every new government agency swells the already bloated federal payrolls, puts a new burden on the taxpayer, and adds to the cost of doing business. These increased business costs are passed on to the consumer in higher prices.

Kuhfuss also had strong criticism for one bureaucracy that is already in existence—the Occupational Safety and Health Administration—OSHA. He pointed out that some OSHA regulations demonstrate a lack of practical knowledge of farming operations. Although OSHA regulations waste many hours, they achieve little in safety. Kuhfuss went on to say:

Farmer, who constitute only 4.4 percent of the U.S. population, have had an almost impossible job in challenging some of OSHA's unrealistic regulations which have handicapped agricultural producers in meeting record food needs. Farmers and ranchers have taken many hours from their production jobs to appear at OSHA public hearings. Proposed regulations on some mandatory safety requirements on farm machinery, for example, reveal considerable lack of knowledge of the practical applications involved in farm operations. Of equal importance is the waste of time, manpower, and resources in relation to the achievement of increased safety.

I agree wholeheartedly with Kuhfuss' sentiments. I had doubts about OSHA when it was first proposed and I voted against its final passage in the House.

My doubts have certainly been confirmed. Farmers and businessmen are being forced to comply with more and more OSHA regulations—regulations that are difficult and costly to meet.

It is time that Congress moved to cut bureaucratic redtape. Rather than creating additional Government bureaucracies, Congress should thoroughly review the ones that are already in existence.

Following is an article on Kuhfuss' speech from the November 25 edition of the Farm Bureau News:

KUHFUSS WARNS—LEGISLATIVE PROPOSALS FOR NEW CONGRESS COULD CAUSE NEW HIGHS IN LIVING COSTS

The cost of living could climb to new highs under federal legislation scheduled to be introduced in the 1975 session of Congress, a national farm leader warns.

The warning came from William J. Kuhfuss, president of the American Farm Bureau Federation, in an address to the 29th annual meeting of the National Association of Independent Insurers.

"Consumers should be alert to legislation which would establish a new super government bureaucracy to be imposed on top of all existing federal agencies, intervening in all regulatory activities of each agency, saddling business with new red tape, and adding to the cost of their operations," Kuhfuss said.

"Every new government agency swells the already bloated federal payrolls, puts a new burden on the taxpayer, and adds to the cost of doing business. These increased business costs are passed on to the consumer in higher prices."

Kuhfuss said that the legislation set for introduction in the 1975 Congress calls for the establishment of a Consumer Protection Agency. Such a bill was killed September 19 in the Senate with Senator Sam Ervin of North Carolina leading the opposition. Senator Ervin's retirement places Senator Abraham Ribicoff of Connecticut as chairman of the Senate's Government Operations Committee. Senator Ribicoff was the author of the original Consumer Protection Agency bill.

"Some might think that Farm Bureau is not interested in consumer legislation because farmers are not thought of as consumers. This is a common misunderstanding. Modern farm families are not only consumers of food, housing, clothing, and other goods and services necessary for family living, but they are also major consumers of industrial products used in farm production. Farmers buy one-fourth of all the trucks produced in America, 10 percent of the U.S. petroleum output, and five percent of the nation's steel products.

"Farm Bureau believes that government standards of quality, safety, health, and labeling have an important role in protecting consumers and we already have a wide range of more than 45 federal regulatory agencies operating in this and other areas of public concern.

"Such a list, to name a few, would include the Food and Drug Administration, Federal Trade Commission, Interstate Commerce Commission, Federal Power Commission, Securities and Exchange Commission, Commodity Futures Trading Commission, Packers and Stockyards Administration, Federal Communications Commission, and many others. To keep up with all federal regulations and proposals, the government issues a Federal Register almost daily that sometimes runs to 100 pages and requires a team of lawyers to interpret.

"If these agencies are not doing a job for consumers, as some proponents of the Consumer Agency legislation contend, it is hardly likely that creation of another 'super agency' will be of much practical value except to provide more government jobs and more income for lawyers.

"It is difficult to estimate how much proliferation of new regulatory agencies—such as the Environmental Protection Agency and the Occupational Safety and Health Administration—has slowed the U.S. economy, both industrial and agricultural, and has added to the cost of everything from cars to food. The top example of the inconvenience and increased cost imposed on the driving public was the ignition interlock safety belts on cars. Congress exhibited good common sense in revoking this regulation because of the united and militant resistance to 'Big Brother' dictation. But how many other orders arbitrarily imposed on consumers can gain sufficient support to achieve revocation?

"Farmers, who constitute only 4.4 percent of the U.S. population, have had an almost impossible job in challenging some of OSHA's unrealistic regulations which have handicapped agricultural producers in meeting record food needs. Farmers and ranchers have taken many hours from their production jobs to appear at OSHA public hearings. Proposed regulations on some mandatory safety requirements on farm machinery, for example, reveal considerable lack of knowledge of the practical applications involved in farm operations. Of equal importance is the waste of time, manpower, and resources in relation to the achievement of increased safety.

"Agricultural producers know from experience the tremendous cost of government bureaucracy. For some 40 years, farmers and ranchers were subject to the self-defeating controls of a federal farm program that put a ceiling on market prices and opportunities and cost taxpayers billions of dollars. Today, agricultural producers are relatively free of such controls only to discover new problems created by federal regulatory agencies," Kuhfuss said.

The farm leader said he favored the proposed study by the Administration of the inflationary effects of the federal regulatory agency operations such as Interstate Commerce Commission regulations on transportation.

"There is merit in such a study and I would hope it is started as soon as possible. At the same time I would hope that the new Congress will cooperate in cutting government spending and balancing the budget," Kuhfuss said.

On no-fault insurance legislation, Kuhfuss reported that Farm Bureau favors the continuation of state, as opposed to federal, regulation of the automobile insurance industry.

"In AFBF's statement this past July before the House Interior Subcommittee on Commerce and Finance, it was made clear that Farm Bureau does not oppose the concept of no-fault," Kuhfuss said.

Discussing the availability of adequate crop insurance to farmers and ranchers, Kuhfuss said that the Farm Bureau has recommended that the federal crop insurance be converted to a reinsurance program.

"Our policy states that such a program be sound actuarily, and premiums should be adequate to include reasonable charges for administrative expense.

SENATE—*Monday, December 16, 1974*

The Senate met at 10 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

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

O God, our Father, as we undertake the tasks of a new week, we beseech Thee to support us in all wise endeavors for this Nation. Give us the courage to change the things that can be changed, the serenity to accept the things that cannot be changed and the wisdom to know the difference.

While we toil through Advent days, may we be star-led to the ancient stable and the manger where truth became incarnate. May we follow the example of the wise men of old and hear again the timeless refrain: "The government shall be upon His shoulder: and His name shall be called Wonderful, Counselor, the Mighty God, the Everlasting Father, the Prince of Peace." Amen.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Saturday, December 14, 1974, be dispensed with.

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

COMMITTEE MEETING DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce be authorized to meet today to consider the House-passed version of S. 1149, the Surface Transportation Act.

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

WAIVER OF CALL OF THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the call of the calendar under rule VII be waived.

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

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1274 through 1279.

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

AUTHORIZATION OF APPROPRIATIONS FOR CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

The bill (H.R. 10397) to extend the authorization of appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93–1350), explaining the purposes of the measure.

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

PURPOSE AND EXPLANATION

The purpose of H.R. 10397 is to provide authorization for appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People through December 30, 1974.

The Committee reports this bill favorably with the understanding that amendments will be offered on the floor of the Senate (1) to extend the authorization of the Cabinet Committee to June 30, 1975, (2) to delete the provisions of the bill providing for regional offices, and (3) to reduce the amount authorized to be appropriated from $1.5 million to $1 million, of which $500,000 will be available for the remainder of fiscal year 1975. The Committee intends to conduct hearings early in 1975 on the broader question of how best to represent the interests of minority groups within the Executive branch of the Government.

Public Law 91–181 established the Cabinet Committee on December 30, 1969 (42 U.S.C. Sec. 4301 et seq.) for a period of five years. Public Law 92–122, which was approved August 16, 1971, extended appropriations for two fiscal years beyond the initial one and one-half year period. The Cabinet Committee's funding authorization expired on June 30, 1973. It has been operating on the basis of continuing resolutions.

H.R. 10397 would authorize the necessary appropriations to continue the Cabinet Committee.

BACKGROUND

In 1969 the Cabinet Committee on Opportunities for Spanish-Speaking People replaced the Interagency Committee on Mexican-American Affairs, established in June of 1967 by a Presidential memorandum.

The purpose of the Cabinet Committee on Opportunities for Spanish-Speaking People is to aid Spanish-Speaking and Spanish-surnamed Americans in coping with problems relating to housing, employment, education, and health care, as well as to insure that Federal programs are responsive to their needs.

The statute provided that the Chairman of the Cabinet Committee be appointed by the President and confirmed by the Senate. The committee is made up of four agency heads and seven cabinet officials.

Under Section 3 of the 1969 Act, the responsibilities of the Cabinet Committee are two-fold:

First, to act in an advising capacity to Federal departments and agencies in assuring cooperation with the needs of the Spanish-speaking and Spanish-surnamed.

Second, to keep Federal departments and agencies informed on special policies and plans intended to highlight the plight of the Spanish-speaking and the Spanish-surnamed.

The 1969 Act also called for research studies and technical assistance projects through State and local municipalities and the private sector when warranted.

The 1969 Act established an Advisory Council to report on matters requested by the Chairman. The Advisory Council consists of nine members, representing a cross section of the Spanish-speaking community.

H.R. 10397 amends the enabling legislation (Public Law 91–181) in the following respects:

It extends the Cabinet Committee's funding authorization for the remaining one and one-half years of its tenure, to December 30, 1974.

It requires that regional offices be established and that at least 50 percent of salaries of Cabinet Committee employees be expended through these offices. It assigns the Cabinet Committee the added function of assisting Spanish-Speaking groups and individuals in securing their participation in various benefits and assistance programs.

H.R. 10397 bans partisan political activity by the Chairman and employees of the Cabinet Committee. There have been numerous complaints received that indicated that the Cabinet Committee had been used for partisan political purposes during the 1972 election campaigns. The Chairman of the Cabinet Committee was the recipient of a memorandum from the Committee to Reelect the President, which designated him as the primary presidential surrogate to the Spanish-speaking community and indicated strategies for political appeals.

The bill makes the Cabinet Committee a more effective instrument by broadening its membership to include the Secretary of Defense, the Secretary of Transportation and the Administrator of Veterans Affairs. Recognizing that sub-cabinet officials are more intimately familiar with the problems that concern the Cabinet Committee and are able to give more time to its work, the bill provides that the department and agency heads comprising the Cabinet Committee designate representatives to constitute a working group, who are required to meet at least six times a year. The full Cabinet Committee will be required to meet semi-annually.

The Advisory Council now provided by law would be made more effective by expanding its membership so as to become more representative of the Spanish-speaking community. H.R. 10397 enables the Council to identify matters of concern of the Spanish-speaking people rather than merely subjects upon which the Chairman has requested their advice.

HEARINGS

Hearings on the operations of the Cabinet Committee on Opportunities for Spanish-Speaking People were held in the House Government Operations Committee, on July 23 and September 12, 1973, by the Subcommittee on Legislation and Military Operations.

Two bills, H.R. 10356 and H.R. 10397, were introduced to authorize appropriations for the Cabinet Committee through December 30, 1974. H.R. 10397 was reported out of the committee by a unanimous vote.

COST ESTIMATE

The bill provides a ceiling of $1.5 million in the appropriations which may be authorized for the Cabinet Committee on Opportunities for Spanish-Speaking People. Of this amount, $750,000 will be available in fiscal year 1975.

AMERICA'S HOSPITALIZED VETERANS

The joint resolution (S.J. Res. 227) designating Monday, February 10, 1975, as a day of salute to America's hospitalized veterans, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

Whereas eight hundred thousand hospitalized American veterans are served in one hundred and seventy-seven Veterans' Administration hospitals annually; and

Whereas certain organizations sponsor throughout each year for these veterans a series of programs, celebrity visits, and special activities for paralyzed veterans, and formally call the Nation's attention to these special Americans; and

Whereas these servicemen and servicewomen deserve an annual recognition from the citizens through the United States for the sacrifices they made to help keep America a free country: Now, therefore, be it

Resolved by the Senate and House of Representative of the United States of America in Congress assembled. That Monday, February 10, 1975, be designated as a day to honor America's hospitalized veterans for the sacrifices they have made to keep our Nation free, that in all Veterans' Administration hospitals in the United States this day be appropriately recognized as a salute to America's hospitalized veterans, and, furthermore, that the President of the United States, the Chief Justice of the Supreme Court, the Attorney General of the United States, and the Governors of all the States be individually informed of this resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93–1351), explaining the purposes of the measure.

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

PURPOSE

The purpose of the Joint Resolution is to designate Monday, February 10, 1975, as a day of salute to America's hospitalized veterans.

STATEMENT

This resolution was introduced on July 22, 1974, by Senator Hugh Scott, the distinguished Senate Minority Leader, and cosponsored by Senator Mike Mansfield, the distinguished Senate majority leader.

There are thousands of veterans who use and are confined to Veterans Administration hospitals throughout the country. Many in-

jured servicemen from the Vietnam conflict and earlier military encounters are continually being treated in those facilities.

On February 12, 1974, No Greater Love, a group whose membership includes many distinguished Americans, organized a visiting program to these hospitals. The committee has been advised that activities held on that day produced very positive results in promoting the morale and spirits of those who are confined for medical attention. Other veterans organizations have conducted and supported similar programs in recent years.

A SALUTE TO AMERICA'S HOSPITALIZED VETERANS

Mr. HUGH SCOTT. Mr. President, I am gratified that Senate Joint Resolution 227, a joint resolution designating Monday, February 10, 1975, as a day of salute to America's hospitalized veterans, has been adopted by the Senate. This day will have great meaning for our many hospitalized veterans, many who may think that we have forgotten them, many who think that we no longer care. February 10 will give us an opportunity to express our appreciation to these fine men for the many sacrifices they made to keep the United States free.

An organization named "No Greater Love" has been the brainchild behind this salute. Last year on February 12, the first anniversary of the release of the first group of POW's, No Greater Love sponsored the first salute to hospitalized veterans. It was extremely successful, consisting of visits by prominent Americans and special activities for paralyzed veterans. We anticipate an even more successful event this year.

I feel strongly that this year's salute is an important tribute to these hospitalized veterans. Let us pray, however, that by February 1976 such a tribute will no longer be necessary.

LITTLE LEAGUE BASEBALL FOR GIRLS

The bill (H.R. 8864) to amend the act to incorporate Little League baseball to provide that the league shall be open to girls as well as to boys, was considered, ordered to a third reading, read the third time, and passed.

YOUTH ART MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 41) to authorize the President to issue annually a proclamation designating March of each year as "Youth Art Month," which had been reported from the Committee on the Judiciary with amendments.

On page 2, in line 4, strike out "annually";

On page 2, in line 5, strike out "of each year" and insert a comma and "1975,".

The amendments were agreed to.

The joint resolution (S.J. Res. 41) was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 41

Whereas children are our most priceless asset; and

Whereas childhood is the time to develop interests, skills, and aptitudes that will last a lifetime; and

Whereas, through meaningful school art activities, children develop initiative, self-expression, creative ability, self-evaluation, discipline, and a heightened appreciation of beauty; and

Whereas the importance of art in education is recognized as being necessary for the full development of all children; and

Whereas participation in school art programs develops perceptive qualities and sensitivity, thus producing a more enlightened citizenry; and

Whereas Youth Art Month has been observed nationally since 1961 and has gained wide acceptance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the month of March 1975, as "Youth Art Month", and calling upon the people of the United States and interested groups and organizations to become involved in and give their support to quality school art programs for children and youth.

The title was amended so as to read "To authorize the President to issue a proclamation designating March 1975 as 'Youth Art Month'."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93-1353), explaining the purposes of the measure.

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

AMENDMENTS

On page 2, line 4, delete the word "annually".

On page 2, line 5, delete "of each year" and insert in lieu thereof ", 1975,".

Amend the title to read "To authorize the President to issue a proclamation designating March 1975, as Youth Art Month'."

PURPOSE OF THE AMENDMENTS

The purpose of the amendments is to make the joint resolution nonrecurring.

Purpose

The purpose of the joint resolution as amended is to authorize and direct the President to issue a proclamation desigating March, 1975 as "Youth Art Month".

STATEMENT

This resolution was introduced by Senator Gale McGee on January 29, 1973. Senator Clifford Hansen joined as a cosponsor of this measure.

Many organizations have sponsored in recent years a celebration to promote art education in our schools throughout the nation.

The Committee notes that the study and understanding of art can help to improve the development of children.

The Committee believes that passage of this resolution will emphasize the importance of art participation among our youth and may ultimately result in a more enlighted citizenry.

Accordingly, the Committee recommends favorable consideration of Senate Joint Resolution 41.

AUTHORIZATION FOR MOTION TO RECONSIDER VOTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move to reconsider, en bloc, the votes by which the various bills and resolutions have been passed.

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

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider, en bloc, the votes by which the various bills and resolutions have been passed.

Mr. HUGH SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

A CHRISTMAS WISH

Mr. HUGH SCOTT. Mr. President, perhaps we have received our wisdom for the week from the Chaplain's prayer this morning.

The assistant minority leader and I were discussing it; and if I may speak for him, I believe we both feel that the advice is good: to seek to change those things which can be changed, to accept those things which cannot be changed, and the wisdom to know the difference.

I respectfully suggest that our conferees on various bills take this advice to heart; that if we are going to end our session in good order before Christmas, we will need some give and take among conferees; that we will need some tolerance and some understanding that one's opinions cannot always prevail against those equally held by others; that a spirit of compromise and undertaking to achieve, a willingness to work together, and a determination to legislate wisely could well be borne in mind during the present week.

If that spirit prevails, we can leave in time to enjoy with our families the meaning of Christmas and the blessings, material, and spiritual, that flow from it.

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

Mr. HUGH SCOTT. I am glad to yield.

ORDER FOR TIME ALLOTTED TO SENATOR GRIFFIN TO BE YIELDED TO SENATOR BROCK

Mr. GRIFFIN. Mr. President, a special order has been reserved in my name. I ask unanimous consent that such part as he may require be yielded at the appropriate time to the Senator from Tennessee (Mr. BROCK).

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

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HUGH SCOTT. I yield.

S. 4178, COMMUNITY SERVICES ACT, 1974, INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, in view of the fact that the House companion bill has already been passed by the Senate and sent to conference, that Calendar No. 1226, S. 4178, Community Services Act, 1974, be indefinitely postponed.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Tennessee (Mr. BROCK) is recognized for not to exceed 15 min-

utes; and under the unanimous-consent agreement, the Senator from Tennessee has 15 minutes additional, from the time allotted to the Senator from Michigan.

OIL ECONOMICS

Mr. BROCK. Mr. President, 33 years ago this month the United States suffered the shock of a surprise military attack on Pearl Harbor. Just over 1 year ago, the oil-consuming nations suffered what might be described as "economic Pearl Harbor" by way of the takeover of foreign companies' petroleum rights, abrogation of contracts, and the illegal oil embargo.

Had a national gang of criminals assaulted communities and citizens across this land, taking $50 million a day, the the reaction of our people would have been swift and sure. Yet, because this oil cartel conducted an act of economic aggression rather than one based upon the gun, our response has been one of indecision and inaction.

And the transfer of wealth continues unabated. Over $50 million leaves this Nation every day of every week of every month. Worldwide the amount drained from the savings, productivity and investment potential of the people is over $300 million a day.

This is not paper money. This wealth was created and earned through the sweat of mind and muscle over the entire course of our history. Nor is it being paid by the politically suspect oil giants or the inordinately wealthy. Every citizen is paying his daily share of ransom from an increasingly limited supply on his own earnings.

Even if we are successful—as I believe we can and must be—in coping with domestic economic threats, the oil crisis has taught us that the United States is inextricably linked to the world economy. There, Japan and certain European industrial countries are in even greater difficulty; and nonindustrial nations—except, of course, for the newly *oil rich*—face mass starvation in the worst cases, and slow strangulation in the best. As if this were not enough, the entire global financial and monetary system has been subjected to stresses capable of tearing it apart. Here, too, part of the remedy must consist of facing the facts—and their implications which are political, legal, and strategic, as well purely economic.

There is much talk in international circles about the need to avoid a "confrontation" with the oil-producing countries. This apparently rests on the belief that fairminded solutions ought to be obtainable which would provide the consumer access at reasonable prices to the oil on which their economies depend and, at the same time, satisfy the legitimate interests of the producers. A year has gone by, and no such solution is yet in sight. This also overlooks the fact that the consumer has already been "confronted" with fait accompli—one which has resulted in the transfer of enormous economic power—which can be used to buy technology and military power as well as political influence—to the oil producers.

For the sake of the entire world, as well as for ourselves, we need a clear national policy aimed either at bringing oil prices down to some reasonable level by negotiation, or breaking up the cartel, or, mobilizing all available power in the consuming countries to limit—and ultimately eliminate—our dependence on this one source of supply.

One problem stems from the sizeable public suspicion that the oil crisis was artifically created by the oil companies, whose highly publicized profits tend to support such views. In fact, what has happened is that the oil companies as well as their consumers are victims of actions by a small group of countries to which they and their investments have become hostages, in part, because of lack of forceful action by the consuming governments concerned. And now the oil companies face an even more sinister squeeze, since the leverage of the OPEC bloc is being used to try to prevent Western oil companies from developing alternative sources. The petroleum minister of the United Arab Emirates was quoted recently as complaining that—

> These profits are being used by them (the oil companies) to find alternative sources for our oil . . . this we will not accept.

Countries which threaten renewed embargoes if the consumers seek to unite their purchasing power to offset the cartel, and which also seek to impede development of sources elsewhere, are obviously bent on amassing and retaining unprecedented and unearned world power.

While it can be argued that if we let them get away with it we deserve what we get, I do not believe the American people, however slow to anger they may be, will so allow it once they understand what is really involved.

OPEC nations claim that their oil has been underpriced for some time, and that Western countries have been taking advantage of their relative weakness. While I do not accept this argument, even if it has merit, two wrongs do not make a right. We should remember that it was the United States which placed its decisive weight against reestablishment of colonial regimes after World War II, the United States which consistently sought to aid the less-developed world.

With regard to oil, it is in fact the capital, technology, and management of the consumer nations which have given petroleum its economic value by developing both the demand and the supply. In both the moral and the legal sense, the consumers' rights on the basis of contracts and agreements—which have been unilaterally torn up in case after case—are as strong as the rights of someone who builds a house on someone else's property. If the letter, in violation of the lease, seeks to deny access to parts of it or constantly to raise the rent, he could be haled before any court in the world.

While directed at support for the Arabs in the conflict with Israel, the oil embargo was the instrument which produced shortages and allowed prices to be escalated to their present unreasonable level. That embargo was a violation not only of United Nations' resolutions, to which most OPEC countries have subscribed, but also of GATT, and what might be called the common law of international economic relations. Given the predilection of so many nations to twit the nose of big rich Uncle Sam—knowing our famous tolerance—perhaps we should review our own options, and rethink those statutory limits which inhibit the use of economic weapons. I would be particularly interested in a study to determine if continued adherence to the most-favored-nations doctrine is, in fact, in our national interest. It is hard to deny that this doctrine does limit our ability to respond to abuse by one or more nations.

Apart from the moral, legal, and historical arguments which can be made about the causes of the petroeconomic crisis, there is a more basic question of its effects. Americans have given some $150 billion in foreign economic and military aid since World War II. The very purposes of that aid are now in danger.

To the extent those purposes were humanitarian, they stand to be frustrated by the starvation which the petroeconomic crisis has added to other agricultural crises. How do you sustain life on an average income of 30 cents a day? What hope can you have when that 30 cents is destined to fall even lower each year?

To the extent that the purposes involved maintaining national independence, what was saved from communism or anarchy may be lost to the third world's dependence on the fourth—the oil producers.

Far more is at stake, therefore, than just the U.S. economy. Industrial countries may have to share either the advances of new technology or the savings from any reduction in oil prices with the resource-poor nations—who both desperately need funds and can spend them promptly on goods and services.

To cope with this unprecedented economic threat from abroad, we are going to have to mobilize our resources, not only at home, but with our allies in Europe and Japan. Secretary Kissinger's recent proposals in Chicago, backed up by the International Energy Agency under OECD auspices, are essential first steps. But because of their greater dependence on foreign oil, these countries are going to be reluctant to act unless they are sure of America's own will and leadership.

Can we in fact provide that leadership, given our economic malaise? We are signatories of an agreement with the consuming nations, an agreement authored and sponsored in large part by this Government. It provides that future cartel limitations on all exports by OPEC countries will be met by sharing and mutual support among the consuming countries. It is fair to ask, What would we share? Particularly in the instance of another embargo, we simply

could not sustain the industrial world—nor would our people allow us to try, at the price of destroying our own economy.

There has been talk of a new Marshall plan on the part of this Nation to help our allies in such a time of trouble. The question is, Where do we get the resources? Twenty billion dollars a year now leaves our shores for oil purchases. Another $2 billion for foreign aid and humanitarian purposes, and an equal amount for other essential commodity purchases. Is it honest to leave the impression wtih our hard-pressed friends in Europe and Asia that we have the capacity to salvage their economies, whose collective size exceed our own? I do not really think so. We need something more.

That something more is direct, effective action and leadership. And if we are to provide world leadership, we must first put our own house in order.

For a combination of reasons, popularly elected leadership does lack popular confidence throughout the globe. In such circumstances, people of all walks of life sense the danger and cry silently for someone to take some action, any action, which they can support. The last phrase is the key—"which they can support." The American people will support their Government, if they sense its commitment to decisive and effective action, even if that action requires considerable personal sacrifice on their part. With such support the odds of a particular course of action being successful are massively increased. Without it, even if a more rational course is pursued, the results are predoomed.

If this premise is valid, permit me a few moments to survey our domestic difficulty and suggest some alternatives.

First of all, it would be economically as well as politically wrong to ascribe all of our present troubles to the actions of oil producing nations. Certainly they pulled the trigger. But it would not have been so devastating had not all the conditions been there to make the consuming world ripe for the plucking.

By the time of the embargo, the entire world was in the grip of virulent inflationary pressures caused largely by excessive governmental as well as private consumption in relation to production and capital formation. We have to admit that the crisis of capital formation with which this Nation is faced is largely of our own making. We simply have not encouraged an adequate degree of personal savings for far too many years.

But although one can stress either the internal or the external dimensions of our problem, the point is the two are linked together. They add up to the fact that we are in deep trouble.

The first step in recovery then is to recognize the fact of that trouble and to muster the national will to overcome. In 1941, we were also in trouble; but then we were able to mobilize our determination and our resources with leadership from both the President and the Congress on a bipartisan basis. Today, by contrast, we appear to feel that we can still afford the luxury of business and politics as usual.

I remember only too well an earlier President a few years ago reassuring us that we could have "guns and butter." Well we could not then, and we cannot now. Perhaps it is time someone told the American people that the cost of oil imports has virtually reached the cost of our involvement in Vietnam. It is that big. If some of us feared for our economic well-being then, can we remain silent now?

We may have to embrace, at least for a limited period, steps which none of us, least of all myself, would normally regard as desirable. If, for example, inflation, excessive energy consumption, and recession cannot be dealt with in an economy where the market mechanism is distorted by unprecedented pressures, then we may have to face up to the fact that taxes on energy consumption and imported commodities, minimum price guarantees to induce development of new energy sources—incidentally, we do have such guarantees now on farm commodities—limitation on oil imports and the like may be a lesser evil.

Uncertainty and fear feed on themselves; and they tend to breed selfishness rather than cooperation, desperation rather than wisdom, and paralysis rather than action.

Senators and Representatives can make speeches and they can work in close partnership with the Executive; and, of course, only they can enact laws. But even collectively they do not possess the resources to analyze the problems in depth in terms of myriad and complex facts and to develop the operational details of the necessary remedies. They cannot exercise the initiative in foreign affairs, nor command the apparatus of Government, nor act as Commander in Chief—only the President can do so. Most significant of all, Members of Congress lack a national constituency. Only the White House can provide the perspective of—and hence the leadership for—the entire country. In my judgment, the people are waiting for and will respond to its leadership—if it is forthcoming.

Let me now outline the approach which, in my judgment, must be taken. The first step is a recognition that our economic problems are neither temporary nor of a magnitude which we have ever experienced before. A second step, possible only in light of that recognition, is a "declaration of national economic emergency" lasting, let us say, for up to 2 years. The third step, or rather series of steps, is to develop and implement a coherent and consistent long-range international strategy concerning oil prices and our energy needs. The fourth step, closely related to the third, is to develop the tools needed both to bring inflation under reasonable control and at the same time, to prevent the recession becoming a depression and to move gradually back to sustainable growth in real terms.

The last named objective is both complex and difficult. For we must simultaneously reflate a depressed economy—which means, in effect, feeding the engine more fuel—while at the same time applying anti-inflation brakes. The implicit conflict may exceed the conventional wisdom based on past experience with recessionary and inflationary cycles, for they tended to occur at different times rather than simultaneously; but it should not be beyond the bounds of our collective wisdom and economic skills to devise a strategy which can do both. What is certain, is that it will not be painless. While methods can be developed to cushion the shock in particular industries, regions, and skill categories, the medicine will still have a bitter taste; but it can hardly be more unpleasant than letting the twin diseases run their course.

Because the direct actions of Government necessary to limit the effects of unemployment, restore construction and homebuilding and the like , and soften the human impact of inflation have been well debated and generally accepted, I should like to limit my remarks to the needs of the private sector. Here there are a number of things which are indispensable if we are to bring inflation and recession under control.

First, there must be a determined national effort to increase capital formation, savings, and productivity, while consumption must not be permitted to exceed productivity levels. To allow savings—capital formation—we must reduce nonproductive governmental expenditures. According to Federal Reserve statistics, Federal expenditures in 1929 accounted for less than 3 percent of the dollar value of our total national output, and expenditures at all levels of government—Federal, State, and local—amounted to about 10 percent of the gross national product. By 1950, the share of national output absorbed by Government had risen to 23 percent. Since that time, governmental involvement in the economy has increased further; last year, Federal expenditures alone accounted for 22 percent of our national output, and the combined expenditures of all governmental units, for 35 percent.

We simply do not leave enough earnings in the hands of the American people to allow them the option of deferring a portion of today's consumption in order to save for tomorrow's needs. How can people save when Government takes 35 cents of every dollar they earn, and inflation takes another 10 cents in purchasing power. What is left? Barely enough to stay even, and not that for those in lower income or retirement groups.

As Dr. Arthur Burns pointed out a few months ago:

> We have tried to meet the need for better schooling of the young, for upgrading the skills of the labor force, for expanding the production of low-income housing, for improving the Nation's health, for ending urban blight, for purifying our water and air, and for other national objectives, by constantly excogitating new programs and getting the Treasury to finance them on a liberal scale before they have been tested.
>
> The result has been a piling up of one

social program on another, so that they now literally number in the hundreds and practically defy understanding. Not a little of our taxpayers' money is being spent on activities of slight value, or on laudable activities that are conducted ineffectively.

Second, we must step up the rate of business investment. Anybody who has taken a course in freshmen economics knows that investments in the long run must come out of savings. The rate of U.S. savings in recent years was only half of the German and one-third of the Japanese rate, with the result that the bulk of our investments domestically and abroad was financed with manufactured money.

Third, we need responsible antitrust action. No one, business or labor should be exempt from the objective of antitrust law—consumer protection through competition.

Fourth, we should carefully examine our out-of-date regulatory procedures, and eliminate all inflationary biases and anticompetitive practices arising from them. And, fifth, we should encourage foreign trade by promptly enacting the Trade Reform Act of 1974, because the competitive pressures from imports will encourage responsible wage and price behavior at home.

Finally, and most importantly, almost everyone agrees that a cut in oil imports is the only way to reduce our dependence on OPEC oil and put downward pressure on prices, as well as reduce the balance-of-payments outflow. This necessarily involves a reduction in consumption, as well as the maximum possible domestic production. Whether this is best done by the previously described steps or other devices need not be debated here. What is clear is that voluntary restraint plus hope—which appears to be our present policy—will not suffice. Again, we must reconcile ourselves to the fact that whatever has to be done will not be painless.

Thus we come back to the one essential, leadership—no matter whether the web of problems is approached internationally or domestically.

The average American may not be a financial expert on petrodollar flows nor a specialist on the economics of energy. But he does understand both inflation and recession. He also knows what blackmail and extortion are. And he will not tolerate starvation imposed by the greed of others. If he is given both an explanation of the emergency and inspired leadership in surmounting it, he will respond magnificently, accepting whatever sacrifices may be involved as he has proved on several occasions in this century.

One last cautionary note. Military action is fraught with thermonuclear danger for all of us in a shrinking world. Yet despite our own understanding of the risks, it lurks in a future embargo with its resulting social, political, and eonomic consequences. The best way to avoid the possibility of such action on the part of any other nation is to show the world our determination: by tightening our belts, reducing our oil dependence, and mobilizing the economic assets we do have—food, technology, and productivity, for example—for a "two front" war.

Again, then, we must put our own house in order, dealing with the public enemies of inflation and recession at home. Until they are resolved, our ability to truly lead is severely limited.

If we act now, not sometime in the next Congress, but before 1974 is out, then I am confident that America can go on to celebrate its 200th birthday in a peaceful world with resumed economic growth and enhanced international cooperation. If we fail to do so, then the Founding Fathers might well accuse us of making the Bicentennial Celebration merely a "wake" for the American dream which they bequeathed to us.

Mr. DOMENICI. Mr. President, I would like to compliment the distinguished junior Senator from Tennessee (Mr. BROCK) for his extremely thoughtful and thought-provoking remarks to this body this morning on the subject of "oil economics." It is my opinion that his statement outlines the problem and its consequences and recommends corrective action in as intelligent and rational a manner as I have seen.

There can be no doubt that the spiraling price of oil is the main single ingredient in the world's dual problems of an energy shortage and crippling inflation. I have often said in this forum that we as a nation, and indeed, the free world, must come to grips with the oil pricing tactics of the oil cartel before the economy of the entire world is damaged beyond recovery.

I am particularly impressed with my distinguished colleague's proposal that we give formal recognition to what must by now be obvious—that we are truly in a "national economic emergency." Any "declaration" of that sad circumstance or attempts to improve the situation would be doomed to failure unless the contribution of oil economics is thoroughly understood and appropriately dealt with.

For my own part, I am about ready to declare much more than the national economic emergency my good friend proposes. I am about ready to tell those oil-exporting nations who are effectively holding up the rest of the world that we will henceforth get along without their oil, now and forever.

I would declare for the time necessary to develop alternatives, we will take whatever measures are required to get by without their high-priced oil.

I would declare that those conservation measures necessary to achieve that reduction in energy consumption will be undertaken just as if we were at war—which in a way is quite true.

I fully realize that this kind of conservation effort would be a gigantic undertaking, requiring cooperation, dedication and sacrifice by all our citizens in all aspects of their lives and livelihoods. As difficult as it would be to achieve, I am convinced that with the prospect of energy independence as the ultimate goal, and faced with the continuing ravages of exorbitant foreign oil pricing, Americans would respond to this challenge as they have done so magnificently in the past.

I would further declare, Mr. President, that we would undertake a crash program of expanding our own petroleum resources and developing other energy alternatives to petroleum. We would make no secret that the oil-consuming nations of the world would be encouraged to join us in these development efforts and that any such developments would be freely shared with them. I envision that those countries with oil they can sell at any price now might someday wind up with oil they cannot give away, a prospect very pleasing to contemplate in view of their unbelievably selfish and short-sighted attitude of greed.

So, Mr. President, I join my distinguished colleague in his remarks and I pledge my assistance in all our efforts to remove from our necks the brutal heel of oil economics.

Mr. BROCK. Mr. President, I now yield to the Senator from Oklahoma.

Mr. BARTLETT. I thank my distinguished friend, the Senator from Tennessee. I wish to compliment him on a very fine address. I am sorry that there are not more of our colleagues here, who would find it very fascinating and very challenging because the challenge to the leadership of this body is a real challenge today that must be met to satisfy the desires of people in this country.

Mr. BROCK. I thank the Senator.

RALPH NADER: NATURAL GAS DEREGULATION

Mr. BARTLETT. Mr. President, on November 10, 1974, a column by Ralph Nader entitled "Natural Gas Fight" appeared in the Washington Star-News. In this column, Mr. Nader failed to address forthrightly the natural gas deregulation issue. His arguments were based on incorrect information and faulty logic, and he did not recognize the urgency of solving the natural gas problem. Such blatant misinformation is a disservice to our American citizens.

Mr. Nader implied that the natural gas industry "has grown mightily" under Federal Power Commission regulation because natural gas now supplies about one-third of the total U.S. energy consumption. His logic is turned around.

Natural gas consumption has grown partly because of FPC regulation and not because of a healthy natural gas producing industry. Since 1954 when wellhead price regulation first began, interstate natural gas prices have been held at unrealistically low levels. This encouraged the consumption of natural gas at the expense of other fuel sources such as oil, coal, and nuclear power.

At the same time, and because of the artificially low price, the natural gas industry gradually lost its capability to replenish this supply. In the late 1950's an average of 858 exploratory gas wells were drilled per year in the United States, declining to a low in 1971 of less than 440. Because of low profits during the sixties, the number of independent producers of oil and gas decreased from over 20,000 to about 10,000. During the years 1956–60 about 20 trillion cubic feet of new gas each year were discovered,

and in 1973 only 6.5 trillion cubic feet were found.

Mr. Nader said that in 1970 the industry spoke of reserves 70 times annual consumption. I question Mr. Nader's statement since highly publicized sources from Government and industry have consistently shown there was a 12-year supply of proved reserves in the country in 1970. Since then, however, proved reserves have dropped to an 11-year supply. This contrasts with the 22-year supply we had in 1954, the year price controls first began. Clearly, we are using more gas than we are finding.

Mr. Nader said that decontrol of natural gas will cost the consumer an additional $10 billion a year. There is simply no basis for this. The Buckley amendment applies to new gas and to gas under expiring contracts. Thus, the additional cost of higher priced gas will gradually be rolled in with the gas already flowing under existing contracts, which will remain under FPC control.

Chairman John Nassikas of the Federal Power Commission noted that the $10 billion estimate of the impact of the Buckley amendment is "grossly exaggerated and misleading." The Federal Energy Administration confirms this statement.

Mr. Nader charged a "false shortage," that gas is being withheld from the market. Because of charges like this, the FPC conducted a reservoir-by-reservoir study of shut-in gas reserves off Louisiana and Texas. Of the estimated 8 trillion cubic feet of shut-in reserves, only 4.7 trillion cubic feet are proved reserves with the rest requiring additional drilling to confirm their presence. Sixty percent of the proved reserves are already committed or dedicated to the market. The remaining 40 percent, 1.9 trillion cubic feet, are scattered over 91 leases in the Gulf of Mexico. Developing many of these small fields would be totally unprofitable with the present interstate gas price.

The important point is that the total of all this gas scattered around the Gulf of Mexico is only a few weeks' usage in the United States. Thus, having a few trillion cubic feet of shut-in gas at any time is neither a solution to the natural gas shortage nor a significant problem, but just a part of the gas development process.

Mr. Nader argued that recent increases in oil prices have not brought about increased supplies. His implication is that natural gas decontrol will not generate additional supplies. The current free market price for intrastate natural gas and "new" domestic oil has increased drilling in 1974 by 32 percent over 1972. It takes but a moment's reflection to see that the process of exploration and production takes years, not months—so more price incentive is needed, not less.

Mr. Nader alluded to "monopoly" in the natural gas producing industry. But the FPC has refuted his charge, saying:

After careful analysis we have concluded that workable competition exists in the natural gas producing industry.

With the exception of the few economists to which Mr. Nader referred, this position is upheld by many academic authorities and by the preponderance of evidence presented at numerous congressional committee hearings.

Because I am from Oklahoma, a producing State, I am in a position to hear comments from small gas producers about monopolistic practices. But I have never heard such charges. The one thing I have heard, however, is that Government controls of price severely impair their ability to stay in business.

Mr. Nader's column was noticeably lacking in the most important aspect of the natural gas issue—the effect of failure to deregulate the price of new natural gas.

According to the FPC, curtailments of natural gas this winter are anticipated to be 107 percent greater than last winter. The consumer suffers because of inadequate supply, and each year the supply dwindles. This year plant shutdowns are anticipated. But eventually a continuation of the shortage will hit even the household use of natural gas.

In talking about the inflationary impact of natural gas deregulation, Mr. Nader should ask what the cost of alternate sources would be because of the shortage of natural gas. Oil, coal, LNG from Algeria, and synthetic gas from coal or petroleum liquids are possible alternates. But all of these alternatives, when available, will cost much more than the unregulated price of natural gas.

Decontrol of new gas and gas sold under expired contracts would not cause a drastic increase in price to the consumer, is far less costly than alternate sources, and will help assure a more abundant supply of natural gas in the future. We must deregulate the price of new natural gas now.

Mr. Nader's scare tactics, based on inaccurate information and conclusions, tend to perpetuate our dependence on high cost and unreliable imported oil and to delay the solution of our natural gas shortage.

I yield the remainder of my time to the Senator from West Virginia (Mr. ROBERT C. BYRD).

Mr. ROBERT C. BYRD. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The time of Senator GRIFFIN is still 4 minutes.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that there be a period for the transaction of routine morning business not to extend beyond the hour of 10:45 a.m.

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

Is there morning business?

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Indiana (Mr. BAYH) be recognized for not to exceed 3 minutes.

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

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES IN 1976

Mr. BAYH. Mr. President, I am about to propose a rather complicated unanimous-consent agreement.

Mr. President, I ask unanimous consent that the Senate reconsider its action of December 13, 1974, on Senate Joint Resolution 40, including the asking for a conference, the appointing of conferees, and the agreeing to the House amendment with amendment, and that amendments by the Senator from Indiana (Mr. BAYH) and the Senator from Michigan (Mr. GRIFFIN) be added as a part of the Senate amendment without changing any other part of the Senate amendment previously agreed to, and that as thus amended the Senate concur in the House amendment with this amendment and ask for a conference with the House on the disagreeing votes of the two Houses on said bill and that the same conferees be reappointed.

I send the amendments to the desk.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading be dispensed with.

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

The amendment proposed by Mr. BAYH for himself and Senators TALMADGE, PELL, ALLEN, and BUCKLEY is as follows:

At the appropriate place insert the following new section:

SEC. . (a) Section 901(a) of the Education Amendments of 1972 is amended by striking out "and" at the end of clause (4) thereof and by striking out the period at the end of clause (5) thereof and inserting in lieu thereof "; and", and by inserting at the end thereof the following new clause:

"(6) this section shall not apply to membership practices—

"(A) of a social fraternity or social sorority which is exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at an institution of higher education, or

"(B) of voluntary youth service organizations, including but not limited to, YMCA's, YWCA's, Girl Scouts, Boy Scouts, Campfire Girls, which are so exempt, the membership of which has traditionally been limited to persons of one sex and principally to persons of less than 19 years of age.".

(b) The provisions of the amendments made by subsection (a) shall be effective on, and retroactive to, July 1, 1972.

The amendment proposed by Mr. GRIFFIN on behalf of himself and Mr. BUCKLEY is as follows:

At the appropriate place insert the following new section:

"Sec. . Payments authorized under the Medicare Program, pursuant to Part A of title

XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), for the benefit of eligible persons who receive care in any nursing home, hospital, extended care facility or other institution operated by a fraternal organization shall not be deemed to be federal financial assistance for purposes of any other federal law."

Mr. BAYH. Mr. President, over 3 years ago, I introduced an amendment on the floor of the Senate which became the basis for title IX of the Education Amendments of 1972. Under title IX discrimination against students and teachers on the basis of sex was prohibited in all federally assisted educational programs. The key provision of title IX reads:

No person in the United States shall, on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . . .

The purpose of title IX was to provide the long overdue legal framework to outlaw sex discrimination throughout our *Nation's system* of higher education. The need for title IX arose when the Congress neglected to include sex among those categories of invidious discrimination in federally assisted programs outlawed by title VI of the Civil Rights Act of 1964. Indeed, title VI of the Civil Rights Act of 1964 expressly provided that:

Nothing in this Title shall prohibit classification and assignment for reasons other than race, color, religion or national origin.

In order to correct this inequity, in federally assisted education programs, the Congress overwhelmingly approved title IX of the Education Amendments of 1972. The result of this action was to once and for all ban sex-based quotas for admissions to colleges and universities, to mandate equality of opportunity in scholarship aid, and to make available equal access to course offerings and curriculum for members of both sexes.

In deliberating this legislation, the Congress included a number of exemptions to the coverage of title IX, with specific regard to admissions practices of recipient institutions. Among those institutions specifically exempted from the admissions requirements of title IX were: any educational institution which is controlled by a religious organization if the application of title IX would be inconsistent with the religious tenets of such an organization; an educational institution whose primary purpose is the training of individuals for the military, and any public institution of undergraduate and higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only students of one sex. Also exempted from title IX's admissions requirements, are recipient preschools, elementary and secondary, and all private undergraduate institutions. While title IX does exempt all these various educational institutions from admissions requirements, all educational institutions without exception, must treat their faculty and students once they have been admitted without discrimination.

Because of the enormity of the impact of title IX on the schools throughout the Nation, the Department of Health, Education, and Welfare has taken over 2 years to promulgate the regulations necessary to enforce the provisions of title IX. I understand the Department is now reviewing over 9,000 comments that it has received on its proposed regulations.

While I think the Department deserves a great deal of praise for the amount of time and effort that went into formulating these regulations, I was distressed to see that under the proposed regulations, the Department was planning to apply title IX restrictions to a number of organizations which have no legitimate bearing on the original intent of title IX—that intent being the removal of sex discrimination in our Nation's schools.

It was brought to my attention that under the proposed guidelines, the traditional practice of many colleges and universities whereby social fraternities and sororities receive relatively low rent for housing facilities was in jeopardy due to the title IX restriction on educational institutions giving any substantial support to any organization which discriminates on the basis of sex.

Greek organizations—both fraternities and sororities—were understandably alarmed about this declaration of policy. Most of these fraternal organizations could not continue to exist without this kind of indirect financial assistance from colleges and universities.

As the author and prime Senate sponsor of title IX, I know that it was not my intent, and I do not believe that it was the intent of the Congress that title IX be extended to organizations such as social fraternities and sororities. Because of my concern in this matter, I corresponded with Secretary Weinberger to see if the Department would not reconsider their position on such organizations. Secretary Weinberger responded that the Department would have no objection to providing the Department was given the proper legislative authorization to do so.

Therefore, on November 18, I introduced S. 4163, a bill to grant an exemption from title IX for fraternities and sororities. I was pleased to have a number of cosponsors to this original bill. Senators TALMADGE, TOWER, FANNIN, HANSEN, and BURDICK.

Since I introduced S. 4163, it was brought to my attention that the Department of Health, Education, and Welfare was also planning to extend title IX to youth service organizations such as the boy scouts and girl scouts, YMCA, YWCA, or the Campfire Girls. Title IX would be extended to these organizations based upon the fact that they receive direct Federal funds for various educational programs. Again, I feel the Department has gone far beyond the original intent of the Congress in passing title IX by extending its provisions to cover such organizations.

Therefore, in order that the Department can turn its time and energy to those legitimate aspects of title IX which are in great need of its time and attention, I am proposing an amendment, along with Senators TALMADGE and PELL, which would provide a specific exemption to the admissions requirements of title IX for social fraternities and sororities and for youth service organizations such as the Boy Scouts and Girl Scouts, and intended to include YMCA's, YWCA's, and other such organizations.

Under the provisions of this amendment, social fraternities and sororities would be granted a specific exemption from the admissions requirements of title IX. I think it is important to point out that this exemption covers only social Greek organizations; it does not apply to professional fraternities or societies whose admissions practices might have a discriminatory effect upon the future career opportunities of a woman.

My amendment would also provide an exemption for youth service organizations whose membership has been traditionally open to members of one sex, and has been principally limited to only those under 19. Therefore it would not apply to organizations such as the Little League, a primarily recreational group, or to the Jaycees, an organization whose membership consists primarily of those over 19. It would apply to the Boy Scouts, Girl Scouts, YMCA, YWCA, Campfire Girls, and Boys Clubs, and Girls Clubs.

I think it is important, Mr. President, to point out that both exemptions granted under this amendment would apply only to the admissions portion of title IX. Benefits and employment practices of such organizations would still be subject to regulation by title IX.

Mr. President, this is a straightforward and noncontroversial amendment. It will enable HEW to cencentrate its efforts in the enforcement of title IX in those areas where sex discrimination has held back many qualified women from achieving equality of educational opportunity. Surely, Mr. President, with the wealth of abuses in sex discrimination currently in practice throughout our educational system, it is time to turn our attention to discriminatory practices in employment, in scholarship aid, in course offerings and curriculum, and in athletic opportunities toward which title IX was originally intended.

I ask unanimous consent that my letter of October 3, 1974, to the Secretary of HEW and his response of November 8, 1974, be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., October 3, 1974.

Hon. CASPAR WEINBERGER,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I would like to take this opportunity to express to you some serious concern that I have regarding the Department of Health, Education and Welfare's proposed regulations pursuant to Title IX of the Education Amendments of 1972.

As the author and prime sponsor of Title IX in the Senate, I was pleased to see that the majority of the regulations promulgated by HEW are addressed to the underlying purpose of the authorizing legislation, the elimination of sex discrimination in our institutions of higher learning.

However, I was distressed to learn that there is some possibility that HEW may apply Title IX regulations to fraternities and sororities, social organizations which have no bearing on the fight to achieve equal educational opportunity for both sexes. It is my

understanding that because various fraternities and sororities have traditionally had rent free or low lease arrangements with colleges and universities, they may be termed in violation of Title IX. Without such minimal financial aid, many of these fraternities and sororities would not survive. Without the existence of such organizations, already financially overburdened colleges and universities will have to provide additional housing for those students who have been displaced from fraternities and sororities.

I would like to state at this point that there was certainly no intention on my part, or on the part of the Congress, to apply Title IX restrictions to Greek organizations, organizations which are primarily social in nature and which serve no educational or professional purpose. While there is no mention of the application of Title IX to Greek organizations in the legislative history of the authorizing legislation, the specific Congressional exemption of traditionally single sex schools demonstrates that the Congress had no desire to penalize such institutions.

Fraternities and sororities have been a tradition in the country for over 200 years. Greek organizations, much like the single-sex college, must not be destroyed in misdirected effort to apply Title IX.

Sex discrimination remains a serious problem for today's colleges and universities. The regulations promulgated under Title IX by the Department of Health, Education and Welfare go a long way toward eliminating such invidious practices as admissions quotas and unequal benefits based on sex. It was these practices toward which Title IX was directed, not toward the elimination of our nation's Greek tradition.

Please advise me what more I can do to put the legislative intent of Title IX in perspective relative to fraternities and sororities.

Thank you for considering this request.

Sincerely,

BIRCH BAYH,
U.S. Senator.

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., November 8, 1974.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH: Thank you for your letter of October 3 expressing concern about how the Department's proposed regulation to implement Title IX of the Education Amendments of 1972 will affect fraternities and sororities at federally funded colleges and universities. As you know, Title IX generally prohibits discrimination by sex in federally assisted education programs. I apologize for the delay in responding.

Section 86.31 (b) (7) of the proposed regulation would prohibit a recipient of Federal funds from assisting another party which discriminates on the basis of sex in serving students of the recipient.

As outlined in the enclosed copy of the proposed regulation at page 22229, the substantiality of the college's assistance to the fraternity and the degree to which the fraternity's activities are an integral part of the education program offered by a recipient are the key factors to be considered by the Department in determining Title IX applicability. The regulation clearly would not apply to or affect fraternal organizations which do not derive any support from the federally assisted education institution and which do not perform services for the institution.

All of the above is required by the statute according to advice I have received from our General Counsel—advice which, of course, I must follow.

There has been some concern about the applicability of Title IX of Section 1975 (c) (a) (6) of the Civil Rights Act of 1964 (42 U.S.C.) which also is listed under Title V of the Act, Section 104 (a) (6) as published by the Government Printing Office. It states:

"Nothing in this or any Act shall be construed as authorizing the Commission, its Advisory Commitees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club or any religious organization."

The prohibition of Section 104 (a) (6), of course, relates to the Civil Rights Commission which operates independently from the Department and its Office for Civil Rights and is an investigative, information gathering agency. The Civil Rights Commission does not have the enforcement responsibilities Congress mandated under Title VI, Section 602 of the Civil Rights Act, to Federal departments such as Health, Education, and Welfare. The prohibition of Section 104(a) (6) has never been interpreted as extending to the Department's Title VI enforcement effort, and it is the view of the Department's Office of General Counsel that it does not apply to Title IX or any regulation to implement Title IX.

Although the Waggonner Amendment to the Higher Education Act of 1965 (20 U.S.C. 1144(b) does apply to Title IX enforcement, the advice I have received is that it does not completely remove fraternities and sororities from the reach of the nondiscrimination provisions. Section 1144(b) states:

"Nothing contained in this act or any other act shall be construed to authorize any department, agency, officer or employee of the United States to exercise any direction, supervision, or control over the membership practices or internal operations of any fraternal organization, fraternity, sorority, private club or religious organization at any institution of higher education (other than a service academy or the Coast Guard Academy) which is financed exclusively by funds derived from private sources and whose facilities are not owned by such institution."

Obligations under Title IX run to the recipient institution of higher education and not to a fraternal organization, unless the organization itself received Federal financial assistance. The Waggonner Amendment would exempt a fraternal organization from Title IX requirements when that fraternal organization is "financed *exclusively* by funds derived from private sources and those facilities are not owned by such institution." Accordingly, the Department, when presented with a complaint alleging Title IX discrimination by an organization covered by Section 1144(b), would have to consider the relationship between the institution and the particular organization.

You mention the exemption in Title IX relating to single-sex colleges. This exemption extends only to admissions to institutions and not to membership policies of organizations supported by federally assisted educational institutions.

I agree that social fraternities and sororities have played, and should continue to play, a useful role in the social and cultural needs of American students. We do not read Title IX as precluding such a role, nor is the language of the proposed regulation intended to do so. To the extent that the statute and regulation preclude a social Greek Letter society from receiving material support from an educational institution that is in turn supported under one of our programs, or to the extent that they preclude the university from using the society as an instrument in the university's educational program, any change in approach would have to be effected by amendment of the statute. Should you wish to propose such an amendment, we would be glad to provide such technical assistance as you might desire in its preparation.

If I may be of further assistance, please let me know.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

Mr. TALMADGE. Mr. President, I am pleased to join the Senator from Indiana (Mr. BAYH) and the Senator from Rhode Island (Mr. PELL) in sponsoring this amendment to exempt college social fraternities and sororities and organizations such as the Boy Scouts and Girl Scouts from the sex discrimination guidelines proposed under title IX of the Education Amendments of 1972.

The Congress has long recognized the unique nature and role of these organizations. This legislation will preserve their status.

Title IX was enacted originally to require educational institutions to afford men and women equal opportunity and access to admissions, employment, and school-sponsored services. It was never meant to force groups such as Greek-letter societies and the Girl Scouts to abandon their practice of limiting membership to individuals of one sex.

In my view, the purpose and scope of title IX is clearly and amply reflected in the legislative history. However, the Department of Health, Education, and Welfare has come up with an interpretation of the law which would require schools furnishing "substantial" or "material" support for these organizations to withdraw that support or lose Federal financial assistance.

I was surprised by the Department's action which could, unless checked, jeopardize the very existence of these groups. The proposal at hand should clarify for all parties concerned the exempt status of social fraternities and sororities and similar groups under title IX.

Mr. GRIFFIN. Mr. President, the purpose of this amendment is to make certain that medicare benefits of elderly persons will not be denied or cut off merely because they receive care in a nursing home or other facility operated by a fraternal organization, such as the Masonic Order.

At present, the Civil Rights Division of HEW is threatening to cut off medicare benefits of helpless old people as a means of pressuring compliance by the Masonic Lodge with highly questionable interpretations of the Civil Rights Act.

I am not a Mason, and I do not condone discrimination. Nevertheless, I am deeply concerned about the highhanded methods used by HEW to stretch some civil rights provisions far beyond the intent, even the imagination, of Congress.

When Congress passed the Civil Rights Act of 1964, the medicare program was not even in existence. Yet, HEW now contends that the payment of medicare benefits amounts to "Federal financial assistance" within the meaning of the earlier enacted title VI of the Civil Rights Act.

Section 602 of the Civil Rights Act of 1964, defined the term "Federal financial assistance" to mean a "grant, loan, or contract other than a contract of insurance or guarantee." When it passed the medicare program, Congress specifically designated part A as "Hospital Insurance

Benefits for the Aged and Disabled." The first section of that part A recites that "the insurance program provides basic protection against the costs of hospital and related posthospital services."

It seems clear, then, that Congress, if anything, intended to exempt medicare payment from the provisions of section 602 of the 1964 Civil Rights Act.

Nevertheless, in a May 28, 1974 memorandum, HEW Assistant General Counsel Theodore A. Miles, determined that, although medicare payments are contractual in nature, the Government's obligation is not a contract of insurance within the meaning of title VI of the Civil Rights Act of 1964.

Mr. President, without quibbling over technical legal distinctions, commonsense suggests that the medicare program was designed primarily to assist individuals not institutions or organizations.

My amendment would clarify what I believe Congress really intended in the first place. It would not exempt any organization from the civil rights laws, but it would assure that older citizens who are caught in the middle of this dispute will not be denied the health care which they need and deserve.

The ACTING PRESIDENT pro tempore. Without objection, the request of the Senator from Indiana is agreed to, the amendments are agreed to.

Without objection, the same conferees are appointed and the bill is back in conference.

Mr. GRIFFIN. Mr. President, I think I should state that there was some discussion of this matter on Saturday and I was reluctant at that time to go along with the unanimous consent of the Senator from Indiana primarily because the legislation we are dealing with primarily is the result of a compromise arrangement between the Senator from Rhode Island (Mr. PELL) and the Senator from New York (Mr. BUCKLEY) and I was not able to get in touch with Mr. BUCKLEY on Saturday to see whether or not this modification was agreeable.

It is my understanding that two amendments acceptable to both Mr. PELL and Mr. BUCKLEY have been agreed to, unanimous consent having been given that the reading of the amendments would be waived.

In view of the agreement of Mr. BUCKLEY, I, of course, did not object. I feel that that explanation might be useful in the record.

Mr. BAYH. Mr. President, if I can be recognized for a moment, I would like to express my deep appreciation to the distinguished Senator from Rhode Island who has been the floor manager for Senate Joint Resolution 40, a resolution calling for a White House Conference on Library and Informational Services in 1976.

As chairman of the Subcommittee on Education, he has been a leader in helping to further library services and to move library and education legislation through this body.

This amendment, to which we have just agreed, deals with perfecting title IX of the Higher Education Act which prohibits discrimination on the basis of sex.

Senate Joint Resolution 40 was the only bill available at this point in the session to which my amendment could be offered. I want to say to the distinguished Senator from Rhode Island how very much I appreciate his cooperation on this matter.

Mr. PELL. Mr. President, I thank the Senator.

MESSAGES FROM THE PRESIDENT

As in executive session, the Acting President pro tempore (Mr. METCALF) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States stated that on December 13, 1974, he had approved and signed the following acts:

S. 3308. An act to amend section 2 of title 14, United States Code, to authorize icebreaking operations in foreign waters pursuant to international agreements, and for other purposes; and

S. 3546. An act to extend for one year the time for entering into a contract under section 106 of the Water Resources Development Act of 1974.

A message from the President of the United States stated that on December 14, 1974, he had approved and signed S. 1561, An act to provide that Mansfield Lake, Ind., shall be known as Cecil M. Harden Lake.

MESSAGES FROM THE HOUSE

At 12:30 p.m., a message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 16596) to amend the Comprehensive Employment and Training Act of 1973 to provide additional jobs for unemployed persons through programs of public service employment; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. DOMINICK V. DANIELS, Mr. GAYDOS, Mr. MEEDS, Mr. QUIE, Mr. ESCH, and Mr. STEIGER of Wisconsin were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 3481) to amend the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation, and for other purposes, with amendment, in which it requests the concurrence of the Senate.

The message further announced that the Speaker has appointed Mr. YOUNG of Illinois as a manager on the part of the House in the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 426) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes.

The message also announced that the House has passed the bill (H.R. 17556) to extend for 2 years the authorizations for the striking of medals in commemoration of the 100th anniversary of the cable car in San Francisco and in commemoration of Jim Thorpe, and for other purposes, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has affixed his signature to the following bills and joint resolution:

H.R. 5056. An act to provide for crediting service as an aviation midshipman for purposes of retirement for nonregular service under chapter 67 of title 10, United States Code, and for pay purposes under title 37, United States Code;

H.R. 14349. An act to amend section 3031 of title 10, United States Code, to increase the number of authorized Deputy Chiefs of Staff for the Army Staff;

H.R. 15067. An act to prevent reductions in pay for any officer or employee who would be adversely affected as a result of implementing Executive Order 11777;

H.R. 15818. An act to amend title 44, United States Code, to redesignate the National Historical Publications Commission as the National Historical Publications and Records Commission, to increase the membership of such Commission, and to increase the authorization of appropriations for such Commission;

H.R. 16006. An act to amend section 2634 of title 10, United States Code, relating to the shipment at Government expense of motor vehicles owned by members of the armed forces, and to amend chapter 10 of title 37, United States Code, to authorize certain travel and transportation allowances to members of the uniformed services incapacitated by illness; and

S.J. Res. 263. A joint resolution amending the National Housing Act to clarify the authority of the Federal Savings and Loan Insurance Corporation with respect to the insurance of public deposits, and for other purposes.

(The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. METCALF).)

At 3:30 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House has passed, without amendment, the following bills and joint resolution:

S. 939. A bill to amend the Admission Act for the State of Idaho to permit that State to exchange public lands, and for other purposes;

S. 2343. A bill to authorize the Secretary of the Interior to convey, by quit-claim deed, all right, title, and interest of the United States in and to certain lands in Coeur d'Alene, Idaho, in order to eliminate a cloud on the title to such lands;

S. 3191. A bill to amend title 10, United States Code, to provide that commissioned officers of the Army in regular grades below major may be involuntarily discharged whenever there is a reduction in force; and

S.J. Res. 260. A joint resolution relative to the convening of the 1st session of the 94th Congress.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House

to the amendment of the Senate numbered 17 to the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

The message further announced that the Speaker has appointed Mr. Moss as a member of the Joint Committee on Atomic Energy, vice Mr. HOLIFIELD, resigned.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 14449) to provide for the mobilization of community development and assistance services and to establish a Community Action Administration in the Department of Health, Education, and Welfare to administer such programs; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. HAWKINS, and Mr. QUIE were appointed managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 10710) to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. BURKE of Massachusetts, Mrs. GRIFFITHS, Mr. ROSTENKOWSKI, Mr. SCHNEEBELI, Mr. CONABLE, and Mr. PETTIS were appointed managers of the conference on the part of the House.

At 5:31 p.m., a message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House has passed, without amendment, the following bill and joint resolution:

S. 4013. A bill to amend the act incorporating the American Legion so as to redefine eligibility for membership therein; and

S.J. Res. 224. A joint resolution to authorize and request the President to issue a proclamation designating January, 1975, as "March of Dimes Birth Defects Prevention Month".

The message also announced that the House has passed the bill (S. 2994) to amend the Public Health Service Act to assure the development of a national health policy and of effective State and area health planning and resources development programs, and for other purposes, with an amendment, in which it requests the concurrence of the House.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRAVEL, from the Committee on Interior and Insular Affairs, with amendments:

S. 3839. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes (Rept. No. 93-1358).

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

H.R. 421. An act to amend the Tariff Schedules of the United States to permit the importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins free of duty (Rept. No. 93-1357).

By Mr. FANNIN, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 7978. A bill to declare that certain federally owned lands shall be held by the United States in trust for the Hualapai Indian Tribe of the Hualapai Reservation, Ariz., and for other purposes (Rept. No. 93-1359).

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, December 16, 1974, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 263) amending the National Housing Act to clarify the authority of the Federal Savings and Loan Insurance Corporation with respect to the insurance of public deposits, and for other purposes.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 4162

At the request of Mr. HUGH SCOTT, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 4162) a bill to establish a program of Federal assistance to provide relief from energy emergencies and energy disasters.

S. 4207

At the request of Mr. RIBICOFF, the Senator from Utah (Mr. Moss), the Senator from Alabama (Mr. ALLEN), the Senator from New York (Mr. JAVITS), and the Senator from West Virginia (Mr. ROBERT C. BYRD) were added as cosponsors of the bill (S. 4207) the Emergency Unemployment Compensation Act of 1974.

AMENDMENTS SUBMITTED FOR PRINTING

UPHOLSTERY REGULATORS—H.R. 421

AMENDMENT NO. 2079

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

Mr. DOLE submitted an amendment intended to be proposed by him to the bill (H.R. 421) to amend the Tariff Schedules of the United States to permit the importation of upholstery regulators, upholsterer's regulators, upholsterer's regulating needles, and upholsterer's pins free of duty, and for other purposes.

AMENDMENTS NOS. 2080, 2081, AND 2082

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

Mr. KENNEDY. Mr. President, I send to the desk three amendments to H.R. 421, and I ask that they may lie on the table and be printed. The three amendments are as follows:

The first amendment would strengthen the minimum tax on wealthy individuals and corporations, by repealing the so-called deduction for taxes paid and reducing the current $30,000 exemption from the minimum tax to $10,000. The revenue gain from the amendment would be $926 million.

The loopholes in the current minimum tax are notorious, and have been the subject of wide debate in Congress. At this time, there is perhaps no more important tax reform the Senate can now enact than a reform that closes the loopholes in the minimum tax. By such action we can signal the Nation that we intend to give top priority to comprehensive tax reform when the new Congress convenes in January.

The second amendment would double the existing tax credit and tax deduction for small political contributions. The current $12.50 credit—$25 on joint returns—would be increased to $25—$50 on joint returns. The current $50 deduction—$100 on joint returns—would be increased to $100—$200 on joint returns. The revenue loss from this provision is estimated at $25 million—$11 million from doubling the credit, and $15 million from doubling the deduction.

The third amendment would double the dollar checkoff for public financing of Presidential elections. The amount of the checkoff would be increased from its current level of $1—$2 on joint returns—to $2—4 on joint returns.

It now appears that the Senate intends to act this week at least on two tax bills. But under the procedure being attempted for floor action, the Senate will be asked to invoke cloture on each bill as a device to ward off unwanted riders and prevent either of the bills from turning into a Christmas tree.

In effect, the strategy is to ask the Senate to swallow the Finance Committee bills whole in the waning hours of this Congress, under a "closed rule" procedure not unlike the procedure often used in the House to stifle debate on tax bills.

But it turns out that what the Finance Committee has done on H.R. 421 is to decorate its own mini-Christmas tree, in a closed door session of the committee, and then ask the Senate to approve the tree on a take-it-or-leave-it basis.

We are told that all the committee ornaments are beautiful and unobjectionable. But that is by no means clear, especially with respect to the rapid amortization provisions being extended for another year. And certainly the action of lobbyists waiting outside the committee doors, in anticipation of the ornaments being hung on the tree favorable to their clients, is cause for concern that the committee's holiday spirit does not extend to the hard-pressed ordinary American taxpayer.

Full Senate floor debate will at least expose the merits, or lack of them, of the various provisions. For that reason, I intend to vote against cloture in the first vote on H.R. 421, to guarantee that we have the opportunity to deal effectively with each of the bill's provisions.

Even if cloture is invoked, however, it will be important to try to add additional significant tax reforms. Although the germaneness rule under cloture is a substantial bar to most amendments, I believe that the three amendments I have offered are germane, and I hope the Senate will have the opportunity to vote on them.

Mr. President, I ask unanimous consent that the text of the amendments may be printed in the RECORD, together

with a brief summary of the minimum tax amendment.

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

AMENDMENT No. 2080

At the appropriate place in section 3 (relating to tax preferences for the amortization of certain facilities), add the following provision:

STRENGTHENING THE MINIMUM TAX

SEC. (a) Section 56 of the Internal Revenue Code of 1954 (relating to imposition of minimum tax for tax preferences) is amended:

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IN GENERAL.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 10 percent of the amount (if any) by which the sum of the items of tax preference exceeds $10,000.";

(2) by striking out "$30,000" in subsection (b)(1)(B) and inserting in lieu thereof "$10,000"; and

(3) by striking out subsection (c).

(b) The amendments made by this section apply to taxable years beginning after December 31, 1973.

AMENDMENT No. 2081

At the appropriate place in the provisions relating to political contributions and deductions, add the following new provision:

DOUBLING OF DOLLAR CHECKOFF

SEC. (a) Section 6096(a) of the Internal Revenue Code of 1954 (relating to designation of income tax payments to the Presidential Election Campaign Fund) is amended by—

(1) striking "$1" each time it appears and inserting "$2" in lieu thereof; and

(2) striking "$2" and inserting "$4" in lieu thereof.

(b) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1973.

AMENDMENT No. 2082

At the appropriate plan in section 12 relating to tax credits and deductions for political contributions, add the following provision:

INCREASE IN POLITICAL CONTRIBUTIONS CREDIT AND DEDUCTION

SEC. . (a) Section 41(b)(1) of the Internal Revenue Code of 1954 (relating to maximum credit for contributions to candidates for public office) is amended to read as follows:

"(1) MAXIMUM CREDIT.—The credit allowed by subsection (a) for a taxable year shall not exceed $25 ($50 in the case of a joint return under section 6013)."

(b) Section 218(b)(1) of the Internal Revenue Code of 1954 (relating to amount of deduction for contributions to candidates for public office) is amended to read as follows:

"(1) AMOUNT.—The deduction under subsection (a) shall not exceed $100 ($200 in the case of a joint return under section 6013)."

(c) The amendments made by subsections (a) and (b) shall apply with respect to any political contribution the payment of which is made after December 31, 1974.

MINIMUM TAX AMENDMENT TO H.R. 421

PURPOSE

1. Repeal the step in the calculation of the minimum tax which currently allows a deduction for other taxes paid.

2. Reduce the current $30,000 exclusion from the minimum tax to $10,000.

The proposed amendment makes no change in the list of tax preferences subject to the minimum tax, and no change in the current 10% rate of the minimum tax. It affects only the deduction for taxes paid and the $30,000 exclusion, the most obvious loopholes in the current minimum tax. The combined revenue gain from both changes would be $926 million.

CURRENT LAW

The minimum tax was enacted by Congress as part of the Tax Reform Act of 1969, in an effort to insure that persons with substantial amounts of untaxed income would pay at least a modest tax on such income. Under the present minimum tax, a person is taxed at the flat rate of 10% on the sum of his income from certain tax preferences, which include most, but not all, of the major preferences in the tax code: accelerated depreciation on real property, accelerated depreciation on personal property subject to a net lease, amortization of certified pollution control facilities, amortization of railroad rolling stock, stock options, reserves for losses on bad debts of financial institutions, depletion, capital gains, and amortization of on-the-job training and child care facilities.

Before the minimum tax is applied, however, a taxpayer gets two important deductions from his preference income: First, an automatic $30,000 exclusion; Second, a deduction for the regular income tax paid. These two deductions are largely responsible for the failure of the minimum tax to fulfill its promise.

DEDUCTION FOR TAXES PAID

This deduction, originally proposed as a floor amendment in 1969 by Senator Miller of Iowa, allows substantial numbers of taxpayers to avoid the minimum tax completely, even though they have large amounts of income from tax preferences. In 1970, as a separate floor amendment by Senator Miller, the deduction was broadened to allow a 7-year carry-forward of the deduction. In practice, the deduction is an "Executive Suite" loophole, since one of its principal effects is to allow highly paid executives to use the large amount of regular taxes they pay on their salaries as an offset against income they receive from tax preferences. The following example illustrates the point:

	A	B
Preference income	$100,000	$100,000
Regular tax on salary	100,000	0
Base for minimum tax	0	100,000
Minimum tax	0	10,000

Individual A, who has $100,000 in income from tax preferences but pays $100,000 in regular taxes on his salary, owes no minimum tax. Individual B, who has $100,000 in income from the same tax preferences, but who pays no regular taxes, owes a minimum tax of $10,000. The minimum tax should operate equally on individuals A and B, yet the deduction for taxes paid lets A escape the minimum tax altogether.

Contrary to arguments often raised against repeal of the deduction for taxes paid, this reform would have only a marginal impact on capital gains. For individuals, the effect of the change would be to increase the effective tax rate on capital gains in the highest bracket from its present level of 36.5% to 40%. But the top 40% rate would apply only to that portion of capital gains over $460,000. Even at that level, it is still a bargain, compared to the top 70% tax rate on ordinary income. In the Tax Reform Act of 1969, the maximum effective tax rate on capital gains was increased from 25% to 36.5%, with no measurable effect on the investment community or the flow of capital to business. For corporations, the change would increase the effective tax rate on capital gains from 30.75% to 33.75%. The Tax Reform Act of 1969 increased the rate from 25% to 30%. For all but the smallest corporations, the tax rate on ordinary income is 48%.

THE $30,000 EXCLUSION

The second part of the amendment would reduce the existing $30,000 exclusion to $10,000. The present level was set too high by the 1969 Act. It enables wealthy taxpayers to enjoy their first $30,000 in tax loophole income, completely free of the minimum tax. This was the provision used by President Nixon to reduce his minimum tax to zero in 1971 and 1972, and to near-zero in 1970.

By reducing the exemption to $10,000, substantial amounts of preference income that are currently tax-free will become subject to the minimum tax. At the same time, the $10,000 level will be high enough to prevent any deleterious impact on low and middle-income taxpayers with modest tax preference income such as a capital gain on the sale of a home. In addition, the $10,000 level will avoid any unnecessary inconvenience in the administration of the minimum tax, since it will not require the forms to be filed or the tax to be paid on modest amounts of tax preference income.

EFFECT OF CURRENT LOOPHOLES

Individuals—In 1971, 100,000 individuals with tax preferences totaling $6.3 billion paid $169 million in minimum tax, for an effective tax rate of only 2.7%, compared to the statutory rate of 10%. Of this group, 75,000 individuals reporting preference income of $2.3 billion paid no minimum tax at all.

Corporations—In 1970, 81,000 corporations paid $280 million in minimum tax on loophole income of $5.7 billion, for an effective rate of 4.8%. Of this group, 75,000 corporations, reporting preference income of $1.6 billion, paid no minimum tax at all.

Revenue gain from proposed amendment—1974 income levels

	millions
Individuals	$526
Corporations	400
Total	926

ANALYSIS OF REVENUE GAIN FROM INDIVIDUALS

Adjusted gross income Class	Increase in tax liability	
	Number of returns (thousands)	Amount (millions)
0 to $3,000	20	$10
$3,000 to $5,000	(1)	(1)
$5,000 to $7,000	2	1
$7,000 to $10,000	2	2
$10,000 to $15,000	28	5
$15,000 to $20,000	26	8
$20,000 to $50,000	88	75
$50,000 to $100,000	55	86
$100,000 and over	43	338
Total	265	526

[1] Less than 500 returns or $500,000.

Note: Details do not add to totals because of rounding.

SOCIAL SERVICES AMENDMENTS OF 1974—H.R. 17045

AMENDMENT NO. 2083

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

Mr. BUCKLEY. Mr. President, I submit an amendment to H.R. 17045, the "Social Services Amendments of 1974," which would prohibit any money under any title of the Social Security Act to be used for the performance of abortions except in the case where it is necessary to save the life of the mother.

The Congress is on record as opposing

the use of taxpayers' dollars for abortions under family planning. Senator HELMS introduced an amendment to S. 1443, the foreign aid bill of 1973, that stated:

None of the funds made payable to carry out this part shall be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

This is now part of Public Law 93-189 which was enacted on December 17, 1973.

As you know, the Department of Health, Education, and Welfare recently issued a regulation stating that no Federal money would go to any State for abortions under family planning. I am gratified to see such a regulation, but I think that the Senate should make it absolutely clear as to where we stand on the use of taxpayers' money for abortions.

Thus, I am introducing this amendment in order to see to it that we are on record as stating that this body does not want Federal support of abortions.

Recently, as you know, the Senate voted by a wide margin to adopt the Bartlett amendment to the Labor-HEW Appropriations Act. Although the Bartlett amendment was dropped in conference, the conferees made it clear that the majority of conferees, representing a majority of both Houses, did not want to see taxpayers' money used for abortions.

My amendment will simply serve to underscore that fact in case there are any in the bureaucracy who might think that what HEW has allegedly "given" by regulation, HEW can take away. I think that it is not only germane but quite necessary that there be an affirmative vote on the matter.

I might add, Mr. President, that we have here yet another example of the unacceptable conditions under which Senators are supposed to deliberate, if that is the word, the legislation that comes before them. I have not been able to even secure a copy of the Senate report, and it was only with extreme difficulty that my staff finally found someone who would give us some idea of what it contained. I sincerely wish, Mr. President, that the American people could be made aware of the fact that quite a few of the bills that come before this body are not even ready for scrutiny at the time when they are debated.

AMENDMENT NO. 2084

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

Mr. DOLE submitted an amendment intended to be proposed by him to the bill (H.R. 17045) to amend the Social Security Act to establish a consolidated program of Federal financial assistance to encourage provision of services by the States.

LAND AND WATER CONSERVATION FUND ACT AMENDMENTS—S. 3839

AMENDMENT NO. 2085

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

Mr. WILLIAMS (for himself, and Mr. BUCKLEY) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 3839) to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes.

PRISONER OF WAR AND MISSING IN ACTION TAX ACT—H.R. 8214

AMENDMENT NO. 2086

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

Mr. STEVENSON submitted an amendment intended to be proposed by him to the bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

STRIKING OF MEDALS FOR 100TH ANNIVERSARY OF THE CABLE CAR IN SAN FRANCISCO AND FOR JIM THORPE—H.R. 17556

AMENDMENT NO. 2087

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

Mr. STEVENSON submitted an amendment intended to be proposed by him to the bill (H.R. 17556) to extend for 2 years the authorizations for the striking of medals in commemoration of the 100th aniversary of the cable car in San Francisco and in commemoration of Jim Thorpe, and for other purposes.

Mr. STEVENSON. Mr. President, I introduce an amendment to H.R. 17556 to resolve the present impasse over the Export-Import Bank bill and pave the way for a final disposition of this matter in this Congress.

The amendment, in essence, consists of the Eximbank bill agreed-upon in Conference with two important additions:

One would put the Eximbank in the Federal budget starting with fiscal year 1977.

The other would require affirmative congressional review and approval of all proposed Eximbank loans and guarantees of $25 million or more for fossil fuel energy products in the Soviet Union. Congressional review and approval would be in accordance with procedures identical—except for certain time periods—to those established in the trade bill approved by the Senate last Saturday for bills to implement trade agreements and resolutions to approve commercial agreements with communist countries.

Under this procedure the Eximbank would submit to the Congress a report on each proposed fossil fuel energy project in the Soviet Union of $25 million or more together with an approval resolution. The Banking Committees of the Senate and House would have 25 legislative days to act on such a resolution. If the committees did not act within 25 days, the approval resolution would be discharged automatically and placed on the calendar. Within 15 days thereafter, a vote on the final passage would occur with debate in the Senate and House limited to a maximum of 20 hours.

With these two additions to the bill reported out of conference, the Senate will have achieved all its major objectives.

It will have placed a $300 million ceiling on future Eximbank commitments to the Soviet Union, a ceiling which could be exceeded only if Congress gives affirmative approval.

It will have subjected all future major transactions of the Bank, whatever the country involved, to close congressional scrutiny by requiring the Congress to be notified of such transactions 25 legislative days prior to final approval.

It will have insured that the Bank assists no major fossil fuel energy projects in the Soviet Union without express congressional approval.

And it will have insured, unless the budget committees recommend otherwise, and Congress concurs, that the Bank will be restored to the Federal budget starting with fiscal year 1977.

In addition, by taking this route, we will avoid the need for another conference and all the delay and risks which that entails, while preserving all the reforms which we have successfully achieved and the House has agreed to to date.

These reforms include a requirement that the Bank take into account the possible adverse effects of Exim assistance on U.S. employment, the competitive position of U.S. industries, and the availability of materials in short supply before approving any loan, guarantee, or insurance. They include a requirement that Exim's interest rates be set by taking into account the average cost of money to the Bank. They require that Treasury lending to Exim bear interest at a rate equal to Treasury's cost of money on borrowings of similiar maturities. They require that Exim report semiannually on the progress it is making in reducing international credit competition. They require that Exim report semiannually on all energy related transactions and include in that report an analysis of the effect of such transactions on the availability of energy developed abroad for use in the United States. They require that Exim report annually on its progress in assisting small business. And by reducing the amount of additional authority available to Exim to half of the additional $10 billion it asked for, and by placing a lid of $300 million on new assistance to the Soviet Union, it insures that within a relatively short time, perhaps as soon as 2 years or less, the Congress will again have an opportunity to consider what, if any, kind of Export-Import Bank it wishes to have.

Mr. President, this amendment offers a reasonable compromise on the issues which concern this body. They are issues which deeply concern me as well. Along with the other issues which we have explored at length in hearings in the Banking Committee, they helped trigger the first major reform of the Bank since its inception, reforms which we are now close to achieving and which we may jeopardize if we have to return to yet a third conference.

This amendment also offers a reasonable package for the House. All but the budget and the Soviet Union fossil fuel energy provisions have already been

agreed to in conference. Sending a new, realistic, and reasonable bill to the House now—one which has largely been agreed to—and avoiding the need for further conferences in the waning days of this session, offers the best possible hope for enactment of an Export-Import Bank bill in this Congress.

I, therefore, urge adoption of my amendment.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 2006

At the request of Mr. JACKSON, the Senator from California (Mr. TUNNEY) was added as a cosponsor of amendment No. 2006, intended to be proposed by them, to the bill (S. 3267), the Standby Energy Emergency Authorities Act.

ADDITIONAL STATEMENTS

WALTER LIPPMANN—A WISE MAN WITH WORDS OF MEANING FOR US ALL

Mr. JAVITS. Mr. President, the death over the weekend of philosopher-journalist Walter Lippmann was a noteworthy loss to a saner world.

I knew Walter Lippmann very well and will miss him not only as a friend but as a man and an intellect who provided keen insights into the thinking of public officials, our political structure, and that of the world.

Walter Lippmann's life was a most illustrious one, but the key word to his character and nature was "sagacity." And he had a more comprehensive and accurate view of the world's forward movement than any other man I know. Beyond all else he remained optimistic on the future of the world.

Mr. President, we were blessed with many great columns written by Walter Lippmann, but one that I appreciate so much was written in 1962 and again carried in yesterday's Washington Post.

I believe it carries for all of us in this body, indeed for anyone involved in politics, a guide for us to live by as public officials. As we listen to the great debate about political philosophy—conservative versus liberal, liberal versus moderate—we seem to be unable to express the meaning of even those words as we perhaps feel them deep inside. But Walter Lippmann defined conservative, liberal, and progressive as they should be:

Let me quote him:

CREDO FOR AMERICANS—1962

Every truly civilized and enlightened American is conservative and liberal and progressive. A civilized American is conservative in that his deepest loyalty is to the Western heritage of ideas which originated on the shores of the Mediterranean Sea. Because of that loyalty he is the indefatigable defender of our own constitutional doctrine, which is that all power, that all government, that all officials, that all parties and all majorities are under the law—and that none of them is sovereign and omnipotent.

The civilized American is a liberal because the writing and the administration of the laws should be done with enlightenment and compassion, with tolerance and charity, and with affection.

And the civilized man is progressive because the times change and the social order evolves and new things are invented and changes occur. This conservative who is a liberal is a progressive because he must work and live, he must govern and debate in the world as it is in his own time and as it is going to become.

Those are wise words, Mr. President, from one of the wisest men our Nation has been privileged to call its own.

THE "FIRST STATE"

Mr. BIDEN. Mr. President, it is with great pleasure this morning that I am able to call to the attention of the Senate that this week is the week in which my State of Delaware, in 1787, became the first State to ratify the Constitution of the United States, and in doing so has become known as the first State in the United States. Delaware's role in that historic undertaking merits recounting.

Discussion leading to the framing of our Nation's Constitution began in 1786 after the Virginia Legislature suggested that a commission be established to consider the trade of the United States.

Because of frequent disputes over import duties and boundaries, Delaware, which was frequently referred to as the Three Counties on the Delaware River, Pennsylvania, New Jersey, Virginia, and New York, soon agreed to form such a commission and send representatives to Annapolis, Md., in September of 1786.

Delaware was represented at the Annapolis Convention by George Read, Jacob Broome, Richard Basset, Gunning Bedford, and John Dickinson.

Dickinson, who had earned a reputation by his opposition to the taxation of colonies, was chosen president of the Convention where debates centered around the navigational and importation rights of each State. It became apparent, however, that with only five States being represented, no regulatory measures could be established without offending one or more of the States not represented.

With this fact in mind, the Annapolis convention adjourned but not before the delegates paved the way for the convention at Philadelphia. The representatives at Annapolis voted to expand their powers to include, what Walter Powell has recorded as being:

The whole matter of Federal Government that an effort should be made for the appointment of commissioners to meet at Philadelphia on the second Monday in May next to take into consideration the situation of the United States, and to devise such further provisions as shall appear necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union.

On February 21, 1787 Dickinson reported the convention's proceedings to Congress, which recommended to the States a convention as proposed in Dickinson's report.

Powell says that the Delaware General Assembly acted quickly and appointed George Read, Gunning Bedford Jr., Richard Bassett, Jacob Broome, and John Dickinson deputies to meet at Philadelphia on May 14, 1787.

To join in discussing such alterations, and further provisions as may be necessary to render the Federal Constitution adequate to the exigencies of the union, provided that such alterations or further provisions do not extinct that most important part of the fifth Article of the Confederation which declares, that in determining questions in the United States in Congress assembled, each State shall have one vote.

The other States also recognized the need for a convention and followed Congress recommendation that a meeting be held in Philadelphia. On May 25, 1787, representatives from all 13 States assembled in Independence Hall at Philadelphia.

In Philadelphia the Delaware delegation, led by John Dickinson and George Read, took an active role in the formation of the Constitution. Most importantly, however, was the delegation's role in preserving the equal representation of the smaller States in Congress. Many of the smaller States were worried about being absorbed by the larger States if both Houses were run according to a proposed rule calling for proportionate representation in either House.

Mr. Read of Delaware, however, met this proposal head-on by calling the delegates' attention to the fact that "the commission of the deputies from Delaware precluded any change from that Article in the Confederation, which provided that each State shall have one vote, and that, if the proposed change should prevail it might become their duty to retire from the Convention."

With this threat of secession the convention moved toward dissolving, however, this was avoided by the adoption of Dickinson's motion which called for "the number of the Second Branch—the Senate, ought to be chosen by the individual legislatures."

Because of these action by the Delaware delegation, it has been said, that:

It may be fairly claimed for Delaware that the determined stand of her Deputies gave the smaller states an equality of representation in the Senate under the Constitution that has preserved the sovereignty of the States.

Following a hot summer of even hotter debate, the Constitution having been fully engrossed, was signed by 39 of the 55 delegates on September 17, 1787. It was then submitted to the Congress of the Confederation on September 20 with the understanding that it would go into effect after being ratified by nine States. Writing in 1888, Thomas Scharf recounted Delaware's ratification procedure by saying that:

The Legislature of Delaware met on the 24th of October, and following "the sense and desires of great numbers of the people of the State, signified in petitions to their general assembly, adopted speedy measures to call together a convention."

It assembled at Dover, in the first week in December, and ratified the Constitution on the seventh, being the first State to give its approval. As will be seen, the constituent body encountered no difficulty in giving its assent to the Federal Constitution, but it was difficult to find language strong enough to express its joy in what had been done.

The official notification of the adoption of the Constitution by Delaware is as follows:

We, the deputation of the people of Delaware State, in convention met, having taken into our serious consideration the Federal Constitution, proposed and agreed upon by the Deputies of the United States, in a General Convention, held at the city of Philadelphia on the Seventeenth day of September, in the year of our Lord 1787, have approved, assented to, ratified and confirmed, and by these presents do, in virtue of the power and authority to us given for that purpose, for and in behalf of our constituents, fully, freely any entirely approve of, assent to, ratify and confirm the said convention.

Done in convention at Dover, this seventh day of December, in the year aforesaid, and in the year of the Independence of the United States of America, the Twelfth, in testimony whereof we have hereunto subscribed our names.

I, Thomas Collins, President of the Delaware State, do hereby certify that the above instrument of writing is a true copy of the original ratification of the Federal constitution by the convention of the Delaware State, which original ratification is now in my possession. In testimony whereof I have caused the seal of the Delaware State to be hereunto affixed.

With this notification reaching Philadelphia, Delaware became the first State to ratify the Constitution, and the First State in the United States of America. This quick decision, which Delaware reached without a dissenting vote, encouraged other States to speed up their ratification process.

Later, in accordance with the provisions of the Constitution that the Delaware delegation had fought so hard to retain, the Delaware General Assembly on October 25, 1788, elected George Read and Richard Bassett the first Senators of Delaware, and in 1789 John Vining was elected as the first Representative of Delaware. Thus, the First State's first representatives took their seats in the newly formed First Congress.

TRIBUTE TO SENATOR GEORGE D. AIKEN

Mr. FONG. Mr. President, I rise today to pay my highest tribute to GEORGE D. AIKEN, the senior member of this august body and for many years one of its most respected members.

GEORGE AIKEN was elected to the U.S. Senate in 1940, after having served as one of the Green Mountain State's most progressive governors. Before that he had been the State's Lieutenant Governor after having served as Speaker of the Vermont House of Representatives and as a member of that house for many years.

In Vermont, he is a living monument to political responsibility, integrity, and public service.

The imprint left by GEORGE AIKEN in the U.S. Senate during his 34 years of continuous and distinguished service is deep and lasting.

When he first took his seat is 1941, he joined the Senate Agriculture and Forestry Committee. He has been an ardent and effective spokesman for a strong and healthy agricultural industry in America, particularly for the family farm.

His knowledge and hard work on agricultural matters have been instrumental in fashioning farm policies under which America's farmers have been the most prodigious producers in the world.

His influence was felt in the drafting of such monumental legislation as the National School Lunch Act, the special milk program, the Food Stamp Act, and the Rural Water and Sewer Act.

He was also a principal sponsor of Public Law 480, better known as the Food for Peace Act, which has saved millions overseas from starvation and is still helping to feed hungry people all over the world.

GEORGE AIKEN also reflects the international-mindedness of the people of Vermont through his interest and leadership in foreign affairs. Part of this interest has stemmed from his dedication to agriculture and the knowledge of the importance of America's farm output in world trade.

The senior Senator from Vermont has been a member of the Senate Foreign Relations Committee since 1954 and currently is its ranking Republican.

In addition to his efforts for the food-for-peace program, GEORGE AIKEN supported many other humanitarian programs overseas, did much in the interest of Canadian-American relations, played key roles in missions to many parts of the globe, was a delegate to the 15th General Assembly of the United Nations, and participated in the signing of the Nuclear Test Ban Treaty.

In another field, public power, GEORGE AIKEN had made his name long before coming to Capitol Hill.

As a State legislator, as Lieutenant Governor, and as Governor of Vermont, he successfully opposed efforts by both private industry and the Federal Government to take control of the natural resources of his State. During this period he is remembered for passage of legislation enabling Vermont to gain the benefits of the rural electrification program and for initiating action to establish the Connecticut River Flood Control Project and other key projects.

The St. Lawrence Seaway remains as a monument to GEORGE AIKEN's persistence and patience as a U.S. Senator. Thanks to his efforts, surplus St. Lawrence power, which made costs in Vermont the yardstick for low-priced power throughout New England, was secured.

Senator AIKEN also has been in the forefront of the effort to make fusion power a commercial reality in the nuclear power field by the turn of the century and was far ahead in warning the Nation of its vulnerability from relying too heavily on foreign supplies of oil.

Mr. President, when GEORGE DAVID AIKEN retires with the adjournment of the 93d Congress, we will have lost a pillar of strength and the services of a good and able friend.

To GEORGE AIKEN and his gracious wife, Lola, Ellyn and I extend our warmest best wishes for many years of abundant good health and happiness in your retirement.

To both of you we say: Aloha nui loa.

WILHELMINA MARSHALL

Mr. RIBICOFF. Mr. President, the November 1974 issue of the District of Columbia government publication featured an article about Wilhelmina Marshall. This is a fitting tribute to a most able person. Mrs. Marshall is a woman of great ability and character, and has given the District of Columbia outstanding service. Her husband, Augustus, is a member of my staff. I ask unanimous consent that the article be printed in the RECORD at this point.

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

WILHELMINA MARSHALL

Wilhelmina Marshall has found her niche in a profession where there are few Blacks and few females. Mrs. Marshall is a budget analyst—in the city's Office of Budget and Financial Management (OBFM).

In an office that employs the team concept to serve the various district government department and agencies, Mrs. Marshall is the senior budget analyst of the team that serves the Board of Higher Education, Federal City College, D.C. Teachers College, Washington Technical Institute, Department of Recreation, D.C. Public Library, Office of Youth Opportunity Services and the Department of Manpower.

In her position, Mrs. Marshall is required to perform a number of functions, including conducting indepth analyses of all budget and financial matters relating to the agencies she serves. She also directs department and agency budget personnel in the preparation of recommended budget allowances, considering the necessity of a budegt design that will take into account desired program objectives, probable financing ability, and a need for funds consistent with workload requirements and the policies of the Mayor. She then presents the recommendations for approval to the director of OBFM and assists him in discussing recommendations with agency heads, and in supporting the final recommendations before the Mayor.

In addition, she reviews or supervises the review of proposed allocations and supporting financial and work plans to insure that these allocations are in compliance with the District Government program planning and with the intent and purpose of Congress. She reviews and analyzes department and agency reports concerning the status of the actual progress of work, program development, obligations, and costs compared with plans. On the basis of these reviews, she recommends appropriate action on approval or revision of such plans.

She assists in the preparation of the District government budget for presentation by the Mayor to the City Council and the Congress, as well as reviews her staff's work for quality and suggested improvements.

Mrs. Marshall also wears another hat—that of Equal Employment Counselor for OBFM. She undertook this added responsibility with vigor and determination and was instrumental in helping to develop a comprehensive Affirmative Action Plan which established the additional hiring and upward mobility of minorities. While she admits "all was not rosy and there is still much to be done," she says the "acceptance of the plan and its continuance could not have been accomplished without the commitment and sensitivity of the director of OBFM and the understanding and full cooperation of all the staff."

Mrs. Marshall began her career with the U.S. Army Strategic Communications Command, where she was the first female budget analyst in the comptroller's Office of the Headquarters Division. When her division moved to Arizona, she transferred to the District Government as a budget analyst with the D.C. Public Schools, saying "I have always been a city girl and I wasn't about to leave for the deserts of Arizona."

Following one year with the Public Schools, she transferred to the Department of Recreation as its budget officer. A year later, she was asked to join the staff of OBFM.

Mrs. Marshall was born and raised in the District of Columbia. She attended public school here and after graduating from Dunbar Senior High School, she attended Howard University on a scholarship, receiving a degree in Business Administration.

Mrs. Marshall's hobby is sewing, and while she used to pride herself on making most of her clothes, she says "since working in OBFM, I just don't have the time any more." She attributes this to the long hours which are needed to complete the budget process. However, she does find time to work actively in the Altruist Social Club of which she is president. She finds great reward in the activities performed by the Club, including the "adoption" of the Wendell P. Teacher Home for Boys, located in the Cardoza area and operated by the Department of Human Resources. The boys are taken on picnics, bowling, roller and ice skating and given sports equipment, etc.

Mrs. Marshall is married and the mother of a son.

THE MARKETING OF FILBERTS

Mr. HATFIELD. Mr. President, H.R. 2933 has just received unanimous support in the House of Representatives. This is indicative of the strong support this measure has been able to attain once the facts on filbert marketing have become known to Congress. The filbert industry has been striving to achieve recognition in a marketplace that is seriously affected by an imported product that is not at all subject to the grading standards applied to domestic filberts for the purpose of quality control.

When a buyer of filberts in this country purchases domestically produced nut meat he knows what he is getting. The industry has imposed very strict standards in the marketing of its product in order to heighten consumer receptivity for their product. These standards have helped stabilize the market for in-the-shell filberts, but the market for shelled filberts is unsteady because of imports.

The industry is not asking for an end to imports, or a legislated advantage. Domestic consumption of filberts exceeds domestic production, so imports are needed. The industry only asks that the imported product be subject to the same quality standards that have been voluntarily imposed on the domestic product.

Mr. President, I am pleased to join my colleague from Oregon in urging Senate approval of the House's legislation, H.R. 2933.

DELAWARE TAKES LEAD IN INFLATION, ENERGY MEASURES

Mr. BIDEN. Mr. President, at a time when those of us in the Senate are attempting to develop proposals to deal with the dual problem of inflation and energy, it is good to see action being taken at the State level. At a recent press conference, Sherman W. Tribbitt, Governor of Delaware, introduced a five-point program to reduce energy consumption in Delaware, lower inflation, and aid the beleaguered housing industry.

Governor Tribbitt's plan consists of various tax incentives to stimulate savings, energy conservation, and use of mass transit and car pooling. As the Governor stated:

These measures have all been designed to help fight inflation, and to provide economic incentives to make our citizens *want* to conserve energy. By their cooperation, our citizens will receive a modest reward of cash in return.

As we prepare to formulate a Federal program to deal with this crisis, I think we would do well to consider the measures proposed by Governor Tribbitt. I commend his remarks to the attention of my colleagues and ask unanimous consent that his statement be printed in the RECORD.

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

REMARKS BY GOV. SHERMAN W. TRIBBITT

I want to thank the press for taking the time to be here today. I have a series of proposals to make that I think will prove to be of interest to you, as well as to all the people of Delaware.

Ever since the Middle East Oil Embago, just over a year ago, there has been much hand-wringing by the Administration in Washington, but very little has been done. A responsible and comprehensive national energy policy has not been developed, nor has anything been done to control what has now become galloping inflation. Republican leadership has failed the test. The citizens of our State and Nation are concerned about the cost of goods and services, yet they can see no effort on the part of the Administration in Washington or its Republican handmaidens in the Congress and the Senate to do anything about it.

This morning I want to disclose part of what I believe will ultimately be a comprehensive program to help in the fight against inflation, to help in the fight to conserve energy, and to help our stricken housing industry. And I believe that Delaware is the first State in the Nation to propose these measures, instead of just talk about them.

This morning I want to highlight five measures that I will be presenting to the General Assembly in January. Several other measures are under development, but they are not yet to the point of being made public.

First: a measure to help the housing industry. I will propose in January a deduction from gross income of the first $200, or any part thereof, of interest income on deposits in regular savings accounts in commercial banks, savings banks, building and loan, or savings and loan associations. This deduction will apply to long-term deposits of a year or more and will not apply to short-term certificates of deposit. By providing this exemption, it is my hope that it could stimulate additional longer term deposits by our citizens in thrift accounts and thereby increase the available mortgage-money pool.

Second: I will also propose in January that the utility tax on consumers' electric bills be stated separately and that the total tax amount become an allowable deduction for Delaware personal income tax purposes.

For example, if your utility bill averaged $30 per month for the 12 months of calendar year 1975, you would take the total tax, which would be $18, and deduct that from your adjusted gross income before computing your tax due the State. The size of your deduction will, of course, vary according to the size of your total annual electric bill.

This proposal will at least afford the individual consumer the same tax break as has been enjoyed by the business community on this particular tax since it was initiated in 1971.

Third: I will propose that home owners or renters who either install storm windows or increase the amount of insulation in their home, or both, will be able to deduct 25% of the purchase and installation costs of such storm windows or insulation from their adjusted gross income. Home owners and renters will immediately see a reduction in the cost of heat for their homes as a result of the addition of the storm windows or insulation. By providing the tax deduction, an additional saving can be achieved.

Fourth: I will also propose in January a tax credit for those utilizing mass transit facilities. I will propose a system that will allow employees to purchase commutation booklets through an employer payroll withholding program. Under my proposal, the employer would pay for 10% of the cost and the employee, through his payroll deduction, for the remaining 90%. The 10% paid for by the employer could be recovered by his claiming a tax credit on the Corporation Income Tax return in an amount equal to 10% of the cost of the total commutation tickets purchased through the plan. Appropriate changes in the Corporate Income Tax law will be proposed to permit claiming the credit.

Fifth: I want to propose a tax credit for citizens who participate in carpools. Let me illustrate this. If an individual is commuting to work and the distance is approximately 20 miles each way, that amounts to approximately 200 miles per week. Assuming two weeks of vacation and approximately ten days' paid holidays per year, over the remaining 48-week period the invididual will travel some 9,600 miles to and from work. If that individual has an automobile which has an about-average miles-per-gallon rating, he would use approximately 640 gallons of gasoline a year traveling back and forth to work.

Consider this. The average carpool is composed of three people. If our original driver joins with two others in a carpool, instead of three different cars each traveling that 9,000-plus miles per year and using 600-plus gallons of gasoline each—at a combined cost of more than $900 for gasoline alone—then gasoline consumption for commuting purposes for the three of them could be cut from slightly over 1,900 gallons (using three cars) per year to slightly over 600 gallons per year (using one car). At today's prices, the three of them would thereby split a savings of something over $600 just on gasoline alone.

I would propose to allow each of the three members of that carpool a personal income tax credit—not a deduction, but a tax credit—of $20 per year. This tax credit of $20 per person would further reduce the costs of commutation. The value of carpooling is readily apparent when you consider that the three individuals I have described, traveling to work in a carpool, would split a cost of transportation of $260 as apposed to spending approximately $320 each traveling separately.

Naturally, the carpooling would benefit its participants in other ways—reducing wear and tear on automobiles, lengthening tire life, significantly reducing parking costs, and other advantages. Of course, the amount of the savings will vary according to miles traveled, car economy, and other factors.

In order to qualify for the $20 tax credit for carpooling, according to my proposal, it would be necessary for the carpoolers to submit special information with their state income tax returns. The employer would have to validate the fact that his employee—or the employer, himself—is a member of a carpool. And the individual would have to also submit along with his tax return a notarized statement from the other members of the carpool showing their social security numbers, as well as his own.

These measures have all been designed to help fight inflation, and to provide economic incentives to make our citizens *want* to conserve energy. By their cooperation, our citizens will receive a modest reward of cash in return.

Let me finish by saying that a number of

other proposals are being looked into, some of which center around the problem of what to do with the individual who refuses to conserve energy, or to put it another way, the individual who, by the economic decisions he make, elects to waste energy. And finally, we are looking very carefully at the cost both in terms of capital dollars, and operating dollars, and the time frame required to implement a statewide mass transit system.

I will have more to say in January, or perhaps before, on these and other proposals which are under active consideration.

But let me stress this to you members of the media.

Lots of people over in Washington are moaning about the energy crisis and the need for viable proposals.

Well, here they are—and the First State is taking the lead in meeting the energy crisis this year, as we did last year.

The people in Washington are mumbling vaguely about the need for tax incentives.

Well, here they are—and the Governor of the First State is putting forth precise, concrete proposals today.

We—in the States—are tired of waiting for Washington to make up its mind.

We in Delaware have done it now. These proposals are a fine start. And I'm proud to be the one to propose them for the benefit of the citizens of the First State.

UNITED NATIONS

Mr. McGEE. Mr. President, in this morning's publication of the Washington Post appears an editorial discussing recent events in the United Nations and the special responsibility the United States must bear in making that international body more responsive to real global needs.

As the editorial writer pointed out, much of what the United Nations has done during recent months has been not only unrealistic, but also very damaging in the context of U.S. public support for the institution. However, what is equally important is that it is incumbent upon the United States to play a more constructive role in the institution in an effort to strengthen the body.

While it is understandable the frustrations the United States and its representatives at the United Nations have undergone during the past year, it must be kept in mind that we ourselves are not without some fault for the present set of circumstances.

After pledging some months ago to exercise world leadership in meeting the food needs of those nations most seriously affected by famine and hunger, the United States still has to come forward with such a program. The President, unwilling to risk what he perceives to be an increase in food prices by a major food initiative, has, instead, focused the Public Law 480 program primarily on security and political aspects. Thus, while attempting to address political problems in the world through the use of our food productive capabilities, we have, in effect, created political problems by ignoring those nations most in need of U.S. assistance.

The central issue remains: unless and until the widening gap between the rich and the poor nations is narrowed, there can be no peace in the world. We are now paying the price, in the United Nations and elsewhere, for delaying vital decisions in this regard or simply ignoring reality. The international economic difficulties have now become political in context.

In the final analysis, the U.S. responsiveness to a new leadership role in the world will not only determine whether the United Nations is a viable institution, but also whether the entire international system will disintegrate into total anarchy.

In essence, the unwillingness of this Nation to address itself to the human problems of the world only escalates the possibility that such human problems will become political problems. While frustration with the United Nations is justified, one must also keep in mind that the United States has played no small role in this set of circumstances with the executive and legislative branches equally sharing the blame.

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

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

THE DEBATE IN—AND ON—THE U.N.

It is a good working principle that Ambassador John Scali enunciated at the United Nations the other day when he warned that the most meaningful test of a General Assembly resolution is not whether a majority can be mobilized behind it "but whether those states whose cooperation is vital to implement a decision will support it in fact." By that mature test, this has been a dismal Assembly session. Repeatedly, paper majorities composed of emotional Third Worlders and cynical Communists have rammed through resolutions intrinsically unfair, unwise and unimplementable. The latest of these is an international "Economic Charter" (approved 120 to 6) representing an awesome triumph of hope over reality. Such surrenders to self-indulgence convey *everywhere* the sense that the United Nations is not a place where serious business is done. Surely this hurts most those many nations—the United States not among them—who rely heavily on the world body to help them achieve their most important political and economic goals.

Responding to Mr. Scali, the Algerian delegate indicated some sense that the American envoy was correct in asserting that conspicuous abuse of the United Nations was undercutting public as well as congressional support for it. Not the United Nations but the "completely distorted image of its work" presented by American media is responsible for the American public's disenchantment, he declared defensively. One wonders what "distortions" he had in mind. Broadcasting of General Assembly meetings? Verbatim publication of Yasser Arafat's text? It is possible that delegates of governments which are unaccustomed to accounting to domestic public opinion may not fully understand how important American opinion is to American participation at the United Nations. But we doubt it. The place allotted to the United Nations in American foreign policy can seem more symbolic than real. But the particular symbolism—cooperation for the world's common welfare—is treasured by most Americans, and they react negatively when others tarnish it.

To be sure, as a number of delegates pointed out, the United States itself manipulated numerical majorities when it had them at its command. It would have done Mr. Scali little harm to concede the point, for what is really at stake is not a historical verdict but the current and future effectiveness of the premier world organization. The examples cited against the United States, however, deserve to be noted. One was the Assembly majority that Washington engineered in favor of partitioning then-British Palestine between Jews and Arabs in 1947. The Arabs instead chose war, though the partition resolution, unlike the recent pro-Palestine resolution, took neither territory nor the right of national existence from a member state but *gave* them to two claimants. Today many Arabs long to put into effect that very partition resolution. A second example was the American campaign to keep Peking out of the United Nations. The United States has since come to another view, one holding that the membership of sovereign states should be universal. This is the correct view, and the United States might enhance its case by acknowledging its own "conversion." The American interest remains, after all, not to avoid petty embarrassments but to strengthen the United Nations in what ways it can.

LEADERSHIP NEEDED TO DEAL WITH THE FOOD PROBLEM

Mr. HUMPHREY. Mr. President, I have pointed out many times to this body the need for our Government to provide strong leadership, and this is particularly the case in the area of food and agriculture.

I would like to point out three very worthwhile articles: a December 8, New York Times editorial, "The Fear To Lead," a December 1, New York Times article, "Canada Seeks Mideast Cooperation on Aid," and a December 16, Washington Post article "Huge Food Stocks May Go to Waste."

The editorial points out the many serious problems requiring leadership, stating:

The cloud of nonleadership hangs over the nation's key activities like polluted air.

And—

The nation that organized the Marshall Plan now seems unable to reconcile its internal farm and food policies with the imperative of an American leadership role in meeting the threat of starvation through much of the world.

The second article points out an initiative by Canada to provide technical assistance in the developing world with financing from the OPEC countries. This is an initiative which is worth utilizing by other nations, including the United States, if at all possible.

The third article on food stored for civil defense purposes points out another resource which is available to help address the world hunger problem. We need to find ways of using this resource so that it is not wasted.

Again, the needed ingredient is leadership.

Mr. President, I ask unanimous consent that these three informative articles be printed in the RECORD.

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

[From the New York Times, Dec. 8, 1974]

THE FEAR TO LEAD

"Times are nowhere near desperate enough to paraphrase President Franklin D. Roosevelt's great rallying cry that the only thing we have to fear is fear itself. Still, it is a good thing to remember." This confusing assessment, voiced by President Ford in his news conference last week, characteristic of the nation's leadership vacuum.

The confusion is compounded when the

President simultaneonsly appeals for greater sacrifices and also warns that "our greatest danger today is to fall victim to the more exaggerated alarms that are being generated about the underlying health and strength of our economy."

