terms of dollars—you cannot price what is inherently priceless.

But if we are to avoid talking in generalities, we must talk about dollars. For policy decisions must sooner or later be expressed in the form of budget decisions on where to spend and how much."

THE PRESIDENT'S BUDGET FOR FISCAL YEAR 1975

The Nixon Administration has proposed to Congress the largest peacetime military budget in our history. The total request for the Department of Defense is $92.6 billion. To this figure, one can legitimately add the military budget within the AEC—for nuclear weapons programs and the like—which amounts to over $3 billion, and some additional funds used by other agencies for defense-related purposes. For purposes of this debate, however, I will use the Defense Department's own figure of $92.6 billion as the total request for FY 1975.

This spending request is an increase of about $10 billion over last year's request: a $10 billion increase notwithstanding the fact that we have withdrawn from Vietnam—the costliest war in our history; notwithstanding the fact that we have an arms control agreement with the Soviet Union and that we have entered into a new era of negotiation; and notwithstanding the fact that the Nixon Doctrine calls for a much less interventionist foreign policy than we have had in the past.

Only recently President Nixon sent to the Congress a message, accompanying the Report of his Council of Economic Advisers, in which he said: "Too much government spending is the spark that most often sets off inflationary explosions. . . . We must work together to cut where we safely can. We must so discipline our present decisions that they do not commit us to excessive spending in the future." What I propose is that we apply the President's tests to the defense budget.

Secretary Schlesinger testified before the Senate Armed Services Committee in February that this year's defense budget request in real terms "means doing no more than holding our own as compared to 1974." The basis for this remark is that the difference between the FY 1975 request of $92.6 billion and the FY 1974 budget of $87.1 billion—an increase of $5.5 billion—is barely enough to cover pay and price increases. Technically, the Defense Department's figures are correct—except that there has been some dubious manipulations of the statistical data.

The figure used by the Defense Department as representing the 1974 defense budget includes two items which really do not make sense for comparative purposes with respect to the FY 1975 request. The first of these is last year's $2.2 billion emergency aid to Israel. This figure is not a direct part of U.S. defense costs, and the Defense Department has already announced that Israel will be expected to pay back $1.2 billion of this arms aid. As a one-shot aid effort, these funds should be subtracted from the FY 1974 defense figure so as to provide a fairer comparison to the FY 1975 request which includes no such amount for Israel.

The second statistical manipulation which serves to inflate the FY 1974 budget is the retroactive inclusion of $2.1 billion contained in the Supplemental Appropriations request for purposes of buying new capability. Normally, Supplementals are reserved for such things as emergencies or cost overruns. Out of the total Supplemental request of $6.2 billion for defense, several billion dollars can legitimately be considered part of the FY 1974 budget—including, for example, a $3.4 billion figure for pay increases. But $2.1 billion of the Supplemental request is intended to increase inventory items such as ammunition and other supplies, increase airlift capability, accelerate production of the Trident submarine and, in Secretary Schlesinger's words, to "buy certain high-value weapons and equipment which are now in short supply in our Services." These funds clearly represent an increase in real defense resources and should require a new authorization. This kind of request is normally submitted in the regular budget as a new proposal, rather than in a Supplemental.

Despite the attempted distortion, the FY 1975 request is still higher in absolute terms than any peacetime military budget in our history. The Administration has attempted to create the impression that this increase results largely from military pay and the cost of the volunteer force. But compared to FY 1974, other areas of the budget have been increased even more: procurement is up 23.4 percent; research, development, test and evaluation is up 15.9 percent; and operation and maintenance is up 13.7 percent. By contrast, the costs for active duty military personnel have increased only 6.5 percent. If the volunteer force were terminated, no more than $750 million would be saved.

Finally, I should point out that Secretary of Defense Schlesinger stated last February before the House Defense Appropriations Subcommittee that outlays for defense "might have been a billion or a billion-and-a-half dollars less in 1975" were it not for the fact that additional spending was deemed necessary to stimulate the economy. I do not believe that increased defense spending—which is not essential to our security—is the wisest fiscal tool for stimulating our econ-

omy. This is so for several reasons: First, military spending is generally slower in impact than increasing other programs because of built-in lags necessary for cost-effective contracting. Second, countercyclical spending is less desirable through the Defense Department than through other agencies, because it cannot be targeted to particular geographic depressed areas as effectively. Third, military spending goes largely to industries employing skilled, well-paid workers, whereas unemployment is most severe among unskilled, low-income people. Fourth, military spending as a stimulus to the economy is particularly wasteful, because instead of creating social capital and providing services vitally needed in our states, cities and rural communities, it creates only superfluous military hardware.

When economic circumstances require a stimulus, a more effective and fairer way to pump demand into the economy would be to put extra spending power directly into the hands of working people who are hardest hit by both recession and inflation. This could be done through expanded and extended unemployment compensation benefits, public employment programs in hard-hit localities, a temporary reduction of the social security withholding rate or a reduction in income taxes in the lowest brackets.

WHERE CUTS CAN BE MADE

The format of this debate will not permit a detailed analysis of the defense budget or a systematic presentation of budget alternatives. There are a number of public policy organizations which have done excellent work in this field—and their proposed cuts range as high as $15 billion. I believe that reductions amounting to at least five billion dollars are not unreasonable—and certainly not unsafe.

Let me give some specific examples. First, in the area of manpower costs, which amount to over 55% of the total defense budget: The number of men in uniform has been dropping in recent years, in line with our withdrawal from Vietnam, the growing strength of our allies, and our new determination to avoid military involvement in regions which are not vital to American interests.

Still, far too many military personnel are involved in performing direct or indirect support tasks such as administration, logistics, training, or maintenance. Some of these support troops should be reduced.

Moreover, the U.S. should make significant reductions in the number of troops stationed abroad—bringing these men home and demobilizing them. The United States at present has 480,000 men in foreign countries—300,000 in Europe and 180,000 in the Western Pacific and Asia. We have 36,000 men in Thailand, for no apparent purpose other than possible reinvolvement in Indochina. We have a full division in South Korea, 24 years after the outbreak of the Korean War, even though the South Korean Army already outnumbers the North Korean Army by two-to-one. Our troops in Europe can be pared down as well as our allies assume a greater share of the burden for their own conventional defense. A 25% reduction in U.S. forces overseas would hardly signal an isolationist policy.

This year, the Administration is asking for a further increase in the number of civilian positions in the Defense Department even though there are already over 1.1 million such employees—nearly one civilian for every two in uniform. Excluding the Postal Service, the Department of Defense has roughly as many civilians as all other federal agencies combined.

The Senate Armed Services Committee has already recommended a two percent cut in military manpower and a four percent cut in the civilian bureaucracy this year. I would recommend additional manpower cuts beyond this, emphasizing reductions in support troops and civilian bureaucrats, saving our taxpayers well over two billion dollars in payroll and attendant operation and maintenance costs.

Moreover, it is time that something be done about "grade creep" in the military. Surely it is not essential to our nation's security to have more field grade and flag officers to command a force of 2.2 million men today then we had in 1945 to command a force of 12.1 million. Nor is our security enhanced by having 400,000 more sergeants than there are privates in the Army, Navy and Air Force. The Marine Corps doesn't have this problem—it has twice as many second lieutenants as lieutenant colonels and 23,000 more privates than sergeants. If our Armed Services had the same grade structure today as they did in 1964, we would save about $700 million annually.

Second, in the area of conventional weapons systems for our General Purpose Forces: Here, defense planners have gradually moved toward what is called a high-low mix—certain very expensive, maximum-capability weapons systems complemented by less expensive and less-capable alternatives. I welcome the trend toward less expensive alternatives at the lower end of the mix. Past procurement trends have been too spendthrift, favoring new weapons systems equipped with all the most advanced technologies regardless of expense, even when gains in performance were marginal.

For example, new fighters like the F-14 cost 15-25 times what the jets of the Korean War cost. Even taking into account inflation, a Korean War sabrejet would cost about $690,000 today—which happens to be about the same price as the average total cost of the new Phoenix air-to-air missile being placed on the F-14 fighter. This tendency to goldplate new weapons systems out of proportion to real military necessity must be controlled.

Substantial savings—ranging from one to four billion dollars—could be realized by stretching out procurement of more expensive weapons systems at the higher end of the mix and by emphasizing the lower end of the mix where possible. Examples of expensive weapons systems for which procurement should be stretched out include the SSN-688 nuclear attack submarine and the DD-963 destroyer. Systems which might be cancelled altogether include AWACS, the Navy's F-14 aircraft program and the Phoenix missile being developed for it, and the Army's renewed proposal for the Main Battle Tank (XM-1)—which the Congress wisely killed in 1971. Examples of weapons systems at the lower end of the mix which should be emphasized are the patrol frigate, the sea control ship and the VFX "austere" carrier aircraft proposal.

While the Pentagon has made much of the alleged decline of our conventional forces since the mid-sixties the truth is that our "peacetime" force for the seventies though quantitatively somewhat smaller is qualitatively far more powerful than in the mid-sixties. We maintain essentially the same number of tactical air wings. The Navy has the same number of attack carriers and three times as many attack submarines.

The small decrease in the number of ground divisions from 19⅓ to 16 during the last ten years has reflected deactivation of forces remaining from the earlier Berlin buildup and abandonment of plans to fight 2½ land wars simultaneously in Asia and Europe. Given this perspective, the cries of alarm about the alleged decline of our conventional power should be viewed with skepticism.

Third, I believe that cuts can be made in the budget for strategic weapons systems. I recognize that strategic forces account for only about 20 percent of the U.S. defense budget. But we are engaged in negotiations with the Soviet Union designed to stabilize and hopefully to achieve reductions in strategic nuclear weapons systems. We need not accelerate our own weapons development at this time on the theory that this would strengthen our position at the negotiating table.

I am not suggesting unilateral reductions in the strategic defense budget which might undermine an overall equality between ourselves and the Soviet Union. I support a limited Trident submarine program—although the pace of its development should not be geared to producing bargaining chips in the SALT negotiations. I also support the Navy's request for funds to develop a smaller submarine to succeed our present Polaris/Poseidon force. Our undersea deterrent is the backbone of our strategic nuclear forces.

But I have serious doubts about the directions being taken in our strategic bomber programs. The B-1 bomber is a typical example of a goldplated weapon system in financial difficulty. The unit cost of these planes has been rising steadily—now amounting to over $60 million per plane. I am concerned as to whether its ability to penetrate enemy airspace might be outpaced by advances in air defense technology before the aircraft is ready for development. My own preference would be for the Air Force to develop a less expensive stand-off bomber capable of firing its missiles from a position outside of enemy territory. Cancellation of the B-1 bomber program would save $500 million this year.

I also have serious questions about the Administration's relatively modest request for development funds to improve the counterforce capabilities of our strategic missile forces. These funds are to implement Secretary Schlesinger's new strategy, involving improvements or changes in the targeting, the command and control, the accuracy, and the yield of U.S. strategic nuclear weapons.

The military reason for this change is the assumed need to fill a perceived "gap" at the lower end of the spectrum of strategic nuclear deterrence. Along with this, there is the requirement, often mentioned by President Nixon, to multiply the options available to national leaders in the event deterrence fails. Both of these requirements can be satisfied, we are told, by the institution of greater flexibility in our targeting capability and in our hardware. With more rapid retargeting, with greater terminal accuracy, and with greater warhead yield, national leaders will obtain the ability to fight controlled or limited nuclear war by concentrating, if deterrence fails, on so-called military targets in a tit-for-tat fashion. This capacity, it is said, will also enhance the psychology or credibility of deterrence.

On the political side, a paradiplomatic function is claimed for the recommended changes in U.S. strategic forces. Their advent is expected to disabuse Soviet leaders of any notions that they may have that their new missile programs (the SS-X-16, SS-X-17, SS-X-18, and SS-X-19) will gain them a commanding lead in strategic weapons, assuming that this is their perception or motivation in this matter. If the Soviets see our willingness to commit our long lead in technology to the arms race, so the scenario runs, they will give up their own programs and negotiate more productively in the strategic arms limitation talks. Further, it is anticipated, this U.S. posture will reassure our friends and allies, convincing them that they can continue to rely on the American nuclear umbrella despite Soviet buildups.

I feel certain that there are few, if any, members of Congress who doubt the desirability of improving our command and control systems and our retargeting capacity. What causes concern are improvements in accuracy and yield, especially simultaneous improvements in these areas. Here I would like to recall the previous and emphatic statements of this Administration, both

President Nixon and former Secretary Laird, that the U.S. would resist any initiative that gave even "the appearance" of going for a first-strike or "silo-smashing" nuclear force, because it would be destabilizing and provocative. Accuracy and yield improvements, of course, give precisely this appearance. Thus, it is crucial that we know what now prompts this dramatic reversal in national policy.

A question also arises as to what price the U.S. will have to pay to get the increments of security which yield and terminal accuracy improvements are said to give us.

What are the system-life costs of these programs? Can we be sure that we are really getting a greater degree of safety and security for our money? Or are we in fact buying programs which will increase the risk of nuclear war rather than diminish it?

The initial cost of following Secretary Schlesinger's recommendations for providing such options—new warheads, new guidance systems, and advanced work on a new ICBM—is not large in relation to other defense costs. The Senate Armed Services Committee has approved $77 million for research and development in three programs: $32 million for accuracy improvements of the Minuteman; $25 million to increase the yield of Minuteman warheads; and $20 million for MARV (maneuverable reentry vehicles). But these relatively modest funds could be the opening wedge for programs which in time could cost billions. I believe we should scrutinize this proposal carefully before appropriating these funds this year.

Finally, there is the Administration's request for military assistance funds for foreign countries—amounting to nearly $3 billion. I believe that at least $1 billion can be cut from that figure, with more than half coming out of the Administration's $1.45 billion request for Vietnam. The American people have been led to believe that our involvement in Southeast Asia is at an end, and yet our continued assistance to South Vietnam, Cambodia and Laos is extraordinary. It is time that we ask tough questions concerning the relationship between all military assistance and our real foreign policy objectives.

To summarize, I believe that some cuts can be safely made in these four areas of the Administration's defense spending request for FY 1975: manpower, conventional weapons, strategic weapons, and military assistance. Such reductions can be made, in my view, without jeopardizing our national security or our overall foreign policy objectives.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment of the Senator from Missouri (Mr. EAGLETON).