Effective leadership requires a readiness to present a credible plan for reaching desirable goals, coupled with willingness to confront the people with unpleasant facts, whatever the political risks involved. To date, Mr. Ford has shown himself wanting on both counts.

While he speaks of the need for action, he gives no indication that either he or his domestic advisers have any clear view of the nature of such action. While he has expressed his "great respect and admiration" for the American people's willingness to sacrifice, he cannot shake the politican's habit of mollifying rather than sounding the alert—even to the point of defending his refusal to increase the gasoline tax on the ground that a public opinion poll showed 81 percent of the people opposing such a tax.

The cloud of nonleadership hangs over the nation's key activities like polluted air.

Aimless talk is a substitute for diagnosis and planning. High-level debate on whether the country's economic condition should be labeled a recession postpones effective steps to deal with the realities, whatever their name.

The consumer is alternately scolded for driving prices up by buying too much and for being unpatriotic by not buying enough.

Washington promises to provide public works programs to absorb the unemployed. At the same time, the cities hard-pressed for Federal help must lay off public employes, thus swelling the ranks of the unemployed.

The nation that organized the Marshall Plan now seems unable to reconcile its internal farm and food policies with the imperative of an American leadership role in meeting the threat of starvation through much of the world.

The energy crisis continues to be treated as if it were but a temporary technical problem in need of short-term correction. Concern over waiting lines at the filling stations next month seems of greater moment than the question of depleted resources for the next generation.

While the present sources of energy are being exhausted, to the accompaniment of political and economic threats from Arab oil producers, no concerted national effort, on the scale of the Manhattan Project or the flight to the moon, has been mobilized to open new energy frontiers to the United States and the world.

Although it is evident that conservation and environmental protection are basic necessities for the nation's future strength, current shortages are seized upon as an excuse to act even more irresponsibly in ravishing the earth and polluting air and water.

Human gains, again mistakenly regarded as luxuries rather than the necessities of a healthy, free society, fall victim to the general mood of self-centered drift.

The President cannot shape policies by relying on his veto power, nor Congress by its capacity to override. Mr. Ford was right when he said last week: "I believe the Congress, along with myself, has to give some leadership to the American people. . . ." Yet Mr. Ford, along with most others who wield power and influence in the public as well as in the private sector, still evades the task of confronting reality and charting a course. Leadership in difficult times cannot afford to keep an eye on the opinion polls nor to seek public support based on assurance that things are better than they seem.

Mr. Ford might begin by telling himself that the only thing we have to fear is fear to lead.

[From the New York Times, Dec. 1, 1974]

CANADA SEEKS MIDEAST COOPERATION ON AID

OTTAWA, November 30.—Canada is preparing to propose a new international development-aid partnership with the Arab oil-producing states—the Arabs would provide the money and Canada the expertise.

The plan will be submitted to Middle Eastern countries next month as a means of overcoming reluctance of the Arabs to channel their new wealth into aid through existing international development organizations like the International Bank for Construction and Development and various United Nations agencies, that the Arabs consider to be "dominated by the United States."

The program was outlined to a committee of the House of Commons yesterday by Paul Gerin-Lajoie, president of the Canadian International Development Agency, which administers Canada's aid program.

Mr. Gerin-Lajoie told the Miscellaneous Estimates Committee of the House that he planned to visit three Middle Eastern countries in December to solicit support for the plan. He did not say which countries.

The aid director described the proposed program as a "tripartite relationship" in which the Arab countries and Canada would enter into agreements with developing countries.

CONTRIBUTION OF "KNOW-HOW"

The Canadian contribution, as the proposal was explained, would be "the know-how gained in 25 years" of assistance programs.

A spokesman for the Canadian aid agency said that Canada's participation, in supplying expert services, would be "over and above" the present assistance program here, which involves an outlay of $733-million in various forms of aid to developing countries during the current fiscal year.

The present level of Canadian aid, the spokesman said, represents a 25 per cent increase over last year's figure and brings the assistance program to 0.5 per cent of Canada's gross national product. At the present rate of acceleration in Canadian aid, he added, Ottawa will reach the 0.7 per cent level recommended for advanced countries by the United Nations in the 1979–80 fiscal year.

In comparison, the percentage of gross national product contributed to foreign aid by the United States is about 0.3 per cent.

[From the Washington Post, Dec. 16, 1974]

HUGE FOOD STOCKS MAY GO TO WASTE

(By Andrew Wilson)

ST. LOUIS, MO.—More than 150,000 tons of food stored in fallout shelters around the United States will spoil in the next few years unless it is distributed, according to relief officials. Some has already gone bad.

The food could feed about 10 million people for 60 days, according to government nutrition experts.

In September, 7,000 tons of whole wheat crackers were shipped to Bangladesh. They included about 20 tons from a civil defense storage tunnel beneath Washington's DuPont Circle.

Government stockpiling of the food as a precaution against nuclear attack was ended in the late 1960s. Most of it was stored from 1962 to 1964.

Although the food stuffs—biscuits and candied carbohydrate supplements that are tinned, boxed and crated—have exceeded their anticipated shelf-life of five years, they are still fit for human consumption and haven't been fed to cattle or dumped into landfills, according to the U.S. Defense Civil Preparedness Agency in Washington.

Some 1,500 tons has spoiled, according to the agency, and nutritional experts at the Cooperative for American Relief Everywhere (CARE) predict that the remainder will be good for only another two to four years.

With the cooperation of Civil Preparedness since 1970, scores of communities—the owners of the food in their local fallout shelters—have donated through relief agencies to needy areas of the world.

"We'd sure rather see people eat this than have it fed to hogs, that's for certain," James J. Burns, director of the financial and material assistance division of the agency, said.

Only 13,500 tons—or 8 per cent of the total national stockpile of 165,000 tons—has been distributed, records show.

At the present rates of distribution and anticipated spoilage, 136,500 tons of edible and nutritious food would be wasted in the next four years or so.

"Some people don't want to give up their stocks. They say what the hell happens when a big boom comes," one Civil Preparedness official said.

But that fear seems to have faded in most places. Some pressure for giving up the stock has come from department stores wanting to free basement storage space.

The biggest donations have come from New York City, which would presumaby be a prime target in the kind of all-out nuclear war feared when the food was stored.

Like most other cities that have made big donations, New York has the advantage of being a port, Civil Preparedness officials point out.

The big problem in getting the food out has been money, coupled with logistics and a lack of awareness among the leaders in many communities that they are sitting atop small mountains of needed food, experts agreed.

What is needed is some system of local, state and federal financial assistance, Louis Samia, deputy executive director of CARE, major private international relief agency, said.

Samia said he favors some sort of federal-local matching grant system to pay some or all of the freight charges, especially from inland cities.

Scattering of the food in so many different locations presents obvious logistical problems, but, said one Civil Preparedness official, "It's cheaper to move a ton of this than several tons of wheat."

Under the present setup, agencies like CARE inform Civil Preparedness of their ability to program certain tonnage needs for food in stricken lands.

Civil Preparedness then notifies local civil defense officials to see whether their communities are interested in donating to fill these needs.

The problems in this approach are illustrated in the case of Hannibal, Mo., near St. Louis, where the city council recently voted to give its stock of 10 tons from 16 fall-out shelters to hungry people anywhere in the world.

For starters, that town, which did not hear from civil defense, was uncertain whether it owned the food and could give it away until the office of Sen. Stuart Symington (D-Mo.) investigated.

Then the city officials were perplexed: Where should the food go to do the most good and how could it be shipped?

George Pace, the manager of the local Chamber of Commerce who is spearheading the effort in Hannibal, was astounded to learn from a reporter that a mechanism already existed for donations of the food.

"I thought, literally, that almost everybody in the country had forgotten this food," he said.

But the mechanism depends largely upon the efforts of volunteer and private groups—working without public money, according to Burns, of Civil Preparedness.

Civil Preparedness officials report that in many instance trucking firms have volunteered to move the food to ports. In other

instances volunteer groups of private citizens have done it.

The U.S. government supports the shipment of the food directly only through the Agency for International Development, a branch of the State Department.

It does pay ocean freight for shipments, and makes payments to such voluntary relief agencies as CARE to help mobilize resources in emergencies caused by natural catastrophes, like the hurricane and floods that ravaged Honduras this fall.

Meanwhile, the town of Hannibal has been put in touch with CARE and has found a trucking firm to take its stock to New Orleans, for CARE to transport to Colombia.

FEDERAL AIRLINE REGULATION

Mr. KENNEDY. Mr. President, as Christmas draws near, millions of Americans have become acutely aware of the need for efficient, low-cost transportation to move them from their schools and workplaces to other cities, where they can share the holiday season with their friends and relations. Many holiday travelers will rely on the airline industry to fulfill their travel needs. Hundreds of thousands will make their reservations, pay their fares, and complete their trips without serious problems and without giving the process a second thought. Others, however, may begin to wonder when they find that airline fares are up 20 percent over last year—an increase far greater than the general inflation rate of 12 percent. These travelers may occasionally find Christmas bargains by shopping for gifts at different stores, but they will not find bargain air fares by calling competing airlines because the competing airlines all charge the same price.

The price-conscious air traveler, when faced with huge fare increases, may legitimately ask how the Civil Aeronautics Board has been using its statutory authority to control rates. Has the Board been doing as much as it might to keep fares low? The Government employee in Washington might ask why his 400-mile flight to see relatives in Boston costs $47, while a comparable flight from Los Angeles to San Francisco costs half as much. Does the fact that the CAB regulates interstate Boston/Washington flights but not intrastate Los Angeles/San Francisco flights have anything to do with this enormous price difference?

Similarly, travelers may wonder whether the Board has been doing as much as it might to secure adequate service. For example, a student, at school in Boston, may find it difficult to go home to Detroit because there are no seats available. That student might be surprised to learn that the CAB allows only one airline to monopolize nonstop service between Boston and Detroit. For some time airline representatives, Boston officials, Detroit officials, and others have pleaded with the CAB to authorize additional nonstop service. Instead of setting this case down for a hearing and decision, the CAB has simply refused to act. Thousands of other travelers will find that on some markets the planes are more crowded and that flights are fewer this year—for the CAB has allowed the airlines to agree to restrict their service to many cities. Although filling up airplanes will, the experts tell us, reduce flight costs and thus allow allow the fares to go down, the CAB has allowed fare increases in the markets subject to service restriction agreements.

Others are asking whether the Board is unjustifiably limiting the availability of low cost charter service. The worker who has saved earnings with the hope of taking that dream trip to Europe may be surprised to learn that the affinity flight his union used to offer to Italy—at one-third the ordinary fare—will no longer be available. The CAB intends to make affinity charters illegal after next March—and it will do so through a rulemaking procedure that does not provide for a full evidentiary hearing or full public participation.

These questions are legitimate and deserve full answers. More than that, the fact that they are being asked with increasing frequency suggests that there may be something fundamentally wrong with the manner in which the CAB carries out its statutory responsibility to regulate air carriers "in the public interest." Are its practices and procedures adequate to bring about the basic objective of airline regulation: adequate service at reasonable prices?

The Senate Judiciary Subcommittee on Administrative Practice and Procedure, which I chair, intends to conduct a comprehensive inquiry into this basic question. In February we shall hold extensive hearings. They will examine the Board's procedures for setting rates, for awarding routes, for determining frequency of service, and for dealing with consumer complaints. In each instance, they will ask whether those procedures are adequate to secure good service at reasonable prices while maintaining a healthy industry. They will ask whether inadequate procedures are in part responsible for defects in regulatory policies; they will try to determine whether better procedures—whether introduced by agency regulation or by statute—might better protect the air traveler, furthering his interests, without jeopardizing the health of the industry.

To be more specific, the hearings will first examine the Board's ratemaking practices and procedures. Just last month the Board approved a 4-percent across-the-board fare increase. That increase must be added to the 6-percent increase approved last April—a "temporary" increase that is still in effect. April's increase came only 4 months after a 5-percent increase allowed last December. And, throughout the year the Board has phased out discount fares—with the effect, according to Board members Minetti and West, of increasing fares an additional 5.4 percent. These increases—totaling nearly 20 percent—take effect at a time when domestic airline profits are soaring. During the 10 months ended October 31, 1974, five large trunk carriers earned an aggregate operating profit of $94 million, and an increase of nearly 300 percent over the same period in 1973. The operating profit for all domestic trunks for the year ended September 1974 was $737 million, an increase of nearly 70 percent over the year ended September 1973.

One may legitimately wonder whether these price increases were justified—particularly since United, a major airline, only a month later filed a request for a fare reduction. And, more importantly, this chain of events makes one wonder about the adequacy of the procedures that has led to them. The Board held no hearings before granting the fare increases, nor did it write an opinion justifying them. Nowhere in the documents published by the Board—not even in the opinions of the dissent—is there a hint that a fare cut, rather than a fare increase, might be called for. Yet, United's recent petition places just that question at issue. Is the Board, then, so at the mercy of the airlines for its information, for its analysis, for its policy options that it could not on its own ask that question? If United now thinks fares should be cut, not raised, why did not someone at the Board, or on its staff, ask for examination of that question when faced with a request by the airlines for a further fare increase only a month before?

These questions suggest others: does the law—the statute and regulations—provide for hearing procedures that subject fare proposals to adequate scrutiny from the viewpoints of both the industry and the consumer? Must the Board, in the interests of procedural simplicity and certainty, mechanically apply its newly announced policy of guaranteeing airlines a 12-percent return on investment? If the CAB's hearing procedures—inherent in classical price and profit regulation—do not provide the consumer adequate protection, should the Board try a different approach? Should it rely to some extent upon price competition coupled with a more liberal entry policy to help keep fares low? It has been suggested that just such price competition accounts for the fact that intrastate airlines in California and Texas charge fares that are up to 50 percent less than federally regulated lines flying comparable routes.

Second, the subcommittee will consider the Board's procedures for deciding route award cases. For several years the Board has simply refused to hear applications for new routes. For example, for many years only American Airlines has provided nonstop Boston/Detroit service. Since the route is highly profitable, other airlines have applied for permission to compete with American. But the Board has not set their applications for hearing. Similarly, Rockford and Peoria, Ill., have requested air service. Yet, despite hearings held by Senator STEVENSON and Senator CANNON on the matter, the Board has not yet set the matter for hearing. Numerous other instances suggest that the Board has, for some time, been following a deliberate policy of awarding no new routes—a policy that it enforces by procedural irregularities such as manipulating its docket so that route cases are not heard, by refusing to decide cases for months on end and finally dismissing them as stale, and by denying motions to expedite consideration of route applications.

The subcommittee is particularly concerned about the Board's practices and

procedures in its route policy. Two aspects of this appear to raise serious legal questions: First, the setting of such policy without a rulemaking proceeding, without hearings at which that policy is publicly and thoroughly debated, and, second, the implementation of that "policy" through procedural devices. Not only the Administrative Procedure Act, but also the Federal Aviation Act, and the Board's own rules, would forbid it *from setting* such sweeping policy by manipulating its docket. The subcommittee's hearings will take a hard and critical look at any instances in which the Board, a quasi-judicial body, has employed procedural devices to avoid decisions which it has the statutory responsibility to make. It is ironic, to say the least, that the Board expeditiously approves airline agreements to reduce service, but that it delays applications to increase that service.

Further, the Board's route policy has been questioned by economists and consumer groups who argue that a more *liberal* entry policy, when coupled with greater freedom to increase fare competition would lead to lower rates. If so, the issue may present a classic case of faulty procedures producing bad policy.

Third, the subcommittee will inquire whether the Board's regulatory practices and procedures are adequate to protect and further the legitimate interests of the nonbusiness, discretionary traveler. What about the union member I mentioned earlier who will no longer be able to take advantage of inexpensive, once-in-a-lifetime foreign tours now offered by his union? How should or can the Board respond to his complaint that the CAB's rulemaking procedures have been used to limit the availability of charter travel in order to protect and sanctify regularly scheduled service, and that the CAB cannot be bothered with the task of developing a comprehensive, widely available low-cost air network? Are consumer critics correct when they charge that the CAB uses its regulatory arsenal to see to it that the international businessman is able to fly to Europe on a moment's notice in a plane that is one-half full? Many CAB watchers do not believe that the regulatory agency Congress has charged with "the promotion of adequate, economical, and efficient service by air carriers at reasonable charges" is doing its job when it uses its considerable expertise and public resources to fine-tune a system that flies empty planes at high prices, but concentrates its enforcement efforts on investigating people who try to find ways to fly on full planes at low prices.

The CAB's regulatory practices and priorities in 1938 may have been adequately suited to that period when air transport and air technology were in their infancy. The industry has come a long way since 1938 and I believe that the CAB can take much of the credit for the development of the most comprehensive air transportation network in the world. But, one wonders whether the priorities, assumptions and regulatory practices of the 1930's and 1940's should be applied in the 1970's. Is it time for the Board and its staff to initiate a radical self-examination of its regulatory philosophy and assumptions? Is it time for the regulators to undertake a serious effort to investigate how it could develop an air system that will deliver to the general public an array of low-cost flights utilizing full planes and conserving scarce energy resources?

If the hearings reveal, as some have charged, that the Board reacts to low-cost air travel on a haphazard, ad hoc basis, then it might be time for a systematic reexamination. It is certainly true that as charter operations grow in popularity, the CAB reacts procedurally by promulgating, without full public hearings, restrictive rules limiting the availability of low-cost charters. The proposed elimination of affinities is only the latest instance of this approach. As individual air travel clubs develop and offer low-cost full-plane travel to an ever-widening membership, the Board reacts through ad hoc cease-and-desist orders case after case, but declines to initiate a policymaking proceeding whereby it could establish an understandable, comprehensive set of guidelines by which such clubs could generally govern their action. Is it any wonder that there are "illegal" charters, affinity group flights that are sprinkled with travelers who back date their membership card in order to be eligible for the trip, and air travel clubs who try but fail to stay one step ahead of the CAB's cease-and-desist orders?

The public wants to fly cheaply and the Board should consider whether its own restrictive and ill-considered approach to low-cost operations is simply creating a black-market for inexpensive travel. The Board in 1970 saw fit to conduct a comprehensive investigation and series of public hearings on domestic passenger fares which resulted in a comprehensive set of ratemaking standards for scheduled operations. Is it not time the Board showed the same interest in developing a viable alternative to high-priced scheduled service for the millions of consumers who need it? The subcommittee is anxious for the Board and the airline industry to devote some thought to this problem and put forth creative solutions during the upcoming hearings.

I will be chairing the subcommittee hearings next February. I shall make every effort to make certain that our examination of these complicated economic and regulatory structures is not superficial.

Congress has a duty to marshal evidence and get the facts before it can presume to fulfill its informational and legislative functions. Therefore, the subcommittee and its staff have for several months been making every effort to educate itself in preparation for these hearings. Our subcommittee's efforts included preparing and circulating to the airlines and the CAB, comprehensive questionnaires designed to elicit the information necessary to conduct informed hearings. In doing so, the subcommittee intends to fulfill its duty to conduct responsible and informed legislative oversigh^. And, I hope that, as a corollary, the industry will meet its responsibility to provide the necessary data to Congress. The largely favorable responses to the questionnaires received to date convince me that the majority of air carriers recognize and accept this responsibility.

I am hopeful that the Administrative Practice and Procedure Subcommittee's hearings next February, the expert leadership that Senator CANNON will continue to exercise during the next Congress in aviation matters through the Aviation Subcommittee, and a critical reexamination by the regulators and the industry itself will bear fruit.

Significant reform and dramatic new priorities in air transportation can be achieved in time for next year's holiday season if legislative action is combined with a basic revitalization of the Civil Aeronautics Board itself. The subcommittee's hearings next February are intended to contribute to that process. My hope is that when next year's Christmas holiday season arrives, the traveling public will have been benefited by a more economical air fare structure and a system of air service more attuned to its needs.

GENOCIDE CONVENTION DOES NOT THREATEN THE RIGHTS OF U.S. CITIZENS

Mr. PROXMIRE. Mr. President, one frequent objection to the Genocide Treaty is that it clears the way for U.S. citizens to be tried in foreign courts without the rights guaranteed by the Constitution. This is not the case.

At the present time, if a foreign power holds an American citizen, there is nothing this Nation can do to prevent that power from trying him on any charge it wishes. The Genocide Convention in no way changes this situation.

What about extradition? Would the United States, if we ratified the Genocide Convention, be required to extradite an American citizen to another nation to stand trial without constitutional safeguards for an alleged crime of genocide committed within the borders of that nation? The answer is "No."

We now have extradition treaties with more than 80 nations, none of which gives away the rights of Americans. None of these treaties include genocide. These treaties would have to be renegotiated before extradition for genocide became possible.

Mr. President, the Genocide Convention is a landmark in the struggle for international recognition for human rights. We must delay no longer. I urge the Senate of the United States to ratify the Genocide Convention without further hesitation.

PAY FOR KEY FEDERAL EMPLOYEES

Mr. McGEE. Mr. President, the issue of pay for key Federal employees continues to plague the ability of Government to attract and retain those most qualified for these positions of responsibility.

What is involved in our present set of circumstances was aptly noted in a column written by Rowland Evans and Robert Novak which appeared in last Saturday's Washington Post.

While many in Congress fear to address themselves to the reality of the situation, we continue to lose many of our most experienced and talented individuals who have devoted a great portion of their lives to public service.

The situation has reached the point where it is more lucrative for a public servant to retire today, than it is for him to continue his work in Government service. He stands to lose for every year he remains in Government service.

As Chief Justice Warren Burger has warned—

The American Judicial system is endangered by massive early retirements because of a five-year salary freeze.

The top-level talent in the Federal bureaucracy is leaving Government in droves. We have reached a point where it has become virtually impossible to replace this talent. Thus, we all pay a price for playing politics with this issue rather than facing the stark fact that unless the situation is remedied, we will have to settle for mediocrity in many cases and virtual paralysis in others.

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

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

[From the Washington Post, Dec. 14, 1974]

LOW PAY FOR HIGH GOVERNMENT JOBS

(By Rowland Evans and Robert Novak)

Despite a critical warning from Chief Justice Warren Burger delivered privately to President Ford that the "American judicial system" is endangered by massive early retirements because of a five-year salary freeze, the President and fearful congressional leaders agreed on Wednesday to postpone action until next year at the least.

That burying of what some politicians view as a national crisis extending far beyond Burger's judicial domain was probably inevitable, given the deepening recession and mounting unemployment.

It was President Ford himself who raised the matter behind the closed doors of his Wednesday morning session with congressional leaders. After thrashing the highly-politicized issue from all its aspects, the congressional leaders left Mr. Ford with this message: if he would publicly ask Congress to unfreeze top-grade government career salaries, established when the cost of living was 42 per cent less than today, and promise not to veto any pay-raise bill passed by Congress, the combustible issue might be pushed in Congress next year after passage of anti-recession bills.

President Ford made no promise, fully aware that he is loaded down with too many political problems as it is to add the fury of voters over higher government pay at a time of national belt-tightening.

Yet both Burger's warning and the deepening problem of resignations by top-level federal bureaucrats frozen at $36,000 a year, combined with critical recruitment gaps stemming from the pay freeze, are not taken lightly either inside the White House or on Capitol Hill.

Chief Justice Burger told Mr. Ford in his long White House talk late last month that seven federal judges had quit prematurely in the past 13 months, more than at any time in the last 100 years. The main reason: the five-year pay freeze had reduced their $40,000 salary to an effective level of $25,000.

First-rate U.S. attorneys, the bedrock of the criminal justice system, are becoming hard to recruit, the Chief Justice believes, because of vastly higher-paying law partnerships. Burger's warning: without higher salaries, already overburdened courts will dangerously decline in talent and production.

The salary problem is compounded by the Rube Goldberg system that pays regular cost-of-living allowances to retired federal employees but denies built-in escalation to the highest grade officials while they stay on the government payroll.

That explains the startling 50 percent increase in top-level executive branch retirements since 1970. These are career bureaucrats who, in the words of Democratic Sen. Gale McGee of Wyoming, chairman of the Senate Post Office and Civil Service Committee, "kept this government running during the Watergate vacuum of power."

One case in point is the frozen $42,500 salary for the Director of Management and Budget (OMB), the top management job in the vast federal bureaucracy. When the President decided to name Housing and Urban Development Secretary James Lynn to replace OMB Director Roy Ash, Lynn's acceptance guaranteed him a 30 percent cut in pay. The reason: Congress has always refused to give any presidential staff job a salary higher than its own.

Indeed, a quiet White House effort to raise the OMB director's salary to Cabinet level ($60,000) when George Shultz resigned as Secretary of Labor to become OMB director in 1970 met disaster.

A bill quietly drafted inside OMB paired the chairman of the Federal Reserve Board ($42,500) with the director of OMB, raising both salaries to $60,000. Before the bill ever was sent to Congress, former White House aide Charles Colson inadvertently got wind of the secretly-drafted bill and used it as a club to attack Chairman Arthur Burns of the Fed for trying to raise his own salary. Burns was not even aware the bill had been drafted.

Lynn will now take his 30 percent salary cut. Top-grade career bureaucrats, federal judges and Congress increase, given the balance of political terror inside the White House and on Capitol Hill over so sensitive an issue.

Yet Burger's warning to Mr. Ford and the decline of top-level talent in the much-maligned federal bureaucracy are too important to be treated frivolously much longer.

NEED FOR TAX REFORM AND A $10 BILLION TAX CUT NOW

Mr. HUMPHREY. Mr. President, the time has come for Congress to reverse the administration's efforts to stop inflation by creating a major recession. The most important thing we can do to achieve this is to cut taxes for consumers by $10 billion as soon as possible. I intend to introduce legislation to provide for such a tax cut and I shall ask my colleagues to join me.

Let me outline the reason I recommend such action, and the specifics of my proposal.

RESTORE ECONOMIC GROWTH

Everyone knows that we are suffering from the twin problems of inflation and recession and, therefore, economic policies have to be skillfully applied. The key point that is not yet accepted by the administration—although the people of this country know it—is that we are now in the worst recession since the depression, and we must deal with this problem immediately.

The recession saps the strength of the economy as it leaves plants idle, houses unbuilt, and people out of work. We now have 6 million people unemployed—this could rise to 8 million next year. This is a scandalous waste of precious resources and an immediate major effort must be made to stop this recession and restore growth to the economy and reemployment of our workers.

We must stop the recession because it reduces productivity, raises unit costs for labor and materials, and in this way it causes much of the cost-push inflation we have today. Yes, recession fuels the inflation.

In other words, at the present time there is little, if any, trade-off between fighting inflation and recession. You have got to get the economy growing again, productivity increasing, and people back to work, to make progress on both fronts.

CRISIS OF CONSUMER CONFIDENCE

My second point is that the Government must show leadership in reversing the current economic situation. I have just received a report from the University of Michigan that shows that consumer sentiment on the economic look is at its lowest point in 25 years because they are worried about recession and the prospect of bad times ahead. These fears are strongly reinforced by widespread lack of faith in the Government's economic policy, and by concern that the Government intends to slow the economy still further in order to fight inflation.

The report goes on to say that the Index of Consumer Sentiment has dropped to 58.4, which is 14 points below May 1974, and far below the level reached during any previous periods of recession in the past 25 years. In the very serious recession of 1958, in contrast, this same Consumer Sentiment Index only dropped to about 77.

The report goes on to explain that there are three major factors that have caused consumers to be so pessimistic on the economy. First, consumer sentiment was eroded by the double digit inflation that began in 1973. Unlike previous periods of high inflation, however, attitudes toward buying large household goods were rather favorable despite the decline in consumer sentiment. To some extent, the dampening effect of inflation on consumers' sentiments was offset by a persistent inflationary psychology that convinced some consumers that they should buy at the time rather than to wait until later when prices would be higher.

A second cause for the decline in consumer sentiment has been the serious recession of 1974. The news of layoffs and declining sales that began in May 1974 has dealt a second blow to consumer confidence in the economy.

Finally, the Government's economic policy or lack of policy in recent months has served to reduce consumer confidence and consumer spending. President Ford asked the people to watch their spending and to try to save at a time when the economy was already in a period of slump. The administration's tight monetary policy and restrictive fiscal policy have greatly aggravated the slump. This misguided policy has been predicated on the assumption that our inflation was due to excess demand, when in fact it is the result of other factors that would not be measurably affected by a tight mone-

tary policy and a restricted fiscal policy, namely the quadrupling price of oil; the sharp increase in cost of food, and administered prices in large areas of our economy.

It is because of these factors that consumer confidence is now at a 25-year low. Confidence in Government has declined in a similar fashion. The Michigan survey findings strongly suggest that the intense consumer pessimism we now have makes it hard to solve either inflation or recession. Policies that signify a new start are needed to break this cycle.

Mr. President, I bring the findings of this report to the attention of my colleagues to convince them that we must act quickly to reverse the President's economic policies. I have outlined what some of these policies should be, at the economic summit, here in the Senate on other occasions, and before the Joint Economic Committee. My program would include tax cuts and tax reforms, public service jobs, stimulus to housing, credit allocation, tough wage-price policies, and other actions.

THE $10 BILLION TAX CUT

Mr. President, today I want to put the emphasis on the need for a $10 billion tax cut in 1975 to restore consumer confidence, buying power, and hopefully to get the economy moving again. The real income of consumers—particularly low and moderate income consumers—has been falling for over a year, just as their confidence has been falling. I, therefore, intend to introduce legislation at the beginning of the next Congress to achieve a $10 billion tax cut. The specifics of my proposal—which I outline below—will be provided in a letter to my colleagues so that everyone will have an opportunity to study them.

As most of you know, I have been fighting for tax reform legislation in recent months with offsetting tax cuts for low and moderate consumers. All of these tax packages have been balanced in their revenue effects because of the concern about inflation. But now the economy has deteriorated so much that we have a whole new ball game. The recession is now causing inflation, wasting billions of dollars of resources, and efforts must be made to turn it around promptly.

Assuming we must cut taxes, how should we do it? There are of course many ways it can be done.

First. Taxpayers could be allowed, at their option, to substitute a credit of between $200 and $250 for each $750 personal exemption. The amount of the credit would depend on whether this form of tax relief was combined with others or whether it would be the only measure. A $200 credit would reduce Federal revenues by approximately $6.5 billion—based on 1974 income levels—and would result in a net tax reduction for families with incomes up to $20,000. I have for some time supported this approach because it targets the tax cut primarily to low and moderate income taxpayers.

Second. The low-income allowance and the standard deduction could be increased. For illustrative purposes, an increase in the low-income allowance from $1,300 to $1,800, an increase in the standard deduction from $1,300 to $1,800, an increase in the deduction ceiling from $2,000 to $2,200, and an increase in the standard deduction rate from 15 to 20 percent, would reduce revenues by about $3 billion. Aside from improving the progressivity of the tax system, changes in the standard deduction would provide tax relief to taxpayers who are unable to itemize deductions and as a result would reduce the difference between itemized deductions and the standard deduction. An increase in the low-income allowance would reduce or eliminate taxes for those individuals and families who are actually below the poverty line, but whose inflated dollar incomes now subject them to the income tax.

Third. The personal exemption could be increased from $750 to $800 or $900. The revenue loss incurred from such an increase is approximately $1 billion for each $50 change in the exemption. This form of tax relief has more broad-based appeal, and can be justified on the grounds that all taxpayers have moved into higher tax brackets as a result of inflation. But if it is used separately, it provides larger benefits to upper income taxpayers.

Fourth. The payroll tax rate could be reduced for an 18-month period, beginning January 1, 1975, from 5.85 percent on both employer and employee to 5.2 percent, the rate in effect in 1972, or social security taxes could be reduced in some other way. The main advantage of this proposal is that it would reduce the overall tax burden on those workers who pay little income tax because of their low income status, but who are nevertheless subject to the social security tax. Of all the tax changes being considered, it is the only one which would aid those families with incomes below $5,000.

Fifth. It is also possible to reduce individual tax rates, either by a flat percentage, or by varying the percentage reduction according to incomes class. The first approach is extremely regressive, and the second approach is quite complicated.

In choosing among these approaches four principles should guide us. First, the tax cut must provide most of its benefits to low- and moderate-income consumers; second, it must be simple to implement so that we can act quickly. This means that complicated tax reform proposals must be left out of the bill; and third, it must not erode the long-run revenue capacity of the tax system.

Finally, the tax cut must be large enough to have a stimulative impact on a trillion-dollar economy—and the minimum level required to achieve that impact is $10 billion.

With these principles in mind, the $10 billion tax cut I intend to introduce will be a combination of several of the above proposals. The bill I propose will do the following:

First. Reduce taxes for low-income taxpayers by $1.5 billion by increasing the low income allowance from $1,300 to $1,800. This would help the lowest income level taxpayer.

Second. Reduce taxes $1.2 billion for those who do not itemize their deductions by increasing the standard deduction from the present 15 percent of adjusted gross income, with a maximum deduction of $2,000, to 17 percent and a maximum of $2,500. In addition to aiding low- and middle-income taxpayers, this change would also have the advantage of simplifying tax filing.

Third. Reduce taxes $6.3 billion for individuals at all income levels by increasing the present personal exemption from $750 to $900. This change would focus benefits on the middle-income taxpayer who has also been hard hit by inflation and recession.

Fourth. Reduce social security taxes $600 million for low-income workers with children through a tax credit equal to 10 percent of wages up to $4,000 in income. This change would benefit families at the very bottom of the income ladder.

Taken together, these provisions would reduce taxes about $9.6 billion. Moreover, the provisions are a package, with some benefits targeted to low-income families, and even a little aid to upper-income families. How the package would benefit taxpayers is what is important and that is illustrated in table 1.

Mr. President, I ask unanimous consent that this table be printed in the RECORD.

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

TABLE 1.—DISTRIBUTION OF HUMPHREY TAX REDUCTIONS ADJUSTED GROSS INCOME CLASSES, CALENDAR 1975

[Dollar amounts in millions]

Adjusted gross income class	Present law	Humphrey revision	Percent distribution of tax reductions	Percent reduction in tax liability
$0 to $5,000	1.7	0.9	9	48
$5,000 to $10,000	12.0	9.8	24	18
$10,000 to $15,000	21.1	19.4	19	8
$15,000 to $20,000	23.9	22.1	20	8
$20,000 to $25,000	20.8	19.7	12	5
$25,000 to $50,000	34.1	33.0	13	3
$50,000 and over	29.9	29.6	3	1
Total	143.5	[1] 134.5	100	

[1] The tax reductions in this table do not include the social security tax reduction of $600,000,000 which would accrue primarily to those in the $0 to $5,000 income class

Source: Joint Economic Committee with calculations based on Brookings tax file.

Mr. HUMPHREY. Mr. President, table 1 indicates that 72 percent of the tax reduction accrues to taxpayers reporting up to $20,000 in adjusted gross income—9 percent of the tax reduction is directed to those with incomes below $5,000; 24 percent of the reduction goes to those in the $5,000 to $10,000 income class; 19 percent of the reduction goes to the $10,000 to $15,000 income class; and 20 percent of the reduction goes to the $15,000 to $20,000 income class.

What is even more important is how much of the tax reduction in each income class reduces tax payments in that category. As table 1 shows, this package would reduce tax payments by at least 8 percent for everyone who makes less than $20,000 a year. Taxpayers who

make $5,000 to $10,000 a year would have their taxes reduced 18 percent.

Most significantly, individuals who make less than $5,000 a year would have their taxes reduced at least 48 percent. The reduction would in general be higher because the $600 million reduction in social security taxes is not included in the calculations in table 1, and that provision would accrue primarily to low-income families earning less than $5,000 a year.

Based on the evidence I have presented here, I believe this is a well-balanced tax cut proposal that targets the benefits primarily to low- and moderate-income taxpayers and does provide some aid to everyone.

Let me make two other points.

The legislation I am introducing will also have a provision to terminate these tax reductions in 1977 if tax reforms are not passed to offset these reductions. By 1977 we can expect the economy to be operating at higher levels of economic growth so that this will be possible.

The tax cut I am proposing would increase the deficit, but by less than the size of the tax cut because the cut would stimulate economic growth and raise tax revenues in 1976 and 1977. What Congress must recognize is that we are headed for a huge deficit if we do nothing. The Joint Economic Committee staff estimates the deficit could be $30 billion for fiscal year 1976 if the recession continues to deepen.

If we do not enact tax policies similar to these, there will be no economic recovery next year and the economy will remain stagnant for some time. Even if we do adopt vigorous policies to stimulate economic growth, the staff of the Joint Economic Committee has estimated that it will take at least until 1980 to bring the economy back to normal economic growth. By then the economy will have lost $700 billion in production—a tragic and enormous waste. I think we have no time to lose in our efforts to restore economic growth and I hope my colleagues in the Senate will support me in this effort.

FINE TUNING NEEDED ON THE HILL

Mr. McGEE. Mr. President, while Congress has made significant inroads into restoring the balance of power between the executive and legislative branches of Government, particularly as a response to Watergate, it is important that this balance be one which is exercised responsibly.

James Reston, in a column appearing in last Friday's Washington Star-News, warns that while this restoration of the balance is a desirable circumstance, the Congress must refrain from going too far in an effort to redress past grievances.

As Reston so poignantly noted:

> In the aftermath of Vietnam and Watergate, the Congress is reassuring itself in many positive ways, but it still has not found the line between effective and destructive intervention.

This is the challenge for the Congress: to find that fine line between a responsible role in the decisionmaking processes of our Government and a role which is obstructive or, as Reston pointed out, "destructive." We must not allow the balance to tilt too far in the direction of the Congress or our efforts to correct the wrongs of Watergate will prove to be a meaningless effort.

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

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

[From the Washington Star-News, Dec. 13, 1974]

FINE TUNING NEEDED ON THE HILL

(By James Reston)

One of the odd paradoxes in Washington these days is how well President Ford gets along with the leaders of Congress in private and how quickly the old White House-Capitol Hill battles are renewed when the private talks are over.

There are several explanations for this. In private they are usually talking generalities, and in public they are talking policies and often politics. In private the men from the Hill like the President personally, but in public they don't like many of his programs or his timing.

"Really," the President told the Business Council here the other day after a session with the Republican and Democratic Congressional leaders, "you wouldn't believe how well we all get along sometimes when the doors are closed . . .

"There was a spirit of concern for the country in that representative group . . . so I asked my former colleagues—and I think most of them sincerely agreed—if we could have a sort of moratorium on partisan economics . . . at least until the new Congress convenes in January."

But the battle goes on and the reasons are fairly obvious. Everybody agrees about the seriousness of the economic problem but not on the remedies.

The trade reform bill illustrates the problem. The Republican and Democratic leaders are for it, but the AFL–CIO thinks it will create more unemployment and is reminding congressmen from the industrial states that labor's support may be more important to them in the next election than the trade bill.

This is a fair enough issue, and the administration can probably win the argument by demonstrating that wider trade in the world would in the end produce more jobs at home than it would lose, but the larger issue of world trade is being blurred by secondary issues, and local concerns, some of them valid in themselves, but less important than worldwide trade reform.

There is a lot of talk around here about the reformist mood of the Congress, and there has actually been some useful adjustment of the congressional machinery, but the old parliamentary trick of attaching pet amendments on subsidiary issues to major bills like the trade reform legislation is still with us.

This same confusion between primary and secondary issues has come up in the efforts to amend the foreign aid bill in order to cut off military aid to Turkey. A strong argument can be made that Turkey used American arms, not for the intended purposes of self-defense but for open aggression against Greek Cypriots, but bad as this is, insisting on punishing Turkey by cutting off aid is likely to make things even worse.

The military situation in the eastern Mediterranean is already extremely fragile. How the United States could defend its interest there or get supplies to the Middle East during another Arab-Israeli war without the military facilities of the Azores, Greece, and Turkey is not at all clear, and all of them are now threatened.

Nor is it clear that cutting off aid to Turkey would persuade the Turks to make the concessions they should make in Cyprus. Here again reasonable argument results. Archbishop Makarios had every right to return to Cyprus, but his return has undoubtedly complicated, if it has not defeated, the hopes of the secret compromises that were being worked out when he returned.

In his last press conference, Secretary of State Henry Kissinger said that a series of prolonged and divisive debates in the Congress (over such things as the trade and Turkish amendments) could hamper the main objectives of his policy.

In the aftermath of Vietnam and Watergate, the Congress is reassuring itself in many positive ways, but it still has not found the line between effective and destructive intervention. It can and should influence the objectives and instruments of foreign policy, but when it intervenes in negotiations, it invariably gets into trouble.

A FAIRNESS DOCTRINE DEBATE

Mr. PROXMIRE. Mr. President, on November 26 I inserted in the RECORD part of a debate on the Federal Communications Commission's fairness doctrine. I will ask that the entire debate be printed in the RECORD.

The debate was before the 50th anniversary convention of the National Association of Educational Broadcasters in Las Vegas on November 20.

The principals in the debate were Richard Jencks, vice president of CBS/Washington; and Robert Lewis Shayon, author, critic and professor at the Annenberg School of Communications, University of Pennsylvania.

Henry Geller, formerly of the FCC staff and now with the Rand Corp., commented afterward on the debate.

In a spirit of fairness, Mr. President, I ask unanimous consent that the debate and Mr. Geller's "afterword" be printed in the RECORD.

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

A FAIRNESS DOCTRINE DEBATE

Mr. JENCKS. Thank you very much. Does the Fairness Doctrine violate the first amendment? Of course it does. And the Supreme Court will so decide when an appropriate case comes before it. The argument made by the defenders of the doctrine is simple, and on the face of it disarmingly appealing.

It is that the Fairness Doctrine enhances the First Amendment by assuring the public's right to know. If this argument is correct, a First Amendment applied to the nation's print media should be constitutional. Indeed that very argument was forcefully made before the U.S. Supreme Court in the Miami Herald case in which a Florida statute providing a right of reply was at issue. The statute was analogous to the FCC's personal attack rules which form a part of the Fairness Doctrine. But the Court last June rejected the enhancement argument and unanimously held the Florida statute to be unconstitutional. Speaking for a unanimous court, Chief Justice Burger declared, "The choice of material to go into a newspaper and the decisions made as to limitations on the size of the newspaper and content and treatment of public issues and public officials, whether fair or unfair, constitutes the exercise of editorial control and judgment.

It has yet to be demonstrated how government regulation of this crucial process can be exercised consistent with first amendment guarantees of a free press as they have

evolved to this time. If then, government compelled fairness would not enhance the first amendment as to the print media, how then can it enhance the first amendment as applied to the broadcast media?

The fact of the matter is that the case for a government guarantee of fairness is even poorer with respect to the broadcast press than with respect to the print press. Item: the consequence of violating the right of reply statute held unconstitutional in the Miami Herald case was only to be convicted of a misdemeanor. It involves no government power to shut the newspaper down.

In contrast, a broadcaster who flouted the FCC's doctrine could, and would, as in the case of station WXUR, lose its license and be utterly shut down. Item: the opportunity of the Miami Herald to impede the free flow of information to the public through unfairness is far greater than that of any broadcaster. As Chief Justice Burger observed, "One newspaper towns have become the rule, with effective competition working in only 4% of our large cities. By contrast, in 92 of the top 100 television markets, there are 3 or more television stations. Television and *radio* stations are nearly 5 times as numerous as daily newspapers." Item: Miami Herald can comply with government-compelled fairness far more easily than could any broadcaster. The cost of preparing and inserting printed material into a newspaper is low, and a newspaper format is expandable.

By contrast, the cost of producing visual material, as this audience well knows, is high, and a broadcast schedule cannot be expanded. Nothing can be added without something else being dropped.

In short, the burden on broadcasters of compelled fairness and therefore its chilling effect on first amendment rights, is not less, but is far greater than the burden of enforcing fairness upon newspapers. Yet, television and radio are at present the American public's primary source of news and information. It is not merely losing a fairness doctrine case which demonstrates the crippling impact of the fairness doctrine.

For a broadcaster to undertake the burden of defending against an FCC fairness complaint, even though he ultimately prevails, just as clearly kills first amendment rights. Two examples may suffice. In June of 1970, following several presidential primetime broadcasts, CBS initiated what it contemplated was to be a periodic series entitled "The Loyal Opposition," featuring leaders of the party out of power.

After the first broadcast, featuring Democratic national committee chairman Larry O'Brien, the Republican national committee filed a fairness complaint. The FCC upheld the complaint, and ordered us to provide free time to the Republicans. CBS appealed.

Fourteen months and thousands of dollars of legal expenses later, the court of appeals reversed the FCC and vindicated CBS. But the FCC in court decisions so clouded the area in which our license discretion might be upheld, the project was abandoned. Indeed, it might be asked what gain the Republican party would have achieved from the victory after 14 months had elapsed.

The court, as editor in chief of a journalistic organization, is simply ineffectual. Another landmark case, of course, this time with a two year delay between complaint and final judgment involved the NBC 1972 pensions documentary, "Pensions, the Broken Promise." The second class citizenship of broadcasters also creates opportunities for burdensome harassment by the Congress, as well as by the FCC and the courts.

Because of their FCC oversight responsibility, the Senate and House commerce committees often have conducted investigations and hearings on fairness charges such as was done with the CBS News documentaries "The Selling of the Pentagon" and "Hunger in America" among others.

Newspaper executives do not troop resignedly up to Capitol Hill to explain and justify their stories and features. Can anyone think that it promotes fearless journalism for broadcasters to have to do so?

If the impact of the fd on powerful and affluent organizations, like CBS, cannot be calculated, its impact on the small broadcaster cannot help but be shattering. Lawyers' fees for handling the smallest fairness complaint—and there were 2800 fairness complaints in 1972—are rarely less than 300 to 500 dollars.

Henry Geller, former general counsel for the commission, in his recent study of the fairness doctrine and broadcasting, reports that a fairness complaint over an editorial carried by a Spokane, Wash., station, a relatively innocuous editorial urging support of a bond issue to finance Expo 74 resulted in legal expenses alone of about $20,000, plus travel expenses and some 480-man hours of executive and supervisory time. This, mind you, was a complaint that didn't even reach the commission itself, let alone the courts.

After twenty-one months of proceedings, the FCC staff found that the station had offered a reasonable opportunity for reply to the editorial. But as Mr. Geller writes, because of editorials such as that on Expo 74, the renewal of a station's license can be put in question, and for a substantial period.

What effect, perhaps even unconscious, does this have on the manager or news director, next time he is considering an editorial campaign on some contested local issue. What effect does it have on other stations?

A short answer to Mr. Geller's rhetorical question is that the effect of such proceedings on the station involved and on other stations is to unconstitutionally inhibit freedom of expression and the dissemination of ideas.

Although Henry Geller is himself probably the most knowledgeable advocate of the fd, his scholarly study indicates that he obviously reads CBS vs. Democratic National Committee case as casting grave doubts on the constitutionality of the fd as it has been administered since 1962.

Mr. Geller points out that the court in that case rejected the idea of a constitutional right of access because that would have involved the FCC far too much in what the court referred to as the "day-to-day editorial decisions of broadcast licensees." Clearly, writes Mr. Geller, if that is true as to a right of access by persons to broadcast facilities for editorial advertisements, it is also true as to the application of the fairness doctrine.

So, to save the fd, Mr. G. recommends that the FCC return to its pre-1962 fairness practice, but with the major difference that the commission would make no attempt whatsoever to rule on individual complaints, but rather would determine at renewal time whether there had been such a pattern of conduct throughout the license period as to indicate malice or recklessness with regard to fairness obligations.

Now presumably this debate this noon concerns the fairness doctrine as the FCC now administers it. And even Henry Geller would not, if I read him correctly, support the argument that the doctrine as presently administered is constitutional.

There are others, however, who do not believe that even the refinements suggested by Mr. Geller would save the doctrine from being struck down by the courts. Senator Proxmire was once so devoted to the fd that it was at his suggestion in 1959 that it was elevated from mere FCC policy and made a part of the communications act.

The Senator recently announced that he now plans the introduction of a bill to eliminate the doctrine from the statute books. "The heart of my position," Sen. Proxmire says, "is that the fd is an appalling adman's name for justifying depriving radio and television of their first amendment rights." Senator Ervin, often called the leading constitutionalist of the Senate, has written of the fairness doctrine, "at its best it stifles controversy; at its worst, it silences it; in its present condition, it represents a fickle affront to the first amendment."

They are not alone. Chief Judge David Bazelon of the U.S. Court of Appeals of the District of Columbia, a judge with a record of consistent support over the years for aggressive regulation of the broadcast media is also in the number. Characterizing the FCC's revocation of WXUR's license as a prima facie violation of the First Amendment, the judge said, "It is proper that this court urge the commission to draw back and consider whether time and technology have so eroded the necessity of governmental imposition of fairness obligations that the doctrine has come to defeat its purpose." His language recalls a pressing statement by the Supreme Court in its 1969 decision in the red line case.

That is the case with its sweeping dicta about the public's right to know on which the defenders of the doctrine must rely. The court said in red line, "If experience with the administration of these doctrines indicates that they have the net effect of reducing rather than enhancing the quality of coverage, there will be time enough to reconsider the constitutional considerations. That time has surely come.

The nation's tragic experience with Watergate, if nothing else, must have the effect of forcing thoughtful people to reexamine the idea that we should entrust government with enforcing the flow of information under the 1st amendment.

What do the defenders of day-to-day government interference with the broadcast press have to say about all this? All they are left with is the iteration and reiteration of hackneyed slogans and outworn ideas. One of those is that the airwaves belong to the people. That may be true enough as far as it goes.

But the whole lesson of American democracy is that we do not secure the rights of the people by vesting those rights in their government. Isn't it clear that Am. newspapers and magazines belong to the people in a truer and more significant sense than the press of any country where it is subject to government contract? They argue that there is a technical scarcity of broadcast frequencies, and in a highly technical sense, that's true enough.

But that does not demand that we choose between applicants for such frequencies on the basis of their conformance with the govt's ideas about how news and information should be reported. In closing, I would remind you that those who call most persistently and eloquently for an ending of the fairness doctrine experiment are not in the main broadcasters themselves. The exercise of unchanneled first amendment rights is not necessarily profitable.

The unhappy fact of the matter is that most broadcasters have been content to be tame tabby cats on this issue, reasonably happy with their regulated status, relatively undisturbed by a regulatory regimen which encourages blandness and inhibits robust debate. When the FCC 3 years ago sent a questionnaire to broadcasters soliciting suggestions as to the deregulation of radio it obtained from 7000 radio broadcasters only 424 replies, and these mainly relating to trivia.

Indeed, the passivity of most broadcasters on this issue is itself a damning indictment of the long-term effect of governmental regulation of the broadcast press.

I would close by reminding you of the words of Justice Douglas, no apologist for

broadcasting, in his concurring opinion in CBS vs. Democratic National Committee. Said the Justice, "The Fairness Doctrine has no place in our first amendment regime. It puts the head of the camel inside the tent, and enables administration after administration to toy with tv or radio in order to serve its sordid or benevolent ends. What kind of first amendment," he went on, "would best serve our needs as we approach the 21st century may be an open question. But the old-fashioned first amendment that we have is the court's only guideline, and one hard and fast principle which it announces is that government shall keep its hands off the press.

That means, as I view it, that TV and radio, as well as the more conventional methods of disseminating news are all included in the concept of the press as used in the first amendment. Ladies and gentlemen, I trust and believe that when the issue framed by this debate squarely reaches the Supreme Court, Mr. Justice Douglas' brethren will agree with him. Thank you. (applause)

Mr. SHAYON. I was going to congratulate NAEB on its 50th anniversary, but I see that Jim Fellows is holding a tight clock, so I'll make it a very quick congratulation.

Dick Jencks as a good broadcaster got off right on the nose, and that places a burden on me. I want to make it right clear at the start that I am not an unqualified defender of the fairness doctrine as it is.

It has its faults, in fact much of public discussion about it has to do with suggestions for improving it, even for trading it for other measures that will protect fairness for the public. I'm prepared to talk about them if we get into them, but just now I'm saying no to the clear proposal that the fairness doctrine violates the constitution. That's the area we're constrained to discuss and I'm sticking to it.

In a debate, when the pros and the cons don't know what each other is going to say, there's a lot of overlapping, and of course, Dick anticipated some of my comments, and I anticipated some of his. But at the risk of redundancy, I'm going to formulate a line of reasoning which gives you a picture of the fairness doctrine as the negative sees it rather than the affirmative. Then we'll get into a trading of arguments later on.

The answer to the question is of course no because the Supreme Court has said no. It said no, as Dick suggested, in Red Lion, the case which challenged the constitutional and statutory bases of the doctrine and its component rules. It even said no in CBS v. DNC. Indeed, it's curious to know that in that very case, CBS relied on the fariness doctrine to reject a right of paid access. Again the U.S. Court of Appeals said no in the pensions case which Dick mentioned.

It said that the licensee did not make an unreasonable judgment in implementing the fairness doctrine, but had a wide degree of discretion in the handling of news documentaries. But the court in no way suggested abandoning the fairness doctrine. Whenever it's been at issue, the courts have by a majority sustained the fairness doctrine in broadcasting as a necessary control for the public interest. The broadcaster can not assert a right to freedom of the press that transcends the public's right to know.

To be sure there are dissenters. A good friend the liberal Justice Douglas is a first amendemnt hard-liner. Justice Stewart joined him in his dissent in CBS vs. DNC. And chief justice Bazelon of the court of appeals has had doubts about the fairness doctrine. But Justice Saterday, if you read your New York Times, you'd see that the good judge is wavering.

He made a speech at the FCC Bar Association in which he expressed his doubts public interest. In an outspoken attack on about the industry's performance in the television not equaled since Newton Minow's wasteland speech he said that the industry was making it difficult for judges and lawyers to ensure that traditional guarantees of freedom of the press continue to be applied to television. So you've got Bazelon wavering between the two extremes.

Nevertheless, as Chief Justice Hughes once said, we live under a constitution, but the constitution is what the judges say it is. As of now, the Supreme Court has said eight to nothing in Red Lion that the fairness doctrine is constitutional, and they said it again in CBS vs. DNC, 7 to 2. Of course, the Supreme Court has reversed itself in the past. Classic majority dissents have lived to see the day when they became majority opinions.

Dick Jencks may be the John Marshall Harland, the great dissenter of the 19th century. He may be doing us a great public service by hammering away at the minority view. I could stand on what the lawyers call *stare decisis* of the court and say "It is settled," but that wouldn't be any fun. So let's go into the thicket of the constitutionality of the fairness doctrine and have another round.

I take it Jencks, representing many broadcaster licensees, wants to join the heavenly company of the print publishers, who are exempt from the regulatory powers of government, although of course, they are beneficiaries of salutary government intervention in their business, by virtue of enjoying favorable postal rates.

Publishers don't mind the camel's nose in the tent when it helps them to make a profit. The broadcasters want the same rights that the print media enjoy. Should they have it? Justice Holmes once said, "The life of the law has not been logic; it has been experience." Nevertheless, let's try logic. Let's not have a debate; let's pursue truth.

And again quoting Justice Holmes, "All I mean by truth is what I can't help thinking." The purpose of the first amendment, as our moderator said, was to keep government from prior censorship of the press so that ideas could flourish freely in the marketplace, robust, vigorous, clashing, antagonistic. Out of this would emerge the wisest decisions for a democracy. That was the faith. Only if the fairness doctrine in broadcasting under it, only political candidates and persons specifically attacked on the air have clear, unqualified rights to speak.

As for the rest of us, in determining whose rights are paramount under the first amendment the courts have said that it is the right of the people to be informed that is paramount, not the broadcasters' rights, not the viewers' nor the listeners' nor even the one who wants to speak his mind in public forums. It's the right of all of us to have spread before us a diversity of opinion. On that, as Judge Learned Hand said, "We have staked our all." OK, diversity of opinion and an informed electorate, on that the broadcaster and the regulator agree.

The position of the regulators is that it's not unconstitutional for the government to use the first amendment affirmatively to ensure diversity of opinion. You know the arguments, scarcity of frequencies, the public trustee concept, the recipient must give the people something in return when he gets a franchise. At the very least, an obligation to conduct informed public discussion on matters of concern, and when conducting them, to be fair to all shades of opinion. The broadcaster is given the widest possible latitude in exercising this public trustee function.

This is the constitutionally approved scheme for broadcasting. It's different from the print media where the publisher has an unabridgeable right to be unregulated. The broadcaster may even refrain from raising any controversial issues and still escape sanctions. This happens, as you know, many years when stations fail to broadcast even the barest of news and public affairs and get their licenses renewed.

The fairness doctrine, is hardly perfect in its implications and implementations. It has many derogators on right and left, but it is the bedrock of the public interest standard of the communications act. Take it away, and you have no act. The position of the broadcasters who urge the abadonment of the doctrine is that it invades the first amendment rights of the broadcasters.

Mr. Vincent Vasilefski, president of the NAB in a fairness doctrine hearing in 1968 before a House Subcommittee argued that even if the government grants the broadcaster a franchise with exclusive use of a frequency the government may demand nothing in return without violating that broadcaster's first amendment rights. The argument further runs that most broadcasters will, by necessity and just plain natural virtue, be fair without regulation. Go peddle your ideas to another station, to a newspaper, make a speech, write a book. You ought not to have a direct legal remedy.

There should be no way in which a broadcaster can be chastised for failure to give someone else the right of reply to anything the broadcasters says on the air. This doesn't mean, say the broadcasters, that the listener is left with no remedy at all. There is a— remedy. What is it? Listen to Mr. John J. Koporra, Vice President for news for Metromedia at the House Hearings in 1968: quote "There's a very orderly procedure for taking care of the bad broadcaster in the capitalistic system. That is, he will go broke, and be forced to sell.

A bad broadcaster will not survive," end quote. In short, the broadcaster should get his franchise and have no obligation to be fair other than his own sense of decency. That's how we get diversity of opinion, and serve the needs of a democratic society for informed discussion. To do otherwise, to insist that the broadcaster be legally required to be fair would be to harass, to inhibit him, to chill him, rather than risk legal sanctions, he will engage in no controversy, and all his broadcasts will be bland, and there would be no diversity of public opinion.

What should one reply to this position? At the worst, it seems to me that it is unconscionable that one man should say to the people of the United States, "Give me a piece of everybody's electromagnetic spectrum and I will operate it for my own partisan purposes and profit and keep everyone I don't agree with off the air." But let's suspend judgment and try it out. Let's see how it would actually happen.

Many of you are familiar with the famous WLBT–TC case in Jackson, Mississippi. The licensee was LaMAr Life Insurance Co. and all through the late 50's and 60's it was asserted by citizens of Jackson, Miss. that the station was guilty of racial and religious discrimination. It cut off network civil rights broadcasts with signs reading "Sorry, cable trouble."

Eventually with no help from the FCC, the Office of Communication of the United Church of Christ persuaded the U.S. Court of Appeals to grant a hearing, and when the evidence was all in some five or six years later, the court itself vacated the license of LaMAr Life. It said that the FCC's record in the case was irreparable, and it took the license revocation sanction into its own hands. Now suppose we eliminate the fairness doctrine.

A licensee operates one of two vees in Jackson. It decides to put on racist editorials. You don't think that can still happen? Go down to Jackson. What's to stop him? Does a black citizen rush to the competitive station and beg time for a reply and possibly be refused? To the newspapers and get turned down? Perhaps they wouldn't turn him down, but they could, couldn't they? And he'd have no legal remedy, none at all.

I ask Dick Jencks, do you really believe that such a system would serve our need for

an informed public opinion, for fairness in the clash of ideas, presumably the lifeblood of our democracy? If you ever got the Congress to abandon the fairness doctrine, and broadcaster mavericks act up the way WLBT did, there would be such a public cry of outrage that the next fairness doctrine written into law would have the kind of teeth the present one lacks, and I don't think the broadcasters would care for that bite at all.

They want the same first amendment *rights as the print* media. What that means is that they want a monopoly based on scarcity of frequencies, and they want it free and clear of any legal obligation to be fair in public discussion. I'm not prepared to let them have it on those terms. You wish to be free of obligations? Then I'll free you also of your monopoly position.

No obligations, no monopoly. Turn pay cable lose. Let's have a real competitive market based on open entry, and we'll discuss it. But they're trying to stop pay cable. They don't want an open entry. They want a protected market and on top of that they want no legal obligations for fairness. Trust us, they say, we'll be fair because we love fairness. And if there are a few bad apples, the system will take care of them. Now, come on. Ok, there are other solutions.

Let's rewrite the act. Let's auction off the frequencies to the highest bidders. Give it to the winners, free and clear of any fairness doctrine restraints, but on condition that they set aside 10% of prime time for public access and that they give—you're gonna love this—10% of their gross revenues to public broadcasting.

Then you can have your unharassed, uninhibited first amendment. You want that Dick? If you have no fairness obligations, why should you be allowed as CBS to own 5 VH stations in the top market? Why not just one? The so-called chilling effect of the fairness doctrine is legendary, despite the protestations of professional journalists, our scholarly expert Henry Geller says that they've never even been documented.

Everyone knows the fairness doctrine is really a mild regulation. Broadcasters have lived with it and maintained their profits. What the broadcasters are really worried about is access. That's what they're concerned about. People are not content to let Cronkite and Reasoner, Chancellor speak for them and say every night that's the way the world is. Is it? People want counter-rags. There will be more court challenges. Dick, in 1969, at a panel of the American Bar Association, you accepted Red Lion as the farthest permissible reach of government.

The figures show that the networks in only one case, the famous NBC-Chet Huntley case, where he broadcast an editorial favoring cattle raisers when he had an interest, a conflict of interest, was the only time the networks ever got hooked. In the NBC case, the courts overturned the FCC. Figures. In 1971, there were 2000 fairness doctrine complaints. In only 168 cases did the FCC send inquiries to the stations, an 8% ratio of inquiries to complaints.

There were only 69 FCC rulings, and only 5 out of 2000 were adverse to licensees. Even in 1972, Dick, in Aspen, Colorado, you still found that the fairness doctrine has worked fairly well. You relied on it in CBS vs. DNC. Judge Tamm of the U.S. Court of Appeals dissenting in the NBC pensions case said, "The fairness doctrine as it has been utilized here is the yeast of fairness in the dough of the telecaster's right to exercise his journalistic freedom."

Nobody asked the broadcaster to be a public trustee. He volunteered for the license. He volunteered for it, and he did it with his eyes wide open to what the terms of the game were: a right to make a mint of money in return for fairness to the public in controversial issues, a balancing of his rights against the people's rights under the first amendment.

If CBS or any other licensee doesn't like the way the game is played, let them turn in their license and resign. There are plenty of others waiting on the sidelines with very eager appetities to get into the game under the exceptionally mild and generous conditions of the constitutional fairness doctrine.

Mr. JENCKS. Well, I'll try to deal with some of the matters that Bob Shayon raised. He says that the Supreme Court has firmly decided that the Fairness doctrine is constitutional, which I don't think is the case, and the real test will be the S. C. gets a case in which a license hangs in balance, such as the Brandywine case which did not go to the Supreme Court.

Judge Boyelan was among others who do not think that Red Lion is dispositive as to the legality of the fairness doctrine. And it's very curious indeed that last June in the Miami Herald case, although striking down the right of reply statute directly analogous to the right of reply regulation which it had upheld five years before, the Supreme Court of the United States did not even mention Red Lion, did not attempt to distinguish it, did not attempt to justify it.

Now, Bob says that I'm asking you to rely upon the decency of broadcasters. I'm not, anymore than I ask you in the print field to rely on the decency of publishers. Rather, I'm asking you to rely upon their contentiousness and their desire to reach their readers, if they are running media general circulation. He says the bedrock of the communications act is the fairness doctrine, take it away and you have no act.

Well, you had no fairness doctrine from the inception of the act in 1934 until 1949, and you had no fairness doctrine embodied in the statute until 1959. So, clearly you can have a communications act and proper regulation of broadcasters and no fairness doctrine. He talks about commercial broadcasters desiring to strangle pay television, and if that's the case, there are laws suitable to cope with that. The anti-trust laws for one.

Justice Douglas made clear in his opinion from which I previously quoted, and I quote again, "The commission has a duty to encourage a multitude of voices but only in a limited way, viz. by preventing monopolistic practices and by promoting technological developments that will open up new channels. He got quite a laugh from you in talking about the possibility that he would be willing to auction off our first amendment rights if we would be willing to give 10% of our profits to public broadcasting.

If he would really be willing to abandon his precepts for a price, then I think we have gauged his depth of feeling about the first amendment. He asks me the rhetorical question can I really believe, he says, can I really believe the system of untrammeled freedom would serve our needs? And I ask you back, can you really believe that the press of this country, the print press, serves our needs?

And if it doesn't, why not? Look about you, when you read your morning newspaper, whether it be the Las Vegas Sun or the New York Times, or the Los Angeles Times, or the Washington Star-News, or the Washington Post, when you read your news magazine whether it be U.S. News and World Report or Time or Newsweek, do you yearn to have the power to make a federal commission make that publication do its will? Do you yearn to have the licenses of those publications terminated? Do you yearn to have a federal court in Washington decide when their articles and features had been fair and unfair?

And more to the point, do you yearn to have those editor-in-chief's decisions come one year, two years, three years after the controversy which precipitated them? Does that strike you as improving the press upon which you depend every day of your life?

If it does not, then the humorous solutions and the decency of broadcasters are really beside the point. Broadcasters are no more decent, nor any less, than newspaper publishers. (Side 2 of tape.) Stations as superb as any of the best of the print media in this country. The question is what is the risk of allowing that freedom to happen? I don't have any more time, So I * * *

Mr. SHAYON. Well, as to the constitutionality of the fairness doctrine, I would welcome a test confronting the issue head on. Dick is right. The courts have hedged very often in confronting the issue squarely, even in the WXUR decision, Brandywine, the argument was that the decision was based—the revocation of the license—on what the majority opinion called "a very narrow ledge."

The judges are very sensitive to getting into a confrontation of the issue, and I for one would like to see a case come before the court where it met it head on, but as of the present moment, the best indications we have is that whenever faced by the Supreme Court in a tangential situation, they seem on the whole to have upheld the necessity for the fairness doctrine.

Now, Dick says that there was no fairness doctrine until 1959–69. Now I disagree with that. If you read the history of the Federal Radio Commission, you will see that in its initial rulings, they specifically and explicitly set forth the principle of fairness to all shades of opinion. Very quickly the politicians got into the act and got section 315 written for them in fairness.

It took a little while longer for everybody else to get their bit into the act, but the concept of fairness was inherent in the regulatory scheme this country's broadcasting licensing system from the very beginning on, and if Dick would like we could go to the records and we can check it out. He talks about the press serving the needs. Well, I for one happen to believe that the press in many respects did not serve the need of the people.

I happen to agree with Jerome Barren that I'd like to see an experiment made in the right of access for reply to newspaper space—it's much easier for the newspaper to add pages than it is for a broadcaster to add time, that's true. But I don't think that the present system adequately meets the demands of the 20th century for all the people to get into the act of diversity of opinion. Barren is right.

The romantic conception of the first amendment that was in view when the founders of our republic framed the Constitution is no longer adequate to the needs of the 20th century. We have different means of communication, massive means of communication, which take a lot of money, as our moderator says, and the ordinary citizen just can't get into that game, so we have a real realistic notion of the marketplace of ideas, and it presents new problems.

I don't say that the fairness doctrine as is is the answer, but I say, it's the final bastion we have under the present system for the legal protection of the citizens' rights, and I'm not prepared to forego it and take the risk of trusting either the wisdom, or the decency or the fairness of broadcasters to implement the first amendment rights. Let's talk for a minute about this chilling of the press. It's argued that it arises as a result of the economic and procedural and time burden imposed upon broadcasters.

I have a different theory about the chilling effect. It comes from the economic structure of the industry. The industry is foremost committed to entertainment, so it says to its people in news and public affairs, "Here's a little corner of the total spectrum. You operate that little corner, and don't you dare get out of it." So the Cronkites and the Reasoners, naturally they're human like all of us, they say, "That's

my little corner. That's my territory. I'm in charge of it, so I'm going to be the judge of what goes in and what goes out, and I'm going to be the public voice, and I'm going to be the trustee."

But they resist attempts of anybody else to take a little piece of their precious corner and play with it, and I say that's not adequate to represent the rights of all citizens today. There's a clamoring, a hunger for public discussion by spokesmen who want to initiate controversies that the public media do not even recognize as controversy. How are we to deal with that problem?

There are suggestions for improving the fairness doctrine, for trading perhaps for free speech messages. I would be in favor of an experimental situation to see whether or not it would really provide a solution to fairness doctrine's defects, but I'm not prepared to scrap the fairness doctrine until I see whether or not this system proves out.

What I'm arguing is that broadcasting is still not the print media, the public still needs protection in the area of limited frequencies, and that the fairness doctrine line should be held until something better can be demonstrated.

Question from floor.

Dick, isn't it true, apropos right from the beginning, that when Secretary of Commerce Hoover, later the President of the United States, as the Secretary of Commerce, he considered broadcasting a public property and from the inception proposed that those be a reservation of time, something between 20 and 25% of all the broadcast time, morning, afternoon, and evening, shall be reserved, not for sale, but for public use— (interrupted by moderator for second question—second question summarized in Shayon's opening remarks.)

Mr. SHAYON. Let me take the smaller question first. The philosophical basis for a discussion of the fairness doctrine and man's place in the universe—that's easy. Well, a serious question deserves a serious answer, and I conceive of man to be what I call a dialectical creature. He's capable of using his mind, he's capable of growing, he's being exercised. It's the opposite of what has come to be known as the banking concept of information and education, where you conceive of individuals as banks into which you deposit wisdom, and when necessary you submit a deposit slip and you call it back. Unfortunately, most of our public education is banking education.

But I think public broadcasting has a tremendous opportunity to be a dialectical system of education in which we won't tell people what the answers are but we engage with them in a discussion and we listen to them and we learn from them and together we engage in a growing dialectical experience. This is my view of man, as a philosophically creative creature rather than a passive one. Ok, that takes care of the easy one.

Now let's take the hard one. The hard one is: what are we going to do with this fairness doctrine? It has its defects, some people say it doesn't work for me, others say it works too much, everybody's complaining about it. Well, I think there is no mechanical solution to the problem. X amount of broadcast time reserved for the public or for free speech messages, well, I'm willing to try that, but again, man is not a mechanical creature. You don't get a mechanical solution to a creative problem.

The only real problem—the only real solution to this problem—is a real, spiritually dedicated, affirmative commitment of all broadcasters, commercial and public, to a reasoned discussion of controversial issues in the interest of an informed public opinion.

And I say, that means that they've got to go out and not only provide public forums under duress but to help the people think their way through to a clarification of the complex issues of our complex world. It isn't enough for a broadcaster to say "Here's an access program—20% of my time. Anybody that wants to come on can have a point of view and say it and that takes care of the problem of discussion in a democracy." It doesn't. The broadcasters are professionals; in that respect, Dick Jencks is right.

As professionals they should serve the people, and they should serve the people by engaging in some kind of a dialectical situation with them. They should come to us and say, "What are you trying to say? Let us help you say it. Let us use our resources to help you organize your views, and let us see that everybody has this opportunity."

A mechanical attribution if you get 2% and you get 3% and balancing it—that's never gonna solve it. The judges and the lawyers want mechanical statistical solutions—that's how they work, that's how their universe structures. They have to have unqualified laws to which they can appeal in all their wisdom. But life isn't like that.

There are no mechanical solutions to our problems. And if only the commercial broadcasters would really say "Look we're all in this human boat together. Profit is not the end of it.

The survival of our planet, of our race, of our values is involved—which has a higher priority—speech in the interest of discussion of ideas to have our democratic institutions, or speech for the peddling of commercial products, however important they are to our economy?

If only they would say that, and commit themselves to an affirmative use of their resources for public controversy, we wouldn't have any fairness doctrine complaints or problems. I've been in the broadcasting business. I organized the first CBS documentary unit, which was the first network to deal with controversial issues.

I dedicated my life to the handling of public issues over the media, and I tell you, it can be done. It can be done without fuss, without feathers, it takes a risk, it takes guts, and there is no security from problems. But if you really want to do it, you can persuade the people of this country that the broadcasters are fair in their handling of public controversy.

We're not asking for legal remedies, we're asking for remedies that come from the heart. And I think ultimately, this is what fairness is all about. Not fairness that is sanctioned and constrained by the law, but fairness that comes from the heart. That's the fairness that for 30 years I've been begging the commercial broadcasters to exhibit, and now may I add, I beg the public broadcasters to exhibit. Thank you.

Mr. JENCKS. Well. to devote myself to the question, isn't it true that President Hoover said that broadcast frequencies are public property and that broadcasters should be required to give 20–25% of their time for public uses. Yes, it is true that President Hoover said that.

There were occasions, on which you recall, President Hoover was wrong. He was partly right in that remark. He was not right—Hoover was one of our Presidents who was not a lawyer—and he was certainly not right in meaning to suggest that because the air waves are public property that restraints can be placed on the first amendment rights of those who use the property.

I think there that Judge Bazelon was correct when he said that government cannot place restraints upon the first amendment rights of the users of this property simply by declaring "I own it." Now as to the philosophical basis of our democracy, and of communications generally, I take it that it finds its reflection in the Constitution, in the proposition that this is a government of reserved powers. Powers that are not granted to the government are reserved for the states and the people. And I think that means that we trust people.

The American experiment was intended to take government off the backs of people. The framers of our Constitution could, of course, have decided upon a system under which the press would be licensed. That was the precedent they knew. That was what George III and his predecessors had done. They decided, and they didn't much like the press, which then as now is quarrelsome and difficult and arrogant, they decided they'd take their chances with it.

They thought that government control of the press would prove to be stupid, irrational, and suppressive of free speech, and they were right. 315, the equal time provision, is a good example of a stupid, irrational provision, almost everybody so recognizes now, and only the politicians don't have the courage to admit that mistake. Stupid also, is the idea of a federal commission, or a federal judge sitting in judgment on a network documentary two years after the documentary was broadcast.

There comes throughout much of this discussion the idea that if we don't like commercial broadcasters, then withholding their freedoms from them is some sort of punitive act. We say, "We're going to treat you this way until you show that you deserve better treatment." And I say that is at odds with the philosophical basis of this nation and the genius of its people. It's very much at odds with it. We've seen in the past two years the free press operate in a way which is really one of the glories of our history.

There has never been a time in the whole nearly 200 years of this country, in which the press has performed so valuable a role. So far as broadcasters are concerned, and CBS in particular, that, I'm afraid has been, not because of, but in spite of the government power over the broadcast media. CBS, as you know, was No. 1 on President Nixon's list of enemies. And there were a number of efforts made to deal with CBS, and some as you know with Katherine Graham of the Washington Post. Those didn't succeed. We don't want to see any efforts like that succeed in the near future.

So I would say to you that the experiment that we want to make is to return to the experiment that we've all been embarked upon for 200 years, which is the experiment in the First Amendment, the most extraordinary experiment that has been utilized with respect to communications in any nation in the world, and it's worked, despite some of our dissatisfaction with the print media, we know it has worked there, and I think it would work with the broadcast media, and I hope that as broadcasters, you will join the task of seeing to it that you insist upon First Amendment rights and that broadcasters as a whole have them and have them without having to bargain for them, have them without let and hindrance, have them just as the rest of the press has them. Thank you.

AFTERWORD: LOOKING BACK AT THE DEBATE

(By Henry Geller)

My first comment is to commend the excellence of the debate on both sides. Exception could be taken to a few supporting points, but the essential contentions were, I believe, well and forcefully presented. The debate covered two main issues: (1) Is the fairness doctrine constitutional under existing law; and (2) should it be constitutional; does it serve the public interest, including the crucial First Amendment goal of promoting robust, wide-open debate?

1. *Constitutionality.* Dick Jencks stresses the recent Miami Herald holding of the Supreme Court:

"The choice of material to go into a newspaper, and the decisions made as to limita-

tions on the size of the newspaper, and content, and *treatment of public issues and public officials—whether fair or unfair*—constitutes the exercise of editorial control and judgment. It has yet to be demonstrated how government regulation of this crucial process can be exercised consistent with First Amendment guarantees of a free press as they have evolved to this time." [Emphasis added]

The Florida "right of reply" statute there struck down is, he correctly points out, analogous to the FCC's personal attack/political editorializing rules. Indeed, if anything, it is harder to make the fairness case in the broadcast field because although "a newspaper format is expandable . . . a broadcast schedule cannot be expanded; nothing can be added without something else being dropped" (Jencks, pp. 3–4) .

On the other side, Bob Shayon also marshalls a powerful case: The Supreme Court found the fairness doctrine constitutional in the 1969 *Red Lion* case, and again relied heavily upon the doctrine in the 1973 *CBS* v. *DNC* case (with only two dissenters to its constitutionality—Justices Stewart and Douglas). There is no indication that the 1974 *Miami Herald* case overturned the *CBS* case, decided just one year before. Significantly, Shayon points out, the most recent Court treatment, by Judge Leventhal in the NBC *Pensions* case, distinguishes the *Miami Herald* decision, and adheres to the fairness doctrine in the broadcasting field.

How can one square these persuasive arguments on both sides? And particularly how can one square the strong holding quoted by Dick Jencks from the *Miami Herald* case with the statement in *Red Lion* that "there is nothing in the First Amendment which prevents the Government from requiring a licensee to share his frequency with others and to conduct himself as a proxy or fiduciary with obligations to present those views and voices which are representative of his community and which would otherwise, by necessity, be barred from the airwaves" (395 U.S. at p. 394).

There is no *logical* way to do so. Bob Shayon gave the practical answer in his Holmes quotation that the life of the law has not been logic; it has been experience. And in the broadcasting field the experience, "almost from the beginning" (*Pensions*, p. 13), has been different from the print medium. From the 1943 *NBC* case to the 1973 *CBS* case, regulation of broadcasting under a short-term, public interest licensing scheme has been sustained—and that is why the fairness doctrine decisions have gone in the FCC's favor.

Dick Jencks believes that when the right case is presented to the Supreme Court—one like *Brandywine* (*WXUR*) where the station lost its license because of fairness doctrine violations, among other things—the Supreme Court will strike down the doctrine. I think Boy Shayon is more apt to prove correct on this issue. The Supreme Court had the opportunity to review *Brandywine*, with Judge Bazelon's powerful dissent on the fairness doctrine—yet it declined to do so.

More important, it seems to me most unlikely that the Burger-led Court will flip-flop on this issue. Remember that Chief Justice Burger wrote both the 1973 *CBS* v. *DNC* and the 1974 *Miami Herald* opinions, so it is unlikely that the latter overrules the former. And Chief Justice Burger is the author of the *WLBT* opinion, where he states that ". . . adherence to the Fairness Doctrine is the *sine qua non* of every licensee" (359 F.2d at p. 1009). The odds, therefore, are strong for continued affirmance of the constitutionality of the fairness doctrine itself (as compared with the different issue of the legality of its general *implementation* or some particular application of the doctrine).

2. On the second issue, both debaters again cogently set forth strong arguments. Dick Jencks stressed that it is *Government* trying to insure fairness; that no one would or should desire that the Government review the editorial decisions of the Washington *Post* or the New York *Times* for fairness—why then should Governmental review for fairness of the editorial processes of NBC, CBS, or ABC be welcomed or desirable? In my opinion, Jencks does not make out a strong case that Governmental review has had a "chilling" effect on the networks' treatment of controversial issues.

The networks are "big boys" who can and do stand up to the Commission (e.g., *Pensions*). Jencks' main example, "The Loyal Opposition" program, was not dropped by CBS because of the FCC ruling (which did not really inhibit the presentation of any future programs—CBS could merely specify 10 or more issues to be addressed by the spokesman or spokesmen); the program simply did not meet CBS' expectations and indeed, CBS appeared embarrassed over it in its Congressional testimony (25 FCC 2d at p. 300, n. 25). But Jencks does score with his contention that FCC fairness activities can be "chilling" as to the smaller broadcast station. While I am admittedly biased on this score, I believe that fairness cases like KREM–TV (the Spokane, Washington ruling cited by Jencks) cannot be answered by facile recitation of fairness statistics (i.e., Shayon's observation that in over 2000 fairness complaints, the Commission referred only 168 to stations and ruled against the licensee in only five instances).

The KREM-TV ruling was favorable to the licensee, but the three-year hassle clearly might well inhibit future station coverage of contested local issues. Further, Jencks raises the disturbing point: Is such an intensive intervention in the broadcast editorial process worth the possible "plus"—that an entirely different audience hear some further presentation on an issue two or three years later?

On the other hand, Shayon correctly stresses the fundamental relationship of the fairness obligation to the notion of the public trustee. The Congressional scheme is one of short-term licensees who obtain the right to use scarce, valuable radio spectrum free because they have volunteered to serve the public interest. Shayon then points to the WLBT (Jackson, Mississippi) case where a licensee would not present the integration viewpoint, largely ignored the extensive black population in its service area, and espoused the segregational cause.

How can a licensee, who uses the frequency only to reflect his *private* views on issues of great importance to the area, be said to be a public trustee? Just as the antitrust laws provide an overlay or national mood fostering competition, the fairness doctrine affords protection that generally licensees will act responsibly "as proxies for the entire community, obligated to suitable time and attention to matters of great public concern" (*Red Lion*, 395 U.S. at 394).

Here again the debate presents an oddity—each side has advanced powerful First Amendment arguments *for* his position and faces serious First Amendments *against* his position. Again—just to state the commentator's views—it seems to me that Shayon's overall position will reflect governing policy in the next decade. For, one could ask Dick Jencks: Would elimination of the fairness doctrine really free broadcast journalism?

Remember that the present Congressional scheme for broadcasting involves the Government significantly in the licensee's overall programming operation. It *is* a licensing scheme in the public interest, and because programming is the heart of service to the public, the incumbent's overall programming operation is the crucial element examined at renewal, whether in a petition-to-deny situation or in a comparative hearing. This means that CBS' renewal of WCAU–TV in Philadelphia or the Washington Post's renewals in Florida will be judged on whether the incumbent licensee has rendered substantial service to meet the problems, needs, and interests of the area.

Further, the agency can affect the economic health of the licensee or network in many other non-licensing areas—for example, by changing the multiple ownership rules applicable to networks or large VHF stations, or changing the network programming process through prime-time access and syndication rules.

My point is obvious: Unlike print, the Government is integrally involved in the broadcasting field. So long as one maintains the public interest licensing and pervasive regulatory scheme, elimination of the fairness doctrine does not free the broadcast licensee from the danger of undue Governmental pressure or intrusion, but it does eliminate the check on licensees who would act like WLBT.

In my judgment, therefore, it better serves both the public interest and the First Amendment to retain the fairness doctrine, so long as the public trustee interest licensing scheme is kept.

Both Jencks and Shayon correctly observe that there is no *Constitutional* need to maintain that system—that while the Government must license to prevent engineering chaos, there are other alternatives that would serve the public interest and yet free the licensee from Governmental intrusion (e.g., auction or rental of the frequency, with the proceeds going to non-commercial broadcasting or access programming, and with certain rights to paid or free access for limited periods). However, such alternatives are not likely to be adopted in the near future, if ever. If this analysis is correct, the fairness doctrine will continue to be applicable in the next decade, and its problems must therefore be dealt with.

The *Pensions* case is indicative of one trend to deal with these problems. It creates a *mood* that looks with disfavor on governmental intrusion in broadcast journalism, except perhaps in egregious circumstances. Such a mood may be difficult to define and may change over time. But it is nonetheless of great importance for the administration of the fairness doctrine in the coming years.

As Dick Jencks notes, I believe that a further revision is needed to "save the fairness doctrine"—that the Commission should generally examine fairness matters only at renewal time, and then to determine "whether there had been such a pattern of conduct throughout the license period as to indicate malice or reckless disregard of Fairness obligations." (p. 7, Jencks), I can appreciate why Jencks, like Oliver Twist, wants more, but it seems to me that he is not fully taking into account the pubic trustee nature of the present pervasive regulatory scheme.

Judge J. Skelly Wright has pointed out that unike ". . . some areas of the law [where] it is easy to tell the good guys from the bad guys . . . in the current debate over the broadcast media and the First Amendment . . . each debater claims to be the real protector of the First Amendment, and the analytical problems are much more difficult than in ordinary constitutional adjudication." The answers, he pointed out, "are not easy," but he hoped that "with careful study . . . we will find some." Dick Jencks and Bob Shayon admiraby illustrate Judge Wright's point. Both are "good guys" strongly committed to promoting First Amendment goals. Both deplore broadcaster indifference to these goals. And both have made an excellent contribution to the study of the fairness doctrine and to possible courses of action.

INSURING DUE PROCESS IN TRADE PROCEEDINGS

Mr. MATHIAS. Mr. President, last Friday the Senate passed the Trade Reform Act. This week the House-Senate conference committee on this bill will meet to work out differences in the two Houses' versions of this bill. Because certain changes made on the Senate floor, and certain understandings reached during the days leading up to the Senate action are important to insuring fair proceedings and due process in the implementation of this bill and related laws, I would like to make some remarks relevant to the work of the conferees and the conference report on this bill.

The trade reform bill is landmark legislation. It will guide the trade relations among the major nations of the world for years to come. It will affect the economies of all nations, the jobs and livelihoods of millions of citizens throughout the world.

I commend the Senate Finance Committee, and its chairman, Senator RUSSELL LONG, for its detailed and deliberate consideration of this bill. It would be impossible to produce a bill of the complexity and importance which would be acceptable in every part to every Senator. But this is a sound measure, and should be enacted.

In general, the bill gives the President limited authority to negotiate reductions in tariffs and other trade barriers. Conversely, the bill provides that the President should take limited measures to retaliate against unfair trade practices initiated by foreign nations—thereby protecting American industry and American jobs.

The bill provides several methods by which the President can respond to unfair trade practices by foreign governments and industries. Among these are: First, raising tariffs, second, suspending benefits of trade agreements, third, import quotas, and fourth, orderly marketing agreements.

Moreover, the bill strengthens existing statutes requiring the President through the Secretary of the Treasury to impose duties to counteract dumping or countervailing duties imposed by foreign governments.

When this bill was first reported from the Finance Committee, I was pleased to note that the committee provided a process by which American firms and other interested domestic parties could obtain judicial review of certain critical decisions made by Government officials concerning what steps, if any, should be taken to offset dumping or countervailing duties. In the past this right to judicial review has not been extensive, with the unhappy result that the parties with the most direct interest in the decisions of the Secretary of the Treasury or of the U.S. International Trade Committee were not insured of a forum to review the appropriateness of those decisions.

The committee bill, as reported, expanded this right of judicial review. It did not, however, go as far in that direction as I believe is consistent with basic concepts of due process or with the gravity of the issues involved. Consequently, I prepared an amendment which I intended to offer to expand this right further. I am pleased, however, that the committee itself, and most particularly its distinguished chairman, during its own review of the bill, decided that the language reported did not embody the true intentions of the members of the committee and accordingly, the chairman introduced an amendment on his own behalf to expand and clarify this essential right of judicial review.

Since the chairman's amendment was accepted by the Senate, I did not pursue my own activity in this regard. It is my understanding that the judicial review provisions in title III are designed to insure fair and effective enforcement of the unfair trade statutes dealing with antidumping and countervailing duties. Under the antidumping procedures of the bill, the Secretary of the Treasury has the right to dismiss a complaint without initiating any investigation if he should decide that the complaint, in the language of the courts, fails to state a cause of action.

The judicial review provisions of the trade bill were designed to provide for an American manufacturer to have court review of a decision by the Secretary not to undertake an antidumping investigation as well as a review of a determination by the Secretary on the merits that there have not been sales at less than fair value. I would hope that the report of the conference committee would make this intent as to the proper scope of judicial review quite clear.

It is also my understanding of the judicial review provisions allowing an American manufacturer the right of review by the customs court of decisions in the antidumping and countervailing duty area that it is intended that a domestic manufacturer will have at least rights of judicial review equal those afforded to the importers under existing law as contained in section 514 of the Tariff Act of 1930 (19 U.S.C. 1514). I note that there are a number of customs court decisions dealing with importers' appeals from Tariff Commission determinations of inquiry in antidumping cases. The customs court has in these cases set forth the areas and scope of judicial review of such Commission decisions dealing with injury—for example, *Orlowitz* v. *United States*, 200 F. Supp. 302, aff'd 457 F. 2d 991, 1972.

Under the protest provisions dealing with the American manufacturer's right of judicial review as contained in this trade bill, the domestic manufacturer would, therefore, have the equivalent right of appeal to the customs court of adverse decisions by the Tariff Commission dealing with the question of injury in both the antidumping proceedings and the countervailing duty cases involving duty free items.

These are some of the results which I sought to insure with the amendment which I prepared for introduction. It is my understanding that they are clearly comprehended by the bill and clearly intended by the managers.

I accordingly commend again the committee, its staff, and its chairman for their work on this legislation and look forward to the results of the conference.

THE FOSTER GRANDPARENT PROGRAM

Mr. THURMOND. Mr. President, recently I received a very thoughtful and delightful poetic description of the Foster Grandparent program in Charleston, S.C. The message in this acrostic is particularly appropriate here in the Christmas season, because it exemplifies the gift of selfless love, joy and peace by a group of concerned senior citizens to needy children. I ask unanimous consent that this beautiful composition be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. THURMOND. Mr. President, the Foster Grandparent program is a very special kind of program which is greatly beneficial both to those older Americans who give themselves to it and to the children who receive the warmth of close personal relationships. This program is authorized under title IV of the Older Americans Act of 1965 and administered and funded by ACTION, the President's domestic volunteer agency. In Charleston, S.C., the county economic opportunity commission receives the funds and operates the program as part of its Community Action efforts. The Charleston program presently involves 64 foster grandparents who give of their time through the department of mental retardation, nursery and day care centers, and other institutions which need volunteer services to help care for children.

The Foster Grandparent program provides a useful way for older adults to contribute to their community in their retirement years and to enjoy the self-respect and satisfaction that come from being needed and serving others. In a very clear manner, it demonstrates that retired persons are willing and able to participate reliably in community service roles on a part-time basis. It also creates opportunities for low-income retirees to supplement their income.

What makes Foster Grandparent such a successful and worthwhile program is the fact that everyone involved benefits—the foster grandparents, children, institutional staff, parents and friends. Foster Grandparents demonstrates so well the abilities of older people to provide a reliable and effective community service—helping children to develop to their greatest potential.

I would like to congratulate and thank all of the foster grandparents across the country who have given their time and talents to this most worthwhile

endeavor, and I hope other older Americans will see fit to follow their example. I believe if our retired citizens would only look around their communities, they would find numerous ways in which they can bring a greater joy and happiness to themselves and others during this holiday season.

Additionally, all of us need to be more aware and appreciative of the actual and potential contributions of our senior citizens. They are a part of our Nation's wealth and strength, and we should make every effort to use their valuable resources in worthwhile efforts such as the Foster Grandparent program.

EXHIBIT 1

FOSTER GRANDPARENT PROGRAM,
Charleston, S. C., December 1974.

F aith is to believe on the word of God.
O ur strength is often the weakness we're damned if we're going to show.
S eek today to make your tomorrow a time of peace.
T ain't worthwhile to wear a day all out before it comes.
E very day count your blessings over again.
R esources of the spirit are like savings; they must be accumulated before they are needed.

G od touches your life in many ways and speaks to you in many voices.
R each out and capture the joy of today.
A language which the deaf can hear and the blind can read—Kindness.
N ot enough to do our best, sometimes we have to do what's required.
D ecent provisions for the poor is the true test of civilization.
P lease be as kind to me tomorrow O God, as I was kind to my neighbor today.
A long life may not be good enough, but a good life is long enough.
R ather than looking back with self-congratulations—Shape the future!
E verything ripens at its time and becomes fruit at its hour.
N o one grows old by living—only by losing interest in living.
T he natural flight of the human mind is from hope to hope.

P overty has stimulated one talent for each hundred it has blighted.
R eal happiness comes from completing what God gives us to do.
O Lord, reform the world—beginning with me.
G et rid of those prejudices and thoughts that are hopelessly out of date!
R ecreate peace in yourself to reestablish it in others.
A ll the goodness and order in the world are an echo of God.
M ay you win God's blessings and share our joy in the good we are able to do through you.

Our special wish is that the Peace and Joy of this Holy Season be with you all through the year.

FOSTER GRANDPARENTS AND STAFF.

PUBLIC JOBS

Mr. HANSEN. Mr. President, in the Sunday, December 15, edition of the Washington Post, Mr. Robert J. Samuelson has written an editorial entitled, "Public Jobs: Commonsense or Nonsense." Mr. Samuelson notes that unemployment in November reached 6.5 percent, which is the highest rate since 1961. He also states, in light of this figure, the irresistible appeal to public service job proposals is understandable. However, Mr. Samuelson asks a question which I would venture to guess many have not asked. That is, How much good will these proposals if enacted, do?

In light of the passage of S. 4079, and H.R. 16596, the Special Employment Assistance Acts of 1974, which I opposed, I feel the points in Mr. Samuelson's article deserve consideration and ask unanimous consent that the article be printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HANSEN. Mr. President, Mr. Samuelson treats many of the inherent dilemmas associated with the economy and public service jobs in his editorial. There is a split of authority between economists as to whether public service jobs will solve our economic plight. Some believe economic stimulus is needed to prevent deep recession and public service jobs will provide this stimulus. Others believe some unemployment may be necessary to cool inflationary fires since public service jobs are only financed by the creation of more Federal money. Regardless of this dilemma, both schools of economic thought have agreed this Special Employment Assistance Act has not solved the problem.

Mr. Samuelson observes:

Finally, if—as many economists believe—a prolonged period of relative high unemployment is the unavoidable price of curbing inflation, then a jobs program may simply postpone the inevitable, or cause more inflation. Many economists who believe differently—that is, those who favor strong economic stimulus to relieve unemployment—think a jobs program will be too small to do much good.

Other dilemmas which are not solved by this bill are numerous. Should these jobs be new jobs for the disadvantaged or should they attempt to hire those perhaps better qualified who have recently been dismissed due to lack of State funds. The jobs should be jobs to help our economy over the roughest inflationary period and yet should not be programs which turn into deposits for permanent Federal funding for Federal and State jobs.

The dilemmas are inherent and numerous. However, the Special Emergency Assistance Act of 1974 which authorizes $4 billion to create about 500,000 jobs, representing less than 1 percent of the unemployment total and which contributes insignificantly to providing a productive job program while it continues to increase inflationary spending, is not my idea of a commonsense solution.

EXHIBIT 1

PUBLIC JOBS: COMMONSENSE OR NONSENSE?

(By Robert J. Samuelson)

It's almost impossible to suggest doing anything about the economy these days without running into someone who will suggest just the opposite. You name it—wage-price controls, a tax increase, spending cuts, a tax reduction—and somebody's against it. Except, of course, for "public service" jobs. Nobody, it seems, is against them.

Who could be? With the unemployment rate at 6.5 per cent in November, its highest level since 1961, public service job proposals have an irresistible popular appeal. For the last month, the White House and Congress have been struggling less to assure that new legislation passes than to see who gets most of the credit. A $2 to $4 billion program is almost certain to become law soon, probably before the end of the year.

But how much good will it do? Well, not as much as the widespread support might indicate. In fact, the available evidence suggests a number of reasons why the results may be rather modest.

First, while creating new jobs directly may be a slightly more effective way to stimulate the economy than an equally large tax cut or spending increase, the program isn't big enough to change the employment picture dramatically. By providing an average salary of $7,500 to $8,500 a year, a $4 billion annual program would create about 500,000 jobs, representing less than 1 per cent on the unemployment rate.

Second, the program's stimulating effect may wear off rapidly as a result of what economists call the "displacement" effect. In plain language, this means that once city and state officials—who do all the hiring—see that the federal government is picking up the tab for local jobs, they will use federal funds to hire people they would have hired anyway. After six months or a year, more than 50 per cent of the "new" jobs may be lost in this way, many economists believe.

Third, those who hope that public service jobs will aid the poor and the disadvantaged may be disappointed. State and local officials tend to hire the best qualified job-seekers—who aren't necessarily the poorest and most disadvantaged. As unemployment rises, the dilemma—choosing between people who need jobs most and those who appear best qualified—intensifies, because there are more experienced jobless workers.

Finally, if—as many economists believe—a prolonged period of relatively high unemployment is the unavoidable price of curbing inflation, then a jobs program may simply postpone the inevitable, or cause more inflation. And many economists who believe differently—that is, those who favor strong economic stimulus to relieve unemployment—think a jobs program will be too small to do much good.

At least the first three of these sobering conclusions qualify as more than mere conjecture. Although most Americans probably associate "public service" employment with the Depression's Works Projects Administration, a recent experiment—the Public Employment Program (PEP) in 1971—represents a much more reliable indicator of what may happen. And evaluations of PEP suggest the modest results.

NO REAL CONSENSUS

Against these likely achievements, the overwhelming political support for a jobs program seems strangely out of proportion. The mystifying disparity has a simple explanation: The political consensus is more apparent than real.

Huddled under the common label of "public service" employment are a number of sharply different concepts. The label covers huge permanent programs aimed at cutting into the high unemployment rates of poverty pockets, where heavy joblessness persists even during periods of prosperity. But the White House has embraced a far more limited concept. Despite President Ford's pledge last week to back a program significantly larger than he originally proposed, his basic position remains unchanged. The White House program is intended to be a temporary Novocain for the recession, designed as much to avoid the appearance of being callous as to bring down unemployment. And, specifically, the administration opposes any program that might turn into a perpetual source of federal funding for local and state jobs.

That's precisely what many mayors and city managers, hungry for new money to support their sagging budgets, want. They may get it, too. PEP was a temporary program but, when it was due to expire, Congress responded to protesting mayors and county executives by including a similar though somewhat more modestly funded program in the new Comprehensive Employment and Training Act (CETA).

"I think that public service employment is now locked in," says Robert Anderson, director of manpower for the National League of Cities. "The only question is the extent to which it will be funded. But I don't see any retreat."

Whatever the future, there is little doubt that a large-scale jobs program is eminently feasible now. If the PEP experience is any guide, there will not be any problem creating new jobs quickly. Under PEP, a totally new program, localities hired 100,000 workers (about 55 per cent of peak employment of 182,000) within the first five months.

Now, things will probably move even faster. The new legislation will probably waive some requirements that local officials disliked (for example, that only workers who have been jobless for 30 days or more can be hired).

More important, many cities are anticipating the legislation by preparing job lists. Chicago, for example, already has selected about 2,500 jobs, and Samuel Bernstein, assistant to the mayor for manpower, estimates that most could be filled a month after a go-ahead from the Labor Department.

Nor should the jobs consist primarily of makework. To be sure, many of the PEP jobs were deliberately intended to be easily switched on and off; perhaps a quarter to a third of PEP employees were put to work repairing roads, fixing buildings, or caring for parks, where officials usually believe they have a large backlog of undone work. (Indeed, the Ford administration implicitly favors these kinds of jobs because they would permit a smoother phase-out of the program).

But many jobs have been spread throughout existing city agencies. In Pittsburgh, the city hired security guards for its schools. San Francisco added to the staff of its parole department. In San Jose, public service workers were used to maintain public library hours when city budget cuts threatened reductions. In Detroit, the city is now using CETA funds to hire bus drivers.

Unfortunately, the very similarity of new jobs to existing jobs makes it difficult to determine how much the jobs program fulfills the goal of creating new employment. The deteriorating finances of many cities and counties will almost certainly compound this confusion. Squeezed simultaneously by inflation and recession, many localities are already considering hiring freezes or cutbacks. At least two major cities, New York and Cleveland, have announced significant layoffs. New York, facing at least a $430 million deficit in its $12.8 billion budget, has cut 7,900 jobs, or about 3 per cent of the city's work force. And Cleveland plans to eliminate 1,100 of its 11,000 workers on Jan. 1.

In this situation, the first and most logical instinct of local officials is to hold onto existing jobs and workers. But here they collide head-on with government regulations (technically called "maintenance of effort" requirements) that are designed to insure that local officials don't play musical chairs with federal jobs programs. New York, for example, may be dismissing 7,900 workers, but it's also receiving a federal grant under CETA to hire 2,000 new workers. After a trip to Washington last week, city officials are still puzzling over the legal nuances that will determine how much of that money they can use to rehire the workers they've just fired.

New York's budget problems may seem genuine enough, but there are bound to be many cases that are far less clearcut. "What about the official who goes home at night—when no one is writing things down in a memorandum—and says to himself, 'If I juggle my budget this way, I can get (federal) money.' Then that's the way he may juggle his budget," says William Hewitt, associate manpower administrator in the Labor Department.

In an evaluation of the PEP program, manpower specialists Sar Levitan and Robert Taggart concluded that this kind of subtle substitution was widespread: "At the outset, the level of PEP jobs represented net additions to the total number of public employment opportunities. However, this initial impact declined as the program continued. In planning their budget during the first years of the program, most (localities) were likely to consider the need already being filled by PEP participants. For instance, if a number of social service aides or teachers had been hired, need to add regular employees for the same jobs had obviously declined."

WHOM TO HIRE?

The sickly state of the economy and local finances also exacerbates another inherent dilemma of a jobs program: Whom to hire? Threatened joblessness for experienced government workers puts officials in a peculiar position. "We're not talking about the disadvantaged worker," says Anderson of the League of Cities. "We're talking about Mr. and Mrs. Middle American now. They've had solid attachment to the work force, a mortgage and kids in college." True as this may be, protecting these workers clashes with the widely held belief that public service jobs should help those most in need of help.

Indeed, PEP faced the same choice and resolved it at the expense of genuinely "disadvantaged" workers. Congress set a multitude of priorities in hiring. All new workers were to have been unemployed for at least 30 days, but after that localities were supposed to give preference to veterans, the young, the old, the poor, migrants, aerospace and other defense-related workers.

As a result, perhaps only 17 per cent of those hired were "disadvantaged"; for example, only about a quarter of the workers had less than a high school degree, compared with about half of all the unemployed. Concluded Levitan and Taggart: "The simple fact is that most (localities) wanted to hire the most educationally qualified."

Though localities have benefited from PEP and its follow-on, CETA, they are dissatisfied. Many local officials feel abused by the on again/off again funding for the programs, which causes constant planning problems. "It creates severe political problems," says Ralph Rosenfeld, director of the mayor's office of manpower in Detroit. "We're the ones who have to hire and fire."

In short, PEP—though creating inevitable political pressures for permanent jobs programs—raised serious questions about how far a larger, permanent program could go in achieving the more ambitious goals of "public service" employment: reducing the unemployment and underemployment in poverty neighborhoods, where normal unemployment rates may average at least twice the national average. The usefulness of a job program depends not only on the number of real "new" jobs it creates, but also on the type of people who fill the jobs: Would they be workers who stand a good chance of finding work anyway?

No less certain is the place of a jobs program in the government's arsenal of economic measures. Economists who believe that the nation is suffering from unnecessarily and dangerously high unemployment almost unanimously support a jobs program. Indeed, assuming that there's little initial "displacement," a jobs program should give the economy a slightly larger stimulus than any equal tax cut or increase in federal spending. The reason: Additional spending, either through a tax cut or higher government purchases of goods and services, doesn't necessarily create an equal number of new jobs immediately. (The higher spending, for example, could result in more overtime, accelerated production, or sales from existing inventories.)

"With the economy sliding into deep recession, an expansion of public service employment is clearly highly desirable," Otto Eckstein, a member of President Johnson's Council of Economic Advisers, told the Congressional Committee on the Budget last week. "It is better to keep the unemployed working in public service jobs than to keep them in an unemployed status with its morale and skill losses."

Having said this, Eckstein also thinks that any public jobs program won't be big enough. "It's really a sop for doing very little. It's not going to be much bigger than $2 to $4 billion, and the economy needs a stimulus four to five times that. The economy has gotten so sick so fast that unless things are turned around, unemployment is going to 8 per cent and might go even higher." Eckstein suggests a tax cut of at least $15 billion; he believes that the inflation rate is slowly declining and will be about 7 per cent at the end of 1975, whether or not the government acts to reduce unemployment.

OPPOSITE VIEW

Precisely the opposite view comes from economist Milton Friedman. He views the entire exercise of public service jobs as a giant economic shell game: If the government creates more public jobs, it will do so, ultimately, at the cost of destroying jobs elsewhere (either because the government spends less elsewhere or borrows more money which means that somebody else will be borrowing less) or at the cost of causing more inflation (because the Federal Reserve creates more money to finance new jobs).

Friedman regards with horror proposals like Eckstein's for more stimulus. He sees the nation locked in a vicious circle of self-destructive economic policy: Every time the government tries to halt inflation, there's a premature relaxation—in response to higher unemployment rates—that leads to still higher unemployment rates—that leads to still higher inflation, which leads to another round of restrictive policies and premature relaxation. The vicious circle continues with increasingly high rates of both unemployment and inflation. What he sees now is a temporary abatement of inflation (perhaps to 6 or 7 per cent) next year, and then, with the economy reacting to excessive stimulus, a resumption of inflation rates as high as 15 per cent by 1977. The ultimate cost, Friedman says, for public impatience in curbing inflation will be still higher unemployment rates.

What separates Friedman and Eckstein fundamentally is this question: Is a prolonged period of unemployment really necessary to bring down inflation? On the answer to that question lies the ultimate value of "public service" jobs as either nonsense or common sense.

THE CONFERENCE REPORT OF THE HEALTH REVENUE SHARING AND HEALTH SERVICES ACT OF 1974, H.R. 14214

Mr. MATHIAS. Mr. President, by adopting the conference report on H.R. 14214, the Health Revenue Sharing and Health Services Act of 1974, the Congress has completed the final milestone in the long journey toward enactment of one of the most significant legislative proposals before the 93d Congress; namely the Rape Prevention and Control Act, which I introduced in the Senate on

September 17, 1973. This measure now awaits further action by the President.

As indicated in the conference report, title III of H.R. 14214 directs the Secretary of HEW to establish a National Center for the Control and Prevention of Rape within the National Institute of Mental Health. Under the provisions of this title, the Center will conduct research into the legal, social, and medical aspects of rape and will be responsible for the dissemination of information and training materials related to rape prevention and control. The Secretary of HEW is also authorized to make grants of public agencies, nonprofit private organizations, community mental health centers for the purpose of conducting a wide variety of research, and demonstration projects concerning the control and prevention of rape. Additionally, H.R. 14214 authorizes $10 million per year for fiscal year 1975 and fiscal year 1976 for the National Center for the Control and Prevention of Rape.

Mr. President, I wish to express my gratitude to the Senate and House conferees who supported the retention of the rape provisions in the final bill. I am especially grateful to the chairman of the Senate Health Subcommittee, Senator KENNEDY, and the ranking Republican of both the Health Subcommittee and the Labor and Public Welfare Committee, Senator JAVITS, for shepherding this legislation through the Senate and the House-Senate conference. Similarly, I wish to commend my colleagues on the House side, and in particular, Representative H. J. HEINZ, who introduced in the House a companion bill to S. 2422 and also served as a member of the Conference Committee.

I seriously doubt that rape prevention and control legislation could have progressed this far without the active support of many individuals and organizations across this Nation. In this connection, a special word of tribute should be given to the national staff and the local chapters of the National Organization for Women. NOW's work in behalf of the Rape Prevention and Control Act represents one of the finest organizational efforts put forth in support of any legislation before the 93d Congress.

Mr. President, I ask unanimous consent that a portion of my remarks before the Senate on September 10, 1974, in which I discussed, for the purposes of establishing legislative history, the purposes and scope of the Rape Prevention and Control Act be printed in the RECORD.

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

The phenomenon of rape is rather unique. It is the only major violent offense targeted primarily against women. In 1972, 48 out of every 100,000 women were reported rape victims. However, law enforcement administrators point out that rape is probably one of the most underreported crimes. A recent report of victimization in five large urban centers published by the U.S. Department of Justice noted that only about 54% of rapes are reported to the police. Since many of these victims may never come to official attention, efforts to prevent and treat the problems of rape, especially those concerned with providing services to victims and offenders, necessitate close attention by the many perspectives and approaches taken by health, mental health, education, social service, and law enforcement and criminal justice personnel.

Not enough is known regarding the phenomenon of rape, especially within the framework of needs and services to women in our society; the variations of rape from other crimes of violence and deviant behaviors; the short-term and long-term effects of the criminal act on rape victims and society at large; tested and demonstrated efforts to prevent its occurrence; tested and demonstrated strategies to provide services to victims, their families and close ones as well as offenders; and tested and demonstrated efforts to train those charged with prevention and treatment of rape. Through coordination of these activities to achieve the stated objectives, this National Center will provide a major contribution to the well being of individuals in our society and address particular needs and concerns of women.

The intention of this Title is to provide a focal point and a broad context in which to support investigations, promote prevention, and offer mental health and related services for rape victims, their families and offenders.

I must stress that these efforts go beyond those of the immediate and direct concern of law enforcement and criminal justice. Behavioral and social sciences, education, health, mental health, and social service agencies, and the concerned community must also be involved in the study of rape and efforts to design, implement, and evaluate improved strategies to prevent the occurrence of rape and to provide the variety of services described earlier.

The purpose of this Title would be to establish a focal point within the National Institute of Mental Health in order to meet the following objectives: to promote better understanding of rape, its causes and effects, including the impact of the crime and the threat of the crime on victims and society at large through research and the dissemination of information; to develop and implement improved strategies to prevent the occurrence of rape; to test and evaluate the effectiveness of various mental health and related services to reduce the impact of rape on victims; and to train those charged with prevention and treatment of rape.