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Alabama (Mr. SPARKMAN) are are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from New Jersey (Mr. CASE) are necessarily absent.

I also announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) and the Senator from Illinois (Mr. PERCY) would each vote "nay."

The result was announced—yeas 37, nays 55, as follows:

[No. 375 Leg.]

YEAS—37

Abourezk	Hughes	Pell
Bayh	Humphrey	Proxmire
Biden	Javits	Randolph
Burdick	Kennedy	Ribicoff
Church	Mansfield	Roth
Clark	Mathias	Schweiker
Cranston	Metcalf	Stafford
Eagleton	Metzenbaum	Stevenson
Fulbright	Mondale	Symington
Hart	Moss	Tunney
Haskell	Muskie	Williams
Hatfield	Nelson	
Hathaway	Packwood	

NAYS—55

Aiken	Dole	Magnuson
Allen	Domenici	McClellan
Baker	Dominick	McClure
Bartlett	Eastland	McIntyre
Beall	Ervin	Montoya
Bellmon	Fannin	Nunn
Bentsen	Fong	Pastore
Bible	Goldwater	Pearson
Brock	Griffin	Scott, Hugh
Brooke	Gurney	Scott, William L.
Buckley	Hansen	Stennis
Byrd, Harry F., Jr.	Helms	Stevens
Byrd, Robert C.	Hollings	Taft
Cannon	Hruska	Talmadge
Chiles	Huddleston	Thurmond
Cook	Inouye	Tower
Cotton	Jackson	Weicker
Curtis	Johnston	Young
	Long	

NOT VOTING—8

Bennett	Hartke	Percy
Case	McGee	Sparkman
Gravel	McGovern	

So Mr. EAGLETON's amendment was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, it is certainly no secret that the U.S. economy is the major problem facing our Nation. Furthermore, it is certainly no secret that the U.S. economy is a complex mechanism, with many parts, some of which are currently sending out contradictory signals.

We appear trapped in an economic morass, unable to find our way out of an Alice-in-Wonderland atmosphere which provides only more mazes and more confusion.

I believe, along with others, that no one policy, no single action can resolve our problems and alone restore our economy to stability and prosperity. For that reason, I recently joined with four of my colleagues in proposing a domestic summit conference on the economy—a conference which would design a set of recommendations, a policy package, to deal with the various needs in our economy. Such a conference—and such an integral approach to our problems—is, I believe, imperative, and I am pleased that President Ford has decided to hold such a summit and that preparations, some of which were announced yesterday, are underway.

That conference is however, some weeks off, and during those weeks the Senate will have not only the opportunity, but also the responsibility to examine closely one aspect of our economy—Federal spending. During those weeks the Senate will be considering a number of appropriations bills for fiscal 1975—including the two largest bills—the defense appropriation before us now and the Labor-Health, Education, and Welfare bill to come after the impending recess.

While the Senate has indicated support for a $295 billion ceiling on fiscal 1975 appropriations—which represents a reduction of some $10 billion in the budget request—recent tabulations suggest we are approximately $1 billion over the budget as a result of actions already taken and yet to come are the two major funding bills—the two bills which must be considered the principal potential obstacles to spending reductions. This is where a true test comes. This is where Congress can either demonstrate its ability to come to grips with budgetary matters or reveal its inability to make hard choices, to determine priorities among the proposals before us.

I believe we have a good chance of proving our ability. The budget request for defense was over $87 billion—more than one-fourth of the entire budget request. The House reduced this to $82.9 billion and the Senate Appropriations Committee to $81.5 billion—some $5.5 billion below the budget request.

I believe the entire Appropriations Committee and especially its distinguished chairman, the Senator from Arkansas, who also heads the Defense subcomittee, are to be highly commended. Not only have they tackled the difficult job of reducing Federal spending but they also tackled it in one of the two most difficult budget-cutting areas.

Furthermore, they have cut in a responsible and reasonable manner. In recent weeks, a number of efforts to reduce spending on an across-the-board basis have been made. I have been associated with these efforts. Some have characterized this as a meat-ax approach, and that characterization is, to some extent, true. When applied to a single bill, it fails to differentiate among those programs which can withstand reductions and those that will be severely damaged by them. When applied to a number of bills it fails to differentiate among those that have been subjected to close scrutiny and frugal considerations and those which have not. Yet, in many cases, when reductions must be made, such an approach is the only tool available, the only means of achieving one's desired ends.

We can, however, I believe, be pleased that we do not have to apply such an approach to the defense appropriations bill. This bill deals with the security of our country—the responsibility which rests at the heart of this and every other government in the world. It involves programs and strategies which must be examined and evaluated one by one. Fortunately, that is what has been done in this case.

The subcommittee and the committee took some significant actions which are likely to affect not only this appropriations bill but a number of defense appropriations bills in years to come.

It went straight to the core of a major cost item—U.S. troops stationed overseas. I, for one, do not believe we can bring every American troop home from

abroad and I recognize the very serious consequences of undermining the European troop reduction talks or the status quo in Europe. At the same time, I am cognizant of the very high financial cost imposed by the maintenance of forces abroad and the apparent lack of a comprehensive plan for determining the number of troops which are needed there. I share the committee's conclusion that reductions can take place and I believe the proposed 25,000 reduction by March 31, 1975, is a good initial step.

I also share the committee's concern over the proliferation and seeming duplication of missiles. The committee request for detailed information on the various missiles before the next budget is presented and before the next fiscal year begins should provide a fruitful area for examination and should lead to efficiency and economy in the development and procurement of weapons.

Elimination of the duplication of test facilities also bears further investigation.

Finally, the departments of government—and not only Defense—will have to learn—as the American consumer is doing—to consider the impact of inflation. Inflation has far-reaching consequences and we must seek to evaluate it in a consistent way, as the committee report mandates.

For these reasons—the substantial reductions made in committee, the concerns expressed in the committee report, and the indication that additional, more detailed examination of costly defense items will be forthcoming—I have decided to support the committee recommendation. This is not to suggest that it would be impossible to squeeze out another dollar here and there or that the committee should relax its future efforts to curtail spending. But, this position is taken in recognition of the outstanding work which has been done and in the hope of more of the same to come.

The defense appropriations bill involves many programs, many policies. It involves our concepts of parity and nuclear strategy and our efforts to save the world, including ourselves, from a horrendous destruction. It involves our conventional forces who must protect us from any who might seek to intimidate or influence us with nonnuclear military power. It involves our efforts to insure open seas both for our protection and our economic well-being.

We cannot afford to misunderstand or underestimate these needs. But neither can we afford idle and inefficient expenditures. The secret is finding the proper balance. I believe the pending bill moves in the right direction and offers even greater hope for the years to come.

Mr. NELSON. Mr. President, I would like to ask the distinguished chairman of the Defense Appropriations Subcommittee, Mr. McCLELLAN, a question concerning the report language dealing with military sales to foreign countries, which appears on pages 15 and 16 of the defense appropriations bill report.

The report language emphasizes the "political and economic impact of foreign military sales of the United States and recipient foreign countries." The committee expressed particular concern "that long-term security interests of the United States might be jeopardized by large cash sales of sophisticated weapons systems in areas of potential conflict." The report continued:

> Recent arms sales to the Middle East, Greece, and Turkey have created severe political, military, and economic repercussions on both the United States and the international community. These conflicts, weaken detente, threaten superpower confrontation, and have profound economic consequences.