The National Center shall make grants to and enter into contracts with public and private non-profit agencies and institutions, including community mental health centers, and to individuals for investigations, experiments, demonstrations, research and training projects with respect to the development of improved methods to prevent rape and to treat victims and offenders involved in such crimes.

Projects funded shall include, but not be limited to:

1. Investigations of the causes and effects of rape, identifying to the degree possible—

(a) the social conditions which encourage sexual attacks,

(b) the social, psychological and other motivations of offenders,

(c) the impact of the offense on the victims and the families of the victims and of the social, psychological, and mental health needs of rape victims and their families.

2. Studies of the actual incidence of forcible rape as compared to the reported cases and the reasons therefor.

3. Assessments of existing private and public education, counseling and treatment programs designed to prevent rape and treat victims; and of existing intervention efforts used by law enforcement agencies, hospitals, and other medical and mental health facilities, prosecutors, and the courts in handling and treating rape victims and offenders.

4. Demonstrations of innovative educational, counseling, media and other programs designed to prevent rape and inform society at large of the nature, extent and impact of rape; and efforts to test and evaluate the effectiveness of such demonstrations.

5. Demonstrations of services to reduce the impact of rape on victims (including child victims), and families, and to treat rape offenders; and efforts to test and evaluate the effectiveness of such demonstrations.

6. Demonstrations of training efforts for those charged with the prevention and treatment of rape, such as hospital, emergency room, and mental health practitioners and related personnel in order to facilitate the identification and effective provision of service needs of rape victims (including child victims) and their families, and offenders.

7. Studies to assess the effectiveness of existing Federal, State, and local laws dealing with rape; the relationship, if any, between traditional legal and social attitudes toward sexual roles and the act of rape; recommendations as to model laws to deal with rape.

Mr. MATHIAS. Mr. President, I ask further for unanimous consent to insert in the RECORD an article which appeared in the November 10, 1974, edition of the Grand Rapids Press entitled "New Look for Rape Crisis Team." This article bears great significance for three reasons. First it highlights the efforts of a local center which could be assisted by the Rape Prevention and Control Act. Second, this rape crisis team is working on the problem of rape and sexual assaults which apparently exists in the President's own hometown. And the third reason, for which I am most proud is that the local Grand Rapids effort is being led by a constituent of mine, Ms. Leslie Friedman of Silver Spring, Md., who is also a first year student attending Grand Valley State College in Grand Rapids, Mich.

There being no objection, the article was ordered to be printed in the RECORD.

NEW LOOK FOR RAPE CRISIS TEAM

(By Arn Shackelford)

The Rape Crisis Team, a local organization offering support to women who have been raped or sexually assaulted, marked its first anniversary in September—and it's getting a facelift.

Part of that facelift is an addition to the formerly all-volunteer group. Last month Leslie Friedman, most recently of Washington, D.C., was hired as team coordinator.

"I see my job as one of tying the work of all team committees together," said Ms. Friedman. "Rather than having eight different committees going in eight separate directions, I want to coordinate their work and keep them in touch with one another."

The Rape Crisis Team also has an office now, continued Ms. Friedman. It's at 722 Eastern Ave. SE in the Project Rehab community building, and is open Mondays through Thursdays from 9 a.m. to noon and Fridays from 10 a.m. to 5 p.m.

Although the office isn't open all the time, someone from the team is available 24 hours a day, noted Ms. Friedman. By calling Switchboard at 456-2323 and asking for Rape Crisis—you may leave only your first name or a fictitious name, and a phone number—you'll be contacted by a team member within five minutes.

Mary Harrington, one of the members, said Rape Crisis received 296 calls directly related to cases of rape or sexual abuse during its first year of operation. But a lot of calls also came in from women who had been physically abused, she added.

"I can't say this is something new we're getting into—the physical abuse—but it's

certainly something new we want to emphasize to the public," said Ms. Harrington. "We want to be available to women who have those problems, too."

Being physically abused or beaten by a man, can be just as traumatic as being raped, she continued.

"And it's just as underreported, perhaps even more so. Often the person who beats up the woman is an acquaintance, a husband or a boyfriend, and the woman is fearful of contacting the police. She either doesn't want the person arrested or she's afraid of more abuse if she does report it—possibly both. But in all these cases we're available to talk the situation down."

In the several physical abuse cases reported to the team each month, two situations arise frequetnly, noted Ms. Harrington. In many cases a woman is beaten by more than one man or by a gang of men, or is beaten by just one man while his companions "just seem to go along with it and don't do anything."

Also, the team finds that a woman often feels she has "asked" for the beating or that she "needs" it because of some disturbed quirk in her nature.

"I don't happen to subscribe to that feeling at all," said Ms. Harrington, "but it can be really emotionally painful for a woman who thinks this, particularly if she's very involved with the man who abuses her."

In rape cases being reported to the team, two other situations are being found, she continued.

"Most of our calls come from women who've been raped recently, but more and more we're hearing from women who've been raped in the past, perhaps when they were quite young. They were so frightened they kept it inside for years, gnawing at them, until they found that it's interfering with a relationship now."

Ms. Harrington said the team offers these women counseling and will refer them to another community agency if further long-term counseling is indicated.

She also noted that reports are coming in from women who have been forced into having sexual relationships with men they're dating.

"This is where a woman chooses to be involved with a man emotionally and might have become sexually involved with him in time, before he forced her. The man really gets pretty vicious and nasty with her, and under the current law it's impossible for her to prosecute. She probably wouldn't want to, anyway, because of her emotional involvement. But these women are usually very unhappy and need to talk about it."

In all cases, said Ms. Friedman, team members offer counseling and give a woman a chance to talk about her feelings and to choose between all the alternatives open to her. Medical and legal assistance also are available through team resources.

"I think it's really important that people understand we have no direct contact with the police, but that we will work with them if the woman wishes us to. And likewise, if a woman reports a rape to the police and she wants to talk to someone like us, the department contacts us."

The team will be holding a training session for volunteers Dec. 6–14, noted the coordinator. She asked that anyone interested in attending call 456–3535 before Nov. 30.

"We've reached out to a lot of women in our first year—and we're expecting to reach out, to support, a lot more in the year coming up."

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

MILITARY CONSTRUCTION APPROPRIATION ACT, 1975

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 17468, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 17468) making appropriations for military construction for the Department of Defense 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.

The ACTING PRESIDENT pro tempore. What is the will of the Senate?

Mr. ROBERT C. BYRD. What is the business before the Senate, Mr. President?

The ACTING PRESIDENT pro tempore. The Chair, under the previous order, has just laid down H.R. 17468, and the clerk has reported.

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

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

Mr. PROXMIRE. Mr. President, I present today for the consideration of the Senate H.R. 17468 together with the report from the Committee on Appropriations, No. 93–1302, making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes.

The amount of the 1975 budget estimate as presented to the Senate was $3,414,662,000. The amount of the bill as passed by the House was $3,062,108,000. The committee is presenting for your consideration today a bill amounting to $3,082,480,000. This is an increase of $20,370,000 over the amount passed by the House. However, the bill as presented today is $332,182,000 below the fiscal year 1975 budget estimate. I stress that the bill is below the estimate by about one-third billion dollars. Consideration should be given to the fact that approximately $1 billion of this bill is family housing and of that amount approximately $700 million is fixed charges. Thus, this bill for the construction of line item projects amounts to $2 billion. Therefore, I can say that the reduction in the military construction bill this year amounts to approximately 15 percent. I do not believe that any other appropriation bill in fiscal year 1975 has been reduced to this degree.

I might say that this is the result of the effort by the distinguished chairman of the subcommittee (Mr. MANSFIELD). I am a member of the committee, but Senator MANSFIELD worked very hard on this bill, and unfortunately could not be here to present the bill to the Senate.

The committee held extensive hearings on the Department of Defense and the services' requests for construction projects. Approximately 690 different line items were considered. The committee made some rather large reductions in certain line items which I will detail later in my presentation. Many of the reduced programs were meritorious in their own right but too expensive at the present time.

In evaluating the fiscal year 1975 military construction program, the committee was ever mindful that the worst inflation in the history of the United States continues unabated. The reduction in the number of men under arms and major realinements in the Army, Navy, and Air Force bases still continues to create uncertainties. The defense All-Volunteer Force concept continues to cause a large outlay of dollars in the construction program. This fact is evident particularly in the troop housing program. This bill contains large amounts for each of the services for either new troop housing or for the upgrading of substandard barracks complexes. The military construction program approved by the committee reflects the changing posture of our defense forces.

Mr. President, the rest of the detail is available.

If any Senators have questions on any aspect of this, the Army, the Navy, the Air Force, I will be delighted to respond to questions. I believe this fills in the overall general picture of what the committee is recommending to the Senate.

Mr. President, I ask unanimous consent that there be included in the RECORD remarks offered in the absence of the committee chairman (Mr. MANSFIELD) who would have given them under normal circumstances.

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

The statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR MANSFIELD

I present today for the consideration of the Senate H.R. 17468 together with the report from the Committee on Appropriations, No. 93–1302, making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes.

It is not my intention in presenting this bill to give detailed figures concerning each line item. The line item breakdown and explanation are contained in the report which has been placed on each Senator's desk.

Before going into the recommendations of the Committee on Appropriations, I will briefly summarize the pertinent facts pertaining to the bill.

The amount of the 1975 budget estimate as presented to the Senate was $3,414,662,000. The amount of the bill as passed by the House was $3,062,108,000. The Committee is presenting for your consideration today a bill amounting to $3,082,480,000. This is an increase of $20,370,000 over the amount passed by the House. However, the bill as presented today is $332,182,000 below the FY 1975 budget estimate. Consideration should be given to the fact that approximately $1 billion of this bill is family housing and of that amount approximately $700 million is fixed charges. In actuality, this bill today for the construction of line item projects amounts to $2 billion. Thus, I can say that the reduction in the military construction bill this year amounts to approximately 15 percent. I do not believe that any other appropriation bill in fiscal year 1975 has been reduced to this degree.

The Committee held extensive hearings on the Department of Defense and the Services' requests for construction projects. Approximately 690 different line items were considered. The Committee made some rather large reductions in certain line items which I will detail later in my presentation.

In evaluating the FY 1975 Military Construction Program, the Committee was ever mindful that the worst inflation in the history of the United States continues unabated. The reduction in the number of men *under arms* and major realignments in the Army, Navy, and Air Force bases still continues to create uncertainties. The Defense all-volunteer force concept continues to cause a large outlay of dollars in the construction program. This fact is evident particularly in the troop housing program. This bill contains large amounts for each of the services for either new troop housing or for the upgrading of substandard barracks complexes. The Military Construction Program approved by the Committee reflects the changing posture of our defense forces.

The Committee's complete recommendations for the Military Construction Bill are as follows:

Department of the Army, $655,976,000. This is an increase of $5,953,000 from the amount of $650,023,000 approved by the House, and a decrease of $84,524,000 from the budget estimate of $740,500,000;

Department of the Navy, $626,760,000. This is an increase of $24,058,000 from the $602,702,000 allowed by the House and a decrease of $17,140,000 from the budget estimate of $643,900,000.

Department of the Air Force, $446,202,000. This is a decrease of $10,599,000 from the $456,801,000 allowed by the House and a decrease of $120,525,000 from the budget estimate of $566,727,000;

Army National Guard, $59,000,000, and Army Reserve, $43,700,000, the budget estimate;

Naval Reserve, $22,135,000, the same amount as the budget estimate;

Air Force Reserve, $16,000,000;

Air National Guard, $35,500,000;

For the Department of Defense agencies, the Committee recommends an appropriation of $31,600,000. This is $19,000,000 below the budget estimate of $50,600,000, and $960,000 above the House allowance. The appropriation breakdown is as follows: Defense Mapping Agency, $3,243,000; Defense Nuclear Agency $1,458,000; National Security Agency $2,363,000; Defense Supply Agency, $6,336,000;

Department of Defense general support programs, $8,500,000, including planning and design; and, for the Office of Secretary of Defense emergency fund, $9,700,000.

The Committee has approved $1,245,790,000 in new obligational authority for the Military Family Housing Program. This amount comprises approximately 37 percent of the entire funds appropriated in this bill and is $96,493,000 lower than the Defense budget request. A large part of these recommended funds is for fixed charges in the Family Housing Program. The maintenance and operation fund of the Family Housing Program amounts to $707,267,000. In addition, $162,348,000 is for debt payment on Capehart-Wherry and Commodity Credit financed housing. Also $51,401,000 is for interest payments on mortgage indebtedness on Capehart and Wherry housing. Finally, I wish to point out that $310,295,000 is for the construction of the Department of Defense Family Housing Program. This money will provide for the construction of 6,802 new permanent units, which is 3,660 units less than requested in the FY 1975 budget.

ARMY

The Committee approved $244,036,000 for bachelor housing projects. This is the largest single request made by the Army for construction funds. The Army declares that the priority element of their construction program continues to be bachelor housing facilities. Since fiscal year 1972, the Army has gained Congressional approval of $695,000,000 to construct or modernize nearly 151,000 bachelor housing spaces. The Army reports that approximately 86 percent of the 1972–1973 projects have been completed or are now under construction contract. I would like to report that the Army has developed completely new criteria for barracks which places an emphasis on privacy for the individual. The Committee has, in the past, approved this new design and believes the Army should make every effort to continue to place emphasis on the bachelor housing program until all servicemen are provided adequate housing.

This year's hospital program represents the first major increment in the Army's accelerated health facilities modernization program. At $87,196,000, the program reflects a substantial increase of approximately $48.8 million over last year's appropriation. Included in the program are one new hospital, two hospital additions, one alteration and renovation project, and air conditioning for one hospital. Also included are three health clinics, 11 dental clinics, and an electrical/mechanical upgrade project which will update eight existing hospitals. The Army states that the accelerated modernization program will, for the first time, program a significant number of dental clinics.

This construction bill contains 17 projects totaling $40 million for maintenance facilities and represents a balance between depot and organizational level maintenance facilities. This dollar total more than doubles the $16.4 million for maintenance facilities approved by this Committee for fiscal year 1974. The Army continues to have a very sizable backlog of maintenance facility requirements. It is stated in documents submitted to the Committee that over $880 million will be needed to replace obsolete World War II temporary type structures and to reduce outright shortages at many installations.

The Army continues a policy of programming projects to control air and water pollution. During programming years 1968 through 1974, this Committee approved appropriations for air and water pollution approximating $225 million. The Army program this year included $1.4 million for air pollution and $17.3 million for water pollution control. This money will be spent at 27 installations in 23 states.

For a number of years the Appropriations Committee has strongly urged and supported the concept of offset agreements with the Federal Republic of Germany wherein the German Republic would make available funds for modernization, construction, and improvement of troop barracks and accommodations for the forces of the United States stationed in Germany. An offset agreement was made with the Federal Republic of Germany in December 1971 resulting in approximately $183 million being made available by the Germans to rehabilitate troop barracks in Germany. I am pleased to report that in April 1974 a follow-on offset agreement was signed under which the Federal Republic of Germany will make available an additional 600 million deutsche mark (approximately $228 million at current exchange rates) for continuation of this program for fiscal years 1974–1975.

The Committee has approved $69 million in appropriation as the United States' share of the NATO construction effort. This United States' contribution still represents 29.7 percent of the entire NATO construction program. For a number of years, the Committee has requested the Department of Defense to negotiate with our NATO allies to reduce the United States' share to an effective 20 percent level. It is my view that the Congress in the coming fiscal year in appropriating monies for the NATO Infrastructure Program should appropriate at only the 20 percent level regardless of the decision made in NATO. Studies conducted by the Committee indicate that the effective 20 percent level is both ample and fair.

Approval has been given for planning and design monies in the amount of $37 million. The Army has instituted a new program to permit earlier starts on design in order to be ready for construction awards early in the program year. It is felt that this new procedure will save money in cutting out some lost design effort.

NAVY

The Committee has approved $59,433,000 for Navy bachelor housing projects. The Navy's FY 1975 program, as amended, requested 4,921 new spaces and the modernization of 600 spaces for bachelor enlisted personnel. Another 159 new spaces were requested for bachelor officers. The Navy states that the enlisted spaces are designed in such a way that they can be used interchangeably to fill loading requirements regardless of the occupant rate. Included in this appropriation are 3,108 new and modernization of 524 spaces for the Marine Corps. It is the feeling of the Committee that the Marine Corps should be modernizing a larger number of spaces for its bachelor personnel.

The Navy hospital program is now in the second year of a multiyear accelerated program to correct medical and dental facility deficiencies by modernization or replacement. The goal of this medical modernization program is to replace or upgrade all health care facilities by the mid-1980's. The Navy appears to be having trouble in awarding construction contracts for some 15 medical modernization projects. It is the contention of the Navy that the effects of inflation and escalating costs will force the Navy to come in for deficiency authorizations in the FY 1976 program. It is the estimate of the Navy that after all bids for 1974 projects have been opened, the costs based on bids received will exceed authorization by approximately 20 percent.

Funds were denied in the amount of $3,843,000 for land acquisition, Murphy Canyon, San Diego, California. The above-mentioned sum was a downpayment on a new Regional Medical Center which the Navy is projecting at a cost of approximately $134,000,000. The Committee feels that this new regional hospital has not received adequate study. In the considered opinion of the Committee, the regional hospital should not go ahead until the GAO study, which has been requested, is complete and the Committee has all of the information available upon which to make a decision.

The Navy's anti-pollution program includes $10,908,000 for air pollution and $48 million for water pollution. This represents approximately 10 percent of the Navy's military construction program.

The Navy states that in future years pollution abatement funds for air and water projects will exceed $350 million and additional requirements can be expected as more stringent standards are established by local, state and Federal governments.

As are the other services, the Navy is experiencing difficulty in placing bids on the FY 1974 military construction program because of the current inflation. Forty-seven projects have current working estimates based on bids received which exceed the authorized project cost by at least 10 percent. In fact, the excesses range from 10.1 percent to 170 percent. The Navy is making efforts to obtain more bids for greater competition and to include more additive or deductive items in construction specifications so that a wider range of award choices is available if bids are high.

By far the largest appropriation requested

by the Navy in this year's bill is for the TRIDENT submarine support site, Bangor, Washington. The Committee has approved $100 million for site construction. This is in addition to the $112,320,000 approved for fiscal year 1974. The Navy estimates that the total construction cost for the TRIDENT submarine support facilities will be $600 million. It is hoped by the Committee as TRIDENT requirements are studied in future years that this $600 million figure can be reduced.

The question of Diego Garcia was thoroughly discussed in both the Subcommittee and the proceedings of the full Committee. Chairman Mansfield has placed in the record an all-inclusive statement concerning his position on Diego Garcia. After careful consideration, the Committee has deleted $14,802,000 as the first increment of the Navy's requirement to build an operating base on Diego Garcia and also $3.3 million as requested by the Air Force was deleted. As pointed out in the report, this was done without prejudice and each individual Senator of the Appropriations Committee can reserve his position on the Diego Garcia question until the bill has been brought to the floor of the Senate. I will have a further statement to make on the Diego Garcia question after I have completed presentation of the highlights of this bill.

The Committee recommends an appropriation of $51,000,000 for planning and design with the understanding that $6 million is for planning and design of the support facilities for the Uniformed Services University of the Health Sciences at Bethesda, Maryland.

The Uniformed Services Health Professional Revitalization Act, enacted September 21, 1972, authorized establishment of a Uniformed Services University of the Health Sciences to educate individuals, in all of the health professions, who will pursue careers in the services or other Federal agencies.

To meet this requirement the Secretary of Defense plans to start the Medical School in existing facilities which require a minimum of modifications. Leased space will be utilized for administrative and faculty offices.

The Navy Department is the design and construction agent for the Uniformed Services University of the Health Sciences and Redevelopment of the National Naval Medical Center.

The first increment of the University is needed this year to insure the orderly growth of University facilities, faculty and curriculum.

For the aforementioned reasons, the Committee approved $15 million for the first increment facility of the Uniformed Services University of the Health Sciences.

The Committee has approved $14.9 million for the National Naval Medical Center, Bethesda, Maryland, to start on the new hospital which the Navy plans to build at the National Navy Medical Center. The project cost of this new hospital is estimated at approximately $167 million.

AIR FORCE

The Committee has recommended an appropriation of $37,767,000 for bachelor housing. The Air Force is progressing in its program to upgrade and modernize bachelor housing and is presently experiencing a deficit of only 6,200 officer and 22,900 enlisted spaces. In addition, the Air Force declares that 17,700 officer and 167,100 enlisted spaces require upgrading and modernization. While the Air Force is devoting considerable resources to upgrading their bachelor housing inventory, it will be some years before the Air Force is able to complete its barracks modernization.

The Air Force has proposed eight hospital projects in this year's program in an effort to modernize its health facilities. Half of these projects address the problem of inadequate space for outpatient clinics, radiology, laboratory, and pharmacy within existing facilities and involve addition and alteration to composite medical facilities at seven air bases. The Air Force continues to modernize its regional medical facilities to meet increasing patient loads. The Committee has approved $27 million for the Air Force medical program.

In this year's budget $45 million has been requested for the Air Force depot plant modernization program. This is a program that the Air Force started back in 1972 and hopes to complete in future years at a cost of approximately $87 million. The Air Force contends that this program of modernizing its facilities and equipment will reduce repair time and hence enhance worker productivity and increase the quality and reliability of the weapons system through the depot work performed. The Committee has supported this program in the past when it has demonstrated considerable cost savings.

The Air Force pollution control program for this fiscal year amounts to $15.4 million. Beginning with fiscal year 1965 to date, the Air Force has expended $95,495,000 for pollution control. In the past, a great many pollution problems have existed at Air Force air materiel centers. However, under the present existing programs, the Air Force declares that these pending problems are being solved to comply with current existing Federal and state laws.

The Committee has added $3 million to the bill for the Air Force access road program. This amount will enable the Air Force to go forward with urgently needed projects at Keesler AFB, Mississippi, Travis AFB, California, and K. I. Sawyer AFB, in Michigan. Information presented in the hearings indicated that these projects are urgently needed because of hazardous access roads to the aforenamed bases.

The Air Force has proposed a program for additional hardened aircraft shelters, with associated hardened fuel and ammunition storage facilities on European bases. United States tactical fighter aircraft committed to deploy to NATO during a mobilization would have no shelters at their assigned bases and would be extremely vulnerable to destruction by conventional weapons. The shelters in this request will protect a portion of these aircraft, and are designed to accommodate the full gamut of U.S. tactical fighters including the new F–15, A–10, and F–111.

The budget estimate requested for the shelter program amounted to $62 million. The Committee has approved $47 million as a first increment of the new program to improve air base hardening in Europe for tactical fighter aircraft. The Committee intends to conduct a full hearing review of this program in fiscal year 1976.

The Air Force has vastly expanded its programs to incorporate aircraft flight simulators into its undergraduate pilot training and operational mission training programs. It is anticipated that the adaptation of these new training devices to Air Force flying training programs will make a major contribution to energy conservation efforts by reducing the consumption of fuel in this critical period of oil shortages and rapidly rising costs. The Committee has approved all requested funds for simulators.

Mr. YOUNG. Mr. President, I wish to join our distinguished acting chairman, Mr. PROXMIRE, in urging support of this appropriation bill.

Mr. President, I would like to commend the distinguished Senator from Montana who has worked so hard and diligently as chairman of the Military Construction Subcommittee of the Senate Appropriations Committee. He is necessarily absent, however, the bill we have before us today is testimony to his expertise and usual thoroughness, today, the bill is being handled by the distinguished Senator from Wisconsin.

H.R. 17468, the military construction appropriation bill for fiscal year 1975, provides for $3,082,480,000 in total new budget authority. This figure is an increase of $420.5 million over the amount available during the past fiscal year, but is below the budget estimate by $332.2 million. Your committee recommends an increase of $20.4 million over the measure passed by the House.

Mr. President, the vast bulk of this bill is for the continuation of programs and construction to modernize and renovate existing facilities. Recommended in this bill is more than $1.1 billion for military family housing. Another $341 million is for the improvement of bachelor housing for the Army, Navy, and Air Force.

In addition, substantial funds for pollution abatement facilities have also been approved which will enable the military to respond to the Federal Water Pollution Control Act Amendments of 1972.

The committee also recommends $105.6 million for Department of the Army projects in Europe, $73 million of which be for NATO infrastructure.

One other program of special note is the Uniformed Services University of the Health Services for which $15 million has been approved.

As the distinguished Senator from Wisconsin has already given a detailed explanation of the bill, I would just make one further note. It appears that there is only one issue of major controversy in this bill—and that is the proposed naval support facility at Diego Garcia for which funds have been deleted. But since this issue has been the subject of prolonged debate and discussion not only over this bill but also the authorization bill which passed just last week, I will not go over the point at this time.

Mr. President, I believe, taken in full, this bill is a good, reasoned, and necessary one. I need not point out that almost half of the fiscal year for which this bill appropriates funds has already passed. I, therefore, urge my colleagues to join me in supporting it.

Mr. HRUSKA. Mr. President, I rise in support of the pending bill. I do believe the fashion in which this bill was developed and the substance it contains shows the wisdom of the step taken some years ago of separating the military construction from the defense budget proper.

It is a difficult and highly technical funding that is required in this area.

I want to compliment the leadership on the committee for having done as good a job as they have.

There is one situation, however, that I wish to call to the attention of the manager of the bill, the Senator from Wisconsin. Mr. President, it has to do with two budget requests for construction at Offutt Air Force Base, the headquarters for which, I might say, are located 8 miles from my residence in Omaha. Therefore, through the years I have maintained a close scrutiny and personal observation of and acquaintance with the needs of the Strategic Air Force Command headquarters.

One of these budget requests was for

a weather control central station and another was for the construction of a library. The weather control central station item was allowed, and it is in the bill.

The second item has to do with the library. It was omitted from both the Senate and House measures.

Mr. President, the Weather Control Central Station, funded at a level of $500,000, serves a vital, high priority function for Offutt Air Force Base. Its completion will round out and greatly improve the capacity of the base to perform its mission, and with wide, beneficial impact.

The second requested item is $702,000 for construction of a long-needed and important base library building.

This item is not in the pending bill. It was not approved. The justification for these funds is not, however, lacking of high merit and necessity, Mr. President. We can be confident of this by consideration of the justification made by the Air Force before our Appropriations Committee. Mr. President, I ask unanimous consent that the text of the formal justification submitted by the Air Force be printed in the RECORD.

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

SECTION C—BASE OF REQUIREMENT

25. Requirement for project:

Project: Construction of a new base library.

Requirement: The base library is an important facility which contributes to the overall support of base educational and recreational programs by providing an outlet for creative use of leisure time. It must have sufficient space to allow for cataloging and housing of technical and recreational books, documents and periodicals, and furnish work and reading areas.

Current situation: Library functions are housed in two structures which are small, nonfunctional and structurally inadequate. One facility, a temporary wood structure, was erected over twelve years ago by a construction contractor for use by his work force. The other one was built in 1893 as a stable. The combined areas provide less than one-fourth the required space. Reading and quiet study areas are severely limited. Current floor loading capacities restrict the number of book stacks; thereby, reducing the available number of reference volumes. USAF standards authorize 133,000 more volumes than the present facilities can accommodate. These inadequacies in space and design make it impossible to properly serve the nearly 1,000 daily patrons. The nearest public library is located 15 miles from the base.

Mr. HRUSKA. By personal knowledge and observation, this Senator can speak for the relevance of this justification. The assigned reason for not including the library in this bill, however, is the compeling necessity for fiscal restraint, as I understand it.

For a time this Senator entertained the intention to propose an amendment calling for the additional $702,000. But I have decided not to do so after further consideration and after discussion with my fellow committee members, including the majority leader, Senator MANSFIELD, who is chairman of the Military Construction Appropriations Subcommittee.

These are times when all spending activities of Government should be scrutinized closely and held to a minimum. Having imposed judgements of limitation on other requested items in this and other bills, I am constrained to yield to the judgment of my fellow committee members as to the library needs of Offutt Air Force Base. This, in spite of the fact, that I am very familiar with them and convinced of their high merit.

In the alternative, I address the distinguished chairman of the subcommittee to call attention to this situation. I ask him for such comment as he may have with regard to according every consideration in the next year's budget and bill. It is my earnest hope that this can be done.

I ask these questions of the Senator from Wisconsin:

First, in view of the justification for the library, which I feel was a good and solid one, I ask whether the turndown on this item, for construction of the library, was based upon an inadequate justification or whether it was on the larger question of the fiscal constraints of the times.

Mr. PROXMIRE. As the Senator knows, and as he said, the Senate did put back into the bill the intelligence operation facility in addition to the weather central facility.

Mr. HRUSKA. That is right.

Mr. PROXMIRE. The request for the library was meritorious. We wish we could have had it. But it was only excluded on the broader grounds that were mentioned in my opening statement, that we had to make some very sharp reductions because of the inflationary situation. Unfortunately, that was one of the items we would like to have included but could not, and it was not on the basis of the merits of the project but strictly on the basis of the overall general situation.

Mr. HRUSKA. My natural inclination, when the second item was refused by the subcommittee, was to propose an amendment, either in the whole committee or on the floor. Then I was reminded in my thinking of the many instances in which I asked that items be deleted because of fiscal restraints.

I respect the committee for its decision, but I suggest that careful attention be given to the item for next year and that it be given serious consideration at that time.

Mr. PROXMIRE. I thank the Senator. I will certainly discuss that with the chairman of the subcommittee, Senator MANSFIELD, when he returns, and I will support the Senator from Nebraska in that proposal. It has merit, and I think it certainly should be considered next year.

Mr. HRUSKA. I thank the Senator for his responses.

Again, I compliment Senator MANSFIELD, the Senator from Wisconsin, and the Senator from North Dakota for the splendid job they have done.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, that the bill as thus amended be considered as original text, and that no points of order be considered as waived.

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

The amendments agreed to en bloc are as follows:

On page 2, in line 3, strike out "$650,023,000" and insert "$655,976,000".

On page 2, in line 13, strike out "$602,702,000" and insert "$626,760,000".

On page 2, in line 21, strike out "$456,801,000" and insert "$446,202,000".

On page 3, in line 6, strike out "$30,640,000" and insert "$31,600,000".

Mr. SYMINGTON. Mr. President, reserving the right to object—and I do not object—I simply ask the able manager of the bill whether he is clear on the understanding we have with respect to the problems incident to building a base further at Diego Garcia.

Mr. PROXMIRE. Yes, indeed. That has been discussed with a number of members of the committee, and I think we have an understanding of how that is to be handled.

Mr. SYMINGTON. I thank the Senator.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HUGHES. Mr. President, on behalf of the Senators from Illinois (Mr. STEVENSON and Mr. PERCY), the junior Senator from Iowa (Mr. CLARK), and myself, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 9, between lines 3 and 4, insert the following:

"SEC. 111. None of the funds appropriated in this Act shall be obligated to establish an Army armaments development center."

Mr. HUGHES. Mr. President, the amendment I have offered is simple, direct, limited in scope, and narrow in its application, but I believe it to be an important effort to protect the prerogatives of the Congress to be fully informed on, and to approve or disapprove, significant and often expensive reorganizations by an agency of the executive branch.

The Department of the Army now has under study a number of potential reorganizations in their research and development programs, including the establishment of centralized facilities for research and development in armaments. The Army calls the concept the ADC—Armaments Development Center concept.

This concept, and the numerous others being considered by the Army, spring from a study conducted early this year by the Army Materiel Acquisition Review Committee, an advisory committee of professional people and industry representatives from outside the Department of Defense. The AMARC recommendations were placed under study by a group of task forces at the Department of the Army.

Those studies have not yet been completed, and I believe it is important to emphasize that, as a result, the Army has not yet provided the Congress with any testimony regarding armament development facilities they will need under a new organization of elements of the Army Materiel Command.

What information we do have is limited to the AMARC report, which the Army characterizes as merely advisory, and a very general statement of the options the Army has under study.

The intent of our amendment is not to prohibit for all time the establishment of an armaments development center. Instead, the intent of the amendment is to insure that it is not established until Congress has had ample opportunity to receive a detailed report of the Army's plans, to review those plans, and to approve or disapprove them.

This amendment becomes necessary, in my view, because of a standard and recurring provision in the annual authorization for military construction projects, contained this year in section 102 of the Military Construction Authorization Act of 1974.

Under section 102, the Army could proceed with obligations of up to $10 million for construction made necessary by changes in Army missions occasioned by, among other things, new and unforeseen research and development requirements.

Prior notice is required to the Armed Services Committees of the House and the Senate, but not to the Appropriations Committees. And most important, prior approval of the Congress is not required.

In other words, substantive progress could be undertaken by the Army on a new armaments development center without congressional review of their plans.

To insure that congressional prerogatives will be respected, therefore, our amendment provides that, during the current fiscal year, none of the funds appropriated in this act may be obligated to establish an Army armaments development center.

I would emphasize that the restriction contained in the amendment would apply only to the current fiscal year and would expire on June 30, 1975.

Thus, the Congress will have nine months in which to examine any proposal the Army may wish to make before any substantive steps are taken toward establishment of an armaments development center.

Under the amendment, the Army would be free to develop the ADC concept to its fullest and to prepare all of the necessary data and documentation for submission to Congress in the regular course next year.

The Army could not, however, resort to the funds authorized under section 102 of the military construction authorization bill to acquire land, do site preparation, or design, install, rehabilitate, or equip temporary or permanent public works for an armament development center.

I suffer under no illusions that the amendment will block a reorganization of the Army's research and development programs, if the Army is determined to reorganize.

What it will do is sharply limit the funds available to equip such a new organization until the Congress can find out, in the regular course of reviewing the Army's budget next year, how much it is going to cost the Federal Treasury.

The Army has undertaken one reorganization after another in its trial-and-error search for what it wants. It is to be hoped that this time the Army will refrain from following the old battlefield mandate to do something, even if it is wrong, and that they will provide the opportunity for Congress to get the information as to their intentions before they proceed.

As a matter of information to my colleagues and in order to substantiate my own position of trying to get the information without being able to do it, although I am a member of the Senate Committee on Armed Services, I should like to give some of the background relating to these efforts.

THE ARMY'S REFUSAL OF INFORMATION

Mr. President, the cosponsors of this amendment, the Senators from Illinois and Iowa, have become sensitized to the Army's plans in this regard, because we have been trying for several months to obtain information from the Army on the impact of such a reorganization on the Rock Island Arsenal at Rock Island, Ill.

As the Senators know, that arsenal is situated on an island in the middle of the Mississippi River, between the States of Iowa and Illinois, although it has an Illinois address.

Upwards of 8,000 residents of Iowa and Illinois are employed at the arsenal, and each of them has, understandably, an intense interest in the outcome of the Army studies.

We may not have known even now of the Army plans, except for a newspaper report last July in the Washington Post, outlining the major recommendations of the Army Materiel Acquisition Review Committee—recommendations for the establishment of a variety of development centers involved in material acquisition and recommendations that included proposals to convert Government-operated defense facilities to operation by private contractors.

Iowa and Illinois Senators had received assurances only 5 months earlier that no major changes could be expected at the Rock Island Arsenal.

When we asked Secretary of the Army Callaway in July about the newspaper reports, he advised us that the AMARC study had been undertaken in December and completed on April 1, and that the AMARC recommendations were under serious study by the Army.

At that time, the Secretary released a copy and the AMARC report, but emphasized that it was only advisory and did not represent any final Army plans.

I am sure you will understand, Mr. President, that we felt the necessity to seek further information and requested a meeting with the Secretary.

At the meeting, Secretary Callaway graciously consented to accept all of the citizen input that was being generated in concern over possible significant changes at the Rock Island Arsenal. But he also said that he could not keep us informed as to what recommendations he received, or what recommendations he passed on the Secretary of Defense. To do so would limit the options available to him and Secretary Schlesinger.

Mr. President, I fully understand and respect Secretary Callaway's position in regard to such recommendations he received from his staff.

I also felt, however, that it was clear that the Army was planning some far-reaching, and potentially expensive, realinements that would have widespread effect and would be of direct interest to the Congress because of the expected costs and the impact on military installations around the country.

Further requests for information have yielded only a short briefing paper that provided little more information than was already in hand.

On December 9, Secretary Callaway sent a representative to Rock Island to hear expressions of concern from community leaders and from the Quad Cities Task Force, a group of citizens organized by the junior Senator from Illinois (Mr. STEVENSON).

The overwhelming theme of the citizen testimony was that they were at a loss to make meaningful comment, without knowing what options were under consideration.

The Secretary's representative provided no additional information, although as head of one of the Army task forces studying the AMARC recommendations, he was admirably qualified to do so.

The course of the Army study has been a well-guarded secret, and I, for one, am not satisfied that Members of Congress from the affected areas are being sufficiently apprised of the options under consideration.

The Army has consistently said that the studies are not completed, the recommendations are not yet formulated, and no decisions have been made.

But a decision, or decisions, are imminent. Secretary Callaway has said they will be made early next year.

Permit me to re-emphasize, Mr. President, that the Army has provided Congress with no information in hearings this year in connection with this bill, or the authorization act that went before it, regarding its plans for development centers.

Moreover, a decision early next year to proceed could clear the way for immediate steps by the Army to begin implementing its plans, if funds are available; and such funds appear to be available under the provisions of section 102 of the military construction authorization.

Our amendment would preclude the use of the section 102 authority to fund an armaments development center, and would thereby insure that Congress has an opportunity to consider any Army plans in the regular course of authorizing and appropriating for research and development activities and military construction next year.

It is for these reasons that I urge the adoption of the amendment.

I wish to add, Mr. President, that much of this could have been avoided had there been full cooperation, had there been full availability of information. The senior Senator from Iowa is a member of the Committee on Armed Services, and I believe that committee expects to receive full information on what is affecting the areas served by the Members of the Senate and the House of Representatives. The Army has had ample opportunity, for months, to have made that information available to us. We have requested it. We have requested their meeting with us, and they have been cooperative in that. But they have given us little or nothing to go on as far as plans for the future are concerned. It is for these reasons that the Senator

from Iowa proposed this amendment at this late date, to make sure that Congress is properly informed before any funds can be spent for facilities for a new organization.

I might add that the Senator from Iowa does not know whether he would oppose the reorganization plan or not. In all probability, if it is sound, if it is financially right, and if it means better efficiency for less money, he would not oppose it at all.

But, under the existing circumstances, he has no information on which to base a decision and must, therefore, request a delay in any funds being appropriated for that purpose.

Mr. STEVENSON. Mr. President, I join Senator HUGHES in offering this amendment to the military construction appropriations bill. This amendment would prohibit the Department of the Army from obligating funds under this act for the design or construction of an Armament Development Center.

Section 102 of the Military Construction Authorization Act of 1974 would authorize the Secretary of the Army under certain conditions, to obligate up to $10 million for the construction of military installations and facilities simply by notifying the Committees on Armed Services of the House and Senate of his decision to do so. Section 102 does not require congressional review or approval of the Secretary's decision.

Our concern is prompted by the report of the Army Materiel Acquisition Review Committee—AMARC—which recommended that the Army Materiel Command create a new armament development center at a single location. The AMARC study recommends that the Armament Development Center be composed of selected research and development functions currently performed at the Frankford, Picatinny, Watervliet and Rock Island Arsenals.

We are concerned that the Department of the Army has not testified before the appropriate congressional committees on the need for an Armament Development Center. Previous Army reorganizations have been costly. On their face, they appear to have been inconsistent and often wasteful. In 1969, 5th Army Headquarters was moved to Fort Sheridan, Ill., at a cost of tens of millions of dollars only to be moved to Texas 2 years later at even greater cost. An Army veterinary school, brought in to fill the empty fort 2 years ago, was just moved out again last month. Weapons research and development functions, like the Rodman Laboratory at the Rock Island Arsenal, were brought under the new armament command headquartered at Rock Island, in a $20 million reorganization as recently as September 1973. Yet, within 3 months, the AMARC task force was brought into being to study how to reorganize the Armament Command—and is now recommending the phase-out of Rodman Lab.

I fear the record is replete with examples of reorganizations which are directed at undoing and reversing earlier reorganizations. We believe that funds should not be committed to yet another expensive reorganization until the Congress has received ample testimony on the desirability and feasibility of the proposed move.

The objective of the AMARC task force was to obtain a credible review and analysis of the existing materiel acquisition process with a view toward providing the most efficient and cost effective policies possible. We agree with that objective. We have not concluded whether or not we will oppose a new armament development facility because the Army has not provided the Congress with evidence that any of the AMARC recommendations will indeed produce a more efficient acquisition process at considerable savings.

In particular, the Army has not testified this year before any congressional committee on its plans for a centralized armament development facility or its total cost. I urge the adoption of our amendment in order to insure congressional review of the plans for an Armament Development Center during hearings on the defense budget for fiscal year 1976.

Mr. PROXMIRE. Mr. President, I suguest the absence of a quorum.

The PRESIDING OFFICER (Mr. HASKELL). The clerk will call the roll.

The 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.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

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

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of calling up the following: The Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or Other Gases, and of Bacteriological Methods of Warfare, Executive J, 91–2; Convention on the Prohibition of Bacteriological and Toxin Weapons, Executive Q, 92–2; Amended Text to Article VII of the 1965 Convention on Facilitation of International Maritime Traffic, Executive D, 93–2; and Consular Convention with Bulgaria, Executive H, 93–2.

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

THE GENEVA PROTOCOL OF 1925, EXECUTIVE J, 91ST CONGRESS, 2D SESSION; THE CONVENTION ON THE PROHIBITION OF BACTERIOLOGICAL TOXIN WEAPONS, EXECUTIVE Q, 92D CONGRESS, 2D SESSION; THE AMENDED TEXT TO ARTICLE VII OF THE 1965 CONVENTION ON FACILITATION OF INTERNATIONAL MARITIME TRAFFIC, EXECUTIVE D, 93D CONGRESS, 2D SESSION; AND THE CONSULAR CONVENTION WITH BULGARIA, EXECUTIVE H, 93D CONGRESS, 2D SESSION

The Senate, as in Committee of the Whole, proceeded to consider the following conventions and protocols, which were read the second time:

PROTOCOL FOR THE PROHIBITION OF THE USE IN WAR OF ASPHYXIATING, POISONOUS OR OTHER GASES, AND OF BACTERIOLOGICAL METHODS OF WARFARE

The Undersigned Plenipotentiaries, in the name of their respective Governments:

Whereas the use in war of asphyxiating, poisonous or other gases, and of analogous liquids, materials or devices, has been justly condemned by the general opinion of the civilised world; and

Whereas the prohibition of such use has been declared in Treaties to which the majority of Powers of the world are Parties; and

To the end that this prohibition shall be universally accepted as a part of International Law, binding alike the conscience and the practice of nations;

Declare:

That the High Contracting Parties, so far as they are not already Parties to Treaties prohibiting such use, accept this prohibition, agree to extend this prohibition to the use, of bacteriological methods of warfare and agree to be bound as between themselves according to the terms of this declaration.

The High Contracting Parties will exert every effort to induce other States to accede to the present Protocol. Such accession will be notified to the Government of the French Republic, and by the latter to all signatory and acceding Powers, and will take effect on the date of the notification by the Government of the French Republic.

The present Protocol, of which the French and English texts are both authentic, shall be ratified as soon as possible. It shall bear today's date.

The ratifications of the present Protocol shall be addressed to the Government of the French Republic, which will at once notify the deposit of such ratification to each of the signatory and acceding Powers.

The instruments of ratification of and accession to the present Protocol will remain deposited in the archives of the Government of the French Republic.

The present Protocol will come into force for each signatory Power as from the date of deposit of its ratification, and, from that moment, each Power will be bound as regards other Powers which have already deposited their ratifications.

In witness whereof the Plenipotentiaries have signed the present Protocol.

Done at Geneva in a single copy, this seventeenth day of June. One Thousand Nine Hundred and Twenty-Five.

For Germany: H. VON ECKARDT.

For the United States of America: THEODORE E. BURTON; and HUGH S. GIBSON.

For Austria: E. PFLÜGL.

For Belgium: FERNAND PELTZER.

For Brazil: CONTRE-AMIRAL A. C. DE SOUZA E SILVA; and MAJOR ESTEVÃO LEITÃO DE CARVALHO.

For the British Empire: I declare that my signature does not bind India or any British Dominion which is a separate Member of the League of Nations & does not separately sign or adhere to the Protocol—ONSLOW.

For Canada: WALTER A. RIDDELL.

For the Irish Free State:

For India: P. Z. COX.

For Bulgaria: D. MIKOFF.

For Chile: LUIS CABRERA; and Général de Division.

For China:

For Colombia:

For Denmark: A. OLDENBURG.

For Egypt: AHMED EL KADRY.

For Spain: EMILIO DÉ PALACIOS.

For Esthonia: J. LAIDONER.

For Abyssinia: GUÉTATCHOU; BLATA HEROUY HEROUY; and A. TASFAE.

For Finland: O. ENCKELL.

For France: J. PAUL-BONCOUR.
For Greece: VASSILI DENDRAMIS; and D. VLACHOPOULOS.
For Hungary:
For Italy: PIETRO CHIMIENTI; and ALBERTO DE MARINIS-STENDARDO.
For Japan: M. MATSUDA.
For Latvia: COLONEL HARTMANIS.
For Lithuania: DR. ZAUNIUS.
For Luxembourg: Ch. G. VERMAIRE.
For Nicaragua: A. SOTTILE.
For Norway: Chr. L. LANGE.
For Panama:
For the Netherlands: W. DOUDE VAN TROOSTWIJK; and W. GUERIN.
For Persia:
For Poland: GÉNÉRAL CASIMIR SOSNKOWSKI; and G. D. MORAWSKI.
For Portugal: A. M. BARTHOLOMEU FERREIRA; and AMERICO DA COSTA LEME.
For Roumania: *Ad referendum*—N. P. COMNENE; and GÉNÉRAL T. DUMITRESCU.
For Salvador: J. GUSTAVO GUERRERO.
For Siam: M. C. VIPULYA.
For Sweden: EINAR HENNINGS.
For Switzerland: Sous réserve de ratification: LOHNER; and ED. MÜLLER.
For the Kingdom of the Serbs Croats and Slovenes: J. DOUTCHITCH; GÉNÉRAL KALAFATOVITCH; and CAPT. D. FRÉG. MARIASEVITCH.
For Czechoslovakia: DR. VEVERKA FERDINAND.
For Turkey: M. TEVFIK.
For Uruguay: ENRIQUE E. BUERO.
For Venezuela: C. PARRA PÉREZ.

States Parties to the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare, done at Geneva June 17, 1925

States which have deposited instruments of ratification, accession or continue to be bound as the result of succession agreements concluded by them or by reason of notifications given by them to the Secretary-General of the United Nations:

Argentina—May 12, 1969
Australia—Jan. 22, 1930 [1ab]
Austria—May 9, 1928
Barbados [1ab,2]
Belgium—Dec. 4, 1928 [1ab]
Botswana [1ab,2]
Bulgaria—Mar. 7, 1934 [1ab]
Burma [1ab,2]
Canada—May 6, 1930 [1ab]
Ceylon—Jan. 20, 1954
Chile—July 2, 1935 [1ab]
China—Aug. 7, 1929
China, Dem. People's Rep.—Aug. 9, 1952 [1ab]
Cuba—June 24, 1966
Cyprus—Dec. 12, 1966
Czechoslovakia—Aug. 16, 1938 [1b]
Denmark—May 5, 1930
Estonia—Aug. 28, 1931 [1ab]
Ethiopia—Sept. 18, 1935
Finland—June 26, 1929
France—May 9, 1926 [1ab,3]
Gambia, The—Nov. 16, 1966
Germany, Fed. Rep.—Apr. 25, 1929
Ghana—May 3, 1967
Greece—May 30, 1931
Guyana [1ab,2]
Holy See—Oct. 18, 1966
Hungary—Oct. 11, 1952
Iceland—Nov. 2, 1967
India—Apr. 9, 1930 [1ab]
Indonesia [1b,2]
Iran—July 4, 1929
Iraq—Sept. 8, 1931 [1ab]
Ireland—Aug. 18, 1930 [1ab]
Israel—Feb. 20, 1969 [1ab]
Italy—Apr. 3, 1928
Jamaica [1ab,2]
Japan—May 21, 1970
Latvia—June 3, 1931
Lebanon—Apr. 17, 1969
Lesotho [1ab,2]
Liberia—Apr. 2, 1927
Lithuania—June 15, 1933
Luxembourg—Sept. 1, 1936
Madagascar—Aug. 12, 1967
Malawi [1ab,2]
Malaysia [1ab,2]
Maldive Islands—Jan. 6, 1967
Malta [1ab,2]
Mauritius [1ab,2]
Mexico—Mar. 15, 1932
Monaco—Jan. 6, 1967
Mongolia—Dec. 6, 1968 [1b]
Nepal—May 9, 1969
Netherlands—Oct. 31, 1930 [1c,4]
New Zealand—Jan. 22, 1930 [1ab]
Niger—Apr. 19, 1967
Nigeria—Oct. 15, 1968 [1ab]
Norway—July 27, 1932
Pakistan—June 9, 1960
Paraguay—Jan. 14, 1969
Poland—Feb. 4, 1929
Portugal—July 1, 1930 [1ab]
Romania—Aug. 23, 1929 [1ab]
Rwanda—June 25, 1964
Sierra Leone—Mar. 20, 1967
Singapore [1ab,2]
South Africa—Jan. 30, 1930 [1ab]
Spain—Aug. 22, 1929 [1ab]
Swaziland [1ab,2]
Sweden—Apr. 25, 1930
Switzerland—July 12, 1932
Syrian Arab Rep.—Dec. 17, 1968 [1d]
Tanzania—Apr. 22, 1963
Thailand—June 6, 1931
Trinidad and Tobago [1 ab, 2]
Tunisia—July 12, 1967
Turkey—Oct. 5, 1929
Uganda—May 24, 1965
U.S.S.R.—Apr. 5, 1928 [1 ab]
United Arab Rep.—Dec. 6, 1928
United Kingdom—Apr. 9, 1930 [1 ab, 5]
Venezuela—Feb. 8, 1929
Yugoslavia—Apr. 12, 1929 [1b]
Zambia [1ab, 2]

[1a b c d] With reservations to Protocol as follows:

[a] binding only as regards relations with other parties

[b] to cease to be binding in regard to any enemy States whose armed forces or allies do not observe provisions

[c] to cease to be binding as regards use of chemical agents with respect to any enemy State whose armed forces or allies do not observe provisions

[d] does not constitute recognition of or involve treaty relations with Israel

[2] By virtue of agreement with former parent State or notification to the Secretary-General of the United States of succession of treaty rights and obligations upon independence.

[3] Applicable to all French territories.

[4] Applicable to Surinam and Curacao.

[5] It does not bind India or any British Dominion which is a separate member of the League of Nations and does not separately sign or adhere to the Protocol. It is applicable to all colonies.

PROTOCOL FOR THE PROHIBITION OF THE USE IN WAR OF ASPHYXIATING, POISONOUS, OR OTHER GASES, AND OF BACTERIOLOGICAL METHODS OF WARFARE SIGNED AT GENEVA ON JUNE 7, 1925

Schedule IV

Reservations (Translation)

South Africa: Subject to the reservations: that the said protocol shall be binding on His Majesty only with respect to the Powers and States which have signed and ratified it or which have acceded to it, and that the said protocol shall cease to be binding on His Majesty with respect to any enemy Power the armed forces of which or the armed forces allied with which fail to respect this protocol.

Australia: Same reservations as for South Africa.

Belgium: 1. The said protocol shall bind the Belgian Government only with respect to the States which have signed and ratified it or which have acceded to it;

2. The said protocol shall automatically cease to be binding on the Belgian Government with respect to any enemy State whose armed forces or whose allies fail to respect the interdictions which form the subject of this protocol.

British Empire: 1. The said protocol shall be binding on His Britannic Majesty only with respect to the Powers and States which have signed and ratified it or which have acceded to it permanently;

2. The said protocol shall cease to be binding on His Britannic Majesty with respect to any enemy Power the armed forces of which or the armed forces allied with which fail to respect the interdictions which form the subject of this protocol.

Bulgaria: 1. The said protocol shall be binding on the Bulgarian Government only with respect to the States which have signed and ratified it or which have acceded to it;

2. The said protocol shall automatically cease to be binding on the Bulgarian Government with respect to any enemy State whose armed forces or whose allies fail to respect the interdictions which form the subject to this protocol.

Canada: 1. The said protocol shall be binding on His Britannic Majesty only with respect to the States which have signed and ratified it or which have acceded to its permanently.

2. The said protocol shall cease to be binding on His Britannic Majesty with respect to any enemy State whose armed forces or whose allies *de jure* or *de facto* fail to respect the interdictions which form the subject of this protocol.

Chile: 1. The said protocol shall be binding on the Chilean Government only with respect to the States which have signed and ratified it or which have acceded to it permanently;

2. The said protocol shall automatically cease to be binding on the Chilean Government with respect to any enemy State whose armed forces or whose allies fail to respect the interdictions which form the subject of this protocol.

Spain: Declares that it recognizes as automatically binding, without special convention with respect to any Member or State accepting and observing the same obligation, that is to say, subject to reciprocity, the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925.

France: 1. The said protocol shall be binding on the Government of the French Republic only with respect to the States which have signed and ratified it or which have acceded to it;

2. The said protocol shall automatically cease to be binding on the Government of the French Republic with respect to any enemy State whose armed forces or whose allies fail to respect the interdictions which form the subject of this protocol.

India: 1. The said protocol shall be binding on His Britannic Majesty only with respect to the States which have signed and ratified it or which have acceded to it permanently;

2. The said protocol shall cease to be binding on His Britannic Majesty with respect to any enemy power the armed forces of which or the armed forces allied with which fail to respect the interdictions which form the subject of this protocol.

New Zealand: Same reservations as for South Africa.

Netherlands: This protocol as regards the use in war of asphyxiating, poisonous, or other gases, and any similar liquids, materials, or processes, shall automatically cease to be binding on the Royal Government of the Netherlands with respect to any enemy State whose armed forces or whose allies fail to respect the interdictions which form the subject of this protocol.

Portugal: 1. The said protocol shall be binding on the Government of the Portuguese Republic only with respect to the States which have signed and ratified it or which have acceded to it;

2. The said protocol shall automatically cease to be binding on the Government of the Portuguese Republic with respect to any enemy State whose armed forces or whose allies fail to respect the interdictions which form the subject of this protocol.

Romania: 1. The said protocol shall be binding on the Royal Government of Romania only with respect to the States which have signed and ratified it or which have acceded to it permanently;

2. The said protocol shall cease to be binding on the Royal Government of Romania with respect to any enemy State whatsoever whose armed forces or whose allies *de jure* or *de facto* fail to respect the interdictions which form the subject of this protocol.

Czechoslovakia: The Czechoslovak Republic will cease *ipso facto* to be bound by this protocol with respect to any State whose armed forces or the armed forces of whose allies fail to respect the interdictions prescribed in this protocol.

U.S.S.R.: 1. The said protocol shall be binding on the Government of the Union of Soviet Socialist Republics only with respect to the States which have signed and ratified it or which have acceded to it permanently;

2. The said protocol shall cease to be binding on the Government of the Union of Soviet Socialist Republics with respect to any enemy State whose armed forces or whose allies *de jure* or *de facto* fail to respect the interdictions which form the subject of this protocol.

Yugoslavia: The said protocol shall automatically cease to be binding on the Government of the Serbs, Croats, and Slovenes with respect to any enemy State whose armed forces or whose allies fail to respect the interdictions which form the subject of this protocol.

People's Republic of China: The People's Republic of China has bound itself to apply the protocol "subject to reciprocity on the part of all other contracting and acceding Powers."

Iraq: The Iraqi Government shall be bound by the provisions of the protocol only with respect to the States which have both signed and ratified it or which have acceded to it. and shall not be bound by the protocol with respect to any enemy State whose armed forces or whose allies fail to respect the provisions of the protocol.

Ireland: The Government of the Irish Free State intends to assume by this accession no obligation save with respect to the States which have signed and ratified the said protocol or which have acceded to it permanently and, in case the armed forces of an enemy State or of an ally of such State fail to respect the said protocol, the Government of the Irish Free State shall cease to be bound by the said protocol with respect to such State.

Nigeria: The protocol shall be binding on Nigeria only with respect to the States actually bound by it and shall cease to be binding on Nigeria with respect to States the forces of which or the armed forces allied with which fail to respect the interdictions which form the subject of this protocol.

Mongolian People's Republic: In case of violation of this prohibition by any State whatsoever with respect to the Mongolian People's Republic or to its allies, the Mongolian People's Republic shall not consider itself bound by the obligations of the Protocol with respect to that State.

Syria: The accession of the Syrian Arab Republic to this protocol and its ratification by its Government shall in no case signify recognition of Israel and could not lead to establishing relations with the latter concerning the provisions prescribed by this protocol.

Israel: The said protocol shall be binding on the State of Israel only with respect to the States which have signed and ratified it or which have acceded to it.

The said protocol shall cease *ipso facto* to the binding on the State of Israel with respect to any enemy State whose armed forces, or the armed forces of whose allies, or the regular or irregular forces or the groups fail to respect the interdictions which form or individuals operating from its territory the subject of this protocol.

CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION AND STOCKPILING OF BACTERIOLOGICAL (BIOLOGICAL) AND TOXIN WEAPONS AND ON THEIR DESTRUCTION

The States Parties to this Convention,

Determined to act with a view to achieving effective progress towards general and complete disarmament, including the prohibition and elimination of all types of weapons of mass destruction, and convinced that the prohibition of the development, production and stockpiling of chemical and bacteriological (biological) weapons and their elimination, through effective measures, will facilitate the achievement of general and complete disarmament under strict and effective international control,

Recognizing the important significance of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925, and conscious also of the contribution which the said Protocol has already made, and continues to make, to mitigating the horrors of war,

Reaffirming their adherence to the principles and objectives of that Protocol and calling upon all States to comply strictly with them,

Recalling that the General Assembly of the United Nations has repeatedly condemned all actions contrary to the principles and objectives of the Geneva Protocol of June 17, 1925,

Desiring to contribute to the strengthening of confidence between peoples and the general improvement of the international atmosphere,

Desiring also to contribute to the realization of the purposes and principles of the Charter of the United Nations,

Convinced of the importance and urgency of eliminating from the arsenals of States, through effective measures, such dangerous weapons of mass destruction as those using chemical or bacteriological (biological) agents,

Recognizing that an agreement on the prohibition of bacteriological (biological) and toxin weapons represents a first possible step towards the achievement of agreement on effective measures also for the prohibition of the development, production and stockpiling of chemical weapons, and determined to continue negotiations to that end,

Determined, for the sake of all mankind, to exclude completely the possibility of bacteriological (biological) agents and toxins being used as weapons.

Convinced that such use would be repugnant to the conscience of mankind and that no further effort should be spared to minimize this risk,

Have agreed as follows:

ARTICLE I

Each State Party to this Convention undertakes never in any circumstances to develop, produce, stockpile or otherwise acquire or retain:

(1) Microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;

(2) Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

ARTICLE II

Each State Party to this Convention undertakes to destroy, or to divert to peaceful purposes, as soon as possible but not later than nine months after the entry into force of the Convention, all agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, which are in its possession or under its jurisdiction or control. In implementing the provisions of this article all necessary safety precautions shall be observed to protect populations and the environment.

ARTICLE III

Each State Party to this Convention undertakes not to transfer to any recipient whatsoever, directly or indirectly, and not in any way to assist, encourage, or induce any State, group of States or international organizations to manufacture or otherwise acquire any of the agents, toxins, weapons, equipment or means of delivery specified in article I of the Convention.

ARTICLE IV

Each State Party to this Convention shall, in accordance with its constitutional processes, take any necessary measures to prohibit and prevent the development, production, stockpiling, acquisition or retention of the agents, toxins, weapons, equipment and means of delivery specified in article I of the Convention, within the territory of such State, under its jurisdiction or under its control anywhere.

ARTICLE V

The States Parties to this Convention undertake to consult one another and to cooperate in solving any problems which may arise in relation to the objective of, or in the application of the provisions of, the Convention. Consultation and cooperation pursuant to this article may also be undertaken through appropirate international procedures within the framework of the United Nations and in accordance with its Charter.

ARTICLE VI

(1) Any State Party to this Convention which finds that any other State Party is acting in breach of obligations deriving from the provisions of the Convention may lodge a complaint with the Security Council of the United Nations. Such a complaint should include all possible evidence confirming its validity, as well as a request for its consideration by the Security Council.

(2) Each State Party to this Convention undertakes to cooperate in carrying out any investigation which the Security Council may initiate, in accordance with the provisions of the Charter of the United Nations, on the basis of the complaint received by the Council. The Security Council shall inform the State Parties to the Convention of the results of the investigation.

ARTICLE VII

Each State Party to this Convention undertakes to provide or support assistance, in accordance with the United Nations Charter, to any Party to the Convention which so requests, if the Security Council decides that such Party has been exposed to danger as a result of violation of the Convention.

ARTICLE VIII

Nothing in this Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on June 17, 1925.

ARTICLE IX

Each State Party to this Convention affirms the recognized objective of effective prohibition of chemical weapons and, to this end, undertakes to continue negotiations in good faith with a view to reaching early agreement on effective measures for the prohibition of their development, production and stockpiling and for their destruction, and on appropriate measures concerning equipment and means of delivery specifically

designed for the production or use of chemical agents for weapons purposes.

ARTICLE X

(1) The States Parties to this Convention undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the use of bacteriological (biological) agents and toxins for peaceful purposes. Parties to the Convention in a position to do so shall also cooperate in contributing individually or together with other States or international organizations to the further development and application of scientific discoveries in the field of bacteriology (biology) for prevention of disease, or for other peaceful purposes.

(2) This Convention shall be implemented in a manner designed to avoid hampering the economic or technological development of States Parties to the Convention or international cooperation in the field of peaceful bacteriological (biological) activities, including the international exchange of bacteriological (biological) agents and toxins and equipment for the processing, use or production of bacteriological (biological) agents and toxins for peaceful purposes in accordance with the provisions of the Convention.

ARTICLE XI

Any State Party may propose amendments to this Convention. Amendments shall enter into force for each State Party accepting the amendments upon their acceptance by a majority of the States Parties to the Convention and thereafter for each remaining State Party on the date of acceptance by it.

ARTICLE XII

Five years after the entry into force of this Convention, or earlier if it is requested by a majority of Parties to the Convention by submitting a proposal to this effect to the Depositary Governments, a conference of States Parties to the Convention shall be held at Geneva, Switzerland, to review the operation of the Convention, with a view to assuring that the purposes of the preamble and the provisions of the Convention, including the provisions concerning negotiations on chemical weapons, are being realized. Such review shall take into account any new scientific and technological developments relevant to the Convention.

ARTICLE XIII

(1) This Convention shall be of unlimited duration.

(2) Each State Party to this Convention shall in exercising its national sovereignty have the right to withdraw from the Convention if it decides that extraordinary events, related to the subject matter of the Convention, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other States Parties to the Convention and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

ARTICLE XIV

(1) This Convention shall be open to all States for signature. Any State which does not sign the Convention before its entry into force in accordance with paragraph (3) of this Article may accede to it at any time.

(2) This Convention shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

(3) This Convention shall enter into force after the deposit of instruments of ratification by twenty-two Governments, including the Governments designated as Depositaries of the Convention.

(4) For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

(5) The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession and the date of the entry into force of this Convention, and of the receipt of other notices.

(6) This Convention shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XV

This Convention, English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of the Convention shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

In Witness Whereof the undersigned, duly authorized, have signed this Convention.

Done in triplicate, at the cities of Washinton, London and Moscow, this tenth day of April, one thousand nine hundred and seventy-two.

AMENDED TEXT TO ARTICLE VII OF THE CONVENTION ON FACILITATION OF INTERNATIONAL MARITIME TRAFFIC, 1965

Article VII

(1) The Annex to the present Convention may be amended by the Contracting Governments, either at the proposal of one of them or by a Conference convened for that purpose.

(2) Any Contracting Government may propose an amendment to the Annex by forwarding a draft amendment to the Secretary-General of the Organization (hereinafter called the "Secretary-General"):

(a) Any amendment proposed in accordance with this paragraph shall be considered by the Facilitation Committee of the Organization, provided that it has been circulated at least three months prior to the meeting of this Committee. If adopted by two-thirds of the Contracting Governments present and voting in the Committee, the amendment shall be communicated to all Contracting Governments by the Secretary-General.

(b) Any amendment to the Annex under this paragraph shall enter into force fifteen months after communication of the proposal to all Contracting Government by the Secretary-General unless within twelve months after the communication at least one-third of Contracting Governments have notified the Secretary-General in writing that they do not accept the proposal.

(c) The Secretary-General shall inform all Contracting Governments of any notification received under subparagraph (b) and of the date of entry into force.

(d) Contracting Governments which do not accept an amendment are not bound by that amendment but shall follow the procedure laid down in Article VIII of the present Convention.

(3) A conference of the Contracting Governments to consider amendments to the Annex shall be convened by the Secretary-General upon the request of at least one-third of these Governments. Every amendment adopted by such conference by a two-thirds majority of the Contracting Governments present and voting shall enter into force six months after the date on which the Secretary-General notifies the Contracting Governments of the amendment adopted.

(4) The Secretary-General shall notify promptly all signatory Governments of the adoption and entry into force of any amendment under this Article.

CONSULAR CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF BULGARIA

The United States of America and the People's Republic of Bulgaria:

Desiring to regulate and develop consular relations between the two countries in order to facilitate the protection of their national interests and the rights and interests of their nationals;

Have decided to conclude this Consular Convention and for this purpose have appointed as their Plenipotentiaries:

For the United States of America

Martin F. Herz, Ambassador of the United States of America

For the People's Republic of Bulgaria

Andon Traykov, First Deputy Minister of Foreign Affairs

Who, having communicated to each other their respective full powers, which were found in good and due form, have agreed as follows:

PART I

DEFINITIONS

Article 1

For the purposes of the present Convention, the terms listed below shall have the following meanings:

(*a*) "Consulate" means a consulate-general, consulate, vice-consulate, or consular agency;

(*b*) "Consular district" means the area assigned to a consulate for the performance of consular functions;

(*c*) "Head of a consulate" means a person who has been entrusted by the sending State to act in this capacity;

(*d*) "Consular officer" means any person, including the head of a consulate, to whom the exercise of consular functions has been entrusted by the sending State;

(*e*) "Consular employee" means any person who performs administrative, technical or service duties at a consulate;

(*f*) "Member of a consulate" means any consular officer or consular employee;

(*g*) "Premises of a consulate" means buildings or parts of buildings, as well as the grounds ancillary thereto, used exclusively for the purposes of a consulate, regardless of ownership;

(*h*) "Consular archives" means all official correspondence, documents, letters, books, films, tapes, records, codes and ciphers, office equipment, as well as filing cabinets and other furniture intended for their safekeeping;

(*i*) "Vessel of the sending State" means any vessel sailing under the flag of the sending State, excluding warships.

PART II

OPENING OF CONSULATES AND APPOINTMENT OF CONSULAR OFFICERS AND CONSULAR EMPLOYEES

Article 2

Opening of Consulates

1. A consulate may be opened on the territory of the receiving State only with the consent of that State.

2. The seat of the consulate, its rank and consular district shall be determined by agreement between the sending and receiving States.

Article 3

Appointment of the Head of a Consulate

1. Prior to the appointment of a head of a consulate, the sending State must ascertain through diplomatic channels that the receiving State will recognize the person concerned as head of the consulate.

2. The sending State shall forward through diplomatic channels to the receiving State a consular commission or other similar document for the appointment of a head of a consulate. The consular com-

mission or the other similar document shall contain the name of the head of the consulate, his rank, the consular district in which he will exercise his functions and the seat of the consulate.

3. After the presentation of the consular commission or other similar document for the appointment of a head of a consulate, the receiving State shall issue to him, in the shortest possible period of time, an exequatur or other authorization.

4. The head of a consulate may commence to exercise consular functions after the receiving State issues to him an exequatur or other authorization.

5. The receiving State may grant to the head of a consulate provisional recognition permitting him to exercise consular functions until such time as the exequatur or other authorization has been issued to him.

6. Immediately after granting recognition, even provisional, the competent authorities of the receiving State shall take all necessary measures to enable the head of the consulate to exercise his functions and to enjoy the rights, facilities, privileges and immunities due him under the Convention and the law of the receiving State.

Article 4

Exercising Temporarily the Functions of a Head of a Consulate

1. If for some reason the head of a consulate is unable to carry out his functions, or if the position of head of a consulate is vacant, the sending State may entrust a consular officer of the same or of another consulate in the receiving State, or a member of the diplomatic staff of the diplomatic mission in the receiving State, with the temporary exercise of the functions of head of the consulate. The receiving State shall be notified in advance of the name of this person.

2. The person entrusted with the temporary exercise of the functions of a head of a consulate shall enjoy the rights, facilities, privileges and immunities as the head of the consulate as provided by this Convention.

3. Entrusting a member of the diplomatic staff of the diplomatic mission of the sending State with consular functions according to Paragraph 1 of this Article does not limit the privileges and immunities to which he is entitled by virtue of his diplomatic status, subject to the provisions of Article 44 of this Convention.

Article 5

Notification of the Appointment of Consular Officers and Consular Employees

1. The sending State shall notify the receiving State, in advance, in writing, of the full name, function and class of each consular officer.

2. The sending State shall also notify the receiving State in writing of:

(*a*) the oppointment of members of a consulate, their arrival after their appointment, their final departure or the termination of their functions, as well as all other changes affecting their status which may take place while they are working in the consulate;

(*b*) the arrival and final departure of a member of the family of a member of the consulate who resides with him as part of his household, and also when an individual becomes or ceases to be a member of the family;

(*c*) the employment or dismissal of a person as a member of consulate who is national or permanent resident of the receiving State.

Article 6

Issuance of an Identity Document

The receiving State shall issue to each consular officer an appropriate document certifying his right to perform consular functions in the territory of the receiving State.

Article 7

Nationality of Consular Officers

A consular officer shall be a national of the sending State and shall not be a national or a permanent resident of the receiving State.

Article 8

Declaring as Unacceptable a Head of a Consulate or Other Member of a Consulate

The receiving State may at any time and without having to explain its decision, notify the sending State that the head of the consulate or other consular officer is *persona non grata* or that another member of the consulate is unacceptable. In such a case the sending State is obligated to recall such person or terminate his functions in the consulate. If the sending State fails within a reasonable time to carry out its obligation, the receiving State may refuse to recognize the person concerned as a member of the consulate.

PART III

RIGHTS, FACILITIES, PRIVILEGES AND IMMUNITIES

Article 9

Facilities for the Operation of a Consulate

The receiving State shall ensure the proper conditions for the normal operation of a consulate and shall take all necessary measures to enable members of the consulate to carry out their duties and enjoy the rights, facilities, privileges and immunities provided by the present Convention and the law of the receiving State.

Article 10

Use of the National Flag and Cost-of-arms

1. The coat-of-arms of the sending State, along with the inscription of the consulate in the language of the sending and of the receiving States, may be placed on the consular premises.

2. The flag of the sending State may be flown at the consular premises and at the residence of the head of a consulate.

3. The flag of the sending State may be on the official means of transport of the head of a consulate.

4. In exercising the rights stipulated by this Article the law and customs of the receiving State shall be observed.

Article 11

Acquiring Consular Premises and Residences

1. The sending State shall have the right, in the territory of the receiving State, in accordance with the law of the receiving State, to acquire, own, lease for any period of time, construct and improve, or otherwise hold and occupy such grounds, buildings and appurtenances as may be necessary and appropriate for consular purposes, including residences for consular officers and consular employees who are not nationals or permanent residents of the receiving State.

2. The receiving State shall render all necessary assistance to the sending State with a view to facilitating the acquisition of grounds, buildings or parts of buildings for the purposes mentioned in paragraph 1 of this Article.

3. The provisions of paragraph 1 of this Article do not exempt the sending State from the obligation to observe the law of the receiving State relating to construction and zoning applicable to the region in which the respective grounds, buildings or parts of buildings are located.

Article 12

Inviolability of the Consular Premises and of the Residence of the Head of a Consulate

1. The consular premises shall be inviolable. The authorities of the receiving State may not enter the consular premises without the consent of the head of the consulate, the chief of the diplomatic mission of the sending State, or of a person designated by one of them. The receiving State shall take the necessary measures to ensure the protection of the consular premises.

2. The provisions of paragraph 1 of this Article shall also apply to the residence of the head of a consulate.

Article 13

Inviolability of the Consular Archives

The consular archives shall be inviolable at all times and regardless of the place where they are located.

Article 14

Freedom of Communication

1. A consulate shall be entitled to exchange communications with its government, with the diplomatic missions and with other consulates of the sending State, wherever they may be. For this purpose the consulate may employ all ordinary means of communication, ciphers, diplomatic or consulate couriers, diplomatic or consular bags. With respect to public means of communication the same tariffs and conditions shall be applied in the case of a consulate as are applied in the case of the diplomatic mission. A consulate may install and use a radio transmitter only with the consent of the receiving State.

2. The official correspondence of a consulate, regardless of the means of communication employed, as well as sealed consular pouches, bags and other containers, provided they bear visible external marks of their official character, shall be inviolable. They may contain nothing other than official correspondence or articles intended * * *.

3. The official correspondence of a consulate, including consular pouches, bags or other containers, as described in paragraph 2 of this Article, shall neither be opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that such pouch, bag or other container contains articles other than official correspondence or documents and articles intended exclusively for official use, they may request that such pouch, bag or other container be returned to its place of origin.

4. Consular couriers of the sending State shall enjoy on the territory of the receiving State the same rights, privileges and immunities enjoyed by diplomatic couriers.

5. The master of a vessel or the captain of a civil aircraft of the sending State may also be charged with the conveyance of a consular bag. The master or captain shall be provided with an official document indicating the number of containers forming the consular bag entrusted to him; he shall not, however, be considered to be a consular courier. By arrangement with the appropriate authorities of the receiving State, the consulate may send a member of the consulate to take possession of the consular bag directly and freely from the master of the vessel or captain of the aircraft or to deliver such bag to him.

Article 15

Respect to the Person of Members of a Consulate and the Members of their Families

The receiving State shall be obliged to treat the members of the consulate and the members of their families residing with them as part of their households with due respect and to take all appropriate measures to prevent any encroachment upon their person, freedom or dignity.

Article 16

Immunity of Members of a Consulate from the Jurisdiction of the Receiving State

1. Consular officers and members of their families residing with them and forming part of their households shall be immune from the criminal, civil and administrative jurisdiction of the receiving State.

2. Consular employees and members of their families residing with them and forming part of their households shall be immune from the criminal jurisdiction of the receiving State. They shall also be immune from the civil and administrative jurisdiction of the receiving State with respect to any act performed in their official capacity.

3. The provisions of paragraphs 1 and 2 of this Article shall not, however, apply to civil proceedings:

(*a*) resulting from contracts that have not been concluded by the consular officer or consular employee on behalf of the sending State;

(*b*) concerning succession, in respect of which the consular officer or consular employee is involved as an executor, administrator, heir or legatee as a private person and not on behalf of the sending State;

(*c*) concerning liability for damages caused in the receiving State by means of transport;

(*d*) concerning private immovable property on the territory of the receiving State, unless the consular officer or consular employee holds it on behalf of the sending State for the purposes of the consulate.

4. No measures of execution shall be taken against the persons mentioned in this Article, except in the cases under paragraph 3, (*a*), (*b*), (*c*) and (*d*), of this Article, and under the condition that these measures shall not infringe upon the inviolability of their person or residence.

Article 17

Waiver of Immunity

1. The sending State may waive the immunity from jurisdiction of members of a consulate, and of the members of their families residing with them and forming part of their households. Such waiver shall always be express and in writing. Waiver of immunity from jurisdiction with respect to civil proceedings shall not be held to imply waiver of immunity with respect to the execution of judgment, for which a separate waiver shall be necessary.

2. In the event a member of a consulate or a member of his family residing with him and forming part of his household initiates legal proceedings with respect to which he would enjoy immunity from jurisdiction under Article 16 of this Convention, he has no right to invoke immunity with regard to any counter-claim directly related to the principal claim.

Article 18

Exemption from Obligation to Give Witness Testimony

1. Members of a consulate may be requested to give evidence as witnesses in judicial or administrative proceedings. Consular employees are not entitled to decline to give evidence with the exception of the cases referred to in paragraph 3 of this Article. If a consular officer declines to give evidence, no coercive measure shall be taken against him.

2. The appropriate provisions of paragraph 1 of this Article pertaining to consular officers and consular employees shall also apply to members of their families residing with them as part of their households.

3. Members of a consulate are entitled to decline to give evidence as witnesses with regard to matters falling within the performance of their official functions or to produce any official document and official correspondence. They are also entitled to decline to give opinions as experts on the law of the sending State, as well as on its application and interpretation.

4. The authorities of the receiving State taking evidence from consular officers or from consular employees shall take all steps to avoid interference with the performance of their official functions. Where it is possible, the evidence may be given at the consulate or at the residence of the consular officer or consular employee, or it may be given in a written form.

Article 19

Exemption from Services and Duties

The receiving State shall exempt the members of a consulate and the members of their families living with them and forming part of their households, from any services of a compulsory nature, as well as from any public or military duties.

Article 20

Exemption from Registration

Members of a consulate and members of their families living with them and forming part of their households, shall be exempt from all obligations provided for in the law of the receiving State regarding registration, residence permits and other similar requirements applicable to aliens.

Article 21

Exemption of the Sending State from Dues and Taxes on Real Property

1. No national, regional or local dues or taxes of any kind shall be imposed or collected in the receiving State in respect of—

(*a*) grounds, buildings or parts of buildings owned or leased by the sending State or by a natural or juridical person acting on behalf of that State and used exclusively for any of the purposes specified in Article 11 of this Convention;

(*b*) transactions or documents relating to the acquisition of such immovable property.

2. The provisions of subparagraph 1 (a) of this Article shall not apply with regard to payments for specific services rendered.

3. The exemption accorded under paragraph 1 of this Article shall not apply to such dues and taxes, if under the law of the receiving State they are payable by a person contracting with the sending State or with a person acting on its behalf.

Article 22

Exemption of the Sending State from Dues and Taxes on Movable Property

The sending State shall be exempt from all dues and taxes on movable property which it owns or possesses and is used for consular purposes, as well as from all dues and taxes in connection with the acquisition, possession or maintenance of such property.

Article 23

Exemption of Members of a Consulate from Dues and Taxes

1. A member of a consulate and members of his family residing with him as part of his household shall be exempt from all dues and taxes imposed by the receiving State with respect to the salaries, wages, emoluments and allowances received from the sending State for the performance of official duties.

2. A member of a consulate, as well as members of his family residing with him as part of his household, shall be exempt from payment of all dues and taxes, whether national, regional or municipal, including dues and taxes on movable property belonging to them.

3. The exemption provided by paragraph 2 of this Article shall not apply with respect to:

(*a*) indirect taxes normally included in the price of goods and services;

(*b*) taxes and dues imposed on private immovable property located on the territory of the receiving State, unless an exemption is provided by Article 21 of this Convention;

(*c*) estate and inheritance taxes and taxes on the transfer property rights imposed by the receiving State, except as provided in Article 25 of this Convention;

(*d*) dues and taxes on any kind of private income derived in the receiving State;

(*e*) charges collected for rendering specific services;

(*f*) dues and taxes on transactions or on documents related to transactions, including fees of any kind collected by reason of such transactions, except for taxes and charges exemption from which is provided by Article 21 of this Convention.

4. Members of a consulate who employ persons whose wages and salaries are not exempt from payment of income tax in the receiving State, shall observe the requirements under the law of the receiving State on employers' obligations for the collection of income taxes.

Article 24

Exemption From Customs Duties and Inspection

1. All articles, including motor vehicles, imported for the official use of a consulate shall, in conformity with the law of the receiving State, be exempt from customs duties and other dues and taxes of any kind imposed upon or by reason of importation to the same extent as if they were imported by the diplomatic mission of the sending State in the receiving State.

2. A consular officer and members of his family residing with him as part of his household shall be exempt from customs duties and charges imposed upon or by reason of importation of all articles designed for their personal use, including articles for the initial equipment of their households. A consular employee shall enjoy the exemptions provided for in this paragraph only in respect of articles imported by him on his first arrival at the consulate.

3. The articles designed for personal use shall not exceed the quantities required for the direct use by the persons concerned.

4. The personal baggage of consular officers and members of their families living with them as part of their households shall be exempt from customs inspections. They may be inspected only in cases when there are serious reasons to believe that they contain articles other than stated in paragraph 2 of this Article or articles the importation or exportation of which is prohibited by the law of the receiving State or which are subject to the law on quarantine. Such an inspection must be undertaken in the presence of the consular officer concerned or a member of his family or a person representing him.

Article 25

Exemption From Dues and Taxes on Movable Property in Case of Death

If a member of a consulate or a member of his family residing with him as part of his household dies and leaves movable property in the receiving State, no estate, succession, or inheritance or other tax or charge on the transfer of property at death shall be imposed by the receiving State with respect to that property, provided that the deceased person was not a national or a permanent resident of the receiving State and that the presence of the property in that State was due solely to the presence of the deceased in his capacity as a member of a consulate or as a member of the family of such a member of a consulate.

Article 26

Immunity From Requisition

The consular premises, as well as the means of transport of the consulate, are not liable to any form of requisition. If for the needs of national defense or for other public needs expropriation is necessary, all possible measures must be taken to avoid hampering the execution of the consular functions and to promptly pay appropriate and effective compensation to the sending State.

Article 27

Freedom of Travel

To the extent not in conflict with the law of the receiving State concerning regions entry into which is prohibited or limited for reasons of national security, the receiving States shall ensure freedom of movement

and travel on its territory for the members of the consulate and for members of their families residing with them and forming part of their households.

Article 28

Consular Fees

1. A consulate may levy consular fees in the territory of the receiving State in accordance with the law of the sending State.

2. The sums collected under the provisions of paragraph 1 of this Article shall be exempt from all dues and taxes in the receiving State.

Article 29

Exclusion From Rights, Facilities, Privileges and Immunities

Members of a consulate and members of their families residing with them and forming part of their households, who are nationals of the receiving State or have their permanent residence there, shall not enjoy the rights, facilities, privileges and immunities provided for in this Convention, with the exception of those provided for under paragraph 3 of Article 18 of this Convention.

PART IV

CONSULAR FUNCTIONS

Article 30

Functions of a Consulate

The functions of a consulate shall include:

(*a*) contributing to the development of economic, commercial, cultural, scientific and tourist relations between the sending and the receiving States;

(*b*) protecting the rights and interests of the sending State and of its nationals and juridical persons;

(*c*) rendering assistance and cooperation to nationals and juridical persons of the sending State;

(*d*) promoting the development of friendly relations between the sending and the receiving States.

Article 31

Execution of Consular Functions

1. A consular officer shall be entitled to carry out the functions provided for by this Convention, as well as other consular functions entrusted to him by the sending State which are not prohibited by the law of the receiving State or to which the receiving State does not object.

2. A consular officer shall be entitled to execute his functions only within the limits of the consular district. A consular officer may execute his functions outside the limits of the consular district only with the advance consent of the receiving State given separately in each instance.

3. In executing his functions, a consular officer may approach verbally or in writing:

(*a*) the competent local authorities in his consular district;

(*b*) the competent central authorities of his receiving State, provided this is allowed by the law and customs of the receiving State.

Article 32

Representation Before the Authorities of the Receiving State

1. A consular officer shall be entitled, in accordance with the law of the receiving State, to represent before the courts and other authorities of the receiving State, nationals of the sending State, including juridical persons, or to take appropriate measures in order to ensure legal protection of their rights and interests in cases where because of absence or any other reason these nationals are not in a position to undertake timely defense of their rights and interests.

2. The representation referred to in paragraph 1 of this Article shall cease as soon as the represented person appoints his own representative or himself assumes the defense of his right and interests.

Article 33

Functions With Regard to Travel Documents

A consular officer shall be entitled:

(*a*) to issue to nationals of the sending State passports or other similar documents, extend the validity of the same, cancel them, as well as make other amendments in them;

(*b*) to issue visas or other documents to persons wishing to travel to the sending State.

Article 34

Functions Regarding Civil Status

1. A consular officer shall be entitled:

(*a*) to register nationals of the sending State;

(*b*) to accept any application related to nationality;

(*c*) to register and receive communications and documents related to births and deaths of nationals of the sending State;

(*d*) to solemnize a marriage, provided that both parties thereto are nationals of the sending State and provided also that the solemnization of such a marriage is not prohibited under the law of the receiving State;

(*e*) to accept applications concerning the marital status of nationals of the sending State.

2. The provisions of subparagraphs (c) and (d) of paragraph 1 of this article do not exempt the persons concerned from the obligation to observe the formalities required by the law of the receiving State.

Article 35

Notarial Functions

1. A consular officer shall be entitled:

(*a*) to accept and certify declarations of nationals of the sending State, as well as to issue to them appropriate documents;

(*b*) to authenticate signatures of nationals of the sending State;

(*c*) to legalize all kinds of documentation issued by authorities of the sending or of the receiving State, as well as to authenticate copies and extracts of these documents;

(*d*) to translate documents and to certify to the accuracy of the translations;

(*e*) to draw up, certify, attest, authenticate, legalize and take other actions which might be necessary to validate any act or document of a legal character, as well as copies thereof, including commercial documents, declarations, registrations, testamentary dispositions, and contracts, upon the application of a national of the sending State, when such document is intended for use outside the territory of the receiving State, and also for any person, when such document is intended for use in the territory of the sending State.

2. The acts and documents specified in subparagraph (e) of paragraph 1 of this Article, certified or legalized by a consular officer of the sending State, shall have in the receiving State the same validity and effect as the documents certified or legalized by the competent authorities of the receiving State, provided they have been drawn and executed in conformity with the law of the country in which they are designed to take effect. The authorities of the receiving State, however, are obliged to recognize the validity of the above-mentioned documents only to the extent that they do not conflict with the law of the receiving State.

Article 36

Serving Judicial Documents

A consular officer shall be entitled to serve judicial and other documents on nationals of the sending State in accordance with existing international agreements or, in the absence of such agreements, to the extent permitted by the law of the receiving State.

Article 37

Notification on the Establishment of Guardianship or Trusteeship

1. The competent authorities of the receiving State shall notify the consultate in writing of instances in which it is necessary to establish a guardianship or trusteeship over a national of the sending State who is not of age or is not in a position to perform legal acts, or over property of a national of the sending State located in the receiving State when for whatever reason such property cannot be administered by the national of the sending State.

2. A consular officer may, on matters mentioned in paragraph 1 of this Article, contact the appropriate authorities of the receiving State, and, in particular, may propose appropriate persons to be appointed to act as guardians or trustees in accordance with the law of the receiving State.

Article 38

Communication With Nationals of the Sending State

1. A consular officer shall be entitled, in his consular district, to communicate with any national of the sending State, to render him assistance or give him advice and, when neccessary, to assure him legal assistance. If a national of the sending State desires to visit the consular officer or to converse with him, the receiving State shall in no way restrict the access of such national to the consulate of the sending State or prevent the consular officer of the sending State from visiting such a national.

2. In any case in which a national of the sending State is subjected to any form of deprivation or limitation of his personal freedom, the competent authorities of the receiving State shall inform the consulate of the sending State immediately and, in any event, not later than after three calendar days from the date on which the national was placed under any form of deprivation or limitation of personal freedom. Upon his request, a consular officer shall be informed of the reasons for which the national has been arrested or deprived of personal freedom.

3. The competent authorities of the receiving State shall immediately inform the national of the sending State of the rights accorded to him by this Article to communicate with a consular officer.

4. A consular officer shall be entitled to receive from and send to a national of the sending State who is under any form of deprivation or limitation of his personal freedom letters or other forms of correspondence and to take appropriate measures to ensure him legal assistance and representation.

5. A consular officer shall be entitled to visit a national of the sending State who is under any form of deprivation or limitation of his personal freedom, including such national who is in prison or detained in the consular district pursuant to a judgment, to converse and to correspond with him in the language of the sending or the receiving State or to arrange legal representation for him. These visits shall take place as soon as possible, but, in any case, shall not be refused after the expiration of a period of four calendar days from the date on which such national has been subjected to any form of deprivation or limitation of personal freedom. The visits may be made on a recurring basis, but, subject to local prison regulations, at intervals of not more than one month.

6. In the case of a trial of a national of the sending State in the receiving State, the appropriate authorities shall, at the request of a consular officer, inform such officer of the charges against such national. A consular officer may attend the trial of such national as well as all subsequent appeal proceedings.

7. A national to whom the provisions of this Article apply may receive from a con-

sular officer parcels containing food, clothes, medicaments and reading and writing materials to the extent the applicable regulations of the institution in which he is detained so permit.

8. The rights contained in this Article shall be exercised in accordance with the law of the receiving State, provided that such law must be applied so as to give full effect to the purposes for which these rights are intended.

Article 39

Notification on the Death of a National of the Sending State

Whenever the competent authorities of the receiving State learn that a national of the sending State has died in the receiving State, they shall immediately notify the appropriate consular officer and, upon his request, send him a copy of the death certificate or other documentation confirming the death which has occurred.

Article 40

When the competent authorities of the receiving State learn that in the receiving State there is an estate:

(*a*) of a national of the sending State who has left no one in the receiving State authorized to administer his property or who has no representative in the receiving State, or

(*b*) of a deceased person, irrespective of nationality, with regard to whose property the consular officer shall be entitled to represent his interests under the provisions of Article 42 of this Convention,

then the above-mentioned authorities shall notify the appropriate consulate of the sending State of this fact.

Article 41

Conservation of Interests of Deceased National

1. When a deceased national of the sending State leaves property in the receiving State, the consular officer shall be entitled, with respect to the protection, conservation and administration of the estate, to approach the competent authorities of the receiving State with a view towards representing the interests of a national of the sending State, not a permanent resident of the receiving State, unless or until such national is otherwise represented. In this connection, he may request the competent authorities of the receiving State to permit him to be present at the inventorying and sealing and, in general, to take an interest in the proceedings.

2. To the extent permitted by the law of the receiving State, the consular officer may undertake appropriate actions personally or through an attorney in fact.

Article 42

Representation of Interests of Nationals in Estates

1. If a national of the sending State, not a permanent resident of the receiving State, has, or claims to have, a right to property left in the receiving State by a deceased person, irrespective of the latter's nationality, and if that national is not in the receiving State or does not have a representative there, the consular officer of the sending State shall be entitled to represent the interests of such national with respect to the estate, to the extent permitted by the law of the receiving State.

2. A consular officer of the sending State shall be entitled to receive for transmission to a national of the sending State who is not a permanent resident of the receiving State any money or other property to which such national is entitled as a consequence of the death of another person, including shares in an estate, payments made pursuant to employees' compensation laws, pension and social benefits systems in general, and proceeds of insurance policies, unless the court, agency, or person making distribution directs that transmission be effected in a different manner. The court, agency, or person making distribution may require that a consular officer comply with conditions laid down with regard to:

(*a*) presenting a power of attorney or other authorization from such national residing outside the receiving State;

(*b*) furnishing reasonable evidence of the receipt of such money or other property by such national; and

(*c*) returning the money or other property in the event he is unable to furnish such evidence.

3. Whenever a consular officer is permitted under the law of the receiving State to carry out the functions provided for in this Article, he shall be entitled to request of the competent authorities of the receiving State the same assistance which these authorities would attend to a national of the receiving State in the exercise of these functions under similar circumstances.

4. In connection with the performance by a consular officer of the functions provided for in this Article, the receiving State will take all appropriate measures to secure for nationals of the sending State the same opportunity for the protection of their interests in estates as that enjoyed by nationals of the receiving State.

Article 43

Provisional Custody of Decedent's Money and Effects

If a national of the sending State who is temporarily present in the receiving State, in which he does not maintain permanent residence, dies, the consular officer shall be entitled without delay to take provisional custody of the money and effects in such person's possession, provided that the deceased person shall not have left in the receiving State an heir or testamentary executor appointed by the decedent to take care of his personal estate and provided that such provisional custody will be relinquished to a duly appointed administrator or other authorized person.

Article 44

Compliance with Receiving State Law in Estates Matters

In exercising the rights provided by Articles 40 to 43 inclusive of this Convention, the consular officer must comply with the law of the receiving State in the same manner and to the same extent as a national of the receiving State and, irrespective of the provisions of Article 16 of this Convention, shall be subject in this respect to the civil jurisdiction of the receiving State. Further, nothing in these Articles shall authorize a consular officer to act as an attorney at law.

Article 45

Rendering Assistance to Vessels

1. A consular officer shall be entitled to provide any type of assistance to the vessels of the sending State which are in the ports or other anchorages of the receiving State.

2. A consular officer may board the vessels of the sending State as soon as pratique is granted. On such occasions, he may be accompanied by members of the consulate.

3. The master and members of the crew may communicate with and meet the consular officer, observing the law of the port and the law relating to crossing the border.

4. The consular officer may request the cooperation of the authorities of the receiving State in carrying out his functions with regard to vessels of the sending State and with regard to the master and members of the crew.

Article 46

Rendering Assistance to Master and Crew

1. Without prejudice to the rights of the authorities of the receiving State, the consular officer shall be entitled

(*a*) to investigate any incident aboard a vessel of the sending State while underway, to question the master and any member of the crew, to inspect the vessel's papers, to receive information in connection with the voyage and destination of the vessel and also to facilitate the entry, stay and departure of a vessel of the sending State;

(*b*) to take steps connected with the signing on and discharging of the master and of a crew member;

(*c*) to settle disputes between the master and a crew member, including disputes concerning wages and employment contracts, insofar as this action is authorized by the law of the sending State and does not conflict with the law of the receiving State;

(*d*) to take measures for the maintenance of good order and discipline aboard the vessel;

(*e*) to take steps for hospitalization or repatriation of the master or a member of the crew of the vessel;

(*f*) to receive, draw up or certify any declaration or other document provided for by the law of the sending State in regard to the vessel;

(*g*) to undertake other steps to apply the law of the sending State concerning merchant shipping.

2. The consular officer may, if permitted by the law of the receiving State, appear together with the master or a crew member before the courts or other authorities of the receiving State in order to render them any assistance, as well as to appear in the capacity of an interpreter, in actions before such courts and authorities.

Article 47

Protection of Interests in Case of Investigations

1. When the courts or other competent authorities of the receiving State intend to take compulsory actions or to start an official investigation aboard a vessel of the sending State which is in the territorial waters of the receiving State, those authorities must notify the appropriate consular officer. Unless an emergency makes this notification impossible, it shall be given before initiation of the actions involved, so that the consular officer might be present when the actions are carried out. If the consular officer or his representative has not been present during these actions, the competent authorities of the receiving State shall, upon his request, provide him with a full account of the actions taken.

2. The provisions of paragraph 1 of this Article shall also apply in cases in which it is necessary for the competent authorities of the port area to question the master or a member of the crew on shore.

3. Except at the request of the ship's master or the consular officer, the judicial or other competent authorities of the receiving State shall not interfere in the internal affairs of the ship on questions of relations between the members of the crew, labor relations, discipline and other activities of an internal character, when the peace, safety and law of the receiving State are not violated.

4. The provisions of paragraphs 1 and 2 of this Article shall not be applied, however, to ordinary customs, passport and sanitary controls, or to the saving of human life at sea, prevention of pollution of the sea, or to other activities undertaken at the request of, or with the consent of, the master of the ship.

Article 48

Assistance to Damaged Vessels

1. If a vessel of the sending State is wrecked, grounded, or suffers any other damage in the internal or territorial waters of the receiving State, the competent authorities of the receiving State shall inform the consulate as soon as possible and inform it of the measures taken for saving the passengers, the vessel, its crew and cargo.

2. The consular officer may give any assistance to the vessel, the members of the crew and the passengers, as well as take measures for safeguarding the cargo and repairing the vessel. He may also ask the authorities of the receiving State to undertake such measures.

3. If the owner of the vessel, the master or other authorized person is not in a position to undertake the necessary measures for safeguarding the vessel and its cargo, the consular officer, on behalf of the owner, may undertake those measures which the owner himself would undertake in such a case. The provisions of this paragraph shall also apply to every object belonging to a national of the sending State and representing a part of the cargo of a vessel, whether of the sending State or of a third State, which has been found on or near the shore, or has been brought to a port of the receiving State.

4. A vessel which has suffered a misfortune and its cargo and provisions shall not be subject to customs duties on the territory of the receiving State unless delivered for use in that State.

Article 49

Functions With Regard to Aircraft

The provisions of Articles 45 and 48 inclusive of the present Convention shall also apply to civil aircraft to the extent they are applicable and on the condition that such application is not contrary to the provisions of any agreement in force between the two countries.

PART V

GENERAL AND CONCLUDING PROVISIONS

Article 50

Observing the Law of the Receiving State

1. All persons enjoying privileges and immunities under this Convention are obliged, without prejudice to these privileges and immunities, to observe the law and customs of the receiving State.

2. The consular premises may not be used for purposes inconsistent with the exercise of consular functions.

Article 51

Performance of Consular Functions by a Diplomatic Mission

1. The provisions of this Convention shall also apply in the case of consular functions being performed by a diplomatic mission.

2. The names of the members of the diplomatic mission entrusted with the performance of consular functions shall be communicated to the receiving State.

3. The members of the diplomatic mission referred to in paragraph 2 of this Article shall continue to enjoy the privileges and immunities granted them by virtue of their diplomatic status.

Article 52

Entry into Force and Renunciation

1. The present Convention shall be subject to ratification and shall enter into force after the expiration of thirty days following the date of the exchange of instruments of ratification which shall take place at Washington.

2. The present Convention shall remain in force until the expiration of six months from the date on which one of the Contracting Parties gives to the other Contracting Party written notification of its intention to terminate the Convention.

IN WITNESS WHEREOF, the respective plenipotentiaries of the Contracting Parties have signed the present Convention and affixed thereto their seals.

Done at Sofia on this 15th day of April, 1974, in two originals in the English and Bulgarian languages, both texts having the same force.

AGREED MEMORANDUM

During the negotiations of the Consular Convention signed today between the United States of America and the People's Republic of Bulgaria, it was agreed by both sides that the term "law and "Zakonodatelstvo" would be employed in the appropriate provisions of the Convention and would be regarded as equivalent expressions for the purposes of the Convention. In this connection, the following explanations were given by the respective Chairmen of the United States and Bulgarian delegations concerning the meanings of the above-mentioned terms:

The Chairman of the United States delegation explained that the term "law", as employed in the present Convention, includes all relevant national, state and local laws, ordinances, regulations, resolutions and other similar provisions having the force and effect of law, including decisions and determinations of courts and other judicial and administrative agencies.

The Chairman of the Bulgarian People's Republic delegation explained that the term "Zakonodatelstvo", as employed in the present Convention, includes all laws, normative orders, codes, regulations and other normative acts which have legal force.

Done at Sofia this 15th day of April, 1974.

For the United States of America:

For the United States of America

For the People's Republic of Bulgaria:

For the People's Republic of Bulgaria

Mr. ROBERT C. BYRD. Mr. President, the Committee on Foreign Relations has submitted a report on each of these treaties and they are available to the Senate and the general public.

I ask unanimous consent that these treaties be considered as having passed through their various parliamentary stages up to and including presentation of the resolution of ratification.

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

The resolutions of ratification of Executive J, 91st Congress, 2d session; Executive Q, 92d Congress, 2d session; Executive D, 93d Congress, 2d session; and Executive H, 93d Congress, 2d session will be read.

The assistant legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva, on June 17, 1925 (Ex. J, 91–2) subject to the following reservation:

That the said Protocol shall cease to be binding on the government of the United States with respect to the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials, or devices, in regard to an enemy State if such State or any of its allies fails to respect the prohibitions laid down in the Protocol.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin, Weapons, and on Their Destruction, Opened for Signature at Washington, London and Moscow on April 10, 1972 (Ex. Q, 92–2)

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Amended Text to Article VII of the Convention on Facilitation of International Maritime Traffic, 1965, adopted by the Intergovernmental Maritime Consultative Organization (IMCO) at London on November 19, 1973.

Resolved, (two-thirds of the Senators present concurring therein). That the Senate advise and consent to the ratification of the States of America and the People's Republic of Bulgaria, with an Agreed Memorandum and a related exchange of letters, signed at Sofia on April 15, 1974.

Mr. ROBERT C. BYRD. Mr. President, the votes on these treaties will occur at a later time today.

Mr. FULBRIGHT. Mr. President, the Geneva Protocol of 1925 which the Senate is voting on this afternoon is one of the oldest and most important arms control agreements ever negotiated. It is an understatement to say that the action, which I hope the Senate will take today, is long overdue.

Almost 50 years have elapsed since the United States proposed the conclusion of this treaty. Although it was quickly signed by some 30 nations and now has more than 110 parties, our Nation has yet to ratify the Geneva Protocol.

By strange coincidence, the date on which the Committee on Foreign Relations reported this protocol to the Senate fell on exactly the 49th anniversary—to the very day, December 13—of the protocol's withdrawal from the floor of the Senate on December 13, 1926.

The discussions between the executive branch and the Committee on Foreign Relations, which preceded the committee's action on this protocol, revealed a deep common interest on the part of the executive and legislative branches and the leaders of our Armed Forces in strengthening the safeguards against chemical and biological warfare. A great deal of thoughtful deliberation has preceded this action. If, at the end, everyone has not gotten everything that he wanted, we can at least say that all are agreed on the desirability of the action which we propose today.

It is a particular pleasure to be able to recommend with the concurrence of the executive branch—including the State Department, the Joint Chiefs of Staff, the Department of Defense, and the Arms Control Agency—that the Senate give its advice and consent on the ratification of the Geneva Protocol of 1925 and to the Convention on Prohibition of Bacteriological and Toxin Weapons.

CHEMICAL AND BIOLOGICAL WARFARE TREATIES

Mr. HUMPHREY. Mr. President, among the treaties which the Senate is considering this afternoon is one of the oldest and one of the newest of the international community's efforts to control chemical and biological warfare.

The Geneva Protocol of 1925 is the basic building block for all efforts to control chemical and biological warfare. It was first proposed by the United States in 1925. A treaty with similar language had been signed and ratified in 1922, however, it never came into force for reasons unrelated to the chemical warfare issue.

Forty-eight years ago this protocol was blocked on the Senate floor by groups which now fully support it, including the American Chemical Society and the armed services.

Our ratification today of the Geneva

Protocol would mean that all major military powers will have renounced the first use in war of chemical or germ weapons.

The convention prohibiting biological and toxin weapons is the out growth of the initiative of the Nixon administration. It is one of many initiatives which the past administration took to control chemical and biological weapons. Among which was the unilateral renunciation of biological warfare under any circumstances. Another was the decision to destroy all U.S. stocks of germ weapons.

Approval of the biological convention would give great impetus to the international effort now underway at Geneva to ban all chemical weapons.

I strongly recommend that the Senate give its advice and consent to ratification to these two treaties as an indication of U.S. support for this important aspect of arms control.

GENEVA PROTOCOL

Mr. NELSON. Mr. President, as you know, over 3 years ago, the President submitted the 1925 Geneva Protocol to the Congress for ratification. At the time, he specifically excluded herbicides from his interpretation of the Geneva ban. In opposition to the administration's view, I introduced Executive Understanding No. 1 which clearly stated that the Senate interpretation of the protocol included a ban on herbicides. This legislation was reintroduced on January 29, 1971. And on April 15, 1971, Chairman FULBRIGHT of the Senate Foreign Relations Committee sent a letter to the President advising him of the committee's position that the protocol included a ban on herbicides.

The administration has had its controversial interpretation of the protocol "under review" now for over 3 years. Only last week, the Foreign Relations Committee finally received an administration response.

The administration, in my opinion, delayed too long on the deadly serious question of chemical warfare. The need to reexamine the status of the 1925 protocol is urgent. We in the United States have courted international opprobrium long enough. We have backed ourselves into a corner with a tiny minority of countries voting against the great majority of the United Nations General Assembly which agreed in 1969 on a resolution stating that the military use of herbicides was within the purview of the Geneva Protocol.

Whereas the administration refuses to abandon its questionable legal interpretation of the Geneva Protocol, it did clearly "renounce as a matter of national policy * * * first use of herbicides in war except use, under regulations applicable to their domestic use, for control of vegetation within U.S. bases and installations or around their immediate defensive perimeters."

This adjustment in the administration position is welcome. It represents at least a practical recognition that herbicides need not be used. No longer is there an excuse for the administration's continued support of herbicides as military weapons. And, I might add, no longer is there justification for DOD's budget requests for improving herbicides.

In fact, the mere notion that herbicides were useful weapons of war in Southeast Asia is a dubious one at best. A series of studies in the aftermath of the Vietnam War have thrown cold water on the thesis that herbicides are effective military agents.

A Department of the Army study entitled "Herbicides and Military Operations" listed only two situations in which herbicides might have been useful—to increase limited visibility and to destroy crops. The Army study damned herbicides with the concluding faint praise:

> Herbicides can be useful as a support to military operations provided that special circumstances exist.

The study provides little tangible evidence that these "special circumstances" did in fact exist in Vietnam to an extent which can justify the far more extensive counterproductive ecological, sociological, and psychological effects on the Vietnamese which are discussed in another study by the National Academy of Sciences.

This year's NAS study, which was contracted for by the Department of Defense, revealed that herbicides extensively damaged Vietnam's inland tropical forests, destroyed 36 percent of the mangroves along South Vietnam's coasts, may have caused deaths among Montagnard children, and caused many Vietnamese to view the United States as its enemy because Americans destroyed their croplands and forests which are important to the economy.

In my view, this study fully supports the scientific estimates of the Herbicide Study Group of the American Association for the Advancement of Science which reported in the late 1960's of widespread ecological damage to certain regions of Vietnam. We now have unequivocable evidence that the mangrove forests, for example, have been damaged to such an extent that without considerable reforestation efforts, it may be many decades, if ever, before these important ecosystems will recover.

More studies are required to definitely state the effects on human being from the extensive use of herbicides in Vietnam. New, sophisticated techniques of analysis, however, are demonstrating that the dioxin contaminants of agent orange, the military compound consisting of herbicides 2,4,5-T and 2,4-D, persist in the soil and water of Vietnam and have even entered the food chain.

As you know, the issue of the environmental effects of herbicides has troubled me for a long time. I used every legislative device at my command to require the prohibition of the use of herbicides in the Vietnam war. And eventually in 1970—after an area the size of Massachusetts had been sprayed—the Pentagon abandoned its defoliation program in Vietnam.

In this country, I have fought to restrict the use of 2,4,5-T for agricultural purposes and in our national forests pending any conclusive scientific evidence that the chemical is safe. Compelling evidence suggests that it is indeed not safe, since it is highly probable that certain toxic trace elements—namely dioxin—which is present in 2,4,5-T may accumulate in the food chain and present a potential danger to human beings.

Dioxin is the most toxic synthetic agent known. Next to botulinum toxin, dioxin is the world's most toxic agent. It is present in 2,4,5-T only in very, very small amounts but it is dangerous in only very, very small amounts.

The U.S. Government can no longer persist in excluding this kind of dangerous chemical from its interpretation of the Geneva Protocol. Otherwise we can be certain that the world will place little credence in America's ratification of this treaty. How can we expect any other reaction from the other nations of the world? Chemical warfare agents are designed to be toxic. Certainly everything we have learned about 2,4,5–T indicates to me that it should be classified as a toxic agent and included within the scope of the protocol ban.

The Foreign Relations Committee recommends ratification of the Geneva Protocol. I concur. The committee neither accepted nor rejected the administration's legal interpretation of the protocol. It did, however, tie the recommendation of ratification to the administration's new national policy of renunciating first use of herbicides in war. It places great importance on Arms Control and Disarmament Agency Director Fred Ikle's statement to the Foreign Relations Committee that—

> The policy which was presented to the Committee will be inextricably linked with the history of Senate consent to ratification of the Protocol with its consent dependent upon its observance. If a future administration should change this policy without Senate consent whether in practice or by a formal policy change, it would be inconsistent with the history of the ratification, and could have extremely grave political repercussions and as a result is extremely unlikely to happen.

The issue of excluding herbicides is not limited only to the 1925 Geneva Protocol. The National Academy of Sciences study which demonstrates the vast ecological damage in Vietnam from herbicides, the Biological Convention which this Nation has signed but not yet ratified, the ongoing Geneva negotiations on chemical warfare—all are happening within a very short period of time. They are all inextricably linked. The Geneva Protocol first, bans use of toxic chemicals in warfare and second, bans use of bacteriological methods of warfare.

The Biological Convention first, restricts research, development, testing, and stockpiling of biological agents and toxins and second, states that the ratifying nations will work for a new chemical treaty in addition to the Geneva Protocol to restrict research, development, testing, and stockpiling of toxic chemical agents.

Any exclusion of herbicides from the Geneva Protocol severely jeopardizes progress in all of these linked events in controlling development of chemical agents of death and destruction.

In discussions at Geneva on an expanded chemical warfare treaty which would go beyond banning chemical warfare and involve itself in restricting research, development, testing, and stockpiling chemical munitions, U.S. negotiators have devoted considerable discussion

to the definitions of compounds such as herbicides which should be excluded from the definitions of chemical weapons. Because today's administration's position only selectively modifies the old legal position, it may perpetuate legal difficulties at Geneva and elsewhere indefinitely.

The administration put itself in an unenviable contradictory position. It is willing to "renounce as a matter of national policy * * * the use of herbicides in war except use under regulations applicable to their domestic use, for control of vegetation within the U.S. bases and installations or around their immediate definitive perimeters." In effect, it is willing to say herbicides need not and will not be used in war by the United States. But it is unwilling to say they should not be used. In other words, it is willing to incur the distrust of the international community without enjoying any practical effects from this policy. This is ludicrous.

The Foreign Relations Committee has wisely skirted the administration's rather questionable legal interpretation and concentrated instead on the practical importance of pinning the ratification to the administration's announced policy never to initiate the use of herbicides as a weapon of war. I understand, moreover, that the President will issue an Executive order to the Joint Chiefs of Staff to exclude herbicides from America's arsenal.

I intend to support ratification of the Geneva Protocol of 1925 on this basis. Once this question is resolved, hopefully the Senate can then get on to the business of ratifying the Biological Convention. And then our negotiators can perhaps get on with their vital business of negotiating an expanded treaty on chemical munitions.

In closing, let me say that if we have learned anything from recent developments in America's chemical warfare capability, it is that we have permitted the Department of Defense to make too many independent decisions on weapons policies. DOD should provide Congress with a full and complete arms control impact statement before we authorize any new weapons procurement.

Too often arms control policies and negotiations have been conducted without benefit of foresight. Bureaucratic momentum within the Department of Defense and other related agencies and the onrush of technological breakthroughs have generated research and procurement of agents of death and destruction without adequate consideration for what the consequences are for the peace of the world.

Too often these research and development decisions are made in the context of some isolated logistic program or with some specific or peculiar requirement in mind.

If we had a requirement of arms control impact statements for new weapons programs—a proposal I introduced in the Senate this Congress and which I intend to reintroduce next year—we might be able to get some answers to these questions. Had we had a system of arms control statements a decade ago before full-scale utilization of herbicides in Vietnam, the ecological catastrophe we have perpetrated on the Vietnamese land and people might have been avoided.

LEGISLATIVE BUSINESS

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate return to the consideration of legislative business.

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

QUORUM CALL

Mr. ROBERT C. BYRD. 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. 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.

MILITARY CONSTRUCTION APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 17468) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes.

Mr. STENNIS. Mr. President, will the Senator from Wisconsin yield to me just for a very few minutes?

Mr. PROXMIRE. I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, the amendment now offered to the bill by the Senator from Iowa (Mr. HUGHES) for himself and others pertains to a matter that, as a member and chairman of the Armed Services Committee, I had not known anything about until it was brought up here a few minutes ago on the floor.

The Senator from Iowa is not to blame for that; I state it, however, as a fact. Staff members from both the Armed Services Committee and the Appropriations Committee who are present in the Chamber are not able to advise me anything about it, because they do not know about it. The Senator from Missouri (Mr. SYMINGTON) suggested that I might look into this matter when it first came up.

So I state to the Senator from Wisconsin and to the Senator from Iowa that, not knowing anything about the subject, of course, I cannot support the amendment nor oppose it, either, without the facts. There are certain base closings, modifications, and all going on, but I do not know whether this involves that or not.

I am, under the circumstances, without approving the amendment on the merits, willing for the Senator handling the bill, if he sees fit, with his minority colleague, to take the amendment for further consideration in conference, and try to develop the facts.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator. As I understand the amendment, what it does is simply provide the requirement that information be made available to the Armed Services Committees of the House and the Senate, and members of the Armed Services Committees, as to the reorganization plans, the savings involved, and the effect on the communities where the bases would be closed.

Is that correct? Would the amendment do anything else?

Mr. HUGHES. Mr. President, I would say to the distinguished manager of the bill that it prohibits the expenditure of construction funds during the current fiscal year.

Mr. PROXMIRE. Until July 1, 1975?

Mr. HUGHES. June 30, 1975.

Mr. STENNIS. Mr. President, if the Senator will yield——

Mr. PROXMIRE. I yield.

Mr. STENNIS. The best evidence of what it does is in the language of the amendment. It says this, and nothing more:

> None of the funds appropriated in this Act shall be obligated to establish an Army armaments development center.

Mr. PROXMIRE. Yes, but I want to go behind that, and state that I understood the thrust of the remarks of the Senator from Iowa to be that he wanted the information. He wanted to be told so he would know what we are doing.

Mr. HUGHES. That is correct. I wanted not only the Senator from Iowa to be told, but for the public to be told, so that they would know what is being done.

I cannot say, on the basis of the information we have been able to get, whether we would oppose what they are doing or support it. We have been unable to get the information, and we have tried diligently for weeks to get that information.

This amendment would not stop the reorganization plan. They can go ahead with it. They can complete and develop their plan. The only thing they cannot do is spend money for construction of facilities to house the new organization.

Mr. PROXMIRE. Mr. President, I ask the distinguished Senator from North Dakota to respond. Since I am simply acting for the majority leader (Mr. MANSFIELD), I rely on his judgment.

Mr. YOUNG. Mr. President, I am also in an acting capacity, but I think the amendment should be accepted and taken to conference. I think the Senator from Iowa is entitled to the information he seeks.

Mr. PROXMIRE. Mr. President, I have no objection to having a voice vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa (Mr. HUGHES).

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I ask unanimous consent to have printed in the RECORD at this point our usual table showing the changes made by the committee and a more detailed narrative explanation and rationale for the committee's action.

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

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1974 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1975

[In dollars]

Agency and item (1)	New budget (obligational) authority, fiscal year 1974 (2)	Budget estimates of new (obligational) authority, fiscal year 1975 (3)	New budget (obligational) authority recommended in House bill (4)	Recommended by Senate committee (5)	Increase (+) or decrease (−), Senate bill compared with— Appropriations, new (obligational) authority, fiscal year 1974 (6)	Budget estimates, new (obligational) authority, fiscal year 1975 (7)	House bill, new (obligational) authority (8)
Military construction, Army	578,120,000	740,500,000	650,023,000	655,976,000	+77,856,000	−84,524,000	+5,953,000
Military construction, Navy	609,292,000	643,900,000	602,702,000	626,760,000	+17,468,000	+17,140,000	+24,058,000
Military construction, Air Force	247,277,000	[1] 566,727,000	456,801,000	446,202,000	+198,925,000	−120,525,000	−10,599,000
Military construction, Defense agencies	0	50,600,000	30,640,000	31,600,000	+31,600,000	−19,000,000	+960,000
Transfer, not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)			
Military construction, Army National Guard	35,200,000	59,000,000	59,000,000	59,000,000	+23,800,000	0	0
Military construction, Air National Guard	20,000,000	30,000,000	35,500,000	35,500,000	+15,500,000	+5,500,000	0
Military construction, Army reserve	40,700,000	43,700,000	43,700,000	43,700,000	+3,000,000	0	0
Military construction, Naval Reserve	22,900,000	[2] 22,135,000	22,135,000	22,135,000	−765,000	0	0
Military construction, Air Force Reserve	10,000,000	16,000,000	16,000,000	16,000,000	+6,000,000	0	0
Total, military construction	1,563,489,000	2,172,562,000	1,916,501,000	1,936,873,000	+373,384,000	−235,689,000	+20,372,000
Family housing, Defense	[3] 1,192,405,000	1,342,283,000	1,245,790,000	1,245,790,000	+53,385,000	−96,493,000	0
Portion applied to debt reduction	−100,908,000	−105,183,000	−105,183,000	−105,183,000	−4,275,000	0	0
Subtotal, family housing	1,091,497,000	1,237,100,000	1,140,607,000	1,140,607,000	+49,110,000	−96,493,000	0
Homeowner's Assistance Fund, Defense	7,000,000	5,000,000	5,000,000	5,000,000	−2,000,000	0	0
Grand total, new budget (obligation) authority	2,661,986,000	3,414,662,000	3,062,108,000	3,082,480,000	+420,494,000	−332,182,000	+20,372,000

[1] Includes $30,327,000 deficiency request.
[2] Includes $1,335,000 for relocation, Naval Reserve Center, Springfield, Mass.
[3] Includes $3,866,000 requested in H. Doc. 93-266.

Mr. ALLEN. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

On page 2, line 3, strike out "$655,976,000" and insert in lieu thereof "$656,998,000".

Mr. ALLEN. Mr. President, I want to commend the distinguished members of the Appropriations Committee for their long, arduous, and productive work on the military construction appropriations bill. Theirs has not been an easy task, balancing Defense construction priorities in order to provide the vital needs of our military agencies throughout the world.

I am convinced that defense is the No. 1 priority for the United States, for if Congress does not provide for the security of our country, it could well be that we will not have a country to defend.

For this reason, I have always supported legislation providing the tools, weapons and facilities needed by our men in uniform, within the confines of available funds. At the same time, I have supported military authorities and the Senate Appropriations Committee in their efforts to save money wherever possible—in areas where construction is not necessary, where weapons are not necessary and wherever economies can be effected.

So it is with some reluctance that I propose adding to the military construction appropriation now before the Senate. But in this case I feel that need for the project which I will discuss merits its inclusion in the bill.

What is involved is a dental clinic at Fort Rucker, Ala., which houses the Army's aviation center and associated organizations.

This project is included in the military construction authorization bill in the amount of $1,022,000.

As way of explanation, let me describe the geographic location of this large installation which is the training center for the Army's modern helicopter and fixed wing forces. Fort Rucker is necessarily sited in a remote area, and because of this the installation is required to be equipped to supply the services and needs for its some 35,000 population, composed of uniformed members of the service and their dependents. But the fact is that the installation is sadly lacking in its capacity to provide dental services for these men, women, and children. At the present time the dental clinic incorporates three buildings built during World War II as temporary facilities in which are located 19 chairs, and a 16-chair clinic located in the post hospital which was built in 1967. The present total of 35 chairs simply will not accommodate the dental services required for the military personnel assigned to Fort Rucker and their dependents. An Army study shows that this clinic should include 49 chairs, 14 more than are presently available.

The dental clinic project, which would be provided by my amendment, would replace the 19 chairs located in the 32-year-old buildings because those so-called temporary buildings cannot be effectively or efficiently used to meet the requirements of modern dentistry which employs procedures, principles and equipment developed since 1942. Clearly, installation of essential new dental equipment in the old buildings would be neither economical nor would it result in overall improvement in functional clinic design.

The Army has said that if this dental clinic project is not provided, its personnel at Fort Rucker will continue to receive dental health services in inferior facilities which are incompatible with present-day standards. It is incongruous that the United States would juxtapose a World War II vintage dental facility and modern training facilities for helicopters and equipment which were nothing more than a designers dream when World War II was being fought.

I feel that when we send our soldiers to a military installation for training or service, or to a post where they stand guard over our security, we have the duty and the obligation to insure that they not only have the finest weapons and equipment, but also that they are provided the finest medical care that our technology can develop. That is why I am asking for an appropriation for the dental clinic at Fort Rucker which is included in the military construction authorization bill.

Mr. PROXMIRE. May I say to my good friend, the Senator from Alabama, I am sure his amendment has merit. The difficulty is the House considered this and deferred it. The Army did not even reclaim when it came to the Senate, they did not ask that it be restored. The Senate did consider it, and they felt that for economy reasons and because they are constraining the budget very tightly they reduced the overall military construction budget by 15 percent, one of the biggest reduction anywhere, that they simply could not put it in.

I would like to tell my friend, the Senator from Alabama, that I will do my best to work with the majority leader, who is the chairman of the subcommittee, to see if we can win consideration for it next year.

Mr. ALLEN. I appreciate that very much. I appreciate fairness of the distinguished Senator from Wisconsin (Mr. PROXMIRE), and I appreciate his assurance that full consideration will be given to the matter next year. I hope that on that consideration agreement will be made or that the appropriation will be made.

I thank the distinguished Senator.

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

The amendment was rejected.

Mr. SCHWEIKER. Mr. President, I oppose the $7.4 million included in the military construction appropriations bill for the transfer of the Naval Air Engineering Center from the Philadelphia Naval Shipyard to the Lakehurst, N.J., Naval

Air Station. I oppose this specific appropriation on the basis that adequate justification for the transfer of this facility was not provided to the committee. A General Accounting Office report which I requested on this transfer clearly shows that annual cost savings from this transfer have been overstated and that more than half the $15.3 million cost savings cited by the Navy to justify the transfer could have been achieved without relocation. In addition, GAO stated that it *could not comment* on the reasonableness of the Navy's anticipated one-time cost because the Navy could not provide adequate supporting data justifying its estimate. The committee shared my concern on this last point. I point out that the committee in its report stated:

In reviewing the Navy's request for $7,350 million for the Naval Air Test Facility, Lakehurst, New Jersey, in order to facilitate the relocation of the Naval Yard Engineering Center from the Philadelphia Naval Shipyard complex to the Naval Air Station, Lakehurst, New Jersey, the Committee was provided a report of the General Accounting Office requested by Senator Schweiker which reviewed the Navy's estimates of the cost and savings related to the planned relocation. The GAO report questions the Navy's estimated annual savings, indicating they are overstated. In addition, the GAO stated that it could not comment on the reasonableness of the Navy's anticipated one-time cost because the Navy could not provide adequate supporting data justifying its estimate.

The Committee is disturbed over this apparent conflict over the actual cost and savings related to the Lakehurst request. Further, the Committee feels the Navy has a responsibility to make available sufficient data to fully justify its request and it expects that future requests, particularly involving consolidations and transfer of facilities, will be accompanied by a complete disclosure of data supporting its plans. In addition, the Navy is directed to provide the Committee when it next submits a budget request a report indicating whether the estimated cost and savings on the NAEC relocation to Lakehurst have been achieved.

I am also deeply disturbed by several other items included in the GAO report. Among them is the omission of some $480,000 in work to prepare industrial buildings on the assumption this work can be done with military construction funds already programed for other work; the inclusion of an estimated $7.4 million for military construction funds provided in this bill may be inadequate; and there was no disclosure of the possible total cost of leasing temporary buildings at Lakehurst needed to accommodate the transfer. Finally, there was a failure to consider early retirement pay to eligible savings from general work force reductions. There is no assurance that any savings will result from reducing NAEC's present in-house production capacity. Despite Navy's position, I believe that the Navy will incur costs to obtain items for which NAEC's in-house production capacity is being eliminated; for example the manufacture and assembly of the airfield and ship-lighting packages which will be secured from commercial and other Navy sources.

I also question whether the savings from the relocation would be great enough to overcome several disadvantages and improve the efficiency of the Naval Air Engineering Center. This move would involve the transfer of employees to an area where a severe housing shortage exists and cost of housing far exceeds that of Philadelphia. It would also remove some 1,000 jobs from an area of substantial unemployment and depriving the area of tax revenue, causing loss of some $60 million in contracts in this area. Also, apparently not considered are the increased shipping costs due to the lack of proximity of Lakehurst to air, sea, and rail centers, as in the case of the Philadelphia facility. Finally, the 1,000-plus civilian workers would be dependent on individual vehicle transportation because Lakehurst, unlike Philadelphia, has a limited mass transportation system.

In conclusion, I feel strongly that NAEC was doing an excellent job at the Philadelphia Naval Shipyard and believe that it would only cost money and not save tax dollars, to transfer it to Lakehurst. I am not satisfied that the Department of Defense has properly evaluated this proposal and I regret that funds are provided in this bill which will begin the transfer. This appropriation is unnecessary, unjustified, and will result in severe hardships for the city of Philadelphia and particularly for the many employees whose loyal service to the Federal Government is being overlooked for no good reason.

The PRESIDING OFFICER. 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 (H.R. 17468) was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. ROBERT C. BYRD. Mr. President, there will be a rollcall vote on a motion to invoke cloture at about 1:45 p.m. today. I ask unanimous consent that the rollcall vote which will be ordered on the surface mining conference report follow that cloture vote, and that the rollcall vote, which will presumably be ordered, on the military construction appropriation bill, immediately follow the vote on the conference report.

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

Mr. ROBERT C. BYRD. The yeas and nays will be ordered at that time, but I am sure that will be a rollcall vote.

QUORUM CALL

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

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

MEETING OF COMMITTEE ON FINANCE ON SATURDAY, DECEMBER 14, 1974

Mr. LONG. Mr. President, one of the things that plagues all of us in the Government is misunderstanding and misinformation.

The press or at least a reporter for United Press International reported on yesterday that the Senate Finance Committee, in an unannounced meeting, recommended a number of measures.

Mr. President, the Senator from Louisiana as chairman of that committee, had asked our staff to seek to call the comittee together and to send out notices when we concluded consideration of the trade bill on Friday evening about 6 o'clock. Up until that time it had not seemed to this Senator that it would be possible for the committee to meet on Saturday, because I had anticipated that we would be in session, operating under the cloture rule, with voting every half hour or so during all day Saturday and, therefore, that it would not be possible to hold a meeting.

The record will show that Mr. ROBERT C. BYRD of West Virginia, our very able acting leader on the majority side, stood on the floor and asked unanimous consent that the Committee on Finance could meet during the session of the Senate, and unanimous consent was given that the committee would be permitted to meet. It might have also caused some confusion to reporters, because the Committee on Finance was not meeting over at the usual Finance Committee room, but meeting at the reception room just outside of the Senate Chamber. The reason we were doing that was we were voting in the Chamber about every hour, and the time one would spend going back and forth to the Chamber would make it almost impossible to conduct a meeting.

One of our able Members apparently did not go by his office before he came to the Chamber, and he was unaware that we were holding a meeting. One of us found him and brought him into the committee and explained to him everything that had been agreed to, and he assented to it, down even to and including signing the motion for cloture to try to bring to a vote the decisions made by the committee. But, apparently, when interviewed he told someone that he was unaware that the committee was going to meet.

Well, that happens around here, Mr. President. We are trying to do our duty and do the best we can.

Saturday's RECORD will contain an explanation by the Senator from Louisiana to what the committee agreed, and the procedure that we hoped to obtain in order to vote on these very pressing matters that the committee feels should be voted upon before we go home.

In the social security area and in the public welfare area all we are seeking to do is simply vote again on three items on which the Senate had voted by almost unanimous vote on previous occasions.

At least one of these items has been voted by the Senate twice by overwhelming votes. The other two have been voted by unanimous vote, so that we are just seeking to try to make effective the will of the Senate which, for the most part, has been expressed in a unanimous fashion.

Now, in addition to that, we are seeking to bring to a vote certain matters that we believe are not controversial in the so-called tax reform bill that the House Ways and Means Committee reported through the committee and has failed to be scheduled by the House Committee on Rules.

We simply lifted out certain matters that we believed to need immediate action and which we feel might be agreed to by a unanimous vote of the Senate.

I know our committee is unanimous on recommending these things. We, of course, are not sufficient mindreaders to predict that 100 Senators out of 100 will agree with those particular items that they should be passed by the Senate. And just for fear that what we were recommending could not happen, because other Senators would come in and take the view that they would be willing to pass the bill provided we would add their amendment to it, and thereby make a Christmas tree bill out of it, which would then result in a filibuster against a Christmas tree bill, we felt we had better try to file a cloture motion to limit ourselves by the rule of germaneness on these few items which we felt deserved the consideration of the Senate before the Senate adjourned.

I hope that no one gained the impression that we were trying to have an end run around someone. All we were trying to do was to bring certain measures, which are matters, each of which could muster at least a two-thirds majority vote in the Senate, to a vote in this body.

Since the Senate gave us consent to have a rule of germaneness, which required invoking rule XXII on the trade bill, without which that bill never would have become law, we thought the Senate might be willing to follow the example set and make it possible to vote on a measure that would assure social services to the poor, that would try to provide some additional tax relief to the poor, and that would try to prevail upon fathers to contribute some small amount to support their children who are being left with what little we could make available to them in terms of a public welfare contribution by State and Federal Government.

Measures of this sort, we feel, should be acted upon before we go home, and we think it would be rather inappropriate during the yuletide season to fail to act in these areas and leaving many people in distress, because Congress failed to act on vital pressing matters before it adjourned in the middle of December.

Mr. President, Saturday's executive session was an extremely important executive session, in which the committee dealt with measures relating to taxes, tariffs, unemployment insurance, social services, the work bonus for low-income workers, and child support.

It is unfortunate that this meeting has been characterized as an "unannounced" meeting, perhaps giving the idea that there was something secretive about it.

The meeting was called on fairly short order, but for a simple reason. We did not know until late Friday that the Senate would complete action on the trade bill that day. It was only when this became clear that we were able to schedule the Saturday meeting, since we had expected that Saturday would be taken up with further floor action on the trade bill.

Once the meeting was scheduled for Saturday, I had the offices of all members of the committee notified immediately. Since this happened late in the day, some failure of communication occurred and I regret if any member of the committee did not get the message about the Saturday meeting. However, it reflects well on the committee that 15 of our 17 committee members were present at this executive session.

A Saturday executive session is certainly unusual for the Committee on Finance, but the circumstances were also unusual. Some very important matters are now pending, and the committee felt that the Congress should not go home within a week without first dealing with them. Since time is short, we wanted to offer the Senate an opportunity to bring these matters to a vote—if necessary, by invoking cloture. Because the committee met on Saturday, I was able to file cloture petitions on two bills on Saturday. This will permit the vote on cloture to occur tomorrow. If we had not met on Saturday, we would have lost a full day at a time when we cannot afford any delay. In order to fit within the time deadlines, we simply had to meet on Saturday so that the Senate will have a chance to act in the pressing areas dealt with in the committee amendments.

Mr. President, if no other Senators desire to speak at this point, 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. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER FOR CONSIDERATION OF H.R. 17597 TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately after the military construction appropriation bill has been disposed of today, the Chair lay before the Senate a message from the House on H.R. 17597, that it be considered as having been read the first and second times, and that the Senate proceed with its immediate consideration.

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

Mr. ROBERT C. BYRD. Mr. President, may I say for the information of the Senate, this is the unemployment compensation bill, not a sine die adjournment resolution.

RECESS UNTIL 12:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 12:30 p.m. today.

The motion was agreed to, and at 11:50 a.m., the Senate recessed until 12:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ABOUREZK).

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1974—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. ABOUREZK). Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now proceed to the consideration of the conference report on S. 425, which the clerk will report.

The 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. 425) to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface mining operations, and the acquisition and reclamation of abandoned mines, 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 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 December 5, 1974, at p. 38259.)

The PRESIDING OFFICER. Time for debate on the conference report shall be limited to 30 minutes to be equally divided and controlled by the Senator from Washington (Mr. JACKSON) and the Senator from Arizona (Mr. FANNIN).

Who yields time?

Mr. METCALF. Mr. President, in the absence of the Senator from Washington, I ask unanimous consent that the time yielded to Senator JACKSON be temporarily allocated to me.

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

Mr. METCALF. Mr. President, I ask unanimous consent that Mike Harvey, Lucille Langlois, Jerry Verkler, Bill Van Ness, Mary P. Flanagan, Fred Craft, Harrison Loesch, and Mary Adele Shute, of the Interior Committee staff, and Mr. James Grady, of my staff, have the privilege of the floor during consideration of and voting on the conference report on S. 425.

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

Who yields time?

Mr. FANNIN. Mr. President, I yield myself 3 minutes.

Mr. President, I ask unanimous consent that the economic impact of strip mining legislation be placed in the RECORD, at this point.

There being no objection, the economic impact of strip mining legislation was ordered to be printed in the RECORD, as follows:

Economic impact of strip mining legislation: potential additional costs of economy [1]

Employment:	
Surface mining jobs directly affected by lost coal production incurred by legislation	6,180
Indirect unemployment incurred by lost coal output	4,194
Total unemployment resulting from legislation	11,124
[In billions]	
GNP:	
Direct loss to gross national product attributable to lost coal production	$0.750
Secondary economic impact:	
Additional indirect loss to gross national product due to ripple effect in economy	1.35
Increased power costs: [2]	
Average increased cost to consumers of electric power incurred by lost strip coal output	1.3
Total domestic economic impact	3.4
Balance of payments:	
Total estimated payments deficit incurred by lost coal production	2.75
Total economic cost to United States	6.2

[1] Methodology attached.

[2] Does not include cost to Utilities of Converting to other forms of fuel, which is impossible to calculate.

Assumed: 50 million tons of coal per year will be lost to domestic production owing to enactment of the currently considered Surface Mining Control and Reclamation Act of 1974. (Interior report assumption).

Problem: How many miners will be laid off from work?

1 work year of 225 days times 1 man-day at 35.95 tons times 50 times 10^6 tons equals 6,180 men.

Data: 1972 Minerals Yearbook

Assumed: For each job lost in the strip mining area, 0.8 jobs will be lost directly and indirectly elsewhere in industry. (Dr. William Mieriek's work on input-output model, University of West Virginia.)

Problem: What will be the total unemployment resulting from the new legislation?

6,180 miners times 1.8 factor for indirect unemployment equals 11,124 men.

Assumed: The 50 million tons of lost domestic production from strip mines will require increased imports of residual fuel oil or crude. Assume 1 ton coal=26×10^6 BTU. One barrel of oil equals 5.8 times 10^6 Btu. One ton of coal delivered domestically for steam plants costs $15.00. One barrel of imported oil costs $12.00.

Problem: How many barrels of additional fuel must be imported to offset the energy loss of the 50 million tons of coal?

26 times 10^6 Btu times 1 barrel of oil 5.8 times 10^6 Btu times 50 times 10^6 tons coal in 1 year times $12.00 per 1 barrel of oil equals 2.688 times 10^6 dollars.

Therefore—For total replacement of energy by imported oil we would need an additional 224 million barrels of imports which would increase our foreign exchange deficit by 2.69 billion dollars.

But—Approximately 80 percent of the strip mine coal is used in domestic steam boilers. Of the remaining 20 percent, 12 percent is used directly or blended for coke and gas production; and, 8 percent is exported. Since imported fuel oil can not replace coal in coke ovens or exports, a factor of 80 percent should be applied to the above $2.69 billion foreign exchange deficit. Thus it would be reduced to $2.15 billion. And the reduced barrels of needed oil imports would be 179 million barrels.

And—The 8 percent export of steam coal (to Canada and the European low countries, if shipments were prevented under Export Control authority, would diminish our foreign exchange earnings by 50 times 10^6 tons times $15.00 times 0.08 equals $60 million.

The remaining 12 percent that goes to coke ovens and gas plants would probably be supplied by increased underground production from suitable Appalachian coal seams with unknown time delay in the production increase and at unknown cost.

The cost *not* incurred by the U.S. economy as a result of *not* mining the foregone 50 million tons of coal would be 50×10^6 tons per year $\times$ $15.00=$750 million. This would, of course, diminish GNP by $750 million plus the indirect ripple effect of 0.8=$1.35 billion. This includes the lost purchasing power of the 11,124 men idled by the production loss.

Assumed: Increased cost to domestic electric power consumers would be the difference in value of the foregone coal production and the value of the added imported oil to replace it.

And—50×10^6 tons$\times0.8\times$ $15.00=value of coal=$600 million; 179×10^6 barrels$\times$ $12.00= value of added imported oil=$2.15 billion.

Therefore—Increased power cost would be $1.55 billion.

In 1973, U.S. consumption of electric power was 1,849,269,000,000 kilowatt-hours. To determine added cost per kilowatt-hours divide dollars by kilowatts: 1.55\times10^9$ divided by 1.85×10^{12} kwh equals 0.07 cents per kwh.

Thus, the cost of electricity attributable to the foregone strip mine coal production would be seven hundredths of one cent for kilowattshour on a national average.

This paper does not address the cost of converting steam electric power plants to burn fuel oil instead of, or in addition to, coal. Many plants are now so equipped, and conversion of many others can be made at perhaps small cost.

Mr. FANNIN. Mr. President, I want my colleagues to realize that, in accordance with the information I have just placed in the RECORD, staggering numbers of jobs will be lost should this bill become law. Listen to these statistics: 6,180 direct mining jobs will be lost; indirect employment will cost 4,194 jobs; thus total unemployment resulting from the legislation will be 11,124.

Direct loss to gross national product attributable to lost coal production will be $750 million; the secondary economic impact plus additional indirect loss to gross national product due to the ripple effect in the economy will be $1.35 billion.

Mr. President as far as increased power costs: the average increased cost to consumers of electric power incurred because of lost strip coal output will be $1.3 billion for a total domestic economic impact of $3.4 billion.

Mr. President, as for our balance of payments, the total estimated payments deficit incurred by lost coal production will be $2.75 billion.

The grand total economic cost of this legislation to the people of the United States will be $6.2 billion. This country just cannot afford this kind of price tag.

Mr. President, I call all this to the attention of my colleagues because I think it is very, very serious. The total coal production loss would be in the neighborhood of between 50 million tons and 148 million tons in the first full year.

Recall we are only talking about the first full year, Mr. President, and, no doubt, from the information we have received we easily calculate that one-sixth of the coal production of this country will be lost.

The PRESIDING OFFICER. Will the Senator suspend until there has been order achieved in the Chamber. The Senate will come to order so that the Senator from Arizona will be heard in this debate.

The Senator may proceed.

Mr. FANNIN. Mr. President, Dr. William Mieriek's job loss assessment which I put in the RECORD earlier, illustrates the tremendous impact that this will have on our Nation. So I feel, Mr. President, that we must take this into consideration before our vote on this legislation.

Mr. President, for these reasons stated and for many more which I do not have time to fully elaborate, I would hope that the President addresses this measure with a forceful, forthright veto because the Congress has failed to strike a balance between the end for environmental protection and the availability of coal as a national energy resource. There is no reason for the Congress to invalidate 32 State laws governing surface mining with a bill as defective as this. Sixteen of the largest coal producing States have amended their State laws with more stringent environmental standards to insure reclamation and this State action negates our rush to pass defective Federal restrictions.

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

Mr. JACKSON. Mr. President, I allow myself 7 minutes.

The PRESIDING OFFICER. The Senator from Arizona has 10 minutes remaining.

Mr. JACKSON. Mr. President, I strongly support the conference report on S. 425. I believe that it achieves a balance between the need to protect the environment and the need to develop our coal reserves to meet our national energy needs.

I am sure that the Senate is aware the President has announced his intention to veto the bill. Apparently some of the President's advisers have fallen victim to the scare campaign waged by the coal industry.

It is worth recalling today that industry has in the past fought strip mining bills far less stringent than the legislation before Congress today. The delay in enacting legislation, caused largely by industry's opposition, has brought the nature and scope of the strip mining problem more sharply into focus. The need for strong regulation of strip mining practices is more apparent—to more people—than ever before. Those who believe that the existence of an urgent need for coal will somehow forestall effective regulation of strip mining are whistling in the dark.

On numerous occasions, including the recent amendments to the Clean Air Act, Congress has shown that it understands the need for careful tradeoffs between energy needs and environmental con-

cerns. But Congress is not prepared to sacrifice legitimate environmental goals.

The conference report before the Senate is consistent with past action and is a balanced bill.

Mr. President, I found the explanation of the President's decision given by Federal Energy Administrator Zarb reveals a serious lack of understanding of the conference report and of the intense national concern about the need for Federal regulation of surface coal mining. It is interesting that Mr. Zarb recommended a veto after 2 days in office, while Secretary of the Interior Morton and Environmental Protection Agency Administrator Train who have been working with Congress on surface mining legislation for 4 years recommend that the President approve the bill.

Mr. Zarb and the coal industry say that "the principal problem with the bill is the adverse impact on domestic coal production." The fact is that at current production levels, this country has more than 500 years of coal reserves. It is ridiculous to talk about a diminition in production at present prices, much less those anticipated in the future, and it is even more ridiculous, given the massive amount of our coal reserves, to refuse to assume the relocation of mining operations, for example, to areas which can be prudently mined—in estimating the impact of this bill.

Mr. Zarb's statement that the bill will prevent a reduction in oil imports is just plain wrong. There are many factors limiting the use of coal as a substitute for imported oil. The Federal Energy Administration's own comprehensive energy plan submitted to Congress on December 9 calls for a massive coal conversion program to reduce residual fuel oil consumption by 500,000 barrels per day by 1980. Clearly ample coal supplies would be available by that time under S. 425. Furthermore, the FEA plan points out that the major potential for reducing imports, by 1 million barrels per day in 1975 is demand-reduction—not fuel substitution.

Mr. Zarb admitted that FEA's estimates of production losses vary widely. He then proceeded to cite loss figures even greater than those circulated by the National Coal Association, and much higher than the probable losses estimated by the Interior Department's Bureau of Mines.

Mr. President, we must remember that all these loss estimates fail to take into account the Nation's vast coal resources underlying land which can be reclaimed.

The American Gas Association, which has a vital interest in development of coal for gasification, has indicated that it supports S. 425. It apparently does not see S. 425 causing a reduction in coal supply.

This view is shared by Interior Secretary Morton. He told the American Mining Congress that the conference report is "a workable bill which will do the job of protecting the environment and still provide greatly increased supplies of coal—our most abundant fuel."

Mr. President, Administrator Zarb also spoke of "ambiguous language" and fear of citizen suits as justification for a Presidential veto. S. 425 is a long and complex measure which, like many other laws, undoubtedly will require modification in the future. It will not be fully implemented for 2½ years.

I am sure that the Interior Committee will be receptive to proposals for amendments based on any unanticipated problems in implementation of the bill. As committee chairman, I pledge to work with the administration to correct any defects. I should point out that the administration has continuously opposed efforts to impose precise requirements in the bill. The proposed legislation which it submitted to the 93d Congress was certainly the most imprecise of all the bills considered by the Interior Committee.

Enactment of S. 425 will not add to today's disastrous inflation. The study done for the Senate-House conferees by the Library of Congress clearly demonstrates that neither the Federal expenditures nor the costs of reclamation will have any inflationary impact.

The coal industry can afford the cost of reclaiming strip mined land. What it cannot afford is to undermine its credibility with Congress and the public by misrepresenting the provisions of this legislation and its ability to comply with them. What it cannot afford is the continuing uncertainty created by the failure to resolve this issue.

FEA's comprehensive energy plan points out that "uncertainties" concerning surface mining control "have delayed the opening of new mines."

I hope that the President will follow the advice of Secretary Morton who is most familiar with the bill and chairman of the administration's Energy Resources Council and resolve the major uncertainty by approving the bill we send to him today. I would remind the President that the Senate passed S. 425 by a vote of 82 to 8. The House of Representatives passed its amendment to S. 425 by a vote of 291 to 81. This overwhelming support reflects the feelings of the American people about the need for Federal legislation now.

If the President is determined to veto the bill, I urge him to return it immediately so that Congress will have an opportunity to override the veto. It would be very unfortunate if a President who has not been elected by the people should choose to prevent the people's elected representatives from once again expressing their strong views about surface mining.

In any event, the administration and the coal industry should be aware that if this bill does not become law, the 94th Congress will enact even stronger legislation early next year with or without Presidential approval. I would also expect that there would be no leasing of Federal coal until surface mining legislation is enacted.

Early in the 94th Congress, I will do everything I can to see that it is passed without delay.

May I say, Mr. President, I had the coal industry on my back opposing the bill that I introduced several years ago. They said it was too tough and the bill died in the Congress. Then they came back 2 years later and asked me to support the bill that they had opposed.

I think we have had enough of this nonsense. I want to see both a good environment and a viable coal industry.

But in their desire to oppose this bill and to see it vetoed, the industry is making a bad mistake. I am convinced that in the new Congress they are going to get a much tougher bill and that Congress will override any veto.

I hope the President of the United States will do his best to support this legislation. Why not listen to the man who has been handling it all these years the Secretary of the Interior, Mr. Morton, who supports the legislation in the conference report before this body. I have respect for Mr. Zarb, but he has been in office only 2 days and wants to veto it. I suppose it will be vetoed as announced, but I am serving notice on the administration that come next year we are going to move a bill forward and it is going to have more stringent regulations in it than this one.

Mr. President, I wish to congratulate all my colleagues on the Interior Committee who worked on this bill, particularly those who served on the conference committee. I am especially grateful for the untiring efforts of the Senator from Montana (Mr. METCALF) who took the lead in our committee consideration of the bill and Senate approval last year and in the conference committee. The entire Nation will benefit from his work during the years ahead.

I am very pleased that the conference report retains the basic approaches of the Senate bill which I introduced in January of 1973. The basic overriding principle was then and continues to be, that land which cannot be adequately reclaimed should not be surface mined. The conference report also retained the provision of the Senate bill calling for a study and legislative recommendations for additional legislation to regulate surface mining of minerals other than coal.

Together with many of my colleagues, I was concerned about the public policy issues involved in the provisions of both the Senate and House bills dealing with the protection of private individuals who own the surface estate overlying Federal coal. I was particularly concerned about the implications of the House provision for "surface owner consent." I believe that the compromise approach adopted by the conferees balances the legitimate interests of farmers and ranchers and the interests of the American people in the use of their coal resources.

The conference report adopts a limited surface owner consent provision which does not go into effect until February 1, 1976. Until that time there would be a moratorium on further leasing of Federal coal underlying private surface.

Mr. President, during the last several months the coal and electric utility industries have urged a rapid large-scale leasing of Federal coal in the West. They stress that Federal coal is "low sulfur." However, the relatively low-sulfur content of much western coal is, in many instances, substantially offset by its low Btu value. The significance of this fact is brought out in the "Preliminary Report of Coal Drill Hole Data and Chemical Analysis of Coal

Beds in Campbell County, Wyo., prepared by the U.S. Geological Survey and the University of Montana Bureau of Mines and Geology. This report shows that the majority of coal samples tested are "high sulfur" at least in terms of violating air pollution standards for coal burning powerplants.

It is absolutely vital that we have a strong Federal surface coal mining law and a substantial revision of the Federal coal leasing laws—such as that approved by the Senate on July 8 (S. 3528)—before there is any large-scale Federal coal leasing. I ask unanimous consent that a letter that the Senator from Montana (Mr. METCALF) and I wrote to Secretary of the Interior Morton about Federal coal leasing policy be included in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. JACKSON. S. 425 is supported by a broad spectrum of labor, farm, consumer, utility, and environmental organizations including the following list:

AFL–CIO, American League of Anglers Appalachian Coalition, Consumer Federation of America, Environmental Action, Environmental Policy Center, Friends of the Earth, Izaak Walton League of America, League of Women Voters, National Association of Conservation Districts, National Association of Wheatgrowers, National Audubon Society.

National Farmers Organization, National Farmers Union, National Grange, National Rural Electric Cooperative Association, National Wildlife Federation, Northern Plains Resources Council, Montana Powder River Basin Resource Council, Wyoming Public Citizens' Congress Watch, Sierra Club, Wilderness Society, United Auto Workers, United Mine Workers.

I urge adoption of the conference report.

I reserve the remainder of my time.

EXHIBIT NO. 1

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Washington, D.C., November 19, 1974.

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

MY DEAR MR. SECRETARY: On July 8, the Senate unanimously passed S. 3528, the Federal Coal Leasing Amendments Act of 1974. This bill was the result of extensive hearings on Federal coal leasing policy conducted by the Subcommittee on Minerals, Materials and Fuels and hearings on coal policy issues and Federal mineral leasing and disposal policies conducted during the last two years by the National Fuels and Energy Policy Study. It draws heavily on the proposals made by your Department for changes in the Federal mineral development laws. The Committee's report on S. 3528 states:

"The Committee is convinced that the changes in the basic coal leasing law, which would be made by S. 3528, should precede any large-scale Federal coal leasing program. Otherwise, billions of tons of coal may be placed into private hands under the provisions of a law which the Committee, the Administration, citizens of the area involved, the General Accounting Office, and other independent analysts all agree is outmoded and not in the public interest."

If S. 3528 is not enacted this year, the Interior Committee will act rapidly on coal leasing policy legislation next year. We support development of domestic energy resources in a realistic and responsible manner. Thus, we are convinced that the current coal leasing moratorium should continue until the Federal law has been changed and comprehensive land use plans for the areas which will be impacted by coal development have been prepared. This moratorium permits coal leasing where necessary to continue an existing mining operation or to provide adequate short-term coal reserves.

We are deeply concerned about the possibility that the current energy situation will lead to premature decisions to proceed with large-scale coal leasing when the impacts of such action are not fully understood. The issuance of such leases could, for all practical purposes, commit the land, water, and air resources of the area to development of surface mines, electric generating plants, coal gasification and liquefaction plants, water impoundments and new communities without adequate consideration of other alternatives and environmental, social, and economic impacts, and without adequate opportunity for advance planning by the communities involved.

We know that the coal and electric power industries are placing increasing pressure on the Administration to end the current moratorium and to lease large quantities of Federal coal. However, there must be a better understanding of the problems associated with surface coal mining in the arid and semi-arid regions of the West before turning more Federal coal over to private industry.

Perhaps the two most crucial areas in which more information is needed are hydrology and the reclamation of mined lands. Hydrology is particularly crucial in the West. Because there is little rainfall, fairly intensive irrigation probably will be required to re-establish adequate vegetation after mining. Furthermore, many coal seams in the West are major aquifers and not enough is known about the impact of surface mining on them. For example, according to a recent study by the National Science Foundation, surface coal mining near one western community would de-water such aquifers, affecting the source of water for several hundred wells. There is also great uncertainty about the feasibility of reclaiming arid and semi-arid lands. Most experts agree full vegetative restoration cannot be achieved in these areas for as long as 20–25 years after restoration has begun.

These problems have been highlighted recently in a number of documents published by your Department. The Draft Report of the Northern Great Plains Resources Program points out that large-scale coal development in the Northern Great Plains States will have far-reaching social and economic impacts in addition to the more frequently considered environmental impacts. The report repeatedly points out that the nature and extent of these impacts cannot be adequately assessed because of lack of technical data. This is particularly true of the cumulative impacts of large-scale surface coal mining and coal gasification and liquefaction and electric generating activity. Similar conclusions appear in the Draft Environmental Impact Statement on Proposed Federal Coal Leasing in the United States of America.

The Final Environmental Impact Statement on the Proposed Development of Coal Resources in the Eastern Powder River Basin of Wyoming graphically illustrates the massive changes which will take place as a result of surface coal mining and related activities in a relatively limited geographical area.

During the last several months, much of of the coal and electric power industry emphasis on the need for development of Federal coal has stressed the fact that it is "low sulfur" coal. However, the relatively low sulfur content of much Western coal is, in many instances, substantially offset by its low BTU value. The significance of this fact is brought out in the "Preliminary Report of Coal Drill Hole Data and Chemical Analysis of Coal Beds in Campbell, Wyoming," prepared by the U.S. Geological Survey and the University of Montana Bureau of Mines and Geology. This report shows that the majority of coal samples tested are "high sulfur" at least in terms of violating air pollution standards for coal burning power plants. This casts considerable doubt on industry's arguments that Western coal would keep a power plant within new source performance standards and thus prevent violation of air quality laws.

Federal coal is only part of the Western coal supply picture. There are 252,000 acres of Federal coal already under lease in the Northern Great Plains States. However, the Draft Report of the Northern Great Plains Resources Program indicates that the total coal acreage under lease is at least 2,135,000 acres. In view of the many billions of tons of Western coal—Federal, state, and private—now owned by or leased to energy companies, we see no need to lease any more Federal coal in the immediate future. Given the tremendous uncertainties about the impact of surface coal mining on air and water quality, water supply, soil productivity, and the future of food and fibre production, we believe that rapid leasing would be a grave mistake.

In view of all these serious uncertainties, we would like to know what the Department's plans are with respect to future Federal coal leasing. Please answer the following questions:

1. Does the Department plan to use the Energy Minerals Allocation Recommendation System (EMARS) developed by the Bureau of Land Management?

2. What is the status of the following activities which the Department has had underway for some time:

a. The incorporation into EMARS of data from the Northern Great Plains Resources Study;

b. The preparation of surface and mineral ownership management maps through a coordinated effort of the Bureau of Land Management and Geological Survey;

c. A complete analysis of current leases;

d. Possible changes in regulations and lease stipulations requiring diligent development coal resources; and

e. The completion of the final coal programmatic environmental impact statement.

3. How much acreage and tonnage do you expect to lease in the next five years?

4. How are you going to determine the amount to be leased?

5. When and where will leasing take place?

6. Will the leases contain terms and conditions designed to assure production? What will they be?

7. What method of leasing will be used?

8. What will the rental and royalty rates be? How do these compare with rents and royalties received by States and private coal owners?

9. What are the Department's plans for intergovernmental coordination and public participation in any coal leasing program?

10. What plans does the Department have to monitor the environmental impacts of coal development? This would seem particularly important for future leasing decisions.

11. Do you plan to issue any more prospecting permits?

12. What action do you plan to take on pending applications for preference right leases? Does the Department still hold to the view that it has no discretion in the issuance of such leases despite the basic discretionary leasing authority clearly set forth in the 1920 Mineral Leasing Act and the provisions of the National Environmental Policy Act of 1969?

13. What is the current status of *Sierra Club v. Morton*, the litigation involving coal development in the Northern Great Plains, which is currently pending in the United States Court of Appeals for the District of Columbia Circuit?

14. What is the status of the Northern

Great Plains Resources Program? What are the funding and manpower levels for FY 1975 and what levels are proposed for FY 1976?

15. What are your views on the coal policy options presented in the Project Independence Report?

16. What is the Administration position on S. 3528 as passed by the Senate?

We would appreciate your responses to these questions and any other comments you may wish to make as soon as possible.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

LEE METCALF,
Chairman, Subcommittee on Minerals, Materials, and Fuels.

Mr. METCALF. Mr. President, this conference report represents 2 years of hard work by many Members on both sides of the aisle in the Senate and the House to develop the first Federal legislation to regulate surface coal mining. It is a finely balanced bill that assures that we can satisfy our energy needs while still protecting our environment. The House of Representatives has already agreed to the report.

Mr. President, the Senate and House conferees have worked since August to resolve many substantial differences between the two bodies. I believe that the conference report is a fair compromise of those differences, although there are features of the Senate-passed bill that I wish had been accepted by the House.

MAJOR PROVISIONS

The joint statement of the managers explains the conference report in some detail. For the benefit of my colleagues, however, I will highlight the most significant features:

First. Environmental standards.—The conference report establishes the basic standard that lands may not be surface mined unless they can be reclaimed. It includes the following environmental protection standards: Prevention of dumping spoil and overburden downslope in mountainous areas; a requirement that mine sites be regarded to approximate original contour, including backfilling the final cut to eliminate highwalls; revegetation measures to assure land stability and long-term productivity; and water protection standards directed at protection of water quantity and quality. The latter will be particularly significant in maintaining the delicate hydrologic relationships in the West and preventing acid mine drainage in the East. The environmental performance standards are not inflexible, however, as the report provides for variances from these standards in order to allow certain planned post-mining land uses.

Second. State responsibility.—The report gives the principal responsibility for surface mining regulation to the States. The States are given 30 months to prepare adequate regulatory programs to meet the minimum standards in the act. Federal funding is available to help the States prepare and enforce such programs.

Third. Surface impacts of underground mines.—The report also treats surface impacts of underground mines such as those resulting from mine waste disposal. In particular, mine waste embankments are covered by rigorous engineering requirements, in order to prevent failures such as occurred at Buffalo Creek, where an embankment gave way resulting in the death of 125 persons.

Fourth. Reclamation of orphan lands.—The report establishes a reclamation program to repair past damages from both surface and underground coal mines in all regions of the country. In addition, assistance is provided for the construction of public facilities in order to ameliorate the impact of rapid coal development. For 10 years, a reclamation fee of 35 cents per ton for surface mined coal and 25 cents per ton for underground mined coal, or 10 percent of the value of such coal, whichever is less, is assessed in order to provide for the reclamation program. At the present rate of production this amounts to approximately $165 million per year. One-half of this money must be spent in the State in which it is collected.

Fifth. State mineral institutes.—The bill also authorizes the Secretary of the Interior to establish State mining and mineral resources research institutes at State or other eligible universities. These institutes will perform research on mineral extraction and processing technologies, and train engineers and scientists to serve the need of the Nation's mining industry. This program should help to avoid future materials and personnel shortages.

Sixth. Surface owner protection.—Both the House and the Senate recognized the special problems that arise where coal deposits have been reserved to the United States but title to the surface has been conveyed to private individuals. The Senate bill dealt with this problem by prohibiting any leasing of Federal coal lying under land not owned by the United States. The House amendment instead provided that such coal could be leased only with the consent of the surface owner.

The conferees ultimately agreed that neither approach was wholly right. Just as there should not be an absolute prohibition to development of a natural resource belonging to all the citizens of the Nation, so there ought not to be an opportunity for an individual owning land to reap a windfall in order to obtain his consent.

The conference report establishes as Federal coal leasing policy a requirement that the Secretary of the Interior not lease for surface mining without the consent of the surface owner Federal coal deposits underlying land owned by a person who has his principal place of residence on the land, or personally farms or ranches the land affected by the mining operation, or receives directly a "significant portion" of his income from such farming. By so defining "surface owner," the conferees seek to prevent speculators purchasing land only in the hope of reaping a windfall profit simply because Federal coal deposits lie underneath the land.

At the same time, so that there will not be any undue locking up of Federal coal, generous compensation is guaranteed to the surface owner, based not only upon the market value of the property of the land, but also the costs of dislocation and relocation, loss of income, and other values and damages.

The procedure for obtaining surface owner consent is intended to assure that the surface owner will be dealing solely with the Secretary of the Interior in deciding whether or not to give his consent to surface coal mining. Penalties would be assessed to discourage the making of "side deals" in order to circumvent the provisions of the bill.

ADMINISTRATION'S CONTRIBUTION

Mr. President, the Congress has worked in close cooperation with the Department of the Interior, the Federal Energy Administration, the Environmental Protection Agency, and other representatives of the administration. In an address to the American Mining Congress on October 7, Secretary of the Interior Morton described this close cooperative effort as follows:

The Department of the Interior has had a hand in shaping congressional action on new surface mining legislation. Bills were introduced into the Congress calling for imposition of stricter regulations of surface mining. These bills varied widely and each had strong support from various sectors. The Congress has now resolved the differences and has come forth with a workable bill which will do the job of protecting the environment and still provide greatly increased supplies of coal—our most abundant fuel.

Interior's expertise has been available to the call of the Congress and has made valuable contributions to the drafting of the surface mining regulations.

We feel that the legislation enacted by the Congress will be a wise and good piece of legislation which will pay our debt to the past without unduly burdening the present—nor mortgaging the future.

IMPACT OF THE BILL

Mr. President, in spite of this careful work and bipartisan cooperation, there are some who allege that this bill is inflationary and will impede the production of coal while raising its price. I would like to address each of these erroneous allegations briefly.

First. Impact on Federal spending.—The Library of Congress has done an independent estimate of the economic impact of the bill. This study concluded the Federal spending for administration, enforcement, and research under the conference report would have an "essentially negligible" impact on present Federal budget estimates even if recommended reductions are made.

Second. Cost of reclamation to coal producers and consumers.—The Library study considered the impact of both the reclamation fee and the cost of meeting the reclamation standards. It also made deliberately high estimates of reclamation costs. The study concludes that:

Reclamation costs are both small when matched with prevailing market prices and these market prices are themselves registering dramatic gains that are mainly unrelated to increased costs, reclamation or otherwise.

The study concluded that—

The expense of enhanced environmental standards would not compel a net addition to consumers' energy costs until traditional relationships between production costs and market prices are restored—not a likely prospect for several years. And this observation leads to one further vital point: increases in

the price of one commodity are not commonly understood to boost general price levels within an efficiently operating market system.

Mr. President, I ask unanimous consent that the Library of Congress study be printed in full at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. METCALF. Mr. President, third, the surface coal mining legislation has been subject to one of the most intensive lobbying efforts on all sides that I have ever seen. Many comments, including those from coal industry representatives, have been helpful in working out the conference report. However, the latest statements by industry representatives, particularly the National Coal Association, are so patently exaggerated, self-serving, and misleading that they must be corrected.

The National Coal Association claims that this bill would preclude the production of at least 119 million tons of coal a year. However, in its most recent comments the administration estimated that the bill might reduce current production by 14 to 38 million tons. I would remind my colleagues that the administration has admitted in the past that it overstated potential losses from the House bill. The Bureau of Mines estimates of probable losses are even lower than the administration figures.

More importantly, all these figures exaggerate any anticipated impact of the bill because they assume that the industry will be deterred from coal mining. At current production levels, this country has more than 500 years of coal reserves. It is ridiculous to talk about a dimunition in production at present prices, much less those anticipated in the future, and it is even more ridiculous, given the massive amount of our coal reserves, to refuse to assume the relocation of mining operations—for example, to areas which can be prudently mined—in estimating the impact of this bill.

The National Coal Association also claims that the bill will result in a 55 percent increase in utility fuel costs. This claim is based on replacement of their grossly inflated estimate of coal losses solely by imported oil costing $12 per barrel. As already indicated, domestic coal can and will, I am sure, fill any gap.

NCA also implies, again on the basis of totally unrealistic assumptions, that electric rates to consumers will increase on an order of magnitude similar to fuel increases. However, according to Bureau of Mines calculations, the maximum cost to the electric consumer of implementations of this bill will be no more than 6 mils per kilowatt hour. To the average consumer, this represents an increase in electric bill of 12 cents to 36 cents per month on their electric bill. Surely American consumers are willing to pay this few cents to protect the hills of Appalachia and the productive agricultural lands of the Middle West and the Northern Great Plains.

The NCA discussion of consumer costs also ignores the fact that only 55 percent of national electric generating capacity is fired by coal, so that, unlike what is implied by NCA, not all electric consumers will be affected by this Act.

The American Mining Congress claims that the bill "can result in a practical, though perhaps unintended, moratorium" on new mines. They base this statement on the possibility that State programs may not be approved within the 30-month interim period. The AMC then assumes that this possibility will deter investment in new surface coal mines.

The AMC objection totally ignores the clear statutory directive for implementation of a Federal regulatory program where a State does not submit an acceptable program. This provision eliminates the possibility of a shutdown which is the basis for the American Mining Congress objection.

CONCLUSION

Mr. President, Federal legislation to regulate surface coal mining is long overdue. Enactment of S. 425 will enable the industry to proceed with development of our Nation's vast coal resources in a manner which will assure that the other natural resources of our country will not be unnecessarily damaged.

I want to take this opportunity to thank all of my Senate colleagues who have worked so hard on this bill. I am particularly grateful to the Senator from Wyoming (Mr. HANSEN) for his fine cooperation.

The House has approved the conference report, thus Senate approval today will complete congressional action on this historic measure. I urge the adoption of the conference report.

Mr. President, I would like to point out a typographical error in the joint statement of managers. The discussion of designation of Federal lands as unsuitable for surface coal mining should read as follows:

7. *Designation of Federal Lands as Unsuitable for Surface Mining*—Section 522(b) directs the Secretary of the Interior to review the Federal lands to determine whether there are areas which are unsuitable for surface coal mining operations. It is not the Conferees' intent to preclude surface coal mining on Federal lands until this review is completed.

EXHIBIT No. 1

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., November 15, 1974.

To: House and Senate Interior Committee.
Attention: Michael Harvey, Don Crane.
From: Economics Division.
Subject: Potential inflationary impact of S. 425—H.R. 11500.

As discussed, treatment of this subject has been confined to two particular aspects of the proposed legislation's effects: the fiscal burden imposed by necessary public expenditures and the increased cost to private firms of compliance with mandated reclamation objectives.

FISCAL BURDEN

Authorized public spending for the administration, enforcement, and research attendant to the Strip Mining bill, together with the Interim and Indian Lands programs, would total $35 million. In terms of impact on general economic and fiscal aggregates—private and public demand levels, present budget estimates, and even recommended shifts in Federal spending—this sum is essentially negligible.

The influence of fiscal policy on output, employment, and prices is determined by the relative balance of revenues against outlays; a strong case currently argues that lack of discipline in past years accounts for much of our immediate difficulties with inflation. But the steady increases in living costs since 1965 followed persistent and vast Federal deficits whose pattern was set not by incremental boosts in relatively small Federal programs, but by an unplanned or unplanned-for growth in the responsibilities of our national government. The cost of implementing S. 425—H.R. 11500 should certainly enter into future calculations of needed tax receipts—the "fiscal impact" of this measure will be determined by the willingness to finance it and other spending programs out of current revenues. Yet even if expenditures required by the bill constituted an uncompensated-for addition to prevailing budget commitments, its magnitude severely limits any possible impact. By way of comparison: $35 million represents about .0116% of present Federal spending; assuming a rather generous multiplier of 3.0, and further premising that all additional spending pushed prices rather than real production up, $35 million translates to a $105 million boost in total public and private demand—or enough to feed a "demand-induced" inflation of about .007% per year.

Even when measured against shifts in Federal spending now under consideration, this legislation's funding requirements loom slight. S. 425—H.R. 11500's first year commitment of $25 million is about one half of one percent of the often urged $5 billion cut in overall Federal outlays. Trimming even this latter, more substantial, amount from the 1976 budget would bring only marginal relief from inflation, according to standard forecasts (Data Resources, Inc., a Cambridge-based econometric forecaster, projects a reduction of .1% in the Consumer Price Index consequent to a hypothetical $9 billion spending cut).

Such observations do not deny the importance of renewed discipline in government budgeting as a tool of economic management—they merely demonstrate that changes in either expenditures or tax schedules must be both large and sustained to work any significant alteration on general economic conditions. With or without S. 425—H.R. 11500, the task will remain precisely the same: seeking a workable convergance between spending and revenue trends. In the fiscal 1975 budget, the Administration foresaw a 1979 "full employment" surplus of $37 billion, under existing programs and commitments. Somewhat more realistically, Data Resources projects a surplus of about $6 billion in 1979 under anticipated less-than-full employment conditions. Even this smaller figure indicates that there is room within long-term fiscal trends for moderate expansion in modestly funded programs; massive new commitments would, of course, require equivalently substantial funding measures.

COST OF RECLASSIFICATION TO PRODUCERS AND CONSUMERS

The relative inconsequence of S. 425—H.R. 11500's fiscal impact traces to the bill's fundamental approach: placing on private industry and the free market the real burden of adequate reclamation progress. The legislation's cost to producers of coal—and their customers—would take two basic forms: 1) Payments into a reclamation fund of 35c per ton of coal produced with a ceiling of 10% of the mine-value on this payment; 2) The costs of compliance with mandated reclamation standards set by S. 425—H.R. 11500 and the regulatory machinery it establishes. (This latter cost would be partially prepaid via performance bonds refundable upon satisfactory compliance.)

Precise quantification of the likely impact of these twin cost elements is of course impossible. But examination of their relation to present and prospective coal prices can indicate an "order of magnitude" or scale against which to assess their importance. Combining the 35c/ton reclamation fund payment with a high estimate of reclamation requirements of 21c/ton (average cost, Appalachian region, at $4,000/acre restoration costs—House Report 93-1072) we obtain a burden of about $1.15 per ton of coal.

Against this deliberately generous calculation of reclamation costs we have the following price data for delivered coal:

June, '74 average price for all coal, spot and contract was $15.17 per ton, according to the FPC, including an average spot price of $25.84 per ton;

The Wholesale Price Index, relying chiefly on spot transactions reports Pennsylvania anthracite selling at $35.464 per ton in October, '74;

According to the WPI, from February, 1971 through October, 1974, bituminous coal prices rose 125%, anthracite 93% and all coal averaged a 114% gain.

Comparison of the above figures establishes two basic points: reclamation costs are both small when matched with prevailing market prices and these market prices are themselves registering dramatic gains that are mainly unrelated to increased costs, reclamation or otherwise. The link between coal prices and a cartel-dominated petroleum market is probably sufficiently understood to require little elaboration. With delivered residual oil selling at twelve dollars a barrel, a "BTU parity" price for coal could range up to $50/ton. Given coal's disadvantages in emission control, ease and cheapness of use, a figure of $40/ton may seem more reasonable and recent press reports have indicated substantial selling at or near this level. In any case, spot coal sales and, eventually, contract coal must tend toward a basic equivalency with prices set in the overall energy market. Long-term coal contracts with escalator clauses based on certain classes of cost increases may accelerate the achievement of this parity given boosts in industry expenses from reclamation, labor payments and safety goals, but none of these factors can significantly alter the fundamental trend. Indeed, the present disequilibrum condition of energy markets—with prices bearing little relation to total cost and normal profit levels—ironically provides the one situation in which increased industry costs would not expectantly affect prices. The expense of enhanced environmental standards would not compel a net addition to consumers' energy costs until traditional relationships between production costs and market prices are restored—not a likely prospect for several years. And this observation leads to one further, vital point: increases in the price of one commodity are not commonly understood to boost general price levels within an efficiently operating market system. During the relative price stability of the 1950's and early 1960's, for example, coal prices fluctuated by substantially wider margins than that represented by reclamation costs as a proportion of present coal prices. Inflation in the price of one commodity or commodity group becomes a plausible cause of general inflation only when the increase is so substantial, and so sudden, as to frustrate the stabilizing mechanisms of free markets. Such is obviously the case during the past two years for agriculture and petroleum—two of the largest economic sectors whose price levels, at the raw stage, more than doubled within an extremely brief timespan. There is no reasonable way of concluding that these reclamation expenses, marginal when compared to prevailing prices and gradual in their direct impact on a disordered market, could play a similar role in the future.

NOTES: FISCAL REQUIREMENTS OF UNEMPLOYMENT ASSISTANCE

Higher prices and an expanding market for domestic energy guarantee, according to virtually every scenario, increased job opportunities in the coal industry. Yet provisions of S. 425—H.R. 11500 may necessitate the temporary idling of skilled surface-mining employees presently working in areas or tracts on which reclamation objectives are less immediately practical. For these workers, unemployment payments are offered conditional on the reason for unemployment and exhaustion of other benefits. Estimation of the likely charge on public funds from this provision is necessarily speculative, given the flexibility in interpretation permitted by the bill, but several benchmark comparisons can be made:

From 1962 through 1974, unemployment assistance was offered to a total of 48,000 workers at a cost of $68 million (or an average of slightly above $5 million per year) under Trade legislation which required that foreign competition constitute a "Major Cause" of job loss. This law potentially covered workers employed throughout private industry, versus about 50,000 workers involved in surface-mining. In addition, S. 425—H.R. 11500 eligibility clause requires that job loss be a "direct result of the closure of a mine which closed as a direct result of the administration and enforcement of this Act", seemingly a more severe limitation than the "Major Cause" rule for trade-based assistance.

Assume that a 10% slippage in coal production translates to a temporary reduction of 20% in strip-mining production and jobs, idling 10,000 workers; maximum unemployment assistance payments in affected states are well below $100 per week—multiply this amount by 5,000 workers (positing that fully half of idled workers exhaust original unemployment benefits) and expenditures totaling about $25 million per year become necessary. This calculation is premised on such liberal assumptions (including the assumption that eligible workers receive a full year's additional benefits) as to far exceed a realistic cost projection; yet its final magnitude is such that, following the reasoning used in earlier discussion of fiscal impact, no significant effect would register on overall budget and demand levels.—DAVID L. WHITEMAN, Economic Analyst and HENRY CANADAY, Economic Analyst.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from Washington has 5 minutes remaining.

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

Mr. President, the procedure for obtaining surface owner consent spelled out in section 716 is intended to assure that the surface owner will be dealing solely with the Secretary in deciding whether or not to give his consent to surface coal mining. It is the intent of the section that the Secretary would not hold a lease sale of any Federal coal deposits subject to this section until after the surface owner has given his consent. Furthermore, the Secretary would not actually enter into a lease until the high bidder at the competitive sale had agreed to paying the value of the surface owner's interest as determined pursuant to subsection 716(e).

Subsection 716(e) specifies certain losses and costs for which the surface owner will be compensated. These include loss of income during the mining and reclamation and any other damage to the surface. It is the intent of the subsection that these items be related to effects of the surface coal mining operation off the land for which fair market value is paid. It is not the purpose of section 716 that both fair market value of land, plus loss of income from and damages to such land, be paid to the surface ower.

Subsection 716(g) includes within the term "surface owner" a corporation "the majority stock of which is held by a person or persons who meet the other requirements" of subsection (g). It is the intent of this subsection that reference to "the majority stock" include each class of stock of a corporation.

Mr. President, I am one of those Senators who is not from a State that will be subject to surface mining, but a State which does have an interest in getting out the coal, and with that underpinning in my outlook on this bill, I was appointed a member of the conference committee.

I did not want to be for any bill, Mr. President, that would tie up, lock up, the coal reserves in this country or that would prevent this country from getting adequate supplies of coal at cheap prices and at an environmental price we could not afford to pay.

Mr. President, after a great deal of study and soul-searching, I endorse the conference report. I endorse this bill, because I think it is a bill we can live with. I think the chairman of the Interior Committee, the Senator from Washington (Mr. JACKSON) is entirely correct.

This bill was very much watered down in terms of what the environmentalists asked for. They wanted to go much further than this bill.

As my good friend, the Senator from Arizona can attest, a lot was done to make this more compatible and to make this more acceptable from the standpoint of the coal mining companies.

So I think it is a bill we can live with. It is not what the coal mining companies want. Perhaps it is too expensive for them, but it fails a long way from being all that the environmentalists want.

One final point, Mr. President, there was a great deal of discussion in the conference committee on the question of what is the surface owner entitled to in terms of value, is he entitled to only the value of the surface estate or is he entitled to some component of value for the coal under the ground?

The question presents itself in that the language of the act states that the surface owner is to take into consideration the value of the surface estate plus certain other items designated in section 716(e).

The conference never came to grips with the basic question of whether or not the surface owner is entitled to a component of value by reason of the fact that other surface owners in the area have sold their property for higher prices, owing to the uncertainty of their rights. You might refer to them as the litigious rights of the owner.

Mr. President, I think that this bill is a good one. I believe it ought to be sup-

ported on both sides of the aisle. I would strongly recommend to those who want to get the maximum amount of coal at the cheapest price that the President not veto this bill. The next one can be much more expensive, both in terms of cost to the coal mining companies and expensive because of the delay it will cause in the investment which must be made dependent upon a certainty as to what the state of the law should be.

I yield back the remainder of my time.

Mr. FANNIN. Mr. President, I yield myself 2 minutes.

I would just like to say to the distinguished Senator from Washington, the floor manager of the bill, and the distinguished Senator from Louisiana that I agree we had a good bill in S. 425. When it came out of the Senate, as you recall, I voted for it. I believe they will agree that we lost almost every battle over specific provisions during the Senate-House conference, and we did not end up with a good balanced bill. It was a bad compromise. It was something grasped at the very last moment. To get a bill too many compromises were made. This is the trouble with the bill.

Here we are, giving away the people's right to their own property. This was brought out by the distinguished Senator from Louisiana who continuously fought to keep that from happening. I praise him for that.

But in order to get a bill he finally agreed.

We should take note of what the Secretary of Interior said wher he wrote to us on November 19. He outlined the faults of the bill, what it would cost, the tremendous contribution to inflation that would come about if the provisions we finally put in the bill were adopted.

He said:

When fully funded the bill would involve Federal expenditures of approximately $90 million annually.

He went into detail on the loss of production. It was just devastating, and it is *devastating*.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. FANNIN. Of course, as I brought out before, there is the tremendous economic loss of $6.2 billion—to this economy.

Mr. President, I yield myself another minute.

This does not even include the cost of utilities converting to other forms of fuel, which is impossible to now calculate.

Mr. President, I think that we must consider the changes made in the bill, and the devastating effect that those changes have on the production of coal. I brought out that we are going to lose one-sixth of our total production based on last year's production figures of 600 million tons of coal.

I feel, Mr. President, this is too costly a price to pay. This would mean that we would import tremendous amounts of petroleum products to make up for this differential.

The cost for total replacement of energy by imported oil would mean we would need an additional 224 million barrels of imports which would increase our foreign exchange deficit by $269 billion.

Mr. President, I feel that this is absolutely devastating legislation and should not be approved.

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

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. FANNIN. I yield time to the distinguished Senator from Wyoming. I yield 2 minutes.

Mr. HANSEN. Mr. President, throughout the arduous consideration of the surface mining legislation, I have made every conceivable effort to facilitate passage of legislation which would protect our Nation's environment and still allow for recovery of the resource. My three goals have been: First, to require reclamation of the mined lands; second, to treat the surface owners fairly and justly; and third, to allow our Nation to use its abundant supply of coal.

The President has indicated to Congress that he intends to veto this legislation. Apparently, the grounds for the veto are that the legislation will substantially reduce coal production, increase our vulnerability to the whims, caprice, and goals of foreign nations, and contribute to our Nation's economic problems. I do not know whether the President will immediately veto the bill or whether it will be pocket vetoed. According to Congressman UDALL, the chairman of the joint conference committee, the Members of the House of Representatives would sustain the Presidential veto. While I am hopeful that the bill might yet be saved, it appears that this Congress will adjourn without this legislation becoming public law.

While I am not in complete agreement with every provision in this legislation, I signed the conference report and intend to vote for final passage. If the President does veto the legislation, and I have no reason to anticipate otherwise, I am hopeful that there will be early action in the next session of Congress on legislation which will achieve the goals I previously outlined.

As the members of the joint conference committee can attest, we spent a great deal of time in resolving the surface owner protection provision of the legislation. This section is of critical importance to our Western farmers and ranchers who own the surface over federally reserved coal deposits. As I informed my constituency, I have reservations about the provision which the conference ultimately adopted. Bona fide farmers and ranchers who choose not to have their lands mined should have the right to withhold their consent. Farmers and ranchers who choose to give their consent should be fairly compensated.

While the legislation recognizes the right of surface owner consent, it does not adequately compensate those who choose to allow mining. The unduly restrictive language limits what a surface owner can receive in consideration for his giving consent. The inducement is not sufficient and could deny access to Federal coal which would otherwise be developed. The end result will be that those surface owners who favor the development of their lands will sell their surface to energy companies in order to circumvent the strict limitations on the amount that the surface owner can receive in exchange for giving consent for mining. This could negate the worthwhile objective that we have recognized—to encourage that these lands be restored and retained for agricultural production after mining.

At the appropriate time during this debate, I wish to pursue this subject with the distinguished Senator from Montana (Mr. METCALF).

Despite the apparent failure of this Congress and the President to adopt legislation which will become public law, it is significant that the Congress has at least recognized the right of surface owner consent. Hopefully, the next session of Congress will refine this issue in a manner which will preserve the right to say no to surface mining, and at the same time fairly compensate those who choose to say yes.

To clarify the long and detailed history of the debate over surface owner protection, I ask unanimous consent that at the conclusion of my remarks the following communications and their supportive documents be included in the RECORD: First, an October 16, 1974 speech of mine to this body; second, a memorandum to Wyoming Citizens dated November 22, 1974; and third, a subsequent letter to those same citizens dated December 6, 1974. These materials document the evolution of the surface owner protection provision which the conference committee finally adopted.

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

(See exhibits 1, 2, and 3.)

Mr. HANSEN. Mr. President, much has been and will be said about the deficiencies of this legislation. It behooves me to point out two provisions of the bill which I feel should be included in the legislation considered by the next session of Congress. The first is the amendment which my good friend LEE METCALF graciously calls the Hansen-Metcalf amendment, but which should obviously be called the Metcalf-Hansen amendment. The second is title VI of the pending legislation.

This Metcalf-Hansen amendment provides that the States can enact more stringent land use and environmental controls, and regulations of surface mining and reclamation operations that required by the Federal minimum standard. Ironically, if the members of the conference would have paid more heed to this amendment, I feel that we would have avoided the pitfall which we now face. We must recognize that with the vast climactic and topographic variations of our Nation that it is impossible to enact provisions which will meet the needs of every State. After the Federal minimum standards have been established, the States must have latitude to enact legislation which is specifically tailored to their own particular problems. Such an amendment is important to the coal producing States of our Nation. They are being called upon to produce energy for the consuming States. No Federal law can sufficiently protect

the environment of the West and still be satisfactory for Appalachia and vice versa. Congress should establish the minimum standards and let the States take it from there.

Title VI of the legislation authorizes the Secretary of Interior, if requested by the Governor, to review Federal lands within the States to assess whether an area may be designated as unsuitable for mining operations for minerals or materials other than coal.

This title is significant for residential communities which overlie Federal mineral estates or are adjacent to Federal lands where mining operations would have an adverse impact on lands used primarily for residential or related purposes. Two communities which are acutely challenged with this particular problem are Story, Wyo., and Tucson, Ariz. The people of these communities deserve the protection which this title would afford them.

Mr. President, there is a need for balanced surface mining legislation. I earnestly hope that this Congress and the President will agree on legislation which will preserve our environment, allow for recovery of the resource, and avoid the socioeconomic effects which, absent legislation, surely would occur.

EXHIBIT 1

[From the CONGRESSIONAL RECORD, Oct. 16, 1974]

THE FACTS ABOUT SURFACE MINING

Mr. HANSEN. Mr. President, members of a Senate-House joint conference on surface mining are deadlocked over disagreement on the bill's controversial surface owner consent provision. Further consideration of the issue has been postponed until late November.

In view of demands on Western States to supply energy for the Nation, I still am hopeful Congress will pass a surface mining bill which will protect our environment, preserve our quality of life, and still allow for recovery of the resource. No land should be mined that cannot be reclaimed.

I am very much concerned about protecting rights of surface owners—particularly farmers and ranchers—whose land may be affected adversely by coal development. They have title to the surface, but the United States reserved all coal and other minerals together with the right to prospect for, mine, and remove such minerals. Thus, the rancher owns the surface, but the subsurface, in the case of coal, has been leased or is leasable pursuant to the Mineral Leasing Act of 1920.

Present law provides that the mineral lessee must obtain written consent or execute a good and sufficient bond to secure the payment to the surface owner for any damages to the crops or to improvements, as well as for any damages that might be caused to the value of the land by loss of grazing.

During Senate Interior Committee consideration of the surface mining bill, it was advocated that the bonding provision be deleted. This would have given surface owners the final say as to whether their land would be mined. Senator MIKE MANSFIELD intended initially to sponsor such an amendment. However, he recognized such an amendment might be unconstitutional. Accordingly, he altered his proposal to limit coal surface mining to Federal lands. His amendment, adopted by the Senate, would have prohibited surface mining of all coal deposits where the surface is privately owned and title to the minerals is owned by the United States.

Most surface owners who contacted me prior to the Senate debate on the bill had been led to believe that the Mansfield amendment would give the surface owner the exclusive right to determine whether the minerals could be mined. But the Mansfield floor amendment was quite different. It gave the surface owner no right of determination, and precluded surface mining regardless of the intent of the surface owner. Although the amendment would permit underground mining, most of the coal in the areas affected by the amendment is so close to the surface, and the seams so thick, that underground mining methods would be wholly impractical, and in most instances impossible. The amendment is, in effect, a prohibition. Many Members of the Senate who initially supported the Mansfield amendment subsequently reversed their positions. Only one Senator on the conference committee voted for the Mansfield amendment.

The original Melcher amendment, as passed by the House of Representatives, would have required surface owner consent before mining operations could commence in those instances where the mineral estate is owned by the Federal Government, and the surface rights are held pursuant to a patent.

Opponents of the Melcher amendment said it conferred a mining veto on the surface owner that could constitute unjust enrichment and would have led to anticompetitive practices. Senator MANSFIELD maintained in a letter to the surface mining conferees that the Melcher amendment was antiagriculture. He questioned its constitutionality. Following is a quote from his letter dated August 2, 1974:

"Some of the best legal minds have serious questions about the constitutionality of "surface owner consent" . . . Can the Congress give absolute control of the utilization of the subsurface to a single party? Owner consent encourages the surface owner to hold out for an excessively high price for title to his land. The only coal interests that can meet these offers are the large corporate giants, thus, excluding the smaller coal developing companies and contributes to monopolistic conditions. No one interested in farming or ranching will be able to buy property at these prices. . . ."

Representative MORRIS UDALL, chairman of the conference committee, noted that:

". . . conferring a mining veto on the surface owner will not stop mining; it will mean rather that mining will follow an irrational pattern dictated by the willingness of individual surface owners, rather than the systematic development of the coal deposits best suited to mining and reclamation."

A substantial majority of the Senate and House conferees now are on record in opposition to both the original Mansfield and Melcher amendments. They feel a compromise should be adopted to guarantee that: no surface owner receives any "windfall" profits; the coal reserved for the people of the United States will not be locked-up; and, surface owners will receive fair and just compensation if the coal underlying their surface is mined. But an impasse resulted from disagreement over definition.

To break the deadlock, several members of the committee proposed amendments. I will not attempt to describe all of the proposals but I am hopeful the following discussion will help you to understand how the conference committee is approaching the solution to the problem.

It was proposed that the Mansfield amendment be modified to "grandfather in"—exempt—existing coal leases. However, after date of enactment all Federal coal deposits would be withdrawn from surface mining. The Secretary of the Interior would have the authority to revoke this withdrawal on a case-by-case basis, after a detailed study were completed. No new mines could be opened unless they were contiguous to existing logical mining units. The Secretary's revocation of the withdrawal would be subject to congressional review.

Senator HASKELL proposed that the coal lessee should obtain written consent or post a bond to secure the immediate payment equal to the fair market value of the land to be disturbed by the proposed operation, and to secure the subsequent payment to the surface owner of any loss of net income, and any reduction of the value of the surface caused by the mining operation.

Initially, I offered a compromise amendment which would entitle the surface owner to a 1 percent per ton royalty for all coal produced, as liquidated damages. I have never tied it to a specific price per ton, because I would not want to see ranchers locked into a fixed price in light of escalating costs and inflation. Members of the conference committee classified my proposal as a "windfall" for the surface owner, and rejected it because they said it would entitle the surface owners to excessive profits from minerals which belonged to the people of the United States. Some surface owners, on the other hand, thought it would imply that the coal companies would have authority to commence condemnation proceedings. This certainly was not the intent of the amendment.

Another Senator's proposal would have required written consent. However, it would have subjected surface owners and coal lessees to criminal prosecution and imprisonment of 1 to 5 years if more than twice the fair market value of the land were paid in exchange for consent. The modified Mansfield amendment, which I previously described, also was included as a part of this proposal.

Congressman MELCHER proposed that the original Melcher amendment be modified. According to him, it would require the following procedure:

"Appraisers, one of which is appointed by the landowner, would arrive at fair market value for the surface, improvements, loss of income, costs of relocation, and all other costs and damages. If the surface owner agreed to the price, the Secretary would then be able to make the lease. If the surface owner did not agree, the Secretary (of the Interior) would make no lease."

I felt none of the proposals would have resolved the impasse satisfactorily. The rancher is entitled to a better deal than the modified Melcher amendment would give him. I did not want to see surface owners locked into a fixed formula without opportunity to closely scrutinize the alternatives. Accordingly, in order that passage of the deadlocked surface mining legislation could be achieved, I proposed in the last session of the conference that the controversial surface owner protection provision be deleted from the legislation in its entirety. It would be more appropriately addressed in the next session of Congress.

Since we were in the 11th hour of the session, I contended that the important thing to do was to pass the legislation to assure that reclamation is required, that the land and waters of the United States will not be damaged, and that the extraction of coal needed to meet the Nation's energy requirements would not be blocked.

I do not believe that surface mining as it is practiced today was contemplated when the Federal Government reserved the mineral estates of much of the West. Generally, the coal was reserved pursuant to the Stock-Raising Homestead Act of December 29, 1916. It requires that all patents must contain a reservation to the United States of all coal and other minerals together with the right to prospect for, mine, and remove such minerals. The act did not specifically mention mining methods. After passage of the Stock-Raising Homestead Act, Congress did not address the issue of the surface owner rights until 1949. In that year, Congress passed a law which extended the liability for damages by strip or open pit mining methods to include the loss of the value of land by grazing.

Previously, damages were limited only to crops or improvements and the courts had held that grass was not a crop. The legislation explicitly recognized the strip and open pit mining methods.

Although a bond could be posted in lieu of written consent, written consent has generally been obtained before mining commences. This presumably accounts for the fact that the rights of surface owners overlying Federal coal have not been litigated.

Authorities disagree as to whether the Federal Government, having reserved the coal, has the right to surface mine it. I submitted to the conferees that by dropping this section of the bill, we would neither deny existing rights of the surface owner nor grant new privileges.

To guarantee that existing rights, whatever they may be, are not affected, I proposed that a new section be added to the bill which would provide that:

"Nothing in this Act shall be construed as increasing or diminishing any property rights held by the United States or any other landowner."

There was considerable speculation that if the conference failed to reach agreement prior to the congressional recess, the odds for achieving passage of a surface mining bill this year would be diminished considerably. In view of that, the Senate conferees unanimously voted to accept my amendment to delete the surface owner protection section. Several of the House conferees also voted in support of my amendment to delete, including my Wyoming colleague, Congressman RONCALIO. His reports to the conference of recent surface sales would not indicate the present state of indecision is detrimental to the surface owner, another reason why I thought it made good sense to delete this section now.

Because the House delegation was unable to agree on a position, the House conferees will meet separately prior to resumption of the conference in late November to try to work up a new position. There is special concern, which I share, that the surface owner protection alternatives last submitted never were subjected to Senate or House committee hearings. This section is especially far reaching and potentially could radically affect the way of life of many farm and ranch families of the West, who have been on the land for generations. This subject should not be incorporated into law without careful attention to all aspects and possible ramifications of the law.

Should the conference at its late November meeting again fail to reach compromise on this controversial section and determine to delete it, I believe that surface owner protection should be the subject of separate legislation with full benefit of the legislative process, including field hearings in Wyoming and other areas that stand to be affected by such major legislative decisions.

There is adequate time remaining to thoroughly study and carefully develop new Federal doctrine on surface owner protection. There is in effect now a moratorium on leasing of all Federal coal.

Certainly the people of the West who stand to be most affected by such legislation are entitled to the opportunity for input that field hearings in their own localities would provide.

EXHIBIT 2

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., November 22, 1974.

To Wyoming citizens.
From Senator CLIFF HANSEN.
Re Recent developments on surface mining legislation.

On October 16, just before the Congress adjourned for the election recess, I reported to my constituents that "members of a Senate-House conference on surface mining are deadlocked over disagreement on the bill's controversial surface owner protection provision. Further consideration of the issue has been postponed until late November."

Now, on November 22, the conference committee is once again deadlocked over this same controversial issue, having filed again during a series of recent sessions to resolve the question. But a lot has happened since October 16, and many compromises have been debated. The original Melcher amendment, over which the controversy developed, has been amended, modified, expanded and altered to the point where it is no longer recognizable, or desirable, to its original supporters. This report is intended to bring Wyoming people up to date in the events since my October 16 report.

It was known before the conference committee ever met on August 7 that a majority opposed the Melcher amendment. Consequently, when the sessions began, one of the first actions conferees took was to overwhelmingly reject the original Melcher amendment, which had offered straight surface owner consent. The issue from that point forward for those of us concerned about the treatment of farmers and ranchers was how to achieve an acceptable compromise, particularly in light of strong opposition by a majority of Senators to any provision permitting landowners more than fair market value for their surface.

Since the Melcher amendment was rejected, conferees have debated literally dozens of compromise proposals and modifications of the original Melcher concept, none of which were acceptable to those Senate conferees who opposed surface owner consent. Illustrative of the many changes and additions in the original Melcher amendment is the fact that the most recent version of it (copy attached) was known as "the Jackson amendment to the Udall substitute for the modification of the modified Melcher amendment."

A majority of the Senate conferees, and some of the House conferees, have steadfastly maintained from the beginning that surface owner consent would reward speculators, rather than protect bonafide ranchers with coal beneath their lands. Hence, the conferees waded through countless modifications and additions intended to limit surface owner consent by defining which surface owners (farmers and ranchers) could qualify for consent by defining which surface owners aimed at excluding speculators.

The surface owner protection provision was loaded down with so many qualifying clauses, exclusion clauses, protective phrases and "clarifying" sections, that the last version did precisely the opposite of what conferees intended. It was conceded speculators could get around the provision in a variety of ways, but that bonafide farmers and ranchers, whose interest conferees had sought to protect, were penalized and restricted.

Finally, on November 21, it appeared conferees were ready to junk the monster the Melcher amendment had become, since it satisfied no one, and consider a fresh approach. I offered a substitute proposal which retained surface owner consent for bonafide farmers and ranchers without restrictions on the price they could receive for the land if they elected to permit mining; and which placed everyone except farmers and ranchers under the provisions of existing law with respect to property rights. A copy of my amendment is attached. It was approved by the House conferees nine to one (Rep. Morris Udall, Conference Chairman, voted against it); but there was a tie vote on the Senate side, where the amendment was opposed by Senators Henry Jackson, D-Wash.; Floyd Haskell, D-Colo.; Bennett Johnson, D.-La.; and Gaylord Nelson, D.-Wis.; and supported by myself and Senators Paul Fannin, R-Ariz.; Lee Metcalf, D-Mont.; and James Buckley, Conservative of New York. Following the deadlock, the conference adjourned, and efforts are now being made to persuade one of the four Senators who opposed my amendment to reconsider.

In proposing my amendment, I felt the Senate had to retreat from its adamant position against surface owner consent, and recognize with me the importance of a bill that would deal fairly with the genuine ranchers and farmers of the West, and at the same time make available the vast coal deposits to the nation in a time of energy crisis. By leaving out of my amendment the complex language restricting what a farmer or rancher could receive for permitting mining, and withholding the right of consent from nonfarmers and ranchers, the major objections to the extensively-modified Melcher proposal were largely satisfied.

From the beginning, I have sympathized with Wyoming ranchers seeking the right of consent concerning mining on their lands; but not until yesterday (November 21) was the atmosphere in the conference committee such that it would be possible to achieve anything resembling the original Melcher amendment. As it was, four members of the Senate conference still opposed my amendment on grounds it would over-compensate farmers and ranchers for use of federal coal beneath their land.

It is my intention to press for another conference session to reconsider my amendment, because I believe it is the most reasonable of the proposals discussed to date. Further, the vote on my amendment was the closest thing to an agreement achieved to date in the consideration of this issue.

It has been, and continues to be, my goal, to pass legislation that will treat fairly the farmer and rancher who owns surface, and at the same time give the nation access to energy. Hopefully, the conference will address these issues in a manner that will achieve these goals.

Sincerely,

CLIFF HANSEN,
U.S. Senator.

[From the Washington Post, Nov. 21, 1974]

HILL CONFEREES DISAGREE ON STRIP MINING

(By George C. Wilson)

House and Senate conferees failed to reach final agreement yesterday on a bill to regulate strip mining. The accord reached Tuesday night broke down.

The entry of Sen. Henry M. Jackson (D-Wash.), chairman of the Senate Interior Committee, into the tail end of the negotiations seemed to make the difference.

Jackson expressed strong reservations yesterday about the arrangement the conferees were on the verge of approving to protect the rights of people who own land on top of federal coal targeted for strip mining.

Rather than go along with language hammered out Tuesday night, and despite Rep. Morris K. Udall's (D-Ariz.) observation yesterday that "the Senate seemed to have accepted," Jackson suggested changes.

The upshot was that the House-Senate conference chaired by Udall went back to debating ways to protect the surface owner. The conferees ended up in a deadlock and scheduled another meeting for this morning.

"I want a bill," Jackson told the conferees. Unless a bill is passed by Congress this year, he said, there will be "great damage" to land in the West above the federally-owned coal to be sold to private companies.

Besides the environmental danger, Jackson warned, the coal industry would find itself saddled with "punitive legislation" if strip mining legislation were left to the next Congress rather than this one.

But Jackson, who has opposed giving people who own land atop federal coal a veto power over whether it is mined, indicated he would go along with requiring their written consent if the definition of surface own-

ers were tightened. Jackson has argued that requiring written consent would make fundamental changes in existing federal law covering coal property.

He and Sen. J. Bennett Johnston Jr. (D-La.) suggested that only people who had owned the land before Jan. 1, 1961—or had inherited it since then—get the right to forbid strip mining. These same people would receive federal payments if they approved the mining in writing.

Johnston further proposed that for surface owners to qualify for written consent and compensation covered in the strip mining bill, the land to be mined would have to constitute "an essential or substantial portion of the ranching or agriculture operation."

The conferees, in the accord worked out Tuesday night, had rejected the pre-1961 proviso and opted instead for requiring ownership for three years before exercising any veto power over strip mining.

Because ranchers who qualified for the veto power and compensation would get the market value for land and then get it back after strip mining stopped, some lawmakers have called such payment a "windfall."

Udall, in asserting the majority of House conferees would insist on such consideration for the displaced ranchers, said: "It's not a windfall; it's simple justice."

Besides trying to give ranchers the right to veto strip mining on their property, the compromise House-Senate bill lays down a series of federal rules for surface mining in hopes of minimizing permanent damage to the land.

THE HANSEN AMENDMENT

The following amendment was offered November 21 by Senator Cliff Hansen as a substitute for the pending surface owner protection section of the surface mining reclamation bill. It would have replaced a Udall revision of the modification of the modified Melcher amendment on surface owner protection. The Hansen amendment was approved by the House conferees nine to one, but failed approval by the Senate conferees, who tied the vote at four to four.

SURFACE OWNER PROTECTION SECTION PROPOSED BY SENATOR HANSEN

Sec. 716(a) The provisions and procedures specified in this section shall apply where coal owned by the United States, under land the surface rights to which are owned by a surface owner as defined in this section, is to be mined by methods other than underground mining techniques. In order to minimize disturbance to surface owners from surface coal mining of federal coal deposits, the Secretary shall, in his discretion, but to the maximum extent practicable, refrain from leasing such coal deposits for development by methods other than underground mining techniques.

(b) Any coal deposits subject to this section shall be offered for lease pursuant to section 2(a) of the Mineral Leasing Act of 1920 (30 U.S.C. 201a), except that no award shall be made by any method other than competitive bidding.

(c) Prior to placing any deposit subject to this section in a leasing tract, the Secretary shall give to any surface owner whose land is to be included in the proposed leasing tract actual written notice of his intention to place such deposits under such land in a leasing tract.

(d) The Secretary shall not enter into any lease of such coal deposits until the surface owner has given written consent and the Secretary has obtained such consent, to enter and commence surface mining operations.

(e) For the purpose of this section the term "surface owner" means the natural person or persons (or corporation, the majority stock of which is held by a person or persons who meet the other requirements of this section) who—

(1) hold legal or equitable title to the land surface; and

(2) have their principal place of residence on the land; or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming or ranching operations.

(f) Nothing in this section shall be construed as increasing or diminishing any property rights held by the United States or by any other land owner.

(g) At the end of each one-year period after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the implementation of the federal coal leasing policy established by this section. The report shall include a list of the surface owners who have (1) given their consent, (2) received payments pursuant to this section, (3) refused to give consent, and (4) the acreage of land involved in each category. The report shall also indicate the Secretary's views on the impact of the leasing policy on the availability of federal coal to meet national energy needs and on receipt of fair market value for Federal coal.

(h) This section shall not apply to Indian lands.

[From the Washington Post, Nov. 22, 1974]

STRIP MINE BILL MIRED IN HILL UNIT

(By George C. Wilson)

For the want of a single vote, the bill to regulate strip mining was derailed last night with little prospect of getting back on track in this Congress.

"I'm not saying it's dead," said Rep. Morris K. Udall (D-Ariz.) who chaired the House-Senate conference on what would be the first federal strip mining bill, "but it looks awfully sick."

"That's it," said Chairman Henry M. Jackson (D-Wash.) of the Senate Interior Committee as he threw up his hands in disgust after a final compromise motion failed to save the bill, which represents an effort of more than three years to establish federal rules for surface mining of coal out of mountains and prairies.

"I don't think it's over yet," said Louise Dunlap, who represents the privately financed Environmental Policy Center. The group has been lobbying for strict controls over strip mining and for the right of ranchers to refuse to let federally-owned coal be surfaced mined from under their land.

The proposal, which came close to clearing the entire bill out of conference for final votes by the House and Senate was offered by Sen. Clifford P. Hansen (R-Wyo.). It was designed to break the impasse over language designed to require approval of ranchers before mining on their property without at the same time allowing land speculators to get rich on federal payments.

If a rancher owned the land over federal coal and, in addition, either personally worked the land or depended on it for a "significant" part of his income, under the Hansen proposal he could refuse to allow mining operations to take place.

The House conferees voted 9 to 1 for the proposal but the Senate unit split 4 to 4. It takes a majority vote of both House and Senate conferees for a motion to carry—meaning the Hansen proposal fell short by one Senate vote.

Voting with Hansen were Sens. James L. Buckley (Cons.-R.-N.Y.), Paul J. Fannin (R-Ariz.) and Lee Metcalf (D-Mont.). Voting against his proposal were Sens. Jackson, J. Bennett Johnson Jr. (D-La.), Floyd K. Haskell (D-Colo.) and Gaylord Nelson (D-Wis.).

The votes of Buckley and Nelson were cast by other senators who had the right of proxy. Those trying to save the strip mining bill went to work right after the conference broke up last night in hopes of changing one of the Senate votes.

Metcalf urged his colleagues in the closing minutes of the conference, which was open to the public, to resolve the surface owner issue in order "to salvage 162 pages of regulations for all of America."

After the Hansen proposal failed, Metcalf offered a motion to forbid leasing of federal coal lands in the West until next July. During the moratorium he promised that the Senate Interior Committee would draft legislation early in the next Congress to resolve the rights of surface land owners. The rest of the strip mining bill could then be enacted, he argued.

The majority of Senate conferees supported Metcalf's proposal but their House counterparts did not.

Rep. Sam Steiger (R-Ariz.), expressing the view of the majority of House conferees, said he was unwilling to leave the surface rights question unresolved until next year. He said the rights of ranchers who own land over federal coal would be eroded by the increased pressures of the energy crunch this winter.

WHAT THE HANSEN AMENDMENT WOULD REPLACE

THE MOST RECENT MODIFICATION OF THE ORIGINAL MELCHER AMENDMENT:

(NOTE.—The longstanding controversy over surface owner protection among joint conferees initially resulted during debate on the original Melcher amendment, which simply called for written consent of surface owners before mining of federal coal could take place.

(Because the original Melcher amendment was strongly opposed by a majority of the Senate conferees, and some House conferees, it was defeated in early October. Since that time, conferees have debated literally dozens of compromise proposals and modifications of the original Melcher amendment, all of which resulted in a "deadlock." Illustrative of the many changes and additions in the original Melcher amendment is the fact that the most recent version was known as "the Jackson amendment to the Udall substitute for the modification of the modified Melcher amendment."

(Following is the text of the Jackson-Udall-Melcher amendment. The Hansen amendment would replace all of this language and would constitute a substitute for the amended Melcher proposal.)

THE JACKSON-UDALL-MELCHER AMENDMENT

Sec. 716(a) The provisions and procedures specified in this section shall apply where coal owned by the United States, under land the surface rights to which are owned by a surface owner as defined in this section, is to be mined by methods other than underground mining techniques. In order to minimize disturbance to surface owners from surface coal mining of federal coal deposits, the Secretary shall, in his discretion, but to the maximum extent practicable, refrain from leasing such coal deposits for development by methods other than underground mining techniques.

(b) Any coal deposits subject to this section shall be offered for lease pursuant to section 2(a) of the Mineral Leasing Act of 1920 (30 U.S.C. 201a), except that no award shall be made by any method other than competitive bidding.

(c) Prior to placing any deposit subject to this section in a leasing tract, the Secretary shall give to any surface owner whose land is to be included in the proposed leasing tract actual written notice of his intention to place such deposits under such land in a leasing tract.

(d) The Secretary shall not enter into any lease of such coal deposits until the surface

owner has given written consent and the Secretary has obtained such consent, to enter and commence surface mining operations, and the applicant has agreed to pay in addition to the rental and royalty and other obligations due the United States the money value of the surface owner's interests as determined according to the provisions of subsection (e).

(e) The value of the surface owner's interest shall be fixed by the Secretary based on appraisals made by three appraisers. One such appraiser shall be appointed by the Secretary, one appointed by the surface owner concerned, and one appointed jointly by the appraisers named by the Secretary and such surface owner. In computing the value of the surface owner's interest, the appraisers shall first fix and determine the fair market value only of the surface estate without regard to the value of coal deposits subject to this section and they shall then determine and add the value of such of the following losses and costs to the extent that such losses and costs arise from the surface coal mining operations:

(1) loss of income to the surface owner during the mining and reclamation process;

(2) cost to the surface owner for relocation or dislocation during the mining and reclamation process;

(3) cost to the surface owner for the loss of livestock, crops, water or other improvements; and

(4) any other damage to the surface reasonably anticipated to be caused by the surface mining and reclamation operations.

(f) All bids submitted to the Secretary for any such lease shall, in addition to any rental or royalty and other obligations, be accompanied by the deposit of an amount equal to the value of the surface owner's interest computed under subsection (e). The Secretary shall pay such amount to the surface owner either upon the execution of such lease or upon the commencement of mining, or shall require posting of bond to assure installment payments over a period of years acceptable to the surface owner, at the option of the surface owner. At the time of initial payment, the surface owner may request a review of the initial determination of the amount of the surface owner's interest for the purpose of adjusting such amount to reflect any increase in the consumer price index since the initial determination. The lessee shall pay such increased amount to the Secretary to be paid over to the surface owner. Upon the release of the performance bonds or deposits under Section 519, or at an earlier time as may be determined by the Secretary, all rights to enter into and use the surface of the land subject to such lease shall revert to the surface owner.

(g) For the purpose of this section the term "surface owner" means the natural person or persons (or corporation, the majority stock of which is held by a person or persons who meet the other requirements of this section) who—

(1) hold legal or equitable title to the land surface: and;

(2) have their principal place of residence on the land: or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming or ranching operations, and

(3) have met the conditions of subparagraphs (1) and (2) for a period of at least three years prior to the granting of consent.

(***NOTE.—Before the Hansen amendment was considered as a substitute for this entire amendment, the conferees discussed adding a fourth definition offered by Senator Bennett Johnson which would have required that a substantial portion of any farm or ranch be affected by surface mining before the owner could qualify for the right to give consent.)

In computing the three year period the Secretary may include periods during which title was owned by a relative of such person by blood or marriage during which period such relative would have met the requirements of this subsection.

(h) Where surface lands over coal subject to this section are owned by any person who meets the requirements of paragraphs (1) and (2) of subsection (g) but who does not meet the requirements of paragraph (3) of subsection (g), the Secretary shall not place such coal deposit in a leasing tract unless such person has owned such surface lands for a period of three years. After the expiration of such three-year period such coal deposit may be leased by the Secretary, provided that if such person qualifies as a surface owner as defined by subsection (g) his consent has been obtained pursuant to the procedures set forth in this section.

(i) Nothing in this section shall be construed as increasing or diminishing any property rights held by the United States or by any other land owner.

(j) The determination of the value of the surface owner's interest fixed pursuant to subsection (e) or any adjustment to that determination made pursuant to subsection (f) shall be subject to judicial review only in the United States district court for the locality in which the leasing tract is located.

(k) At the end of each one-year period after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the implementation of the Federal coal leasing policy established by this section. The report shall include a list of the surface owners who have (1) given their consent, (2) received payments pursuant to this section, (3) refused to give consent, and (4) the acreage of land involved in each category. The report shall also indicate the Secretary's views on the impact of the leasing policy on the availability of federal coal to meet national energy needs and on receipt of fair market value for federal coal.

(l) This section shall not apply to Indian lands.

(m) Any person who gives, offers or promises anything of value to any surface owner or offers or promises any surface owner to give anything of value to any other person or entity in order to induce such surface owner to give the Secretary his written consent pursuant to this section, and any surface owner who accepts, receives, or offers or agrees to receive anything of value for himself or any other person or entity, in return for giving his written consent pursuant to this section shall be subject to a civil penalty of one and a half times the monetary equivalent of the thing of value. Such penalty shall be assessed by the Secretary and collected in accordance with the procedures set out in Subsections 518(b), 518(c), 518(d), and 518(e) of this Act.

(n) In addition to the civil penalty provided for in subsection (m), any federal coal-lease issued subject to the provisions of this section shall be automatically terminated if the lessee, before or after issuance of the lease, gives, offers or promises anything of value to the surface owner or offers or promises any surface owner to give anything of value to any other person or entity in order to (1) induce such surface owner to give the Secretary his written consent pursuant to this section, or (2) compensate such surface owner for giving such consent. All bonuses, royalties, rents and other payments made by the lessee shall be retained by the United States.

EXHIBIT 3

U.S. SENATE,
Washington, D.C., December 6, 1974.

DEAR FRIEND: On October 16 and on November 22, I reported to you on the status of the surface mining legislation which was stalemated because of disagreement on the bill's controversial surface owner protection provision. The Senate-House Conference Committee finally resolved this issue, and it is expected the House and Senate will consider the Conference Report early next week.

While I voted with the majority to report the compromise to the Congress, I have some reservations about the amendment which restricted surface owner rights. I believe that bonafide farmers and ranchers who choose not to have their lands mined should have the right to withhold their consent. Farmers and ranchers who choose to give their consent should be fairly compensated.

The surface owner protection section of the bill which was finally adopted is in essence the so-called "Jackson amendment to the Udall substitute for the modification of the modified Melcher amendment," which had previously been rejected. (I sent a copy of that amendment, and a copy of my amendment, to you on November 22, 1974.)

Only three changes were made in the resurrected Jackson-Udall amendment before adoption. First, it would postpone the right of surface owner consent until February 1, 1976. From date of enactment until that date, there would be a moratorium on leasing of federal coal underlying private surface unless the surface owner had given his consent prior to December 3, 1974. Second, the provision instructing the appraisers to disregard the value of the coal deposit in computing the value of the surface owner's interest, was deleted. However, the Conference refused to clarify whether more than the fair market value of the surface should be considered. Third, a provision was added which would authorize the Secretary to pay the surface owner a bonus of up to $100 per acre in addition to the final assessment of the value of the surface owner's interest.

The end result is that the surface owner protection provision is still loaded down with so many qualifying clauses, exclusion clauses, civil penalties, protective phrases and "clarifying" sections that it would adversely affect those bonafide ranchers and farmers who meet the definition of surface owners. This could fail to provide adequate incentive for the surface owner to give consent to mining.

My substitute proposal would have retained surface owner consent for bonafide farmers and ranchers without restrictions on the price they could receive for the land, should they elect to permit mining. Existing law would apply to anyone else. But the conference chairman did not call a second vote on the Hansen amendment. This amendment, by insuring fairer, more generous treatment to the surface owner, would minimize the likelihood of locking up development of the federal coal.

As my vote reflected, I would have preferred the Hansen amendment, which both Congressmen Melcher and Roncalio supported, in preference to the proposal which was adopted. Assuming the legislation will pass, it is the intent of the Interior Committees in both the Senate and the House to review the surface owner protection provision, as it affects the Mineral Leasing Act, before the section becomes operative on February 1, 1976. I will endeavor to muster support to correct those parts of the section which I feel are detrimental to the surface owner, while preserving the concept of the surface owner consent.

I appreciate your interest in this vital legislation for Wyoming, and am enclosing a copy of the final draft of the surface owner provision which was approved December 3 by the Conference Committee.

Sincerely,

CLIFFORD P. HANSEN,
U.S. Senator.

SURFACE OWNER PROTECTION OF THE SURFACE MINING RECLAMATION ACT

SEC. 716(a). The provisions and procedures specified in this section shall apply where

coal owned by the United States, under land the surface rights to which are owned by a surface owner as defined in this section, is to be mined by methods other than underground mining techniques. In order to minimize disturbance to surface owners from surface coal mining of federal coal deposits, the Secretary shall, in his discretion, but to the maximum extent practicable, refrain from leasing such coal deposits for development by methods other than underground mining techniques.

(b) Any coal deposits subject to this section shall be offered for lease pursuant to section 2(a) of the Mineral Leasing Act of 1920 (30 U.S.C. 201a), except that no award shall be made by any method other than competitive bidding.

(c) Prior to placing any deposit subject to this section in a leasing tract, the Secretary shall give to any surface owner whose land is to be included in the proposed leasing tract actual written notice of his intention to place such deposits under such land in a leasing tract.

(d) The Secretary shall not enter into any lease of such coal deposits until the surface owner has given written consent and the Secretary has obtained such consent, to enter and commence surface mining operations, and the applicant has agreed to pay in addition to the rental and royalty and other obligations due the United States the money value of the surface owner's interest as determined according to the provisions of subsection (e).

(e) The value of the surface owner's interest shall be fixed by the Secretary based on appraisals made by three appraisers. One such appraiser shall be appointed by the Secretary, one appointed by the surface owner concerned, and one appointed jointly by the appraisers named by the Secretary and such surface owner. In computing the value of the surface owner's interest, the appraisers shall first fix and determine the fair market value of the surface estate and they shall then determine and add the value of such of the following losses and costs to the extent that such losses and costs arise from the surface coal mining operations:

(1) loss of income to the surface owner during the mining and reclamation process;

(2) cost to the surface owner for relocation or dislocation during the mining and reclamation process;

(3) cost to the surface owner for the loss of livestock, crops, water or other improvements;

(4) any other damage to the surface reasonably anticipated to be caused by the surface mining and reclamation operations, and

(5) Such additional reasonable amount of compensation as the Secretary may determine is equitable in light of the length of tenure of the ownership; provided, that such additional amount of compensation may not exceed the value of the losses and costs as established pursuant to subsection (e) and in paragraphs (1) through (4) above, or one hundred dollars ($100) per acre, whichever is less.

(f) All bids submitted to the Secretary for any such lease shall, in addition to any rental or royalty and other obligations, be accompanied by the deposit of an amount equal to the value of the surface owner's interest computed under subsection (e). The Secretary shall pay such amount to the surface owner either upon the execution of such lease or upon the commencement of mining, or shall require posting of bond to assure installment payments over a period of years acceptable to the surface owner, at the option of the surface owner. At the time of initial payment, the surface owner may request a review of the initial determination of the amount of the surface owner's interest for the purpose of adjusting such amount to reflect any increase in the consumer price index since the initial determination. The lessee shall pay such increased amount to the Secretary to be paid over to the surface owner. Upon the release of the performance bonds or deposits under Section 519, or at an earlier time as may be determined by the Secretary, all rights to enter into and use the surface of the land subject to such lease shall revert to the surface owner.

(g) For the purpose of this section the term "surface owner" means the natural person or persons (or corporation, the majority stock of which is held by a person or persons who meet the other requirements of this section) who—

(1) hold legal or equitable title to the land surface; and

(2) have their principal place of residence on the land; or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming or ranching operations; and

(3) have met the conditions of subparagraphs (1) and (2) for a period of at least three years prior to the granting of the consent.

In computing the three year period the Secretary may include periods during which title was owned by a relative of such person by blood or marriage during which period such relative would have met the requirements of this subsection.

(h) Where surface lands over coal subject to this section are owned by any person who meets the requirements of paragraphs (1) and (2) of subsection (g) but who does not meet the requirements of paragraph (3) of subsection (g), the Secretary shall not place such coal deposit in a leasing tract unless such person has owned such surface lands for a period of three years. After the expiration of such three-year period such coal deposit may be leased by the Secretary, provided that if such person qualifies as a surface owner as defined by subsection (g) his consent has been obtained pursuant to the procedures set forth in this section.

(i) Nothing in this section shall be construed as increasing or diminishing any property rights held by the United States or by any other land owner.

(j) The determination of the value of the surface owner's interest fixed pursuant to subsection (e) or any adjustment to that determination made pursuant to subsection (f) shall be subject to judicial review only in the United States district court for the locality in which the leasing tract is located.

(k) At the end of each two-year period after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the implementation of the federal coal leasing policy established by this section. The report shall include a list of the surface owners who have (1) given their consent, (2) received payments pursuant to this section, (3) refused to give consent, and (4) the acreage of land involved in each category. The report shall also indicate the Secretary's views on the impact of the leasing policy on the availability of federal coal to meet national energy needs and on receipt of fair market value for federal coal.

(l) This section shall not apply to Indian lands.

(m) Any person who gives, offers or promises anything of value to any surface owner or offers or promises any surface owner to give anything of value to any other person or entity in order to induce such surface owner to give the Secretary his written consent pursuant to this section, and any surface owner who accepts, receives, or offers or agrees to receiving anything of value for himself or any other person or entity, in return for giving his written consent pursuant to this section shall be subject to a civil penalty of one and a half times the monetary equivalent of the thing of value. Such penalty shall be assessed by the Secretary and collected in accordance with the procedures set out in Subsections 518(b), 518(c), 518(d), and 518(e) of this Act.

(n) Any federal coal lease issued subject to the provisions of this section shall be automatically terminated if the lessee, before or after issuance of the lease, gives, offers or promises anything of value to the surface owner or offers or promises any surface owner to give anything of value to any other person or entity in order to (1) induce such owner to give the Secretary his written consent pursuant to this section, or (2) compensate such surface owner for giving such consent. All bonuses, royalties, rents and other payments made by the lessee shall be retained by the United States.

(o) The provisions of this section shall become effective on February 1, 1976. Until February 1, 1976, the Secretary shall not lease any coal deposits owned by the United States under land the surface rights to which are not owned by the United States, unless the Secretary has in his possession a document which demonstrates the acquiescence prior to December 3, 1974 of the owner of the surface rights to the extraction of minerals within the boundaries of his property by current surface mining methods.

Mr. HANSEN. Mr. President, as my good friends and chairman of the Minerals, Materials, and Fuels Committee, Senator METCALF, can attest, few issues have been as controversial as the surface owner protection provision of the pending legislation. Although the provision which the conference adopted does not satisfy everyone, it would, as of February 1, 1976, grant the surface owner the right to say no to the proposed surface mining of the Federal coal underlying his surface As I stated during the conference deliberations, this right should be recognized. On the other hand, the surface owner who wishes to give his consent for surface mining should be compensated fairly. In my opinion, the inducement for the surface owner in section 716 to give his consent is woefully inadequate.