Most importantly, the Defense Appropriations Committee concluded that—

> At present, Congress has little meaningful statutory control over cash sales which are the largest category of foreign military sales.

The committee henceforth will require:

> Prior notification of future cash sales of military equipment to foreign governments which exceed $25 million; provide for the introduction of new weapon systems to the inventory of foreign armed forces; or when cumulative military cash sales to any foreign government exceed $50 million in any fiscal year.

Mr. President, as you know significant portions of this reporting procedure parallels language of my amendment to the Foreign Military Sales Act which passed the Senate last year, but which was removed in conference along with the majority of the Senate provisions.

While I commend the distinguished chairman for recognizing the potential consequences of these massive sales of arms and for establishing this mechanism whereby the Department of Defense will report to the Senate Defense Appropriations Committee, I still believe that significant features of the Nelson admendment still should be put into law. I intend to reoffer my amendment, but I believe that the appropriate legislation to amend is the Foreign Assistance Act, which will be debated after the Labor Day recess, and not the defense appropriations bill.

Mr. McCLELLAN. I want to thank the distinguished Senator from the State of Wisconsin (Mr. NELSON) for his kind words.

The language in the report requiring the Defense Department to give prior notice of certain future cash sales of military equipment to foreign governments merely evidences our concern over the impact of these transactions. The committee felt that it would be desirable to have this information on hand as another factor in making determinations about production and procurement of military weapons. It is certainly not our intention to preempt this field.

I commend the distinguished Senator from Wisconsin for his efforts in this area and want to assure him that the committee does not in any way mean to preclude his amendment to the Foreign Military Sales Act.

Mr. DOLE. Mr. President, the Department of Defense appropriation bill we are considering today has been cut by $5½ billion, or 6.3 percent, from the budget request. The level of spending reported in the Senate bill of $82 billion reflects a "bare bones" expenditure for defense and should be effective in combating inflation. Since inflation is one of the greatest problems in our country today, I feel this appropriation bill is a great step forward in resolving that problem.

EARLY EFFORT

Several weeks ago, the junior Senator from Kansas initiated, led, and participated in several efforts to reduce appropriation bills to hold down Federal spending. Since those efforts began, the Senate has passed the conference reports or Senate versions of five appropriation bills reflecting a reduction of more than $1 billion from the budget request. During that time, the Senate Appropriation Committee has made an effort to determine our essential priorities and make even greater cuts in Federal spending.

The Senate Appropriation Committee is to be highly commended for their determined efforts to hold down Federal spending and inflation. Their reduction of the defense appropriation bill by $5½ billion is exemplary. The efforts of the committee will go a long way toward holding down inflation. Because of the committee's efforts in holding defense expenditures to the bare minimum, we are now faced with a whole new picture.

The cut made on the DOD appropriation bill is nearly five times as much as made on all the other appropriation bills put together. It is more than half of the total reduction being sought in the Federal budget this year. At the same time, I would not vote for further increases in the spending under this defense budget.

DEFENSE IS VITAL

Since the Senate Appropriation Committee has reduced spending to the bare minimum level, we should at the same time resist further reductions in the level of spending. As the President recently stated before both Houses of Congress, nothing is more important in this Nation than our national defense. As the President pointed out, we must not recede from our position of parity with the Soviet Union in military strength to a position of No. 2. A recent survey showed that the vast majority of the people in Kansas and across the country are directly opposed to a No. 2 position in military strength.

The $5½ billion cut by the Senate Appropriation Committee reduces defense spending to the bare minimum. Because of this, I must oppose the amendment offered by the Senator from Missouri (Mr. EAGLETON) to cut the defense budget by another $1 billion. Such a further reduction would weaken our defense posture dangerously and, in all likelihood, would put us in a No. 2 position of military strength in the world. Another $1 billion cut from the defense budget would threaten our national defense posture. It would also increase the probability of the outbreak of conflicts all around the world. The interest of peace in the world is very great for the United States. We must avoid reducing our defense posture to the point where our own peace and the peace of the world is in danger.

SPECIAL EXPENSES FOR DEFENSE

The inflation factor for defense expenditures is especially high. Fuel costs for the Department of Defense have been especially acute in driving up de-

fense expenditures. Yet it is obvious that our military vehicles and aircraft cannot function without fuel.

There have been numerous pay increases in the military which have also driven up defense expenditures. Military pay has been made comparable with civilian pay. This measure was passed by Congress and has contributed greatly to rising defense expenditures.

The Senator from Missouri (Mr. EAGLETON) has indicated that he is disturbed that we are getting much less defense for much more money. While I share the Senator's concern in this matter, I maintain that the way to get more defense for our money is not to take away the money. The way to improve the cost efficiency in our Defense Establishment is for the Congress to take a greater role in the oversight of our defense programs. We must take greater care in establishing priorities for spending to insure that wasteful programs are stopped.

But, Mr. President, we cannot achieve a better and more cost efficient defense by taking away too much money. We are already at a bare minimum spending level and to cut the budget further is inviting disaster.

REDUCTIONS ALREADY MADE

In recent years, numerous cutbacks in our Defense Establishment have already been made. It is my position that we should not maintain an excessively large Defense Establishment. However, it is my position and the position of the people of Kansas and the Nation that we must maintain an adequate defense posture.

From 1968 to 1974, the number of personnel was reduced from 3.6 million to 2.1 million in the Department of Defense. In the same period, the Soviet Union has increased its military strength from 3 million to 3.8 million men. This year, we are planning a 32,000-man reduction in the number of civilian personnel.

In the budget reported to the Senate by the Appropriation Committee, our research and development program in defense has already been reduced to "bare bones." The R. & D. program in defense has been the key to maintaining our military superiority. The $1 billion reduction proposed by the Senator from Missouri would further reduce our military R. & D. program. Considering the reductions already made, such a cut could be disastrous.

Mr. President, again I support the Senate Appropriation Committee in their efforts in reducing defense expenditures to a bare minimum. I support their efforts and feel that they have been adequate. The Senator would hope that further reductions can be avoided and that an increase from the Senate defense appropriation can be avoided as well in the conference committee.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a 10-minute limitation on the vote on passage of the bill.

The PRESIDING OFFICER (Mr. JOHNSTON). Is there objection? The Chair hears none, and it is so ordered.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

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

The bill was read the third time.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

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

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. McGEE), the Senator from South Dakota (Mr. McGOVERN), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from New Jersey (Mr. CASE) are necessarily absent.

I also announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 86, nays 5, as follows:

[No. 376 Leg.]