Many ranchers and farmers have told me of their interest in allowing surface mining of their lands. I believe that most of these surface owners would meet the stringent definition of surface owners as defined in this section. Accordingly, they would be limited as to how much they could be compensated for giving their consent. It is probable that a rancher or farmer who wished to allow surface mining would be well advised to consider selling his surface, with a provision, such as lease-back-arrangement, which would guarantee that the land, after it was mined and reclaimed, would be returned to his ownership. Senator METCALF, does this section preclude the surface owner from selling his land?

Mr. METCALF. No; it would not. The likelihood of such sales was contemplated when this proposal was discussed.

Mr. HANSEN. How does the requirement that coal deposits subject to section 716 be offered for lease by competitive bidding after the surface owner gives his consent affect existing Federal prospecting permits on such coal deposits, particularly in light of the requirement in section 512 (b)(8) that applications for coal exploration permits must include the written permis-

sion of all surface landowners, except where the applicant owns such exploration rights?

Mr. METCALF. It is not altogether certain that the holder of a Federal coal prospecting permit has an interest which vests him with a right to a coal lease. This is a matter of interpretation of the Mineral Leasing Act of 1920, the National Environmental Policy Act of 1969, and other applicable laws. However, if the permittee does have a property right, it is not the intention of the conferees to deprive him of it. Section 716(i) specifically states that nothing in section 716 is to be construed as increasing or diminishing any property rights held by the United States or by any other landowner.

Mr. HANSEN. Regarding the provisions of section 527 for special bituminous coal mines, I understand that the section applies only to pits which were operational prior to January 1, 1972, and that only specific pits, not entire operations which may cover thousands of acres, are eligible. It is also my understanding that the regulatory authority should examine the long-range operational plan for eligible pits to ascertain the necessity for special treatment. As expressed in the joint statement of the committee of conference, in some cases the regulatory authority may determine that the reworking of old pits or combination of existing pits on a mined site will provide an opportunity for a mining operation to so adjust as to meet the basic provisions of the act. Would the gentleman not agree, however, that in like manner, a combination of existing pits may be eligible for the special treatment provided in section 527 where such combination meets the special standards of that section, and there has been a commitment to a mode of operation which makes adjustment to the basic standards of the act difficult and not practicable?

Mr. METCALF. Yes; I would agree.

Mr. HANSEN. Does the requirement in section 522(b), that the Secretary conduct a review of the Federal lands to determine whether they contain areas which are unsuitable for all or certain types of surface coal mining operations, effectively impose a moratorium on all new Federal coal leases until this review is completed?

Mr. METCALF. No. The language which I assume gives rise to the gentlemen's question is found in section 510(b) which prevents the issuance of a mining permit if the area proposed to be mined is within an area being considered for designation as unsuitable. The operative words here are "being considered." This phrase specifically relates to the petition process established in section 522(c) and to whatever due process requirements must be followed by the Secretary, who, once having completed his review, has tentatively decided to withdraw or restrict certain Federal land areas.

This point was covered in the joint statement of the committee of conference and I quote:

Section 522(b) directs the Secretary of Interior to review the Federal lands to determine whether there are areas which are unsuitable for surface coal mining operations. It is not the conferee's intent to preclude surface coal mining on Federal lands until this review is completed.

Mr. HANSEN. Mr. President, let me say that I have had just three objectives as we have been considering this surface mining legislation: No. 1, to see that the Nation's coal is made available for the needs of all of the people; second, to assure that we deal fairly with the surface owner of the land; and, third, to see that we have a good reclamation law passed, one that will guarantee that there will be no more Appalachias, particularly in the West.

I am disappointed that we have not done a better job than I think we have done. I say that because we have failed to treat the surface owner fairly. We have circumscribed the payment that he can receive for damage to his land in such a fashion as I believe will result in his withholding surface owner consent. By failing to treat the surface owner fairly, we increase the likelihood that the Nation's coal will not be available to the people of the United States.

Despite these facts, Mr. President, I shall vote for the bill. I vote for it because, at this point in time, it seems to me to be the best alternative that we can get.

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

Mr. HANSEN. May I have 1 additional minute?

Mr. FANNIN. Mr. President, I yield 1 minute to the distinguished Senator from Oklahoma.

Mr. METCALF. Mr. President, I yield myself a half minute.

The PRESIDING OFFICER (Mr. CLARK). The Senator from Arizona was yielding to the Senator from Oklahoma for 1 minute.

Mr. BARTLETT. Mr. President, I have spoken openly before this body many times about the need for this country to expand production of its energy resources. This need is great. The United States is faced with a tremendous balance-of-trade deficit caused by the importation of high-cost foreign oil, double-digit inflation, and declining production of the most important current energy sources, oil and gas.

Fortunately, this country is blessed with tremendous reserves of coal which can be produced in ever increasing quantities. All experts believe coal will have to assume a much more prominent position in our energy picture in the years to come if the United States is to become self-sufficient in energy.

Yet this body now has before it a bill which will actually reduce current and future coal production and will be inflationary. That the Congress would now attempt to pass legislation with these consequences is almost inconceivable to me. The Surface Mining Control and Reclamation Act of 1974 as now written is counterproductive to this Nation's stated objective of achieving energy sufficiency. If this legislation is passed, Congress will demonstrate again its inability to forthrightly address the most important issue of our time—our increasingly critical shortage of energy—and its failure to place environmental goals in the proper perspective.

Fortunately, President Ford has announced his intention to veto this bill for reasons with which I heartily concur.

The bill is inflationary. Federal administrative costs will be approximately $90 million per year. In addition, costs to the State governments and to the private sector will increase significantly. The bill imposes a 35-cents-per-ton excise tax on surface mined coal and a 25-cents-per-ton tax on underground mined coal. This tax will cost consumers approximately $250 million in 1975 and will do nothing to develop additional supplies.

The bill will further contribute to inflation because it will reduce current and future quantities of coal production in the United States. The Department of Interior estimates that coal production will be reduced a minimum of 14 to 38 million tons currently and 18 to 105 million tons by 1985 as a result of small mine closures and spoil placement restrictions alone. If other provisions in the bill are interpreted strictly, coal production in 1975 will be reduced by a total of 50–148 million tons. This is a minimum of one-sixth of our domestic coal production.

Shortages cause inflation and because all energy supplies are in short supply at this time, this legislated reduction in coal production will exert an upward influence on the price of coal. Considering that this drop in coal production would have to be replaced with some alternate source of energy if the country's GNP is to remain the same and, of course, we all want the GNP to grow, greater imports of foreign crude will be required. The high cost of this foreign oil would generate further inflationary pressures and would exacerbate this country's already severe balance-of-trade deficit.

Mr. President, our country can endure no longer the huge balance-of-trade deficit caused by the high price of imported oil. Yet this Congress is bent on passing a bill that will increase this deficit or cause greater shortages of energy. We are taking a great step backward with this bill.

Prior to the House-Senate conference, the administration outlined its objections to this act. The conference committee apparently chose not to correct many of those provisions with which the administration disagreed. I should like to outline a few of them to you.

Much of the language in the bill is vague, too broad, or ambiguous and could cause unneeded and lengthy administrative problems or litigation in the courts.

The stated purpose of the act is "* * * to prevent the adverse effects to society and the environment resulting from surface coal mining operations and surface impacts of underground coal mining operations." A strict court interpretation of this statement could lead to a judicial imposition of environmental and reclamation standards which are even more severe than the requirements set forth in the bill. This would be similar to the very unfortunate 1954 Supreme Court decision on the 1938 Natural Gas Act which resulted in Federal controls on the wellhead price of natural gas and which caused our natural gas shortage.

The act permits citizen groups to file suit for "violations of the provisions of

this act." Since many of the provisions of the act are ambiguous, an avalanche of civil action on possibly a mine-by-mine basis could follow just because someone felt that a mine operator is in "violation of the provisions of this act." As the administration stated in its letter to Mr. Udall prior to the conference:

> Citizen suits directly against mining operations should be authorized only where violations of regulations or permits are occurring.

This bill ignores the "multiple use" of land concept, it nearly prohibits mining on alluvial valley floors, and will force mine closures in areas where the bill's reclamation standards provide adequate protection. In the case of mining on alluvial valley floors, it imposes the nearly impossible task of affirmatively demonstrating that surface operations "would not have a substantial adverse effect on valley floors—significant to present or potential farming or ranching operations."

The Surface Mining Control and Reclamation Act of 1974 imposes an extension of the present administrative moratorium on the leasing of Federal coal deposits with private surface ownership until February 1, 1976. Because most of this Nation's coal reserves are in this category, this provision will unduly delay the rapid expansion of coal production which this Nation so desperately requires.

The implementation timetable in the bill which applies during the interim period—a period for the Secretary of the Interior to review areas unsuitable for mining—will effectively delay the start-up of all new mines for at least 30 months. Operators will hesitate to invest a significant amount of money in a new mine operation during the interim period because of the likelihood or possibility of being shut down. According to the bill, State programs may not be approved by the Federal Government for up to 34 months after its enactment and then it could take up to an additional 6 months to obtain the permit to mine. Thus, operators in compliance with the interim standards could be forced to close down because of inability to obtain a mining permit due to judicial or administrative delay.

This legislation may not be in the best interests of the States. Thirty-two States have already enacted legislation requiring the reclamation of surface mined land and 25 States have updated their land laws since 1971. Those States with significant potential or current surface mining operations within their borders such as Montana, Wyoming, West Virginia, Pennsylvania, and Ohio all have strict reclamation and environmental laws. Because climatic, geological, hydrologic and ecologic conditions vary widely among the States, a State is able to set standards which will be applicable to its own individual situation and will prevent the environmental ravages which occurred in the past. However, this legislation imposes Federal standards on the States. If the State does not comply with the minimum standards in the bill, the Federal Government will move in and incorporate its own program. These standards may be more severe than what the people of an individual State either want or need.

I would support good legislation to require reasonable and effective reclamation and environmental requirements for mining activities and which would permit, at additional costs to the consumer, greater coal production in the United States. However, this legislation is not in the best interests of a Nation desiring to provide for its citizens a higher standard of living. I urge my colleagues to vote against the Surface Mining Control and Reclamation Act of 1974.

Mr. FANNIN. Mr. President, Congress has struggled to resolve the question of Federal involvement in surface mining for more hours, days, and weeks of deliberation than almost any other subject in this Congress. The time expended is an indicator not only of the complexity of the problem, but of the diverse opinions offered. I must announce my grave concern about this conference report which we are now considering.

Let me inform my colleagues that the House and Senate were in conference for nearly 4 months striving to fashion a reasonable bill which all of us hoped would accomplish two things. First, that strip mining would be prohibited where reclamation was not feasible. Second, that coal resources which our Nation vitally needs during the short run to meet our energy commitments would not be locked up. One of the stated purposes of this bill is to, "assure that the coal supply essential to the Nation's energy requirements and to its economic and social well-being, is provided and strikes a balance between protection of the environment and the Nation's need for coal as an essential energy source."

Mr. President, this goal, this objective, this purpose, is not fulfilled by the language of this conference report. There is no balance between the environmental needs and the need for this energy resource. We have before us a conference report which is slanted and weighed beyond the stated objective of not mining where reclamation is not feasible. This bill exceeds to the point of being an outright ban on strip mining. This conference report includes an entire section of statutory prohibitions which prevent mining on lands even if the land can be reclaimed.

Mr. President, section 522 of this conference report is entitled "Designating Areas Unsuitable for Surface Mining." A glimpse at this language will more than demonstrate the lopsidedness of this bill. The regulatory authority must mandatorily designate an area as unsuitable for all forms of surface mining if reclamation pursuant to the requirements of this action is not feasible, but this section continues and requires lands to be designated as unsuitable for surface mining if it first, is incompatible with existing land use programs; second, affects fragile or historical lands; third, affects renewable resource lands; fourth, affects natural hazard lands.

The Secretary of the Interior and the State regulatory authorities are mandated under this act to conduct a search of all lands within their jurisdiction to determine if there are areas which should be designated as unsuitable for surface mining.

Mr. President, these are not the only prohibited places where surface mining cannot take place. No surface mining is permitted in the following: On any lands within the boundaries of units of the natural park system, the national wildlife refuge system, the natural system of trails, the national wilderness preservation system, the wild and scenic river system, and natural recreation areas designated by an act of Congress.

Mr. President, this is not all. No surface mining will be permitted on any Federal lands within the boundaries of any national forest; surface mining will not be permitted which will adversely affect any public owned park or places included in the national register of historical sites or within 100 feet of any highway right-of-way or any public road or within 300 feet of an occupied dwelling or 300 feet from a public building, school, church, community, or institution building, public park, or within 100 feet of a cemetery. This list goes on and on.

Mr. President, mining is prohibited in alluvial valley floors or in any area that the regulatory authorities may decide is unsuitable.

Mr. President, taken alone, this country might be able to afford a ban on strip mining in these areas. But, these prohibited areas coupled with the restrictions on land which can be strip mined and can be reclaimed make this bill intolerable.

Mr. President, the trend of this legislation is not to assure a reliable domestic source of energy, but is to prohibit strip mining in as many conceivable places as possible.

The administration, through Secretary Morton, wrote to the conferees on November 19, 1974, expressing dissatisfaction with numerous substantive provisions of this bill. Mr. President, I ask unanimous consent to include in the RECORD at the conclusion of my remarks, the letter to which I have just referred.

I must report to my colleagues that the conferees completely ignored the administration's letter and in fact refused then and later to consider any of the items or objections raised. This attitude reflected the intransigency and unwillingness to compromise the serious issues that now remain as glaring defects in this finished product.

I feel compelled to point out some of the more serious ramifications which could result should this bill be signed into law. Our balance-of-payments situation has been of great concern to us all, especially because of the vulnerable situation we experienced during the Arab embargo. If coal cannot be mined and utilized as an alternative fuel to petroleum then we must, in the shortrun at least, import more and more crude oil to meet our energy demands. The U.S. Department of Commerce has provided us with a graph demonstrating the posture of U.S. imports and exports of raw and processed material through 1974. These include

crude oil, refined petroleum products, natural gas, metals and all other raw materials and processed materials of mineral origin. The chart demonstrates that in 1972 our imports totaled 14 billion dollars against only $8 billion in exports in 1974, our imbalance between imports and exports ballooned to $21 billion. Thus, since 1972, our imbalance has escalated an incredible amount—from a deficit of $6 billion in 1972 to $21 billion in 1974. This problem will be exacerbated with incalculable rippling effects which will be felt by every American because the coal resources which we have in abundance will not be available to relieve the pressure caused by imported petroleum.

Mr. President, I turn to an issue which the conferees have discussed on many occasions. Those who advocate a ban on strip mining and a moratorium on the leasing of Federal coal in the West, are fond of quoting a statistic to indicate the folly of leasing more Federal coal. It is claimed that 16 billion tons are currently under lease in the West which have not been mined to date and logic should follow that until this coal is mined, new leases should not be let. Let me dispel the inaccuracy of this oft used statement. According to the Bureau of Land Management, as of Oct. 2, 1974, there were a total of 462 coal leases with total recoverable coal of 16.1 billion tons. The States involved are Colorado, Montana, New Mexico, North Dakota, Utah, and Wyoming. Of this 16.1 billion tons, .55 billion tons is comprised of uneconomic reserves. 2 billion tons—environmentally unacceptable. 6.68 billion tons are under contract now and are being mined. 6.87 billion tons are not now under contract.

Let me dwell on this 6.87 billion tons: 1.14 billion tons of this amount are not in logical mining units; 5.73 billion tons represent the potential for development because it is in logical mining units; 17.2 billion tons of this potentially developable coal is expected to be committed soon. The net result of this BLM analysis demonstrates that only 4.01 billion tons of the 16.1 billion tons are uncommitted to date. Thus, we do need to lease more Federal coal in the West. These leases are not idle and 16.1 billion tons is not an accurate figure to reflect a readily available coal resource.

Mr. President, there is one additional area I wish to touch on. It demonstrates another major flaw in this act. Surface owner consent is known as the prerogative of a surface owner residing on split fee land over which coal is located, to veto the recovery of that coal. Our mining laws have always said that the mineral estate is the dominant estate and the surface estate is the subservient estate, logic dictates that minerals can only be extracted by disruption of the surface.

The Federal Government, in patenting lands in the West, reserved for all the people of America the mineral resources. Surface owners who purchased or took that land knew that the mineral resources were not owned by them and that the mineral owner had the right to come on to the surface in order to recover the minerals. I recognize as a westerner, the importance of preserving a way of life and a very rich heritage which has made the West what it is today. The flavor of the West has been preserved and enhanced by our ranching and farming communities. We must do justice for this important segment of our country, but giving the surface owner a right to exercise a veto over the extraction of Federal coal under his land is not the answer.

The coal belongs to all the people of this country and is vital to all of us and I think it wrong to provide a surface owner with a prerogative which he has never had and which could result in serious damage to this Nation in two respects.

First, those surface owners who may reside on land over strategically located coal which is the key to a logical mining unit, could preclude the extraction of that coal thus effectively locking it up. Second, the surface owner could receive a windfall just because of the fortuitous circumstances of having coal under his surface. Let me describe for you how this windfall might come about.

The conferees adopted section 716 entitled "Surface Owner Protection" in which a surface owner who qualified under the definition could exercise consent. If the surface owner choose to grant consent, he would be limited in the amount of money he would receive. Basically, he would be limited to loss of income, cost of relocation or dislocation, loss of livestock, crops and improvements, and any other damages reasonably contemplated plus a bonus of up to a maximum of $100 per acre. I ask my colleagues to put themselves in the place of a rancher living on split fee land over a valuable Federal coal deposit. I am the coal company and I come to you and ask you to give surface owner consent so that the coal company might be able to mine the coal. You look at section 716 and ascertain that the total amount you could receive would be $190 per acre for each acre disturbed. Is this enough incentive for you to grant your consent to have the coal mined? I think not.

I think instead, you would tell me, the coal company, that instead of giving consent and being bound by the monetary restriction of section 716, that you will enter into a revocable sale of your property for $100,000 with two stipulations, first, that upon completion of the surface mining operation, the land will revert back to your ownership. Second, that the sale become null and void if the coal company does not receive the bid on the coal. Under this latter scenario, there is incentive for the rancher. This rancher has a new weapon in his arsenal to force up the price which he can get for his surface. This is a windfall. He has surface owner consent and the right to veto the coal company from mining the coal if the coal company cannot meet his terms. Under existing law, the surface owner has no weapon or tool to inflate the price of the land in this scenario. The price of surface in the West goes for about $50 per acre and windfall profits have not accrued to surface owners.

Mr. President, we have insured under this legislation that two results will follow from enactment of this provision; the consumers of this Nation will pay for this windfall which the surface owner gets. Not under the formula of section 716, but under the sale transaction which is not regulated by this bill. Second, instead of preserving an agrarian form of life, we have forced our farming and ranching communities to sell the surface because we have so restricted the measure of demands which he can receive. We will be not preserving a way of life, but rather killing a vital ingredient in our western heritage.

For the reasons stated and for many more which I do not have time to fully elaborate, I would hope that the President addresses this measure with a forceful, forthright veto because the Congress has failed to strike a balance between the need for environmental protection and the availability of coal as a national energy resource. There is no reason for the Congress to invalidate 32 State laws governing surface mining with a bill as defective as this. Sixteen of the largest coal-producing States have amended their State laws with more stringent environmental standards to insure reclamation and this State action negates our rush to pass defective Federal restrictions.

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

U.S. DEPARTMENT
OF THE INTERIOR,
Washington, D.C., November 19, 1974.

Hon. MORRIS K. UDALL,
House of Representatives,
Washington, D.C.

DEAR MR. UDALL: The Administration has long sought legislation establishing reasonable and effective reclamation and environmental protection requirements for mining activities. The Conferees on S. 425 and H.R. 11500 now have before them legislation which, if appropriately modified, could realize that goal.

Unfortunately, the latest draft of this measure, dated October 7, 1974, contains a number of very objectionable features which should be changed to avoid possible disapproval of the legislation by the President.

Briefly, the bill could contribute materially to inflation by imposing unnecessary governmental and private costs. It could also impair our ability to meet the Nation's energy requirements through needless restrictions on coal production and through creation of ambiguous and overly complex regulatory requirements.

When fully funded, the bill would involve Federal expenditures of approximately $90 million annually—twice that recommended by the Administration.

This does not include the costs which will be incurred by State and private organizations and which will be passed on to taxpayers and consumers. Neither does it include the thirty-five cents per ton excise tax which will total approximately $240 million for 1975.

At today's prices the bill might reduce current production by 14 to 38 million tons, and 1980 production by 18 to 105 million tons as a result of small mine closures and spoil placement restrictions alone. This does not include production losses that could result from strict application of the other provisions discussed below.

To assure that there is no misunderstanding as to the Administration's position at this time, this letter identifies the most objectionable features of the bills:

1. *Unnecessarily rigid requirements.*

The following provisions could involve extensive litigation and consequent production losses and delays:

a. *Non-degradation aspects.* The bill's statement of purpose "to prevent the adverse effects to society and the environment" resulting from surface mining—following other judicial decisions—could lead the courts to infer a non-degradation standard which goes beyond the detailed environmental and reclamation requirements set forth in the bill. The standard would be impossible to achieve and could result in an unintended prohibition of all mining.

b. *Citizen suits.* We favor citizen suits as a useful supplemental enforcement mechanism. The unique provisions of this measure, however, could seriously undermine the integrity of the permit mechanism of the Act. As now drafted, the bill allows suits against any person for a "violation of the provisions of this Act." This could result in mine-by-mine litigation of virtually every ambiguous aspect of the bill—even if an operation is in full compliance with existing regulations, standards, and permits—on the grounds that such operations are otherwise in violation of "the provisions of this Act." This is unnecessary. The promulgation of regulations, the issuance of permits, and the monitoring and policing of all ongoing operations are all subject to public review. Citizen suits directly against mining operations should be authorized only where violations of regulations or permits are occurring.

c. *Alluvial Valleys-hydrology.* The near prohibition on mining in valley floors specified in the bill, would arbitrarily foreclose mining in areas where the bill's reclamation requirements would provide adequate protection. Furthermore the scope of the prohibition is unclear. The provision would also require a permit aplicant to perform the nearly impossible task of affirmatively demonstrating that surface operations "would not have a substantial adverse effect on valley floors . . . . significant to present or potential farming or ranching operations." Finally the bill requires unduly burdensome data requirements as to subsurface water.

d. *Administrative moratorium.* Operations in compliance with the interim standards could be forced to close down because of inability to obtain a mining permit due to judicial or administrative delay. In particular, section 502(g) and section 506(a) should specify that mines opened after enactment are covered by these savings clauses.

e. *Surface Effects of Underground Coal Mining Operations.* Specific provisions dealing with the surface effects of underground coal mining operations are confusing and duplicative and should either be omitted or redrafted so as to make clear when regulation of such operations begins, what procedural requirements must be followed, and that only the surface aspects of underground mining are addressed.

2. *Surface and mineral owner rights.*

Most options under consideration by the Conferees either restrict access to Federally-owned coal directly or provide that the surface owner can exercise the right of consent to surface mining. Such provisions would either limit mining of Federal coal or result in windfall payments unrelated to any actual damages that may occur. These payments would enrich a few landowners and could result in possible loss of Federal revenues from leasing amounting to hundreds of millions of dollars.

3. *Inequitable and precedent-setting unemployment provisions.* The unemployment compensation provisions of the bill unfairly discriminate between classes of unemployed persons and set objectionable precedents with respect to cause of unemployment, labor force attachment, and length of benefits. The Administration favors extension of unemployment coverage and benefits but this should be done in an equitable manner as in S. 3257 and H.R. 13801.

4. *Federal/State responsibilities.*

The bill encourages excessive direct Federal involvement in reclamation and enforcement programs. For example, requiring Federal inspections every three months during the interim program unnecessarily duplicates State efforts. This might cause the States to abrogate their responsibilities thus resulting in Federal takeover. In addition, the regulatory authority should have the power to grant variances from reclamation requirements for any form of mining technique if reclamation results in satisfactory post-mining land uses. Such variances are now limited to mountain-top mining.

5. *Reclamation Fund.*

The fund would be difficult to administer, would charge current consumers for previous damage to the environment and could magnify any general inflationary trend by being adjusted to reflect any change in the cost of living index. The fund could lead to windfall profits to private landowners and could also develop into a massive Federal land purchase program and be used for extraneous purposes, such as hospitals, public facilities, and disaster assistance, in addition to reclamation.

As always, I stand ready to work with the Conferees to reach agreement on acceptable legislation.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration.

Sincerely yours,

ROG MORTON,
Secretary of the Interior.

The PRESIDING OFFICER. The Senator from Montana.

Mr. METCALF. Mr. President, in view of the fact that the distinguished Senator from Arizona suggested that this bill was substantially changed in conference, and it was changed in conference, and in view of the fact that the conference report does contain some material different from what was actually in the bill that passed the Senate 82 to 8, I am going to ask for a rollcall on the conference report.

Mr. FANNIN. Will the Senator yield?

The PRESIDING OFFICER. Is there a sufficient second?

Mr. METCALF. I am delighted to yield to the Senator from Arizona.

Mr. FANNIN. Will the Senator agree that more time is needed to discuss this measure?

Mr. METCALF. No. I thought that we had argued this bill substantially on its merits on the floor. The concessions we made after more than 100 hours of meeting in conference would be sufficient to illustrate the complexities of the bill.

We have a moderate bill. We have a bill that is applicable all over the United States. We have a national bill. I regret very much that the Senator from Arizona has suggested that there are so many things in this conference that he cannot agree to.

I believe we should have a rollcall on the conference report.

Mr. FANNIN. Will the Senator yield? The Senator realizes that we did not discuss this bill very thoroughly. The distinguished Senator from Washington, our manager of the bill, is the chairman of our committee. The Senator from Arizona discussed the matter of a rollcall vote thoroughly. We arrived at an agreement. It was agreed that there would be a voice vote, and that is the reason why the short time for consideration of the bill was needed.

The PRESIDING OFFICER. All time of the Senator from Montana has expired.

Mr. ABOUREZK and Mr. JACKSON requested the yeas and the nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

There is a sufficient second, and the yeas and nays are ordered.

The Senator from Arizona has 4 minutes remaining.

Mr. FANNIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FANNIN. How many Senators are needed to have a sufficient second?

The PRESIDING OFFICER. Eleven Senators are needed.

The Chair understands that 11 Senators were present.

Mr. HANSEN. Mr. President, were 11 Senators voting for the yeas and nays?

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. FANNIN. Mr. President, I am not going to question the Chair.

Mr. METCALF. Mr. President, what was the ruling of the Chair?

The PRESIDING OFFICER. The ruling of the Chair was that 11 Senators were present, and the yeas and nays have been ordered.

Who yields time? The time of the Senator from Montana has expired. The Senator from Arizona has 3 minutes remaining.

Mr. FANNIN. Mr. President, there is much to be said regarding this legislation, and no one can say with absolute certainty what all the precise economic impact of this legislation will be. However, no one, not even the proponents of the conference report denies that enactment of this measure will result in increased cost to the consumer and a net coal loss to the Nation. We all agree on that.

At this critical time in this Nation's history, we are permitting legislation to go through which would vitiate efforts we have taken to increase energy production in other legislation. I do not understand why the Members who are pushing this measure will not take into consideration the full ramification of what this bill will do.

This afternoon, we probably will consider a measure which will provide for the spending of $20 billion on research and development in an effort to produce more energy. What we are doing now is to cut production of energy, at a cost of billions of dollars—and this is not just for the immediate future. How can these two pieces of legislation be reconciled? How can anyone, on one hand, cut back on production of energy thus costing thousands upon thousands of jobs and then vote for developing new energy sources?

I brought out that we are talking about 11,000 jobs that will be lost as a result of this legislation. There will be a gross national product loss of $6.2 billion.

Mr. COOK. Mr. President, I will vote against the conference report on S. 425 because I believe it legislates unfairly against the coal operators in Kentucky.

My position has always been that the determination to grant or deny a permit to surface mine a particular piece of land must be made on the basis of reclamation. If the land can be reclaimed to useful purpose as specified in this report, then the permit should be issued. If, on the other hand, the reclamation is not possible, then surface mining should not be permitted.

However to deny surface mining on some textbook criteria such as degree of slope as is provided in this bill is not sound and does not insure sound reclamation.

What we should do is encourage the development of our reclamation technology. If an operator has the know-how and is willing to expend the effort and funds needed to mine his coal and meet reclamation standards, then he should be permitted to do so.

This bill will have a substantial adverse effect on the economy of eastern Kentucky and will deny this Nation the coal it needs to meet its energy requirements.

Mr. BAKER. Mr. President, the conference agreement on S. 425 which is now before the Senate represents the culmination of years of effort in the Congress to bring an end to mining practices which have left millions of acres of land in Appalachia and other coal bearing regions devastated and barren.

The members of the conference have done an extraordinary job in reaching an acceptable agreement on this extremely complicated issue. The committee's diligence has been demonstrated by its work in more than 20 long sessions to resolve the differences in the House and Senate versions of the bill. And the product of their efforts represents an important step forward both in our commitment to preserve and protect the Nation's environment and in our effort to increase domestic production of fuel. Under this act coal will be able to play an expanded role in our energy picture without posing an unacceptable risk to the ecology of coal bearing regions.

Mr. President, it was 3 years ago in the 92d Congress that Senator John Sherman Cooper and I introduced a bill proposing a program of regulation for coal surface mining. That bill, S. 3000, contained several provisions directed at issues which I considered to be of great importance both then and now. Its approach and philosophy were not fundamentally different from the measure now before us.

S. 3000 targeted for regulation coal surface mining, excluding both underground mining and mining for other minerals. I am pleased that S. 425, while it has a somewhat broader scope, is targeted to treat the problems of coal surface mining. I know that the conferees on S. 425 are aware, as am I, of problems in other areas which need to be addressed, but by focusing the effort of this legislation immediate and effective control can and will be brought to bear on the most serious social and environmental problems associated with mining.

S. 3000—and S. 1163 which I introduced in this Congress—specified criteria for reclamation which were designed to restore the stability, character, and use of the mine site. I am pleased that S. 425 also sets stringent standards designed to protect the character and use of the site as well as addressing troublesome offsite impacts.

S. 3000 required a performance bond payable to the Government and sufficient in amount to cover the costs of reclamation by a third party should the permittee default. This bond was to remain in effect throughout the period of mining and for 5 years thereafter. I am pleased that S. 425 contains an almost identical provision.

S. 3000 recognized the economic and administrative problems of repairing the millions of acres of abandoned surface mines in the economically depressed and mountainous areas of the Appalachian region. In response to this situation the bill proposed to place authority for watershed reclamation under the Soil Conservation Service. I am pleased that the conferees have preserved a role in orphaned mine reclamation for the SCS. In my opinion the SCS acting in conjunction with the soil conservation districts can play an effective role in repairing the devastation caused by under-regulated strip mining these steep slope areas of Appalachia. The Service has the expertise and capability to handle this type of soil treatment program efficiently and at the least cost.

As a longtime advocate of stringent restoration criteria as the basis for strip mine regulation, I am pleased that S. 425 now provides for restoration of both premining contour and use. My concern expressed during floor debate on S. 425 earlier over the variance for so-called "mountain-top" mining, where the entire mountain-top is removed in order to get to the coal, is somewhat diminished by the requirement for consideration of sound land use planning in the approval of permits for such mining.

Mr. President, there has been a great deal of speculation about the cost of S. 425. But there need not be. By letter of April 11, 1974, Chairman Aubrey Wagner of the TVA advised that they had obtained hard and reliable data regarding the costs of an experimental multiple-seam, steep-contour coal surface mine operation in eastern Tennessee. This cost evaluation project involved restoration of contour in an area if difficult and rocky terrain substantially as required by S. 425. Total costs of the operation through December of 1973 were stated to be $11.47 per ton composed to $8.82 per ton for an adjacent nonexperimental mine which did not restore contour and did not eliminate the highwall and spoil piles. Thus the cost of total reclamation under these circumstances would appear to be about 10 percent of the present market price of coal. But more importantly with the present margins in the coal industry and with the competitive advantage of surface mining over underground mining—an advantage that has been recently expanded by the UMW contract settlement—it is safe to assume that the net market effect of total reclamation could be substantially lower even than 10 percent.

Over the past several years the coal mining industry has to a great extent undergone a conversion from underground mining to surface mining. A large portion of this strip mined production has come from the steep slopes of the Appalachian Mountains. This change has not come in response to the fuel shortage situation, for by far the greatest amount of recoverable coal reserves are accessible only by underground mining.

The growth of strip mining can be attributed to a list of errors, including the lack of a sound policy toward the development of domestic fuel resources and a callous disregard for the environmental misery of isolated, remote coal mining communities.

Reclamation laws have been tolerated which have provided little or no protection for the environment or geography and which have been too often loosely enforced. The cost of coal production has been subsidized by sacrificing the ecology of entire regions of the country. Every pound of coal that has been removed from the ridges and hills of Appalachia without restoration of the land has represented a subsidy to the cost of the coal to the rest of the nation borne by a section of the Nation that is least able to afford it.

I am deeply disappointed at the President's intention to veto this measure announced by Frank Zarb on last Friday. As I understand it the President's decision is based upon projections of lost production from surface mines in 1977 and subsequent years.

In my opinion these projections are wrong. The standards of S. 425 are stringent but they are practicable. Once the industry is given a clear set of rules, I have great confidence that they will be able to and will make the commitments necessary not only to sustain present production but to increase production. The greatest danger the industry faces is that a veto of S. 425 will continue the present uncertainty and thus stifle investment in equipment necessary to increased production.

I hope that the President will reconsider his decision and listen to the counsel of his chief energy adviser, Secretary Rogers Morton, and his principal environmental adviser, Administrator Russell Train. Enactment of S. 425 will constitute one of the major environmental and energy accomplishments of the 93d Congress.

But if the President remains determined to veto this bill, I urge him to do so in a manner that will afford Congress the opportunity to review his reasons and to act finally on this legislation.

Mr. President, I commend the House of Representatives for their approval of S. 425. Their action reflects their dedication to a sound energy policy reflecting respect and regard for the environment.

I urge my colleagues in the Senate to give this measure their support.

Mr. McGEE. Mr. President, I am deeply concerned by recent reports that President Ford intends to veto the strip mining bill on which we are about to act. It has been suggested by White House sources that the President believes this bill subversive to his energy program and that he feels it would ultimately result in a delay of our need to develop the Nation's coal resources.

It is my belief that should this bill be vetoed, we immediately proceed to the consideration of a coal leasing moratorium on Federal lands, similar to that contemplated by Senate conferees on the strip mining bill as a stopgap measure in anticipation of a deadlock conference. This moratorium must continue until we can formulate an acceptable surface mining law.

While I do not question the President's sincere desire to provide a solution to the energy crisis, I am fearful that this action on his part may result in the sacrifice of the Western States. If we are to get on with the job of providing the coal that America needs, then let us also get on with the job of protecting the lands that will be used.

While we in Wyoming are more than willing to do our share in seeking a solution to the Nation's problems, I do not intend to recklessly venture upon a course of action, the mistakes of which we will have to live with the rest of our lives. I am not willing to call upon my State or any other State to make this supreme sacrifice.

At a time when food production is becoming an increasingly critical issue, the President would risk the food-producing lands of America. He fails to realize that the first and most essential energy requirement for mankind is the food he eats. Does he realize that he risks aggravating one problem—an ultimately greater problem—in his hasty search for a solution to the energy crisis? Wyoming's lands have long been agriculturally productive. With the passage of this legislation, I believe they can remain so. The President's action, on the other hand, will render the lands of the Western States sterile and unproductive, seriously threatening America's ability to feed herself.

We must make it clear to the President that our only recourse in the face of his veto is to place a moratorium on Federal coal leasing. We must show him that his option will result in an even greater delay than that which he fears. We must show him that our concern for a productive economy and a livable environment will prevail over his immediate, and I believe ill-considered, search for a hasty conclusion to the energy crisis.

Mr. President, I therefore urge Senate approval of the conference report on S. 425, the Surface Mining and Reclamation Act of 1974. Indeed, if the coal resources of this country are to help us meet the energy crisis of this Nation, it is imperative that this legislation become law. Only then can we proceed in a sound way, socially and environmentally, to supply the Nation with adequate amounts of coal.

Mr. CURTIS. Mr. Prtsident, the surface-mining legislation before the Senate at this time fails to stipulate clearly how the producers of coal may operate in the mining fields of the Western States—or in any other areas of America.

Coal is our main ally in our fight to prevent economic destruction. The oil nations are banking as much as $35 billion this year and a big jump can be expected next year as the foreign producing nations move swiftly to expropriate not only the production facilities of crude, but the refining and marketing of the oil and its products.

This is the greatest transfer of national assets from one country to another that has ever taken place in history. America is literally under this economic gun. So are all the other industrialized nations of the world.

The great and noble experiment of the Marshall plan in which America literally gave away billions of dollars to restore the nations devastated by World War II is taking a strange twist.

Now we are all faced, because of helping the world to build its economies, with a cruel quadrupling of crude oil prices within a 1-year period.

To be sure there are all kinds of energy producing resources, but the one America has is coal—and enough coal to supply our own energy needs.

But if this legislation is put into force, it is unlikely we will be able to utilize this God-given alternative in time to save us from some form of economic bankruptcy.

The proposed legislation before us is to contain surface mining of coal lands. The purpose stated is to save the Nation from environmental stagnation.

But it seems to me a better way to attack such a complex problem would be to approve legislation creating new crash programs aimed at encouraging the use of coal without harming the ecology.

There is hardly a day that one study group or another doesn't tell us with dire foreboding that unless we restrict the use of oil to produce energy, we shall all expire in this generation.

Now let me emphasize that I give no ground to any man in my desire to insist on a clean environment for future generations of Americans.

However, what we are faced with right now is far more paramount.

If we do not encourage rather than restrict the use of coal, we will become increasingly dependent on foreign sources of oil every year, not every generation.

We have many scientific experiments in the works to convert coal to liquid products, including gasoline, others to burn coal without harmful emissions, still others to hike coal production without harming the terrain.

It would seem to me the better part of discretion to hold off on these production restrictions until we get some of these research projects through the pilot stage into practical uses.

All of them aim at reducing harm to the environment, too. Let us not lock up under emotional legislation these national assets.

Coal right now may be our number one economic asset.

Mr. BAYH. Mr. President, I rise to support the conference report on S. 425, the Surface Mining Control and Reclamation Act. I believe that the House/Senate compromise version of this legislation is essentially fair.

I feel that this legislation will insure effective use of our natural resources while at the same time protecting the environment from any danger from strip mining operations. It is time for the Federal Government to take effective action to control strip mining.

However, I would like to bring to the attention of my colleagues that some States, including my own State of Indiana, are way ahead of the Federal Government on this issue. In 1967, Indiana enacted strong legislation to control strip mining. One area that Indiana has considered in detail is the requirements for reclamation. Under Indiana law, land used for strip mining must be restored to its highest potential capabilities. This allows land to be used for reforestation, farming or recreation—all of which do not have to be the original use of the land before the strip mining.

The conference report mandates that any State law which provides for more stringent land use and environmental controls and regulations of surface coal mining and reclamation operations than the Federal law shall not be considered inconsistent with Federal law. This provision protects States, such as Indiana, that already have strict controls on strip mining.

I am hopeful that the President will approve this landmark legislation and I want to commend the members of the conference committee for their hard work in achieving this compromise.

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

Mr. FANNIN. I yield.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the yeas and nays be vacated.

The PRESIDING OFFICER. Is there objection?

Mr. METCALF. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FANNIN. Mr. President, here we have a total payments deficit of $2.75 billion. That is the amount of oil that we will need to import just to partially offset what we will lose. We are facing a tremendous deficit. Our currency certainly is in jeopardy. Our whole financial structure is in jeopardy.

The PRESIDING OFFICER. All time has expired.

Mr. ALLEN. 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. METCALF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. A quorum call is in progress.

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

Mr. ALLEN. Mr. President, I object.

Mr. METCALF. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Objection has been heard to the request to rescind the order for the quorum call.

The assistant legislative clerk continued with the call of the roll.

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

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. METCALF. Mr. President, I ask unanimous consent that the order for the yeas and nays be vacated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. METCALF. Mr. President, I ask unanimous consent that we proceed now to vote by voice on the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. FANNIN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. METCALF. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the hour of 1 p.m. having arrived, the Senate will now begin 30 minutes of debate before the vote is taken on invoking cloture——

Mr. METCALF. Mr. President, I ask unanimous consent that, notwithstanding the time limitation, I be permitted to call up the message from the House of Representatives at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CONCURRENT RESOLUTION DIRECTING THE SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 425—HOUSE CONCURRENT RESOLUTION 692

The PRESIDING OFFICER laid before the Senate House Concurrent Resolution 692, which was read by title as follows:

Concurrent resolution (H. Con. Res. 692) directing the Secretary of the Senate to make corrections in the enrollment of S. 425.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 692) was agreed to.

AMENDMENT OF THE EXPORT-IMPORT BANK ACT—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15977) to amend the Export-Import Bank Act of 1945, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the hour of 1 p.m. having arrived, the Senate will now begin 30 minutes of debate before the vote is taken on invoking cloture on the conference report on H.R. 15977, the time to be equally divided and controlled by the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Illinois (Mr. STEVENSON); after which, under the rule, the Chair will direct the clerk to call the roll to ascertain the presence of a quorum, following which he will call the roll on the vote on cloture.

Who yields time?

Mr. STEVENSON. Mr. President, this matter has been before the Senate on numerous occasions. The issue before the Senate now is not the merits of the conference report. The issue is whether the Senate will, after numerous earlier debates on the subject, be permitted to vote on the merits of that report.

This legislation, including the conference report, has been debated thoroughly. I urge the Senate to support the cloture petition and permit all of the Members to work their will. The conference report is reasonable. It represents a fair compromise between the Senate and the House-passed versions of the Eximbank amendments.

That conference report retains the principal points upon which the Senate has felt most strongly. It subjects to prior notification all proposed fossil fuel energy transactions in the Soviet Union of $25 million or more to congressional review. It requires that all transactions, worldwide, involving Bank participation of $60 million or more be reported to Congress, giving Congress, in those cases, too, an opportunity to act affirmatively to disapprove them.

The conference report also includes a provision which will require the Eximbank to seek further congressional authorization before making loans or guarantees in an amount of more than $300 million in addition to those already outstanding or extended in the Soviet Union.

The only major provision of the Senate-passed bill, which, I regret to say, was not retained by the conferees, is the amendment offered by the Senator from Wisconsin (Mr. PROXMIRE), which would include the Eximbank in the unified Federal budget effective October 1, 1976. That, Mr. President, is a subject which the Budget Committees already will be considering and upon which the Congress can act when it receives the Budget Committee recommendations in the next session.

For those reasons, Mr. President, I urge the Members to invoke cloture on this conference report and permit the Senate to work its will.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I rise in opposition to this conference report. I urge my colleagues to support our efforts to recommit this bill.

It is our intention, those of us who are against cloture but are for recommitting the bill, to offer, if cloture fails, immediately thereafter another recommitting motion. We came within 2 votes on Saturday of getting a recommitting motion.

Inasmuch as there are only two basic issues still unresolved, it seems to me that we should have an opportunity to

Originally, there were 13 points in take a second crack at these issues in conference. Therefore, it is my intention, if cloture is defeated, to immediately thereafter move to recommit this bill.

I think one point that has been lost in the Senate debate so far is that this conference report is for a 4-year, $25 billion authorization. This is not just the usual renewal of the act; it is a 4-year, $25 billion authorization.

which the House conferees won their position over the Senate position. This is the basis for saying that the Senate, in essence, rolled over and played dead and took the House bill, which was in fact the Eximbank bill.

I cite some language that was mentioned before, but I think it underscores exactly what I mean about the conferees rejecting the 13 key Senate provisions in favor of the House. Congressman WRIGHT PATMAN said on the House floor, after the conference reported, there were "few instances which Congressman PATMAN could recall in which the position of the House in conference was so successfully sustained."

I do not have to tell my colleagues that Congressman PATMAN is one of the most senior Members in the other body, in the House since 1929, and he is saying that he has never seen a conference report be such a sellout to one body over another body. That is the very point which we are making, and Mr. PATMAN has made it for us. That is what the issue is about. It resolves to two basic points: Is there going to be a Soviet energy deal? Are we going to give 7 percent and 8 percent money to Russia to go into Siberia at our expense and drill for natural gas there and hope that, eventually, we shall get some of it, notwithstanding the fact that the Japanese are also going to be in on the deal, and they are a lot nearer to the source of supply than we are? I would suspect that they will get at least their share, if not more; so we are helping to finance their energy problem, too.

The one issue, the first issue, is if we give a green light to the bill in its present form, it is to go ahead with the Soviet energy deal starting with Yakutsk

and, after that, the North Star—two energy projects totaling $12 billion which we are going to supply cheap money to build.

The other issue on this point that is unresolved is a very key issue, too. That is the issue of bringing the Eximbank under the budget and congressional oversight procedures, which the distinguished Senator from Wisconsin has been pushing for and which would logically bring our oversight role to where it should be in terms of our export trade.

I think these are the two key issues. All we are saying is that they have not been resolved. The House position has overwhelmingly prevailed to the point where one of its most senior Members said that he has never seen a sellout like it since 1929. We have gotten no satisfaction on either of these points. It is our intention to be constructive. If we, in fact, do win the vote against cloture, I shall immediately move to send the bill back to conference to give the Senate some satisfaction on these two points.

I think it is very important to underscore the fact that we say we are in an energy crisis; we say that we have to tighten our belts; we say that we have to have Project Independence.

Notwithstanding all that, the Eximbank will not agree to prohibit an energy deal with the Soviet Union. When we are trying to foster production, creativity, and energy here at home, it escapes me why we are putting on a conveyor belt our technology, our capital, our interest subsidy for energy. We export this technology in lieu of Project Independence.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. PROXMIRE. Mr. President, I yield an additional 3 minutes to the Senator from Pennsylvania.

Mr. SCHWEIKER. The two programs are completely the antithesis of each other.

I cannot imagine a program that is more against our national interest than to give a green light to the Soviet energy deal, $6 billion in Yakutsk, another $6 billion, by their own estimate, in the North Star. Overwhelmingly, it would be with our money. We are not giving that kind of money or that kind of break or that kind of commitment, or that kind of market guarantee, to any of our energy sources here at home.

That is the issue in a nutshell. It is a key issue. It is an issue that is good for 4 years and $25 billion, because that is what approval of this conference report means. If they get the green light, there assuredly will be a Soviet energy deal, and we will subsidize and pay for it. We got burned by the Arab oil embargo already; when are we going to learn our lesson, and say no to the foreign energy deals against our national interest?

I yield back to the Senator from Wisconsin the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield the Senator from Michigan such time as he may require.

Mr. HART. Mr. President, the question I shall ask perhaps does not require the presence of any more Senators than the few now in the Chamber, because it is something for my own guidance. I address it both to Senator PROXMIRE and Senator STEVENSON.

On Saturday last I voted for cloture, and today, after a discussion with some members of my staff for whose opinion I have great respect, I am rather persuaded that if the bill went to conference, there is a fighting chance that we might indeed get back at least the two basic items over which the principal contention exists.

I ask the Senators what their opinion is—though I know this is sort of crystal-balling—as to what will happen if it returns to conference.

Mr. PROXMIRE. Mr. President, I say to the Senator from Michigan that though, of course, no one knows what will happen, the House conferees were very firm last time, but I am confident that all of us want to preserve the agency. I want to preserve the agency, Senator Stevenson does, and all the House conferees do also. We would not want to kill the Export-Import Bank. We know it should continue.

I would think there would be a good chance in conference to get one or both of the two principal points in disagreement. One would be to bring it into the budget, maybe not until October 1, 1976, but as of that date or sooner; and second, to insist that there would be an opportunity for Congress to approve or disapprove any loan made to the Soviet Union in excess of $25 million for fossil fuel purposes.

Mr. HART. How does the Senator from Illinois feel?

Mr. STEVENSON. Mr. President, having been through the conference now with the House conferees, I can quite confidently answer the Senator's question by saying that the most the Senate conferees will obtain in conference is the placement of the Eximbank in the unified Federal budget effective October 1, 1976. That is a subject which is under study in the budget committees of Congress now. It is a subject upon which Congress can act before October 1, 1976, with the benefit of the recommendations of the budget committees.

Mr. PROXMIRE. At any rate, let me say to the Senator from Michigan, as one who has opposed cloture and as one who has opposed the conference report in its present form, I will do all I can to see that the Export-Import Bank does not expire, and that we do not have to continue it on the resolution basis that it has been continuing on. I think if we do resist cloture, the Senator will not be taking the risk that I think may bother him, that it would mean the end of the Export-Import Bank.

What I want to do is see that the Export-Import Bank is treated like every other agency using Federal funds. I want to see that there is equity between the people who borrow for export purposes and those people who borrow for housing, farming, small businesses, and every other purpose for which Federal funds are used.

Mr. HART. The Senator from Oregon may have something to add.

Mr. STEVENSON. Mr. President, I yield to the Senator from Oregon.

The PRESIDING OFFICER. Does the Senator from Wisconsin yield?

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. STEVENSON. I yield 3 minutes to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I can give a bit more information to the Senator from Michigan. I have talked with Representative ASHLEY and Representative FRENZEL, who are two of the principal advocates pushing this bill in conference, and there is no possibility that we will get out of the conference a vote on prior approval of energy projects. We may get some change in the form of notification, but there will be no vote on prior approval.

As to whether or not they would give on the budget item is problematical. I am not sure; they might or might not. I have talked with both of them, and they were more adamant about the prior approval on energy than on the budget item. I do not want to give the Senator from Michigan any undue hope that they might yield on that, but there is no hope that they would yield on the prior approval of energy negotiations.

Mr. HART. Mr. President, I appreciate the information.

The PRESIDING OFFICER. Who yields time?

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

Mr. PROXMIRE. Mr. President, rather than using up our time on quorum calls, will the Senator withdraw that?

Mr. STEVENSON. Yes.

Mr. PROXMIRE. Mr. President, I am opposed to ending debate on the Export-Import Bank conference report at this time. I urge my colleagues to vote against cloture and for recommittal, so we can resolve the remaining issues and get a conference report which is acceptable to the Senate.

A vote against cloture will show that the Senate intends to stand firm on the need to establish effective congressional control of the Export-Import Bank.

Putting the Bank back in the Federal budget is the only way to get full congressional control of the Bank on a continuing basis. It is the only way to make the Bank fully accountable to Congress and to the American people for the loans it makes and the effect of its lending activities on our domestic economy.

Keeping the Bank out of the budget means giving an automatic high priority to export loans. So long as we do this, we are saying that export loans are more important than loans for housing, more important than loans for small businessmen and farmers and students. We are saying that the Eximbank ought to be allowed to escape the sort of scrutiny that we give to the HEW budget, to the defense budget, to the budget of all the other Federal agencies which receive detailed examination.

Do we really want to say this? Does the U.S. Senate, does the U.S. Congress, want to go on record as saying that export loans are different? That we want to give a preference to export loans which we do not give to other loans to meet our vital domestic needs?

If we accept this conference report, if we vote to keep the Eximbank out of the budget, we are continuing to give top priority to export loans. We will be saying that exports and exporters are a privileged class.

A vote for cloture, a vote for this conference report, is a vote against housing—against the farmer—against the small businessman—against the U.S. taxpayer who has a right to know that his elected representatives are giving careful attention to all Federal Government spending and lending in a time of soaring inflation, high interest rates, and rising unemployment.

Mr. President, I am not trying to say that exports are not important, because of course, they are important—the United States should maintain the most favorable balance of trade possible. And I am not trying to hurt exporters; exporters provide jobs, they help our economy.

I am just saying that we should put exporters under the same rules of the game as everyone else. I am only asking for fair play.

There is no reason to put any program outside of the budget. The whole purpose of the budget is to balance all programs against each other, so we can determine relative needs and set priorities and allocate the limited—increasingly limited—resources available in the best way possible for the country as a whole, not for just one or just a few groups.

Mr. President, there seems to be some notion that the Bank could not survive if it were in the budget. May I point out that the Bank always had been in the budget—from 1945 when it was founded it was in the budget, until 1971 when it was taken out after an intense Bank-led lobbying effort. Since 1971, the effective deficit impact of the Bank has grown immensely—from $145 billion in fiscal year 1972 to $1.6 billion in fiscal year 1975 to a projected $3 billion in fiscal year 1977.

The Bank survived before when it was in the budget, survived and prospered; it will certainly survive if we put it back in the budget. But I do think there is serious concern that the interests of the American people, the credit needs of the average taxpayer, will not be met and will be adversely affected if we do not act now to put the Export-Import Bank back in the budget.

Those who have considered the matter carefully, including Dr. Arthur Burns, the Chairman of the Federal Reserve System, and Mr. Elmer Staats, the Comptroller General, have agreed that it certainly ought to be in the budget. Dr. Burns points out that a monetary policy is extremely hard to operate if you have a situation of a group of borrowers who can borrow hundreds of millions of Government funds at below market rates, and have a favored position. That is why there is no way we can be fair to the American farmer and homebuilder if we make it available to exporters, and not on the same basis to the American farmer and homebuilder at the same time.

It is vital that we act now. Now is the time when concern is high about inflation and the need to cut wasteful Federal spending. Now is the time when Congress is acting to take full responsibility for the level of Federal spending, under the Congressional Budget Act passed this year. Now is the time to set a precedent and to show that Congress means business, that we are no longer going to turn a blind eye on backdoor spending by off-budget agencies or by any other device.

Putting the Eximbank back in the budget will show that Congress has a commitment to fighting inflation, to lowering interest rates, to relieving the economic distress now confronting all our people.

Mr. President, in urging a vote against cloture and a vote for recommittal of this conference report, I am not asking for everything—I am not insisting that the Senate position on the Export-Import Bank amendment be upheld in every respect.

I ask reconsideration of just two points—ones which I, and many other Senators, believe are crucial to our national interest. One is my budget amendment, about which I have just spoken at some length. The other is the Church amendment requiring congressional approval of fossil fuel energy project loans to Communist countries, so that we will not commit ourselves to spending billions of dollars for energy development abroad without insuring that this is in the national interest.

Mr. President, we are simply seeking to reach an adequate compromise with the House. The Senate position was wiped out completely in the first conference, and only slightly restored in the second. The Senate receded on 13 points in the first conference—I repeat, 13. Despite strict instructions from the Senate to insist on the Senate bill, we won only two more points in the second conference. Now we ask for just two more concessions from the House—two more provisions which we in the Senate earnestly and wholeheartedly believe are an essential condition of extending the authority of the Export-Import Bank.

Lest anyone think we are being unreasonable, let me just list some of the many concessions which the Senate made to the House on the legislation—concessions which we will agree not to challenge if we can get agreement on the issues of strongest concern. I think this list will be enlightening to any who may think that the Senate is being unduly insistent on getting more of its provisions into the conference agreement.

The Senate bill contained an amendment stating that the Bank "may" provide financing at rates and terms which are "competitive" with export-financing agencies in other countries. This was a relatively modest proposal—that the Bank not subsidize its already below-market interest rates any lower than any other country does. It is hard to imagine that the Bank would not do this, and would not welcome language to that effect. Nonetheless, they opposed it, the House opposed it—and the Senate gave way.

The Senate bill required that that Bank provide financing "only to the extent that sufficient private financing is unavailable." This again is good commonsense, and it simply reinforced language already in the law directing the Bank not to compete with private capital. What it means is that the Eximbank should not finance sales of 747's and other aircraft which are only available from the United States, and that it should not finance exports from large companies which could get private credit anyway but rather should encourage exports which would not otherwise be made. Perfectly reasonable. But the House objected, and the Senate receded, with a little report language.

The Senate bill specified that the Bank should not authorize loans, guarantees, or insured loans which might have serious adverse effects on the U.S. economy—that is, on the competitive position of U.S. industries, such as the aircraft industry; on the availability of materials in short supply in the United States, such as oil-drilling equipment; or on employment in the United States. In other words, we should not export materials we need here at home, or capital equipment which will create jobs abroad and take jobs away from our American workers.

How could anyone disagree with this? How could anyone, least of all the Bank itself, say that the U.S. Export-Import Bank should be free to engage in lending activities which have a serious adverse effect on the U.S. economy? Nonetheless, the Bank did object to this restriction, and at the insistence of the House conferees, the Senate language was watered down to a simple suggestion that the Bank take these things into account—with no bidding requirement that they do so, and no commitment on the part of the Bank.

The Senate bill required that the President make a separate national interest determination for any Eximbank loan, guarantee or combination thereof of $40 million or more to a Communist country, and report that determination to the Congress within 30 days of making that determination or authorizing the transaction, whichever comes first. This is in lieu of the current practice of making a single national interest determination on loans to any particular country, rather than for specific transactions. Since GAO has in fact ruled that the law requires a separate national interest determination for each transaction, it is hardly unreasonable to require this at least for major transactions.

Nonetheless, at the insistence of the House conferees, this provision was severely diluted. The requirement now is for a separate national interest determination for loans only of $50 million or more, which means effectively transactions of $150 million or more. There are very few of these—so the separate national interest determination requirement put in by the Senate was rendered almost meaningless by the conferees.

The Senate also required that the President not determine that a transaction was in the national interest if it would or may result in the United States becoming dependent upon a Communist

country for essential materials, articles, or supplies which may be or are in short supply. The House knocked out this Senate provision. How can we conceivably reject the idea that it is not in the national interest to make loans which result in our becoming dependent on a potentially unfriendly country for vital materials—especially in the wage of the Arab oil embargo?

I can go on still further.

The Senate prohibited the Eximbank from financing or participating in an extension of credit for sales of defense materials to any country. After all, we have an extensive foreign military assistance program; why should we use the resources of the Eximbank in this area as well? Nonetheless, the House objected and the Senate receded.

The Senate bill required the Bank in its annual report to list all transactions involving the purchase of goods or services by a foreign subsidiary or affiliate of a U.S. company. This was to support other efforts being made to account for the activities of multinational corporations and insure that they do not receive special preferences or escape the provisions of appropriate law. But the House objected, and the Senate receded with a little report language.

The Senate bill prohibited the Bank from extending loans for the purchase or lease of any product necessary for the production, refining, and transportation of oil and gas and which is in short supply in the United States according to FEA. Surely a requirement in line with the national goal of increasing energy production. Nonetheless, the Senate receded to the House once again.

The Senate added a representative of labor to the Bank's Board of Directors, so that the interests of working people would be represented. The House conferees objected, and the Senate receded.

I personally regret that we cannot open up more of these issues. I think the Senate lost a lot in conference which we should have gotten, in the national interest.

At the very least, and I emphasize at the very least, we must insist on obtaining the two provisions still at issue, which are major components of the Senate bill—putting the Bank back in the budget and requiring congressional approval of fossil fuel energy project loans to Communist countries.

So I hope the Senate will vote "no" on cloture, and then vote to support a motion which will be made by the Senator from Pennsylvania, I believe, to send the bill back to conference.

Mr. President, I urge a vote against cloture and for recommittal, so we can get an Export-Import Bank Act extension which is acceptable to the Senate and in the national interest.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, first, I ask unanimous consent that Howard Beasley and Tony Wood, two members of the staff of the Committee on Banking, Housing and Urban Affairs, be granted the privilege of the floor during the consideration of this measure.

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

Mr. PACKWOOD. I yield myself 3 minutes.

Once more, Mr. President, we are back at the same impasse. I want to try to put in perspective some of the arguments that are being raised.

First, this is not a $25 billion loan to Russia for energy projects, nor a $6 billion loan, nor a $2 billion loan. There is $300 million on loans that can be made to the Soviet Union for the duration of the bill, which is 4 years.

In addition, there is an overall request for an increase in authorization of $5 billion which will take the Bank through about mid-1976, and it will have to return here again for further authorization and approval. So there is no great fear even if it was contemplated that we are going to make massive loans to guarantee energy projects in Siberia.

Second, let us remember what the Bank is. This Bank is an institution not unlike many domestic institutions we have to guarantee credit for a specific purpose, in this case exports.

The money does not leave the United States. It goes to American manufacturers, American producers of goods and services who, in turn, based upon the security of the guarantee, sell goods overseas. It is no different in terms of function from the $7.75 billion we approved several months ago. That is outside the unified budget, I might add, to loan to homebuilding in this country by channeling it through savings and loans.

Everyone here says they are in favor of continuing the Export-Import Bank. The only two issues are, one, should their budget be in the unified budget, and that is something that Senator MUSKIE's committee will be looking at, along with all the other budgets that are at the moment outside of the unified budget.

The second issue is, should Congress become some kind——

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. PACKWOOD. One more minute.

Should Congress become some kind of a senior loan review committee, and before loans are made for certain types of projects we would require that those projects come to Congress for approval.

I do not think we want to become a senior loan committee. I think it would be an unwise decision. We have made the major policy decisions as to what this Bank ought to do, and I think we ought to continue its existence and vote for cloture now.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 1 minute, and the Senator from Illinois has 6 minutes remaining.

Who yields time?

Mr. STEVENSON. I am prepared to yield back the remainder of my time.

Mr. PROXMIRE. I yield back my time.

I understand that the acting majority leader wanted to have a quorum call before the cloture vote anyway; it has to be live.

The PRESIDING OFFICER. There is an automatic quorum call prior to the vote.

Has all time been yielded back?

CLOTURE MOTION

The PRESIDING OFFICER. The time for debate under the unanimous-consent agreement having expired, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the adoption of the conference report on H.R. 15977, the Export-Import Bank Act Amendment.

Bob Packwood, John Tower, Edward W. Brooke, Paul J. Fannin, J. Glenn Beall, Adlai Stevenson, Thomas J. McIntyre, Walter F. Mondale, Dick Clark, Frank E. Moss, Lee Metcalf, Daniel Inouye, Gale W. McGee, Harrison A. Williams, Claiborne Pell, Edward Kennedy, Robert Stafford, Robert Taft, Jr., Charles W. Percy, Jacob K. Javits.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[No. 545 Leg.]

Baker	Curtis	Nunn
Bartlett	Dole	Packwood
Bennett	Domenici	Pearson
Biden	Goldwater	Percy
Burdick	Gravel	Proxmire
Byrd, Harry F., Jr.	Griffin	Ribicoff
	Gurney	Schweiker
Byrd, Robert C.	Magnuson	Sparkman
Church	McClellan	Stafford
Clark	McClure	Stevenson
Cotton	McIntyre	Talmadge

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Abourezk	Haskell	Montoya
Aiken	Hatfield	Muskie
Allen	Helms	Nelson
Bayh	Hollings	Pastore
Beall	Hruska	Pell
Brock	Huddleston	Randolph
Buckley	Hughes	Roth
Cannon	Humphrey	Scott, Hugh
Case	Inouye	Scott, William L.
Chiles	Jackson	
Cook	Javits	Stennis
Cranston	Johnston	Stevens
Eastland	Kennedy	Symington
Ervin	Long	Taft
Fannin	Mathias	Thurmond
Fong	McGee	Tower
Fulbright	McGovern	Williams
Hansen	Metcalf	Young
Hart	Metzenbaum	
Hartke	Mondale	

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

I also announce that the Senator from Maine (Mr. HATHAWAY) is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Colorado (Mr. DOMINICK), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the adoption of the conference report (H.R. 15977) on the disagreeing votes of the two Houses on the amendment of the Senate to the bill to amend the Export-Import Bank Act of 1945, and for other purposes, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Will Senators please take their seats and cease their conversation?

Mr. ROBERT C. BYRD. Mr. President, does that include not just Members of the Senate?

The PRESIDING OFFICER. The Senators will take their seats, and staff members as well.

The assistant legislative clerk resumed calling the roll.

The PRESIDING OFFICER. The Senate will please come to order. Will Senators please take their seats?

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. DOMENICI (when his name was called). Mr. President, I have a pair with the Senator from Colorado (Mr. DOMINICK) and the Senator from Massachusetts (Mr. BROOKE). If present and voting the Senator from Colorado would vote "nay," and the Senator from Massachusetts would vote "aye." If I were permitted to vote I would vote "aye." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

I also announce that the Senator from Maine (Mr. HATHAWAY) is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Colorado (Mr. DOMINICK), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. WEICKER) would vote "yea."

The yeas and nays resulted—yeas 54, nays 34, as follows:

[No. 546 Leg.]

YEAS—54

Aiken	Griffin	Packwood
Baker	Gurney	Pastore
Beall	Hansen	Pearson
Bennett	Hartke	Pell
Brock	Hatfield	Percy
Buckley	Hruska	Randolph
Byrd, Harry F., Jr.	Humphrey	Roth
Byrd, Robert C.	Inouye	Scott, Hugh
Clark	Jackson	Scott, William L.
Cook	Javits	Stafford
Cotton	Johnston	Stevens
Cranston	Kennedy	Stevenson
Curtis	Magnuson	Taft
Dole	Mathias	Thurmond
Fannin	McGee	Tower
Fong	McGovern	Williams
Fulbright	Metzenbaum	Young
Gravel	Mondale	
	Muskie	

NAYS—34

Abourezk	Goldwater	Montoya
Allen	Hart	Nelson
Bartlett	Haskell	Nunn
Bayh	Helms	Proxmire
Biden	Hollings	Ribicoff
Burdick	Huddleston	Schweiker
Cannon	Hughes	Sparkman
Case	Long	Stennis
Chiles	McClellan	Symington
Church	McClure	Talmadge
Eastland	McIntyre	
Ervin	Metcalf	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Domenici, for

NOT VOTING—11

Bellmon	Dominick	Moss
Bentsen	Eagleton	Tunney
Bible	Hathaway	Weicker
Brooke	Mansfield	

The PRESIDING OFFICER. On this vote, there are 54 yeas and 34 nays. Two-thirds of the Senators present and voting not having voted in the affirmative, the cloture motion is not agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, the rollcall vote that was announced on the strip mining conference report will not occur, because that conference report was adopted by voice vote.

At this time, the rollcall vote on the military construction appropriation bill is supposed to occur. Certain Senators indicated earlier today that they wanted a rollcall vote.

Mr. PROXMIRE. Mr. President, will the Senator yield to permit us to make a motion on the bill we just acted on?

Mr. ROBERT C. BYRD. I am going to get to that, but let us get the yeas and nays now.

Mr. PROXMIRE. It is a $3 billion appropriation. I handled the bill. I think we should have a rollcall vote.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

AMENDMENT OF THE EXPORT-IMPORT BANK ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15977) to amend the Export-Import Bank Act of 1945, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order for the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) to offer a motion to recommit the Eximbank conference report. I understand that this is his wish.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SCHWEIKER. Mr. President, we will not take much time. We appreciate the indulgence of the Members of the Senate.

It is my intention immediately to move to recommit this bill. Let me stress it is a $25 billion, 4-year bill. Many Members have not realized its impact. Because this bill does not address itself to the Soviet energy deal that is pending or to Senator PROXMIRE's amendment, I move to recommit the bill.

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

Mr. SCHWEIKER. I yield.

Mr. CHURCH. I wonder whether the Senator from Pennsylvania would modify his motion to recommit with instructions to the Senate conferees to insist upon the retention of the Proxmire-Church amendments. Otherwise, I see very little reason for another conference to take place; because these amendments are the heart of the resistance in the Senate to the conference report, a resistance which has twice led to the defeat of this cloture effort.

I hope that if we are going back to conference, it is with the clear understanding that, at least with respect to these two amendments, the Senate conferees will be guided by the instructions of the Senate to insist upon their retention.

Mr. SCHWEIKER. Mr. President, I am pleased to modify my amendment as the distinguished Senator from Idaho has suggested.

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

The PRESIDING OFFICER (Mr. DOMENICI). The question is on agreeing to the motion of the Senator from Pennsylvania.

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

Mr. SCHWEIKER. I yield.

Mr. PROXMIRE. Because the Senate has voted twice against cloture and because the conferees are in a strong position to make progress on this, especially with the instructions suggested by the Senator from Idaho, I hope the Senate will vote to refer the Eximbank conference report back to the conference, so that we can act on it promptly and bring to the Senate a true compromise between the Senate and the House positions.

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

Mr. PROXMIRE. I yield.

Mr. PASTORE. Exactly what is the instruction—to do what?

Mr. PROXMIRE. To insist upon two amendments. Amendment No. 1 is that the Eximbank be placed in the budget on, say, October 1, 1976, or some such date.

Instruction No. 2 is that on any kind of loan to the Soviet Union exceeding $25 million, involving oil, petroleum, fossil fuel, there be prior approval by Congress.

Mr. STEVENSON. Mr. President, I opposed the motion to recommit previously, because it is quite evident to me, having been through two conferences with the House, that the most the Senate can gain from another conference is not the so-called Church amendment but the amendment offered by the Senator from Wisconsin, which would include the Eximbank in the unified budget, effective October 1, 1976. The budget committees of Congress are examining this question and will have recommendations which Congress can act upon before October 1, 1976.

So it was with the feeling that we should defer action on this question until the budget committees had acted that I oppposed the motion previously.

I ask the Senator from Maine at this point what his views are on that question. It may guide me and other Members of the Senate with respect to the vote on this motion.

Mr. MUSKIE. I say to the distinguished Senator from Illinois that in the development of the budget reform legislation, this issue was raised.

In all frankness, I was on the side of the distinguished Senator from Wisconsin (Mr. PROXMIRE) on this issue with respect to all lending agencies that were then and are now outside the budget. Nevertheless, it was the consensus of the committee at the time that there are so many unresolved questions with respect to this matter that the resolution which was adopted called for a study by the Committee on the Budget. And we are charged by the budget reform legislation to report to Congress on the merits of the very proposal that is now before us in the form of these instructions to the conference committee.

Since the effective date is October 1976, which is not inconsistent in terms of time, the Committee on the Budget can well look at this evidence of the Senate's desire, whatever that is, in developing its study.

It does not seem to me at this point that the instructions to the conference committee supported by the Senator from Wisconsin and study by the Committee on the Budget are that inconsistent. For purposes of expediting consideration of this matter, I am inclined now to vote to recommit, even though the other day I voted against it for the reasons that the Senator from Illinois has stated.

I see no obstacle here. I think we are going to work our will one way or another on this question of bringing the Export-Import Bank under the unified budget. We can begin the process now as well as later, as far as I am concerned.

Mr. STEVENSON. Mr. President, with that clarification by the Senator from Maine, and with the instruction offered by the Senator from Idaho to the Senate conferees to insist upon both of the amendments, the Proxmire amendment and the Church amendment, I intend to support this motion to recommit.

Mr. PACKWOOD. Mr. President, I shall support sending this back, although, as I told some of my fellow Senators earlier, I have talked with Congressman ASHLEY and Congressman FRENZEL, who were two of the principal conferees. The House is obdurate on the Church amendment, I am not going to argue whether rightly or wrongly.

I shall support the motion to recommit, and I shall support the Senate's instructions. The House is under similar instructions to do exactly the opposite. If each House stands firm, there will be no Export-Import Bank, short of some kind of concurrent resolution to extend it for 6 months or a year, which both Senator STEVENSON and I find a very unsatisfactory situation from the standpoint of the Bank. Nevertheless, it is obvious that the cloture votes have not varied more than two or three votes. We may as well try to go back to conference, realizing that, as we start in, we are at least deadlocked on an issue on which each House has instructed its conferees to stand firm on positions.

Mr. AIKEN. Will the Senator yield to me for a question?

Mr. STEVENSON. Yes, I yield to the distinguished Senator from Vermont.

Mr. AIKEN. I should like to ask, if the Senate is determined to kill off the Eximbank, upon which hundreds of thousands of our farm people and industrial workers depend, why do we not do it right here and now, instead of resorting to the devious process which has been proposed?

Mr. HUGH SCOTT. Will the Senator yield?

Mr. STEVENSON. Yes, I yield to the distinguished Senator from Pensylvania.

Mr. HUGH SCOTT. I wish to say that I agree with the distinguished Senator from Vermont. If we want to get fuel oil into New England, this is no way to go about it.

Mr. AIKEN. This is make-believe, phoney maneuvering.

Mr. JAVITS. Will the Senator yield to me?

Mr. STEVENSON. Yes, I yield to the distinguished Senator from New York.

Mr. JAVITS. In sending back with the instructions, is it understood that the conferees are instructed to bring back to the Senate for a vote whatever they can agree on, even if they cannot get the two terms that are set forth? I think that would open a totally different prospect for the Senate. If the Senators think we are giving the conferees a power of attorney so that this is the end of the matter, as Senator AIKEN and Senator SCOTT have said, that is one thing. But if the conferees are duty bound to bring back to us what they can negotiate for us to vote up or down, that is quite another thing.

Mr. STEVENSON. Mr. President, I believe that is understood by the Senate conferees.

I should like to suggest a modification to that of the Senator from Idaho, if the Senator from Idaho will give me his attention for a moment. The modification is simply that the motion to instruct the Senate conferees be amended to include the instruction that they insist upon all the provisions of the second conference report, with the exceptions which the Senator has mentioned; namely, the Church amendment and the Proxmire amendment. Otherwise, we are, I think, in greater danger of giving away the very sound reforms which were first approved by the Senate and then adopted in conference.

With the understanding, if the Senator accepts the modification, I think we shall all seek to obtain the most we can.

Mr. CHURCH. I accept the modification.

Mr. HUGH SCOTT. Will the Senator from Illinois explain precisely what we are voting on?

The PRESIDING OFFICER. Does the junior Senator from Pennsylvania agree with the modifications as requested by the Senator from Illinois?

Mr. SCHWEIKER. Yes, I have agreed to both modifications to my motion. My original motion was to recommit the bill with instructions that we accept as a threshold the initial agreement of the first conference report; also, beyond that, the Church amendment banning a Soviet energy deal, and the Proxmire amendment saying the Bank shall come under congressional budgetary reporting procedures. If that is the issue——

Mr. STEVENSON. I think the Senator meant to refer to the second conference report.

Mr. SCHWEIKER. Right.

Mr. STEVENSON. With the modifications suggested by the Senator from Idaho.

Mr. SCHWEIKER. That is correct.

Mr. HUGH SCOTT. With that understanding, the motion to recommit includes instructions without leeway, instructions for the Senate conferees to insist upon the Proxmire amendment and the Church amendment.

Mr. STEVENSON. As well as the provisions already agreed to by the two bodies in the second conference report.

Mr. HUGH SCOTT. That includes the budget reporting amendment—the Proxmire amendment—and the Church amendment.

Mr. STEVENSON. The Senator is correct.

Mr. HUGH SCOTT. Then, to me, the Senate becomes the marketplace for bartering with the Soviet Union as to imports of fuel oil, so that, in the case of New England, for example, no additional imports can come in over and above $25 million unless Congress approves.

Is that correct?

Mr. PROXMIRE. Mr. President, will the Senator yield on that point?

Mr. STEVENSON. Yes, I yield.

Mr. PROXMIRE. As I understand it, the instructions are for the guidance of the conferees. The conferees are told to do their very best, which they must do to support the motion by the Senator from Pennsylvania, as modified by that of the Senator from Idaho. But there is no way that the conferees can be held to their instructions by a point of order or anything else.

As I understand it from the Parliamentarian, if we come back and have to give in on my amendment and take the Church amendment, or vice versa, then it will be up to the Senate to decide whether to reject that position, filibuster the position, or act as they wish. The conferees can do as they wish, but they have strong instructions now.

All the conferees that go there, as a very minimum, are advised that they must offer this to the House, fight for it, do their best to get it. But there is no way that the conferees can be bound to come back with precision what they are told to go for. I think that is what Senator JAVITS has said.

Mr. JAVITS. In other words, what I am trying to ascertain is that they will come back with whatever they negotiate and we can decide.

Mr. PROXMIRE. That is right.

Mr. HUGH SCOTT. If the Senator will yield, that is a very different thing. I am trying to establish the fact of whether they are being sent there to be totally intransigent and meet an intransigent position in the other body, with neither side being permitted to give in, or are they being told to come back here and say, "We did our best," whatever that best is? If that is the case, it is a very different situation.

Mr. PASTORE. Will the Senator yield?

Mr. HUGH SCOTT. I shall be glad to.

Mr. PASTORE. The Senator asked a very cogent question. I do not think we have received a categorical answer.

I think the Senator's question was, does the Proxmire amendment mean that if more than $25 million of fuel oil is to come into New England from Russia, they need the consent of Congress to do it first? That is the question, is it not?

Mr. HUGH SCOTT. That is what I am trying to get at.

Mr. PASTORE. That was the question?

Mr. HUGH SCOTT. This is a "cat-and-dogs" question. We want a categorical and a dogmatic answer.

Mr. PASTORE. What is the answer? Before I vote I should like to know what the Proxmire amendment does.

Mr. PROXMIRE. If the Senator will yield, as long as he has mentioned my name, I should like to say that the Proxmire amendment deals only with whether or not the Bank should be in the budget. The Church amendment deals with whether or not we should lend money for purposes of investing in the Soviet Union more than $25 million for the Soviet Union to produce oil or gas.

Mr. PASTORE. In other words, this has nothing to do with the importation of oil into New England?

Mr. SCHWEIKER. That is exactly right.

Mr. PASTORE. Then let us get the record straight before I vote.

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

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is this question divisible?

The PRESIDING OFFICER. The subject matter of the instructions is divisible.

Mr. JAVITS. Mr. President, I demand a division of the question. In other words, I demand a separate vote on the Proxmire proposition and a separate vote on the Church proposition.

The PRESIDING OFFICER. That is divisible.

Mr. JAVITS. And I ask for the yeas and nays on each.

Mr. CHURCH. Is the motion debatable?

The PRESIDING OFFICER. It is debatable. The yeas and nays have been requested.

The yeas and nays were ordered.

Mr. STEVENSON. Mr. President, there were three parts to the motion, three instructions. One was to support the Church amendment, the second was to support the Proxmire amendment, and the third was the modification I suggested, which was to support the many Senate provisions contained in the second conference report, which go beyond the other two issues.

Mr. JAVITS. Mr. President, I modify my request, and say I demand a division into whatever number of parts the Chair believes the question must be divided, and request the yeas and nays on the first one.

The PRESIDING OFFICER. There are three parts. The yeas and nays have been requested on the first part, which is the Church amendment.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, while we are at it, I ask for the yeas and nays on all three parts.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, a parliamentary inquiry. Are they 10-minute or 15-minute votes?

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. PERCY. I ask the assistant majority leader, are these 10-minute votes or 15-minute votes.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, the order was that on all back-to-back votes after the initial vote, there would be 10 minutes on each. This is not to be considered as a back-to-back vote now. Unless Senators wish otherwise, I think they ought to be 15-minute votes.

The PRESIDING OFFICER. Is there further discussion?

Mr. CHURCH. Mr. President, before the Senate proceeds to vote on the first of the three votes, regarding the subject-matter of the instruction——

The PRESIDING OFFICER. Will the Senator suspend? The Senate will please be in order.

Will the Senator from Pennsylvania please send his requested instructions to the desk, so that they can be recorded?

The Senator from Idaho may continue.

Mr. CHURCH. I would hope that Senators would consider what is at issue here. It is obvious that some very large and influential oil companies are at work.

This bill, in its present form, as brought back to us by the Senate conferees, opens the way for one, and possibly two, projects of great magnitude, to be developed within the Soviet Union at the expense and risk of the U.S. Government. Both the Yakutsk and the North Star projects, are planned in such a way that no appreciable risks will be assumed by any of the great multinational oil companies involved, should the deals go awry.

That risk and cost will be borne by the American taxpayers, either through default or direct loans to the Soviet Union or guarantees made by the Export-Import Bank on private loans extended to the Soviet Union for the purpose of financing these projects.

What is the deal that all this public credit is going to be placed at risk to effectuate? The deal is that elaborate facilities will be built within the Soviet Union which will produce liquefied natural gas for export to the United States over a 25-year period, at a cost that is four times as high as the present cost of domestic gas.

So the first thing that these proposals would do would be to tie us to high-cost gas for a 25-year period. The contract price, of course, is influenced by the extortionate price level that currently obtains for crude oil.

That picture may change. It can change with the adoption of an appropriate policy on the part of the United States. There is no guarantee, as I stand here today, that the present exorbitant price of oil will remain the determinant of what the price of natural gas should be, certainly not over the next quarter century. Yet we will be tying ourselves to this high level for a 25-year period, and that, I submit, is not in the national interest.

Secondly, I submit that these proposals are manifestly unfair to the American people, because the public is being asked to assume all of the risk while the companies will enjoy all of the profits. The companies' investment will all be in the tankers that are needed to carry the gas, while the U.S. Government financing is all embedded in fixed facilities in the Soviet Union. Obviously the tankers can be used for other purposes. The fixed investment is locked into the Soviet Union forever. However, even the tankers are to be financed 87½ percent by the U.S. Government what then is at risk for the companies? The answer is self evident: virtually nothing!

Thirdly, I suggest that these deals are directly contrary to the avowed policy of the United States, which is to become less dependent on foreign nations for our fuel supplies. That is the whole point of Project Independence. Yet, if these deals are consummated, it means that our east and west coasts will become between 10 and 15 percent respectively dependent upon Russian supplies of natural gas in liquefied form.

How can that make any sense in the light of the experience we have had in the past year or two, and the terrible price that we and the rest of the western world have had to pay for our dependency upon unstable foreign sources for so much of our oil supply? Are we now going to repeat the same mistake with natural gas? Are we going to reverse our stated national policy of increasing our security of supply by financing $7 billion worth of credit within the Soviet Union at the expense and risk of the Government of the United States, in such a way as to guarantee the profits of these big oil and gas companies if the scheme works, but leaves the American people holding the bag if it does not?

I have not heard anyone successfully argue the merits of these projects in any debate on the floor of the Senate or elsewhere. In our subcommittee on multinational corporations we went thoroughly into both of these projects, and they cannot be justified except within the perspective of those companies that stand to benefit from them.

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

Mr. CHURCH. I yield.

Mr. PASTORE. The Senator makes an excellent case. I wonder, what is the justification given by the State Department? What is their idea of the bill?

Mr. CHURCH. Mr. President, I would say first to the Senator that even the administration has been extremely shy of admitting that it supports either project. Every time we have tried to pin the administration down, whether the witnesses came from the State Department, from the FEA, from the Commerce Department, or from any other agency, they said, "These are merely proposals that are in the prospective stage; we are not yet prepared to say whether the administration will support them."

But I ask the Senator why is it that these oil and gas companies are in here fighting so hard against the CHURCH amendment? All I propose is to have these proposals come back for the review of Congress before we commit ourselves to 25 years and $7 billion worth of investment within the Soviet Union, in order that Congress can be satisfied that the interests of the United States are properly protected.

The companies do not want that, because the bill in its present form allows the Bank to go forward under the strong pressure of these companies and approve the first $50 million worth of loans, to get the exploration phase of the Yakutsk project started.

Then, after they have exhausted the $300 million limit provided in this bill, they will come back and say to Congress, "Look, you have got to approve additional money or we will have wasted the first $50 million. You see, we have already committed the United States to this great project. We have obligations to Japan." I have heard the argument made so many times, "We have a national commitment to uphold. We have $50 million worth of investment to protect. Congress really has no option but to approve subsequent lending to see this project through."

No, gentlemen, if you are going to stop this kind of thing, then recognize right now that the time to stop it is before it ever gets started. All I am asking you to do, in upholding the Church amendment, is to insist upon the right of Congress to pass judgment on any fuel and energy projects within the Soviet Union which require billions of dollars of U.S. Government credits, and have the effect of reversing our stated goal of becoming less dependent upon foreign sources for our fuel supplies.

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

Mr. CHURCH. Yes, I am happy to yield to the Senator from Washington.

Mr. MAGNUSON. Of course, I am impressed with the argument of the Senator from Idaho. He says "we are committed." Who is "we"? Who will be committed to buy this expensive gas at four times the current price?

Mr. CHURCH. The poor consumers will find themselves committed to pay their bills, and their bills will include gas that is being purchased at the contract level now being negotiated between the companies and the Soviet Union.

Mr. MAGNUSON. I understand that. And neither the Federal Power Commission nor the State utilities commission will be able to protect the consumers. The companies can say, "We got natural gas that costs four times as much as domestic gas and you have to allow us to sell it for that."

Now, this is the point that bothers me.

Mr. CHURCH. I shall yield to the Senator from Louisiana. But first let me say the Senator must remember this is gas coming from sources outside the jurisdiction of the United States, and these companies will have little problem justifying before the appropriate commissions the necessity for making adjustments in the rate once they have contracted to buy gas from the Soviet Union at this level.

I yield to the Senator from Louisiana.

I think the Senator from Louisiana wants to make a comment on this.

Mr. MAGNUSON. Yes.

Mr. LONG. There is a friend of mine who hoped his company would be in on this gas deal with the Soviet Union. He explained to me an item that does not meet the eye that occurred in the course of his negotiations on this matter.

He said, "I pointed out to those in the Soviet Union that even with the high price they would be paying for this gas, the transportation costs from where the gas is located in order to get it here would exceed, or would be about equal to, the price that they would be charging," and he said that he explained to these people that they ought to reconsider and carefully look at their situation because, having run it through his company's computer several times, they were concerned that the Soviet Union would be selling the gas at the wellhead at a zero price.

The transportation costs would eat up the entire expense of getting it here, by the time you put it through the pipelines, liquefy it, put it on ships and bring it across the ocean and distribute it at this end, and he said he would suggest that the Soviets take a good look at their cost studies because it looked to him as if they would be selling their gas at zero at the wellhead.

The Soviets said to this man, "That is because you do not understand how we keep our books."

That caused that American to assume the Soviets wanted dollars so badly that they would be willing to sell that gas just for transportation expense, providing jobs for their people building the pipelines, the compressing stations, the ships, and all that.

That is one explanation. If they want to sell their gas so badly that they give it away for nothing, that is one explanation.

I can think of a more logical explanation. They might just not be planning to pay us for it, and that is pay off those loans, in which event you would have paid to drill for the gas; you would have paid to build the pipeline, you would have paid to build all their share of the ships and, having done that, then they would get their nose out of joint because you supported a revolution down there in Chile or because a U–2 flew over the Soviet Union or a thousand other reasons, or because you participated in the war in the Middle East or you sold so long to the Israelis, and that being the case, they are not going to sell you the gas.

In the meantime, they have the pipelines and the wells and the gas, and they sell it to Cuba, for example. That is the kind of thing you are in for when you start putting up millions of dollars making a deal.

But there are a lot of Americans who will support that deal: the contractors who hope they will get the contract; the American company that hopes they will get the steel order; the architect-engineer who hopes he will get in on the act somewhere, all kinds of people who think they are going to benefit from all this at some point will be in here urging us to go through with this thing because they think they would make a profit out of all this, and that is the kind of thing the Senator is concerned about, and he ought to be concerned about it.

It is something we ought to know about if they are going to put x billions, whether it be $3 billion, $5 billion, $7 billion into developing the energy resources, the transportation resources of the Soviet Union, and it would be nice to know what we are getting into before we sign a blank check for it.

Mr. CHURCH. Mr. President, that is all I am asking for, an opportunity for Congress to pass judgment before we get obligated under such a contract for such a long period of years.

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

Mr. CHURCH. I would like to respond to the remarks of the Senator from Louisiana by just telling of a brief experience I had several years ago in an interview with the Soviet Premier, Mr. Kosygin. I think it should be enlightening with respect to this particular subject.

We were discussing trade in the normal sense of quid pro quo, our wheat for

their gold, and the possibilities of expanding normal trade.

I must say, as one of the participants, I was very much impressed with Mr. Kosygin's knowledge of our internal politics, and with his general belief that there was no dramatic expansion in ordinary trade to be anticipated between the Soviet Union and the United States because we were not natural trading partners. But as soon as the subject was broached as to the possibility of large American-owned multinational corporations moving in, under credit arrangements which would enable them to develop the natural resources of the Soviet Union, utilizing the most modern American technology, bought and installed with American money, he immediately became intensely absorbed in the conversation. Kosygin said, "We are very much interested in this kind of development, we do want modern technology; and if arrangements can be made to finance the installation of modern plants in the Soviet Union, we would then be interested in paying you back, over a long-term period with our raw materials."

Well, now, the way the Russians keep their books, they might be willing to agree, at the outset, to take nothing for the gas in return for the tremendous new plant and investment we would build inside the Soviet Union.

They would then have 25 years to decide what might, in their view, justify an increase in that price.

It did not take the Arab countries very long to decide. They did not consult with us before they increased the price of crude 400 percent in 3 months, after oil became a weapon in advancing their objectives.

Are we to assume, in the next 25 years there will not be such friction between us and the Soviet Union, as to result in a repudiation of the deal or an embargo on the gas supply, so that we then would find ourselves in the same situation we confronted a few months ago when the Arabs imposed their oil embargo, and upped the price?

We are delivering ourselves into Russian hands for a long period of time; we are doing it blindly, gentlemen, without even reserving an opportunity to look at the terms of the contract, before American credit is put on the line.

We are denying Congress the one prerogative it ought to preserve, the responsibility to see to it that the best interests of the American people are protected before we enter into such arrangements.

Mr. CHILES. Will the Senator yield?

Mr. CHURCH. Yes, I am happy to yield to the Senator from Florida.

Mr. CHILES. Is what the distinguished Senator from Idaho is saying that the same Senate, this same Senate that has said it is not going to continue to surrender its constitutional power—and trade is one of the constitutional powers of the Senate, as I read that document—that it is not going to continue to surrender that and we are trying to get back into the ball game where we are a coequal branch, and talk about our victories in war powers and what we have done in the budget in trying to receive some control of that? Are we going to march back down the hill again and say that not only are we going to give our powers, realizing we cannot negotiate as the Executive can, so we have to give that power to the Executive, but we are going to give it carte blanche, never taking a look at it?

Is it not easier to say to our constituency, I did not like that agreement, but we did not have anything to do with that, that was the bad old President that did that.

Another way of kind of shirking our responsibility, as this Senate kind of has done for many, many years, since the 1930's when we surrendered powers.

We would be doing that same thing if we continued on this track, would we not?

Mr. CHURCH. Yes, I must say I do agree with the Senator's observation.

We have just one chance, may I say, to reserve to the Congress its right to review projects of this magnitude that can have a direct bearing upon our future security and which, on their face, run contrary to our announced national energy policy.

We have this one chance. If you permit this bill to go through in its present form, do not fool yourselves; we have been forewarned what is going to happen. We know from the stage to which the negotiations have now advanced. All I ask Senators to do is look at these projects, examine them and ask the question, Are they in the national interest?

Gentlemen, I speak as a proponent of détente, but any good objective can readily be invoked to cover a multitude of sins. The surest way to undermine long-term popular support for détente is to put deals into effect, in the name of détente that are wrong for the country. Then the people will turn against the policy as well as those who allowed such deals to go through.

Mr. ROBERT C. BYRD. Mr. President——

Mr. HUMPHREY. Will the Senator yield?

Mr. ROBERT C. BYRD. If the Senator from Minnesota will let me ask a question——

Mr. HUMPHREY. Surely.

Mr. ROBERT C. BYRD. Would it be possible for us to agree to vote on this motion beginning at 3 p.m. today?

Mr. HUMPHREY. I have a very brief comment.

Mr. ROBERT C. BYRD. Could we do that?

Mr. PACKWOOD. I would object for a moment. I have got to rebut some of the mistakes the Senator from Idaho has put into this record. I have not had a chance to speak yet.

Mr. CHURCH. If that is the basis on which the distinguished Senator from Oregon is going to speak, I will have to object, as well, in order to reserve an opportunity to make a surrebuttal.

I yield to the Senator from Minnesota.

Mr. HUMPHREY. I want to commend the Senator from Idaho for his willingness to state his position relating to our financial transactions with the Soviet Union.

I have always felt the most-favored-nation, so-called, treatment was much easier for us to deal with than the matter of investments and I never saw any reason that we should not regularize and normalize our trade with the Soviet Union, particularly in line with the kind of arrangements we have been able to work out on the issue of human rights.

Mr. CHURCH. I agree with the Senator on that.

Mr. HUMPHREY. But on the matter of financing, the Senator from Idaho has brought up some points.

First of all, we have not as yet, may I say to our colleagues, arrived at a national energy policy. We do not know what we want to do. We are coming in the Congress here on one project after another without any concept of any basic structure.

We have not made up our mind how dependent we are going to be on foreign energy sources.

Many of us were led to believe awhile ago that we can have within a few years what we call Project Independence. The study that has been released on that indicates that is very unlikely.

We have not made up our mind whether we are going to have certain types of investment concessions in the United States and in the coastal waters for energy development.

My point is that the project in the Soviet Union should be looked upon, whether we accept it or reject it, as a part of the total energy package.

Now, I am not so concerned about the statement that the Soviets may not repay.

Actually, their record of repayments since World War II has been remarkably good. They take some pride in paying their bills and they apparently want commercial credits, and that means they have to keep a good credit rating.

But I do think there is a point here that needs to be emphasized, namely, that the Soviet Union is seeking outside capital in large doses in order to preserve its inside capital for its own rearmament.

I mentioned this sometime ago, that I take a very dim view of the United States financing capital development in the Soviet Union which permits the Soviet Union to release its own generated capital to invest in its own military machine, which in turn compels this Congress to vote larger sums of money for our Military Establishment in order to keep pace with the developments in the Soviet Union.

I think this factor has to be brought into our consideration.

Now, there are always trade offs. There is no program that is all that we want.

But I do think that it is right and proper that we take a good hard look at what the U.S. Government investment policy is going to be in the Soviet Union, not only in terms of repayment, but how deeply involved do we get, because what we are talking about here is only a fraction of the amount of total capital that will go into any one of these projects.

If, for example, the figures we have read of, anywhere from $3 billion to $6

billion, are the sum totals to be required for development of a particular project, we have to keep in mind that that means $3 billion to $6 billion that is not available for a line of credit for the development in our own country.

I say this having very strong feelings about the necessity of the Export-Import Bank, recognizing that it plays a very vital role in our overall commercial transactions as a nation and for our private enterprises.

I happen to believe that the Export-Import Bank is a very healthy institution, for jobs and for American industry, but I am concerned, deeply concerned as to whether or not we are not being led into something that will involve tremendous economic investments out of the private sector.

I would expect that in due time we would hear of the necessity of insured loans and guaranteed loans, and we will be getting very, very deeply into tremendous investments, because whatever they do in the Soviet Union is going to be big—very, very big.

Now, I am no expert at all in this field: the development of the petrochemical industry.

I happen to believe that if we can do business with the Soviet Union, it is healthful. The question is what kind of business; what kind of commitment should we make? Therefore, I think it might not be a bad idea to fight this thing out once again.

I know that the distinguished Senator from Illinois has done a tremendous job. I complimented him here the other day. He made very realistic progress in the last conference. It was not as much as some of our colleagues would have liked. Again, the Senator from Idaho has put up a warning here, and I put it this way: That if a project can be justified to the Bank, I think it can be justified to a committee of Congress.

I know that ordinarily we would not want to have Bank transactions come to a committee of Congress, because people will say, "What do you know about it?" But this is not an ordinary transaction. This is a basic policy decision.

We have never made these kinds of credits available to the Soviet Union for such long-term projects, at a time when we are trying to find out if we can level off defense expenditures, at a time when there are very serious problems internationally in the economic sphere amongst our friends and allies, at a time that we are going to be called upon, by the way, amongst our own friends and allies, for an international oil fund to protect ourselves.

We are talking about $25 billion, $25 billion for the United States and Western Europe, to see if we cannot have some form of protection against the unbelievable increase in oil prices, prices which, by the way, just went up again this last week. I think we better say stop, look, and listen.

There used to be a distinguished Senator who sat in the third row back here in the Chamber, and that distinguished Senator was Ed Johnson.

I remember the then majority leader saying to me, "Remember that Ed Johnson's greatest contribution to this Senate was that he used to say, 'Wait a minute. Just think it over. Wait a minute.' "

Maybe in this instance, it is a good idea to think it over, to wait a minute.

The Senator from Wisconsin (Mr. PROXMIRE) has given us a very sensible amendment on bringing the Export-Import Bank under budget control. I think that is absolutely necessary, whether we do it now or later on. As I understand, the Senate said that even by 1976, just to get the principle involved, this would be desirable.

This seems to have the support of the Senator from Maine and, indeed, I believe the Senator from Illinois. The real question here is whether or not there is any kind of guideline and standard that we can put on over and beyond what has already been achieved in conference on the matter of international financing through the Export-Import Bank for fuel and energy development of the Soviet Union.

No one has been able to explain to anyone here how much that is really going to cost. No one has been able to tell us whether or when it will come on board. No one has been telling us how much private money is going to go into it. Is the Export-Import Bank loan just seed money, or is it going to be a tremendous outlay of billions of dollars over the years?

Therefore, I believe that we do not do injustice to our colleagues here who handled this legislation, nor are we being unfair to anybody, if we say take it back and let us see what we can do.

Why should the House stand in the way of reasonable guidelines and standards on something of this nature? I think that we ought to take a look. And I say this, may I say, out of being convinced. I was not convinced of this, as the Senator from Idaho knows, until over the weekend I did some reading, until I listened to the argument of the Senator from Idaho.

We have disagreed on many things here in the Chamber on what we call foreign assistance. But this is a major policy change. This is something that represents a major development in the United States-Soviet relations.

There is no antagonism here. I am not accusing the Russians of not being willing to pay their bills. I do not think they have any sinister purpose in mind. I do not know of any reason to believe that.

But I do know one thing: They have tremendous resources. I do know that they made over $1 billion from oil last year. I do know that they keep raising their defense budget. I do know that we keep loaning them money, and that releases money for their military establishment.

Strangely enough, we loan them the money so they can release money for their military establishment which compels us to borrow the money to take care of our own Military Establishment.

Somewhere along the line something went awry. This just does not add up. I think it is about time we said, "Wait a minute. Stop, look, and listen."

We have a chance now. We can ask these various distinguished colleagues of ours on this conference committee to take this back, and hopefully, to come up with something along the lines of the Church amendment.

I do not know whether they can get it or not, but I cannot believe that our colleagues in the House of Representatives are less concerned about this than we are, if the facts are laid on the line.

I do not believe there are very many Members of the House who believe we ought to enter into a major energy policy decision with the Soviet Union before we have made one up here at home. We do not even know what we are going to do here. We do not even know what we are going to invest here.

As of this time, I have not heard what the rates of interest will be, what the terms will be, and a lot of other things.

So I join with the Senator. I want to commend him for his initiative.

Mr. SCHWEIKER. Will the Senator yield?

Mr. CHURCH. I thank the Senator very much for a most persuasive argument. I yield to the Senator from Pennsylvania.

Mr. SCHWEIKER. I want to commend the Senator from Minnesota for a very important statement, a "wait a minute" call on this particular energy legislation.

In response to the leadership of the Senator from Idaho, I have an agenda of items that are pending before the Eximbank right now for consideration.

Item No. 2607 is the Yakutsk exploration phase for a $49.5 million start.

So there is no question. The Senator has defined the issue. Do we go or no go on energy? It is right on the agenda. It could not be higher on the Export-Import Bank agenda.

The only thing they are waiting for is for what the Senate says. We are saying if we do nothing, yes, go ahead and do it. We are saying yes, give the Soviet Union superenergy preference because nowhere in this country do we give 7 or 8 percent money for energy exploration. We charge a lot higher than that. Nowhere in this country do we say, "We will buy your market output for 25 years." Nobody gets that deal here.

We are deciding, if we say to go ahead, to give the Soviet Union super preference on energy. We are not even willing to do this for ourselves on Project Independence.

I think the go-ahead would make a mockery out of Project Independence because it says we are willing to do for a foreign government, for another country, what we have not decided that we have the guts and courage to do for our own people here at home.

There could not be a more clearcut explanation of what this vote means.

I originally had an amendment which would have absolutely banned all fossil energy investments by the U.S. Government in the Soviet Union. The Church amendment, I think, is even a more reasonable proposal from Congress' point of view. The Senator from Idaho simply proposes to give Congress the right to say yes or no, if there is going to be a deal. What is fairer or more reasonable than that in view of the fact that we have not even articulated our own energy policy?

You know, this energy deal is a little bit like an iceberg; 18 months ago it was first keynoted in a House report of June 1973.

It talked about two deals, a deal for Yakutsk, which they estimated to be $6 billion, and a North Star deal, which they estimated to be another $6 billion. So originally, somebody conceived two $12 billion deals in total.

Then more recently we have the Soviets and Gulf Oil signing an agreement with Japan to do exactly similar exploration. That was as recently as October 11 of this year.

All of these are contingent on what we are going to say here today.

Then on November 23 of this year we have another little squib that El Paso Gas Co. signed with Japan and the Soviet Union in an exploration agreement. They key item of the agreement is Export-Import financing. The deal is conditional on Exim financing.

It could not be clearer than that.

In this month, on the 13th of December, we have another reference to the deal, only this time it fleshes it in a little bit more. It says we will put up $100 million to start, and the Japanese Eximbank will put up $100 million, but it is a $3 billion project.

So let us not kid ourselves. If we vote this through with no restrictions, such as the Church amendment or my original amendment, we are giving the Eximbank a green light. We are giving super extra priority to energy development everywhere in the world except the United States of America.

I commend the Senator from Idaho. He could not be more right.

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

Mr. CHURCH. I yield.

Mr. DOMENICI. First, I commend the Senator from Illinois and the Senator from Oregon for pursuing the concept of Eximbank in these very difficult times, when our country really has not yet decided what we should do by way of special allocation of our limited capital resources.

On the other hand, it seems to me that when we hear all the good things that it can do for America, for America's employment, for America's industry, and then hang this whole bill up on whether or not we are going to have some kind of oversight with reference to developing Siberia in terms of Russian energy, it indicates that if the House hangs on it, they are really not so convinced that it is a great bill in all respects and want to use it or cause it to be abused in terms of the amount of money that will go through our major big companies into Siberian energy development and the like.

I agree wholeheartedly with Senator HUMPHREY, and I add this dimension: He spoke of their continued military growth while they try to develop their domestic economy. They are doing that with the help of America and, hopefully, with Japan and others, but they also need—and desperately need—the technology and the equipment that is so difficult to come by today in the field of development of energy resources.

We in this country do not even know yet if there was a new find in a friendly country that in fact wanted to make a major deal with America or an American company. We are not sure that we could send our technology and resources there at this point in history, because we do not even have it inventoried. We do not know whether we have enough to develop the various friendly fields around the world.

It seems to me, arguing logically, that if we once get more and more of it committed to Russia—and I do not say unequivocally that we should not—at least we should take a good, hard look and not lose the Eximbank over this.

For those who say it is going to be lost, it seems to me that they are saying that the development of Russian and Siberian energy is 99 percent of the Eximbank's function, which is not so. As we have heard, it is not intended to be such a major part of it. Why not pass it with this condition and get on to what concerns the distinguished Senator from Vermont?

We are not talking only about Russia. We are talking about many other things that will affect our people in this country, our working people, our tool-and-die people. They are going to have plenty of business without Siberia. We are going to find plenty of places to invest it through the Eximbank, even in energy, in countries that are more apt to be friendly and to be able to work with us internationally as we develop the new thrust we are talking about in terms of the common market versus the other countries.

It seems to me that at the outset, the Senator's approach may seem to be rather arbitrary. But when you look at it, it is merely saying, "Let's get on with the other functions of this Bank." There are plenty of other functions. Let us take a hard look at this one.

I believe that once we are committed technologically and with American resources to the vastness of Siberia, we will have anywhere from 10 to 30 percent of our technology and resources for oversea development of energy tied up there.

One might ask the next question: How would we like to be in that position if we find new fields at home, which are being found and developed? What if natural gas exploration accelerates, as we predict, and then we cannot find the resources, the technology, the rigs, or the equipment to produce here?

It appears to me that any way we look at it, we should get on with the Eximbank, lend 95 percent of this, as the committee intended, and put minimum restrictions on this one. We have time to take the restrictions off if the times dictate.

Mr. CHURCH. I thank the Senator.

Mr. President, I should like to make four points:

First, as to the charge that the Church amendment would kill the Export-Import Bank, I must say there is no basis for such an argument. Even if the conferees were unable to agree, Congress would undoubtedly extend the life of the bank for another 6 months or so, until a consensus on a national policy could develop.

So we are not really talking about killing the Export-Import Bank, and anyone who casts his vote on that basis ignores entirely the established practice of Congress in cases of this kind.

Second, it is true that the administration has as yet to develop a coherent energy policy. We should not delegate the Export-Import Bank the power to decide what a major segment of that policy shall be—namely, the extent to which we will, in the future, rely upon the Soviet Union to produce energy supplies for the United States, contrary to what our declared objective is today—namely, to make ourselves less dependent upon potentially unstable foreign sources of supply.

Third, if the Church amendment is not adopted, we embark—because we are adequately forewarned—upon a new policy, in which the United States underwrites the development of the Soviet Union with American capital. That is a major departure, and we had best know what we are doing before we take the plunge. The Church amendment will force Congress to examine and approve that new policy, before we begin investing money in the Soviet Union for developing their natural resources. If we choose to delegate that responsibility to the Export-Import Bank, then I say we are not living up to our oaths of office.

Finally, involved here is the principle of congressional control which is implicit in everything else I have said. It is a sound principle, and we should adhere to it.

For these reasons, Mr. President, I hope the Senate will insist on an instruction to the conferees to retain the Church amendment in this bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote now occur on the motion to recommit; that it be followed by the vote on the military construction appropriation bill; that that be followed immediately by one vote which would count for four votes on four protocols that have been advanced to the stage of voting. This would mean that we would have, in effect, six rollcall votes.

Mr. PACKWOOD. Mr. President, may I ask a question? Do we not have three votes on this particular matter?

Mr. ROBERT C. BYRD. Oh, yes; I forgot.

We would have three rollcall votes on the division of this question, then have a vote on the military construction appropriation measure, and then have one vote on the four protocols, before the 1 hour on the cargo preference conference report begins running.

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

Mr. ROBERT C. BYRD. I yield.

Mr. HRUSKA. Would it be appropriate to bring up a brief conference report by the chairman of the Subcommittee on Criminal Laws and Procedures, Senator MCCLELLAN? It is upon the rules of evidence bill, and the other body is awaiting our action.

Mr. ROBERT C. BYRD. The chairman is not here.

Mr. HRUSKA. I mean at that point, before we get into the cargo preference bill.

Mr. ROBERT C. BYRD. Will the Senator limit the time to 5 minutes on that?

Mr. HRUSKA. That is fine.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now vote on the recommittal question, for which a division has been requested—that would mean three rollcall votes; that the Senate then proceed immediately to vote on the military construction appropriation bill; that the Senate thereafter immediately go into executive session to vote on the four treaties, with one rollcall vote; that the Senate immediately go back into legislative session; that there then be 5 minutes for debate on the conference report to which the distinguished Senator from Nebraska has referred; and that the 1 hour on the cargo preference conference report then begin running.

Mr. STEVENSON. Mr. President, reserving the right to object, are there not four votes on the Eximbank conference report—a motion to recommit and three votes on instructions to the conferees?

The PRESIDING OFFICER. At this point, there have been three requests for the yeas and nays on the conditions. There has not yet been a request for the yeas and nays on the motion to recommit, itself. There would be a fourth vote, but the yeas and nays have not been requested on it.

Mr. ROBERT C. BYRD. Mr. President, I include the additional rollcall vote in my request.

The PRESIDING OFFICER. And that rule XII be waived?

Mr. ROBERT C. BYRD. And that rule XII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENSON. Mr. President, reserving the right to object, would it be agreeable to the Senator from West Virginia if 10 minutes were permitted, to be divided equally, on the motion to recommit?

Mr. ROBERT C. BYRD. At what point does the Senator wish that to begin running?

Mr. STEVENSON. Right. now.

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that the series of rollcall votes begin 10 minutes from now.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Mr. President, reserving the right to object, may we get this rollcall on recommittal cleared up? I understand that it has not been asked for, but did the leader include it in his unanimous-consent request?

Mr. ROBERT C. BYRD. I did not mean to include the yeas and nays in the unanimous-consent request.

Mr. GOLDWATER. On recommittal?

Mr. ROBERT C. BYRD. Somebody will have to ask for it.

Mr. GOLDWATER. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair then understands that on each of the three conditions, there will be yeas and nays and then depending on the results, recommittal will be subject to a yea and nay vote.

Mr. ROBERT C. BYRD. And that the 10 minutes between now and the first yea and nay vote be equally divided between the Senator from Illinois (Mr. STEVENSON) and the mover of the recommittal motion.

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

Who yields time?

Mr. ROBERT C. BYRD. If the Senator will yield, Mr. President, the cloakrooms have ample time to get notice to the Senators that all of these will be 10-minute votes, including the first. I so ask unanimous consent.

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

AMENDMENT OF THE EXPORT-IMPORT BANK ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15977) to amend the Export-Import Bank Act of 1945, and for other purposes.

Mr. STEVENSON. Mr. President, I support the motion to recommit and the three motions which will follow to instruct the conferees, for all of the reasons which have been mentioned by the Senator from Idaho and the Senator from Wisconsin, among others.