YEAS—86

Aiken	Ervin	Muskie
Allen	Fannin	Nelson
Baker	Fong	Nunn
Bartlett	Goldwater	Packwood
Bayh	Griffin	Pastore
Beall	Gurney	Pearson
Bellmon	Hansen	Pell
Bentsen	Haskell	Proxmire
Bible	Hathaway	Randolph
Biden	Helms	Ribicoff
Brock	Hollings	Roth
Brooke	Hruska	Schweiker
Buckley	Huddleston	Scott, Hugh
Burdick	Humphrey	Scott, William L.
Byrd, Harry F., Jr.	Inouye	Stafford
Byrd, Robert C.	Jackson	Stennis
Cannon	Javits	Stevens
Chiles	Johnston	Stevenson
Church	Kennedy	Symington
Clark	Long	Taft
Cook	Magnuson	Talmadge
Cotton	Mathias	Thurmond
Cranston	McClellan	Tower
Curtis	McClure	Tunney
Dole	McIntyre	Weicker
Domenici	Metcalf	Williams
Dominick	Metzenbaum	Young
Eagleton	Mondale	
Eastland	Montoya	
	Moss	

NAYS—5

Abourezk	Hatfield	Mansfield
Fulbright	Hughes	

NOT VOTING—9

Bennett	Hart	McGovern
Case	Hartke	Percy
Gravel	McGee	Sparkman

So the bill (H.R. 16243) was passed.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I move that the Senate further insist on its amendments and request a further conference with the House of Representatives on the disagreeing votes of the two Houses thereon; and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the presiding officer appointed Mr. McCLELLAN, Mr. STENNIS, Mr. PASTORE, Mr. MAGNUSON, Mr. MANSFIELD, Mr. SYMINGTON, Mr. YOUNG, Mr. HRUSKA, Mr. COTTON, and Mr. CASE conferees on the part of the Senate.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on August 20, 1974, he presented to the President of the United States the enrolled bill (S. 2510) to establish an Office of Federal Procurement Policy within the Office of Management and Budget, and for other purposes; and today, August 21, 1974, he presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 66. A joint resolution to authorize the erection of a monument to the dead of the First Infantry Division, U.S. forces in Vietnam;

S.J. Res. 220. A joint resolution to provide for the reappointment of Dr. William A. M. Burden as citizen regent of the Board of Regents of the Smithsonian Institution;

S.J. Res. 221. A joint resolution to provide for the reappointment of Dr. Caryl P. Haskins as citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 222. A joint resolution to provide for the appointment of Dr. Murray Gell-Mann as citizen regent of the Board of Regents of the Smithsonian Institution.

THE 1980 WINTER OLYMPICS

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 72.

The PRESIDING OFFICER (Mr. JOHNSTON) laid before the Senate the amendment of the House of Representatives to the concurrent resolution (S. Con. Res. 72) extending an invitation to the International Olympic Committee to hold the 1980 winter Olympic games at Lake Placid, N.Y., in the United States, and pledging the cooperation and support of the Congress of the United States, which was on page 2, line 12, after "tradition" insert:

Provided, That Olympic activities and plans in all respects fit within the present laws and adopted State plans, rules, and regulations respecting the entirety of the Adirondack Park; and be it further

Resolved, That Congress shall not support, financially or otherwise, any activities or plans which are in conflict with the letter or spirit of those laws, plans, rules and regulations, or which would require any modification of them.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

AMTRAK IMPROVEMENT ACT OF 1974

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 15427.

The PRESIDING OFFICER (Mr. JOHNSTON) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 15427) to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two House thereon.

Mr. MANSFIELD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. HARTKE, Mr. TUNNEY, Mr. PEARSON, and Mr. BEALL conferees on the part of the Senate.

YOUTH CONSERVATION CORPS

Mr. MANSFIELD. Mr. President, in behalf of the Senator from Washington (Mr. JACKSON), I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1871.

The PRESIDING OFFICER (Mr. JOHNSTON) laid before the Senate the amendment of the House of Representatives to the bill (S. 1871) to amend the Youth Conservation Corps Act of 1972 (Public Law 92–597, 86 Stat. 1319) to expand and make permanent the Youth Conservation Corps, and for other purposes, as follows:

Strike out all after the enacting clause, and insert: That the Act of August 13, 1970 (84 Stat. 794) is amended to read as follows:

"POLICY AND PURPOSE

SECTION 1. The Congress finds that the Youth Conservation Corps has demonstrated a high degree of success as a pilot program wherein American youth, representing all segments of society, have benefited by gainful employment in the healthful outdoor atmosphere of the national park system, the national forest system, other public land and water areas of the United States and by their employment have developed, enhanced, and maintained the natural resources of the United States, and whereas in so doing the youth have gained an understanding and appreciation of the Nation's environment and heritage equal to one full academic year of study, it is accordingly the purpose of this Act to expand and make permanent the Youth Conservation Corps and thereby further the development and maintenance of the natural resources by America's youth, and in so doing to prepare them for the ultimate responsibility of maintaining and managing these resources for the American people.

"YOUTH CONSERVATION CORPS

"SEC. 2. (a) To carry out the purposes of this Act, there is established in the Department of the Interior and the Department of Agriculture a Youth Conservation Corps (hereinafter referred to as the 'Corps'). The Corps shall consist of young men and women who are permanent residents of the United States, its territories, possessions, trust territories, or Commonwealth of Puerto Rico who have attained age fifteen but have not attained age nineteen, and whom the Secretary of the Interior or the Secretary of Agriculture may employ without regard to the civil service or classification laws, rules, or regulations, for the purpose of developing, preserving, or maintaining the lands and waters of the United States.

"(b) The Corps shall be open to youth from all parts of the country of both sexes and youth of all social, economic, and racial classifications with all Corps members receiving compensation consistent with work accomplished, and with no person being employed as a member of the Corps for a term in excess of ninety days during any single year.

"SECRETARIAL DUTIES AND FUNCTIONS

"SEC. 3. (a) In carrying out this Act, the Secretary of the Interior and the Secretary of Agriculture shall—

"(1) determine the areas under their administrative jurisdictions which are appropriate for carrying out the programs using employees of the Corps;

"(2) determine with other Federal agencies the areas under the administrative jurisdiction of these agencies which are appropriate for carrying out programs using members of the Corps, and determine and select appropriate work and education programs and projects for participation by members of the Corps;

"(3) determine the rates of pay, hours, and other conditions of employment in the Corps, except that all members of the Corps shall not be deemed to be Federal employees other than for the purpose of chapter 171 of title 28, United States Code, and chapter 81 of title 5, United States Code;

"(4) provide for such transportation, lodging, subsistence, and other services and equipment as they may deem necessary or appropriate for the needs of members of the Corps in their duties;

"(5) promulgate regulation to insure the safety, health, and welfare of the Corps members; and

"(6) provide to the extent possible, that permanent or semi-permanent facilities used as Corps camps be made available to local schools, school districts, State junior colleges and universities, and other education institutions for use as environmental/ecological education camps during periods of nonuse by the Corps program.

Costs for operations maintenance, and staffing of Corps camp facilities during periods of use by non-Corps programs as well as any liability for personal injury or property damage stemming from such use shall be the responsibility of the entity or organization using the facility and shall not be a responsibility of the Secretaries or the Corps.

"(b) Existing but unoccupied Federal facilities and surplus or unused equipment (or both), of all types including military facilities and equipment, shall be utilized for the purposes of the Corps, where appropriate and with the approval of the Federal agency involved. To minimize transportation costs, Corps members shall be employed on conservation projects as near to their places of residence as is feasible.

"(c) The Secretary of the Interior and the Secretary of Agriculture may contract with any public agency or organization or any private nonprofit agency or organization which has been in existence for at least five years for the operation of any Youth Conservation Corps project.

"GRANT PROGRAM FOR STATE PROJECTS

"SEC. 4. (a) The Secretary of the Interior and the Secretary of Agriculture shall jointly establish a program under which grants shall be made to States to assist them in meeting the cost of projects for the employment of young men and women to develop, preserve, and maintain nonFederal public lands and waters within the States. For purposes of this section, the term 'States' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

"(b) (1) No grant may be made under this section unless an application therefor has been submitted to, and approved by the Secretary of the Interior and the Secretary of Agriculture. Such application shall be in such form, and submitted in such manner, as the Secretaries shall jointly by regulation prescribe, and shall contain—

"(A) assurances satisfactory to the Secretaries that individuals employed under the project for which the application is submitted shall (i) have attained the age of fifteen but not attained the age of nineteen, (ii) be permanent residents of the United States or its territories, possessions, or the Trust Territory of the Pacific Islands, (iii) be employed without regard to the personnel laws, rules, and regulations applicable to fulltime employees of the applicant, (iv) be employed for a period of not more than ninety days in any calendar year, and (v) be employed without regard to their sex or social, economic, or racial classification; and

"(B) such other information as the Secretaries may jointly by regulation prescribe.

"(2) The Secretaries may approve applications which they determine (A) to meet the requirements of paragraph (1) and (B) are for projects which will further the development, preservation, or maintenance of non-Federal public lands or waters within the jurisdiction of the applicant.

"(c) (1) The amount of any grant under this section shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 per centum of the cost (as determined by the Secretaries) of such project.

"(2) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretaries find necessary.

"(d) Thirty per centum of the sums appropriated under section 6 for any fiscal year shall be made available for grants under this section for such fiscal year.

"SECRETARIAL REPORTS

"SEC. 5. The Secretary of the Interior and Secretary of Agriculture shall annually prepare a joint report detailing the activities carried out under this Act and providing recommendations. Each report for a program year shall be submitted concurrently to the President and the Congress not later than April 1 following the close of that program year.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. There are authorized to be appropriated amounts not to exceed $60,000,000 for each fiscal year, which amounts shall be made available to the Secretary of the Interior and the Secretary of Agriculture to carry out the purposes of this Act. Notwithstanding any other provision of law, funds appropriated for any fiscal year to carry out this Act shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which appropriated.".

Mr. MANSFIELD. Mr. President, the House has amended S. 1871 by decreasing the amount authorized to be appropriated for each fiscal year for the funding of the Youth Conservation Corps from $100 million, as contained in the Senate bill, to $60 million. This is the only substantive difference between the House and Senate versions of this legislation.

Mr. President, while this is a substantial decrease in the annual authorization level to make permanent this important program which has been providing meaningful outdoor employment for our young people, the Interior and Insular Affairs Committee, of which I have the honor to be chairman, will have ample opportunity to oversee closely what the future needs of this program might be. Therefore, I feel that the House amendment should be accepted so that this successful project can be continued and made permanent.

I move that the Senate concur in the amendment of the House of Representatives to S. 1871.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

DUTY APPLICABLE TO CRUDE FEATHERS AND DOWNS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1018.

The PRESIDING OFFICER (Mr. JOHNSTON). The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 11452) to correct an anomaly in the rate of duty applicable to crude feathers and downs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with amendments.

Mr. CURTIS. Mr. President, I send to the desk an amendment and ask that it be reported.

The PRESIDING OFFICER. First, we must dispose of the committee amendments. The clerk will state the first committee amendment.

The second assistant legislative clerk read as follows:

On page 2, in the table, strike out "12/31/79" in the two places where it occurs and insert in lieu thereof "12/31/77."

On page 2, in line 1, strike out "(a)".

On page 2, beginning with line 5, strike out—

(b) For purposes of any authority that may be delegated to the President to proclaim such continuance of existing duty free treatment as he determines to be required or appropriate to carry out a trade agreement with foreign countries or instrumentalities thereof, the duty-free treatment provided by items 903.70 and 903.80 of the Appendix to the Tariff Schedules of the United States shall be considered as existing duty-free treatment.

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

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the second committee amendment.

The second assistant legislative clerk read as follows:

On page 2, beginning with line 13, insert—

SEC. 3. (a) Section 542(b) of the Internal Revenue Code of 1954 (relating to corporations filing consolidated returns) is amended by adding at the end thereof the following new paragraph:

"(5) CERTAIN DIVIDEND INCOME RECEIVED FROM A NONINCLUDABLE LIFE INSURANCE COMPANY.—In the case of an affiliated group of corporations filing or required to file a consolidated return under section 1501 for any taxable year, there shall be excluded from consolidated personal holding company income and consolidated adjusted ordinary gross income for purposes of this part dividends received by a member of the affiliated group from a life insurance company taxable under section 802 that is not a member of the affiliated group solely by reason of the application of paragraph (2) of subsection (b) of section 1504.".

(b) The amendment made by this section shall apply to taxable years beginning after December 31, 1973.

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

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the amendment of the Senator from Nebraska.

Mr. CURTIS. Mr. President, should my chairman wish to be recognized, I shall defer the offering of the amendment.

Mr. LONG. Mr. President, this amendment that the Senator from Nebraska proposes would postpone until January 1, 1976, the requirement in present law that the Federal employee health program be properly coordinated with the medicare program. I am advised by our staff that this is necessary in order to provide the time necessary to make these two insurance programs work together effectively. The Senator may wish to say something further, but I have no objection to the amendment, and I think it is necessary.

Mr. CURTIS. Mr. President, I now ask that the amendment be stated.

The second assistant legislative clerk read as follows:

At the end of the bill, insert the following:

SEC. . (a) Section 1862(c) of the Social Security Act is amended by striking out "January 1, 1975" and inserting in lieu thereof "January 1, 1976".

(b) The Civil Service Commission and the Secretary of Health, Education, and Welfare shall submit to the Committee on Post Office and Civil Service and the Committee on Ways and Means of the House of Representatives, and to the Committee on Post Office and Civil Service and the Committee on Finance of the Senate, on or before March 1, 1975, a report on the steps which have been taken and the steps which are planned, to enable the Secretary of Health, Education, and Welfare to make the determination and certification referred to in section 1862(c) of the Social Security Act. If such report is not submitted to such committees on or before March 1, 1975, the date specified in such section (as amended by the first section) shall be deemed to be July 1, 1975, rather than January 1, 1976.

Mr. CURTIS. Mr. President, this amendment would postpone for 1 year, from January 1, 1975, to January 1, 1976, the requirement in present law that the Federal employee health program be properly coordinated with the medicare program. It is similar to a provision approved by the Senate Finance Committee and full Senate as part of H.R. 3153 in December of last year.

This amendment is necessary in order to avoid an even larger increase in premiums for Federal employee health programs than is already likely for next year. This extension is made necessary by the lack of action on the part of the Civil Service Commission and the Department of Health, Education, and Welfare to modify the Federal employee program so that it works in conjunction with medicare.

At present Federal employees and Federal retirees who are also eligible for medicare find that they cannot effectively get both benefits. In simple terms, the Federal Government, unlike all other employers, has not coordinated its program to medicare.

This amendment would also require that the Civil Service Commission and the Secretary of Health, Education, and Welfare submit a report to the proper committee in the Congress by March 1, 1975, on the steps then being taken to accomplish coordinated treatment for Federal workers. A similar amendment has been offered in the House by Representative JOEL BROYHILL.

Mr. President, I move the adoption of the amendment.

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

The amendment was agreed to.