I rise to mention the additional reforms in the conference report which have been approved by the Senator and upon which I, as one conferee, am seeking instructions on the third of the three rollcalls. These reforms are every bit as important as those which have been referred to by the Senator from Idaho and the Senator from Wisconsin.

Among other things, they include a $300 million ceiling on additional transactions in the Soviet Union; they require that all large transactions involving bank participation throughout the world be reported in advance to Congress, giving it an opportunity to disapprove. Those transactions, regardless of whether they are in the Soviet Union can have adverse economic and political consequences for the United States.

In addition, these reforms include a requirement that the Bank take into account the possible adverse effects of Exim assistance on U.S. employment, the competitive position of U.S. industries, and the availability of materials in short supply before approving any loan, guarantee, or insurance. They include a requirement that Exim's interest rates be set by taking into account the average cost of money to the Bank. They require that Treasury lending to Exim bear interest at a rate equal to Treasury's cost of money on borrowings of similar maturities. They require that Exim report semiannually on the progress it is making in reducing international credit competition. They require that Exim report semiannually on all energy related transactions and include in that report an analysis of the effect of such transactions on the availability of energy developed abroad for use in the United States. They require that Exim report annually on its progress in assisting small business. And by reducing the amount of additional authority available to Exim to half of the additional $10 billion it asked for, and by placing a lid of $300 million on new assistance to the Soviet Union, it insures that within a relatively short time, perhaps as soon as 2 years or less, the Congress will again have an opportunity to consider what, if any, kind of Export-Import Bank it wishes to have.

All of these reforms, Mr. President, originated in the Senate. The conference report goes a long way toward accomplishing all of the purposes which have been mentioned and have been supported on the floor of the Senate this afternoon. For all of these reasons, and because of these additional reforms not comprehended by the amendment originally offered by the Senator from Idaho, or the amendment offered by the Senator from Wisconsin (Mr. PROXMIRE), I urge the Senate not only to recommit, but also to vote in favor of all of the motions to instruct the Senate conferees.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. SCHWEIKER. Mr. President, just so that we all understand the procedures we are going to follow, as I understand them, we are going to have a series of rollcall votes. The first rollcall vote will occur on the first part of my recommittal motion, which gives instructions to the conferees to support the Church amendment; the Church amendment, in essence, saying that congressional approval for any Export-Import fossil fuel loan or guarantee to the Soviet Union needs to be obtained before the Bank can go ahead in this area.

This is really the crux, I think, of this issue. I have been trying for nearly a year to have a dialogue on this very point before the Senate. I am delighted that, today, we succeeded in facing up to this very critical issue of whether we are going to establish a super-energy policy for the Soviet Union at our expense, or whether we are going to integrate it to our own Project Independence and our needs and what is expected here. So the first vote will occur on that division of my recommittal motion.

The second vote will occur on the Proxmire amendment phase of my recommittal motion, which, in essence, says that the Export-Impork Bank shall be subject to congressional budget authority and congressional processes. This is a very realistic proposal, one which gives us an opportunity to integrate national fiscal policy, national monetary policy, with our subsidies abroad. I commend the Senator from Wisconsin for this motion. I think it comes to the fact that Congress is exercising its rightful oversight authority. I think it is a very key phase of this recommittal with instructions.

The third part of the motion is rather a housekeeping one: simply to agree that the work the conferees did initially in their second conference report is stood behind and supported. There certainly are some constructive points in that. So

I think that is a fairly routine vote which, nevertheless, by the division of the question, was brought up for a rollcall vote.

Fourth, and final, is the overall vote on my motion to recommit the bill to the conferees. I think that one of the key phrases here today has been that of the Senator from Maine's wording that we ought to wait a minute and take a look at what we are doing. I pointed out that on the agenda of the Eximbank, one of the top items is the $49.5 million loan to Siberian energy. If we vote no on the Church amendment or no on the recommital, we are, in essence, voting yes on the Soviet energy deal. There could not be a clearer cut signal. That is what the issue is. That is what the fight is all about, and that is what we are here discussing today.

I think that we do have a clear-cut choice. I think it is well to have it broken down by division so that we separate the budget procedures, and I think it is well to separate the energy deals.

I happen to believe that we should have an Export-Import Bank. I agree with the Senator from Idaho that we need one. I think it is essential. But I think it should relate to what our national economic problems are, what our energy needs are, and what our own policies are.

The truth of the matter is that we have not established them yet. Common sense would dictate that we do not give away any kind of $25 billion, 4-year deal, which is what this Bank's renewal is, without having first set our own house in order. Perhaps we are negligent for not having done that, but we will be more negligent if we give away the deals to the Soviet Union before we even determine what our own energy needs are.

So, Mr. President, I am prepared to yield back at this point the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois has 1½ minutes remaining.

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

ORDER OF BUSINESS—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that immediately after the disposition of the cargo preference conference report, the Senate proceed to the consideration of the House message on unemployment compensation.

The PRESIDING OFFICER. Without objection, is so ordered.

AMENDMENT OF THE EXPORT-IMPORT BANK ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15977) to amend the Export-Import Bank Act of 1945., and for other purposes.

The PRESIDING OFFICER (Mr. DOMENICI). All remaining time having been yielded back, the question is on agreeing to the first instruction—the Church amendment—on recommittal of the conference report. 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 Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Utah (Mr. MOSS), and the Senator from California (Mr. TUNNEY), are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), is absent on official business.

I also announce that the Senator from Maine (Mr. HATHAWAY), is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Colorado (Mr. DOMINICK), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 81, nays 9, as follows:

[No. 547 Leg.]

YEAS—81

Abourezk	Gravel	Montoya
Allen	Gurney	Muskie
Bartlett	Hansen	Nelson
Bayh	Hart	Nunn
Beall	Hartke	Packwood
Biden	Haskell	Pastore
Brock	Hatfield	Pearson
Brooke	Helms	Pell
Buckley	Hollings	Proxmire
Burdick	Hruska	Randolph
Byrd, Harry F., Jr.	Huddleston	Ribicoff
Byrd, Robert C.	Hughes	Roth
Cannon	Humphrey	Schweiker
Case	Inouye	Scott, William L.
Chiles	Jackson	Sparkman
Church	Johnston	Stafford
Clark	Kennedy	Stennis
Cotton	Long	Stevens
Cranston	Magnuson	Stevenson
Curtis	Mathias	Symington
Dole	McClellan	Taft
Domenici	McClure	Talmadge
Eastland	McGee	Thurmond
Ervin	McGovern	Tower
Fannin	McIntyre	Williams
Fong	Metcalf	Young
Goldwater	Metzenbaum	
	Mondale	

NAYS—9

Aiken	Cook	Javits
Baker	Fulbright	Percy
Bennett	Griffin	Scott, Hugh

NOT VOTING—10

Bellmon	Eagleton	Moss
Bentsen	Hathaway	Tunney
Bible	Mansfield	Weicker
Dominick		

So the first instruction was agreed to.

The PRESIDING OFFICER. The question now is agreeing to the instruction No. 2 in which the Senate conferees will be required to insist upon the Proxmire amendment restoring the Export-Import Bank to the Federal budget.

The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. HELMS). The Senate will be in order. The clerk may proceed.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Utah (Mr. MOSS), and the Senator from California (Mr. TUNNEY), are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), is absent on official business.

I also announce that the Senator from Maine (Mr. HATHAWAY), is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Kentucky (Mr. COOK), the Senator from Colorado (Mr. DOMINICK), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

The result was announced—yeas 81, nays 8, as follows:

[No. 548 Leg.]

YEAS—81

Abourezk	Griffin	Montoya
Allen	Gurney	Muskie
Bartlett	Hansen	Nelson
Bayh	Hart	Nunn
Beall	Hartke	Packwood
Biden	Haskell	Pastore
Brooke	Hatfield	Pell
Buckley	Helms	Percy
Burdick	Hollings	Proxmire
Byrd, Harry F., Jr.	Huddleston	Randolph
Byrd, Robert C.	Hughes	Ribicoff
Cannon	Humphrey	Roth
Case	Inouye	Schweiker
Chiles	Jackson	Scott, Hugh
Church	Javits	Scott, William L.
Clark	Johnston	Sparkman
Cotton	Kennedy	Stafford
Cranston	Long	Stennis
Curtis	Magnuson	Stevens
Dole	Mathias	Stevenson
Domenici	McClellan	Symington
Eastland	McClure	Talmadge
Ervin	McGee	Thurmond
Fannin	McGovern	Tower
Fulbright	McIntyre	Williams
Goldwater	Metcalf	Young
Gravel	Metzenbaum	
	Mondale	

NAYS—8

Aiken	Brock	Pearson
Baker	Fong	Taft
Bennett	Hruska	

NOT VOTING—11

Bellmon	Dominick	Moss
Bentsen	Eagleton	Tunney
Bible	Hathaway	Weicker
Cook	Mansfield	

So the second instruction was agreed to.

The PRESIDING OFFICER. The question occurs on instruction No. 3, that the Senate conferees insist on the modifications previously agreed to on the conference report on the bill. 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 Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Utah (Mr. MOSS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

I also announce that the Senator from Maine (Mr. HATHAWAY) is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Colorado (Mr. DOMINICK), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 87, nays 2, as follows:

[No. 549 Leg.]

YEAS—87

Abourezk	Gravel	Montoya
Allen	Griffin	Muskie
Baker	Gurney	Nelson
Bartlett	Hansen	Nunn
Bayh	Hart	Packwood
Beall	Hartke	Pastore
Bennett	Haskell	Pearson
Biden	Hatfield	Pell
Brock	Helms	Percy
Buckley	Hollings	Proxmire
Burdick	Hruska	Randolph
Byrd, Harry F., Jr.	Huddleston	Ribicoff
Byrd, Robert C.	Hughes	Roth
Cannon	Humphrey	Schweiker
Case	Inouye	Scott, Hugh
Chiles	Jackson	Scott, William L.
Church	Javits	Sparkman
Clark	Johnston	Stafford
Cook	Kennedy	Stennis
Cotton	Long	Stevens
Cranston	Magnuson	Stevenson
Curtis	Mathias	Symington
Dole	McClellan	Taft
Domenici	McClure	Talmadge
Eastland	McGee	Thurmond
Ervin	McGovern	Tower
Fannin	McIntyre	Williams
Fong	Metcalf	Young
Goldwater	Metzenbaum	
	Mondale	

NAYS—2

Aiken	Brooke

NOT VOTING—11

Bellmon	Eagleton	Moss
Bentsen	Fulbright	Tunney
Bible	Hathaway	Weicker
Dominick	Mansfield	

So instruction No. 3 was agreed to.

The PRESIDING OFFICER. The next vote will be on agreeing to the motion to recommit, with instructions. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

I also announce that the Senator from Maine (Mr. HATHAWAY) is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Colorado (Mr. DOMINICK), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. WEICKER) would vote "yea."

The result was announced—yeas 87, nays 2, as follows:

[No. 550 Leg.]

YEAS—87

Abourezk	Brock	Cannon
Allen	Brooke	Case
Baker	Buckley	Chiles
Bartlett	Burdick	Church
Bayh	Byrd, Harry F., Jr.	Clark
Beall	Byrd, Robert C.	Cook
Biden	Cranston	Cotton
	Curtis	Inouye
	Dole	Jackson
	Domenici	Javits
	Eastland	Johnston
	Ervin	Kennedy
	Fannin	Long
	Fong	Magnuson
	Goldwater	Mathias
	Gravel	McClellan
	Griffin	McClure
	Gurney	McGee
	Hansen	McGovern
	Hart	McIntyre
	Hartke	Metcalf
	Haskell	Metzenbaum
	Hatfield	Mondale
	Helms	Montoya
	Hollings	Muskie
	Hruska	Nelson
	Huddleston	Nunn
	Hughes	Packwood
	Humphrey	Pastore
		Pearson
		Pell
		Percy
		Proxmire
		Randolph
		Ribicoff
		Roth
		Schweiker
		Scott, Hugh
		Scott, William L.
		Sparkman
		Stafford
		Stennis
		Stevens
		Stevenson
		Symington
		Taft
		Talmadge
		Thurmond
		Tower
		Williams
		Young

NAYS—2

Aiken	Bennett

NOT VOTING—11

Bellmon	Eagleton	Moss
Bentsen	Fulbright	Tunney
Bible	Hathaway	Weicker
Dominick	Mansfield	

So the motion to recommit the conference report with instructions was agreed to.

MILITARY CONSTRUCTION APPROPRIATION ACT, 1975

The Senate continued with the consideration of the bill (H.R. 17468) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes.

The PRESIDING OFFICER (Mr. DOMENICI). Pursuant to the previous order, the Senate will now proceed to vote on final passage of H.R. 17468, Military Construction Appropriation Act, 1975, as amended.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

I also announce that the Senator from Maine (Mr. HATHAWAY) is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Colorado (Mr. DOMINICK), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. WEICKER) would vote "yea."

The result was announced—yeas 89, nays 0, as follows:

[No. 551 Leg.]

YEAS—89

Abourezk	Baker	Beall
Aiken	Bartlett	Bennett
Allen	Bayh	Biden
Brock	Hartke	Nunn
Brooke	Haskell	Packwood
Buckley	Hatfield	Pastore
Burdick	Helms	Pearson
Byrd, Harry F., Jr.	Hollings	Pell
Byrd, Robert C.	Hruska	Percy
Cannon	Huddleston	Proxmire
Case	Hughes	Randolph
Chiles	Humphrey	Ribicoff
Church	Inouye	Roth
Clark	Jackson	Schweiker
Cook	Javits	Scott, Hugh
Cotton	Johnston	Scott, William L.
Cranston	Kennedy	Sparkman
Curtis	Long	Stafford
Dole	Magnuson	Stennis
Domenici	Mathias	Stevens
Eastland	McClellan	Stevenson
Ervin	McClure	Symington
Fannin	McGee	Taft
Fong	McGovern	Talmadge
Goldwater	McIntyre	Thurmond
Gravel	Metcalf	Tower
Griffin	Metzenbaum	Williams
Gurney	Mondale	Young
Hansen	Montoya	
Hart	Muskie	
	Nelson	

NAYS—0

NOT VOTING—11

Bellmon	Eagleton	Moss
Bentsen	Fulbright	Tunney
Bible	Hathaway	Weicker
Dominick	Mansfield	

So the bill (H.R. 17468) was passed.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PROXMIRE, I move that the Senate insist upon its amendments and request a conference with the House of Representatives on the disagreeing votes on the military construction appropriation bill, 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. PROXMIRE, Mr. MCCLELLAN, Mr. MONTOYA, Mr. HOLLINGS, Mr. PASTORE, Mr. SYMINGTON, Mr. CANNON, Mr. SCHWEIKER, Mr. YOUNG, Mr. MATHIAS, and Mr. TOWER conferees on the part of the Senate.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the consideration of the protocols and conventions, Executive Calendar Nos. 5, 6, 7, and 8.

THE GENEVA PROTOCOL OF 1925, EXECUTIVE J, 91ST CONGRESS, 2D SESSION; THE CONVENTION ON THE PROHIBITION OF BACTERIOLOGICAL TOXIN WEAPONS, EXECUTIVE Q, 92D CONGRESS, 2D SESSION; THE AMENDED TEXT TO ARTICLE VII OF THE 1965 CONVENTION ON FACILITATION OF INTERNATIONAL MARITIME TRAFFIC, EXECUTIVE D, 93D CONGRESS, 2D SESSION; AND THE CONSULAR CONVENTION WITH BULGARIA, EXECUTIVE H, 93D CONGRESS, 2D SESSION

THE GENEVA PROTOCOL OF 1925

The PRESIDING OFFICER. The resolutions of ratification of all four protocols and conventions having been read, the Senate will proceed to vote on the first protocol, the Geneva Protocol of 1925 for the Prohibition of the Use in War of Asphyxiating, Poisonous, or Other Gases, and of Bacteriological Methods of War-

fare, Executive J, 91st Congress, 2d session.

The first question is on agreeing to the reservation, which the clerk will state.

The legislative clerk read as follows:

That the said Protocol shall cease to be binding on the Government of the United States with respect to the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials, or devices, in regard to an enemy State if such State or any of its allies fails to respect the prohibitions laid down in the Protocol.

Mr. ROBERT C. BYRD. Mr. President, in behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that the reservation be agreed to.

The PRESIDING OFFICER. Without objection, the reservation is agreed to.

The question now is, Will the Senate advise and consent to the resolution of ratification, with the reservation, of Executive J, 91st Congress, 2d session, the Geneva Protocol of 1925?

The resolution of ratification, with the understanding, reads as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on July 17, 1925 (Ex. J, 91-2) subject to the following reservation:

That the said Protocol shall cease to be binding on the government of the United States with respect to the use in war of asphyxiating, poisonous or other gases, and of all analogous liquids, materials, or devices, in regard to an enemy State if such State or any of its allies fails to respect the prohibitions laid down in the Protocol.

The PRESIDING OFFICER. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Utah Mr. Moss), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

I also announce that the Senator from Maine (Mr. HATHAWAY) is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Colorado (Mr. DOMINICK), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. WEICKER) would vote "yea."

The yeas and nays resulted—yeas 90, nays 0, as follows:

[No. 552 Ex.]

YEAS—90

Abourezk	Burdick	Curtis
Aiken	Byrd, Harry F., Jr.	Dole
Allen	Byrd, Robert C.	Domenici
Baker	Cannon	Eastland
Bartlett	Case	Ervin
Bayh	Chiles	Fannin
Beall	Church	Fong
Bennett	Clark	Fulbright
Biden	Cook	Goldwater
Brock	Cotton	Gravel
Brooke	Cranston	Griffin
Buckley	Gurney	Hansen
Hart	McClellan	Ribicoff
Hartke	McClure	Roth
Haskell	McGee	Schweiker
Hatfield	McGovern	Scott, Hugh
Helms	McIntyre	Scott, William L.
Hollings	Metcalf	Sparkman
Hruska	Metzenbaum	Stafford
Huddleston	Mondale	Stennis
Hughes	Montoya	Stevens
Humphrey	Muskie	Stevenson
Inouye	Nelson	Symington
Jackson	Nunn	Taft
Javits	Packwood	Talmadge
Johnston	Pastore	Thurmond
Kennedy	Pearson	Tower
Long	Pell	Williams
Magnuson	Percy	Young
Mathias	Proxmire	
	Randolph	

NAYS—0

NOT VOTING—10

Bellmon	Eagleton	Tunney
Bentsen	Hathaway	Weicker
Bible	Mansfield	
Dominick	Moss	

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

CONVENTION ON THE PROHIBITION OF BACTERIOLOGICAL AND TOXIN WEAPONS

The question now is on agreeing to the resolution of ratification on Executive Q (92d Congress, 2d session), the Convention on the Prohibition of Bacteriological and Toxin Weapons.

The question is, Will the Senate advise and consent to the resolution of ratification? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

I also announce that the Senator from Maine (Mr. HATHAWAY) is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Colorado (Mr. DOMINICK), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. WEICKER) would vote "yea."

The yeas and nays resulted—yeas 90, nays 0, as follows:

[No. 553 Ex.]

YEAS—90

Abourezk	Church	Hartke
Aiken	Clark	Haskell
Allen	Cook	Hatfield
Baker	Cotton	Helms
Bartlett	Cranston	Hollings
Bayh	Curtis	Hruska
Beall	Dole	Huddleston
Bennett	Domenici	Hughes
Biden	Eastland	Humphrey
Brock	Ervin	Inouye
Brooke	Fannin	Jackson
Buckley	Fong	Javits
Burdick	Fulbright	Johnston
Byrd, Harry F., Jr.	Goldwater	Kennedy
Byrd, Robert C.	Gravel	Long
Cannon	Griffin	Magnuson
Case	Gurney	Mathias
Chiles	Hansen	McClellan
	Hart	McClure
McGee	Pearson	Stafford
McGovern	Pell	Stennis
McIntyre	Percy	Stevens
Metcalf	Proxmire	Stevenson
Metzenbaum	Randolph	Symington
Mondale	Ribicoff	Taft
Montoya	Roth	Talmadge
Muskie	Schweiker	Thurmond
Nelson	Scott, Hugh	Tower
Nunn	Scott, William L.	Williams
Packwood	Sparkman	Young
Pastore		

NAYS—0

NOT VOTING—10

Bellmon	Eagleton	Tunney
Bentsen	Hathaway	Weicker
Bible	Mansfield	
Dominick	Moss	

The PRESIDING OFFICER. On this vote, the yeas are 90 and the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

AMENDED TEXT TO ARTICLE VII OF THE 1965 CONVENTION OF FACILITATION OF INTERNATIONAL MARITIME TRAFFIC

The question now is on agreeing to the resolution of ratification on Executive D (93d Congress, 2d Session), the amended text to article VII of the 1965 Convention on Facilitation of International Maritime Traffic.

The question is, Will the Senate advise and consent to the resolution of ratification? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), is absent on official business.

I also announce that the Senator from Maine (Mr. HATHAWAY), is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Colorado (Mr. DOMINICK), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. WEICKER) would vote "yea."

The yeas and nays resulted—yeas 90, nays 0, as follows:

[No. 554 Ex.]

YEAS—90

Abourezk	Cotton	Huddleston
Aiken	Cranston	Hughes
Allen	Curtis	Humphrey
Baker	Dole	Inouye
Bartlett	Domenici	Jackson
Bayh	Eastland	Javits
Beall	Ervin	Johnston
Bennett	Fannin	Kennedy
Biden	Fong	Long
Brock	Fulbright	Magnuson
Brooke	Goldwater	Mathias
Buckley	Gravel	McClellan
Burdick	Griffin	McClure
Byrd, Harry F., Jr.	Gurney	McGee
Byrd, Robert C.	Hansen	McGovern
Cannon	Hart	McIntyre
Case	Hartke	Metcalf
Chiles	Haskell	Metzenbaum
Church	Hatfield	Mondale
Clark	Helms	Montoya
Cook	Hollings	Muskie
	Hruska	Nelson

Nunn	Roth	Stevenson
Packwood	Schweiker	Symington
Pastore	Scott, Hugh	Taft
Pearson	Scott, William L.	Talmadge
Pell	Sparkman	Thurmond
Percy	Stafford	Tower
Proxmire	Stennis	Williams
Randolph	Stevens	Young
Ribicoff		

NAYS—0

NOT VOTING—10

Bellmon	Eagleton	Tunney
Bentsen	Hathaway	Weicker
Bible	Mansfield	
Dominick	Moss	

The PRESIDING OFFICER. On this vote the yeas are 90 and the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

CONSULAR CONVENTION WITH BULGARIA

The question now is on agreeing to the resolution of ratification on Executive H, 93d Congress, 2d session, the Consular Convention with Bulgaria.

The question is, will the Senate advise and consent to the resolution of ratification? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. TUNNEY), are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

I also announce that the Senator from Maine (Mr. HATHAWAY) is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Colorado (Mr. DOMINICK), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. WEICKER) would vote "yea."

The yeas and nays resulted—yeas 90, nays 0, as follows:

[No. 555 Ex.]

YEAS—90

Abourezk	Fannin	McGovern
Aiken	Fong	McIntyre
Allen	Fulbright	Metcalf
Baker	Goldwater	Metzenbaum
Bartlett	Gravel	Mondale
Bayh	Griffin	Montoya
Beall	Gurney	Muskie
Bennett	Hansen	Nelson
Biden	Hart	Nunn
Brock	Hartke	Packwood
Brooke	Haskell	Pastore
Buckley	Hatfield	Pearson
Burdick	Helms	Pell
Byrd, Harry F., Jr.	Hollings	Percy
Byrd, Robert C.	Hruska	Proxmire
Cannon	Huddleston	Randolph
Case	Hughes	Ribicoff
Chiles	Humphrey	Roth
Church	Inouye	Schweiker
Clark	Jackson	Scott, Hugh
Cook	Javits	Scott, William L.
Cotton	Johnston	Sparkman
Cranston	Kennedy	Stafford
Curtis	Long	Stennis
Dole	Magnuson	Stevens
Domenici	Mathias	Stevenson
Eastland	McClellan	Symington
Ervin	McClure	Taft
	McGee	
Talmadge	Tower	Young
Thurmond	Williams	

NAYS—0

NOT VOTING—10

Bellmon	Eagleton	Tunney
Bentsen	Hathaway	Weicker
Bible	Mansfield	
Dominick	Moss	

The PRESIDING OFFICER. On this vote, the yeas are 90 and the nays are 0. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. Pursuant to the previous order, we will return to the conference report on H.R. 5463 on a 5-minute time limitation.

The Senate is in legislative session and the Senator from Arkansas is recognized.

FEDERAL RULES OF EVIDENCE—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on H.R. 5463, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The second assistant legislature 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. 5463) to establish rules of evidence for certain courts and proceedings, 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 December 14, 1974, at p. 39939.)

Mr. McCLELLAN. Mr. President, if I may make this observation, in this bill there were quite a number of disagreements as to different provisions between the House bill and the Senate bill.

The PRESIDING OFFICER. Will the Senator suspend? The Senator from Arkansas has the floor.

Mr. McCLELLAN. The conferees met twice, we had two long sessions, and finally we worked out all of the issues, we resolved them as reflected by the report.

Neither side, I know, got all they wanted. The report in some respects, some of the provisions I would like to see stronger than they are, but it has taken into account the divergent views of the two Houses and the members of the conference. I think therefore the report reflects a respectable and acceptable compromise of those differences.

I, therefore, would ask that it be approved, and I yield to the distinguished Senator from Nebraska (Mr. HRUSKA).

Mr. HRUSKA. Mr. President, I wish to concur in the views and the remarks made by the Senator from Arkansas.

Mr. President, I am greatly pleased that we have reached the final legislative step in adopting Federal rules of evidence. The conference committee has resolved the differences in the bills that passed the respective houses in a manner that truly serves the purpose of these rules. That purpose, as stated in rule 102 is to "secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined."

These rules have been in the germination stage for quite some time. The seed was planted in 1961 when the Judicial Conference of the United States authorized Chief Justice Earl Warren to appoint an advisory committee to study the advisability and feasibility of uniform rules of evidence for use in the Federal courts. Now some 13 years later, the rules appear to be just about to bloom.

The Judicial Conference can be justly proud of their work. Both the Senate and the House built upon the substantial efforts exerted by that body. More than 50 percent of the rules as submitted by the Supreme Court were left unchanged by the House and in conference we returned to the version submitted by the Court with respect to certain rules. The Conference did decide to make some changes in the Rules Enabling Act. But these changes were made not to restrict the role of the Supreme Court and Judicial Conference but to insure that Congress will have a sufficient opportunity to review amendments to the rules so that its views on such matters can be reflected.

Any further amendments to the rules of evidence or any additions to the rules will become effective within 180 days unless either House of Congress acts to defer the effective date to disapprove the changes, with the exception of the law of privileges. Privileges, because of their more controversial nature, will require affirmative congressional action. This should not mean, however, that the Supreme Court and judicial conference have no role to play with respect to the law of privileges. It is my hope that the Court and the Judicial Conference will continue its work in this area and assist the Congress in codifying this area of the law.

Mr. President, the conference committee met in two sessions with a sense of urgency so that final enactment could be achieved this calendar year, before adjournment sine die. I am pleased with the outcome and I believe that every member of the conference committee is satisfied with this final product. I commend the chairman of the conference committee, Congressman HUNGATE, for his expertise in this area of the law and his successful efforts in reaching compromises on the differences between the House and Senate. It is my hope that we can work with the same kind of cooperation and high level discussion of the law when our two committees begin work on another effort of codification next year—the Federal Criminal Code.

Mr. President, H.R. 5463 is the culmination of an enormous amount of hard

work by a large number of distinguished and concerned individuals. It is intended to respond to the shortcomings of our present state of evidence law by providing a uniform, accessible and intelligible set of rules. I urge my colleagues to support this bill so that we may have rules of evidence that will promote the search for truth and justice in our courts.

Mr. McCLELLAN. Mr. President, I ask that the report be adopted.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

ENERGY TRANSPORTATION SECURITY ACT OF 1974—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will return to the conference report on H.R. 8193.

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. 8193) to require that a percentage of United States oil imports be carried on United States-flag vessels, having met, after full and free conference, have agreed to recommend and do recommend 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 October 7, 1974, at pages 34228–34231.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time be reduced from 1 hour to 40 minutes equally divided.

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

Who yields time?

Mr. LONG. Mr. President, the conferees on this bill, the Energy Transportation Security Act of 1974, have agreed and we now have before us essentially the same measure which was passed by the Senate by a vote of 42 to 28. The major modifications which were agreed to by the conferees are very few in number. In the order of their appearance in the bill they are:

First. The provision permitting a waiver of the cargo reservation requirements of the bill was amended by removing the specific time limitation of 180 days which was in the Senate passed bill. The waiver provision now permits the President to waive the requirements of oil to be carried in U.S.-flag ships for the duration of the emergency which triggered the waiver;

Second. The Mondale amendment to the Senate passed bill was modified to require that 10 percent of the subsidy funds under the Merchant Marine Act, 1936, be allocated to each of the four seacoasts of the United States, to the extent that subsidy contracts are approved by the Secretary of Commerce. This latter provision assures that the Maritime Administration funds will be reserved only when applications therefor have been approved; and

Third. The safety and pollution prevention requirements provision of H.R. 8193 as passed by the Senate was also modified.

The conference committee agreement provides that all self-propelled vessels in excess of 70,000 deadweight tons, designed for the carriage of oil in bulk and documented under the laws of the United States, if contracted for after December 31, 1975, must be constructed using the best available pollution prevention technology.

In addition, the conference agreement provides that a self-propelled vessel of more than 20,000 deadweight tons, designed for the carriage of oil in bulk, documented under the laws of the United States and contracted for after December 31, 1974, which transports oil to west coast ports of the United States located on straits or inland waters shall be equipped with a segregated ballast capacity to be accomplished in part by a double bottom fitted throughout the cargo length of the vessel.

This latter provision will insure that new vessels serving those west coast ports will contain the highest degree of protection against accidental or intentional oil discharge. Because some of the conferees question the efficacy and cost implications of double bottoms, the conference agreement extended double bottom protection on a mandatory basis to those ports whose citizenry had clearly indicated a desire for double bottoms. The Coast Guard under the Ports and Waterways Safety Act will now have to decide whether other ports receive the same oil pollution prevention benefits of double bottoms when it promulgates final tanker construction standards. As the joint statement of managers explains, if the Coast Guard backs away from requiring double bottoms for all U.S.-built tankers there will be at least a statutorily mandated pilot program to prove the value of double bottoms.

In addition to these modifications, the conference committee agreed to delete the section of the Senate bill which permitted foreign flag cruise ships to extend from 24 to 48 hours the length of time they could call at U.S. ports and disembark passengers. The conferees also agreed to permit the Secretary of Commerce to determine whether a vessel was within its economic life. This change from the Senate's 20-year limitation was made because of the inflexibility of specific age limitation. A vessel could be beyond its economic life before it was 20 years old or another vessel's economic life could extend beyond 20 years.

The conferees also accepted the Senate's language on the oil movements covered by the bill: oil transported in bulk on ocean vessels for import into the United States is covered, whether shipped directly or indirectly, regardless of the origin, stopover points or destination. This would include, for example, oil transported from overseas to Canada or Mexico which subsequently enters the United States pipeline. It also includes the transportation of oil which is exported from the United States for subsequent import into the United States such as in the case of crude oil shipped from Alaska, refined outside the United States, including the Virgin Islands, and then imported. In such cases, each step in the ocean transportation is covered by the bill's requirements, so long as the crude or product refined therefrom is ultimately destined for U.S. import. Further, the coverage of this legislation is restricted to those products included in the definition of "oil" which are liquid at normal atmospheric pressure and temperature and which can be transported in conventional vessels.

The joint statement of managers states in accordance with the report of the Commerce Committee that subsidized vessels should be eligible to participate in the carriage of petroleum imports subject to this bill. As indicated in the Senate Commerce Committee report, the Secretary of Commerce will undertake appropriate proceedings to determine the relationship between titles V and VI of the Merchant Marine Act, 1936 and the provisions of this bill.

Section 2 of the conference report on H.R. 8193 contains a provision permitting the President to waive the requirement that a percentage of U.S. oil imports be carried on U.S.-flag vessels if the President determines that an emergency exists justifying such a waiver in the national interest. The new section 901(d)(7) of the Merchant Marine Act will read as follows:

The requirements of paragraph (1) may be temporily waived by the President upon determination that an emergency exists justifying such a waiver in the national interest.

The Senate bill contains similar language, but limited the duration of any such waiver to 180 days unless otherwise authorized by law. The House bill provided for a waiver whenever Congress, by concurrent resolution or otherwise, or the President or the Secretary of Defense declared that an emergency exists justifying a temporary waiver and so notified the appropriate agency or agencies.

After consultation with the President, a new waiver provision was drafted by the conferees permitting a waiver upon a Presidential determination that an emergency exists justifying such a waiver in the national interest. as a result of the conferees' action, the President has complete authority to waive the provisions of new section 901(d)(1) in the national interest. If the President determines that an emergency exists justifying the use of the waiver provision for national security, economic or foreign policy reasons, he has full authority to do so.

As Congressman GROVER, minority floor manager of the conference report pointed out during House debate on the conference report—

While it is clear that the utilization of this waiver authority by the President must be based upon a specific emergency of a temporary nature, the adoption of the phrase "in the national interest" is intended to vest in the President broad discretion with respect to the nature of the emergency which might justify invoking this authority.

Some analysts of the legislative history of this bill have argued that only a national defense emergency would justify a waiver. While this interpretation may have been applicable to the original House-passed bill because that bill relied upon the waiver authority in existing law which has been narrowly construed, the Senate bill specifically rejected that narrow interpretation of "emergency" but provided restrictions with respect to the duration of any emergency which the President determined existed.

The committee of conference agreed to follow the Senate approach with respect to granting the President authority to waive the requirements of paragraph 1 of the new subsection (d) contained in the bill on the basis of any emergency which he determined existed. To make sure that the President would not be restricted to national defense emergencies, the conferees used the words "justifying such a waiver in the national interest" to avoid any parallelism with the existing national defense waiver provisions of subsection 901(b) of the Merchant Marine Act, 1936. In other words, the phrase "justifying waiver in the national interest" precludes any interpretation that the word "emergency" would be narrowly construed by avoiding any parallelism in the existing waiver provision of the Merchant Marine Act.

The committee of conference did not follow the Senate approach which simply referred to a "temporary" waiver. Instead, the conferees decided to restrict the duration of the waiver to the duration of the emergency rather than limiting the duration to the vague concept of "temporary waiver."

Thus, the joint statement of managers explains—

The waiver provisions agreed upon by the conferees is more restrictive than the provisions that would apply to the House bill.

The words "more restrictive" refer to the duration aspects of the waiver, not to the type of emergency which the President might find justifies waiver in the national interest.

A person might ask why the joint statement of managers did not enumerate the kinds of emergencies which might trigger waiver by the President. There are several obvious reasons: First, when provisions are clear on their face there is no reason to comment on them and second, any enumeration of kinds of emergencies could be both limiting and confusing. As to this second point, the mentioning of defense, economic, and foreign policy emergencies might preclude a materials shortage emergency or some other kind of emergency. To mention specific types of emergencies could be confusing because someone might later argue that those types of emergencies—while not being the only types—might be the only ones "justifying waiver in the national interest."

I trust this discussion will put to rest any concerns with respect to whether or not the President must find a national defense emergency exists before he can waive the appropriate requirements of the Energy Transportation Security Act. This is certainly not the case. Any emergency could trigger a waiver if that waiver were in the national interest because of the emergency. The duration of the waiver would be limited to the duration of the emergency. I have been authorized to state that Senator MAGNUSON is in full accord with these remarks.

I ask unanimous consent that a letter from the House conferees which discusses the waiver provision in this bill and reaches the same conclusions I have just expressed and the response of the managers on the part of the Senate be printed in the RECORD at the conclusion of my remarks.

The other changes made by the conferees are merely clarifying language changes.

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

COMMITTEE ON
MERCHANT MARINE AND FISHERIES,
Washington, D. C., November 21, 1974.

Senator RUSSELL B. LONG,
Chairman, Subcommittee on Merchant Marine, Senate Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that the conference committee report on H.R. 8193 will be coming before the Senate in the near future. In that context, we have noted the President's message to the Congress of November 18, 1974 and the discussion therein related to the Energy Transportation Security Act of 1974. The great majority of the President's discussion of the bill related to the provision authorizing the President to waive the requirements of paragraph (1) in the event of an emergency justifying such waiver in the national interest.

As you will recall, H.R. 8193 as originally passed by the House of Representatives did not contain an explicit waiver provision. However, the Executive Branch waiver authority contained in Section 901(b)(1) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241) would have been applicable to the oil cargo preference requirement established by the bill. The revisions of the bill made by the Senate Committee on Commerce would have made that existing waiver provision inapplicable. However, on the Floor of the Senate you offered an amendment, which was accepted, inserting an explicit waiver provision in H.R. 8193 for the first time. Later, our Conference Committee expanded the waiver provision to conform to language submitted by the White House.

As might be expected, the President's message to the Congress did not take issue with the statutory waiver provision. However, the President expressed concern that "the legislative history of the waiver does not expressly demonstrate that the Congress intends it to be broad in scope." The President also suggested that "the Conference Committee Report should make it clear that the Congress intends to grant broad waiver authority."

Since the conference report was agreed to and printed on October 7, 1974, and approved by the House of Representatives overwhelmingly on October 10, 1974, no revision in the conference report is now possible. However, in the context of the legislative history of the bill, it may be helpful to have the views of the Managers on the Part of the House.

We believe that the statutory waiver language is intentionally broad in scope and gives the President great flexibility. Upon determining that an emergency exists, including a defense, economic or foreign policy emergency, the provision would allow him to waive all or a portion of the requirements of paragraph (1). We also believe that he could issue a limited waiver affecting only those portions of paragraph (1) most directly related to the specific emergency. For example, if double digit inflation and extraordinary inflationary impact on U.S. shipyards were to be the emergency, he could waive the requirement that new vessels be constructed in order to fully implement the percentage requirements, while implementing the preference requirements of the bill only for those U.S.-flag commercial vessels in existence or theretofore contracted and on order. In any event, we believe that the intent of the Congress is to provide the President broad authority to deal with emergencies, and that the legislation, as written, provides such authority.

Sincerely,

LEONOR K. SULLIVAN,
FRANK M. CLARK,
THOMAS N. DOWNING,
JAMES R. GROVER, Jr.,
GEORGE A. GOODLING,
Managers on the Part of the House.

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., December 6, 1974.

Hon. LEONOR K. SULLIVAN,
Chairman, House Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Washington, D.C.

DEAR MRS. SULLIVAN: Thank you for your letter of November 21, 1974 regarding the views of the Managers on the Part of the House relative to the Presidential waiver provision contained in H.R. 8193, the Energy Transportation Security Act of 1974.

We concur in your analysis that the Committee of Conference on H.R. 8193 intended that the waiver authority of the President be without restriction or limitation with respect to the kind of emergency which might trigger a waiver by the President and that any emergency which the President determines as affecting the national interest would permit a waiver. The only restriction intended by the language of the Conference agreed language and Report is to limit the duration of the waiver to the duration of the emergency.

Again we appreciate your efforts in clarifying the intentions of the Committee of Conference in this matter.

Sincerely yours,

WARREN G. MAGNUSON,
DANIEL K. INOUYE,
RUSSELL B. LONG,
ERNEST F. HOLLINGS,
Managers on the Part of the Senate.

Mr. LONG. About the cost, Mr. President, I have seen editorials, and incidentally, any time we received these things through the mail—I have and I know others have—all these editorials that appeared around the country, some of them suggest that various members of this body, the Senator from Louisiana, the Senator from Washington, the Senator from Alaska, the Senator from Hawaii, are corrupt because we voted for the bill and because laboring people in the maritime unions are contributing to our campaigns.

If you try to find out who is responsible for it, it is almost impossible to find the origin of these editorials smearing and demeaning the conduct of the Senators who voted to require some jobs for American labor.

Well, I have had people from Exxon in my office that say they knew nothing about it, disapproved of it, think it is wrong. That encouraged me to find out who was responsible for these materials.

There is no signature, not even a union bug, to indicate the source of this stuff.

I assume these newspaper editors getting this canned material and printing it have been acting in the same way on stuff mailed them through the mails without any identification.

Well, I think I have finally found out who is responsible for these scurrilous editorials claiming the cost to be $60 billion over the next 10 years.

I am told that it is the Federation of American Control Shipping that is responsible for the misleading editorials.

Now, a witness from that group appeared before the committee, and who are these people? We have some people that could hardly be interested in this, like Alcoa, Bethlehem Steel, they do not ship oil. Then we get down to who it is. Atlantic Richfield, Cities Service, Exxon, Getty Oil, Gulf Oil, and Mobil Oil.

Now, Mr. President, since delving into this matter, I have been informed by the Gulf Oil people that they are for the bill. They think the problems they were concerned about, the possibility of the maritime strike, have been resolved and they are for the bill. The same is true of Mobil Oil.

That leaves us with just one, as far as I can tell, Exxon Corp.

So if anyone has been called upon by the Chamber of Commerce, thank Exxon for that.

It is not Gulf, they are for the bill.

If the Exxon people had their way, they would deny it, but that is who, in my opinion, is responsible for these editorials—this committee, Federation of American Controlled Shipping, which means Exxon.

Now let us talk about the possible cost to the consumer. The Maritime Administration believes this would be 12 cents a barrel to use American labor to man the ships, rather than using others.

Now, 12½ cents a barrel works out to one-third of a cent per gallon, but only 30 percent of the oil would come in on American bottoms, so that works out to be one-tenth of 1 cent per gallon. One-tenth of 1 cent per gallon.

In addition to that, Mr. President, two-thirds of the oil is produced here. So then, let us get it down to what the cost would be: one-thirtieth of 1 cent per gallon.

Now, this bill carries an amendment that will reduce the fee on the importation of the oil by an amount that exceeds the 12.5 cents per gallon.

So what is the cost? As far as the cost is concerned, it is estimated that $60 million a year, eventually to go up to $193 million over a 10-year period, that would be about $1 billion compared to the $60 billion figure, suggested by Exxon.

Now, we know who they are, all the editorials we have had, we finally know Exxon wrote them. They deny it, but they wrote it through this organization, as I say, that calls itself the Federation of American Controlled Shipping.

They might as well call themselves the American Slavery Association, what they are dedicated to that under no circumstances will they hire an American if a foreigner can serve the same purpose, never hire an American seaman for a thousand dollars a month out on those lonely sea lanes if we can hire a Chinaman for a hundred dollars a month.

Too bad, Senators, if we have been misled.

Somebody comes in from a farm, votes against the bill, the farmers are against it. What on God's green Earth does this have to do with farmers? How could they get involved with whether Exxon will hire an American or a Chinaman aboard their tankers? It is difficult to understand.

But, Mr. President, we have had more misleading propaganda, more scurrilous propaganda, planted in editorials against this bill than any measure I have seen in my time here.

Two years ago, I supported this same measure. At that time, Mr. President, I had the experience of having been generously contributed to by these oil companies, not the corporations, but through the executives and their connections. Not one penny from a single person in any labor union.

I had no problem, very little opposition, and I did not ask anybody, even turned down offers of contributions from laboring people, not one penny, notwithstanding which this Senator followed his conscience and voted for this same bill.

This year I have been treated to editorials attacking my honor as well as other Senators who voted for the bill, because somebody in labor happened to contribute to our campaign.

Mr. President, if money could fix any Senator's position, I would be voting against this bill.

But, Mr. President, American labor should be employed from time to time. This bill will save us $750 million a year on our balance of payments and we desperately need that. Our balance of payments are averaging about $7.5 billion a year in the red.

This would wipe out 10 percent of our deficit in our balance of payments. It provides jobs for American seamen, jobs for American-owned ships.

In my judgment, Mr. President, we will need these ships if we are to deny the Arab countries which are now moving to take over the shipping of all oil.

Here is a story that appears in the New York Times. We have seen others like it, where the Arab oil transport companies have opened a conference in Kuwait aimed at setting the stage for Arab control of shipping of oil. The article reads as follows:

> Arab oil-transport companies opened a conference here today aimed at setting the stage for eventual Arab control of world oil shipping and marketing operations.
>
> The meeting is sponsored by the Organization of Arab Petroleum Exporting Countries.

When they do that, they will be in a position to not only put a boycott on the world, as they did when they decided they wanted to quadruple the price of oil, but if someone dares support Israel in their struggle to maintain themselves in the Near East, or do anything else contrary to the wishes of the Arab powers in the Near East, they will be able to pinpoint the boycotts.

For example, when they boycotted the world last time, they had to cut back on their production of oil to try to make it effective, even though a lot of oil at sea came to the United States. If they control shipping, as they are moving to do now, they can say that not only do they control the amount of oil we are exporting, but tell all ships at sea, do not deliver any of this oil anywhere except where we tell you to deliver it.

Then regarding a little country like Holland that supported the United States' position, they can tell them at the 3-mile limit, turn around, go back, do not deliver any to Holland, because they are supporting the position taken by the United States and we do not agree with that.

It is very important, Mr. President, that we have some of this shipping ourselves so that if those powers should decide to use oil as a tool to put the entire world on its knees, we would be in a position to say that if they are going to do that to the world, they are not going to use our ships to do it.

Those are our ships, under our flag, under our control, and we are going to tell those ships where to go, so that oil at sea will be delivered to people who befriended us and support the position we take.

That is very important to this Nation, Mr. President. We saw how these Arab powers could make major American oil companies refuse to deliver the oil they had in their tankers, even to the U.S. fleet in the Mediterranean. Imagine that. Here are the so-called American controlled ships.

They can tell them as long as they are at sea, as long as they are under the Panamanian and Liberian flags, "Do not let the American Navy have any of that oil."

If that is an American ship, manned by an American crew and an American captain, under law we can tell them where to deliver it.

Mr. President, I believe this is very good legislation. I believe the national interest requires it. I hope very much the Senate will vote to accept the conference report.

Mr. MAGNUSON. Will the Senator yield?

I wish the Senator from Louisiana would repeat again for the RECORD the price increase that he mentioned. What did it amount to in the end?

Mr. LONG. If one assumes, as the Maritime Administration did, that the cost of using American ships would amount to 12.5 cents per barrel then applied to 1 gallon of gasoline that amounts to one-third of 1 cent. That is, it amounts to three-tenths of 1 cent. You are only bringing one-third of it in American bottoms in full operation. That gets you down to one-tenth of 1 cent.

Mr. MAGNUSON. That is over a long period of time?

Mr. LONG. Furthermore two-thirds of our oil is produced here. That will get you down to one-thirtieth of 1 cent. It is one-thirtieth of 1 cent.

If you go up to a gasoline pump to try to see what it is costing you, the gasoline pump registers in terms of pennies. To find it at all, you would have to put two more decimal points behind the pennies. Then you would come to about 0.2, if you go down two more decimal points after the penny. That is not counting any of the things you get back in return.

What you get back in return is that this Nation has something to say about its own destiny; this Nation has some say about whether the oil in this Nation is going to move in the event the OPEC countries decide to cut you off again. You can take those ships at sea and send them to nations where you want them to go. That is a lot of oil.

In addition to that, you can take those tankers and go to other nations that would be willing to let you have some oil and pick up some oil and put it where you want to put it, either in this country or a friendly country like Holland, who stood by our side, who we had to call on alert, because of the Russian moves during the Israeli war.

Mr. MAGNUSON. I want to remind the Senator that during World War II we were constantly importuned by the Defense Department that we did not need to do things for ourselves, but we would have control over ships. So we find a ship in the Indian Ocean financed by the oil companies, insured by England, with Italian officers, and an Indian or Chinese crew. We found out we had no control over those ships at all.

We spent $9.5 billion during World War II to build our own ships, under our control.

I am pointing this out from the control feature. We are only talking about 20 percent.

I just do not see the opposition to this. We have to have the wherewithal to build ships. We are losing that. We are 16th in the world in shipbuilding, tonnage-wise. We are 16th. We used to be No. 2.

So these are important factors, looking down the line.

I wanted to point out another thing in this bill. It does have a very significant number of provisions relating to safety, which would somewhat control the use of tankers to prevent oil spills. That is a very important part of this bill.

We at Puget Sound are very concerned with the Alaskan oil being developed, because we have a big inland sea. We have the small Strait of Juan de Fuca that brings the water in and takes it out. We have tides of 12, 13, and 14 feet. If we had a tanker collision in Puget Sound it would involve 3,000 miles of coastline in that whole inland sea area, particularly if it happened in the incoming tide. We would never get out of there.

Therefore, this bill provides a maximum of safety, and a pilot operation for that.

San Francisco Bay is another good example.

That is why I am concerned about this bill, other than its good features. I am hopeful that the Senate will go along with us.

I know what the Senator said about the maritime people. I know where those editorials came from, the shop they came from. They sent around what they call boiler plate. They sent it all over my State, Oregon, and everyplace else.

I am glad the Senator mentioned where it came from. I do not particularly like that.

The maritime groups have contributed more or less to my campaigns for 38 years, long before this bill was ever thought of. I hope they continue. We have a lot of maritime legislation in our committee. I guess they liked the way the chairman was helping them with their real serious problems. It was no more than it was 30 years ago. It had nothing to do with this bill at all, nothing whatsoever. I am glad the Senator pointed that out.

I ask unanimous consent to have printed in the RECORD, a letter signed by myself, Senator STEVENS, Senator BEALL, Senator LONG, and Senator INOUYE, on what we think are the main features and the real problem behind this bill, and the problem we may have unless we start to get a little bit independent.

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

DECEMBER 16, 1974.

DEAR COLLEAGUE: When the Senate votes on the conference report to H.R. 8193, the Energy Transportation Security Act of 1974, we will have the opportunity to reduce this Nation's dependence on foreign-controlled tankers to deliver our vitally needed oil imports; to provide new tax revenues from the earnings of American workers and from U.S.-flag shipping profits now sheltered by the oil companies' flags of convenience tax havens; and to reduce the substantial drain on our balance of payments caused by foreign-flag tankers which now carry over 95% of our oil imports. On this last point, in 1973 the balance of payments deficit from tankers alone was $750 million, or almost 10% of our total deficit for the year.

The principal opponents of this legislation, the multinational oil companies, have attempted to terrorize the American public into blind opposition with a cost estimate which is an insult to the intelligence of any reasonable person who examines the fine print behind their claims. The American Petroleum Institute's wildly-exaggerated $60 billion ten-year cost estimate makes the absurd assumption that all U.S.-flag tankers operating costs are based on a projected voyage from the Persian Gulf to Philadelphia. Over two-thirds of our oil imports come from areas considerably closer than the Persian Gulf. In addition, API projects the use of very small tankers which never would be used in such a trade. Officials of the Maritime Administration testified before the Commerce Committee that the costs resulting from the bill would be 12¢ per barrel on the oil carried in U.S.-flag ships. The provision in the bill rebating 15¢ per barrel on crude oil and 42¢ per barrel on residual oil will more than offset the projected cost increase and result in a cost savings to the American consumer.

After thoroughly considering all the economic factors relating to this legislation, an overwhelming majority of the members of the Commerce Committee were convinced that the bill is not inflationary and in fact provides a number of economic benefits by improving our balance of payments, increasing tax revenues, creating anti-recessionary employment opportunities for American men and women aboard ships, in our shipyards and in supporting industries. Furthermore, to the extent that it provides a price monitoring mechanism of oil company transportation pricing, it will benefit the American consumer by discouraging the transfer pricing abuses belatedly recognized by the FEA.

The Arab oil exporting countries have already taken steps to control oil shipping and this measure, by encouraging a U.S.-flag tanker capability, is clearly in the best interests of the national security of the United States.

This legislation was approved by the Commerce Committee by a vote of 14–2, and passed the Senate 42–28. The conference report was adopted by the House of Representatives by a vote of 219–140 and we urge your vote for its adoption.

Sincerely yours,

WARREN G. MAGNUSON,
Chairman.
TED STEVENS,
J. GLENN BEALL,
RUSSELL B. LONG,
DANIEL K. INOUYE,
U.S. Senators.

Mr. MAGNUSON. Mr. President, this is part of Project Independence.

As the Senator has said, that outfit referred to should be called the Committee for Slavery. That is what it is. That is exactly what it is.

The tax will wipe out this amount we are talking about. We should not allow slave labor to come in on all these ships.

As I say, we are 16th in shipbuilding in the world. I cannot see too much opposition to this bill. We will not build any of these ships in Puget Sound. We will not get any oil imported. It does not mean anything to us out there, as far as I am concerned, but it sure means a great deal if we can make safe and reduce to an absolute minimum the possibilities of tanker collisions and oil spills, which is part of this bill.

Mr. President, I wish to point out the very significant provision in H.R. 8193 having to do with tanker construction standards. Since the Ports and Waterways Safety Act of 1972, there has been marked improvement in the pollution prevention characteristics of vessels carrying oil and other hazardous materials. Standards designed to limit both accidental and intentional pollution from vessels are soon to be promulgated under that act. In addition, a new International Convention on Marine Pollution From Ships is now in the ratification process.

Despite this headway toward achieving safer and cleaner tankers, I have been disappointed in the proposed standards which the Coast Guard is now offering. In my view, they are not stringent enough nor are they sufficiently comprehensive in addressing the overall dangers created by the superships now being constructed. For this reason, I have strongly advocated mandating double bottoms for all new tankers as the best method of preventing outflow from a tanker in the case of an accident. But I will not belabor the points I have made before in the Senate on this question.

I would, however, like to elaborate on the H.R. 8193 conference report language which discusses this issue. My colleagues from the House were uniformly against the Senate bill provision requiring double bottoms on new tankers in order to qualify them to carry oil under

the terms of H.R. 8193. I still believe that, based on all available information, a double bottom is the most effective method of reducing oil pollution from tankers.

I also wish to dispel a misapprehension on the part of the House conferees about the Coast Guard's view of the double bottom question. They seemed to believe that the Coast Guard was completely opposed to double bottoms and considered them unsafe or dangerous. This is simply not the case. In a letter dated October 4, 1974, Adm. Owen Siler, Commandant of the Coast Guard, informed me that:

> The Coast Guard is not categorically opposed to double bottoms.

He concludes his letter by stating that:

> More recent and broader analyses reveal that double bottoms should no longer be considered the sole desirable location of segregated ballast to achieve effective protection against accidental spills.

In other words, double bottoms are good, but other segregated ballast tank arrangements could also be as effective, so do not mandate one approach.

I still support the view that double bottoms should be mandated, especially since the Coast Guard still feels they are pollution-prevention effective. To not mandate double bottoms will result in few, if any, ships being built with that feature. The record still firmly supports double bottoms as the best protection against oil pollution.

The decision by the conferees to begin a pilot project for double bottom evaluation, in my view, does not undercut arguments supporting this construction feature for all U.S. vessels. Now that Congress has recognized at least the possible—in my mind, proven—value of double bottoms, there should be no impediment to adoption of mandatory double bottoms for all U.S. vessels. Our oil transportation system will be all the better if the Coast Guard takes this step under its Ports and Waterways Safety Act rulemaking authority. By doing so, *new tank vessels* carrying oil in bulk to west coast ports will not be more costly than other new tankers active in the oil trade elsewhere in the United States.

It has been the Coast Guard's view that construction standards for all U.S. vessels should be uniform and that standards promulgated under the Ports and Waterways Safety Act cannot legally distinguish between vessels in the coastwise trade and those in the foreign trade. Now that a statutory requirement is about to be applied to one part of the U.S. fleet, it should also be adopted for the entire fleet. Progressive oil companies are building vessels with double bottoms; these vessels will compensate for their increased cost in construction in several ways. Innovation and leadership in safer tanker construction should be rewarded—we have had far too little in the past. Therefore, I urge the Coast Guard to apply the double bottom requirement to all new U.S. tankers.

I also want to make it clear I will resist any attempt by the oil industry to use older vessels in the west coast as a means of escaping the double bottom requirement in H.R. 8193. If new double bottom ships are not used, then I will give serious consideration to legislating an age limit on tankers operating on the west coast.

Finally, I do not feel that the general legislative standard contained in the Ports and Waterways Safety Act should be construed to be anything less than the highest because of H.R. 8193. The mandate in that act is, at the very least, equal to "the best available pollution prevention" standard contained in H.R. 8193. High standards are needed, and they should be required. And I will continue to work toward that end.

Mr. GRAVEL. Section 6 provides that any U.S. flag vessel over 70,000 deadweight tons designed to carry oil in bulk, and built under contract entered into after December 31, 1975, shall be constructed and operated using "the best available pollution prevention technology." By way of clarification, let me ask if the phrase "the best available pollution prevention technology" for construction and operation means technology that is available and has been proven and demonstrated?

Mr. LONG. Yes.

Mr. GRAVEL. I understand that this requirement for double bottoms regarding imports of oil to the West Coast is intended as a pilot program. Is it the intent also that the Coast Guard will report to the Congress on the effectiveness of double bottoms as pollution prevention technology within a couple of years?

Mr. LONG. Yes.

Mr. GRAVEL. Further, is it your intention that double bottoms will be required for oil delivered to an offshore unloading facility and then moved ashore by pipeline?

Mr. LONG. No.

Mr. President, I yield to the Senator from Hawaii.

Mr. INOUYE. I wish to compliment the Senator from Louisiana for his forthright leadership on this very important matter.

Mr. President, I would like to remind our colleagues that we should look back in history before we cast our votes.

At the end of World War II, approximately 75 percent of all our cargo, cargo destined for the United States and cargo being shipped out of the United States, was being carried in American bottoms, in American flagships. Now we are carrying 5 percent of our total export and import trade in U.S. ships.

At a time of growing unemployment in the United States, this act will lead to 225,000 man-years of employment in ship construction and service industries and 5,700 man-years of employment for American seamen.

As the Senator from Louisiana mentioned earlier regarding our balance of payments, last year the $750 million deficit resulting from payments to foreign tankers amounted to almost 10 percent of the total balance-of-payment deficit. The Commerce Department estimates this legislation will lead to a balance-of-payment savings of $3.1 billion in the next 10 years and $11.5 billion over the longer term.

The PRESIDING OFFICER. Will the Senator suspend? All the time of the Senator from Washington has expired.

The Senator from New Hampshire has 20 minutes remaining. The 1 hour was changed to 40 minutes by unanimous consent, 20 minutes per side.

Mr. COTTON. Mr. President, if I have any time remaining, I will gladly yield it to those who have not finished their presentation.

Mr. President, I ask unanimous consent that the minority counsel, Mr. Bancroft, and Mr. Starret have the privilege of the floor during this debate and the vote.

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

Mr. COTTON. Mr. President, let me state at the outset, this Senator is not in the slightest degree interested in what contributions the maritime unions have made to anybody. He has confidence in the integrity and sincerity of all his colleagues. So much for that.

In the second place, I am not suggesting what was said by the distinguished Senator from Louisiana, that there has been false propaganda. But, I am suggesting that those who favor this bill have been indulging, not in false propaganda, but in a lot of pipe dreams and wishful thinking. And, I want to see a little common sense applied to this problem.

First, I defy anybody to say that this bill is not going to be highly inflationary. It will be like throwing gasoline on a fire. It is ridiculous to say that this is not going to be costly. If we are going to build tankers, and if we are going to pay wages what they are now, it will not be done cheaply.

Modern supertankers will have to be built because small ones are not economical to operate. The estimate made downtown is that at a minimum—a minimum—it would cost $800 million in subsidies through 1980. This is absurdly low. We have just heard what it cost in World War II.

Incidentally, in World War II, we made use of all the tankers that were American-owned, even though they were flying the flags of other countries. The Defense Department verifies this, and the Defense Department is dead against this bill. Of course, it will be highly inflationary.

Second, the jobs this legislation will provide will not be commensurate with the cost. I do not blame the maritime people for wanting to create American jobs. Through the years I have been in this body, I have voted again and again and again for measures to maintain a strong American Merchant Marine on the high seas. But, when we face the task of building the supertankers with double bottoms required by this bill, we are going to find that it will strain the building capacity of our present shipyards. They may not all be at the height of their production. But, they all have more orders to fill than they ever had before in peacetime history. Those tankers cannot be built without constructing more facilities, and that will run into real money.

As for the people who would get employment in building these ships, we will pay many dollars for every dollar we invest because we will have to enlarge facilities and this will be very costly.

As for more jobs for seamen, today's supertanker has been so mechanized that it requires a minimum crew.

I insist that the millions of dollars that will go into making those few jobs available are not commensurate with the investment. Moreover, we have no port facilities at the present time which can handle these huge tankers. Those have to be provided, which means even more cost.

Fourth, and this is important, passage of H.R. 8193 will invite retaliation. It is inevitable. It must invite retaliation by the oil-producing countries. If we say to them, "You must send us 20 percent and, later, 30 percent of the oil in American-flag ships," they will say to us that we cannot have the oil because they insist on transporting it in their own ships. That would only reduce the supply of oil. It would be a blow to every householder, every industry, and every school in the United States.

Mr. President, heretofore, we have never established a statutory preference on privately owned cargoes, but rather only on cargoes such as Public Law 480 grains or other cargoes, either owned or financed by the U.S. Government. H.R. 8193 would extend this preference to private cargoes. And, when we open the door and begin to subject privately owned cargoes to this preference, we are going to have it sweep into every kind of raw material and industrial product.

The balance of payments that the proponents have been talking about so glibly will sink into insignificance compared with the added cost of foreign trade.

Furthermore, every department of the executive branch that has expressed itself on this bill has been against it. More than 50 newspapers have editorially opposed H.R. 8193.

Last—and I hate to be parochial, but I am here representing a New England State—I hope that the Senate, to quote Bryan, is not going to place this "crown of thorns" on the people of New England. And, anyone who dares to say that this is not going to increase the price of oil to the consumer is talking through his hat. That just cannot be true.

Mr. President, there are only 12 States in the Union that do not have any refining capacity. Six of those twelve States are the six New England States. And the fact that the import license fee on residual oil is to be reduced does not take care of the No. 2 oil for our industries and the No. 6 oil for our homes and for our schools because that oil has to be refined.

We are already facing the coldest weather we have had in New England at this time in the season, which tells us that we are going to have a hard winter. Therefore, the people of New England are justified in being terrified. And it is not worth whatever benefit the proponents allege for the merchant marine. After all, we have invested millions—indeed billions—of taxpayer dollars in our merchant marine. But, H.R. 8193 is not worth forcing our people to face the hardships of cold winters.

We in New England, and others in the northern part of this country, need oil. As far as I am concerned, I do not care who brings it. I do not care if it is brought here by little green men from Mars, so long as we get the oil. We are not going to get it. And if we do, we are going to have to pay more for it if the conference report on H.R. 8193 is adopted. That is just as sure as night follows day. And, all the fancy reasoning of the bill's proponents does not change the commonsense of this picture.

H.R. 8193 represents legislation, which, if enacted, can only serve to victimize the constituents of my State and its sister New England States. Fuel costs will be increased, aggravating already severe inflationary pressures upon our Nation and particularly the New England region. I cannot be party to any legislation having such an adverse impact.

Mr. President, although I was a member of the committee of conference on H.R. 8193, I did not sign the conference report, largely owing to information which only came to my attention at the outset of this conference on Thursday, October 3, 1974. On that date I received a letter from the Administrator of the Federal Energy Administration, the Honorable John C. Sawhill, concerning the oil import fee rebate provision of the Senate version of H.R. 8193. I ask unanimous consent that this letter appear in the RECORD at the conclusion of my remarks.

(See exhibit 1.)

Mr. COTTON. Mr. President, it will be recalled that as passed by the Senate, H.R. 8193 would provide that, for a period of 5 years after enactment, the import fee on oil other than residual fuel oil be reduced by 15 cents per barrel, and the fee on residual fuel oil be reduced by 42 cents per barrel. It was this latter fee reduction with respect to residual fuel oil upon which New England is so heavily dependent that I, as a Senate conferee, had a principal interest in retaining. That is, until the revelation of certain facts brought to my attention by Mr. Sawhill's letter to me of October 3, which indicate that this fee reduction represents but a cruel hoax upon my constituents.

In this connection, Mr. Sawhill makes the following observation:

> 2. For residual fuel oil * * * Under the phase out schedule it will be 1976 or later before any fees need be paid for imports of residual fuel oil into the East Coast provided that normal trade patterns continue. *Thus in the short term, the proposed rebate of import fees on residual fuel oil will provide little or no relief for the increased costs to consumers of cargo preference.*
>
> * * * * *
>
> 3. The House Committee on Ways and Means has the issue of the oil import fee under active consideration. The Committee's earlier version of tax reform legislation included an amendment * * * which would have prohibited the imposition of an import fee on crude oil when the price of imported oil is higher than the domestic price. * * * *If such legislation were to become law, the provision in the Senate version of H.R. 8193 providing for rebate of the fee on oil imports would be meaningless* with respect to crude oil imports (assuming that the foreign price continues to be higher than the domestic price). (Emphasis supplied)

Accordingly, Mr. President, the sole provision which I was interested in preserving for the benefit of my constituents now turns out to be but a mere sham. New England consumers will receive the full brunt of the inflationary pressures of H.R. 8193, especially with respect to residual fuel oil needed for home heating and industrial uses. I cannot in all good conscience bring myself to vote for such a bill.

Now, Mr. President, having explained the principal reason for my opposition to the adoption of the conference report on H.R. 8193, in my position as a conferee on that measure, I feel compelled to make a few additional observations concerning this legislation.

I feel compelled to do so owing to a response by a Mr. Daniel John Sobieski to a guest editorial from the Washington Post supporting my "lonely fight" against this proposed "Energy Transportation Security Act of 1974," which was reprinted by the Manchester Union Leader, and which response appeared in the same newspaper on Monday, November 18, 1974. I ask unanimous consent that this response appear in the RECORD at the conclusion of my remarks (see exhibit 2).

This response raised the following nine points:

First. Labor—The main opposition to this badly needed bill comes from a business community that for good reason has become gun shy about American labor. They do not want to fool around with big labor, and the threat of strike, even though the unions involved have offered a no strike provision.

Second. Double bottoms—A report prepared by the Coast Guard under the authority of the Ports and Waterways Safety Act concluded: "* * * ships incorporating the segregated ballast and double bottom feature were definitely the best alternative from a pollution abatement-cost point of view."

Third. No effective control over U.S. owned foreign-flag vessels—Currently, the United States has virtually no control whatsoever over a foreign-flag ship, and none over its construction and manning.

Fourth. National defense—Defense needs are another important factor. * * * In U.S. built ships, certain national defense features can be built in.

Fifth. International retaliation—There have been charges that the bill will cause some international retaliation against the United States, but there is no basis for that claim.

Sixth. Cost—Now, let us look at [the] charge that the bill will increase the cost of oil. * * *

The Maritime Administration estimates that the cost of using American ships and American labor would be about $0.003 per gallon. * * * If you multiply that by 40 gallons per barrel, that works out to be 12 cents per barrel. * * * This bill would waive the 15 cents of the import fee on oil coming into the United States in American bottoms. So, instead of costing 12 cents more, the oil will actually cost 3 cents less.

Seventh. Balance of payments benefit—Using U.S.-flag instead of foreign-

flag ships would have a positive impact on our balance of payments. * * *

Construction of the 1985 fleet would generate a $57 billion increase in the GNP.

Eighth. Increased benefits—The benefits would increase even more with the adaptation of * * * nuclear power technology.

Ninth. Summary—So, in H.R. 8193, we have increased environmental protection, added national security, at less cost and great economic benefit.

Normally, Mr. President, a response such as that of this writer, who by virtue of his stated address is not even a resident of New Hampshire, displays such a high degree of ignorance of the subject matter that it would not even be considered by the senior Senator from New Hampshire as sufficiently meritorious to evoke a reply. However, since it appeared in the Manchester Union Leader, which has a large circulation in my State, and since the response, entitled "The Case for H.R. 8193: Reader Supports Energy Transport Act," was so prominently displayed on the back page of that newspaper, I feel compelled to reply to each of the several assertions made by the writer.

First, the assertion that the main opposition to H.R. 8193 comes from "a business community that for good reason has become gun shy about American labor" totally ignores important facts. H.R. 8193 has been and continues to be strongly opposed to no less than eight departments of the executive branch, the Federal Energy Administration, and Mrs. Virginia Knauer, Special Assistant to the President for Consumer Affairs. Those departments expressing opposition to H.R. 8193 are the Department of Agriculture, the Department of Congress in which resides the Maritime Administration, the Department of Defense, the Department of the Interior, the Department of Justice, the Department of State, the Department of Transportation, and the Department of the Treasury. Additionally, in his message to the Congress of November 18, 1974, the President of the United States made several observations concerning this legislation, including the following:

. . . Although I fully support a strong U.S. merchant marine, I am seriously concerned about problems which this bill raises in the areas of foreign relations, national security, and perhaps most significantly, the potential inflationary impact of cargo preference.

Moreover, on the subject of American labor, it is apparent that the writer did not adequately research the subject, also he would have been aware of the following colloquy between the senior Senator of New Hampshire and Mr. Paul Hall, president of the Seafarers International Union, AFL–CIO:

Now, God knows I want to see American sailors employed. But, I am interested in people, too—my constituents. * * *

We want oil, and I couldn't care if it is brought to New England by little green men from Mars in flying saucers!

For the time being, we want oil. We need it to keep our industries going, to keep our workers employed, but even more important, to keep the schools and homes warm enough so that we can get through the winter. * * *

My interest, too, is in people, people like your own sailors. They are the people I represent. And, I make no apologies to anybody for fighting for the people I represent. * * *

So I want to make it plain. I agree with much that you say. But, I don't make any apology for my position on this bill at this time. We have people who are suffering. They are my first interest, and to hell with the international oil companies, as far as I am concerned.

(Hearings before the Committee on Commerce on S. 2089 and H.R. 8193 (Serial No. 93–81) at pages 495–496)

Furthermore, it is evident that the writer failed to take appropriate notice of my minority views set forth in the Senate Report (No. 93–1031) accompanying H.R. 8193 in which I noted the following:

For myself, my principal concern is the public interest, especially that of my constituents in the State of New Hampshire and its sister New England States, which lack petroleum refining capacity and which are heavily dependent upon oil imported from foreign source and refined for consumption in the markets in that region. I hold no brief for either of the two special interest groups [i.e., maritime unions and the major international oil companies.]

The proponents of H.R. 8193 will advocate strenuously that this legislation is needed to assist the poor American seaman because the major international oil companies which control the bulk of the world tanker fleet refused to register such vessels under the United States flag in order to avoid negotiating with American seamen. But, even if H.R. 8193 is enacted into law, it will assist only that segment of the American Maritime industry, namely the shipbuilding industry, which is experiencing a business boom second only to that experienced during World War II.

Thus, in the final analysis the recipient of the biggest employment benefit from H.R. 8193 is the shipbuilding industry which least needs it; the seafarers, who need it most, which receive the smallest benefit! (Senate Report 93–1031 at pages 57–59)

Second, the writer cites a Coast Guard report in support of the alleged effectiveness of double bottom construction in pollution abatement. However, that study was overtaken by a later study also performed through the Coast Guard but, which, unfortunately, was not completed until after the 1973 Marine Pollution Convention of the International Maritime Consultative Organization at which the U.S. position on double bottoms was advocated based upon the earlier report cited by the writer. Based upon the subsequent study and analysis of worldwide tanker casualties for the years 1971 to 1972, the Commandant of the Coast Guard wrote to the chairman of the Committee on Commerce on October 4, 1974, and concluded as follows:

In summary, double bottoms were supported as a pollution prevention design measure based upon the early two years of spill data. More recent and broader based analyses reveal that double bottoms should no longer be considered the sole desirable location of segregated ballast to achieve effective protection against accidental spills.

Moreover, Congressman JOHN M. MURPHY, chairman of the Subcommittee on Coast Guard of the House Committee on Merchant Marine and Fisheries, made the following observation on July 31, 1974, when testifying in a proposed rulemaking proceeding before the Coast Guard:

Mr. Chairman, if double bottoms would solve even one percent of the problem, I would say go ahead and make them mandatory.

If double bottoms were neither effective or ineffective, I would probably not waste my time here today.

But, I felt compelled in view of the mountain of evidence and testimony to which I have been exposed to come here to state for the record that double bottoms have the highest risk probability of any currently known ship construction configuration of causing *more* oil to be spilled on *more* beaches in *just one* severe accident than all single skin accidents combined in any projected ten year period.

Even those conferees supporting H.R. 8193 who signed the conference report expressed the following reservation in the Joint Explanatory Statement of the Committee of Conference:

The conferees could not reach agreement on the effectiveness of double bottoms. Therefore, it was concluded that a pilot project should be instituted so that the effectiveness of double bottoms can be better evaluated. (Senate Report No. 93–1242 at page 11)

Third, the writer alleges that the United States has virtually no control whatsoever over a foreign-flag ship, and then proceeds to comment on flag of convenience vessels of Panama and Liberia. On this point, the writer appears to mix apples and oranges. On the one hand, he speaks of foreign-flag ships over which we have no jurisdiction, which admittedly is true under maritime law. But, at no point does he recognize that many flag of convenience vessels are U.S.-owned tankers under foreign registry.

As a matter of fact there are some 300 tanker vessels of 1,000 gross tons and over within this category and which are equivalent to some 200 million deadweight tons. These are vessels which the Department of Defense looks upon as being under effective U.S. control. On this point, Deputy Assistant Secretary of Defense Paul H. Riley testified before the House committee in the following manner:

We really have no reason to believe that we could not get the majority of these ships for our own use.

We have firm contracts with each of the companies that own these ships that says they will give us the ships in time of emergency.

Our past experience with World War II, Korea and Vietnam indicates that we have had no trouble getting those ships to come to our aid whenever we needed them.

We see no reason why we could not rely on them. (Hearings of the Committee on Merchant Marine & Fisheries of the House of Representatives on H.R. 8193, et al. (Serial No. 93–26) at page 192)

In addition, Mr. Phillip J. Loree, chairman of the Federation of American Controlled Shipping, made the following observation when testifying before our Committee on Commerce:

The essential point here is that U.S. effective control ships are controlled by American companies which have agreed to make the U.S. effective controlled ships available for requisitioning in event of war or national emergency involving the United States. Putting aside all other considerations, the

ultimate force and strength of U.S. effective control lie in the fact that American companies, with American directors, American officers and American shareholders have made this solemn commitment. (Hearings of the Committee on Commerce on S. 2089 and H.R. 8193 (Serial No. 93–81) at page 404)

Fourth, the writer notes that defense needs are another important factor, observing that U.S. built ships can have national defense features built in and pointing to the experience in World War II of the United States having to spend some $8.4 billion to build needed ships.

Yet, Mr. President, the Department of Defense which is charged with the responsibility for our national security is strongly opposed to the enactment of H.R. 8193. In his letter to me of July 24, 1974, the General Counsel of the Department of Defense made the following observation:

In the opinion of this Department, H.R. 8193's benefits are outweighed by its disadvantages which in summary are: (1) increased cost of ocean transportation resulting in higher domestic petroleum prices; (2) encouragement of compartmentalization of world tanker fleets and trade routes; (3) potential conflict with the goals of Project Independence; (4) failure to provide any significant additional assurance of oil supply in an emergency; (5) encouragement of unnecessary and non-competitive tanker construction in the face of an incipient world tanker surplus and (6) unwarranted disruption of the DOD distribution system resulting in excessive transportation costs, increased supply levels, unnecessary administrative burden, and loss of flexibility to respond to the needs of national defense.

For the foregoing reasons, *the Department of Defense strongly opposes enactment of H.R. 8193.*" (Emphasis supplied)

As for the ability to build national defense features into U.S.-built ships, certainly this is possible and is provided for under the provisions of the Merchant Marine Act of 1936, as amended. But, what the writer fails to note is that the cost of any features incorporated in a vessel for national defense uses is to be paid for by the Secretary of Commerce in addition to the construction-differential subsidy. In other words, the U.S. Government—or more appropriately, the taxpayers of this country—end up paying 100 percent of the cost of such national defense features.

As for the analogy of our crash shipbuilding program to meet the needs of World War II, the writer's observation is correct but for the wrong reasons. Enactment of H.R. 8193 could have the very same monetary effect owing to the backlog of orders presently on the books of our domestic shipyards. In this connection, Secretary of Commerce Dent in his letter to me of July 22, 1974 made the following observation concerning higher costs and inflationary pressures:

* * * In addition, the current maritime program has already stretched the limits of U.S. shipyard capacity to build large tankers, and the increased demand for such ships resulting from the enactment of H.R. 8193 would force upward the prices of steel and other scarce materials without significantly increasing the rate of tanker construction over the next few years.

Fifth, with respect to the writer's allegation that there is no basis for the claim that H.R. 8193 will cause some international retaliation against the United States, I would hasten to point out that there is no basis for the claim that there would not be such retaliation. On the contrary, there is a far greater likelihood of such retaliation since as the Department of State pointed out in its letter of July 31, 1974 to the Chairman of the Senate Committee on Foreign Relations:

. . . if passed, this legislation would light the way for other nations, including the oil producers to follow in our path. By assuring for their developing fleets a fixed percentage of oil exports and other commercial cargoes (perhaps as a condition of supply) our flexibility would be further reduced. By adopting the principal of commercial cargo preference for our own vessels, the U.S. would be hard put to diplomatically or logically argue against the same principle when adopted by other nations.

Sixth, on the matter of cost, the writer utilizes the figures of the Maritime Administration and proceeds to point to the remission of the import license fee as resulting in an alleged cost saving of 3 cents. In point of fact, Mr. President, no one has really been able to quantify the cost of H.R. 8193 with any degree of certitude. But, Mr. President, if we are to rely upon such cost estimates we would do well to bear in mind that the Federal Energy Administration has estimated "the cost to the consumer from cargo preference legislation could approach $3 billion per year."

And, insofar as any alleged savings from the remission of the import license fee, I already have indicated in my opening remarks what a sham that provision is based upon the correspondence received from the Administrator of the Federal Energy Administration in which the following is noted:

Thus, in the short term, the proposed rebate of import fees on residual fuel oil will provide little or no relief for the increased costs to consumers of cargo preference.

With respect to crude oil, rebate of the oil import fee would not offset the increased cost of oil imports which would be caused by the bill.

Moreover, Mr. President, Secretary of Commerce Dent, in a letter of November 18, 1974, to the Chairman of our Committee on Commerce on this same point noted that the total revenue loss to the Treasury could reach $200 million which would further fuel inflation. Thus, we are simply robbing Peter to pay Paul.

Seventh, insofar as the writer's allegation concerning the balance of payments benefit, I believe that the hearing record will reflect that, although there may be such a benefit, it would be attained at a very high cost to our already faltering economy. For example, Dr. William A. Johnson of the Department of Treasury, testified before the House committee in the following manner:

As I have indicated, in the extremely tight crude oil and product market with which we are now confronted, the result of this bill, if enacted, would probably be reduced imports. Should this happen, we may well have a substantially improved balance-of-payments position but at the cost of disruption of our economy and intensified fuel shortages for the American public. I do not think that the balance-of-payments savings are worth that price or should be a primary consideration in the decision to enact this bill. (Hearings before the House Committee on Merchant Marine and Fisheries on H.R. 8193 et al. (Serial No. 93–26) at page 211)

Mr. President, certainly the economic price to be paid for this balance-of-payments benefit can be only more severe today than when Dr. Johnson testified a year ago on October 9, 1973, as our economy enters this recessionary period.

And, Mr. President, it is the height of absurdity for the writer to single out ship construction as generating an increase in our gross national product when the shipbuilding industry is experiencing its greatest boom since World War II. As a matter of fact, the Statistical Quarterly published by the Shipbuilders Council of America for the first quarter of 1974 shows private shipyard employment at a postwar high and notes the following:

This is a post-World War II [employment] high and reflects recent order-book expansion resulting from enactment of the Merchant Marine Act of 1970.

Mr. President, at a time when there is rising unemployment in most sectors of our economy, such as in the automobile industry which will have laid off almost 200,000 workers, I can think of no more imprudent or untimely investment than to channel more funds into our shipbuilding industry.

Eighth, the writer alleges even greater benefits from H.R. 8193 with the adaptation of nuclear power technology, which in itself belies his stated concern over the environment. For example, several public interest groups, including those of Mr. Nader have expressed grave concerns over environmental and health hazards associated with nuclear power.

Now, Mr. President, I am by no means seeking to demean the need to move forward with the development of nuclear technology, including its application to marine propulsion. Coming from a State which does not have ready access to fossil fuels, no one is more keenly aware of the need for our Nation to press forward with the development of safe and reliable nuclear power technology than the senior Senator from New Hampshire. What I am saying, however, is that the writer of this response has taken a very simplistic approach and has evidenced a total lack of knowledge with respect to our experience with the nuclear ship *Savannah,* especially with regard to cost.

The ninth, and final point, made by the writer, Mr. President, is to summarize the alleged benefits of H.R. 8193. However, I strongly disagree that enactment of H.R. 8193 will provide us with any assurance whatsoever that there will be increased environmental protection. As a matter of fact, there is considerable evidence to the contrary. As for added national security, I rest my case on the strong opposition to this bill by our Department of Defense. And, as for the assertion that all of these glorious benefits would be attained at less cost and great economic benefit, Mr. President, I simply say, "Hogwash!"

In point of fact, Mr. President, we are talking here about a hidden subsidy involving the expenditure of millions, and yes, even billions of dollars by the American taxpayer and American consumers.

Finally, Mr. President, concerning the reference to my "lonely fight" against this legislation, this certainly was not the case a little over 2 years ago, when on July 26, 1972, the Senate rejected a similar proposal contained in the bill, H.R. 13324, of the 92d Congress. And, Mr. President, if anything, the reasons for rejecting this legislation are even more compelling now than in 1972, faced as we are with the double threat of recession and inflation.

Mr. President, for all of the foregoing reasons, but principally in the interest of trying to protect my constituents in the State of New Hampshire, who will be among those most adversely affected by enactment of this legislation, I shall vote against the adoption of the conference report on H.R. 8193.

EXHIBIT 1

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., October 3, 1974.

Hon. NORRIS COTTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COTTON: There are a number of factual considerations with respect to the oil import fee rebate provision of the Senate version of H.R. 8193 which I would like to bring to your attention. The Senate bill provides that, for a period of five years after enactment, the import fee on oil other than residual fuel oil be reduced by 15¢ per barrel, and the fee on residual fuel oil be reduced by 42¢ per barrel. Fee reductions would be available only for oil imported in U.S.-flag commercial vessels and the reduction would be required to be passed on to the consumer. We have the following observations concerning this import fee provision:

1. With respect to crude oil, rebate of the oil import fee would not offset the increased cost of oil imports which would be caused by the bill. Currently, oil import fees are not charged on the great majority of crude oil imported into the United States. Presidential Proclamation 3279, as amended, provides for phasing in the import fee on crude oil over a seven year period through 1980. From the beginning of the fee system in May of 1973 until April of 1974, fee-free allocations covering 100 percent of the January 1, 1973 import levels were granted. After April 30, 1974, fee exempt allocations will be reduced by a fraction of the original level each year for the next seven years, phasing out completely by 1980.

In addition to these fee-free allocations, the proclamation provides additional exemptions from fees for certain classes of imports, *e.g.* for new or expanded refinery capacity, crude oil imported to produce asphalt, hardship grants to independent refiners, etc.

Since the percentage of imports which are exempt from fees will vary depending on the increase of imports above 1973 levels, as well as other variables such as exemptions for new refineries and hardship cases, it is difficult to predict the precise percentage of imports which will be fee exempt. Nevertheless, based on past data, we estimate that oil import fees will be payable only on from 5 to 10 percent of all crude oil imports in 1974 and 1975. By 1978, import fees will probably be payable on something less than 50 percent of all crude oil imports.

It is evident from the above figures that the provision of the bill which provides for a rebate of 15¢ of the oil import fee would not produce any meaningful relief from the increased costs of crude oil which consumers will be required to pay. Since the bill's provision for rebate is only for a five year period, rebates will cease at about the time that import fees begin to be applicable to the majority of crude oil imports.

2. For residual fuel oil, the Senate bill would rebate $.42 of the higher license fee, currently $.30 per barrel moving to $.42 per barrel on November 1, 1974, and $.63 per barrel by November 1, 1975. This 42¢ per barrel rebate of the import fee on residual fuel oil is apparently aimed at reducing consumer costs in New England, since that region consumes most of the imported residual fuel oil. The observations made above with respect to the small amount of crude oil actually subject to import fees in the short term apply to residual fuel oil also. Imports of residual fuel oil into the East Coast have been virtually decontrolled for a number of years. As a result licenses were issued for the importation of 2.9 million barrels per day of residual fuel in the 1973 base year although actual imports were less than 2.0 million barrels per day. Under the phase out schedule it will be 1976 or later before any fees need be paid for imports of residual fuel oil into the East Coast provided that normal trade patterns continue.

Thus in the short term, the proposed rebate of import fees on residual fuel oil will provide little or no relief for the increased costs to consumers of cargo preference.

In addition, the rebate of 42¢ per barrel is not consistent with the rationale for the imposition of an import fee on refined petroleum products which is designed to encourage domestic refinery capacity. To the extent that a rebate of 42¢ per barrel exceeds the estimated increased cost of shipping in U.S. bottoms, integrated refiners will find it cheaper to refine in the Caribbean and Canada and ship to the United States rather than to refine in the United States. Thus, in the future when fees are charged on residual fuel imports, the bill would tend to export refining capacity and jobs. We fail to perceive any reason why a rebate on residual fuel should be greater than the increased cost for shipping in U.S. vessels.

3. The House Committee on Ways and Means has the issue of the oil import fee under active consideration. The Committee's earlier version of tax reform legislation included an amendment to Section 232 of the Trade Expansion Act (the basic authority for the import fee system) which would have prohibited the imposition of an import fee on crude oil when the price of imported oil is higher than the domestic price. We understand that this approach is currently included in the Committee's new tax reform proposals which will be in final form in the near future. If such legislation were to become law, the provision in the Senate version of H.R. 8193 providing for rebate of the fee on oil imports would be meaningless with respect to crude oil imports (assuming that the foreign price continues to be higher than the domestic price).

4. Dedication of import fees for this and numerous other purposes which have currently been suggested tends to lock the government into a particular form of protection and it would remove the flexibility which Section 232 of the Trade Expansion Act intended to give the President. For instance, it would be very difficult to shift to a quota system or to adopt a variable fee. It is also worth noting that the misuse of the import program to subsidize all sorts of special interests was responsible for much of the abuse of the former quota system. To now use fees for purposes other than those relating directly to national security, may cause the fee system to fall into the same disrepute.

In light of these considerations, I strongly urge that the Conference Committee not adopt the provision of the Senate bill providing for the rebate of oil import fees.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN C. SAWHILL,
Administrator.

EXHIBIT 2

[From the Manchester Union Leader, Nov. 18, 1974]

READER SUPPORTS ENERGY TRANSPORT ACT

Addressed to William Loeb: On Aug. 30, 1974, you published a guest editorial from the Washington Post supporting "Senator Cotton's lonely fight" against the Energy Transport Security Act, and on Sept. 3, 1974, John Chamberlain's column criticized same. It is not possible to respond to same in the allotted space, so perhaps you can fit "The Case for H.R. 8193" in the back page of the Union Leader.

The main opposition to this badly needed bill comes from a business community that for good reason has become gun shy about American labor. They do not want to fool around with Big Labor, and the threat of strike, even though the unions involved have offered a no strike provision.

And why not? They can pick up those poor coolies out of Hong Kong, they can pick up South Americans out of Belem, Brazil, pick up some poor Pakistani or some poor Hindu out of India and, if these poor souls are unhappy for a moment, just dump them off at the first port they come to.

Foreign registry is popular because, in return for a modest registration fee and a small annual tax on the ship's tonnage, the vessel owner is free from taxation on ship's earnings, maritime laws, and U.S. government regulations governing operations, inspections and crew mannings.

Thus, it was interesting to see John Chamberlain write about the environmental threat posed by the building of American tankers when, in fact, the opposite is the case. This legislation requires that U.S.-flag tankers constructed to carry oil be built using the best available pollution technology, including a segregated ballast-double bottom system.

A report prepared by the Coast Guard under the authority of the Ports and Waterways Safety Act concluded: ". . . ships incorporating the segregated ballast and double bottom feature were definitely the best alternative from a pollution abatement-cost point of view."

Significantly, this concept, advanced by the Coast Guard as well as by the Environmental Protection Agency, and incorporated into H.R. 8193 by the Senate Commerce Committee, was rejected by other maritime nations at last year's International Conference on Marine Pollution.

Currently, the United States has virtually no control whatsoever over a foreign flagship, and none over its construction and manning. Only if a foreign flag offender puts into a U.S. port can he be penalized under our national laws. If he, however, dumps oil and then heads out into international waters, the only recourse available to the U.S. is to make a complaint to the nation whose flag the vessel flies.

The United States now receives one-half of its oil imports in flag of convenience vessels of Panama and Liberia. Figures compiled by the Organization for Economic Cooperation and Development demonstrate that when compared to OECD fleets, including that of the United States, losses for Liberian vessels are twice as high and for Panamanian vessels, three times as high.

Under this bill, both ships and crews must conform to strict Coast Guard standards and

vessels older than 20 years or reconstructed beyond their economic lives must be retired and replaced.

DON'T WORRY

Defense needs are another important factor. We are told by critics, "You need not worry about the entire merchant marine, because we have plenty of tonnage under control of our allies."

We listened to this story prior to World War II. It turned out that we had to spend some $8.4 billion in 1940 dollars to build ships to take care of our own needs. We received little or no help, despite the fact that Norway, England, and others were supposed to be in a pool.

How can one control a ship built with U.S. money, transferred to ownership in Greece, insured by England, with Italian officers and an Indian crew?

How can anyone believe such a ship would sail through combat zones for the United States?

The Arabs or anybody could still shut off the oil, to be sure, but at present they can shut off the ships too. At least, under H.R. 8193, we would be able to move our own considerable oil production to where it is most needed, particularly in support of our navy, which was denied foreign ports for refueling during the Yom Kippur War.

In U.S. built ships, certain national defense features can be built in.

Ad. Elmo R. Zumwait Jr., expresses his concern this way: "The vast majority of this imported oil will be transported by sea over great distances in hundreds of tankers. The potential for coercion, with or without allies, inherent in this situation is ominous when we consider the current growth of the Soviet Navy.

"Planning for the protection of tankers at sea in the event a threat develops would be greatly enhanced by having large numbers of ships under the U.S. flag in time of peace. The Navy has a greater requirement for merchant ships than is generally realized. For example, merchant ships are absolutely required to provide the bulk of Dod sealift and to augment our amphibious forces. . . ."

AN UNDERSTANDING?

By international law only the state of registry has the right to requisition and control vessels flying its flags. The U.S. does have an "understanding" with Panama, Liberia, and Honduras but these are not treaties and as Panama is after our canal it may become overly fond of our ships as well.

Liberia, during the Yom Kippur War, decreed that ships flying its flag could not trade with Israel. It could have included the United States in that edict if it chose to and what would we have done?

Our Navy does not have enough ships to go out and seize the tankers and still keep track of the Soviet fleet.

There have been charges that the bill will cause some international retaliation against the United States, but there is no basis for that claim.

Many of the world's trading and maritime nations have enacted similar legislation and similar provisions. No one has ever retaliated against these nations and no one has stopped trading with these nations.

Hardly anyone noticed when Venezuela enacted its law which leads to an eventual 50 per cent carriage requirements for its ships. The Soviet Union carries 56 per cent of its trade; Japan, 47 per cent; Norway, 43 per cent; France, 38 per cent; Spain, 37 per cent; United Kingdom, 35 per cent; West Germany, 29 per cent; Italy 23 per cent; U.S., 5 per cent.

Now, let's look at Chamberlain's charge that the bill will increase the cost of oil. He tries to scarce us with a price tag of $60 billion by 1985.

The Maritime Administration estimates that the cost of using American ships and American labor would be about $0.003 per gallon. If you've just seen your local station go up 20 cents or so per gallon, that will not bother you. If you multiply that by 40 gallon per barrel, that works out to be 12 cents per barrel. The bill would waive the 15 cents of the import fee on oil coming into the U.S. in American bottoms. So, instead of costing 12 cents more, the oil will actually cost 3 cent less.

RIP-OFF OF TRUTHS

To characterize this shipbuilding bill as a rip-off of the consumer is a rip-off of the truth.

Using U.S.-flag instead of foreign-flag ships would have a positive impact on our balance of payments. Depending on the distance the oil is carried, the dollar outflow for each barrel of imported oil could be reduced as much as 20 per cent.

The Assistant Secretary of Commerce has noted that for every 90,000 dwt tanker under the U.S. flag that replaces a foreign-flag ship, a $41 million balance of payment advantage will be realized over the life of the ship. For 265,000 dwt tankers, the benefit rises to $114 million over the life of the ship.

A U.S. subsidy necessary to support our import levels by 1985 would require, according to Maritime Administration economists, Construction Differential Subsidies of $6.6 billion. Additionally, it is estimated that Operating Differential Subsidies of $500 million would be required during the life spans of about 25 percent of the vessels in the bulk fleet.

For this $7.1 billion investment we would generate about 900,000 man-years of employment in U.S. shipyards, along with an additional 900,000 man-years in support industries. Operating vessels during their lifetime would account for an additional 315,000 man-years.

Construction of the 1985 fleet would generate a $57 billion increase in the GNP. $11.3 billion in income and other taxes would flow into the Treasury. $20.3 billion would be paid out in wages and a $9.3 billion gain in balance of payments would result.

The benefits would increase even more with the adaptation of gas turbine and nuclear power technology. The Chevron Oil Company recently signed a contract for three new tankers of 35,000 dwt at a per-ship cost of $15 million—a savings of $3.9 million each over diesel propulsion ships of the same size. The cost is also below foreign costs for comparable ships.

Nor is the reduction in capital cost the only savings. The Coast Guard has approved a crew of only 17 men for each of these ships. A typical diesel tanker would require 28 men. The 11-man savings translates into approximately $140,000 a year, or better than $3 million over the lifetime of the ship.

American nuclear technology is also a potential boon. To operate a fleet of 300 fossil-fueled modern ships over their lifetime would require more than the estimated resources in the entire Alaskan North Slope oil field.

A fleet of six nuclear tankers operating at 23.4 knots, would have the same productivity as a fleet of nine fossil tankers operating at 15.5 knots. Higher speeds, lower fuel costs, and better and fewer personnel, add up to considerable savings. Maritime Administration economists indicate that a 1980 nuclear ship will be able to deliver oil from the Persian Gulf to the United States at a total cost of $8.15 per long ton, compared to a cost of $9.58 per long ton for a conventional ship.

So, in H.R. 8193, we have increased environmental protection, added national security, at less cost and great economic benefit.

We have the resources.

We have the technology.

We need the will.

DANIEL JOHN SOBIESKI.

I yield 5 minutes to the distinguished Senator from Nebraska.

Mr. CURTIS. I thank my distinguished colleague.

Mr. President, I ask unanimous consent that Tom Cantrell, of my staff, and Tom Shroyer of Senator FANNIN'S staff remain on the floor during this debate.

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

Mr. CURTIS. Mr. President, the President of the United States, on November 14, said:

Although I support a strong merchant marine, I am certainly concerned with the problems that this bill raises in the areas of foreign relations, national security, and perhaps most significantly, the potential inflationary impact of cargo preferences.

Mr. President, the chart indicates that the cumulative cost for 10 years of this bill will near $30 billion. It is true that there is a license remission for a while, but that merely shifts a small part of it from the consumer to the taxpayer.

Mr. President, I ask unanimous consent that there be printed in the RECORD the statement of the Federal Trade Commission, which supports the finding as to the costs indicated by this chart.

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

FEDERAL TRADE COMMISSION,
Washington, D.C., December 16, 1974.

HON. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: This is in reply to your letter of October 29, 1974, requesting views on H.R. 8193 ("Energy Transportation Security Act of 1974"). This bill would require 30% of all oil imported into the United States to be transported on U.S.-flag commercial vessels by June 30, 1977.

Let us focus first on the effect that this bill is likely to have on American consumers of petroleum products. Rates for U.S.-flag commercial vessels, which are now required to be used to carry certain government financed cargoes, have averaged 2½ times the comparable foreign rates over the 1968 to 1972 period. Though this differential cannot automatically be taken as giving the size of the differential between rates for U.S. oil tankers and foreign oil tankers, it does afford some basis on which to estimate the size of that differential. The higher costs of shipping oil by U.S. tankers will ultimately be borne by domestic consumers. In this time of severe inflation, we believe a strong case must be made before additional price increases to consumers can be justified.

The Commission has not had time to generate independent figures relating to the increased costs to the consumer of H.R. 8193. However, our staff has examined some of the estimates submitted by others. For example, one study has estimated the cost impact of this legislation to be from $25–31 billion over a ten-year period. Although this estimate is based on certain assumptions, it is not considered to be overly speculative. We believe that costs of this magnitude would outweigh by a substantial margin any benefits that could arguably result from the proposed legislation.

One study discussed in the House Report on H.R. 8193 sought to show that H.R. 8193 would actually benefit consumers. The assumptions used in reaching that conclusion, however, seem to be highly suspect. A substantial portion of this study's forecasted benefits relate to increased taxability of integrated oil companies. If this end is desired,

a much more direct route would be to make appropriate changes in the tax laws or regulations. A second major benefit predicted by this study relates to transfer pricing practices presently used by vertically integrated firms which transport crude oil on tankers owned by their subsidiary companies.

This predicted benefit appears to confuse bookkeeping costs and economic costs. The bookkeeping "price" which a firm's subsidiary "charges" its parent to transport that parent's oil does not directly affect the prices which consumers eventually pay for refined petroleum prices. That "price" is simply an accounting transfer which would shift income to a company which will pay lower taxes than the parent. Consumer prices are determined by the actual *economic* costs of shipping oil, the other economic costs of producing the final product and demand conditions for that product. It does not, accordingly, appear to be possible to obtain any direct consumer benefit from adjusting transfer prices. Yet it is this very adjustment on which a large part of the alleged consumer benefit predicted by the study is based.

While it is clear that H.R. 8193 will impose substantial costs on consumers, it is not clear that it will produce any appreciable benefit to the community as a whole. It is alleged, for example, that this bill will protect national security. The argument is that it will ensure the availability of U.S. tankers to transport oil from alternative sources (which have yet to be specified), if, in the future, restraints are placed on the exporting of oil by producing countries. While we are not experts on national security issues, the expressed opposition to the bill by the Defense Department should be noted.

Finally, it has been argued that this bill will produce more jobs in American shipyards and on U.S. flag ships. This is undoubtedly true. It should be asked, however, if jobs created in this way really benefit the American economy as a whole. If not, these benefits would amount to a subsidy at a net cost to consumers. The question is should we subsidize, through higher prices for petroleum products, the construction and operation of ships that can and apparently will be built and operated by others at lower real costs?

In summary, we find unconvincing the justifications for H.R. 8193 that are offered in the face of apparently high consumer costs that it would incur.

By direction of the Commission.

CHARLES A. TOBIN,
Secretary.

Mr. CURTIS. Mr. President, a wide variety of economists has condemned this bill. Mr. Walter Heller of the University of Minnesota, speaking on inflation, said:

A painful and current case in point is the bill just passed by Congress to require 30 percent of U.S. oil imports to be carried in U.S.-flag tankers, which will cost American consumers hundreds of millions of dollars. One hopes that this fatted calf will be stillborn.

Mr. President, I ask unanimous consent to have printed in the RECORD the letters in opposition from the following:

The Office of Management and Budget; the Department of State; Virginia Knauer of the White House staff, two letters, one to the junior Senator from Nebraska and one to Chairman LONG; the letter of the General Services Administration; the letter of the Federal Energy Office; the letter of the Assistant Secretary of Defense; two letters from the Department of the Interior; a letter from Paul A. Samuelson of the Massachusetts Institute of Technology; a letter from Mr. Paul W. McCracken of the University of Michigan; a letter from C. Jackson Grayson, Jr., School of Business Administration, Southern Methodist University; a letter from Dr. Otto Eckstein of Harvard University; a letter from John M. Letiche, of the University of California at Berkeley; a letter from the University of Chicago by Dr. Milton Friedman; a letter from Dr. Richard N. Cooper of Yale University; a letter from the National Association of Manufacturers; a letter from the U.S. Chamber of Commerce; and a letter from the American Petroleum Institute.

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

OFFICE OF MANAGEMENT
AND BUDGET,
Washington, D.C. November 19, 1974.

Hon. CARL T. CURTIS,
U.S. SENATE,
Washington, D.C.

DEAR SENATOR CURTIS: Thank you for your letter of October 29, requesting our views on the inflationary impact of H.R. 8193 ("Energy Transportation Security Act of 1974").

The Office of Management and Budget remains strongly opposed to enactment of this bill. In addition to the problems it would create for our national security and our relations with other nations, it is clear that it would have a serious inflationary impact.

The bill would result in a serious and immediate increase in the cost of petroleum imports. Estimates of the cost of using older and less efficient U.S. tankers that could be dedicated to foreign trade show that existing U.S. flag ships would require rates at least 200 percent higher than for foreign flag ships, and this differential could be as much as 300 percent depending on the route.

There would also be a serious cost increase for the domestic transportation system. Current U.S. flag tanker capacity is not sufficient to meet both domestic requirements and the 20 percent of oil imports reserved under the oil cargo preference bill. This overall shortage will put strong upward pressure on domestic shipping rates. Freight rate increases of upward 150 percent for domestic ocean borne transportation of petroleum could be expected.

The total short-term cost impact could vary from $300 to $600 million per year depending on the level of oil imports and the prevailing foreign flag charter rates. Increased oil imports are anticipated, and freight rate projections suggest that a serious over-tonnage situation is developing worldwide which is expected to depress freight rates. Both these factors would tend to increase the cost impact resulting from the use of U.S. flag ships.

The bill would also have an adverse inflationary impact on the U.S. ship construction industry. Most major U.S. yards are now operating at or near their current capacity. The demand for labor at shipyards is now increasing at a rate of 8 to 12 percent per year, resulting in severe skilled labor shortages. Serious material shortages began developing in 1973 and steel shortages have become critical for some yards. A recently completed nationwide survey of yards by the Maritime Administration showed almost half had experienced delays or anticipated future delays in the delivery of steel. The added demand for ships created by this bill will aggravate these shortages and add to the difficulty faced by the Navy in contracting for ships to meet its force requirements.

The material price index for ships has gone up 22.6 percent in the six month period ending July 1974, while the increase for all of FY 1973 was only 6.2 percent. Average hourly earnings have increased nine percent during the last year. Given the demand for new ships which will be created, yard capacity may have to be expanded by as much as 50 percent, according to industry sources. Unfortunately, the bill provides no incentive to the yards to hold down construction costs. Whatever industry wide increases in investment or operating costs occur in the scramble for new ships would be passed along to consumers through higher than prevailing world freight rates, which the bill would allow.

Supporters of the bill have argued that it provides for a rebate on oil import fees to offset part of the cost impact. They fail to point out, however, that no more than 5 to 10 percent of all crude oil imports incur such fees today. Since the bill's provision for rebate is only for a five year period, rebates will cease at about the time that import fees begin to be applicable to the majority of crude oil imports. Consequently, there would not be any meaningful relief from the increased costs associated with the bill through this rebate provision. In any case, whatever reduction in oil import fees that does occur will reduce revenue to the Treasury and will, therefore, be absorbed by the American public.

The serious adverse impact that this bill would have on our economy, our national security and our foreign relations is clear. The passage of this bill by the Congress would be extremely undesirable.

Thank you for the opportunity to express our views. I hope that this information will be useful to you.

With warm regards,
Sincerely,

ROY L. ASH,
Director.

DEPARTMENT OF STATE,
Washington, D.C., November 13, 1974.

Hon. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: The Secretary has asked me to reply to your letter of October 29 requesting the views on the inflationary potential of H.R. 8193 (Energy Transportation Security Act of 1974).

Before addressing the specific issue of the potential inflationary effects of H.R. 8193, it may be beneficial to summarize the foreign policy implications of the proposed legislation. H.R. 8193 would extend cargo preference for the first time to the area of commercial cargoes and would not only set a precedent but would counter the United States policy of encouraging, to the extent possible, international fair trade for shipping. It would violate commitments made in more than thirty of our Friendship, Commerce, and Navigation Treaties with many countries. The enactment of H.R. 8193 would certainly be tantamount to encouraging similar, but more drastic, moves on the part of the oil-producing countries. It would not only greatly affect the flexibility now enjoyed by importers in meeting supply demands, but it would affect, as noted below, the cost of this supply. Finally, many maritime nations, including NATO alliance countries, have already voiced serious reservations regarding the restrictive nature of H.R. 8193, and thus its passage could vitally affect future diplomatic relations with these nations.

In the matter of the potential inflationary impact of H.R. 8193, such an evaluation may best be couched, first, in general terms, and then in more specific terms of its impact on the shipping industry and on the general public.

If the United States mandates the use of its flag vessels for oil importation, as now proposed, and if oil exporting countries then required the use of their ships for oil exports, either due to retaliation or imitation, both markets would be captive and there would be no competitive force acting to hold down prices. Once the U.S. approves of the

concept of petroleum cargo preference, similar legislation at a higher percentage, as *a condition of supply* may very well emerge from the producing nations. Accordingly, in such a captive market, a foreign government which controls both source and transportation could conceivably raise prices to nearly any level it wishes in the current energy short climate. Diplomatic efforts on our part would then have little logical basis.

In a similar vein, requiring a certain percentage of imported oil to be carried on U.S.-flag vessels would upset the freedom of carrier selection and would thereby inflate the "fair and reasonable" rate charged in U.S. trade. Experience with cargo preference shows that in a protected market the rate tends to escalate because of the relative scarcity of available bottoms required by law.

Any increase in petroleum costs to our export industries, not applicable to our major international competitors, would create upward pressures on our export prices and would adversely affect U.S. export competitiveness. The export industries would include not only those producing petrochemical products, but all export industries which are becoming increasingly dependent on foreign sources of energy.

In a general context, H.R. 8193 would lead to an imposition of higher costs not only in the American economy but on the American consumer as well. The cost increase would be due to both the higher cost of building ships in this country, and to the higher operating costs of U.S.-flag vessels as compared to foreign-flag vessels.

By creating a restricted market with limited competition, U.S.-flag tanker operators will be able to charge maximum rates for the carriage of oil imports. With widespread reports of impending excess capacity in oil tankers through the world (projected at fourteen percent for 1974; a nineteen percent increase in 1975; and an additional sixteen percent increase in 1976), this legislation will not only contribute to the excess, but will preclude U.S. consumers from taking advantage of foreign tankers at a possibly lower rate.

In the field of ship construction, the provisions of the Merchant Marine Act of 1970 which extended direct subsidies to tankers and other bulk carriers, coupled with the funding support of record levels ($303.5 million in FY 1974) has created the greatest peacetime shipbuilding boom in U.S. history. This in fact has stretched the limits of the U.S. shipyard companies to produce large tankers. The proposed legislation will merely create a greater demand for these ships, resulting in higher prices and contributing to inflation.

Inflation costs could extend to other areas as well. A major ship construction program could create new demands for materials that are currently in short supply. For example, the demand could exacerbate the currently projected shortage of steel plate and send some domestic users into foreign steel plate markets.

The American Petroleum Institute estimates the total cumulative cost of such legislation between now and 1985 would be approximately $60 billion. This is compared to an estimated $7 billion for similar expansion under the provisions of the Merchant Marine Act of 1970. In reference to dollars per barrel of transportation cost, API's statistics show that in the absence of cargo preference, the basic transportation cost for the combined fleet of foreign-flag and subsidized U.S.-flag tankers would be an estimated $.92 per barrel in 1980, dropping to $.85 per barrel in 1985. Under cargo preference, the added costs associated with the flag component of imported oil would be substantially higher.

The Department of Agriculture has indicated it opposes H.R. 8193 because in its total concept the bill would not serve the best interests of the American farmer. Specifically, the legislation would impose added costs of at least $.50 per barrel for every barrel of petroleum imported. Hence, as the cost of imported oil increases, the price of domestic oil will tend to rise proportionately. With the agriculture industry consuming more petroleum products than any other industry, it is estimated that H.R. 8193 will cause an increase of farm fuel costs of $35 million per year and an increased total to agriculture of at least $175 million per year. These higher costs will inevitably be passed along to the consumer at the supermarket and would be clearly inflationary. Additionally, H.R. 8193 would establish an unfortunate precedent for the possible extension of U.S. flag preference measures to other commercial imports and exports such as grain and other agricultural commodities Accordingly, the higher petroleum costs and the possible extension of flag quota requirements to the agricultural sector would have a repressive effect on U.S. agricultural expansion and would impair agriculture's significant contribution to the U.S. balance of payments.

Finally, it is noted that an increase in the delivered price of imported oil may very well tend to increase the price of domestic oil, thus adding to the overall inflationary impact of the bill.

In conclusion, the cargo preference provisions of H.R. 8193 are, in comparison to direct subsidy, an inefficient and cumbersome means of promoting the merchant marine, particularly since its implementation would interfere and cloud the deliberate nature of foreign policy, while at the same time drastically fueling the fires of domestic inflation to the detriment of the American people.

If I can be of any further assistance in this matter, please do not hesitate to let me know.

Cordially,

LINWOOD HOLTON,
Assistant Secretary,
for Congressional Relations.

THE WHITE HOUSE,
Washington, D.C., November 11, 1974.

Hon. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: Thank you for your letter of October 29, 1974, and the enclosed information concerning H.R. 8193, the Energy Transportation Security Act of 1974.

I share your misgivings about this legislation and I think you will be interested to know that I wrote Senator Long in June of this year to state for the record my concerns about the detrimental effects on the consumer and inflation which this legislation is likely to have. I enclose a copy of my letter for you.

The opinion I expressed in that letter remains unchanged and I am glad to share my comments with you.

Sincerely,

VIRGINIA H. KNAUER,
Special Assistant to the President
For Consumer Affairs.

JUNE 7, 1974.

Hon. RUSSELL B. LONG,
Chairman, Subcommittee on Merchant Marine, Senate Commerce Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: Your Subcommittee is now considering H.R. 8193, the Energy Transportation Security Act of 1974, and S. 2089, a similar bill, and I would like to share with you and the Members of the Subcommittee my misgivings about this proposed legislation.

As you know, both of these bills seek to promote the worthy goal of the expansion of the U.S.-flag tanker fleet, but, in my view, in a very unwise manner. These proposals would require 20 percent of all petroleum and petroleum products imported into the United States to be carried on U.S.-flag vessels with the percentage rising to 30 percent by mid-1977, if United States tonnage exists to carry this quantity.

As a consumer advocate, I would like to focus on the adverse effects that the enactment of this legislation is likely to have on the consumer.

Passage of oil cargo preference legislation is virtually certain to cause an increase in consumers' cost of living. This is particularly unfortunate in light of the high inflation which currently confronts us. Much of what is going on in the American economy is now dominated by the inflation. The cost of living increased at an annual rate of 12.1 percent in the three months prior to June 1, an exceptionally high rate in the history of the United States.

While estimates vary regarding this legislation's general inflationary consequences and its effect on the prices of specific consumer goods and services, the increases will be appreciable. The American consumer simply cannot afford this.

The Maritime Administration estimates that added annual costs attributable to the proposed legislation would be $79.30 million in 1975, $122.87 million in 1980, and $183.11 million in 1985. The American Petroleum Institute has developed figures showing that the cumulative cost of the legislation between 1975 and 1985 could be as high as $60 billion. As an example of the effect of this legislation on a particular product, the Maritime Administration estimates that the cost increase per barrel of gasoline sold in the United States should this legislation be enacted would be .42 cents in 1974, 1.26 cents in 1975, rising to 2.10 cents in 1985.

Some proponents of the legislation say that these increases are minimal and therefore bearable by consumers. I say that such a position is hostile to the interests of the consumers. The increases—even by conservative estimates—will amount to literally millions of unnecessary dollars out of the pockets of American consumers every year. Moreover, the cumulative effect of the assault of "minimal" price increases upon the consumer's buying power can be truly unsettling, as we are seeing at the present time.

There are signs of improvement on the inflationary front. It is especially important now that we protect our advantage by firmly resisting temptations which would strengthen the forces of inflation. One way that we can be effective in this regard is to defer on cargo preference legislation.

Beyond its inflationary implications, I am also concerned by the fact that implementation of this legislation is very likely to reduce the supply of petroleum imports to the United States, and worsen the energy shortage already facing consumers. William E. Simon has stated that this legislation could hinder our progress toward Project Independence whereby we hope to guarantee ourselves a secure and adequate energy supply for the years ahead.

Spot purchases of oil from foreign refineries account for a significant portion of our imports. I understand that passage of this legislation would interfere with these transactions and could result in the loss of as much as a half million barrels per day for the United States. Moreover, exporters of oil to the Untied States may become disenchanted with cargo preference red tape and turn to other markets instead of those in the United States.

The resultant decrease in supply to our nation would once more disadvantage the consumer—and especially the consumer in coastal areas.

Uneven adverse regional impact is a further reason to question seriously the wisdom of enacting this legislation. The increases in price and limitations on supply would be objectionable if borne evenly by all consumers throughout our nation but they become even more unpalatable when localized in those areas most dependent on foreign oil. In 1970, approximately 70 percent of oil imports was needed by the 40 percent of our population which resides in the 17 Eastern seaboard states, and this disparity is projected to become even greater in the next few years. In addition there are other states—such as Hawaii—which are also largely dependent on waterborne foreign oil imports. Consumers in these areas will feel the sting of this legislation the worst.

Another consideration that can have both cost and supply implications is the fact that through this legislation we would in effect be dictating to foreign exporters the nationality of ships they would have to use to do business with the United States.

Both the Senate and House versions of the oil cargo preference bill, while worthy in their basic intent, threaten to have a very unfortunate impact on the American consumer. In my view, other alternatives—such as direct subsidies for construction of tankers and other bulk carriers—with which the Administration is having good success would be effective in accomplishing our common goal of a vigorous and enlarged U.S.-flag tanker fleet while not at the same time burdening the American consumer.

I respectfully request that the Subcommittee examine carefully the proposed legislation regarding its adverse impact on consumers, and I hope that you will agree that better alternatives than its enactment do indeed exist.

Sincerely,

VIRGINIA H. KNAUER,
Special Assistant to the President for Consumer Affairs.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., November 15, 1974.

HON. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: By letter dated October 29, 1974, you requested the views of this agency on the inflationary potential and economic impact of H.R. 8193, the Energy Transportation Security Act of 1974.

The bill has been of concern to GSA, and particularly its Office of Preparedness, in view of the current shortage of keel space, copper, steel, and manpower in the shipbuilding industry. Enactment of H.R. 8193 would exacerbate these problems by increasing demand, which at the same time would have an obviously adverse inflationary impact. As to the extent of such impact, we defer to the views of the Maritime Administration.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this letter to you.

Sincerely,

LARRY F. ROUSH,
Acting Assistant Administrator.

FEDERAL ENERGY OFFICE,
October 3, 1974.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: There are a number of factual considerations with respect to the oil import fee rebate provision of the Senate version of H.R. 8193 which I would like to bring to your attention. The Senate bill provides that, for a period of five years after enactment, the import fee on oil other than residual fuel oil be reduced by 15¢ per barrel, and the fee on residual fuel oil be reduced by 42¢ per barrel. Fee reductions would be available only for oil imported in U.S.-flag commercial vessels and the reduction would be required to be passed on to the consumer. We have the following observation concerning the import fee provision:

1. With respect to crude oil, rebate of the oil import fee would not offset the increased cost of oil imports which would be caused by the bill. Currently, oil import fees are not charged on the great majority of crude oil imported into the United States. Presidential Proclamation 3279, as amended, provides for phasing in the import fee on crude oil over a seven year period through 1980. From the beginning of the fee system in May of 1973 until April of 1974, fee-free allocations covering 100 percent of the January 1, 1973 import levels were granted. After April 30, 1974, fee exempt allocations will be reduced by a fraction of the original level each year for the next seven years, phasing out completely by 1980.

In addition to these fee-free allocations, the proclamation provides additional exemptions from fees for certain classes of imports, *e.g.* for new or expanded refinery capacity, crude oil imported to produce asphalt, hardship grants to independent refiners, etc.

Since the percentage of imports which are exempt from fees will vary depending on the increase of imports above 1973 levels, as well as other variables such as exemptions for new refineries and hardship cases, it is difficult to predict the precise percentage of imports which will be fee exempt. Nevertheless, based on past data, we estimate that oil import fees will be payable only on from 5 to 10 percent of all crude oil imports in 1974 and 1975. By 1978, import fees will probably be payable on something less than 50 percent of all crude oil imports.

It is evident from the above figures that the provision of the bill which provides for a rebate of 15¢ of the oil import fee would not produce any meaningful relief from the increased costs for crude oil which consumers will be required to pay. Since the bill's provision for rebate is only for a five year period, rebates will cease at about the time that import fees begin to be applicable to the majority of crude oil imports.

2. For residual fuel oil the Senate bill would rebate $.42 of the higher license fee, currently $.30 per barrel moving to $.42 per barrel on November 1, 1974, and $.63 per barrel by November 1, 1975. This 42¢ per barrel rebate of the import fee on residual fuel oil is apparently aimed at reducing consumer costs in New England, since that region consumes most of the imported residual fuel oil. The observations made above with respect to the small amount of crude oil actually subject to import fees in the short term apply to residual fuel oil also. Imports of residual fuel oil into the East Coast have been virtually decontrolled for a number of years. As a result licenses were issued for the importation of 2.9 million barrels per day of residual fuel in the 1973 base year although actual imports were less than 2.0 million barrels per day. Under the phase out schedule it will be 1976 or later before any fees need be paid for imports of residual fuel oil into the East Coast provided that normal trade patterns continue.

Thus in the short term, the proposed rebate of import fees on residual fuel oil will provide little or no relief for the increased costs to consumers of cargo preference.

In addition, the rebate of 42¢ per barrel is not consistent with the rationale for the imposition of an import fee on refined petroleum products which is designed to encourage domestic refining capacity. To the extent that a rebate of 42¢ per barrel exceeds the estimated increased cost of shipping in U.S. bottoms, integrated refiners will find it cheaper to refine in the Caribbean and Canada and ship to the United States rather than to refine in the United States. Thus, in the future when fees are charged on residual fuel imports, the bill would tend to export refining capacity and jobs. We fail to perceive any reason why a rebate on residual fuel should be greater than the increased cost for shipping in U.S. vessels.

3. The House Committee on Ways and Means has the issue of the oil import fee under active consideration. The Committee's earlier version of tax reform legislation included an amendment to Section 232 of the Trade Expansion Act (the basic authority for the import fee system) which would have prohibited the imposition of an import fee on crude oil when the price of imported oil is higher than the domestic price. We understand that this approach is currently included in the Committee's new tax reform proposals which will be in final form in the near future. If such legislation were to become law, the provision in the Senate version of H.R. 8193 providing for rebate of the fee on oil imports would be meaningless with respect to crude oil imports (assuming that the foreign price continues to be higher than the domestic price).

4. Dedication of import fees for this and numerous other purposes which have currently been suggested tends to lock the government into a particular form of protection and it would remove the flexibility which Section 232 of the Trade Expansion Act intended to give the President. For instance, it would be very difficult to shift to a quota system or to adopt a variable fee. It is also worth noting that the misuse of the import program to subsidize all sorts of special interests was responsible for much of the abuse of the former quota system. To now use fees for purposes other than those relating directly to national security, may cause the fee system to fall into the same disrepute.

In light of these considerations, I strongly urge that the Conference Committee not adopt the provision of the Senate bill providing for the rebate of oil import fees.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN C. SAWHILL,
Administrator.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., November 14, 1974.

HON. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: The Secretary of Defense has asked me to reply to your letter of 29 October 1974 in which you expressed concern in connection with the inflationary aspects of the Energy Transportation Security Act of 1974 (H.R. 8193).

We have followed the progress of this legislation since it was introduced. We have carefully reviewed the Conference Report on this bill, which now has House approval, and find that the possible economic impact on the Department of Defense (DoD) is very speculative and not readily amenable to precise quantification.

With respect to the cost of petroleum products, we estimated that the impact on DoD would be a cost increase of approximately $10.6 million in 1980 and $15 million during 1985. These figures are to be compared with the estimated DoD expenditures for petroleum products in FY 1975 of approximately $3.2 billion.

As for the costs of carriage of these products, again we are in a speculative area. Military Sealift Command (MSC) moves most of these cargoes in chartered vessels which are, almost without exception, US-flag tankers. Currently, MSC tanker charters are within reasonable relationship to world scale rates due to conditions in the world-wide tanker market at the time of chartering. Due to the terms of these charters, except for justifiable

changes in rates (such as those attributable to fuel surcharges), we would not foresee any other upward cost changes until the beginning of substantial charter terminations in about the 1978 time frame. Beyond that date, since we must use US-flag tankers for all of our transportation where practicable, MSC would probably charter a minimum number of U.S.-flag tankers at the best rates then available. These rates would be driven by the amount of available U.S.-flag tankers and the size of the demand for these ships at that point in time. The best that can be concluded is that H.R. 8193 would probably create a floor for U.S. tanker rates which might be higher than rates not inhibited by the bill's provisions. In sum, we are currently somewhat insulated from substantial increases in ocean rates beyond those which are otherwise justifiable by other pressures such as rising manpower costs. However, it seems likely that the rates on the "spot charter" market for U.S.-flag tankers will increase significantly as the provisions of the bill begin to take effect. When this occurs, we would attempt to minimize the need for "spot charters" just as we do now in the exercise of prudent management and quite apart from concerns over inflationary pressures.

With respect to the possible effect the legislation might have on Navy shipbuilding programs, we recognize the inflationary pressures resulting now from conditions existing without such legislation. Therefore, to the extent general cost increases can be expected in private construction, the cost of the Navy's programs would increase probably in the same magnitude. Significant increased tanker construction in U.S. yards might interfere with these programs, not only in terms of shipyard capability but also the inflationary pressure created by two sectors of the economy competing for the same shipyard capability.

However, while the legislation undoubtedly is designed to encourage tanker construction, it does not require it. Even as to the 20 per centum transportation requirement, it need be satisfied only to the extent U.S. built and privately-owned vessels are available. Therefore, the degree to which new tanker construction will result, and, in turn, its adverse impact on Navy shipbuilding programs is highly speculative. Of course, the precise amount of new construction in shipyards will be sensitive to the manner in which the legislation is administered. Any short-term adverse effects must be considered in the light of the fact that increased tanker construction resulting from the legislation could result in an expansion of U.S. shipyard capabilities which, in turn, would be available for future national defense needs.

Another aspect of shipyard activity should be considered. There is uncertainty as to future import levels particularly as Project Independence efforts begin to make themselves a significant factor as we move through the next decade. The uncertainty as to these levels will probably act as a deterrent to investment in new tanker construction. Among other considerations, most of the vessels built under the stimulus of H.R. 8193 should, if the expected increased transportation costs are to be minimized, be of the larger sizes.

As Project Independence develops momentum, these vessels will be unable to compete effectively in foreign trade and face decreasing employment opportunities. Thus, a boom and bust cycle could occur in U.S. shipbuilding and maritime employment which might lead to strong political and economic pressures either to mitigate the drive for energy self-sufficiency or to force ever higher percentage preferences for U.S.-flag carriage of petroleum products. Either alternative carries the genesis of instability in the National energy sector at a time when stability could assist counter-inflationary efforts.

With respect to some of the matters mentioned in the attachment to your letter which outlined important considerations not addressed above, we would defer to other interested executive departments in their respective areas of responsibility. We recognize our collateral interests and therefore offer some additional comments below.

The DOD has historically supported a strong, modern U.S. merchant marine, capable of providing U.S.-flag vessels in adequate numbers to support the Defense needs of the nation in time of peace or war. The post-war decline in the U.S. Merchant Marine has been viewed with misgiving, but the passage of the Merchant Marine Act of 1970 finally raised the prospect that the nation's shipping fleet could be revitalized in coming years without resort to constraints on the free access of the world's merchant fleets to U.S. ports. For, just as we support a strong U.S.-Flag Merchant Marine, we oppose measures which would seek to impose limitations on the free movement of commerce on the high seas. Restrictions by one nation breeds restrictions by many to the ultimate detriment of all.

The United States has become, and will remain for some years into the future, an oil-short and refinery-short nation dependent on multiple foreign sources of crude oil and refined products to sustain its economy in peacetime and to insure adequate petroleum resources for the nation's security in time of war. We cannot expect the nations which produce or refine that oil, however friendly they may be, to look with equanimity on unilateral American legislative actions which would dictate in part the flag of the vessels which call at their ports to carry away their crude oil or refined products, or deliver crude oil to their refineries. H.R. 8193 would so dictate, and should it become law, we must realistically anticipate counteractions which would lead to compartmentalization of the world's tanker fleets on a national flag basis. Eventually, most tankers would be controlled by governments which are likely to be parties to, or vitally concerned with future potential crises in international oil supply, whether caused by economic, political or military reasons. The great flexibility in employment of the world tanker fleet which we have always enjoyed in the past would be gone, with potentially harmful results in an emergency.

Moreover, it is the potential constraints on oil availability, not tankers, which is the key to adequate energy supply. This fact was well demonstrated during the recent oil embargo when almost overnight the world went from a tight tanker supply to a large surplus. There is now a large and growing excess of world tanker capacity which will be sharply increased whenever war or boycott interferes with normal oil supply. Availability of U.S.-flag tankers does not therefore provide significant additional assurance that an adequate oil supply will be maintained. In fact, during politically or economically motivated oil boycotts against this nation, U.S.-flag tankers could be a distinct liability at loading ports of boycotting or neutral nations.

I trust that the foregoing will provide you with the information you desire. If we can be of further assistance in this matter, please let me know.

Sincerely,

ARTHUR I. MENDOLIA,
Assistant Secretary of Defense—Installations and Logistics.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., November 15, 1974.

Hon. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: In response to your October 29, 1974, letter concerning the economic impact of H.R. 8193, I certainly share your concern about the inflationary effect that would result from requiring that 30 percent of U.S. oil imports be carried in U.S. built and registered tankers. As you may know, we have consistently opposed the enactment of H.R. 8193, based in part on the increased consumer cost and inflationary effect of the measure. Enclosed is a copy of a letter to the House Merchant Marine and Fisheries Committee which sets forth the Department's original position in opposition to this bill. The reasons for this position are still valid.

In addition to the considerations which we have previously expressed (and which are also reflected in your letter and its enclosures) I should add that the bill could adversely affect our current program to accelerate exploration and development of the Outer Continental Shelf, because the bill will require additional tanker construction by the same shipyards we must call on to produce new drilling rigs. Many of these shipyards are currently operating at capacity. To the extent that enactment of H.R. 8193 would cause this capacity to be used to transport insecure imported oil instead of building OCS drilling rigs to increase domestic production, the "Energy Transportation Security Act" would in fact contribute to our overall energy insecurity.

I appreciate very much your efforts in opposition to H.R. 8193.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 9, 1973.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, Washington, D.C.

DEAR MADAM CHAIRMAN: This responds to your request for this Department's view on H.R. 7304 and H.R. 8193, identical bills "To require that a percentage of United States oil imports be carried on United States-flag vessels."

We recommend against enactment of these bills for the reasons stated herein.

Section 901 of the Merchant Marine Act of 1936 as amended, 49 Stat. 2015, 46 U.S.C. § 1241(b)(1), requires that 50 percent of any cargo procured by the United States from a foreign nation or furnished by the United States to a foreign nation without reimbursement, shall be transported in United States-flag commercial vessels. For the purposes of the Act, United States-flag vessels must be documented under United States laws and must have a United States crew. If the ship was built or rebuilt outside of the United States, or if it had been documented under a foreign flag, to qualify as a United States-flag vessel it must be documented under United States laws for three years.

H.R. 7304 and H.R. 8193 would amend the Act to require that 20 percent of all petroleum products imported into the United States on ocean vessels be transported in privately owned United States-flag commercial vessels to the extent such vessels are available at fair and reasonable rates. The requirement would be increased to 25 percent in 1975 and 30 percent in 1977 if the United States tonnage is adequate to carry that quantity.

We oppose both bills for several reasons. First, while the United States and many other nations now have cabotage laws restricting trade between domestic ports to vessels of their own flag, very few countries impose these flag restrictions on their imports. The United States has traditionally favored international free trade for private shipping. Enactment of these bills is therefore contrary to that tradition and might prompt similar restrictions by other countries on their imports or restrictions by oil producing nations on their exports.

Second, the bills would substantially increase the cost of imported oil to consumers. American crews are two to three times more costly than foreign crews. The increased cost of imported oil would be borne mostly by east coast consumers. Assuming that this country's dependence on foreign oil increases at the current rate, the bills could raise the cost of imported oil by hundreds of millions of dollars annually by 1985.

While we recognize the importance to the nation's security and economy of a strong domestic shipping industry, we note that there are presently a number of Federal programs designed to revitalize the domestic shipping industry on both the building and operating levels. Moreover, in time of emergency the United States can call upon ships from the "effective control fleet."

This fleet is comprised of ships sailing under Panamanian, Honduran and Liberian flags and owned by the United States citizens who agree to transfer control of the ships to the United States in the event of a national emergency. Moreover, many United States owned vessels sailing under foreign flags of convenience never sail into ports controlled by countries of the flag they are flying. The ties these vessels maintain with such countries are often minimal and for appearance only. Any danger of these vessels coming under exclusive control of the foreign country where they are registered is thus remote.

Therefore, we do not feel that the national security benefits these bills are intended to achieve justify the conflict with free trade policies, and the unavoidable increase in costs to consumers of imported oil.

The Office of Management and Budget has advised that there is no objection to the presentation of this report and that enactment of H.R. 7304 or H.R. 8193 would not be in accord with the program of the President.

Sincerely your,

STEPHEN A. WAKEFIELD,
Assistant Secretary of the Interior.

MASSACHUSETTS INSTITUTE OF TECHNOLOGY
Cambridge, Mass., November 4, 1974.

DEAR SENATOR CURTIS: I hasten to reply to your letter of October 29 asking for me to comment on the inflationary potential and general merits of H.R. 8193, which would require that some larger fraction of all U.S. oil imports be carried in U.S. registered tankers.

A jury of economists of all shades of political opinion would largely concur that this legislation would add to the current inflation, and would subtract from the real standard of life of the American people, without at the same time adding any worthwhile national security or protection of our energy resources.

Indeed, at the Second Summit Meeting of Economic Experts, at the Waldorf in New York, of the 23 economists present, 21 expressed themselves as being opposed to precisely such measures as this one. Of the two who refused to approve the general statement of the other 21 economists, one was the AFL–CIO representative.

I believe this is one measure that members of both political parties can join in rejecting.

Sincerely yours,

PAUL A. SAMUELSON,
Institute Professor.

THE UNIVERSITY OF MICHIGAN,
Ann Arbor, Mich., November 6, 1974.

Hon. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR CARL: This is in response to your letter of October 28 requesting information about the inflationary potential of the Energy Transportation Security Act of 1974. I regard this Bill as an excellent illustration of how a narrow special interest can triumph over the general interest. The analyses of the FEA and the Chamber of Commerce both indicate that the burdens imposed on consumers from this Bill are simply enormous. Any member of the Senate or the House who has been expressing deep concern about the high cost of gasoline and oil to consumers would be displaying hypocrisy if he votes for this Bill. That is a strong statement but it is, I believe, a fair statement.

Moreover, the Bill has practically nothing to do with the insecurity that constantly threatens our supply of oil. That insecurity arises from uncertainty about production and sale, not about transporting oil which would otherwise be available.

Regards,

PAUL W. MCCRACKEN.

SOUTHERN METHODIST UNIVERSITY,
Dallas, Tex., November 7, 1974.

Hon. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: I certainly commend your seeking views on the Energy Transportation Security Act.

I am afraid that I simply do not have time to prepare a useful statement on the impact of this bill. To do a thorough job would simply take more time than I have available between now and November 12.

Though I cannot express my views in quantitative terms, I can certainly say that this will raise the price of oil and is inflationary. It is a piece of legislation which aims to help a sector of the economy, but ends up asking that the rest of the economy pay for the price.

I realize that this is not a sufficient documentation of my views, but there is simply not time to respond thoroughly. The simplest response I can make is that this act, if passed, will drive prices up.

Sincerely,

C. JACKSON GRAYSON, Jr.

HARVARD UNIVERSITY,
Cambridge, Mass., November 5, 1974.

Sen. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: Thank you for the invitation to comment on H.R. 8193, the "Energy Transportation Security Act of 1974." This legislation would seriously compound our inflationary difficulties, contribute to our energy problems and all without significant redeeming social value.

The American taxpayer carries a heavy burden for the U.S. Merchant Marine. The subsidies both to shipbuilding and to the operations of ships are great. These enormous transfers from the taxpayers to this particular small industry are "justified" on national security grounds. Yet we discovered in the Vietnam War that the U.S. Merchant Marine was of very limited usefulness.

If the Congress and the President find themselves unable to resist the political pressures for this legislation under the current economic circumstances, then our political-economic system is in very deep trouble. To make the critical energy imports the captives of a particular industry would really be hard to justify to the American people.

There are considerable problems about tankers, as has been developed in a number of magazine articles. I would favor a more forceful policy of regulation of the basic safety and anti-pollution standards of *all* tankers that deliver oil to United States ports. But this legislation does not focus on that problem.

Sincerely yours,

OTTO ECKSTEIN.

UNIVERSITY OF CALIFORNIA, BERKELEY,
Berkeley, Calif., November 13, 1974.

Senator CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: Thank you very much for your letter of October 29, 1974, requesting my views on the Conference Report relating to HR8193. It is most regrettable that no "Inflationary Impact Statement" has been prepared on this ill-advised legislation. For it would definitely reach the conclusion that this Bill would aggravate the already deleterious inflationary pressures upon our economy. It cannot but have the effect of raising the price of imported crude and, thereby further inflating the price of gasoline, heating oil, fertilizer and numerous other petrochemical-related products. The extremely high cost of commercial fertilizer is particularly a problem of grave concern both to our own and foreign agricultural producers. According to my estimates, the "Energy Transportation Security Act of 1974" would have the net effect of raising the price of gasoline, above 1 to 2 cents a gallon.

The evidence is incontrovertible that this ill-chosen Act would seriously aggravate the already existing shortages in basic industries, such as steel. The main objectives of the Act are to strengthen the monopoly position of tanker builders and the maritime trade union. Both these effects are especially regrettable at a time when President Ford and the Congress are attempting to reduce United States dependency upon foreign oil and to expand our own output. The distortion in the balance of free collective bargaining that this legislation would bring about injects a political factor into the collective bargaining process that is bound to have deleterious effects upon the nation's objectives of fighting inflation, reducing monopoly power, and negotiating a code of trading principles under the GATT which would reduce rather than exacerbate the cartelization of foreign trade and the disruption of the international financial structure.

The OPEC cartel has, in effect, raised costs to the importers of crude oil by 20–30% during the last year, in addition to the four-fold rise in posted cost plus tax prices. They have recently attempted to shift the blame for higher oil prices on importing oil companies by a small reduction in their posted price for crude countered by a comparable increase in their taxes and royalties to the importers. This is nonsense. Obviously it has no impact whatsoever at reducing the aggregate international payments of the oil importing countries to the OPEC cartel. Nor is it likely to reduce the price to consumers. After adjustment for inventory profits, margins in processing and distribution have recently fallen.

The passage of HR8193, and its resulting rise in the price of crude, will put into jeopardy the credibility of our Government's attempt to struggle with inflation. It opens the door to the cartelization of trade in other basic commodities in short supply, such as iron ore. In the past, mercantilist policies of this kind have brought about aggressive "beggar-thy-neighbor" trade programs, with extremely serious results on the political stability of the trading countries involved. There have even been instances of war. From the point of view of political economy, there is nothing to justify the passage of this legislation; particularly since the Maritime Act of 1970 is well suited to the legitimate expansion of the Merchant Marine.

Yours respectfully,

JOHN M. LETICHE,
Professor of Economics.

THE UNIVERSITY OF CHICAGO,
Chicago, Ill., November 13, 1974.

Hon. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: The requirement that a specified percentage of all oil imports be carried in U.S. built tankers is an unconscionable special interest measure that, so far as I can see, has no redeeming feature whatsoever.

The measure would burden the consumer, undermine our policy of promoting expanded international trade, and increase government spending—and all in order to provide employment to classes of labor that are already short and high paid. If it is desired to subsidize seafaring and shipbuilding labor, it would be far cheaper to pay them a direct subsidy without wasting additional resources in building unnecessary tankers. But surely, it would be far wiser national policy to restrict any government subsidy to persons in serious distress.

It is difficult to evaluate the inflationary potential of any single measure by itself. Inflation arises from an unduly rapid increase in the quantity of money relative to output. By increasing government spending, this measure would foster a more rapid increase in the quantity of money; by wasting resources, it would make for a lower level of output; both effects would be inflationary unless offset by reductions in spending elsewhere. In the present situation, such reductions are difficult to envision.

I conclude that the public interest clearly requires the defeat of any provisions requiring oil to be carried in U.S. built registered tankers. We profess to believe in freedom and free trade. We should practice what we preach.

Sincerely yours,

MILTON FRIEDMAN.

YALE UNIVERSITY,
New Haven, Conn., November 8, 1974.

Hon. CARL T. CURTIS,
United States Senate,
Washington, D.C.

DEAR SENATOR CURTIS: I respond to your letter of October 29 asking for my judgment on H.R. 8193 (Energy Transportation Security Act of 1974). This bill would require eventually 30% of all oil imports into the United States to be carried in U.S. built registered tankers.

I believe that this bill would be highly inflationary, in the worst sense of raising real costs, and should be defeated. I agree very much with the statement of additional costs, prepared by the Federal Energy Administration, and with the statement of "concerns potentially related to the inflationary impact of H.R. 8193" included in your letter. In addition to raising the prices of petroleum products to the already beleaguered consumers, this provision would raise the production costs of American manufacturers and this reduces their competitiveness in world markets. I am, therefore, highly skeptical of any alleged balance of payments benefits from this provision because of this loss in competitiveness. Moreover, many of the foreign flag tankers are in fact U.S. owned, so that earnings on their operations help the U.S. balance of payments as well.

Furthermore, the impact of higher transportation costs on the prices of petroleum products to American consumers and manufacturers would not be limited to imported petroleum products, since imported petroleum products represent the marginal supply to the United States and increases in those prices would also lead to an increase in prices of American petroleum once price controls are removed or eroded, as I fully expect them to be over the next several years. For this reason the FEA estimates substantially understate the inflationary impact of this provision.

In the short run, this provision will place a great premium on existing U.S. tankers, increasing the price differential between U.S. and foreign flag tankers to a much greater degree than we now observe. In the long run, as order back-logs are worked off in American shipyards, the U.S. tanker fleet can be expanded to handle this, but for quite a number of years the American economy will have to bear the higher price differential that would result. The inflationary impact in the FEA statement is therefore understated for this reason as well.

Finally, if we are to take project independence seriously, in the long-run the dependence of America on imported oil should decline, but this is the same long-run for which under H.R. 8193 we would have established an enlarged American tanker fleet. The life of tankers is thirty years or more. It is therefore predictable that as U.S. dependence on American imported oil declines, the American shipowners, having responded to this piece of legislation, will press strenously for increasing their share of a reduced flow of oil imports above the 30% presently contemplated in the bill, so that the increase in costs and prices associated with oil coming into the U.S. will in the long-run also be larger than that estimated by the FEA.

For all of these reasons I believe that this measure is extremely ill-advised and that it should be defeated in the Senate.

Sincerely yours,

RICHARD N. COOPER.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
November 5, 1974.

Hon. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: We appreciate getting your inquiry on H.R. 8193.

We agree completely with the analysis of the bill prepared by the U.S. Chamber. We believe that H.R. 8193 is a completely bad bill—highly inflationary and adverse to the manufacturing community, the economy, and the public interest.

For your information, I'm enclosing a copy of our last *NAM Reports*, which carries an article by Senator Percy whose views on this issue we endorse wholeheartedly.

Sincerely,

DOUG KENNA.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, D.C., November 13, 1974.

Hon. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: Thank you for your letter requesting our opinion on the inflationary potential of H.R. 8193, more frequently referred to as the "Cargo Preference Act."

I wish to commend you for your most diligent and active opposition to this unwise legislation, and for your efforts to defeat the Conference Report when the Senate reconvenes on November 18, 1974.

We sincerely appreciated your placing our study, "Why the National Chamber Thinks the Conference Report on Cargo Preference Should Be Defeated," in the Congressional Record of October 8, 1974.

In addition to this study, we offer the following thoughts regarding what we believe to be a misunderstood provision in this legislation.

Our study emphasized both the inflationary nature and the direct consumer/cost impact of the proposed legislation. However, during Floor debate, we learned that some Senators believed that adverse economic effects of H.R. 8193 would be offset by the license fee rebate provision that was added to the Bill. We would like to correct this misunderstanding.

As you know, the proponents of the Bill initially attempted to convince the Congress that no increased cost would result from the passage of this legislation. However, when confronted with the overwhelming evidence that the Bill would, in fact, result in markedly increased shipping costs which would then be passed on to the consumer, the proponents attempted to minimize the cost impact by adding a provision to rebate oil import license fees.

In our view, this provision would do very little, if anything, to offset the inflationary and anti-consumer impact of H.R. 8193. You will note from the attachment that the Federal Energy Administration holds similar views. The key points of our own study are highlighted below:

1. Contrary to popular belief, license fees are not paid on every barrel of oil imported by tanker. In fact, under the rules applicable to the administration of the license fee program and based upon the Commerce Department's projection of future oil imports, not a single barrel of residual fuel oil imports would be subject to a license fee in 1975. Furthermore, only 6½% of total residual fuel oil imports would be subject to a license fee in 1976. Thus, promising to refund license fees on residual fuel oil imports in the early years is obviously meaningless since there would be no license fee payments to refund. Our analysis also shows that only 25% to 30% of crude oil imports would be subject to license fees in 1975 and 1976.

2. Over the five-year period that the license fee rebate provision would be in effect, its cumulative potential value is about $850 million. However, the added cost of the legislation over this same period would total at least $6.5 billion and could easily be double this amount if consideration is given to the possible effect of foreign retaliation or imitation. Thus, over the short term the license fee rebate provision would offer at best a 13% reduction, and in all probability the reduction would be closer to 6% to 7%.

3. Taking a longer term view, the cumulative cost of the legislation over the 1975 to 1985 period would be at least $25 to $31 billion and could be double these amounts. On this basis, the $850 million potential value of the fee rebates would represent a 3% reduction at most.

4. While there could be a relatively minor reduction in the direct cost to the consumer, the license fee remission features obviously would do nothing to reduce the overall inflationary impact on the economy. It would not prevent the diversion of critically short raw materials and capital into shipbuilding to satisfy the artificially created demand for tankers. It would not reduce upward pressures on shipbuilding costs. It would not eliminate the captive market created for U.S. flag tankers. The only thing that it would do is transfer a small amount of the added cost of the bill from the consumer to the U.S. Treasury and thus to all taxpayers. In no way would this shifting of the cost burden reduce the inflationary impact of H.R. 8193 on our already troubled economy.

These points will be the substance of a letter we will send this week to selected Senators.

We hope this additional information will be helpful in your consideration of an inflationary impact statement.

Cordially yours,

ARCH N. BOOTH,
President.

AMERICAN PETROLEUM INSTITUTE,
Washington, D.C., November 14, 1974.

Hon. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR CARL: We are pleased to respond to your letter of October 29 requesting our analysis of the inflationary impact of H.R. 8193, the Energy Transportation Security Act

of 1974. We congratulate you for initiating this program. In the light of President Ford's expressed interest in this matter, we believe preparation of an inflationary impact statement is an essential prerequisite to further action on the measure.

In testimony before the Subcommittee on Merchant Marine of the Senate Committee on Commerce, API presented a detailed analysis showing that the proposed legislation would cost the consumer at least $60 billion over the 1975–85 period. We have attached our testimony containing this analysis. The analysis shows an added financial burden on the average household in the U.S. amounting to at least $70 per year.

One might argue that such a burden could be supported if it carried with it important and substantial benefits respecting national security or a guarantee of uninterrupted flows of vitally needed foreign source oil supplies. The proposed legislation does not satisfy either of these objectives.

In a number of respects the API projection must be viewed as conservative, since it did not include the following effects which would add to the inflationary impact:

1) No effort was made to reflect the likelihood that passage of this legislation, in addition to creating a captive market for existing U.S. flag ships, would also result in a captive market for U.S. shipbuilders. This would result in higher capital costs for new U.S. construction and ultimately higher freight bills for imported oil.

2) The projection did not reflect the added impact associated with mandatory use of high cost U.S. flag tankers at a time when the international tanker industry is expected to face a significant and prolonged oversupply situation. A depressed foreign flag freight market is expected to develop. The cost of reliable foreign flag tonnage coverage would then be lower than that indicated in our analysis.

3) The API cost impact study assumed tonnage coverage of U.S. import requirements by an optimum mix of large, medium and small ship sizes (the lowest cost case). Failure to move forward promptly with U.S. deep water port development on the Gulf and East Coasts would require the use of smaller ships and thus further increase the cost impact of this bill.

4) The API analysis was confined to tanker costs for oil imports. No attempt was made to assess the inflationary impact which would result if the cargo preference concept were expanded to include other import and export commodities as well.

If any one of the above factors had been included in the API analysis, the estimated $60 billion inflationary impact of H.R. 8193 would have been substantially higher. The many estimates of the inflationary effect of this bill which have so far been considered by Congress, including our own estimate, all have one thing in common. They reflect only the direct cost impact on imported petroleum supplies. We believe this would be only the starting point for an inflationary spiraling effect which would hit at many segments of our economy.

Consider, for example, that an increase in energy costs would result in higher machinery and fertilizer costs in the agricultural sector which would be recoverable mainly through higher food prices. There would be an increase in raw material costs for the petrochemical industry resulting in higher costs of consumer goods such as plastics, paints, detergents and synthetic fibers. Segments of our domestic transportation industry would seek to recover added fuel costs through higher distribution charges for consumer goods. Thus, the true inflationary impact of this bill far exceeds any of the limited analyses to which it so far has been subjected. Surely the economists to whom you have written will call these indirect inflationary results to your attention.

Your letter requested our comments on the cost analyses prepared by the United States Chamber of Commerce and the Federal Energy Administration. With respect to the Chamber document, it does make a strong and forceful case as far as it goes. However, it tends to downplay the very real inflationary impact of potential foreign actions with respect to retaliation or imitation. One need only consider the protests that have already been filed through diplomatic channels by foreign governments to conclude some protectionist response of their own is inevitable. Furthermore, any retaliatory response would not have to be confined to oil or oil tankers but could be directed at any and all phases of international trade. The rebuilding of such trade barriers which the U. S. up until now has so diligently been working to tear down would most certainly add further inflationary pressures on the economy.

In our view, the Federal Energy Administration estimate understates the inflationary results of the legislation. We believe that to base the inflationary impact solely on the cost difference between a U. S. flag and foreign flag 250,000 DWT tanker operating on a Persian Gulf to U. S. East Coast trade is much too conservative. Such an approach does not truly represent the "direct" added costs which are incurred since it does not include a realistic weighting of smaller tankers used extensively in the import trades. An appropriate mix of different size ships can be reasonably estimated based upon import volume, type of oil (crude versus product) and the source of the oil. Furthermore, documented evidence indicates that under this legislation U. S. flag vessels would enjoy a captive market and command a higher price and this should be considered a real "direct" cost, not an intangible one.

We appreciate this opportunity to call attention to the highly inflationary effects of this measure. We continue to urge, as we have on numerous earlier occasions, that this bill not be enacted.

Sincerely,

FRANK.

Mr. CURTIS. Mr. President, there never was a piece of legislation so universally condemned by economists of all complexions. There was never a piece of legislation presented on this floor that was opposed by more Government agencies.

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

The Senator from New Hampshire has 5 minutes remaining.

Mr. COTTON. I yield 3 minutes to the distinguished Senator from Illinois.

Mr. PERCY. I thank the distinguished Senator.

Mr. President, I shall be very brief indeed, because it is my sincere hope that we are going to vote by 5:30 this evening.

Mr. President, I commend my distinguishd colleagues from Nebraska (Mr. CURTIS and New Hampshire (Mr. COTTON), for the outstanding leadership they have provided on this particular issue. I think the cargo preference report should be defeated by the Senate.

Mr. President, the inflationary impact of this bill is enormous and potentially devastating to our economy. Very simply, this bill is going to raise the price of oil. It is going to raise it by billions of dollars. We do not need this type of legislation in the best of times, and certainly not now in the worst of times, in the midst of a serious economic situation.

Economists of every philosophical persuasion have examined this bill and are unanimous in their conclusion that the economic effects of the bill would be devastating.

Certainly, the letters that the distinguished Senator from Nebraska has inserted in the RECORD are filled with references and strong warnings of the impact, the adverse impact on our economy that the passage of this bill would have.

Then there are the international implications. Passage and implementation of this bill is a direct violation of numerous friendship, commerce, and navigation treaties with many nations, as testified by the Department of State.

Apart from that, the legislation invites retaliation. This weekend, there were reports that the Saudis are now considering requiring that their oil exports be shipped on their tankers. As far as we know, nothing definite has been decided yet, but passage of this bill will be an open invitation to every oil producing country in the world to enact similar laws. What possible reasoning can we use to discourage such moves by foreign nations if we ourselves took the first action?

Mr. President, we hear a lot of talk about how we need to combat inflation. Our inflationary woes are directly tied to the worldwide energy crisis. The Republican Policy Committee recently recommended several proposals to deal with our energy problems. One thing those of us who looked at the problem learned was that the time for talk has passed; the time for action is upon us.

The vote on this conference report should be the litmus test of the sincerity of our speeches. Our constituents need look no further than this vote to see how serious we are about solving the problems we face. A vote for this bill is a vote for the maritime lobby. It is a vote for inflation. It is a vote in direct violation of over 30 treaties that this Nation has solemnly subscribed to. It is a vote which invites retaliation from oil producing nations. It is a vote which strips this Nation of the moral authority to argue against other countries enacting such retaliatory measures. In short, it is a vote against the interests of this Nation; a vote against the interests of the consumer; a vote against the interests of our constituents; a vote against common sense and reason.

The attention of the Nation should focus on this chamber during the next few hours, because the result of this vote will tell the people of this country a good deal about where the priorities of the Senate lie.

I do not see how anyone can make the conscientious effort to say they are against inflation and vote for this bill.

Mr. COTTON. Mr. President, I yield to the distinguished Senator from Kansas.

Mr. PEARSON. Mr. President, I declined to sign the conference report on H.R. 8193, the Energy Transportation Security Act of 1974, as a manager on the part of the Senate. I believe it would be appropriate for me now to state my reasons for this decision.

The act is opposed most vigorously by the administration, and justifiably so. It is grossly inflationary at a time when runaway costs must be controlled. The Secretary of the Treasury on November 20, 1974, estimated that this

legislation will increase the cost of petroleum products to the consumer by more than $315 million in 1975 alone.

H.R. 8193 is in derogation of numerous treaty obligations of the United States entered into to facilitate commerce between free nations. In requiring an increasing proportion of our petroleum imports to be carried on U.S.-flag vessels, the bill invites retaliation by other nations whose maritime industries will be adversely affected.

Mr. President, the pending conference report establishes, for the first time, a requirement that purely commercial cargoes destined for the United States be accorded a U.S.-flag preference. The precedent could be destructive to our crucial export trade in farm commodities with severe repercussions to American agriculture, the U.S. balance of payments and the U.S. trade position in the world.

As a member of the Commerce Committee, I have supported landmark legislation to insure the viability of the U.S. merchant fleet. The multibillion construction differential and operating differential subsidy programs established in 1970 with my support have been successful. Our shipyards are backlogged with work for new construction orders. There is no legitimate basis, therefore, to establish a superfluous program of indirect subsidy which would serve only to fuel inflation and promote tariff increases in ocean transportation.

This act embraces the novel concept of monopoly without economic regulation. It cannot be justified on the basis of any economic theory, and it is not supported by any demonstrable need for legislative action.

Mr. President, I urge the Senate to reject this conference report.

Mr. COTTON. Mr. President, I yield to my distinguished colleague from New Hampshire.

Mr. McINTYRE. Mr. President, here we go again. This conference report on the Energy Transportation Security Act is the same measure that I spoke out against very strongly when it came before the Senate before the Election Day recess.

I am still opposed to this bill. It is a useless spending of public funds.

This bill would require us to carry 30 percent of our oil imports in American tankers. The cost of building those tankers will mean two things: First, it will mean higher fuel prices and second the construction of a new shipyard.

For regions of the country dependent on imports it will mean a 2-cent-a-gallon increase in the cost of fuel by the latest information available to me. Now, 2 cents a gallon may not seem like a lot, but to me and my constituents in a State with 770,000 people that works out to an increase in fuel costs of $17 million a year.

Then, we will have to construct a new shipyard. That will mean another half a billion dollars or so if we pass this bill. At this time of national capital shortages it seems unwise to spend all that money building a shipyard to make one generation of tankers that may be used for only a few years.

We are now embarking on Project Independence. The White House is determined to cut imports. I am sure we will hear more about this. It is already the President's goal to cut imports by 1 million barrels a day next year. The hope is that imports will remain at manageable levels after that.

I do not need to tell my colleagues from the east coast of the dangers of relying on imported oils. We know what the problems are—worry, embargoes, price increases. But if we build this fleet of tankers we will tie ourselves to imports. That is not a very good thing for the country or for my State and region.

At this time, when we want to cut inflation, but see spending money to keep people fed and clothed, Mr. President, I think it is unwise to commit ourselves to building a new fleet of tankers.

If the Senate passes this conference report, I intend to urge the President to veto the bill when it reaches him.

The PRESIDING OFFICER. Who yields time? The Senator from New Hampshire has 1 minute remaining.

Mr. COTTON. Mr. President, I yield a half minute to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, I ask unanimous consent that William Litton of the staff of the Committee on Government Operations have the privileges of the floor during. this debate.

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

Mr. STEVENSON. Mr. President, as a member of the Senate Commerce Committee I have had a chance to study the arguments in favor of and against the Energy Transportation Security Act of 1974. And from the outset I have been impressed by the reasoning and evidence presented by those who favor this legislation.

The primary area of concern for me has been whether, if enacted, it would add to the already high prices the American consumer must pay for imported petroleum products. My own conclusion after studying the record is that costs to the consumer would not rise appreciably. The probability is that they will remain about the same or in fact go down. And the other benefits of this legislation outweigh the unlikely possibility that energy costs to the consumer will go up.

Critics of H.R. 8193, especially the multinational oil companies, argue that the enactment of H.R. 8193 is inconsistent with the 1970 Merchant Marine Act. While they say they support the objective of a larger U.S.-flag tanker fleet as necessary to our national security and commerce, they argue that the vehicle for attaining that objective should be the 1970 act—with its construction and operating differential subsidies—rather than H.R. 8193.

But as the Commerce Committee report notes, these multinational oil companies merely pay lip-service to the 1970 act. With some few exceptions, the multinational oil companies have refused to let the charters necessary to construct U.S.-flag vessels and have continued to build, register, and man their vessels in foreign countries. By mid-1973, 3 years after the enactment of the 1970 act, only 9 U.S.-flag VLCC's—oil supertanker—were scheduled to be built in American shipyards under the 1970 act while foreign-flag shipyards had 394 pending orders, many of them from the major U.S. oil companies.

The opponents of H.R. 8193 further argue that building the VLCC's and other oil tankers in the United States will cost the taxpayers great amounts of money through the subsidy program established under the 1970 act for both construction and operating subsidies.

Although it is undoubtedly true that it still "costs more" to construct a ship in the United States than in other countries it is also true that the differential between the United States and foreign countries has generally been decreasing. Inflation rates abroad have been higher than in the United States. Moreover, there is the simple fact that there are limited subsidy funds under the 1970 act for construction subsidies. The annual CDS expenditures for all types of vessels, including tankers, has been less than $200 million since 1971.

Finally, as to operating subsidies, opponents of the bill have failed to recognize that U.S. tankers in the VLCC class are very nearly equal in operating costs to foreign-flag vessels of that size, particularly when such vessels are given their fair share of long-term charters and more distant trade routes.

Presuming that direct subsidy funding will be limited, especially for the construction of needed tankers, opponents of the bill then argue that the increased costs must be passed on to the consumer. The oil companies have gone so far as to estimate that there would be a cost increase of 79 cents per barrel in 1975, and that the total added cost to the American consumer for oil between 1975 and 1985 because of H.R. 8193 alone would be $60 billion.

The record before the Commerce Committee, however, indicates that the oil industry figures are outrageous exaggerations. Even the Maritime Administration, which testified against the bill, estimated that the increased cost per barrel would be on the order of $.004 per gallon in 1975, and perhaps up to $.0084 per gallon by 1985. In contrast to the $60 billion estimate of the American Petroleum Institute, this increase would work out to about one-third the API estimate, or about $20 billion over the period 1975–85.

If even the Maritime Administration figures were correct, I would not support H.R. 8193, but other evidence presented at the Commerce Committee hearings convinced me that the Marad estimates were also gross exaggerations.

First of all, the Marad estimates for years to come do not take into account the proportionately higher inflation rate in foreign countries. Moreover, the Marad estimates do not take into account the expected cost savings from superports, which government estimates project will provide at least a 20 percent cost savings when they become operational.

The key argument against such estimates of the American Petroleum Institute and the Maritime Administration, however, is that they do not take into

account the concept of "transfer pricing." One economist who testified in support of H.R. 8193 who did take this concept into account went so far as to predict that H.R. 8193 would save the American consumer 68 cents a barrel in 1975. Projected over the 1975–85 time period, this would be a cost savings to the American consumer of $50 billion.

To understand the concept of "transfer pricing," one should begin by asking a simple question: Why do the oil companies choose to construct their tankers overseas, operate them with foreign employees, and register them abroad—even when they are supposedly American companies and to a large extent can be subsidized, especially for the differential in operating costs, by the U.S. Government.

The answer lies in simple economics, the desire of the oil companies to maximize profits. As one representative of a multinational oil company stated during the Commerce Committee hearings, foreign-flag shipping is a "taxless world."

As the committee report states:

> Proponents of the bill went virtually unanswered when they charged that prices that American consumers now pay for oil transportation bear little, if any, relation to the cost of that transportation service. We know that the major oil companies have wholly-owned foreign subsidiaries which, in turn, own the foreign-flag ships used to import the parent companies' oil to the United States. We also know that at this time the cost of shipping oil on U.S.-flag vessels may be slightly higher in most instances. However, what we do not know is whether the price the American consumer is paying for oil transportation on vessels owned by the oil companies actually reflects the lesser costs of constructing and operating the tankers of foreign registry.

And here, I would maintain, is where the many economists and others who have criticized H.R. 8193 have gone wrong. For they have swallowed whole the argument of the API that since the costs of shipping on U.S. bottoms are higher than those on foreign bottoms, this added cost will be passed on to the American consumer if H.R. 8193 is enacted.

What they fail to realize is that cost figures are almost totally irrelevant to any discussion of the consumer impact of H.R. 8193. What must be focused on is not cost, but price. For when a major oil company charters a vessel from one of its subsidiaries to import a load of oil, the purchase price is paid when an accountant makes a bookkeeping entry transferring the price from one account to another. Thus, if the amount of such a transfer on the oil company books reflects only the costs of wages, capital recovery, bunkers and port charges, insurance, maintenance and other miscellaneous costs, plus a reasonable profit, then the oil company claim of increased consumer costs might be valid. But there was persuasive testimony at the Commerce Committee hearings that the oil companies charge themselves much more than costs plus a reasonable profit, and that they pass on much more than that amount to the American consumer as a component of higher oil prices.

The Senate committee report on H.R. 8193 explains why. Simply put, the tax benefits for a multinational oil company are much greater if they take as much of their profits abroad as is possible. They can credit against their foreign profits—that is, the profits of their foreign subsidiaries—the large royalty payments paid to foreign governments. They cannot credit these payments against domestic U.S. profits. Our tax code, therefore, actually encourages the major oil companies to transfer windfall profits to foreign subsidiaries by this process of transfer pricing—and the American consumer winds up paying the exorbitant bill.

The final link in this chain of transfer pricing concerns the IRS' treatment of oil company pricing of the oil transported on foreign ships. The IRS does require that the oil companies prove the price they charge themselves is determined at arms length. But the IRS has allowed the oil companies to meet this requirement by showing that they are charging the so-called AFRA rate for a particular shipment. This is a standard international measure of the price of transport compiled by averaging all freight rates paid in a given month, including spot and short-term charters.

Commerce Committee testimony showed, however, that the oil companies usually charter their vessels over a longer term and for the longer routes, and thus the AFRA rates can be far in excess of the actual shipping costs.

In addition, the companies purchase many of the components of the AFRA rate from themselves at cost, and this in turn contributes to the overstatement of actual shipping costs. The testimony goes on to conclude that if actual costs; plus a reasonable profit are charged by U.S.-flag carriers, such a figure will almost undoubtedly be below the AFRA rates the oil companies now charge themselves. The result will be lower, not higher, costs to the American consumer for imported oil.

Mr. President, most of the opposition to this bill has been generated by the major oil companies. Too many economists and journalists have swallowed whole the incredible statistics and the arguments poured forth by the API without going beyond the surface of the arguments and examining the facts and evidence. Those facts and the evidence argue exactly the opposite case of the major oil companies, and for this bill.

Too often the oil companies come into the Congress with self-serving testimony which ultimately does not serve their cause. For example, in arguing for the deregulation of natural gas, the industry has stated that the cost of deregulation to the consumer will be minimal—when the evidence shows that at this time the cost of deregulation would be exorbitant and that the profits of the oil companies would only skyrocket further. And on this bill they have come in and argued—supposedly on behalf of the American consumer—that the costs to the consumers will be fantastically high, when much of the unanswered testimony presented at the hearings clearly demonstrates that this will not be the case. By now American consumers ought to be wary when the oil companies say they are speaking for them.

Mr. President, I have concentrated on answering the critics of this bill who charge that it will raise the costs of imported oil for the American consumer. This was the main point raised by the bill's opponents and the point which concerned me the most.

What I have not yet discussed are the positive benefits of H.R. 8193—the real reasons for enacting this legislation.

The basic reason, as the name of the bill suggests, is transportation security. Much has been said about Project Independence, an effort to make sure that by 1980 the United States is energy self-sufficient or at least not dependent on oil imports. The United States should not be dependent on foreign tankers any more than on foreign oil producers.

Today, unfortunately, the United States is dependent on foreign tankers. As of the beginning of this year, the U.S.-flag tanker fleet comprised less than 4 percent of the world's oil tanker tonnage—and even this figure understates the gravity of our situation, since most of our fleet is obsolete.

There is also the obvious argument that in a time of rising unemployment H.R. 8193 will help create jobs for Americans. Construction alone of the tankers that will be needed to meet the requirements of H.R. 8193 will provide about 225,000 man-years of incremental employment and an estimated $4 billion to the U.S. economy in the form of wages.

For these reasons, Mr. President, I urge all members of the Senate to vote for the conference report on H.R. 8193. It is time we insisted that the major oil companies invested their windfall profits in the United States—not in Japanese tankers. It is time we insisted that they hire U.S. workers instead of registering their ships abroad to avoid U.S. taxes. And it is time we insisted on transportation security for our vital oil imports.

Mr. MATHIAS. Mr. President, it seems to me that one simple, fundamental proposition has to govern our decision on this bill. That is the fact that someone has to pay the bill for the maintenance of a significant merchant marine.

If we, as a nation, with a great maritime tradition, want to keep our merchant fleet afloat we have to provide for financing it. There are several methods available. One would be the nationalization of the fleet. Another would be greater direct subsidy. A third method, which seems to me preferable, is the kind of economic device embodied in this bill.

All of us would prefer that normal commercial tariff at competitive rates would carry this burden—literally pay the freight. But the fact is that in the complex world of today there are varied factors that make this unlikely if not impossible.

We are, therefore, forced to choose among the alternatives. I have chosen the third as expressed in this bill, which I shall support as I have similar legislation in the past.

Mr. BARTLETT. Mr. President, I oppose the passage of the so-called Energy

Transportation Security Act. While this legislation has been referred to as the Cargo Preference Act, some have suggested that a more appropriate title would be the Consumer and Taxpayer Ripoff Act of 1974.

In a last-minute effort to secure support for passage of this ill-advised legislation, there has been advanced an unrealistic and impassioned plea that Members of the Senate consider the bill counterinflationary. It has been asserted by some that the Congress and the energy-using public are being deliberately misled by multinational oil companies in their attempts to discredit the "security" of the Energy Transportation Security Act. The plain fact, Mr. President, is that the oil industry—independent and major producers alike—does not stand alone in opposition to this measure. The truth of the matter is that this bill has been vigorously opposed by every concerned agency of Government including the Office of Management and Budget; the Departments of State, Interior, Defense, Commerce, Treasury, Agriculture, Transportation, and Justice; the Federal Energy Administration; the General Services Administration; and the Special Assistant to the President for Consumer Affairs. The bill has also been opposed by the U.S. Chamber of Commerce, the National Association of Manufacturers, the Transportation Association of America, the U.S. utility industry, interested farm and agricultural groups, and various other associations.

At the same time, many highly respected U.S. economists including Walter W. Heller, Paul A. Samuelson, Paul McCracken, C. Jackson Grayson, Jr., Otto Eckstein, John M. Letiche, Milton Friedman, and Richard N. Cooper have voiced opposition to the bill as have most of the Nation's leading newspapers and periodicals. The major thrust of all the arguments against this legislation is its inflationary character and the unnecessary cost burden which would be imposed on the American consumer.

It is instructive to note that proponents of the bill have studiously avoided developing empirical data to support their counterinflationary claim and have ignored the mounting opposition voiced by those outside the petroleum industry. It is difficult for this Senator to understand how a program with an estimated cost of over $60 billion over the next decade can be justified in the face of an overriding national commitment to bite the proverbial bullet.

Mr. President, I would urge this distinguished body to look beyond the facade of a catch-phrase title extolling a simplistic concept of "security" or "preference." If this is done, I am convinced that it will be clear that while this bill is highly inflationary, it would contribute nothing to national security and would be a costly and ineffective way of promoting a "preference" to the few at the expense of the many.

Mr. BEALL. Mr. President, in the months that we have been discussing legislation that would require a portion of America's oil imports to be carried on U.S.-flag tankers, the supporters of this measure have argued that it would add immeasurably to the protection and preservation of our marine environment.

The multinational oil companies, the chief opponents of H.R. 8193, have been quick to dismiss this advantage of the bill, contending that their foreign-flag vessels, which carry almost all our oil imports, are as safe as U.S. vessels. They have argued that their vessels flying the flag of Liberia or Panama are among the safest in the world.

Significantly, a report presented to a recent international conference verified what the bill's proponents have been saying: namely that the flag of convenience fleets have proved to be unsafe vehicles operated without regard for crew safety, environmental protection or any consideration other than profit.

The report I refer to was presented by Mr. Peter Quaile, chairman of the Liverpool Underwriters Association, to the International Union of Marine Insurance in July of this year. His report, based on statistics developed by the Liverpool Underwriters Association, states:

In 1973, Flags of Convenience represented 23 percent of the World tonnage afloat, yet over half the tonnage lost.

Breaking this down further, Mr. Quaile notes that:

. . . after an increase in the mid-1960's, the overall loss ration for the rest of the World has remained comparatively stable, whereas that for vessels registered under Flags of Convenience has more than tripled. The loss rations for fire and explosion have fluctuated but throughout, Flag of Convenience ships have suffered a vastly greater incidence of "human failure" and "ship failure."

Mr. Quaile's report states that while there may be some well-managed flag of convenience fleets, "if an owner wishes to put to sea an ill-found, undermanned, and worn-out ship a flag of convenience is probably his best vehicle for doing so."

Mr. President, this is the precise point the supporters of H.R. 8193 have been making—that only American vessels, with their highly trained crews, stringent Coast Guard-enforced construction and operation standards and owners and operators concerned about our Nation's environment, offer the best possible protection against accidents and oil pollution.

Mr. President, I ask unanimous consent that Mr. Quaile's report be printed in the RECORD at this point.

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

INTERNATIONAL UNION OF MARINE INSURANCE, BERLIN CONFERENCE, 1974, CASUALTY STATISTICS—OCEAN HULLS

This is the third successive occasion on which I have had the privilege of presenting a paper on casualty statistics and rather than cover the same ground again I thought it might be useful if I took the previous papers as a base from which to consider some of the more important trends in greater detail.

The statistics of the Liverpool Underwriters' Association, from which my comments are developed, comprise all reported marine casualties throughout the world with the exception of vessels of under 500 gross tons, non-propelled barges and the like, though as last year I shall confine my remarks to an examination of Total Loss figures because it is apparent that, since the general adoption of deductibles, certain incidents of minor, and now consequently uninsured, damage are not being reported as hitherto. A comparison of recent reported Partial Losses would therefore fail to be comprehensive and may be misleading.

DEVELOPMENT OF THE WORLD MERCHANT FLEET

To set the scene I think it is important to establish the trend of World shipping. Chart 1 shows the development of the World Merchant Fleet by a comparison of tons afloat over the past 15 years, subdivided into three headings: Bulk Carriers (including all permutations of combination ships—Ore/Oil, Bulk/Oil, Bulk/Ore, OBO's etc), Tankers, and all other types. The latter includes, of course, many varieties of ship but since over 80% of this tonnage afloat consists of conventional cargo and container vessels the figures may be taken as an acceptable representation of the General Cargo fleet.

The trend towards specialisation is very evident. Tanker tonnage afloat has shown a steady growth and now, being 40% of the World total, is the largest single type. The Bulk Carrier fleet has expanded even faster, representing 5% of the World tonnage in 1959 but no less than 25% in 1973. Perhaps even more significant is the decline in the relative importance of General Cargo tonnage which, whilst showing some increase, comprised 64% of the World fleet 15 years ago yet only 35% to-day.

TONNAGE TOTALLY LOST

Chart 2 shows the gross tonnage lost annually under the same headings, and it will be observed that the cumulative total continues what one has almost come to regard as its inevitable progression, 1973 being the third successive year when tonnage lost was the highest on record.

If 1972 was marked by the largest total of Tanker losses ever suffered and the worst experience of General Cargo vessels since 1966, 1973 on the other hand saw a sharp increase in Bulk Carrier tonnage lost, the Italian Ore Oil Carrier "Igara" contributing 72,000 gross tons to that total. The 1973 total, moreover, does not include the Liberian Ore Carrier "Elwood Mead" of 59,200 gross tons since at the close of the year, when the Liverpool Underwriters' Association statistics were published, it was uncertain whether a Constructive Total Loss or a Partitcular Average claim would be put forward. "Elwood Mead" has, of course, since been declared a Constructive Total Loss and in the remainder of this paper it has been included as an addition to the appropriate Total Loss figures.

It is casualties such as these two which to my mind expose an almost fatal weakness in looking at underwriting experience by means of a comparison of tonnage lost, for the decision as to the type of claim to be made may depend on the current commercial climate whilst the cash cost to Hull underwriters will be little different.

While the co-operation of many National Associations, whom I take this opportunity of thanking for all their help and interest, I have endeavoured to put a cash figure on World Total Losses. I have not been able to obtain figures for every incident and hence it is difficult to be absolutely precise but, converting at the present rates of exchange, I believe an amount of U.S. $200 million may be taken as representative of the 1972 total loss experience, rising to over U.S. $300 million in 1973—a quite appalling increase of more than 50%.

It is clear from this that the deterioration in underwriters' experience during the past year is far more severe than would be suggested by a simple comparison of tonnage lost. 1973 included, in addition to the other casualties I have mentioned, the Liberian

Tanker "Golar Patricia" and these three losses were probably the most expensive underwriters have ever sustained. It seems inevitable that cash cost will continue to outpace tonnage lost in the future as ships with yet higher values per ton enter into the casualty record.

LOSS RATIOS

The relationship between the total tonnage lost and tonnage afloat is shown as a World loss ratio in Chart 3.

As I shall use "loss ratios" to illustrate many points during the course of this paper I think it well to remind you that by this phrase I mean the ratio between the tonnage lost and the tonnage afloat—in both cases including vessels laid up and the U.S. Reserve Fleet. Since many vessels are laid up for varying periods in any year it is not practicable to arrive at figures for tonnage "at risk" and the loss ratios have, therefore, no direct connection with an insurance rate. Nor has it proved possible to quantify any increase in risk that might have occurred through modern vessels spending less time in port.

Of course, a loss ratio fluctuates either because there is more or less tonnage afloat or more or less tonnage lost, each factor being equally important. In 1973, if one includes "Elwood Mead", tonnage lost increased no faster than tonnage afloat and hence the loss ratio remained unchanged. The fact, however, that since 1959 World tonnage afloat has increased by 133% but tonnage lost by 237% is reflected by the rise in the average loss ratios from 0.32% during the five-year 1959/1963 to 0.38% during 1969/1973. The average ratio of 0.41% during 1964/1968 is, as I showed last year, exceptional in that it is inflated to a very large extent by losses of war-built tonnage, and this can quickly be confirmed by reference to the graph relating to post-war tonnage appearing underneath.

As pre-war and war-built ships go out of service the two graph lines will ultimately coincide, but the latter is useful as an illustration of the effect of an aging block of tonnage on the loss ratio, all post-war ships being less than 14 years old in 1959 but in 1973 including all vessels up to 28 years of age.

Chart 4 then goes on to show the loss ratios applicable to the three categories of vessels identified in the earlier charts and, in order to show trends, averages for the same five-year periods are inserted. It is disappointing to note that all evidence a deteriorating trend.

The experience of General Cargo vessels in the middle years again clearly reflects the losses of Liberty and similar ships but a comparison between the average loss ratio during 1959/1963 and that of the period ten years later shows an advance of 21%.

Whilst the Tanker loss ratio has remained below the level of General Cargo ships it has shown an inexorable advance and the average for the last five years is almost double that for 1959/1963.

The comparatively small tonnage of Bulk Carriers afloat in the first five years made their loss ratio particularly susceptible to "shock loss" as is seen in 1960 when the loss of one vessel, "Sinclair Petrolore" of 35,000 gross tons, accounted for the ratio of 0.44% and thus also substantially affected the five-year average. Now that Bulk Carriers represent a quarter of the World tonnage afloat, their experience is having an increasing effect on the World loss ratio and hence, though their figures have so far been better than the other two categories, we must take note of the sharp deterioration in the last five years.

Clearly it is worthwhile investigating the reasons for this general deterioration in Total Loss experience with special reference to age and tonnage.

CONSTRUCTIVE TOTAL LOSSES

In earlier papers I have referred to the effect of inflation and currency realignments on the Total Loss ratio and to the fact that, if the insured value of a ship is not increased at the same pace as the cost of repair at the yards and in the countries where that ship is likely to be repaired after an accident, there is a greater likelihood of Constructive Total Loss.

During the past year we have seen a considerable number of increases in insured values, some substantial, particularly in connection with the larger and more modern ships, and thanks to buoyant freight conditions some shipowners have elected to repair rather than abandon a ship to underwriters. In view, however, of the continued escalation of repair costs and notably of the price of steel, I venture to suggest that the problem is still very much with us and may shortly revive with redoubled emphasis.

Chart 5 divides the average loss ratios for the three types of vessel between Actual and Constructive Total Loss according to the five-year periods identified.

Looking first at General Cargo ships and discounting the exceptional effect of war-built tonnage on the experience of the years 1964/1968, it will be seen that the Actual Total Loss experience has remained constant as between 1959/1963 and 1969/1973, the rise in the overall loss ratio being entirely due to the increasing incidence of Constructive Total Loss.

Both Bulk Carriers and Tankers also show a considerable rise in the Constructive Total Loss ratio but this by no means accounts for all the deterioration in the overall loss experience.

The average loss ratio of Bulk Carriers for the period 1959/1963 is affected of course by the "shock loss" of the "Sinclair Petrolore", but over the past ten years the Actual Total Loss ratio has increased substantially. A similar situation is evident with Tankers.

I have already referred to Age as a dominant factor and, as one assumes that it is the insured values of older vessels that are least likely to have kept pace with inflation, this aspect is obviously worth looking into.

GENERAL CARGO SHIPS

Chart 6 plots the average loss ratios of General Cargo vessels in five-year age groups at time of loss for the years 1959/1963 and 1969/1973. The middle period is omitted to minimise the distortion caused by war-built vessels passing through the older age categories.

Two broad conclusions emerge. First, there has been a general increase in the Constructive Total Loss ratio and, as anticipated, this is most marked in respect of the older tonnage; after 5 years old the Constructive Total Loss ratio now exceeds that for Actual Total Losses. Possibly, owners of the older more traditional types have had the least cause on commercial grounds to increase insured values. Second, cargo underwriters are undoubtedly correct in their fifteen-year limitation in the Classification Clause, for in general the Total Loss ratio has fallen in respect of the more modern vessels and has increased sharply after the age of 15 years.

Of course, many othher factors have a bearing on the experience of these vessels which I have grouped under the heading of General Cargo but which in reality include all ships other than Tankers and Bulk Carriers. I think, however, the long-term trend is fairly clear. Helped by the absence of Total Losses amongst the new container vessels, the Actual Total Loss ratio for the group has been held relatively stable and the rise in the overall ratio is a direct reflection of the fact that, due to inflation and the changes in currency parities, damage repair costs are now reaching the insured value, particularly of older vessels, in an increasing number of instances.

Mr. President, I am sure no underwriter needs reminding of the obvious remedy.

SPECIALIZED CARRIERS

I would now like to look more closely into the record of the specialised ships.

Age

Chart 7 shows average ratios for Tankers according to Age over all three periods since 1959. Constructive Total Losses have always formed a high proportion of the loss ratio but during recent years they account for the greater part of the losses in respect of vessels over five years old.

The two most disturbing facts which become evident, however, are the quite enormous increase in the loss ratio of vessels between 15 and 24 years old and the significant worsening of experience of the most modern vessels.

Undoubtedly the deterioration in the overall Tanker Total Loss ratio is due to the recent very bad record of vessels of these age groups.

The tonnage afloat of Bulk Carriers has rocketed from under 7 million gross tons in 1959 to over 70 million gross tons in 1973 and because of the initial "shock loss" element it is difficult to show any comparative but meaningful statistics over the period of 15 years. CHART 8 therefore shows average loss ratios only for the two later periods, 1964/1968 and 1969/1973, but even within this decade tonnage afloat has quadrupled.

In consequence, the deterioration evident is cause for some concern, particularly in respect of vessels under 10 years old which account for 80% of the tonnage afloat. Constructive Total Losses have a significant effect throughout the Age groups, but one would not expect such a high proportion amongst the most modern, and presumably the most highly valued, ships.

There are, however, points of similarity between this Chart and Chart 7 dealing with Tankers and it seems, therefore, useful to analyse the problems being suffered by vessels up to 5 years old and between 15 and 24 years old under both categories.

Ships under 5 years old

Chart 9 shows the average loss ratios of Tankers and Bulk Carriers under 5 years old at time of loss in repect of four broad ranges of tonnage.

It will be readily appreciated that because of the recent trend towards the building of larger and ever larger vessels, there is a relationship between age and size when applied to Tanker and Bulk Carrier tonnage afloat. For example, the majority of Tankers over 40,000 gross tons are under 5 years old; most between 20,000/40,000 gross tons are 10–14 years old; the greatest number between 8,000/20,000 gross tons are 15–19 years old. Apart from the recent completions of Product Tankers in the latter size range, it is only for the smaller Tankers under 8,000 gross tons that there seems to be a replacement programme and many of that size are new.

It is, therefore, a serious matter for underwriters to observe that the increased loss ratio of modern Tanker tonnage is a reflection of the recent unfavourable record of the larger, and thus more expensive, ships. Casualty analysis shows that over two-thirds of the loss ratio in respect of vessels over 40,000 gross tons is caused by fire and explosion in cargo tanks and when one considers that in addition there have been many sizeable Particular Average claims, it will be evident that the hitherto unappreciated problems which many now believe to be associated with tank size have cost underwriters a great deal of money and point a lesson regarding the initial rating of new types.

The economics of Bulk Carrier operation do not call for quite the same optimum size and hence a slightly different pattern is evident in the loss ratio. With only one exception, every Bulk Carrier loss during the last 5 years has been caused by stranding, col-

lision or other "human failure" and significantly the loss ratios of both Tankers and Bulk Carriers over 40,000 gross tons (say 75,000 dwt) are very similar in this respect.

Total Losses sustained by these categories of vessels in the period 1969/1973 cost underwriters U.S. $170 million; a not insignificant sum for what in theory should be the better class of risk.

"Shock Loss"

There is another underwriting aspect of large and high-valued vessels which needs consideration, and this is "Shock Loss".

Chart 10 sets out the average loss ratios for the last five years of the entire national fleets of those Flags registering vessels of more than 100,000 gross tons, as compared with the World average. Superimposed is the theoretical addition that would occur should one such vessel be lost during the same five-year period.

The group of Flags to the right-hand side exceed the World average even without such a loss, and it will be apparent that only three Flags—West Germany, Great Britain and Japan—could afford to lose a 100,000 gross ton vessel in five years without their loss ratio exceeding the World average.

To go from one extreme to the other, it will be seen that, assuming value per ton to be constant and the World loss ratio his basis for rating, an underwriter who wrote a line of a fixed percentage of value on every ship under the British Flag would need 1.3 years to absorb the loss of such a vessel, but in respect of the Kuwait Flag almost 56 years!

Mr. President, one wonders if those who preach national, captive or mutual insurance, quite realize the effect of such a loss on a limited portfolio.

Ships 15–24 years old

Chart 11 then plots average loss ratios, according to size, for Tankers and Bulk Carriers between 15 and 24 years old. Clearly it is the rapidly deteriorating experience of both types of vessels between 8,000 and 20,000 gross tons, and in the last 5 years Tankers between 20,000 and 40,000 gross tons, which is the source of the trouble.

During the periods under review some 90% of the Tanker and Bulk Carrier tonnage afloat between 15 and 24 years old has come within these size ranges but, bearing in mind the size/age relationship of tons afloat, there is a very serious implication for the future. From the percentages of tonnage afloat inserted below each group it will be seen that as the years pass, the size of vessels reaching what appears to be this critical age is progressively increasing and hence becoming correspondingly expensive to underwriters.

To date, only 7 Tankers and 2 Bulk Carriers of over 40,000 gross tons exceed 15 years of age and it will be a very grave matter for all concerned with loss at sea if the pattern shown in the Chart repeats itself in respect of the present-day much larger tonnage.

It becomes, therefore, of some importance to analyze the reason for this marked deterioration in Total Loss experience once these vessels exceed 15 years of age.

Concentrating then on Tankers aged 15–24 years and between 8,000 and 40,000 gross tons, again over the 3 five-year periods, CHART 12 shows in each left-hand column the tonnage afloat registered under the principal Flags involved as a percentage of all such tonnage afloat. For comparison purposes, each right-hand column treats tonnage lost in the same way.

The earlier periods reflect the then relative importance of the United States war-built fleet but it is illuminating to note the change over the years in the ownership pattern of this size and age of Tanker, more than 40% of such tonnage now being registered under Flags of Convenience. Significantly, in the last 5 years these Flags accounted for 70% of tonnage lost.

A similar trend appears to be occurring with Bulk Carriers.

It is interesting, therefore, to compare the loss ratios of these same vessels registered under Flags of Convenience with the rest of the World.

Chart 13 subdivides accordingly the five-yearly average loss ratios of Tankers aged 15–24 years and between 8,000 and 40,000 gross tons, then further into three general types of casualty.

Accidents due to "human failure" stranding, collison and contact—are grouped together as are total losses due to weather, foundering, leakage etc. When one considers that we are dealing with ships between 8,000 and 40,000 gross tons, it seems to me that losses of the latter type must contain some common element which perhaps might be termed, for want of a better phrase, "ship failure". Fire and explosion are shown separately because exact information as to the cause of the outbreak is often difficult to obtain.

It will be seen that, after an increase in the mid-1960's, the overall loss ratio for the rest of the World has remained comparatively stable, whereas that for vessels registered under Flags of Convenience has more than trebled. The loss ratios for fire and explosion have fluctuated but throughout Flag of Convenience ships have suffered a vastly greater incidence of "human failure" and "ship failure".

Earlier accurate figures are not available for Bulk Carriers, but for the past five years the pattern has been similar to Tankers.

The theory has been advanced that ships of this age, particularly Tankers, have reached the end of their useful span of life but this does not explain the discrepancy between the Flag loss ratio nor the high proportion of casualties caused by "human failure".

An analysis of the total losses that have occurred to this size and age of Tanker shows, however, that all but a handful of the Flag of Convenience ships involved were second-hand and were Total Losses within an average of 3–4 years from their last date of sale. An alternative inference might be, therefore, that they were vessels which were no longer economic to the previous owners, perhaps worn out ships, but ones which could be operated at a profit on a lower or cheaper standard of manning and maintenance.

Of course, this largely depends on the economics of the freight market but in 1973, for instance, Tankers which had seemed certain to be scrapped changed hands at prices which could only reflect the fact that the new owners expected them to earn a worthwhile profit. To quote one example, it has been estimated that last year 70% of the Norwegian Tanker tonnage sold was to Flag of Convenience ownership.

SHIPS REGISTERED IN GREECE OR UNDER FLAGS OF CONVENIENCE

In either case, it is worth looking into the development and the losses of the merchant fleets registered under Flags of Convenience.

Chart 14 shows that, apart from the "boycott" period in the early 1960's when there was simultaneous liberalisation of Greek maritime law, tonnage registered under Flags of Convenience has shown a steady growth as a percentage of the World tonnage afloat.

The percentage of World tonnage lost applicable to such Flags is also inserted and the linear progression lines show clearly that their total losses appear to be growing at a faster rate than their tonnage afloat. In 1973, Flags of Convenience represented 23% of the World tonnage afloat yet over half the tonnage lost. Perhaps even more significant, however, is the increasing use of this facility by the shipowners of traditional maritime countries and the emergence in the last few years of three new Flags of Convenience.

It is tempting at this juncture to join in the general condemnation of Flags of Convenience—much of it uninformed and some emotional—which one reads in the shipping press but I suggest the answer is more complex.

Chart 15 plots the average loss ratios for the past five years of the principal Flags of Convenience as compared with the rest of the World. In every case the loss ratio is very much higher than the figure for the rest of the World—for Somalia it is nine times—but there are nevertheless significant differences in loss ratio, tonnage afloat and average age between Flags.

MANAGEMENT

I am confident it is equally true to say that there are many fleets registered under Flags of Convenience which are well managed and whose records are at least as good as those of fleets registered by other Nations, yet on the other hand, if an owner wishes to put to sea an ill-found, undermanned and worn-out ship a Flag of Convenience is probably his best vehicle for doing so.

I believe, therefore, that the problem is not one of flag but of ownership or management. It is appropriate to quote from the last Annual Report of the Chamber of Shipping of the United Kingdom . . . "at the end of the day, safety depends on the management of the individual shipping company, the running of the individual ship and the actions of the individual seafarer".

Mr. President, in the course of this paper I have isolated certain problems which are technical—inflation, currency realignments, explosions in cargo tanks of large Tankers—but all the rest are in my view subordinate to the question of management for on this one factor depends the type, size and age of vessel; its trade and condition; the choice of flag and calibre of crew.

Over the past few years there has been a decided growth in tonnage owned or managed by companies that do not have the benefit of years of shipping experience and I take leave to doubt whether, in the present scramble for business, many underwriters take sufficient note of this factor.

Mr. President, as this is my swansong on this subject at least for a while, I feel almost brave enough to attempt some forecast of future trends.

The World order book for new construction still stands at an unprecedented level despite the recent oil crisis, and though the rate of ordering has slowed from last year's record figure I believe few cancellations have taken place.

It has been said that overtonnaging will occur in Tanker trades and, if there is a world-wide slackening of economic growth, in the carriage of commodity and general cargoes. It is thought in some quarters that the re-opening of the Suez Canal, or in the long-term the harnessing of local resources by the industrial countries and the refining of oil in the Arab States, will vitally affect the economics of Supertanker operation.

All these factors will influence shipping values but to my mind there is little prospect of any permanent easing in the rate of inflation and almost inevitably, therefore, we must expect an escalation of claims' costs and an increase in the incidence of Constructive Total Loss.

The trend over the last fifteen years, and 1973 presents a good example, has been for the overall Total Loss ratio to be held down by the influx of new tonnage, mostly specialised carriers, even though the tonnage lost, and more particularly the cash cost, has successively reached record levels. The point to be made is that in general, the World loss ratio has been held down not so much by the influx of tonnage, but because an increasing proportion of the World tonnage is new.

The expected further flood of new tonnage may therefore mitigrate loss ratios for a while and, paradoxically, underwriters may gain from a shipping slump but, in the long

term, unless there is a revolution in the current pattern of shipping ownership, we shall have to learn to live with a much heavier loss ratio as the larger and more expensive specialised vessels reach what I have shown to be, for various reasons, their critical span of life.

PETER QUAILE.

Mr. CLARK. Mr. President, I plan to vote against the conference report on H.R. 8193, the cargo preference bill, just as I voted against it when it was originally considered in the Senate.

My primary reason for opposing it is that it will increase the price of oil. It will be a highly inflationary measure, and this is a time when we cannot afford to take inflationary measures. By requiring that 30 percent of the oil brought into this country must be transported in American ships, the bill will increase shipping costs and, thus, oil costs, in three ways:

First, the cost of ships will go up because American ships already cost more and increasing the load on American shipyards will make the costs go up even further.

Second, operating costs of American ships are higher because wages are higher than on foreign ships.

Third, U.S. ships with a captive market will undoubtedly become less efficient since they will be protected from competition—and it is likely that they will need even more subsidies from the Federal Government than they are already getting.

Mr. President, the higher costs imposed by this bill will inevitably be paid by the American consumer and taxpayer. There is simply no way to avoid this conclusion. And measures which increase prices, particularly energy prices, simply cannot be tolerated during this period of double-digit inflation. If Congress is to establish any credibility in the battle against inflation, this bill must be defeated.

The proponents of H.R. 8193 argue that this bill is needed for national security. However, the Department of Defense opposes it. They believe that passage of this legislation will weaken our national security. Certainly a bill which intensifies inflation and weakens security should not be passed. I urge the Senate to consider these matters carefully and to vote against the conference report on H.R. 8193.

Mr. ROTH. Mr. President, I am strongly opposed to the adoption of the conference report on H.R. 8193, the Energy Transportation Security Act. This bill, commonly called the cargo preference bill, requires that by mid-1976, 30 percent of petroleum imports must be carried in U.S. built and registered vessels. The bill is estimated to cost the consumers some $20 billion or more in higher fuel bills over the next decade, adding immediately to the ravages of inflation.

At a time when we are trying to hold down inflation and energy costs to avoid a recession, this bill moves in exactly the opposite direction, increasing the fuel bills of American homes and businesses.

At a time when we are trying to remove distortions and inefficiencies in international trade to bring the world and national economy out of a slump, this bill will be a major stimulus to protectionist, isolationist policies that will hurt the economy.

At a time when the United States wants other countries to respect international treaties, this bill would require us to violate 30 international agreements we have made in the interests of an open international economic system.

At a time of scarce capital resources when mortgage and investment money is hard to obtain for the ordinary citizen, this bill would take $4 billion out of the capital markets to build new oil tankers which we hopefully will not need as we become less dependent on foreign supplies.

At a time when we desperately need to limit our dependence on imported oil and move quickly on Project Independence, the cargo preference bill will create a powerful vested interest in a continued high level of petroleum imports.

At a time when we need to strengthen our merchant marine and are doing so through the massive program intiated in 1970, this bill would foster a weak and parasitic merchant marine living off the captive cargoes of the free enterprise system.

For all these reasons, I think that if the conference report passes, the President should show the public that he is serious about keeping down inflation by vetoing this bill. The Energy-Transportation Security Act is one bill which the press around the country—ranging from the Time magazine and the New York Times to small city newspapers like the Flint Journal and the Green Bay Press-Gazette—has been united in condemning as a costly and inflationary boondoggle. They know this bill does not increase the security of our energy supplies one bit and that it is going to cost the people of this country who are trying to keep a step ahead of the inflationary squeeze. It will be one more straw on the camel's back for small businesses and industries, threatening the loss of jobs when the unemployment rate is already an alarming 6.5 percent. I urge the Senate to defeat the conference report.

Mr. THURMOND. Mr. President, we should consider H.R. 8193, the Energy Transportation Security Act of 1974, in a thorough and complete fashion. This is not legislation to be quickly passed under the superficial "national security" guise advocated by its proponents. Once this bill is examined in detail, its title is shown to be a great misnomer.

This bill will not provide any sort of security for our Nation's energy or energy transportation. It will add billions of dollars to our country's energy costs over the next decade. It is obvious to the American consumer that increasing the cost of oil is not in his interest, and it certainly does not fortify any feelings toward security on his part.

Proponents would have us believe the fee waiver provision added by the Senate Commerce Committee will offset energy cost increases to consumers. The committee's amendment would reduce license fees for crude oil imports 15 cents per barrel. It has been pointed out, however, that even with this fee waiver provision, consumers will be forced to pay more and more for oil imports. Not only would the 15 cents per barrel waiver not offset the increasing costs of imported oil, the reduction of these license fees reduces Treasury receipts and thus is another Federal subsidy. So this legislation would not only drive fuel prices higher, but it would also increase Federal spending. The Maritime Administration has estimated that the effect of the this act would be to increase its costs of subsidizing the American merchant marine by at least $79.3 million next year.

The $4 billion needed for construction of the 40 tankers proposed in this bill will have to come from the already constrained capital market, driving interest rates further away from that which the average taxpayer can afford. In our current economic situation, Congress would not be wise to pass this inflationary legislation.

Shipyards have backlogs of orders for new vessels now. Adm. Isaac C. Kidd, Jr., Chief of Navy Materiel, recently testified before Congress that shipyards were so far behind in filling commercial orders that it was becoming difficult to get Navy work done. Such a conflict with the U.S. Navy shipbuilding program could in itself be a threat to our national security. New demands will aggravate this problem with an inflationary effect on government. New orders will accelerate new demands for raw materials such as steel. We can not afford to create new inflationary pressures on raw materials. Furthermore, the diversion of steel into the shipbuilding industry will mean less available for offshore drilling, power generating plants, and manufacturing facilities required to meet the goal of energy self-sufficiency by 1980.

At the present time, a surplus of tanker tonnage exists worldwide. The rates charged by these foreign-flag vessels have been depressed by conservation measures taken by countries while shipbuilding continues at a record rate. Why should we build these large tankers when we have a surplus in the world market at greatly reduced prices? This legislation would create a captive market for our vessels with excessive rates. The American people cannot afford to pay this premium.

It is clear that the only security this bill will provide will be for the maritime unions. It will have just the opposite effect on most Americans. After all, most of us tend to feel less secure, not more, when our pocketbooks are being drained.

However, even though this bill fails to provide national security, some have pointed to its title and claimed it will provide security for the transportation of our energy needs. This argument is equally false.

There is little the United States can do to reverse the intention of Arab countries to participate in the transport of their petroleum exports. Nevertheless, we must be careful not to precipitate the adoption by these states of protectionist restrictions regarding the carriage of these exports. The proposed Energy Transportation Security Act of 1974 is likely to achieve this unfortunate result. Proponents of this legislation argue that

we could create a captive volume of petroleum cargoes for U.S. tankers without other countries doing the same for theirs. I find this difficult to believe, despite the claims of its proponents, could actually jeopardize our national security as opposed to strengthening it.

All in all, this legislation provides for increased costs of energy, federally subsidized and more expensive costs of transportation, and no security. Yet, amazingly enough, it is called the Energy Transportation Security Act.

Mr. President, I cannot help but wonder why the consumer groups in this country have not come out against this legislation. Surely, this inflationary bill that will add so much to the cost of energy is not in the consumers' interest. An editorial that appeared in the July 30 Wall Street Journal asked:

Where are you, Ralph Nader? Now that the American consumer really needs him, Ralph Nader seems to have gone fishing.

The Christian Science Monitor reports that the consumer groups' silence on this measure is explained by these groups' reluctance to jeopardize their union support. Now is that not interesting? When groups become so powerful that the interests of our country's people and the stability of our Nation is sacrificed for the short term benefit of a few, we are in sad shape. I challenge these consumer groups to come forward and oppose this legislation if they really care about the American consumer. Their credibility is rapidly being destroyed.

I can understand labor's interest in this legislation since it would provide some new jobs, but are the few thousand jobs it will create worth the increased inflation that the bill will produce? Has anyone stopped to consider the number of jobs that may be lost in businesses that cannot take the increase in operating costs due to higher energy costs? It is time for us to put things in proper perspective.

The policies of the Arab countries to saddle the world with higher prices is leading to economic crisis not only in this country but in the world. The administration and this Congress, I believe, recognize this and are calling for a stop to these increases. Yet, while Congress voices concern over increased petroleum prices and inflation in general, it passes this legislation which has been estimated to cost the average American household an additional $70 per year. A day of reckoning is coming, my friends. The American people are not going to stand for a Congress which continually expresses concern over inflation but continually does nothing about it.

Inexpensive energy has been one of the keys to the development of the United States as the major industrial Nation. Energy is such a basic commodity that anything we do to artificially increase its price can have devastating effects on our domestic economy.

Mr. President, I opposed this bill when it passed the Senate, and I hope my colleagues who supported this legislation have reconsidered and have realized the detrimental effects it would produce. Accordingly, I call for the rejection of this conference report by the Senate. However, should the report receive final passage, I appeal to President Ford to have the good judgment to veto the bill. It is hard to believe that legislation with so little merit has gotten so far in our legislative system. At least by our vote here today, we have another opportunity to prevent this ripoff of the American people.

Mr. CRANSTON. Mr. President, in section 4 of H.R. 8193 provision is made for reduction in the license fees payable by oil importers not to exceed 42 cents per barrel for residual oil and 15 cents per barrel for other than residual fuel oil, to be applicable whenever such fee-paying oil is transported on U.S.-flag vessels.

It has come to my attention that the Presidential proclamation of April 1973, in which provision is made for these license fees, provides that whenever crude oil is imported for direct use in the boilers of powerplants it is to be treated as residual oil and thus incurs the level of fees applicable to residual oil. This raises the question of just how section 4 shall be applied when crude oil is imported by public utilities for use in boilers.

I am informed that the Department of the Interior, Oil and Gas Division, interprets section 4 to mean that whenever crude oil, by reason of its being burned directly by a utility in its boilers, incurs the license fee applicable to residual oil, that the reduction, or rebate, for U.S.-flag vessel usage will be the same as the fee that was paid, up to the 42-cent level. In other words, crude oil, when it bears a 42-cent fee, will enjoy a 42-cent rebate whenever U.S.-flag vessels are used. I heartily concur with this interpretation and its potential savings to the consumer.

Mr. President, I would like to inquire of the chairman as to whether the committee agrees with this interpretation.

Mr. LONG. Mr. President, the interpretation of section 4 as stated by the Senator from California is correct. The committee agrees with that interpretation.

Mr. HANSEN. Mr. President, the Energy Transportation Security Act of 1974, also known as the cargo preference bill, has met with universal criticism. This criticism has come from the administration, the media, economists, and other informed sources representing the full spectrum of political persuasion.

Yet, despite the light that has been shed on this legislative boondoggle, both Houses of Congress passed this bill, and today the Senate is asked to agree to the report of the House/Senate conference.

At a time when the Nation recognizes that its No. 1 problem is inflation, the Senate is asked to agree to an extremely inflationary piece of legislation which provides no benefit to the Nation.

This legislation requires up to 30 percent of U.S. waterborne petroleum imports be carried in U.S. built and manned vessels.

The vast consensus of informed opinion is that passage of such high cost, inflationary, special interest legislation has no place at a time when the Congress should be attempting to deal with the Nation's overall economic woes. Not only does this legislation fly in the face of economic stability, it points to the grave inability of the Congress to seriously recognize and deal with the Nation's economic plight.

Despite prolific vocalization in the Congress about dealing with inflation, the Congress proceeds to feed the Nation's inflationary fires with such parochial legislation.

Not only does this bill have a serious inflationary impact, it has other adverse consequences.

The bill would substantially increase the cost of shipping oil; this cost hike will be reflected in higher prices for all consumer petroleum products. Moreover, as we have seen, especially during the last year, increased petroleum costs result in a disproportionate rise of the overall Consumer Price Index. In short, the consumer will ultimately have to shoulder the cost burden of this poorly conceived legislation.

Additionally, the bill's artificially created demand for U.S.-produced ships will increase the already critical pressures on shipbuilding costs. Presently, U.S. shipbuilding capacity is overtaxed. Further demands on this inadequate capacity will skyrocket production costs. This will not only increase the cost of the ships required by this bill, it will jeopardize national security by increasing the cost for the U.S. Navy to expand its fleet. Further, the demand for U.S.-manufactured ships will cause the unwise diversion of raw materials already in critically short supply.

In sum, the consequence of this legislation will result in a worsening of the Nation's general economic condition, and increase the burden on the American taxpayer-consumer.

With this in mind, I ask my colleagues to reject the House-Senate conference report.

Mr. BAYH. Mr. President, there has been considerable disagreement about the merits and potential impact of H.R. 8193, the Energy Transportation Security Act of 1974. I voted for the bill in September when it passed the Senate, and I rise now to urge passage of the conference report.

Mr. President, nothing underscores the need for this legislation more clearly than a news item which appeared over this past weekend. It appears that Saudi Arabia has instructed Aramco to give preference to Saudi ships in oil exportation. This underscores the need to have a U.S.-flag tanker capacity to assure the equity of oil transportation costs and delivery.

Many of us have argued that the present transportation system leaves the United States extremely vulnerable. The bulk of the tankers are owned by the international oil companies and fly foreign flags. As we have seen in the past—most notably during the Middle East war in October of 1973—the oil companies do not hesitate to bow to the wishes of the Arab suppliers, even when the vital interests of the United States are at stake, and it is possible that Aramco will cooperate now and work with the Arabs against American interests in transport-

ing oil. With oil company domination of the transportation system, it is not difficult to imagine America cut off from all foreign oil whether it be from the Arab countries or elsewhere, at the whim of Arab leaders.

It is clear, Mr. President, that it will take strong legislation such as that before us today to insure that American ships owned by companies loyal to American interests play a proper role in shipping oil and securing American access to foreign oil supplies, as well as guaranteeing construction of enough U.S.-flag vessels to transport our own oil from Alaska.

There has been much talk about the potential cost of this legislation, but most of this talk has come from the very giant oil companies that have benefited from the already excessive price of oil. This is to be expected because this bill will be an important step in breaking the stranglehold that the multinationals have in producing, refining, shipping, and marketing petroleum products. The bill also contains cost monitoring provisions which will curtail the transfer pricing system employed by the multinationals at the expense of the American taxpayers and consumers.

When viewed objectively, any cost increase to the American consumer resulting from this legislation will be small and short term. I submit that in the long term the entry of American shipping in the energy transportation market will have a strong competitive effect which will in the end provide savings to the consumer. In addition, the legislation contains a provision to offset any slight cost increase brought about by this bill by removing import levies for foreign oil delivered in U.S. tankers.

Further, H.R. 8193 will provide thousands of jobs for Americans in constructing and manning tankers, which will be a boost to our sagging economy. The bill will also aid in easing our balance-of-payments deficit and provide increased revenues in tax dollars collected from American ships.

Mr. President, the Energy Transportation Security Act of 1974 is a crucial piece of legislation which will benefit this country in many ways. I hope my colleagues will look through the smokescreen which has been set up by the multinational oil companies, and view the bill objectively. I believe that when they do, they will join with me in voting for the conference report.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the conference report.

Mr. COTTON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. 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. McGEE (when his name was called). Mr. President, on this vote I have a pair with the Senator from Nevada (Mr. BIBLE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. KENNEDY (when his name was called). Mr. President, on this vote I have a pair with the Senator from California (Mr. TUNNEY). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. NELSON (when his name was called). Mr. President, on this vote I have a pair with the Senator from Maine (Mr. HATHAWAY). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. BURDICK (when his name was called). On the vote I have a pair with the Senator from Texas (Mr. BENTSEN). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. HUDDLESTON (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Utah (Mr. Moss). 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 Texas (Mr. BENTSEN), the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

I also announce that the Senator from Maine (Mr. HATHAWAY) is absent because of illness in the family.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Colorado (Mr. DOMINICK), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. WEICKER) would vote "nay."

The result was announced—yeas 44, nays 40, as follows:

[No. 556 Leg.]

YEAS—44

Abourezk	Haskell	Montoya
Allen	Hatfield	Nunn
Bayh	Hollings	Packwood
Beall	Hughes	Pell
Byrd, Robert C.	Humphrey	Randolph
Cannon	Inouye	Schweiker
Case	Jackson	Scott, Hugh
Church	Johnston	Scott, William L.
Cook	Long	Sparkman
Cranston	Magnuson	Stevens
Dole	Mathias	Stevenson
Domenici	McGovern	Symington
Gravel	Metcalf	Talmadge
Hart	Metzenbaum	Williams
Hartke	Mondale	

NAYS—40

Aiken	Clark	Gurney
Baker	Cotton	Hansen
Bartlett	Curtis	Helms
Bennett	Eastland	Hruska
Biden	Ervin	Javits
Brock	Fannin	McClellan
Brooke	Fong	McClure
Byrd, Harry F., Jr.	Fulbright	McIntyre
Chiles	Goldwater	Muskie
	Griffin	Pastore
Pearson	Roth	Thurmond
Percy	Stafford	Tower
Proxmire	Stennis	Young
Ribicoff	Taft	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—5

Burdick, against.
McGee, against.
Kennedy, against.
Nelson, against.
Huddleston, against.

NOT VOTING—11

Bellmon	Dominick	Moss
Bentsen	Eagleton	Tunney
Bible	Hathaway	Weicker
Buckley	Mansfield	

So the conference report was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I have voted in favor of the conference report on the Energy Transportation Security Act (H.R. 8193), but I have done so with great reluctance.

The intent of the legislation is to assure that the United States will not be dependent for the transportation of vital supplies of imported oil on oil tanker fleets owned, controlled, or licensed by other nations. I believe a secure and dependable means of bringing imported oil to our shores—on U.S. ships manned by U.S. crewmen—is a desirable goal.

The question, however, is what price the consumer in the United States must pay for this added element of security in transportation.

Indeed, it was because of my deep concern over the possible increased costs to consumers that I offered, during Senate consideration of the bill, an amendment that would have exempted from the cargo preference provisions of the bill all imports of residual fuel and home heating oil. I did so because the Northeast section of our Nation, and particularly New England and my own State of Rhode Island, already are paying exorbitantly high prices for these two types of oil and those prices are directly reflected in the costs to Rhode Island homeowners.

Although that amendment was not accepted in its original form, the Senate did accept an amendment that would offset any additional cost of residual oil resulting from the cargo preference provisions, by forgiving the import license fee of up to 42 cents a barrel on residual oil.

The New England electric system alone, of which the Narragansett electric system in my own State of Rhode Island is a part, has estimated that this provision will mean a savings of about $400,000 a year to its New England consumers alone. The overall saving to our region would obviously be substantially greater.

It was only because that amendment was adopted by the Senate that I supported passage of the bill in the Senate. And it is only because the amendment was fought for and retained in the conference by the Senate conferees that I have today voted in favor of the conference report.

Without this amendment, which offers some degree of protection to Rhode Island consumers, I would have been compelled to vote against the bill and the conference report. But because the amendment was accepted by the floor manager, the distinguished senior Senator from Louisiana (Mr. LONG) and because Senator LONG fulfilled his commitment to work for the amendment in conference, I have voted in favor of the conference report.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1974

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 17597, a bill to provide a program of emergency unemployment compensation, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 17597) to provide a program of emergency unemployment compensation.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on the unemployment compensation——

The PRESIDING OFFICER (Mr. BIDEN). There will be order in the Senate. The Chair cannot hear the Senator from West Virginia. The Senators will please take their seats.

Let us have order in the Senate. The Senators will please refrain from conversing in the Chamber.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on H.R. 17597, the Emergency Unemployment Compensation Act of 1974, there be a time limit of 10 minutes to be divided equally between Mr. RIBICOFF and Mr. JAVITS, and there be a time limitation on an amendment by Mr. CURTIS of 10 minutes to be equally divided in accordance with the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, the yeas and the nays have not been ordered on passage of this measure. Does anyone wish to order it? If not, I will ask for the yeas and the nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, I yield myself 3 minutes.

Mr. President, under the present law, regular unemployment compensation runs for a period of 26 weeks.

Mr. CURTIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator will suspend until there is order in the Chamber. Will the Senators please take their seats and refrain from conversing in the Chamber?

Mr. RIBICOFF. Mr. President, I am pleased that the House has adopted the substance of the unemployment compensation bill which I introduced in the Senate with the support of both the Democratic and Republican leadership. The bill passed the House by a vote of 374 to 2.

It is now before us and since it is virtually identical to our bill, I hope it will be adopted without change. This will enable us to begin paying extra unemployment benefits beginning in January 1975.

The bill we are considering accomplishes two major goals.

First, it provides an emergency 13 weeks of unemployment benefits to workers who have exhausted their 26 weeks of regular benefits and 13 weeks of extended benefits. This is similar to the Magnuson-Ribicoff emergency program which was enacted into law in December of 1971 and phased out in December of 1972.

The second major goal this bill accomplishes is to make it easier for States to qualify for the so-called extended benefits program. The extended program provides unemployment benefits from the 27th to the 39th week of unemployment.

The extended benefits program is not as successful as it should be, because it is too hard for most States to qualify under its provisions.

Under the extended program today all States pay extended benefits if a national trigger of 4.5 percent insured unemployment is met. This 4.5 percent figure must be met for 3 straight months. The national trigger has been hit in only 3 months out of the last 4 years. Therefore, the bill before us lowers the national trigger to 4 percent.

Since the 4 percent trigger was hit in October and will be hit in November and December, extended benefits can be paid in all 50 States as of January. And since all States will qualify for extended benefits—27th to 39th week—they will also automatically qualify for emergency benefits under this bill.

If the national trigger is not hit, individual States will still be able to come into the program if their State insured unemployment rate is 4 percent.

Under present law, since the national trigger is not on, only about 10 States are paying extended benefits.

This bill also waives the State requirement that unemployment be going up to 20 percent over the previous 2 years. Five times we have had to come before the Senate to waive this trigger. Most recently we waived the trigger through April of 1975. Our bill waives it through December of 1976.

The total cost of our bill is $1.1 billion. Two hundred million of that is for liberalizing the extended program and $900 million is for the new emergency program.

Our bill is a 2-year bill. Next year we must reform our employment laws in a comprehensive way. But these are extracrdinary times. Unemployed workers can wait no longer for the help they need.

I urge my colleagues to approve the House bill which is virtually identical to ours. In this way the Department of Labor will be able to begin the work it must do to put the program into effect in January of next year.

EXPLANATION OF EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1974

With national unemployment above 6 percent and the economic picture getting bleaker, Congress must take immediate action on unemployment benefits now to assure that benefits get to the people by the start of the year.

REGULAR BENEFITS—1ST TO 26TH WEEK

Under present law, most States provide 26 weeks of State-financed benefits. Our bill does not change the regular benefits program.

EXTENDED BENEFITS—27TH TO 39TH WEEK

In 1970 we enacted a Federal-State extended benefits program to provide an additional 13 weeks of benefits to people in high unemployment States. Under present law there are two ways a State can trigger into this program—one way is if a national unemployment trigger is reached and second, if the national trigger is not reached, a State can come in by itself if it reaches a State trigger.

The national trigger is presently a 4.5 percent insured [1] unemployment rate.

If the national insured rate is 4.5 percent for 3 consecutive months all States automatically provide an additional 13 weeks of benefits with the States and the Federal Government sharing the cost. This national trigger is so high that it has been triggered on in only one 3-month period since 1970—in the fall of 1971.

Our bill lowers the national trigger to a 4-percent insured unemployment rate. This means that if the national trigger of 4 percent is hit for 3 consecutive months all States will pay an additional 13 weeks of benefits. In October the national rate hit 4 percent. Since it will hit that figure in November and December, we can begin paying benefits in January under the 4-percent trigger. Under our proposal the $200 million cost of liberalizing this trigger will be borne entirely by the Federal Government.

Under present law and under our proposal, if the national trigger is not reached, individual States can become eligible for extended benefits if they reach a separate State trigger. The State trigger requires a State to have a 4-percent insured unemployment rate and in addition requires that a State's rate be going up at 120 percent over a corresponding period in the previous 2 years. This 120-percent requirement was enacted to help only those States whose unemployment is rapidly rising.

In the past few years as unemployment has either dropped or leveled off at high levels, States have not been able to meet the 120-percent trigger requirement. In the last 2 years this committee has waived the trigger requirement on five separate occasions. Presently the 120-percent requirement is waived through

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[1] This rate counts only those employed receiving unemployment benefits. It is generally the rule that the insured unemployment rate is 2 percent points under the national regular unemployment rate. That is, a 4.5% insured rate corresponds to a 6.5% regular rate.

April 30, 1975. Our bill waives it through December 31, 1976.[2]

In summary, our revisions in the extended benefits program—27th to 30th week—make it easier for States to trigger into this program at no extra cost to the States.

EMERGENCY BENEFITS—39TH TO 52D WEEK

The emergency benefits portion of our proposal provides an emergency 13 weeks of benefits after a worker has run out of his 26 weeks or regular benefits and 13 weeks of extended benefits. The concept is similar to one which I and Senator MAGNUSON cosponsored and which was law from December of 1971 through December of 1972.

The emergency 13 weeks of benefits will be paid in any State which also has in effect the extended benefits program. Therefore, we expect that as of January 1975 benefits can be paid under both the extended and the emergency programs in all States.

The cost of the emergency 13 weeks of benefits in 1975 is $900 million. It is expected that there will be 1.35 million average weekly beneficiaries. The cost of our entire bill is $1.1 billion.

Mr. President, I ask unanimous consent that a comparison of present law and proposed Emergency Act together with a statement I made on the floor dated December 4, 1974, be printed in the RECORD at this point.

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

COMPARISON OF PRESENT LAW AND PROPOSED EMERGENCY ACT

PRESENT LAW

Regular

26 weeks state-financed.

Extended

13 additional weeks in all states if national insured unemployment rate is 4.5%.

or

13 weeks in any state where insured rate is 4% and rate is rising at 120% over previous 2 years (this 120% provision is now waived through Apr. 30, 1975). 50–50 state-federal funding.

Emergency

No provision.

Cost

RIBICOFF-NELSON-JAVITS—EMPLOYEE TAX

Regular

Unchanged.

Extended

13 additional weeks in all states if national insured unemployment rate is 4%.

or

13 weeks in any state where state insured rate is 4%. (120% requirement would be waived through Dec. 1976) 50–50 state-federal funding with federal government picking up 100% of extra cost of liberalizing trigger.

Emergency

13 additional weeks if the extended benefits program is in effect. 100% federal financing.

Cost

1975—$900 million for emergency 13 weeks of benefits (1.35 million average weekly beneficiaries.)

$200 million for liberalizing extended benefits trigger.

Total: $1.1 billion.

[2] Under present law, the national trigger of 4.5 percent is not on. Therefore, only those States meeting the State trigger of 4 percent receive benefits. Less than a dozen States are paying benefits. They include California, Maine, Massachusetts, Michigan, New Jersey, New York, Oregon, Rhode Island, Vermont and Washington. If the national trigger (4.5 percent under present law and 4 percent under our proposal) is hit, people in all states will receive more benefits. Under present law they would get 13 extra weeks. Under our proposal they will get 26 more weeks.

STATEMENT BY MR. RIBICOFF

S. 4207. A bill entitled the Emergency Unemployment Compensation Act of 1974. Referred to the Committee on Finance.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1974

Mr. RIBICOFF. Mr. President, today I am introducing the Emergency Unemployment Compensation Act of 1974 for myself and Senators NELSON and JAVITS. I am pleased that the bill is also cosponsored by Senators MANSFIELD, HUGH SCOTT, ROBERT BYRD, MAGNUSON, HART, MONDALE, PASTORE, KENNEDY, HUMPHREY, WILLIAMS, BROOKE, MUSKIE, CRANSTON, JACKSON, TUNNEY, CASE, MATHIAS, RANDOLPH, HATHAWAY, PELL, SCHWEIKER, TAFT, HARTKE, STAFFORD, BENTSEN, METCALF, BIBLE, AIKEN, and WEICKER.

The fact that this legislation is supported by both the Democratic and Republican leaders underscores the need for immediate action.

It is most important that this legislation be enacted into law now so that we can begin paying benefits under the program by January of 1975. Our proposal is in the spirit of President Ford's proposals in the unemployment compensation area and I hope the administration will give it the support it deserves in order to secure passage in the weeks remaining in the 93d Congress.

Our economy is in the midst of a recession. As a result, unemployment is spreading. In October 6 percent of the work force—5.5 million workers were out of jobs. In my own State of Connecticut, over 80,000 people—over 5.6 percent of the work force—are out of jobs.

The economic picture is not getting brighter. In Connecticut, it has been predicted that by late winter or early spring unemployment may reach 10 percent. The Council of Economic Advisers in Connecticut predicts that by spring the Connecticut unemployment figures will reach 125,000.

Congress and the President have a responsibility to establish long term programs to turn our economy around.

Meanwhile, however, we must take immediate steps to help unemployed workers and their families make it through our Nation's economic problems.

Families without jobs cannot wait a year or even months for the economic picture to brighten. They need help and they need it now. We must take action now so that jobless families can begin receiving extra benefits at the beginning of 1975.

Our bill would provide 13 weeks of additional emergency unemployment benefits after a worker had exhausted his 26 weeks of regular benefits and 13 weeks of extended benefits.

This proposal is similar to the one which Senator Magnuson and I cosponsored which became law in December of 1971.

The 13 additional weeks of emergency benefits would assure a jobless family of up to 1 year of unemployment benefits. While I am hopeful that a meaningful public service jobs program will enable many of the unemployed to go to work, we must be willing to provide adequately for those who have lost their jobs through no fault of their own.