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

Mr. BAYH's amendment is as follows:

Insert the following at the appropriate point in the bill:

SEC. . Part IV of chapter 11B of the Internal Revenue Code of 1954 (relating to deductions from the gross estate) is amended by adding at the end thereof the following new section:

"SEC. 2057. INTERESTS IN FAMILY FARMING OPERATIONS.

"(a) GENERAL RULE.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate the lesser of (1) $200,000, and (2) the value of the decedent's interest in a family farming operation continually owned by him or his spouse during the five years prior to the date of his death and which passes or has passed to an individual or individuals related to him or his spouse.

"(b) SUBSEQUENT DISQUALIFICATION RESULTS IN DEFICIENCY.—The difference between the tax actually paid under this chapter on the transfer of the estate and the tax which would have been paid on that transfer had the interest in a family farming operation not given rise to the deduction allowed by paragraph (a) shall be a deficiency in the payment of the tax assessed under this chapter on that estate unless, for at least 5 years after the decedent's death—

"(1) the interest which gave rise to the de-

duction is retained by the individual or individuals to whom such interest passed, and

"(2) the individual or any of the individuals to whom the interest passed resides on such farm, and

"(3) such farm continues to qualify as a family farming operation.

"(c) DEATH OF SUBSEQUENT HOLDER.—In the case of the subsequent death of an individual to whom the interest in a family farming operation has passed, his successor shall be considered in his place for purposes of paragraph (b).

"(d) DEFINITIONS.—

"(1) FAMILY FARMING OPERATION.—A 'family farming operation' is a farm:

"(A) actively engaged in raising agricultural crops or livestock 'for profit', within the meaning of section 183, and

"(B) over which the owner or one of the owners exercises substantial personal control and supervision.

"(2) RELATIONS.—An individual is 'related' to the decedent or his spouse if he is that person's father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister."

Mr. BAYH. Mr. President, I am offering this amendment together with the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from New Jersey (Mr. WILLIAMS).

This amendment is designed to deal with the problem of the disturbing decline in the number of farms and of families living on the farm. This amendment would exclude the first $200,000 in the value of the family farm from the taxable estate of those farmers who have managed their own farms during their lives and have willed it to relatives who plan to carry on this tradition.

Under the amendment, all such family farms must be actively used to raise agricultural crops or livestock for profit rather than as a hobby. To be specific, in order to qualify for the exemption, the decedent must have owned the farm for at least 5 years and must have exercised substantial management and control over the farm before he died. Those who inherit must not only continue to exercise substantial management and control over the farm, but also must maintain ownership and live on the farm for at least 5 years. In the event that a farm is willed to several children, all inheritors are covered by the amendment if one of them meets the residency and management qualifications set forth.

I want to emphasize that this proposal is not envisioned as a tax break for all farmers, but rather as a device to assist those farmers who are not likely to have sufficient liquid capital to meet the estate taxes. Presently, farmers usually have to sell part of their land to raise enough money to pay estate taxes; after one or two generations, so much of the farmland has been sold off that there is no longer a viable economic unit—particularly in these days when the average size of a farm is increasing, not decreasing. The result has been the increased ownership of land by corporations despite the fact that research studies by USDA relating cost per unit to size have generally shown that all of the economies of size can be achieved by modern and fully mechanized one-man and two-man farms.

As everyone concerned about the rise of corporate farming knows, the individual farmer has been having a progressively harder time making ends meet. Fifty years ago there were about 32 million Americans—more than 30 percent of the entire population—living on the farm; today there are only about 9 million Americans—slightly more than 4 percent of our population—still on the farm. This number is decreasing steadily.

Moreover, it is the small farmer, the family farmer, who is being forced off the farm into our already overcrowded cities. In fact, every day about 300 family farms in this country have to be abandoned by their owners because they are no longer viable. Cumulatively, a million family-sized farms were consolidated out of existence in the 1950's and another million in the 1960's.

The reasons for the demise of the family farmer are evident. While food prices in this country have gone up along with everything else, the farmer often has not shared in this increase. Food price increases have gone to retailers and middlemen, but too many farmers have seen their share of the retail food dollar remain constant, and at times, decline. At the same time, while the average American nonfarm worker labors an average of only 37 hours a week, the average farmer works 50 hours a week and earns less for his time. Farmers receive an average of only 5.4 percent return on their investment whereas there is a 10 to 12 percent average return on investment in industry.

One of the greatest problems faced by farm families is the estate tax—a tax which is uniquely burdensome for farmers because it is usually based on the inflated value of the land as a real estate parcel rather than on its fair value as a farming operation. Children who have spent years working the farm with their parents are suddenly confronted with a large tax when the owner of their operation dies. For a small farmer, estate taxes are particularly severe because most of his assets are generally nonliquid: His farm, his farmhouse, his livestock, his crops, and equipment comprise the bulk of his assets and they are all essential to the profitable operation of the farm. Nonfarmers, if only because their return on investment is usually greater, normally have a greater percentage of liquid assets with which they can meet estate taxes.

To illustrate the problem faced by family farmers, let us take the hypothetical case of a Mr. Jones, Jr., who is left a 300-acre farm valued at $700 an acre, plus farm equipment, crops, and farmhouse, for a total valuation of $280,000. At the prevailing tax rate, he would have to pay $56,700 in Federal estate taxes. An average small farmer, Mr. Jones, makes only about $10,000 a year from his farm; the income is already stretched thin to cover new farm equipment and family expenses. Assuming that Mr. Jones does not have large savings, he would be forced either to take out a mortgage on the farm—if it is not already mortgaged—or sell part of his land in order to pay the estate tax on his father's farm. Either way, he would decrease by a considerable margin the already small profit he is able to make from the farm. Furthermore, the burden of estate taxes could very possibly be so great that Mr. Jones, Jr., might find out that he can no longer make enough money on the farm to support his family. Thus he would be forced to sell the farm and look for work elsewhere.

Unless we want to see a continuating decline in the number of family farmers, and an eventual domination of the farm industry by large corporate farms, it is essential to help small farmers meet what are now unbearably high estate taxes.

Mr. President, there are two probable criticisms of this bill which I would like to address: First, small businesses would probably ask for similar tax breaks; and second, the cost could be high.

In response to the first consideration, I am certainly aware that small family businesses often have as difficult a time making ends meet as small family farms do, and that they need encouragement if they are to prosper. However, it seems to me that family farms differ from family businesses in significant respects which entitle farms to separate consideration with reference to estate taxes. The rapid technological changes, marginal profits, and the need for capital in farming encourage forced saving and reinvestment by all family members. Since farm households are relatively more self-sufficient than urban households and since the cost of rural living is generally lower than that of urban living, members of the family often are not remunerated for their contributions to the farm; rather, all wages and profits are pooled and reinvested in more land, new machinery or better fertilizer and seed.

Members of the younger generation may be taxed on money which otherwise might have come to them in the form of a salary. Combined with the fact that most profits are plowed back into the farm is the fact that the return on investment is generally lower in farming—5.4 percent—than in business—10 to 12 percent. Thus, farmers tend to have less liquid capital saved with which to pay estate taxes.