SPECIFICS OF THE EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1974

Under our proposal 13 weeks of emergency benefits would be paid after the 26 weeks of regular and 13 weeks of extended benefits have been exhausted. The program would last through 1975 and 1976.

The program would trigger into operation so that it would begin on a national basis when the national rate of insured unemployment reaches 4 percent for at least 3 consecutive months. If the national rate does not hit 4 percent for 3 consecutive months, a State could trigger into the program on its own if its own rate is 4 percent for 13 consecutive weeks.

States would be fully reimbursed for Emergency Compensation benefits out of the extended unemployment compensation account in the Federal unemployment trust fund. Appropriations are authorized to provide the necessary funds.

In addition to providing 13 weeks of emergency benefits, our bill will also ease the requirements for eligibility under the extended benefits program. The national trigger for the extended program will be lowered from 4.5 to 4.0. Once the national trigger is reached, all States would be eligible for extended benefits.

In addition, States will be authorized to pay benefits without meeting the additional requirement that insured unemployment be 20 percent higher than in the previous 2 years. The waiver of the 20 percent requirement will be extended through December of 1976. It is now scheduled to expire on April 30, 1975.

I ask unanimous consent that a table comparing present law with the Ribicoff-Nelson-Javits be printed at this point in the RECORD.

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

UNEMPLOYMENT COMPENSATION

PRESENT LAW

Regular

26 weeks state-financed.

Extended

13 additional weeks in all states if national insured unemployment rate is 4.5%; or

13 weeks in any state where insured rate is 4% and rate is rising at 120% over previous 2 years (this 120% provision is now waived through Apr. 30, 1975). 50–50 state-federal funding.

Emergency

No provision.

Cost

RIBICOFF-NELSON-JAVITS

Regular

Unchanged.

Extended

13 additional weeks in all states if national insured unemployment rate is 4%; or

13 weeks in any state where insured rate is 4%. (120% requirement would be waived through Dec., 1976.) 50–50 state-federal funding.

Emergency

13 additional weeks in all states if national insured unemployment rate is 4% for at least 3 consecutive months; or

13 weeks if the state unemployed insured rate is 4% and the state has the extended benefit program in effect. 100% federal financing.

Cost

$1.1 billion over present law.

Mr. NELSON. Mr. President, I am pleased to join Senator RIBICOFF, Senator JAVITS and my other colleagues on both sides of the aisle today to introduce emergency legislation to provide additional unemployment compensation to workers who have exhausted their weekly benefits under current State and Federal laws. This measure will make it possible for workers covered under existing unemployment insurance laws to receive up to 52 weeks of total benefits while unemployment is intolerably high.

It is clear there is an unemployment crisis in America today, and President Ford has challenged Congress to protect the American worker from the ravages of that crisis. I can assure you Congress stands ready, willing, and able to respond to that challenge.

I want especially to emphasize, Mr. President, that this bill represents just one part of the unemployment program we expect Congress to enact in the days ahead. In addition to extending benefits for previously covered workers, we expect Congress to pass legislation to enlarge the federally funded public service employment program and to extend unemployment benefits to many workers not currently covered under any State or Federal unemployment insurance program.

America is experiencing a 6-percent rate of overall unemployment and a 4 percent of insured employment. Five and one-half million workers were unemployed in October, and all analysts expect a substantial increase when the November rate is announced on Friday. Even Alan Greenspan, the President's chief economic adviser, and Treasury Secretary William Simon have now estimated that the overall rate will go to 7 percent in the weeks and months ahead.

Congress cannot stand idly by in light of these grim forecasts, while ever-increasing numbers of unemployed workers are faced with the exhaustion of every avenue of aid but welfare. If we do not act now to establish comprehensive programs of assistance, we are in for the coldest and hardest winter since the 1930's.

The measure we are introducing today would work as follows:

Workers currently covered by unemployment compensation are generally entitled to State benefits for up to 26 weeks, depending on the duration of their previous employment. Some States provide longer benefits; Wisconsin, for example, provides up to 34 weeks of regular benefits. Under a Federal-State extended benefit program enacted in 1970, workers are also entitled to up to 13 weeks of extended benefits, funded half by the State and half by the Federal Government, if insured unemployment in their State exceeds 4 percent, or if national insured unemployment exceeds 4.5 percent.

As a general rule, insured unemployment lags behind the overall national unemployment rate computed by the Bureau of Labor Statistics by 2 percentage points—that is, an overall national unemployment rate of 6 percent would more or less equal an insured rate of 4 percent.

The effect of this legislation would be to lower from 4.5 to 4 percent the national rate of insured unemployment that would trigger "on" the extended program as it currently exists and to add to that program a special 13-week emergency assistance program, which would also trigger "on" at 4 percent national or 4 percent statewide insured unemployment.

Workers currently covered by unemployment insurance programs would therefore be eligible for up to 26 more weeks or benefits when they exhaust their regular State benefits, so long as national or statewide insured unemployment remains above 4 percent.

The Labor Department has estimated that the bill's 4-percent national insured unemployment standard would be met by early January at the latest. Therefore, I urge my colleagues in both Houses to enact this bill, as well as the other measures we expect soon to bring before you with the swiftness required by the gravity of the crisis ahead.

Mr. JAVITS. Mr. President, last October the President addressed a joint session of Congress and presented a series of proposals designed to deal wtih the current economic crisis. This past Monday at his press conference the President exhorted the Congress to act promptly on these proposals.

In the weeks since the President made his initial proposals the Committee on Labor and Public Welfare, of which I am ranking minority member, has turned its full attentions to consideration of his proposals to aid the unemployed. In the meantime, the Nation's economic condition has continued to worsen. In particular, unemployment continues to spiral to unconscionable levels with no end yet in sight.

The program that I and other Senators are proposing here today would provide long-term unemployed workers with as much as 52 weeks of unemployment compensation benefits. It would create a new program of special unemployment benefits for workers who exhaust their rights to regular and extended (Federal) unemployment compensation benefits. This program, entirely federally financed, would trigger "on" in all States when the national insured unemployment rate reaches 4 percent or more (approximately 6 percent total (for 3 consecutive months. It could also be triggered on in individual States if their insured unemployment rate averages 4 percent or more for 13 consecutive weeks. Current estimates indicate that the 4 percent national trigger level would be reached on or about January 1 of next year.

This program would also continue the temporary waiver of the "120 percent" trigger requirement of the Federal-State extended unemployment benefits program through December of 1976. This waiver eliminates the requirement that a State have an insured unemployment rate that is 20 percent higher than its rate for the corresponding month for the previous 2 years. The State trigger on the extended benefits program would thus continue as an insured unemployment rate of 4 percent. This waiver has been enacted by the Congress several times in the past 2 years at the urging of myself and Senator RIBICOFF.

The President has proposed two new programs to deal with the problems of high and continuing unemployment. While the Labor and Public Welfare Committee will continue to study these proposals, it is vital that we provide immediate relief for workers who are suffering from long term unemployment. The program that we are proposing today has two distinct advantages over the special unemployment program presented by the President. First, this program would continue automatically if needed until December of 1976, as opposed to the cutoff date in the President's proposal of December 1975. Without program we can provide some measure of income security to those workers who will continue to become unemployed if the Nation's economic condition does not recover by the end of next year. All economic forecasts indicate, sadly, that it is unrealistic to expect any significant relief from the serious inflation and unemployment problems with which we are now plagued before 1976. Second, the program I am proposing relies on trigger mechanisms, and builds upon unemployment compensation programs already in existence, rather than creating an entirely new program.

As critical as is this legislation, it does not go far enough. There are many serious deficiencies in the basic Federal-State unemployment insurance system. For example, more than 10 million workers in the United States are not covered by the present system, and other inequities exist with respect to qualifications for benefits, benefit durations, benefit levels and other areas. For this reason the Labor and Public Welfare Committee is giving urgent consideration to additional legislation to provide basic unemployment payments on a federally-financed basis to those workers not protected by the existing system.

I am also hopeful that there will be quick action on legislation (S. 4079) which I and Senator NELSON have previously introduced, which would infuse an aggregate of $4.0 billion for more than 500,000 public service jobs. These additional job creation resources would supplement the $1.1 billion made available since June for 170,000 public service jobs.

For this Congress to adjourn without taking action to provide some measure of relief for the thousands of long-term unemployed who are the innocent victims of our worsening economic situation would be unconscionable. I am pleased that so many of my colleagues have joined in cosponsoring this legislation and hope that it will receive our most immediate attention.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, I offer an amendment at the request of the administration and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

On page 11, line 3 after "of", insert:

"But only with respect to compensation that would not have been payable if the State law's provisions as to the State 'on' and 'off' indicators omitted the 120 percent factor as provided for by P.L. 93-368 and by Sec. 106 of this Act."

Mr. CURTIS. Mr. President, I will make a very brief statement. It is my hope that perhaps the manager of the bill can accept this and take it to conference.

As presently drawn H.R. 17597 gives each State the authority to reduce its national trigger from 4.5 to 4 percent and assures States that, if they do so, extended benefits paid by reason of the change will be 100 percent reimbursed to them by the Federal Government instead of 50 percent as is normally the case with Federal-State extended benefits. The bill also continues the authority to States to disregard the 120-percent factor in their State "on" and "off" indicators beyond the April 30, 1975, expiration date provided by Public Law 93-368 until December 31, 1976. Unless provision is made to require States to exercise that waiver as a condition for receiving 100-percent reimbursement for extended benefits that they pay under a 4-percent national trigger, some States may either fail to exercise their authority to waive the 120-percent factor or rescind their existing waivers. The result could be that, in the absence of such waiver, some States will not be paying extended benefits when they could be—at a time when their own insured unemployment rates exceed 4 percent—but do not meet the 120-percent requirement—and the national insured unemployment rate has

reached the point where it has triggered off nationwide payment of extended benefits. In such cases, unemployment workers could not receive the protection this legislation is intended to provide—extended and emergency benefits when they have exhausted regular benefits.

Mr. RIBICOFF. Mr. President, this is a technical correction and I am pleased to accept the amendment.

Mr. JAVITS. Will the Senator yield?

Mr. CURTIS. I am happy to yield to the Senator.

Mr. JAVITS. Mr. President, the amendment is acceptable to me, as well. It is essential.

The PRESIDING OFFICER (Mr. BIDEN). The question is on agreeing to the amendment of the Senator from Nebraska (Mr. CURTIS).

The amendment was agreed to.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

Mr. President, this bill is essential to complete the legislative package upon which we are in conference right now and will be most of the night; unemployment compensation, for those who are not now encompassed within the Federal-State system and public service jobs.

This urgently needed bill, the Emergency Unemployment Compensation Act of 1974, is a critical component of the congressional response to the present dismal condition of the economy, and particularly to rapidly rising levels of unemployment. I urge every one of my colleagues to support it.

For several years I have been deeply concerned about the inability of our existing Federal-State unemployment insurance system to respond to the needs of the unemployed during periods of high and prolonged unemployment. The legislation now before the Senate would establish a program of emergency unemployment compensation to provide up to 13 weeks of additional unemployment insurance benefits to workers who have exhausted their rights to regular and extended unemployment compensation. It would, in addition, make several temporary changes in the Federal-State extended unemployment compensation program which are very badly needed.

Last October, the President addressed a joint session of Congress and presented a series of proposals designed to deal with the high and rising unemployment which has accompanied our current economic crisis. In the weeks since that address, the Committee on Labor and Public Welfare, of which I am the ranking minority member, has turned its full attention to those proposals. Just last week the Senate passed by an overwhelming vote of 78 to 13 a bill, the Special Employment Assistance Act, S. 4079, which, in combination with the proposal now before us, will constitute an improvement of the unemployment proposal presented by the administration.

The bill before the Senate now is virtually identical to legislation I introduced last week with Senators RIBICOFF and NELSON along with 33 other Senators. This bill would provide long-term unemployed workers with as much as 52 weeks of unemployment compensation benefits. It would create a new program of special unemployment benefits for workers who had exhausted their rights to regular and Federal-State extended unemployment compensation benefits.

This program, entirely federally financed, would trigger "on" in all States when the national insured unemployment rate equalled or exceeded 4 percent—equal to approximately 6 percent total unemployment—for 3 consecutive months. It could also be triggered on in individual States if their insured unemployment rates averaged 4 percent insured or more for 13 consecutive weeks. Current estimates indicate that the national trigger level will be reached on or about January 1 of next year.

This bill would also continue the waiver of the 120 percent requirement in the State trigger of the Federal-State Extended Unemployment Benefits program through December of 1976. This waiver eliminates the requirement that a State have an insured unemployment rate 20 percent higher than its rate for the corresponding months of the previous 2 years. The State trigger on the extended benefits program would thus continue as an insured unemployment rate of 4 percent. This waiver has been enacted by the Congress several times in the past 2 years at my urging and that of my colleagues from Connecticut (Mr. RIBICOFF) and from California (Mr. TUNNEY). In addition, the bill would allow the States to provide extended benefits when the national trigger reaches 4.0 percent—insured unemployment—rather than the current 4.5 percent in the permanent legislation. This would permit all States, regardless of their State unemployment rates, to begin paying extended benefits, in addition to the new special benefit program, on or about January 1 of next year.

The program before us today has two distinct advantages over the special unemployment program proposed by the President. First, the program would continue automatically, if needed, until December 1976, as opposed to the cutoff date in the President's proposal of December 1975. This program will therefore provide some measure of income security to those workers who will continue to become unemployed if the Nation's economic condition does not recover by the end of next year. Sadly, economic forecasts generally indicate that it is unrealistic to expect relief from the serious inflation and unemployment problems with which we are now plagued before the end of 1975. Second, the program that is before us today relies on trigger mechanisms and builds upon the unemployment insurance programs already in place, rather than creating an entirely new program. As proposed in this bill, the program would have trigger and eligibility requirements identical with the Federal-State extended unemployment insurance program.

In addition, I would point out that this bill is in consonance with the programs recommended this week by the Republican Conference. That recommendation reads:

> Temporary program of Federally financed income replacement payments for unemployed workers should be established. We recommend reenactment of the Emergency Unemployment Compensation Program to make it apply nationally in January; and a supplemental program of up to 26 weeks of benefits for unemployed workers in high unemployment areas who are ineligible under the existing unemployment insurance system.

It is good that the Congress has been able to respond so quickly to the urgent needs of the unemployed during this economic crisis. I hope all of my colleagues will join me in voting in favor of this legislation and sending it on to the President for his signature.

I would add only one word of caution to my colleagues. As I have indicated, we can justly be proud of our speedy efforts at initiating this stop-gap legislation to patch up the unemployment insurance system. It is, however, only a patch on a system that is unable to meet the needs of our times. This represents the sixth time in the past 2 years that the Senate has been forced to turn its attention to the unemployment insurance laws for the purpose of applying one patch or another. I would hope that with the enactment of these emergency programs, which should suffice at least through the end of next year, the appropriate committees in this body and in the House will turn their full attentions to the long overdue reforms of the unemployment insurance laws.

Mr. LONG. Mr. President, the national unemployment rate in November rose to 6.5 percent, the highest rate in 13 years. Most estimates project continued high unemployment during 1975. Under these circumstances, it is appropriate that the Congress act again to improve unemployment benefits.

Under normal economic circumstances, unemployed workers in most States are eligible to receive 26 weeks of benefits. Under legislation enacted by the Congress in 1970, workers are eligible for an additional 13 weeks of extended unemployment benefits if the unemployment rate is sufficiently high either nationally or in the unemployed worker's State. The theory of the extended benefit program is that during times of high unemployment, an unemployed worker will find it more difficult to find another job and will require more time to do so.

For a little more than a year during 1972 and 1973, benefits were payable in States with especially high unemployment for 13 weeks in addition to the 26 weeks of regular benefits and 13 weeks of extended benefits. These additional benefits were made available under a provision introduced by Senator MAGNUSON.

The Emergency Unemployment Compensation Act now being considered by the Senate builds on the precedents of existing law. It contains two parts. First, a State would be given the option for a temporary period to pay the first 13 weeks of extended benefits on the basis of a national insured unemployment rate of 4 percent.

Under present law States must pay extended benefits with 50 percent matching if the national insured unemployment rate exceeds 4.5 percent for 3 months in a row. An insured unemployment rate

of 4.5 percent corresponds roughly to an overall 6.5 percent unemployment rate.

It is now projected that the insured unemployment rate will exceed 4.5 percent for the months of December, January, and February, which will mean that under existing law extended benefits will have to be paid in every State beginning in March. Under H.R. 17597 States will be able to pay extended benefits if the national insured unemployment rate exceeds 4 percent, rather than 4.5 percent, for 3 consecutive months. Under this provision every State will be able to pay extended unemployment benefits beginning in January. To insure that there is no fiscal reason preventing States from paying these benefits, the Federal Government will pay 100 percent of the additional cost associated with this provision in the bill. It is estimated that under this provision an additional $200 million in federally funded extended benefits will be paid to unemployed workers in 1975.

The bill also extends through December 1976 the authority for the States to pay extended benefits on the basis of a State-insured unemployment rate of 4 percent even if the national insured unemployment rate dips below that level. Under existing law, States could pay benefits on this basis after April 1975 only if their rate of insured unemployment is at least 20 percent higher than during the prior 2 years.

The second part of the bill provides an additional 13 weeks of emergency unemployment benefits in any State paying extended benefits.

Under this provision, workers who exhaust their 26 weeks of regular State unemployment benefits and their 13 weeks of Federal-State extended benefits would be eligible for up to 13 more weeks of emergency benefits. These would be fully funded from the Federal extended benefits account in the unemployment trust fund. As necessary to cover the cost of the program, appropriations would be authorized from the general fund of the Treasury in the form of repayable advances to the extended benefits account; $900 million in federally funded unemployment benefits to about 1,350,000 unemployed workers weekly during 1975.

Mr. President, we have followed the unusual procedure of not referring this major legislation to Committee in order to insure that benefits can be paid to unemployed workers beginning in January. Because this bill does build on the precedents of existing law and utilize the machinery of the present regular and extended benefit programs, it should be possible to have the benefits it provides available to unemployed workers very soon after enactment. But some leadtime will be needed to make such modifications as are necessary in the existing machinery. For this reason, we are hopeful that the Senate will agree to act on this bill so that it can become law as soon as possible. Although the bill has not been referred to the Committee on Finance, the committee has discussed it and finds no reason why it cannot be accepted in the form in which it was passed by the House of Representatives. The substance of the bill is virtually identical to a measure recently introduced by Senators RIBICOFF, NELSON, JAVITS, and a number of other Senators. I want to commend these Senators for having worked out this measure which has achieved such a wide degree of support and which so expeditiously and effectively addresses the pressing problem of rapidly rising unemployment.

I ask unanimous consent that there be printed in the RECORD at this point a chart summarizing the provisions of the bill.

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

H.R. 17597—Emergency Unemployment Compensation Act of 1974

	Emergency Benefits Program (No comparable program under existing law. A similar program was in effect in 1972.)	Extended Benefits Program	
		Present Law	H.R. 17597
Benefits	13 additional weeks for workers exhausting benefits under regular (1st 26 weeks) and extended (27th to 39th weeks) programs.	13 weeks of benefits to workers exhausting benefits under regular State unemployment benefit programs.	Same as existing law.
When in effect:	Whenever the extended benefit program is in effect. Program expires December 31, 1976.	Effective in all States when National insured unemployment rate reaches 4.5 percent for 3 months.	Effective in all States when National insured unemployment rate reaches 4 percent for 3 months.
		Must be effective in a State when insured unemployment rate in the State is 4 percent and is 20 percent higher than in 2 prior years.	Same as present law.
		Effective, at State option, when State insured unemployment rate is 4 percent even if it is not 20 percent higher than in the 2 prior years. This provision expires April 30, 1975.	Same as present law except that provision would remain applicable until December 31, 1976.
Funding	100 percent Federal funding—Paid from extended benefit account in Unemployment Trust Fund. Repayable advances to cover the cost would be made to the extended benefit account from general revenues.	50 percent Federal and 50 percent State.	Same as present law except that benefits paid solely because of lowering national trigger to 4 percent would be 100 percent Federal.
Calendar year 1975 cost of amendment	$0.9 billion.		$0.2 billion.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Senator from Alabama (Mr. ALLEN) be added as a cosponsor, and the Senator from Washington (Mr. JACKSON) and the Senator from New York (Mr. JAVITS).

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

Mr. NELSON. Mr. President, the House-passed unemployment compensation bill we expect to take from the calendar and pass this afternoon will provide some absolutely necessary relief for many workers who even as we talk here this afternoon are running out of benefits under State and Federal unemployment compensation laws.

The bill passed by the House is substantially identical to the bill introduced by Senator RIBICOFF, Senator JAVITS and myself just 12 days ago, with the cosponsorship of both leaders and well over one-third of our other colleagues in the Senate.

Indeed, where the House and Senate bills differ, I believe my colleagues on the Ways and Means Committee have improved the measure and therefore I urge my Senate colleagues to follow the leadership of our able and respected Chairman, Senator LONG, and clear the House measure for the President's signature without further debate.

This piece of legislation is an important part of a well-orchestrated congressional response to the needs of the

Nation at a time of economic distress and insecurity. It is part of a comprehensive unemployment package that has been in the making since before the congressional election recess. This package has emerged from a virtually nonstop process of negotiation and analysis in both Houses which began with hearings in the first week following the introduction of the administration bill. These measures have involved the administration, various Senate and House committees, the Department of Labor and numerous citizens organizations.

In addition to the bill before us this afternoon, both Houses have passed a substantial public service jobs bill and legislation that will extend unemployment compensation type benefits to all employees who are not covered by existing plans, with no additional burden on State or local taxes. We expect a conference report on those measures to be available quickly.

Workers currently covered by unemployment compensation are generally entitled to State benefits for up to 26 weeks, depending on the duration of their previous employment. Some States provide longer benefits; Wisconsin, for example, provides up to 34 weeks of regular benefits. Under a Federal-State extended benefit program enacted in 1970, workers are also entitled to up to 13 weeks of extended benefits, funded half by the State and half by the Federal Government, if insured unemployment in their State exceeds 4 percent, or if national insured unemployment exceeds 4.5 percent.

As a general rule, insured unemployment lags behind the overall national unemployment rate computed by the Bureau of Labor Statistics by two percentage points— that is, an overall national unemployment rate of 6 percent would more or less equal an insured rate of 4 percent.

The effect of this legislation would be to lower from 4.5 to 4 percent the national rate of insured unemployment that would trigger "on" the extended program as it currently exists and to add to that program a special 13-week emergency assistance program, which would also trigger "on" at 4-percent national or 4-percent statewide insured unemployment.

Workers currently covered by unemployment insurance programs would therefore be eligible for up to 26 more weeks of benefits when they exhaust their regular State benefits, so long as national or statewide insured unemployment remains above 4 percent.

The Labor Department has estimated that the bill's 4 percent national insured unemployment standard would be met by January at the latest. It is therefore extremely important that we pass this legislation today, so that the Labor Department can adequately prepare to meet the needs of our unemployed workers.

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

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

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was 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 a third time, the question is, Shall it pass?

Mr. ROBERT C. BYRD. Mr. President, this will be the last rollcall vote of the day.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Utah Mr. MOSS), the Senator from California (Mr. TUNNEY), the Senator from Texas (Mr. BENTSEN), and the Senator from Nevada (Mr. BIBLE) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD) is absent on official business.

I also announce that the Senator from Maine (Mr. HATHAWAY) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Maine (Mr. HATHAWAY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Connecticut (Mr. WEICKER) 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 Connecticut (Mr. WEICKER) would vote "yea."

The result was announced—yeas 84, nays 0, as follows:

[No. 557 Leg.]

YEAS—84

Abourezk	Fong	Montoya
Aiken	Gravel	Muskie
Allen	Griffin	Nelson
Baker	Gurney	Nunn
Bartlett	Hansen	Packwood
Bayh	Hart	Pastore
Beall	Hartke	Pearson
Bennett	Haskell	Pell
Biden	Hatfield	Proxmire
Brock	Helms	Randolph
Brooke	Hollings	Ribicoff
Burdick	Hruska	Roth
Byrd, Harry F., Jr.	Huddleston	Schweiker
Byrd, Robert C.	Humphrey	Scott, Hugh
Cannon	Inouye	Scott, William L.
Case	Jackson	Sparkman
Chiles	Javits	Stafford
Church	Johnston	Stennis
Clark	Kennedy	Stevens
Cook	Long	Stevenson
Cotton	Magnuson	Symington
Cranston	Mathias	Taft
Curtis	McClellan	Talmadge
Dole	McClure	Thurmond
Domenici	McGee	Tower
Eastland	McIntyre	Williams
Ervin	Metcalf	Young
Fannin	Metzenbaum	
	Mondale	

NAYS—0

NOT VOTING—16

Bellmon	Fulbright	Moss
Bentsen	Goldwater	Percy
Bible	Hathaway	Tunney
Buckley	Hughes	Weicker
Dominick	Mansfield	
Eagleton	McGovern	

So the bill (H.R. 17597) was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ABOUREZK. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The motion to table was agreed to.

Several Senators addressed the Chair.

AMERICAN INDIAN POLICY REVIEW COMMISSION

Mr. ABOUREZK. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Joint Resolution 133.

The PRESIDING OFFICER (Mr. BIDEN) laid before the Senate the amendment of the House of Representatives to the joint resolution (S.J. Res. 133) to provide for the establishment of the American Indian Policy Review Commission as follows:

Strike out all after the resolving clause, and insert: *That—*

(a) In order to carry out the purposes described in the preamble hereof and as further set out herein, there is hereby created the American Indian Policy Review Commission, hereinafter referred to as the "Commission".

(b) The Commission shall be composed of eleven members, as follows:

(1) three Members of the Senate appointed by the President pro tempore of the Senate, two from the majority party and one from the minority party:

(2) three Members of the House of Representatives appointed by the Speaker of the House of Representatives, two from the majority party and one from the minority party; and

(3) five Indian members as provided in subsection (c) of this section.

(c) At its organization meeting, the members of the Commission appointed pursuant to section (b)(1) and (b)(2) of this section shall elect from among their members a Chairman and a Vice Chairman. Immediately thereafter, such members shall select, by majority vote, five Indian members of the Commission from the Indian community, as follows:

(1) three members shall be selected from Indian tribes that are recognized by the Federal Government;

(2) one member shall be selected to represent urban Indians; and

(3) one member shall be selected who is a member of an Indian group not recognized by the Federal Government.

None of the Indian members shall be employees of the Federal Government during their term of service on the Commission nor shall there be more than one member from any one Indian tribe.

(d) Vacancies in the membership of the Commission shall not affect the power of the remaining members to execute the functions of the Commission and shall be filled in the same manner as in the case of the original appointment.

(e) Six members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings: *Provided,* That at least one congressional member must be present at any Commission hearing.

(f) Members of the Congress who are members of the Commission shall serve without any compensation other than that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of duties vested in the Commission.

(g) The Indian members of the Commission shall receive $100 for each day such members are engaged in the actual performance of duties vested in the Commission. Each such member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as shall be provided from time to time by regulations adopted by the Committee on House Administration of the United States House of Representatives.

SEC. 2. It shall be the duty of the Commission to make a comprehensive investigation and study of Indian affairs and the scope of such duty shall include, but shall not be limited to—

(1) a study and analysis of the Constitution, treaties, statutes, judicial interpretations, and Executive orders to determine the attributes of the unique relationship between the Federal Government and Indian tribes and the land and other resources they possess;

(2) a review of the policies, practices, and structure of the Federal agencies charged with protecting Indian resources and providing services to Indians: Provided, That such review shall include a management study of the Bureau of Indian Affairs utilizing experts from the public and private sector;

(3) an examination of the statutes and procedures for granting Federal recognition and extending services to Indian communities and individuals;

(4) the collection and compilation of data necessary to understand the extent of Indian needs which presently exist or will exist in the near future;

(5) an exploration of the feasibility of alternative elective bodies which could fully represent Indians at the national level of Government to provide Indians with maximum participation in policy formation and program development;

(6) a consideration of alternative methods to strengthen tribal government so that the tribes might fully represent their members and, at the same time, guarantee the fundamental rights of individual Indians; and

(7) the recommendation of such modification of existing laws, procedures, regulations, policies, and practices as will, in the judgment of the Commission, best serve to carry out the policy and declaration of purposes as set out above.

POWERS OF THE COMMISSION

SEC. 3. (a) The Commission or, on authorization of the Commission, any committee of two or more members is authorized, for the purposes of carrying out the provisions of this resolution, to sit and act at such places and times during the sessions, recesses, and adjourned period of Congress, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The Commission may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Commission unless a majority of the Commission assent. Upon the authorization of the Commission subpenas may be issued over the signature of the Chairman of the Commission or of any member designated by him or the Commission, and may be served by such person or persons as may be designated by such Chairman or member. The Chairman of the Commission or any member thereof may administer oaths or affirmations to witnesses.

(b) The provisions of sections 192 through 194, inclusive, of title 2, United States Code, shall apply in the case of any failure of any witness to comply with any subpena when summoned under this section.

(c) The Commission is authorized to secure from any department, agency, or instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this resolution and each such department, agency, or instrumentality is authorized and directed to furnish such information to the Commission and to conduct such studies and surveys as may be requested by the Chairman or the Vice Chairman when acting as Chairman.

(d) If the Commission requires of any witness or of any Government agency the production of any materials which have therefore been submitted to a Government agency on a confidential basis, and the confidentiality of those materials is protected by statute, the material so produced shall be held in confidence by the Commission.

INVESTIGATING TASK FORCES

SEC. 4. (a) As soon as practicable after the organization of the Commission, the Commission shall, for the purpose of gathering facts and other information necessary to carry out its responsibilities pursuant to section 2 of this resolution, appoint investigating task forces to be composed of three persons, a majority of whom shall be of Indian descent. Such task forces shall be appointed and directed to make preliminary investigations and studies in the various areas of Indian affairs, including, but not limited to—

(1) trust responsibility and Federal-Indian relationship, including treaty review;

(2) tribal government;

(3) Federal administration and structure of Indian affairs;

(4) Federal, State, and tribal jurisdiction;

(5) Indian education;

(6) Indian health;

(7) reservation development;

(8) urban, rural nonreservation, terminated, and nonfederally recognized Indians; and

(9) Indian law revision, consolidation, and codification.

(b)(i) Such task forces shall have such powers and authorities, in carrying out their responsibilities, as shall be conferred upon them by the Commission, except that they shall have no power to issue subpenas or to administer oaths or affirmations: *Provided*, That they may call upon the Commission of any committee thereof, in the Commission's discretion, to assist them in securing any testimony, materials, documents, or other information necessary for their investigation and study.

(ii) The Commission shall require each task force to provide written quarterly reports to the Commission on the progress of the task force and, in the discretion of the Commission, an oral presentation of such report. In order to insure the correlation of data in the final report and recommendations of the Commission, the Director of the Commission shall coordinate the independent efforts of the task force groups.

(c) The Commission may fix the compensation of the members of such task forces at a rate not higher than the highest rate of basic pay set forth in the General Schedule of section 5332 of title 5, United States Code, and they shall be reimbursed for travel expenses, including per diem, as provided in section 1(g) of this resolution.

(d) The Commission shall insure that, out of funds appropriated by this Act, the task forces are provided with adequate staff support to carry out the projects assigned to them.

(e) Each task force appointed by the Commission shall, within one year from the date of appropriation of funds pursuant to section 7 of this resolution, submit to the Commission its final report of investigation and study, together with recommendations thereon.

REPORT OF THE COMMISSION

SEC. 5. Upon the report of the task forces made pursuant to section 4 hereof, the Commission shall review and compile such reports, together with its independent findings, into a final report. Within six months after the reports of the investigating task forces, the Commission shall submit its final report, together with recommendations thereon, to the President of the Senate and the Speaker of the House of Representatives. The Commission shall cease to exist six months after submission of said final report. All records and papers of the Commission shall thereupon be delivered to the Administrator of the General Services Administration for deposit in the Archives of the United States.

(b) Any recommendations of the Commission involving the enactment of legislation shall be referred by the President of the Senate or the Speaker of the House of Representatives to the appropriate standing committee of the Senate and House of Representatives, respectively, and such committees shall make a report thereon to the respective house within two years of such referral.

COMMISSION STAFF

SEC. 6. (a) The Commission shall, by record vote of a majority of the Commission members, appoint a Director of the Commission, a General Counsel, one additional professional staff member, and three clerical staff members. The Commission shall prescribe the duties and responsibilities of such staff members and fix their pay at respective per annum gross rates not in excess of the highest rate of basic pay, as in effect from time to time, of the General Schedule of section 5332 of title 5, United States Code.

(b) In carrying out any of its functions under this resolution, the Commission is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government, and to procure, if not otherwise provided for herein, the temporary or intermittent services of experts or consultants or organizations thereof by contract at rates of pay not in excess of the per diem equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332 of title 5, United States Code, including payment of such rates for necessary traveltime.

(c) Any individual serving as a member of an investigating task force, or any attorney or expert in any job or professional field employed by the Commission on a part-time or full-time basis with or without compensation, shall, while engaged in such service or employment, be deemed a "special Government employee" within the meaning of section 202 and the following of title 18, United States Code.

SEC. 7. There is hereby authorized to be appropriated a sum not to exceed $2,500,000 to carry out the provisions of this resolution. The expenses of the Commission shall be paid from the contingent fund of the House of Representatives from funds appropriated for the Commission, upon vouchers approved by the chairman.

Strike out the preamble, and insert:

CONGRESSIONAL FINDINGS

The Congress, after careful review of the Federal Government's historical and special legal relationship with American Indian people, finds that—

(a) the policy implementing this relationship has shifted and changed with changing administrations and passing years; without apparent rational design and without a consistent goal to achieve Indian self-sufficiency;

(b) there has been no general comprehensive review of conduct of Indian affairs by the United States nor a coherent investigation of the many problems and issues involved in the conduct of Indian affairs since the 1928 Meriam Report conducted by the Institute for Government Research; and

(c) in carrying out its responsibilities under its plenary power over Indian affairs, it is imperative that the Congress now cause such a comprehensive review of Indian affairs be conducted.

DECLARATION OF PURPOSE

Congress declares that it is timely and essential to conduct a comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government in order to determine the nature and scope of necessary revisions in the formulation of policies and programs for the benefit of Indians.

Mr. ABOUREZK. Mr. President, the amendment to the House to Senate Joint Resolution 133 relates to the administrative provisions of the legislation, are technical and clarifying in nature, and in most cases improve the Senate bill.

However, there are two substantive modifications made by the House which the Committee on Interior and Insular Affairs believes should be amended. Because the resolution originated in the Senate, the sponsor of the resolution feels that the funds for the Commission should be appropriated and administered by the Senate instead of the House, as provided for in the House amendment.

One of the other amendments I am proposing would delete section 6(c) which deals with conflict of interest of temporary or part-time employees of the Commission. The reason for such deletion is the fact that under the Senate rules all potential consultants have to be screened by the Committee on Rules and Administration, and therefore it is felt that such a provision is unnecesary and would only add additional burdens to the Senate Disbursing Office.

Both of these amendments, together with some other technical and clarifying modifications, have been aproved by both the majority and minority members of the Committee on Interior and Insular Affiairs, the sponsors of the legislation, and I understand are acceptable to the leadership of the House Interior Committee. I now offer these changes as an amendment in the nature of a substitute.

Mr. President, I move that the Senate concur in the amendment of the House with an amendment.

The motion was agreed to.

The amendment is as follows:

Strike out all after the resolving clause, and insert: That—

(a) In order to carry out the purposes described in the preamble hereof and as further set out herein, there is hereby created the American Indian Policy Review Commission, hereinafter referred to as the "Commission".

(b) The Commission shall be composed of eleven members, as follows:

(1) three Members of the Senate appointed by the President pro tempore of the Senate, two from the majority party and one from the minority party;

(2) three Members of the House of Representatives appointed by the Speaker of the House of Representatives, two from the majority party and one from the minority party; and

(3) five Indian members as provided in subsection (c) of this section.

(c) At its organization meeting, the members of the Commission appointed pursuant to section (b)(1) and (b)(2) of this section shall elect from among their members a Chairman and a Vice Chairman. Immediately thereafter, such members shall select, by majority vote, five Indian members of the Commission from the Indian community, as follows:

(1) three members shall be selected from Indian tribes that are recognized by the Federal Government;

(2) one member shall be selected to represent urban Indians; and

(3) one member shall be selected who is a member of an Indian group not recognized by the Federal Government.

None of the Indian members shall be employees of the Federal Government concurrently with their term of service on the Commission nor shall there be more than one member from any one Indian tribe.

(d) Vacancies in the membership of the Commission shall not affect the power of the remaining members to execute the functions of the Commission and shall be filed in the same manner as in the case of the original appointment.

(e) Six members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings: *Provided*, That at least one congressional member must be present at any Commission hearing.

(f) Members of the Congress who are members of the Commission shall serve without any compensation other than that received for their services as Members of Congress, but they may be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of duties vested in the Commission.

(g) The Indian members of the Commission shall receive compensation for each day such members are engaged in the actual performance of duties vested in the Commission at a daily rate not to exceed the daily equivalent of the maximum annual compensation that may be paid to employees of the U.S. Senate generally. Each such member may be reimbursed for travel expenses, including per diem in lieu of subsistence.

SEC. 2. It shall be the duty of the Commission to make a comprehensive investigation and study of Indian affairs and the scope of such duty shall include, but shall not be limited to—

(1) a study and analysis of the Constitution, treaties, statutes, judicial interpretations, and Executive orders to determine the attributes of the unique relationship between the Federal Government and Indian tribes and the land and other resources they possess;

(2) a review of the policies, practices, and structure of the Federal agencies charged with protecting Indian resources and providing services to Indians: *Provided*, That such review shall include a management study of the Bureau of Indian Affairs utilizing experts from the public and private sector;

(3) an examination of the statutes and procedures for granting Federal recognition and extending services to Indian communities and individuals;

(4) the collection and compilation of data necessary to understand the extent of Indian needs which presently exist or will exist in the near future;

(5) an exploration of the feasibility of alternative elective bodies which could fully represent Indians at the national level of Government to provide Indians with maximum participation in policy formation and program development;

(6) a consideration of alternative methods to strengthen tribal government so that the tribes might fully represent their members and, at the same time, guarantee the fundamental rights of individual Indians; and

(7) the recommendation of such modification of existing laws, procedures, regulations, policies, and practices as will, in the judgment of the Commission, best serve to carry out the policy and declaration of purposes as set out above.

POWERS OF THE COMMISSION

SEC. 3. (a) The Commission or, on authorization of the Commission, any committee of two or more members is authorized, for the purposes of carrying out the provisions of this resolution, to sit and act at such places and times during the sessions, recesses, and adjourned periods of Congress, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The Commission may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Commission unless a majority of the Commission assent. Upon the authorization of the Commission subpenas may be issued over the signature of the Chairman of the Commission or of any member designated by him or the Commission, and may be served by such person or persons as may be designated by such Chairman or member. The Chairman of the Commission or any member thereof may administer oaths or affirmations to witnesses.

(b) The provisions of sections 192 through 194, inclusive, of title 2, United States Code, shall apply in the case of any failure of any witness to comply with any subpena when summoned under this section.

(c) The Commission is authorized to secure from any department, agency, or instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this resolution and each such department, agency, or instrumentality is authorized and directed to furnish such information to the Commission and to conduct such studies and surveys as may be requested by the Chairman or the Vice Chairman when acting as Chairman.

(d) If the Commission requires of any witness or of any Government agency the production of any materials which have theretofore been submitted to a Government agency on a confidential basis, and the confidentiality of those materials is protected by statute, the material so produced shall be held in confidence by the Commission.

INVESTIGATING TASK FORCES

SEC. 4. (a) As soon as practicable after the organization of the Commission, the Commission shall, for the purpose of gathering facts and other information necessary to carry out its responsibilities pursuant to section 2 of this resolution, appoint investigating task forces to be composed of three persons, a majority of whom shall be of Indian descent. Such task forces shall be appointed and directed to make preliminary investigations and studies in the various areas of Indian affairs, including, but not limited to—

(1) trust responsibility and Federal-Indian relationship, including treaty review;

(2) tribal government;
(3) Federal administration and structure of Indian affairs;
(4) Federal, State, and tribal jurisdiction;
(5) Indian education;
(6) Indian health;
(7) reservation development;
(8) urban, rural nonreservation, terminated, and nonfederally recognized Indians; and
(9) Indian law revision, consolidation, and codification.

(b) (i) Such task forces shall have such powers and authorities, in carrying out their responsibilities, as shall be conferred upon them by the Commission, except that they shall have no power to issue subpenas or to administer oaths or affirmations: *Provided*, That they may call upon the Commission or any committee thereof, in the Commission's discretion, to assist them in securing any testimony, materials, documents, or other information necessary for their investigation and study.

(ii) The Commission shall require each task force to provide written quarterly reports to the Commission on the progress of the task force and, in the discretion of the Commission, an oral presentation of such report. In order to insure the correlation of data in the final report and recommendations of the Commission, the Director of the Commission shall coordinate the independent efforts of the task force groups.

(c) The Commission may fix the compensation of the members of such task forces at a rate not to exceed the daily equivalent of the highest rate of annual compensation that may be paid to employees of the United States Senate generally.

(d) The Commission shall, pursuant to section 6, insure that the task forces are provided with adequate staff support, in addition to that authorized under section 6(a), to carry out the projects assigned to them.

(e) Each task force appointed by the Commission shall, within one year from the date of the appointment of its members, submit to the Commission its final report of investigation and study together with recommendations thereon.

REPORT OF THE COMMISSION

SEC. 5. Upon the report of the task forces made pursuant to section 4 hereof, the Commission shall review and compile such reports, together with its independent findings, into a final report. Within six months after the reports of the investigating task forces, the Commission shall submit its final report, together with recommendations thereon, to the President of the Senate and the Speaker of the House of Representatives. The Commission shall cease to exist six months after submission of said final report but not later than June 30, 1977. All records and papers of the Commission shall thereupon be delivered to the Administrator of the General Services Administration for deposit in the Archives of the United States.

(b) Any recommendation of the Commission involving the enactment of legislation shall be referred by the President of the Senate or the Speaker of the House of Representatives to the appropriate standing committee of the Senate and House of Representatives, respectively, and such committees shall make a report thereon to the respective house within two years of such referral.

COMMISSION STAFF

SEC. 6 (a) The Commission may by record vote of a majority of the Commission members, appoint a Director of the Commission, a General Counsel, one professional staff member, and three clerical assistants. The Commission shall prescribe the duties and responsibilities of such staff members and fix their compensation at per annum gross rates not in excess of the per annum rates of compensation prescribed for employees of standing committees of the Senate.

(b) In carrying out any of its functions under this resolution, the Commission is authorized to utilize the services, information, facilities, and personnel of the Executive departments and agencies of the Government, and to procure the temporary or intermittent services of experts or consultants or organizations thereof by contract at rates of compensation not in excess of the daily equivalent of the highest per annum rate of compensation that may be paid to employees of the Senate generally.

SEC. 7. There is hereby authorized to be appropriated a sum not to exceed $2,500,000 to carry out the provisions of this resolution. Until such time as funds are appropriated pursuant to this section, salaries and expenses of the Commission shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman. To the extent that any payments are made from the contingent fund of the Senate prior to the time appropriation is made, such payments shall be chargeable against the maximum amount authorized herein.

Strike out the preamble, and insert:

CONGRESSIONAL FINDINGS

The Congress, after careful review of the Federal Government's historical and special legal relationship with American Indian people, finds that—

(a) the policy implementing this relationship has shifted and changed with changing administrations and passing years, without apparent rational design and without a consistent goal to achieve Indian self-sufficiency.

(b) there has been no general comprehensive review of conduct of Indian affairs by the United States nor a coherent investigation of the many problems and issues involved in the conduct of Indian affairs since the 1928 Meriam Report conducted by the Institute for Government Research; and

(c) in carrying out its responsibilities under its plenary power over Indian affairs, it is imperative that the Congress now cause such a comprehensive review of Indian affairs be conducted.

DECLARATION OF PURPOSE

Congress declares that it is timely and essential to conduct a comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government in order to determine the nature and scope of necessary revisions in the formulation of policies and programs for the benefit of Indians.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the preamble to Senate Joint Resolution 133 be agreed to.

The preamble was agreed to.

NATIONAL HEALTH POLICY, PLANNING, AND RESOURCES DEVELOPMENT ACT OF 1974

Mr. KENNEDY. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2994.

The PRESIDING OFFICER (Mr. BIDEN) laid before the Senate the amendment of the House of Representatives to the bill (S. 2994) to amend the Public Health Service Act to assure the development of a national health policy and of effective State and area health planning and resources development programs, and for other purposes, as follows:

Strike out all after the enacting clause, and insert:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "National Health Policy, Planning, and Resources Development Act of 1974".

TABLE OF CONTENTS

FINDINGS

SEC. 2. (a) The Congress makes the following findings:

(1) The achievement of equal access to quality health care at a reasonable cost is a priority of the Federal Government.

(2) The massive infusion of Federal funds into the existing health care system has contributed to inflationary increases in the cost of health care and failed to produce an adequate supply or distribution of health resources, and consequently has not made possible equal access for everyone to such resources.

(3) The many and increasing responses to these problems by the public sector (Federal, State, and local) and the private sector have not resulted in a comprehensive, rational approach to the present—

(A) lack of uniformly effective methods of delivering health care;

(B) maldistribution of health care facilities and manpower; and

(C) increasing cost of health care.

(4) Increases in the cost of health care, particularly of hospital stays, have been uncontrollable and inflationary, and there are presently inadequate incentives for the use of appropriate alternative levels of health care, and for the substitution of ambulatory and intermediate care for inpatient hospital care.

(5) Since the health care provider is one of the most important participants in any health care delivery system, health policy must address the legitimate needs and concerns of the provider if it is to achieve meaningful results; and, thus, it is imperative that the provider be encouraged to play an active role in developing health policy at all levels.

(6) Large segments of the public are lacking in basic knowledge regarding proper personal health care and methods for effective use of available health services.

(b) In recognition of the magnitude of the problems described in subsection (a) and the urgency placed on their solution, it is the purpose of this Act to facilitate the development of recommendations for a national health policy, to augment areawide and State planning for health services, manpower, and facilities, and to authorize financial assistance for the development of resources to further that policy.

REVISION OF HEALTH PLANNING PROGRAMS UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 3. The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XIV—NATIONAL HEALTH POLICY AND HEALTH SYSTEMS PLANNING

"PART A—NATIONAL COUNCIL FOR HEALTH POLICY

"ESTABLISHMENT OF NATIONAL COUNCIL FOR HEALTH POLICY

"SEC. 1041. (a) The Secretary shall establish a National Council for Health Policy (hereinafter in this title referred to as the 'Council').

"(b)(1) The Council shall be composed of fifteen members who shall be appointed by the Secretary. The members shall be persons who, as a result of their training, experience, or attainments, are exceptionally well qualified to assist in carrying out the functions of the Council. Not less than five of the members shall be persons who are not providers of health care and not more than three shall be officers or employees of the Federal Government. Not more than eight members of the Council shall be of the same political party.

"(2) The term of office of a member of the Council shall be six years, except that—

"(A) of the members first appointed to the Council, five shall be appointed for terms of two years and five shall be appointed for terms of four years, as designated by the Secretary at the time of appointment; and

"(B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

A member may serve after the expiration of his term until his successor has taken office.

"(3) The Chairman of the Council shall be selected by the members from among their number. The term of office of the Chairman of the Council shall be the lesser of three years or the period remaining in his term of office as a member of the Council.

"(c)(1) Except as provided in paragraph (2), the members of the Council shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council.

"(2) Members of the Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Council.

"(3) While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(d) The Council may appoint, fix the pay of, and prescribe the functions of, such personnel, including attorneys, as are necessary to carry out its functions. In addition, the Council may procure the services of experts and consultants as authorized by section 3109 of title 5, United States Code, but without regard to the last sentence of such section.

"(e) The provisions of section 14 of the Federal Advisory Committee Act respecting termination shall not apply to the Council.

"FUNCTIONS OF NATIONAL COUNCIL FOR HEALTH POLICY

"SEC. 1402. (a) The Council shall be responsible for the following:

"(1) Developing and recommending a national health policy which shall include a quantifiable statement of national health goals developed after appropriate consideration of the priorities set forth in section 1403.

"(2) Recommending guidelines respecting the appropriate supply, distribution, and organization of health resources and services, including health education services.

"(3) Conducting studies and analyses concerning—

"(A) the recommended national health policy developed under paragraph (1); and

"(B) alternative means of achieving the goals included in the recommended national health policy, including such means as programs of housing, environmental controls, education, nutrition and accident prevention and other means which do not include the direct provision of health care services.

"(4) Assessing the status of the health of the American people, existing and proposed Federal and other health programs, and the need for particular health resources and services, including health education services.

"(5) Evaluating the implications of advances in biomedical research, health services research, and medical technology for the health care delivery system.

"(6) Analysis of the essential factors which cause inflation in the cost of health services and a determination of means of containing such inflation.

In carrying out its responsibilities under this subsection the Council shall consult with and solicit the views of the health systems agencies designated under part B, State health planning and development agencies designated under part C, and Statewide Health Coordinating Councils, and of associations and specialty societies representing medical and other health care providers.

"(b) The Council shall submit annually to the President, the Congress, and the public, a comprehensive report specifying the results of the activities undertaken by the Council to meet its responsibilities under subsection (a).

"NATIONAL HEALTH PRIORITIES

"SEC. 1403. The Congress finds that the following deserve priority consideration in the formulation of a national health policy and in the development and operation of Federal, State, and area health planning and resources development programs:

"(1) The provision of primary care services for medically underserved populations, especially those who are located in rural or economically depressed areas.

"(2) The development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, pediatric, emergency medical, intensive and coronary care, and radiation therapy services).

"(3) The development of medical group practices, especially those whose services are appropriately coordinated or integrated with institutional health services.

"(4) The training and increased utilization of physician assistants, especially nurse clinicians.

"(5) The development of multi-institutional arrangements for the sharing of support services necessary to all health service institutions.

"(6) The promotion of activities to achieve needed improvements in the quality of health services, including needs identified by the review activities of Professional Standards Review Organizations under part B of title XI of the Social Security Act.

"(7) The development by health service institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographically integrated basis.

"(8) The adoption of uniform cost accounting, simplified reimbursement, and utilization and reporting systems and improved management procedures for health service institutions.

"(9) The development of effective methods for educating the general public on proper personal health care and methods for effective use of available health services.

"PART B—HEALTH SYSTEMS AGENCIES

"HEALTH SERVICE AREAS

"SEC. 1411. (a) There shall be established, in accordance with this section, health service areas throughout the United States with respect to which health systems agencies shall be designated under section 1415. Each health service area shall meet the following requirements:

"(1) The area shall be a rational geographic region within which there are available a comprehensive range of health services, and which is of a character suitable for

the effective planning and development of health services.

"(2) To the extent practicable, the area shall include at least one center for the provision of highly specialized health services.

"(3) The area, upon its establishment, shall have a population of not less than five hundred thousand or more than three million; except that—

"(A) the population of an area may be more than three million if the area includes a standard metropolitan statistical area (as determined by the Office of Management and Budget) with a population of more than three million, and

"(B) the population of an area may—

"(i) be less than five hundred thousand if the area comprises an entire State which has a population of less than five hundred thousand, or

"(ii) be less than—

"(I) five hundred thousand (but not less than two hundred thousand) in unusual circumstances (as determined by the Secretary), or

"(II) two hundred thousand in highly unusual circumstances (as determined by the Secretary),

if the Governor of each State in which the area is located determines, with the approval of the Secretary, that the area meets the other requirements of this subsection.

"(4) To the maximum extent feasible, the boundaries of the area shall be appropriately coordinated with the boundaries of areas designated under section 1152 of the Social Security Act for Professional Standards Review Organizations, existing regional planning areas, and State planning and administrative areas.

The boundaries of a health service area shall be established so that, in the planning and development of health services to be offered within the health service area, any economic or geographic barrier to the receipt of such services in nonmetropolitan areas is taken into account. The boundaries of health service areas shall be established so as to recognize the differences in health planning and health services development needs of nonmetropolitan and metropolitan areas. Each standard metropolitan statistical area shall be entirely within the boundaries of one health service area, except that if the Governor of each State in which a standard metropolitan statistical area is located determines, with the approval of the Secretary, that in order to meet the other requirements of this subsection a health service area should contain only part of the standard metropolitan statistical area, then such statistical area shall not be required to be entirely within the boundaries of such health service area.

"(b)(1) Within thirty days following the date of the enactment of this title, the Secretary shall simultaneously give to the Governor of each State written notice of the initiation of proceedings to establish health service areas throughout the United States. Each notice shall contain the following:

"(A) A statement of the requirement (in subsection (a)) of the establishment of health service areas throughout the United States.

"(B) A statement of the criteria prescribed by subsection (a) for health service areas and the procedures prescribed by this subsection for the designation of health service area boundaries.

"(C) A request that the Governor receiving the notice (i) designate the boundaries of health service areas within his State, and, where appropriate and in cooperation with the Governors of adjoining States, designate the boundaries within his State of health service areas located both in his State and in adjoining States, and (ii) submit (in such form and manner as the Secretary shall specify) to the Secretary, within ninety days of the receipt of the notice, such boundary designations together with comments, submitted by the entities referred to in paragraph (2), with respect to such designations.

At the time such notice is given under this paragraph to each Governor, the Secretary shall publish as a notice in the Federal Register a statement of the giving of his notice to the Governors and the criteria and procedures contained in such notice.

"(2) Each State's Governor shall in the development of boundaries for health service areas consult with and solicit the views of the chief executive officer or agency of the political subdivisions within the State, the State agency which administers or supervises the administration of the State's health planning functions under a State plan approved under section 314(a), each entity within the State which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b), and each regional medical program established in the State under title IX.

"(3)(A) Within one hundred and fifty days of the date on which notice was given to the Governors, the Secretary shall publish as a notice in the Federal Register the health service area boundary designations. The boundaries for health service areas submitted by the Governors shall, except as otherwise provided in subparagraph (B), constitute upon their publication in the Federal Register the boundaries for such health service areas.

"(B)(i) If the Secretary determines that a boundary submitted to him for a health service area does not meet the requirements of subsection (a), he shall, after consultation with the Governor who submitted such boundary, make such revision in the boundary for such area (and as necessary, in the boundaries for adjoining health service areas) as may be necessary to meet such requirements and publish such revised boundary (or boundaries); and the revised boundary (or boundaries) shall upon publication in the Federal Register constitute the boundary (or boundaries) for such health service area (or areas). The Secretary shall notify the Governor of each State in which is located a health service area whose boundary is revised under this clause of the boundary revision and the reasons for such revision.

"(ii) In the case of areas of the United States not included within the boundaries for health service areas submitted to the Secretary as requested under the notice under paragraph (1), the Secretary shall establish and publish in the Federal Register health service area boundaries which include such areas. The Secretary shall notify the Governor of each State in which is located a health service area the boundary for which is established under this clause of the boundaries established. In carrying out the requirement of this clause, the Secretary may make such revisions in boundaries submitted under subparagraph (A) as he determines are necessary to meet the requirement of subsection (a) for the establishment of health service areas throughout the United States.

"(4) The Governor of a State may, after consultation with the entities referred to in paragraph (2), and appropriate designated health systems agencies and the Statewide Health Coordinating Council, submit to the Secretary revised boundaries for one or more health service areas established within the State. A submission of revised boundaries shall include the comments concerning the revision made by the entities consulted in making the revision. If the Secretary determines that the revised boundaries meet the requirements of subsection (a), the revised boundaries shall be published as a notice in the Federal Register by the Secretary and shall take effect upon such publication. If the Secretary makes a determination that the revised boundaries do not meet such requirements, he shall notify the Governor of the State, who submitted the revision with respect to which the determination was made, of the determination and the bases for it.

"HEALTH SYSTEMS AGENCIES

"SEC. 1412. (a) DEFINITION.—For purposes of this title, the term 'health systems agency' means an entity which is organized and operated in the manner described in subsection (b) and which is capable, as determined by the Secretary, of performing each of the functions described in section 1413. The Secretary shall by regulation establish standards and criteria for the requirements of subsection (b) and section 1413.

"(b)(1) LEGAL STRUCTURE.—A health systems agency for a health service area shall be—

"(A) a nonprofit private corporation (or similar legal mechanism such as a public benefit corporation) incorporated in the State in which the largest part of the population of the health service area resides and which is not a subsidiary of, or otherwise controlled by, any other private or public corporation or other legal entity;

"(B) a public regional planning body if it has a governing board composed of a majority of elected officials of units of general local government or it is authorized by State law (in effect before the date of enactment of this subsection) to carry out health planning and review functions such as those described in section 1413 and if its planning area is identical to the health service area; or

"(C) a single unit of general local government if the area of the jurisdiction of that unit is identical to the health service area.

"(2) STAFF.—

"(A) EXPERTISE.—A health systems agency shall have a staff which provides the agency with expertise in at least the following: (i) Administration, (ii) the gathering and analysis of data, (iii) planning, and (iv) health manpower, facilities, and services.

"(B) SIZE AND EMPLOYMENT.—The size of the professional staff of any health systems agency shall be not less than five, except that if the quotient of the population (rounded to the next highest one hundred thousand) of the health service area which the agency serves divided by one hundred thousand is greater that five, the minimum size of the professional staff shall be the lesser of (i) such quotient, or (ii) twenty-five. The members of the staff shall be selected, paid, promoted, and discharged in accordance with such system as the agency may establish, except that the rate of pay for any position shall not be less than the rate of pay prevailing in the health service area for similar positions in other public or private planning or health service entities.

"(3) GOVERNING BODY.—

"(A) IN GENERAL.—The governing body of a health systems agency which is a public regional planning body or unit of general local government shall be the governing body of that regional planning body or single unit of general government, whichever is applicable. Any other health systems agency shall have a governing body composed, in accordance with subparagraph (C), of not less than ten members and of not more than thirty members, except that the number of members may exceed thirty if the governing body has established another unit (referred to in this paragraph as an 'executive committee') composed, in accordance with subparagraph (C), of not more than twenty-five members of the governing body and has delegated to that unit the authority to take such action (other than the establishment and revision of the plans referred to in subparagraph (B)(ii)) as the governing body is authorized to take.

"(B) RESPONSIBILITIES.—The governing body—

"(i) shall be responsible for the internal affairs of the health systems agency, including matters relating to the staff of the agency, the agency's budget, and procedures and criteria (developed and published pursuant to section 1432) applicable to its functions under subsections (e), (f), and (g) of section 1413;

"(ii) shall be responsible for the establishment of the health systems plan and annual implementation plan required by section 1413(b);

"(iii) shall be responsible for the approval of grants and contracts made and entered into under section 1413(g)(3);

"(iv) shall (I) issue an annual report concerning the activities of the agency, (II) include in that report the health systems plan and annual implementation plan developed by the agency, and a listing of the agency's income, expenditures, assets, and liabilities, and (III) make the report readily available to the residents of the health service area and the various communications media serving such area;

"(v) shall reimburse its members for their reasonable costs incurred in attending meetings of the governing body;

"(vi) shall meet at least one in each calendar quarter of a year and shall meet at least two additional times in a year unless its executive committee meets at least twice in that year; and

"(vii) shall (I) conduct its business meetings in public, (II) give adequate notice to the public of such meetings, and (III) make its records and data available, upon request, to the public, except to the extent that the Secretary by regulation prescribes such exceptions to the requirements of this subclause as he finds necessary to protect the confidentiality of matter comparable to matter described in section 552(b) of title 5 of the United States Code.

A quorum for a governing body (and its executive committee (if any)) shall be a majority of its members.

"(C) COMPOSITION.—Of the members of the governing body and executive committee (if any) of a health systems agency which is a nonprofit private corporation or similar legal mechanism—

"(i) a number of members equal to one-half the total number of members plus one shall be residents of the health service area served by the agency who are consumers of health care and who are not providers of health care and who are broadly representative of the social, economic, linguistic and racial populations, geographic areas of the health service area, and major purchasers of health care; and

"(ii) the remainder of the members shall be residents of the health service area served by the agency who are providers of health care and who represent (I) physicians (particularly practicing physicians), dentists, nurses, and other health professionals, (II) health care institutions (particularly hospitals, long-term care facilities, and health maintenance organizations), (III) health care insurers, (IV) health professional schools, and (V) the allied health professions. Not less than one-third of the providers of health care who are members of the governing body or executive committee of a health systems agency shall be direct providers of health care (as described in section 1431(3)). The membership of the governing body and executive committee (if any) of an agency shall include (either through consumer or provider members) public elected officials and other representatives of governmental authorities in the agency's health service area, and representatives of public and private agencies in the area concerned with health. The membership of the governing body and executive committee (if any) of an agency shall include a percentage of individuals who reside in nonmetropolitan areas equal to the percentage of residents of the area who reside in nonmetropolitan areas.

"(4) OTHER REQUIREMENTS.—Each health system agency shall—

"(A) make such reports, in such form and containing such information, concerning its structure, operations, performance of functions, and other matters as the Secretary may from time to time require, and keep such records and afford such access thereto as the Secretary may find necessary to verify such reports;

"(B) provide for such fiscal control and fund accounting procedures as the Secretary may require to assure proper disbursement of, and accounting for, amounts received from the Secretary under this title and section 1540; and

"(C) permit the Secretary and the Comptroller General of the United States, or their representatives, to have access for the purpose of audit and examination to any books, documents, papers, and records pertinent to the disposition of amounts received from the Secretary under this title and section 1540.

"(5)(A) ADVISORY COMMITTEE.—The governing body of a health systems agency which is a public regional planning body or a unit of general local government shall have an advisory health council (i) which shall advise the governing body with respect to the agency's organization, operations under this section, and the performance of its functions under section 1413, and (ii) the composition of which shall conform to the requirements of subsection (b)(3)(C).

"(B) If a governing body of a health systems agency which has an advisory health council described in subparagraph (A)—

"(i) adopts a health systems plan or annual implementation plan under section or

"(ii) makes a grant or enters into a contract under section 1413(c)(3),

"(iii) approves or disapproves under section 1413(e) a proposed use of Federal funds, or

"(iv) makes a recommendation under subsection (f), (g), or (h) of section 1413.

and its advisory health council has made a recommendation to it for action differing from that taken by the governing body, the governing body shall make public the recommendation of the advisory health council, together with the governing body's reasons for taking such different action, and shall when reporting its actions to the Secretary or the State health planning and development agency or the Statewide Health Coordinating Council, as the case may be, include such recommendations.

"(c) SUBAREA COUNCILS.—A health systems agency may establish subarea advisory councils representing parts of the agencies' health service area to advise the governing body of the agency on the performance of its functions. The composition of a subarea advisory council shall conform to the requirements of subsection (b)(3)(C).

"FUNCTIONS OF HEALTH SYSTEMS AGENCIES

"SEC. 1413. (a) For the purpose of—

"(1) improving the health of residents of a health service area,

"(2) increasing the accessibility, acceptability, continuity, and quality of the health services provided them, and

"(3) restraining increases in the cost of providing them health services,

each health systems agency shall have as its primary responsibility the provision of effective health planning for its health service area and the promotion of the development within the area of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies, and implement the health plans of the agency. To meet its primary responsibility, a health systems agency shall carry out the functions described in subsections (b) through (g) of this section.

"(b) In providing health planning and resources development for its health service area, a health systems agency shall perform the following functions:

"(1) The agency shall assemble and analyze data concerning—

"(A) the status (and its determinants) of the health of the residents of its health service area,

"(B) the status of the health care delivery system in the area and the use of that system by the residents of the area,

"(C) the effect the area's health care delivery system has on the health of the residents of the area, and

"(D) the area's health resources, including health services, manpower, and facilities.

In carrying out this paragraph, the agency shall to the maximum extent practicable use existing data (including data developed under Federal health programs) and coordinate its activities with the cooperative system provided for under section 306(e).

"(2) The agency shall, after appropriate consideration of the recommended national health policy developed under section 1402(a)(1), the priorities set forth in section 1403, and the data developed pursuant to paragraph (1), establish, annually review, and amend as necessary a health systems plan (hereinafter in this title referred to as the 'HSP') which shall be a detailed statement of goods (A) describing a healthful environment and health systems in the area which, when developed, will assure that quality health services will be available and accessible in a manner which assures continuity of care, at reasonable cost, for all residents of the area; (B) which are responsive to the unique needs and resources of the area; and (C) which take into account the National Council for Health Policy recommendations (developed under section 1402(a)(2)) respecting supply, distribution, and organization of health resources and services.

"(3) The agency shall establish, annually review, and amend as necessary an annual implementation plan (hereinafter in this title referred to as the 'AIP') which describes objectives which will achieve the goals of the HSP and priorities among the objectives. In establishing the AIP, the agency shall give priority to those objectives which will maximally improve the health of the residents of the area, as determined on the basis of the relation of the cost of attaining such objectives to their benefits, and which are fitted to the special needs of the area.

"(4) The agency shall develop and publish specific plans and projects for achieving the objectives established in the AIP.

"(c) A health systems agency shall implement its HSP and AIP, and in implementing the plans it shall perform at least the following functions:

"(1) The agency shall seek, to the extent practicable, to implement its HSP and AIP with the assistance of individuals and public and private entities in its health service area.

"(2) The agency may provide, in accordance with the priorities established in the AIP, technical assistance to individuals and public and private entities for the development of projects and programs which the agency determines are necessary to achieve the health systems described in the HSP, including assistance in meeting the requirements of the agency prescribed under section 1432(b).

"(3) The agency shall, in accordance with the priorities established in the AIP, make grants to public and nonprofit private entities and enter into contracts with individ-

uals and public and nonprofit private entities to assist them in planning and developing projects and programs which the agency determines are necessary for the achievement of the health systems described in the HSP. Such grants and contracts shall be made from the Area Health Services Development Fund of the agency established with funds provided under grants made under section 1540. No grants or contracts under this subsection may be used (A) for the support of an established program, (B) to pay the costs incurred by an entity or individual in the delivery of health services, or (C) for the cost of construction or modernization of medical facilities. No single grant or contract made or entered into under this paragraph may exceed $75,000 or be available for obligation beyond the one year period beginning on the date the grant or contract was made or entered into. If an individual or entity receives a grant or contract under this paragraph for a project or program, such individual or entity may receive only one more such grant or contract for such project or program.

"(d) Each health systems agency shall coordinate its activities with—

"(1) each Professional Standards Review Organization (designated under section 1152 of the Social Security Act),

"(2) entities referred to in paragraphs (1) and (2) of section 204(a) of the Demonstration Cities and Metropolitan Development Act of 1966 and regional and local entities the views of which are required to be considered under regulations prescribed under section 403 of the Intergovernmental Cooperation Act of 1968 to carry out section 401(b) of such Act,

"(3) other appropriate general or special purpose regional planning or administrative agencies, and

"(4) any other appropriate entity.

in the health system agency's health service area. The agency shall, as appropriate, secure data from them for use in the agency's planning and development activities, enter into agreements with them which will assure that actions taken by such entities which alter the area's health system will be taken in a manner which is consistent with the HSP and the AIP in effect for the area, and, to the extent practicable, provide technical assistance to such entities.

"(e) Each health systems agency shall review and approve or disapprove each proposed use within its health service area of Federal funds appropriated under this Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (other than funds appropriated for allotments to States under such Acts) for grants or contracts for the development, expansion, or support of health services, manpower, and facilities; except that, in the case of a proposed use of such Federal funds within the health service area of a health systems agency by an Indian tribe or inter-tribal Indian organization for any program or project which will be located within or will specifically serve—

"(1) a federally-recognized Indian reservation,

"(2) any land area in Oklahoma which is held in trust by the United States for Indians or which is a restricted Indian-owned land area, or

"(3) a Native village in Alaska (as defined in section 3(c) of the Alaska Native Claims Settlement Act),

a health systems agency shall only review and comment on such proposed use. Notwithstanding any other provision of this Act or any other Act referred to in the preceding sentence, the Secretary shall allow a health systems agency sixty days to make the review required by such sentence. If an agency disapproves a proposed use in its health service area of Federal funds described in the first sentence, the Secretary may not make such Federal funds available for such use until he has made, upon request of the entity making such proposal, a review of the agency decision. In making any such review of any agency decision, the Secretary may give the appropriate State health planning and development agency an opportunity to consider the decision of the health systems agency and to submit to the Secretary its comments on the decision. The Secretary, after taking into consideration such State agency's comments (if any), may make such Federal funds available for such use, notwithstanding the disapproval of the health systems agency. Each such decision by the Secretary to make funds available shall be submitted to the appropriate health systems agency and State health planning and development agency and shall contain a detailed statement of the reasons for the decision. Each health systems agency shall provide each Indian tribe or inter-tribal Indian organization which is located within the agency's health service area information respecting the availability of the Federal funds described in the first sentence of this subsection.

"(f) To assist State health planning and development agencies in carrying out their functions under paragraphs (3) and (4) of section 1423(a) each health systems agency shall review and make recommendations to the appropriate State health planning and development agency respecting the need for new institutional health services, health care facilities, and health maintenance organizations proposed to be offered or developed in the health service area of such health systems agency.

"(g)(1) Except as provided in paragraph (2), each health systems agency shall review on a periodic basis (but at least every five years) all institutional health services offered in the health service area of the agency and shall make recommendations to the State health planning and development agency designated under section 1421 for each State in which the health systems agency's health service area is located respecting the appropriateness in the area of such services.

"(2) A health systems agency shall complete its initial review of existing institutional health services and health care facilities within three years after the date of the agency's designation under section 1415(c).

"(h) Each health systems agency shall annually recommend to the State health planning and development agency designated for each State in which the health systems agency's health service area is located (1) projects for the modernization, construction, and conversion of medical facilities in the agency's health service area which projects will achieve the HSP and AIP of the health systems agency, and (2) priorities among such projects.

"ASSISTANCE TO ENTITIES DESIRING TO BE DESIGNATED AS HEALTH SYSTEMS AGENCIES

"SEC. 1414. The Secretary may provide all necessary technical and other nonfinancial assistance (including the preparation of prototype plans of organization and operation) to nonprofit private entities (including entities presently receiving financial assistance under section 314(b) or title IX or as experimental heatlh service delivery systems under section 304) which—

"(1) express a desire to be designated as health systems agencies, and

"(2) the Secretary determines have a potential to meet the requirements of a health systems agency specified in sections 1412 and 1413,

to assist such entities in developing applications to be submitted to the Secretary under section 1415 and otherwise in preparing to meet the requirements of this part for designation as a health systems agency.

"DESIGNATION OF HEALTH SYSTEMS AGENCIES

"SEC. 1415. (a) At the earliest practicable date after the establishment under section 1411 of health service areas, the Secretary shall enter into agreements in accordance with this section for the designation of health systems agencies for such areas.

"(b)(1) The Secretary may enter into agreements with entities under which the entities would be designated as the health systems agencies for health service areas on a conditional basis with a view to determining their ability to meet the requirements of section 1412(b), and their capacity to perform the functions prescribed by section 1413.

"(2) During any period of conditional designation (which may not exceed 24 months), the Secretary may require that the entity conditionally designated meet only such of the requirements of section 1412(b) and perform only such of the functions prescribed by section 1413 as he determines such entity to be capable of meeting and performing. The number and type of such requirements and functions shall, during the period of conditional designation, be progessively increased as the entity conditionally designated becomes capable of added responsibility so that, by the end of such period, the agency may be considered for designation under subsection (c).

"(3) Any agreement under which any entity is conditionally designated as a health systems agency may be terminated by such entity upon ninety days notice to the Secretary or by the Secretary upon ninety days notice to such entity.

"(4) The Secretary may not enter into an agreement with any entity under paragraph (1) for conditional designation as a health systems agency for a health service area until—

"(A) the entity has submitted an application for such designation which contains assurances satisfactory to the Secretary that upon completion of the period of conditional designation the applicant will be organized and operated in the manner described in section 1412(b) and will be qualified to perform the functions prescribed by section 1413;

"(B) a plan for the orderly assumption and implementation of the functions of a health systems agency has been received from the applicant and approved by the Secretary; and

"(C) the Governor of each State in which such health service area is located approved such designation of such entity.

In considering such applications, the Secretary shall give priority to an application which has been recommended for approval by each entity which has developed a plan referred to in section 314(b) for all or part of the health service area with respect to which the application was submitted, and each regional medical program established in such area under title IX.

"(c)(1) The Secretary shall enter into an agreement with an entity for its designation as a health systems agency if, on the basis of an application under paragraph (2) (and, in the case of an entity conditionally designated, on the basis of its performance during a period of conditional designation under subsection (b) as a health systems agency for a health service area), the Secretary determines that such entity is capable of fulfilling, in a satisfactory manner, the requirements and functions of a health systems agency. Any such agreement under this subsection with an entity

may be renewed in accordance with paragraph (3), shall contain such provisions respecting the requirements of sections 1412(b) and 1413 and such conditions designed to carry out the purpose of this title, as the Secretary may prescribe, and shall be for a term of not to exceed twelve months; except that, prior to the expiration of such term, such agreement may be terminated—

"(A) by the entity at such time and upon such notice to the Secretary as he may by regulation prescribe, or

"(B) by the Secretary, at such time and upon such notice to the entity as the Secretary may by regulation prescribe, if the Secretary determines that the entity is not complying with or effectively carrying out the provisions of such agreement.

"(2) The Secretary may not enter into an agreement with any entity under paragraph (1) for designation as a health systems agency for a health service area unless the entity has submitted an application to the Secretary for designation as a health systems agency, and the Governor of each State in which the area is located approves such designation of such entity. Such an application shall contain assurances satisfactory to the Secretary that the applicant meets the requirements of section 1412(b) and is qualified to perform or is performing the functions prescribed by section 1413. In considering such applications, the Secretary shall give priority to an application which has been recommended for approval by (A) each entity which has developed a plan referred to in section 314(b) for all or part of the health service area with respect to which the application was submitted, and (B) each regional medical program established in such area under title IX.

"(3) An agreement under this subsection for the designation of a health systems agency may be renewed by the Secretary for a period not to exceed twelve months if upon review (as provided in section 1435) of the agency's operation and performance of its functions and he determines that it has fulfilled, in a satisfactory manner, the functions of a health systems agency prescribed by section 1413 and continues to meet the requirements of section 1412(b).

"(d) If a designation under subsection (b) or (c) of a health systems agency for a health services area is terminated before the date prescribed for its expiration, the Secretary shall, upon application and in accordance with subsection (b) or (c) (as the Secretary determines appropriate), enter into a designation agreement with another entity to be the health systems agency for such area.

"PLANNING GRANTS

"SEC. 1416. (a) The Secretary shall make in each fiscal year a grant to each health systems agency with which there is in effect a designation agreement under subsection (b) or (c) of section 1415. A grant under this subsection shall be made on such conditions as the Secretary determines is appropriate, shall be used by a health systems agency for compensation of agency personnel, collection of data, planning, and the performance of the functions of the agency, and shall be available for obligation for a period not to exceed the period for which its designation agreement is entered into or renewed (as the case may be). A health systems agency may use funds under a grant under this subsection to make payments under contracts with other entities to assist the health systems agency in the performance of its functions; but it shall not use funds under such a grant to make payments under a grant or contract with another entity for the development or delivery of health services or resources.

"(b)(1) The amount of any grant under subsection (a) to a health systems agency designated under section 1415(b) shall be determined by the Secretary. The amount of any grant under subsection (a) to any health systems agency designated under section 1415 (c) shall be the lesser of—

"(A) the product of $0.50 and the population of the health service area for which the agency is designated, or

"(B) $1,500,000,

unless the agency would receive a greater amount under paragraph (2) or (3).

"(2)(A) If the application of a health systems agency for such a grant contains assurances satisfactory to the Secretary that the agency will expand or obligate in that the period in which such grant will be available for obligation non-Federal funds meeting the requirements of subparagraph (B) for the purposes for which such grant may be made, the amount of such grant shall be the sum of—

"(i) the amount determined under paragraph (1), and

"(ii) the lesser of (I) the amount of such non-Federal funds with respect to which the assurances were made, or (II) the product of $0.25 and the population of the health service area for which the agency is designated.

"(B) The non-Federal funds which an agency may use for the purpose of obtaining a grant under subsection (a) which is computed on the basis of the formula prescribed by subparagraph (A) shall be funds—

"(i) not more than 5 per centum of which are contributed to the agency by any one private contributor and no more than one-third of which are contributed to the agency by any one public contributor, and

"(ii) which are not paid to the agency for the performance of particular services by it and which are otherwise contributed to the agency without conditions as to their use other than the condition that the funds shall be used for the purposes for which a grant made under this section may be used.

"(3) The amount of a grant under subsection (a) to a health systems agency designated under section 1415(c) may not be less than $175,000.

"(c)(1) For the purpose of making payments pursuant to grants made under subsection (a), there are authorized to be appropriated $60,000,000 for the fiscal year ending June 30, 1975, $90,000,000 for the fiscal year ending June 30, 1976, and $125,000,000 for the fiscal year ending June 30, 1977.

(2) Notwithstanding subsection (b), if the total of the grants to be made under this section to health systems agencies for any fiscal year exceeds the total of the amounts appropriated under paragraph (1) for that fiscal year, the amount of the grant for that fiscal year to each health systems agency shall be an amount which bears the same ratio to the amount determined for that agency for that fiscal year under subsection (b) as the total of the amounts appropriated under paragraph (1) for that fiscal year bears to the total amount required to make grants to all health systems agencies in accordance with the applicable provision of subsection (b); except that the amount of any grant to a health systems agency for any fiscal year shall not be less than $175,000, unless the amount appropriated for that fiscal year under paragraph (1) is less than the amount required to make such a grant to each health systems agency.

"(d) The Secretary may make grants directly to Indian tribes and inter-tribal Indian organizations (including Area and National Indian Health Boards) to enable them to conduct effective and coordinated health planning for—

"(1) federally-recognized Indian reservations,

"(2) land areas in Oklahoma which are held in trust by the United States for Indians or which are restricted Indian-owned land areas, and

"(3) Native villages in Alaska (as defined in section 3(c) of the Alaska Native Claims Settlement Act).

To the extent practicable, such planning shall be carried out in the manner prescribed by section 1413.

"PART C—STATE HEALTH PLANNING AND DEVELOPMENT

"DESIGNATION OF STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

SEC. 1421. (a) For the purpose of the performance within each State of the health planning and development functions prescribed by section 1423, the Secretary shall enter into and renew agreements (described in subsection (b)) for the designation of a State health planning and development agency for each State other than a State for which the Secretary may not under subsection (d) enter into, continue in effect, or renew such an agreement.

"(b)(1) A designation agreement under subsection (a) is an agreement with the Governor of a State for the designation of an agency (selected by the Governor) of the government of that State as the State health planning and development agency (hereinafter in this part referred to as the 'State Agency') to administer the State administrative program prescribed by section 1422 and to carry out the State's health planning and development functions prescribed by section 1423. The Secretary may not enter into such an agreement with the Governor of a State unless—

"(A) there has been submitted by the State a State administrative program which has been approved by the Secretary.

"(B) an application has been made to the Secretary for such an agreement and the application contains assurances satisfactory to the Secretary that the agency selected by the Governor for designation as the State Agency has the authority and resources to administer the State administrative program of the State and to carry out the health planning and development functions prescribed by section 1423, and

"(C) in the case of an agreement entered into under paragraph (3), there has been established for the State a Statewide Health Coordinating Council meeting the requirements of section 1424.

"(2)(A) The agreement entered into with a Governor of a State under subsection (a) may provide for the designation of a State Agency on a conditional basis with a view to determining the capacity of the designated State Agency to administer the State administrative program of the State and to carry out the health planning and development functions prescribed by section 1423. The Secretary shall require as a condition to the entering into of such an agreement that the Governor submit on behalf of the agency to be designated a plan for the agency's orderly assumption and implementation of such functions.

"(B) The period of an agreement described in subparagraph (A) may not exceed twenty-four months. During such period the Secretary may require that the designated State Agency perform only such of the functions of a State Agency prescribed by section 1423 as he determines it is capable of performing. The number and type of such functions shall, during such period, be progressively increased as the designated State Agency becomes capable of added responsibility, so that by the end of such period the designated State Agency may be considered for designation under paragraph (3).

"(C) Any agreement wtih a Governor of a State entered into under subparagraph (A) may be terminated by the Governor upon

ninety days' notice to the Secretary or by the Secretary upon ninety days' notice to the Governor.

"(3) If, on the basis of an application for designation as a State Agency (and, in the case of an agency conditionally designated under paragraph (2), on the basis of its performance under an agreement with a Governor of a State entered into under such paragraph), the Secretary determines that the agency is capable of fulfilling, in a satisfactory manner, the responsibilities of a State Agency, he shall enter into an agreement with the Governor of the State designating the agency as the State Agency for the State. No such agreement may be made unless an application therefor is submitted to, and approved by, the Secretary. Any such agreement shall be for a term of not to exceed twelve months, except that, prior to the expiration of such term, such agreement may be terminated—

"(A) by the Governor at such time and upon such notice to the Secretary as he may by regulation prescribe, or

"(B) by the Secretary, at such time and upon such notice to the Governor as the Secretary may by regulation prescribe, if the Secretary determines that the designated State Agency is not complying with or effectively carrying out the provisions of such agreement.

An agreement under this paragraph shall contain such provisions as the Secretary may require to assure that the requirements of this part respecting State Agencies are complied with.

"(4) An agreement entered into under paragraph (3) for the designation of a State agency may be renewed by the Secretary for a period not to exceed twelve months if he determines that it has fulfilled, in a satisfactory manner, the responsibilities of a State Agency during the period of the agreement to be renewed and if the applicable State administrative program continues to meet the requirements of section 1422.

"(c) If a designation agreement with the Governor of a State entered into under subsection (b)(2) or (b)(3) is terminated before the date prescribed for its expiration, the Secretary shall, upon application and in accordance with subsection (b)(2), or (b)(3) (as the Secretary determines appropriate), enter into another agreement with the Governor for the designation of a State Agency.

"(d) The Secretary may not enter into, continue in effect, or renew an agreement for the designation of a State Agency for a State (other than a State which administers a certificate of need program meeting the requirements of section 1423(a)(3)(B)) after the expiration of the first regular session of the legislature of such State which begins after the date of the first designation of a State Agency for such State under section 1421(b)(3) and at which legislation to enable the State to comply with the requirements of paragraphs (1) and (2) of this subsection may be enacted unless—

"(1) the State does not permit the issuance, modification, or renewal of any policy or contract of individual or group—

"(A) accident, health, or accident and health insurance, or

"(B) hospital or medical service benefits, unless such policy or contract provides that benefits payable under such policy or contract to or on behalf of an individual for the provision within the State of institutional health services by a health care facility or a health maintenance organization shall be reduced by an amount which is attributable to depreciation, interest on borrowed funds, a return on equity capital (in the case of a proprietary facility or organization), or any other expense related to capital expenditures (as defined in section 1122 (g) of the Social Security Act) of the health care facility or health maintenance organization made in connection with the institutional health service unless the service was found by the State agency of the State under section 1423(a)(4) to be needed; and

"(2) the State does not permit any health care facility or health maintenance organization within the State to charge (or otherwise collect) for depreciation, interest on borrowed funds, a return of equity capital (in the case of a proprietary facility or organization), or any other expense related to capital expenditures (as defined in section 1122(g) of the Social Security Act) for the provision of an institutional health service which was found by the State agency of the State under section 1423(a)(4) to be not needed.

"STATE ADMINISTRATIVE PROGRAM

"SEC. 1422. (a) A State administrative program (hereinafter in this section referred to as the 'State Program') is a program for the performance within the State by its State Agency of the functions prescribed by section 1423. The Secretary may not approve a State Program for a State unless it—

"(1) meets the requirements of subsection (b);

"(2) has been submitted to the Secretary by the Governor of the State at such time and in such detail, and contains or is accompanied by such information, as the Secretary deems necessary; and

"(3) has been submitted to the Secretary only after the Governor of the State has afforded to the general public of the State a reasonable opportunity for a presentation of views on the State Program.

"(b) The State Program of a State must—

"(1) provide for the performance within the State (after the designation of a State Agency and in accordance with the designation agreement) of the functions prescribed by section 1423 and specify the State Agency of the State as the sole agency for the performance of such functons (except as provided in subsection (b) of such section) and for the administration of the State Program;

"(2) contain or be supported by satisfactory evidence that the State Agency has under State law the authority to carry out such functions and the State Program in accordance with this part and contain a current budget for the operation of the State Agency;

"(3) provide for adequate consultation with, and authority for, the Statewide Health Coordinating Council (prescribed by section 1424), in carrying out such functions and the State Program;

"(4)(A) set forth in such detail as the Secretary may prescribe the qualifications for personnel having responsibilities the performance of such functions and the State Program, and require the State Agency to have a professional staff for planning and a professional staff for development, which staffs shall each be headed by a Director (who in the case of the Director of the planning staff shall be appointed with the advice and consent of the Statewide Health Coordinating Council) and shall be of such size and meet such qualifications as the Secretary may prescribe;

"(B) provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient administration of such functions and the State Program, including methods relating to the establishment and maintenance of personnel standards on a merit basis consistent with such standards as are or may be established by the Civil Service Commission under section 208(a) of the Intergovernmental Personnel Act of 1970 (Public Law 91-648), but the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with the methods relating to personnel standards on a merit basis established and maintained in conformity with this paragraph;

"(5) require the State Agency to perform its functions in accordance with procedures and criteria established and published by it, which procedures and criteria shall conform to the requirements of section 1432;

"(6) require the State Agency to (A) conduct its business meetings in public, (B) give adequate notice to the public of such meetings, and (C) make its records and data available, upon request, to the public, except to the extent that the Secretary by regulation prescribes such exceptions to the requirements of this clause as he finds necessary to protect the confidentiality of matter comparable to matter described in section 552(b) of title 5 of the United States Code;

"(7) provide for the coordination (in accordance with regulations of the Secretary) with the cooperative system provided for under section 306(e) of the activities of the State Agency for the collection, retrieval, analysis, reporting, and publication of statistical and other information related to health and health care;

"(8) provide, in accordance with methods and procedures prescribed or approved by the Secretary, for the evaluation, at least annually, of the performance by the State Agency of its functions and of their economic effectiveness;

"(9) provide that the State Agency will from time to time, and in any event not less often than annually, review the State Program and submit to the Secretary required modifications;

"(10) require the State Agency to make such reports, in such form and containing such information, concerning its structure, operations, performance of functions, and other matters as the Secretary may from time to time require, and keep such records and afford such access thereto as the Secretary may find necessary to verify such reports;

"(11) require the State Agency to provide for such fiscal control and fund accounting procedures as the Secretary may require to assure proper disbursement of, and accounting for, amounts received from the Secretary under this title;

"(12) permit the Secretary and the Comptroller General of the United States, or their representatives, to have access for the purpose of audit and examination to any books, documents, papers, and records of the State Agency pertinent to the disposition of amounts received from the Secretary under this title; and

"(13) provide that if the State Agency makes a decision in the performance of a function under paragraph (3), (4), (5), or (6) of section 1423(a) or under title XV which is inconsistent with a recommendation made under subsection (f), (g), or (h) of section 1413 by a health systems agency within the State—

"(A) such decision (and the record upon which it was made) shall, upon request of the health systems agency, be reviewed by an agency of the State (other than the State health planning and development agency) designated by the Governor, and

"(B) the decision of the reviewing agency shall for purposes of this title and title XV be considered the decision of the State health planning and development agency.

"(c) The Secretary shall approve any State Program and any modification thereof which complies with subsections (a) and (b). The Secretary shall review for compliance with the requirements of this part the specifications of and operations under each State Program approved by him. Such review shall be conducted not less often than once each year.

"STATE HEALTH PLANNING AND DEVELOPMENT FUNCTIONS

"SEC. 1423. (a) Each State Agency of a State designated under section 1421(b)(3) shall, except as authorized under subsection (b), perform within the State the following functions:

"(1) Conduct the health planning activities of the State and implement those parts of the State health plan (under section 1424 (c)(2)) and the plans of the health systems *agencies within* the State which relate to the government of the State.

"(2) Assist the Statewide Health Coordinating Council of the State in the preparation, review, and revision of the State health plan referred to in section 1424(c)(2), in the review of the State medical facilities plan required under section 1503, and in the performance of its functions generally.

"(3) Either (A) serve as the designated planning agency of the State for the purposes of section 1122 of the Social Security Act, or (B) administer a State certificate of need program which applies to new institutional health services, health care facilities, and health maintenance organizations proposed to be offered or developed within the State and which is satisfactory to the Secretary. In performing its functions under this paragraph the State Agency shall consider recommendations made by health systems agencies under section 1413(f).

"(4) After consideration of recommendations submitted by health systems agencies under section 1413(f) respecting new institutional health services proposed to be offered within the State, make findings as to the need for such services.

"(5) Review on a periodic basis (but not less often than every five years) all institutional health services being offered in the State and after consideration of recommendations submitted by health systems agencies under section 1413(g) respecting the appropriateness of such services and make public its findings for the purpose of informing the providers of such services what voluntary remedial measures may be advisable.

"(6) Prepare and administer the State medical facilities plan required by section 1503 and administer in the State the assistance provided under title XV under such plan.

"(b)(1) Any function described in subsection (a) may be performed by another agency of the State government upon request of the Governor under an agreement with the State Agency satisfactory to the Secretary.

"(2) The requirement of paragraph (3) of subsection (a) shall not apply to a State Agency of a State which elects (in such manner as the Secretary shall prescribe) to not have its State Agency serve as the designated planning agency for purposes of section 1122 of the Social Security Act and which does not have a certificate of need program which meets the requirements of clause (B) of such paragraph until the expiration of the first regular session of the legislature of such State which begins after the date of the first designation of a State Agency for such State under section 1421(b)(3) and at which legislation to comply with the certificate of need program requirement of clause (B) of such paragraph may be enacted.

"(3) A State Agency shall complete its findings with respect to the appropriateness of any existing institutional health service within one year after the date a health systems agency has made its recommendation under section 1413(g) with respect to the appropriateness of such service or facility.

"(c) If a State Agency makes a decision in carrying out a function described in paragraph (3), (4), (5), or (6) of subsection (a) which is not consistent with the goals of the applicable HSP or the priorities of the applicable AIP, the State Agency shall submit to the appropriate health systems agency a detailed statement of the reasons for the inconsistency.

"STATEWIDE HEALTH COORDINATING COUNCIL

"SEC. 1424. (a) A State health planning and development agency designated under section 1421 shall be advised by a Statewide Health Coordinating Council (hereinafter in this section referred to as the 'SHCC') which (1) is organized in the manner described by subsection (b), and (2) performs the functions listed in subsection (c).

"(b)(1) A SHCC shall be composed in the following manner:

"(A)(i) A SHCC shall have no fewer than sixteen representatives selected by the health systems agencies within the State.

"(ii) Each health system agency within the State shall be entitled to the same number of representatives on the SHCC.

"(iii) Each health systems agency shall be entitled to at least two representatives on the SHCC.

"(iv) Of the representatives of each health systems agency on the SHCC, one-half shall be consumers of health care who are not providers of health care, and one-half shall be providers of health care.

"(B) The Governor of the State may appoint such persons (including State officials, public elected officials, and other representatives of governmental authorities within the State) to serve on the SHCC as he deems appropriate; except that (i) the number of persons appointed to the SHCC by the Governor may not exceed one-third of the total membership of the SHCC, and (ii) a majority of the persons appointed by the Governor shall be consumers of health care who are not also providers of health care.

"(C) Not less than one-third of the providers of health care who are members of a SHCC shall be direct providers of health care (as described in section 1431(3)).

"(2) The SHCC shall select from among its members a chairman.

"(3) The SHCC shall conduct all of its business meetings in public, and shall meet at least once in each calendar quarter of a year.

"(c) A SHCC shall perform the following functions:

"(1) Review annually and coordinate the HSP and AIP of each health systems agency within the State and report to the Secretary, for purposes of his review under section 1435(c), its comments on such HSP and AIP.

"(2) Prepare and review and revise as necessary (but at least annually) a State health plan which shall be made up of the HSP's of the health systems agencies within the State. Such plan may, as found necessary by the SHCC, contain revisions of such HSP's to achieve their appropriate coordination or to deal more effectively with statewide health needs.

"(3) Review annually the budget of each such health systems agency and report to the Secretary, for purposes of his review under section 1435(a), its comments on such budget.

"(4) Review applications submitted by such health systems agencies for grants under sections 1416 and 1540 and report to the Secretary its comments on such applications.

"(5) Advise the State Agency of the State generally on the performance of its functions.

"(6) Review annually and approve or disapprove any State plan and any application (and any revision of a State plan or application) submitted to the Secretary as a condition to the receipt of any funds under allotments made to States under this Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. Notwithstanding any other provisions of this Act or any other Act referred to in the preceding sentence, the Secretary shall allow a SHCC sixty days to make the review required by such sentence. If a SHCC disapproves such a State plan or application, the Secretary may not make Federal funds available under such State plan or application until he has made, upon request of the Governor of the State which submitted such plan or application or another agency of such State, a review of the SHCC decision. If after such review the Secretary decides to make such funds available, the decision by the Secretary to make such funds available shall be submitted to the SHCC and shall contain a detailed statement of the reasons for the decision.

"GRANTS FOR STATE HEALTH PLANNING AND DEVELOPING

"SEC. 1425. (a) The Secretary may make grants to State health planning and development agencies designated under subsection (b)(2) or (b)(3) of section 1421 to assist them in meeting the costs of their operation. Any grant made under this subsection to a State Agency shall be available for obligation only for a period not to exceed the period for which its designation agreement is entered into or renewed. The amount of any grant made under this subsection shall be determined by the Secretary, except that no grant to a designated State Agency may exceed 75 per centum of its operation costs (as determined under regulations of the Secretary) during the period for which the grant is available for obligation.

"(b) Grants made under subsection (a) shall be made on such terms and conditions as the Secretary may prescribe.

"(c) For the purpose of making payments under grants under subsection (a), there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1975, $35,000,000 for the fiscal year ending June 30, 1976, and $50,000,000 for the fiscal year ending June 30, 1977.

"PART D—GENERAL PROVISIONS

"DEFINITIONS

"SEC. 1431. For the purposes of this title:

"(1) The term 'State' includes the District of Columbia and the Commonwealth of Puerto Rico.

"(2) The term 'Governor' means the chief executive officer of a State or his designee.

"(3) The term 'provider of health care' means an individual—

"(A) who is a direct provider of health care in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions in which such care is provided and, when required by State law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration; or

"(B) who is an indirect provider of health care in that the individual—

"(i) holds a fiduciary position with, or has a fiduciary interest in, any entity described in subclause (II) or (IV) of clause (ii);

"(ii) receives (either directly or through his spouse) more than one-tenth of his gross annual income from any one or combination of the following:

"(I) Fees or other compensation for research into or instruction in the provision of health care.

"(II) Entities engaged in the provision of health care or in such research or instruction.

"(III) Producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care.

"(IV) Entities engaged in producing drugs or such other articles.

"(iii) is a member of the immediate family of an individual described in subparagraph (A) or in clause (i), (ii), or (iv) of subparagraph (B); or

"(iv) is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits.

"(4)(A) the term 'institutional health services provided through health care facilities and health maintenance organizations' (as such facilities and organizations are defined in regulations prescribed under section 1122 of the Social Security Act); and (B) the term 'health care facilities' means the health care facilities referred to in clause (A).

"PROCEDURES AND CRITERIA FOR REVIEWS OF PROPOSED HEALTH SYSTEM CHANGES

"SEC. 1432. (a) In conducting reviews pursuant to subsections (e), (f), and (g) of section 1413 or in conducting any other reviews of proposed or existing health services, each health systems agency shall (except to the extent approved by the Secretary) follow procedures, and apply criteria, developed and published by the agency in accordance with regulations of the Secretary; and in performing its review functions under section 1423, a State health planning and development agency shall (except to the extent approved by the Secretary) follow procedures, and apply criteria, developed and published by the State Agency in accordance with regulations of the Secretary. Procedures and criteria for reviews by health systems agencies and States agencies may vary according to the purpose for which a particular review is being conducted or the type of health services being reviewed.

"(b) Each health systems agency and State health planning and development agency shall include in the procedures required by subsection (a) at least the following:

"(1) Written notification to affected persons of the beginning of a review.

"(2) Schedules for reviews which provide that no review shall, to the extent practicable, take longer than ninety days from the date the notification described in paragraph (1) is made.

"(3) Provision for persons subject to a review to submit to the agency or State Agency (in such form and manner as the agency or State Agency shall prescribe and publish) such information as the agency or State Agency may require concerning the subject of such review.

"(4) Submission of applications (subject to review by a health systems agency or a State Agency) made under this Act or other provisions of law for Federal financial assistance for health services to the health systems agency or State Agency at such time and in such manner as it may require.

"(5) Submission of periodic reports by providers of health services and other persons subject to agency or State Agency review respecting the development of proposals subject to review.

"(6) Notification of providers of health services and other persons subject to agency or State Agency review of the status of the agency or State Agency review of the health services or proposals subject to review, findings made in the course of such review, and other appropriate information respecting such review.

"(7) Provision for public hearings in the course of agency or State Agency review if requested by persons directly affected by the review; and provision for public hearings, for good cause shown, respecting agency and State Agency decisions.

"(8) Preparation of publication of regular reports by the agency and State Agency of the reviews being conducted (including a statement concerning the status of each such review) and of the reviews completed by the agency and State Agency (including a general statement of the findings and decisions made in the course of such reviews) since the publication of the last such report.

"(9) Access by the general public to all applications reviewed by the agency and State Agency and to all other written materials pertinent to any agency or State Agency review, except to the extent that the Secretary by regulation prescribes such exceptions to the requirements of this paragraph as he finds necessary to protect the confidentiality of matter comparable to matter described in section 552(b) of title 5, United States Code.

"(10) In the case of construction projects, submission to the agency and State Agency by the entities proposing the projects of letters of intent in such detail as may be necessary to inform the agency and State Agency of the scope and nature of the projects at the earliest possible opportunity in the course of planning of such construction projects.

"(c) Criteria required by subsection (a) for health systems agency and State Agency review shall include consideration of at least the following:

"(1) The relationship of the health services being reviewed to the applicable HSP and AIP.

"(2) The relationship of services reviewed to the long-range development plan (if any) of the person providing or proposing such services.

"(3) The need that the population served or to be served by such services has for such services.

"(4) The availability of alternative, less costly, or more effective methods of providing such services.

"(5) The relationship of services reviewed to the existing health care system of the area in which such services are provided or proposed to be provided.

"(6) In the case of health services proposed to be provided the availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of such services and the availability of alternative uses of such resources for the provision of other health services.

"(7) The special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service area in which the entity is located or in adjacent health service areas. Such entities may include medical and other health professions schools, multidisciplinary clinics, specialty centers, and such other entities as the Secretary may by regulation prescribe.

"(8) The special needs and circumstances of health maintenance organizations for which assistance may be provided under title XIII.

"(9) In the case of a construction project—

"(A) the costs and methods of the proposed construction, and

"(B) the probable impact of the construction project reviewed on the costs of providing health services by the person proposing such construction project.

"TECHNICAL ASSISTANCE FOR HEALTH SYSTEMS AGENCIES AND STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

"SEC. 1433. (a) The Secretary shall provide (directly or through grants or contracts, or both) to designated health systems agencies and State Agencies (1) assistance in developing their health plans and approaches to planning various types of health services, (2) technical materials, including methodologies, policies, and standards appropriate for use in health planning, and (3) other technical assistance as may be necessary in order that such agencies may properly perform their functions.

"(b) The Secretary shall include in the materials provided under subsection (a) the following:

"(1)(A) Specification of the minimum data needed to determine the health status of the residents of a health service area and the determinants of such status.

"(B) Specifications of the minimum data needed to determine the status of the health resources and services of a health service area.

"(C) Specification of the minimum data needed to describe the use of health resources and services within a health service area.

"(2) Planning approaches, methodologies, policies, and standards which shall be consistent with the guidelines recommended by the National Council for Health Policy under section 1402 for appropriate planning and development of health resources and services, and which shall cover the priorities listed in section 1403.

"(3) Guidelines for the organization and operation of health systems agencies and State Agencies including guidelines for—

"(A) the structure of a health systems agency, consistent with section 1412(b), and of a State Agency, consistent with section 1422;

"(B) the conduct of the planning and development processes;

"(C) the performance of health systems agency functions in accordance with section 1413; and

"(D) the performance of State Agency functions in accordance with section 1423.

"(c) In order to facilitate the exchange of information concerning health services, health resources, and health planning and resources development practice and methodology, the Secretary shall establish a national health planning information center to support the health planning and resources development programs of health systems agencies, State Agencies, and other entities concerned with health planning and resources development; to provide access to current information on health planning and resources development; and to provide information for use in the analysis of issues and problems related to health planning and resources development.

"CENTERS FOR HEALTH PLANNING

"SEC. 1434. (a) For the purposes of assisting the Secretary in carrying out this title, providing such technical and consulting assistance as health systems agencies and State Agencies may from time to time require, conducting research, studies and analyses of health planning and resources development, and developing health planning approaches, methodologies, policies, and standards, the Secretary shall by grants or contracts, or both, assist public or private nonprofit entities in meeting the costs of planning and developing new centers, and operating existing and new centers, for multidisciplinary health planning development and assistance. To the extent practicable, the Secretary shall provide assistance under this section so that at least five such centers will be in operation by June 30, 1976.

"(b)(1) No grant or contract may be made under this section for planning or developing a center unless the Secretary determines that when it is operational it will meet the requirements listed in paragraph (2) and no grant or contract may be made under this section for operation of a center unless the center meets such requirements.

"(2) The requirements referred to in paragraph (1) are as follows:

"(A) There shall be a full-time director of the center who possesses a demonstrated capacity for substantial accomplishment and leadership in the field of health planning and resources development, and there shall be such additional professional staff as may be appropriate.

"(B) The staff of the center shall represent a diversity of relevant disciplines.

"(C) Such additional requirements as the Secretary may by regulation prescribe.

"(c) Centers assisted under this section (1) may enter into arrangements with health systems agencies and State Agencies for the provision of such services as may be appropriate and necessary in assisting the agencies and State Agencies in performing their functions under section 1413 or 1423, respectively, and (2) shall use methods (satisfactory to the Secretary) to disseminate to such agencies and State Agencies such planning approaches, methodologies, policies and standards as they develop.

"(d) For the purpose of making payments pursuant to grants and contracts under subsection (a) there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1975, $8,000,000 for the fiscal year ending June 30, 1976, and $10,000,000 for the fiscal year ending June 30, 1977.

"REVIEW BY THE SECRETARY

"SEC. 1435. (a) The Secretary shall review and approve or disapprove the annual budget of each designated health systems agency and State Agency. In making such review and approval or disapproval the Secretary shall consider the comments of Statewide Health Coordinating Councils submitted under section 1424(c)(3). Information submitted to the Secretary by a health systems agency or a State Agency in connection with the Secretary's review under this subsection shall be made available by the Secretary, upon request, to the appropriate committees (and their subcommittees) of the Congress.

"(b) The Secretary shall prescribe performance standards covering the structure, operation, and performance of the functions of each designated health systems agency and State Agency, and he shall establish a reporting system based on the performance standards that allows for continuous review of the structure, operation, and performance of the functions of such agencies.

"(c) The Secretary shall review in detail at least every three years the structure, operation, and performance of the functions of each designated health systems agency to determine—

"(1) the adequacy of the HSP of the agency for meeting the needs of the residents of the area for a healthful environment and for accessible, acceptable and continuous quality health care at reasonable costs, and the effectivenes of the AIP in achieving the system described in the HSP;

"(2) if the structure, operation, and performance of the functions of the agency meet the requirements of sections 1412(b) and 1413;

"(3) the extent to which the agency's governing body (and executive committee (if any)) represents the residents of the health service area for which the agency is designated;

"(4) the profesional credentials and competence of the staff of the agency;

"(5) the appropriateness of the data assembled pursuant to section 1413(b)(1) and the quality of the analyses of such data;

"(6) the extent to which technical and financial assistance from the agency have been utilized in an effective manner to achieve the goals and objectives of the HSP and the AIP; and

"(7) the extent to which it may be demonstrated that—

"(A) the health of the residents in the agency's health service area has been improved;

"(B) the accessibility, acceptability, continuity, and quality of health care in such area has been improved; and

"(C) increases in costs of the provision of health care have been restrained.

"(d) The Secretary shall review in detail at least every three years the structure, operation, and performance of the functions of each designated State Agency to determine—

"(1) the adequacy of the State health plan of the Statewide Health Coordinating Council prepared under section 1424(c)(2) in meeting the needs of the residents of the State for a healthful environment and for accessible, acceptable, and continuous quality health care at reasonable costs;

"(2) if the structure, operation, and performance of the functions of the State Agency meet the requirements of sections 1422 and 1423;

"(3) the extent to which the Statewide Health Coordinating Council has a membership meeting, and has performed in a manner consistent with, the requirements of section 1424;

"(4) the professional credentials and competence of the staff of the State Agency;

"(5) the extent to which financial assistance provided under parts A, B, or C of title XV by the State Agency under section 1423(a) has been used in an effective manner to achieve the State's health plan under section 1424(c)(2); and

"(6) the extent to which it may be demonstrated that—

"(A) the health of the residents of the State has been improved;

"(B) the accessibility, acceptabiilty, continuity, and quality of health care in the State has been improved; and

"(C) increases in costs of the provision of health care have been restrained.

"SPECIAL PROVISIONS FOR THE VIRGIN ISLANDS, GUAM, THE TRUST TERRITORIES OF THE PACIFIC ISLANDS, AND AMERICAN SAMOA

"SEC. 1436. The Virgin Islands, Guam, the Trust Territories of the Pacific Islands, and American Samoa shall each be considered a State for purposes of this title, except that—

"(1) no health service areas shall be established within them,

"(2) no health systems agencies shall be designated for them,

"(3) the State health planning and development agency designated for each of them under section 1421 shall in addition to the functions prescribed by section 1423, perform the functions prescribed by section 1413 and shall be eligible to receive grants authorized by section 1540, and

"(4) the chief executive officer of each of them shall appoint the Statewide Health Coordinating Council prescribed by section 1424 in accordance with regulations of the Secretary."

REVISION OF HEALTH RESOURCES DEVELOPMENT PROGRAMS UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 4. The Public Health Service Act, as amended by section 3, is amended by adding after title XIV the following new title:

"TITLE XV—HEALTH RESOURCES DEVELOPMENT

"PART A—PURPOSE, STATE PLAN, AND PROJECT APPROVAL

"PURPOSE

"SEC. 1501. It is the purpose of this title to provide assistance, through allotments under part B and loans and loan guarantees and interest subsidies under part C, for projects for—

"(1) modernization of medical facilities;

"(2) construction of new outpatient medical facilities;

"(3) construction of new inpatient medical facilities in areas which have experienced (as determined under regulations of the Secretary) recent rapid population growth; and

"(4) conversion of existing medical facilities for the provision of new health services.

"GENERAL REGULATIONS

"SEC. 1502. (a) The Secretary, with the approval of the Federal Hospital Council, shall by regulations—

"(1) prescribe the general manner in which the State Agency of each State shall determine for the State medical facilities plan under section 1503 the priority among projects within the State for which assistance is available under this title, based on the relative need of different areas within the State for such projects and giving special consideration—

"(A) to projects for medical facilities serving areas with relatively small financial resources and for medical facilities serving rural communities,

"(B) in the case of projects for modernization of medical facilities, to projects for facilities serving densely populated areas,

"(C) in the case of projects for construction of outpatient medical facilities, to projects that will be located in, and provide services for residents of, areas determined by the Secretary to be rural or urban poverty areas, and

"(D) to projects for medical facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;

"(2) prescribe for medical facilities projects assisted under this title general standards of construction, modernization, and equipment for medical facilities of different classes and in different types of location;

"(3) prescribe criteria for determining needs for medical facility beds and needs for medical facilities, and for developing plans for the distribution of such beds and facilities;

"(4) prescribe criteria for determining the extent to which existing medical facilities are in need of modernization; and

"(5) require each State medical facilities plan under section 1503 to provide for adequate medical facilities for all persons residing in the State and adequate facilities to furnish needed health services for persons unable to pay therefor.

"(b) The Secretary may also require that a State Agency of a State secure from an applicant under this title for assistance for a medical facility project assurances satisfactory to the Agency that—

"(1) the facility will be made available to all persons residing in its service area who have a need for the services provided (or to be provided) through it, and

"(2) unless the Agency determines the applicant lacks adequate financial resources, there will be made available through the facility to persons unable to pay therefor a reasonable volume of the services with respect to which assistance under this title is applied for,

before the Agency may recommend such project for the Secretary's approval.

"STATE MEDICAL FACILITIES PLAN

"SEC. 1503. (a) Before an application for assistance under this title for a medical facility project described in section 1501 may be approved, the State Agency of the State in which such project is located must have submitted to the Secretary and had approved by him a State medical facilities plan. To be approved by the Secretary a State medical facilities plan for a State must—

"(1) prescribe that the State Agency of the State shall administer or supervise the administration of the plan and contain evidence satisfactory to the Secretary that the State Agency has the authority to carry out the plan in conformity with this title;

"(2) prescribe that the Statewide Health Coordinating Council of the State shall advise and consult with the State