Farmers also suffer most dramatically from the fact that their estates are taxed at the real estate value of the land, rather than on the basis of the farming value of the land. The current shortage of land is pushing up real estate values both for the farmer and for the small businessman located in a city; however, a far greater proportion of a farm's assets are tied up in land. The farmer who finds that suburban sprawl is forcing up the value of his main asset simply cannot absorb the increased costs of that particular item.

The second main argument against my proposal is likely to be one of cost. The

Department of the Treasury has estimated that the revenue loss would be about $200 million annually. Unfortunately, I do not know the nature of their calculations leading to this estimate. However, the department of agricultural economics at Purdue University has provided a second tentative estimate of an annual revenue loss falling somewhere between $50 and $100 million—and probably closer to $50 million than to the higher figure. The amendment would not affect the existing $60,000 exemption from the estate tax nor the marital deduction.

All Americans—whether rural, urban, or suburban should recognize that the growth of corporate farms at the expense of the family farmer is a threat to the rural way of life as well as to the consumer's pocketbook. Literally thousands of farmers have been driven off the land into the cities. Good, hard-working people with dignity developed from years of self-sufficiency have suddenly found themselves lost in big cities. The irony of all this is that there is no evidence that these giant corporate farms offer any productive advantages. Rather it is the highly efficient family farmer who remains the secret behind the vast productive capacity of American agriculture. I would hope that the Senate would take a major step toward preserving this uniquely American institution and act favorably on this amendment.

Mr. President, I can think of nothing that will make a greater contribution to assuring the independence of the family farmer than this kind of program. I have discussed the amendment with the distinguished chairman of the Finance Committee, the Senator from Louisiana (Mr. LONG), and I understand he has no objection to the amendment, but I will let him speak for himself.

Mr. LONG. Mr. President, the Senator seeks to achieve the laudable objective of saving the family farm, which is disappearing as a part of the American scene. It would be well for something to be done along this line. I do not know whether the House would be willing to agree to this amendment or whether the President would sign the bill if it is agreed to. But, it seems to me, that we ought to endeavor to do something to prevent the family farm from vanishing from the American scene completely, as it may, should the present trend continue.

I have no objection to the amendment. I would be willing to take it to conference and see if we can persuade the House to agree to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment (putting the question).

The amendment was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

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

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is Shall it pass (putting the question.)?

The bill (H.R. 11452) was passed.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed

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

The motion to lay on the table was agreed to.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION ACT, 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1062, H.R. 15404, with the understanding that no action thereon will be taken today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 15404) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1975, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent when the Senate completes its business today it stand in adjournment until the hour of 10 o'clock tomorrow morning.

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

ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent after the two leaders or their designees have been recognized under the standing order on tomorrow there be a period for the transaction of routine morning business of not to exceed 15 minutes with statements limited therein to 5 minutes each; and at the conclusion of which the Senate will resume consideration of Calendar No. 1062, the bill making appropriations for State, Justice, and Commerce.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the disposition of the appropriation bill for State, Justice, and Commerce tomorrow, the Senate then proceed to the consideration of the conference report on pensions.

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

MEMORIAL TRIBUTES TO SENATOR KARL MUNDT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. MCGOVERN and Mr. ABOUREZK I ask unanimous consent that all memorial tributes to Senator Karl Mundt appear in one place in the RECORD.

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

AMENDMENT OF THE NATURAL GAS PIPELINE SAFETY ACT OF 1968—H.R. 15205

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 15205.

The PRESIDING OFFICER laid before the Senate H.R. 15205, an act to amend the Natural Gas Pipeline Safety Act of 1968, as amended, and for other purposes, which was read twice by title.

The PRESIDING OFFICER. The Senate will proceed with its immediate consideration.

If there are no amendments to be offered, the question is on the third reading and passage of the bill.

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

ORDER TO HOLD BILL AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 16425, monitoring the economy, remain at the desk until the conclusion of business tomorrow.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 o'clock tomorrow and, 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 15 minutes, with statements limited therein to 5 minutes; at the conclusion of which period the Senate will proceed to the consideration of H.R. 15404, an act making appropriations for the Departments of State, Justice and Commerce, the Judiciary and related agencies for the fiscal year ending June 30, 1975, and for other purposes.

Rollcall votes are expected on amendments to that bill and on final passage thereof.

On the disposition of the appropriation bill, the Senate will take up the conference report on pension reform. There will be a rollcall vote on the adoption of that conference report. Other bills cleared for action on the Calendar, if there be such, will be taken up and acted upon. Other conference reports, being privileged, may also be called up. So there will be rollcall votes 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 10 a.m. tomorrow.

The motion was agreed to; and, at 5:41 p.m., the Senate adjourned until tomorrow, Thursday, August 22, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate August 21, 1974:

DEPARTMENT OF STATE

William R. Crawford, Jr., of Pennsylvania, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cyprus.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 21, 1974:

FEDERAL ENERGY ADMINISTRATION

Roger West Sant, of California, to be an Assistant Administrator of the Federal Energy Administration.

DEPARTMENT OF STATE

Jack B. Kubisch, of Michigan, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece, vice Henry J. Tasca, resigning.

Richard L. Sneider, of New York, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE COAST GUARD

Coast Guard nominations beginning Christian T. Bonher, to be lieutenant junior grade, and ending Charles O. Gill, to be chief warrant officer, W-2, which nominations were received by the Senate, and appeared in the CONGRESSIONAL RECORD on July 31, 1974.

HOUSE OF REPRESENTATIVES—*Wednesday, August 21, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Fear not, O land; be glad and rejoice; for the Lord will do great things.—Joel 2: 21.

Almighty God, by whose grace we were created, by whose strength we are sustained, and by whose love we are redeemed, we pray Thee to illumine our minds with Thy truth, to fill our hearts with Thy love, and to direct us in our endeavors for the highest good of our Nation that justice, peace, and good will may prevail in the hearts of people everywhere.

Strengthen the foundations of our national life that we and our people may be steadfast in faith, joyful in hope, great in moral living, high in spiritual power, and devoted to the welfare of all.

Thus may we be great enough and good enough and genuine enough for this challenging age in which we live; through Jesus Christ, our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill and a joint resolution of the House of the following titles:

H.R. 6485. An act to amend the tobacco marketing quota provisions of the Agricultural Adjustment Act of 1938; and

H.J. Res. 1105. Joint resolution designating August 26, 1974, as "Women's Equality Day."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14920) entitled "An act to further the conduct of research, development, and demonstrations in geothermal energy technologies, to establish a geothermal energy coordination and management project, to amend the National Science Foundation Act of 1950 to provide for the funding of activities relating to geothermal energy, to amend the National Aeronautics and Space Act of 1958 to provide for the carrying out of research and development in geothermal energy technology, to carry out a program of demonstrations in technologies for the utilization of geothermal resources, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15581) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1975, and for other purposes."

The message also announced that the Senate agreed to the amendment of the House to the amendment of the Senate numbered 5, to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 16027) entitled "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1975, and for other purposes."

The message also announced that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 9, 15, 16, 17, 20, 25, 27, 29, 34, and 50 to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12628) entitled "An act to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and other persons; to make improvements in the educational assistance programs; and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11510. An act to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11510) entitled "An act to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ERVIN, Mr. JACKSON, Mr. MUSKIE, Mr. RIBICOFF, Mr. METCALF, Mr. PERCY, Mr. JAVITS, Mr. GURNEY, and Mr. ROTH to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title: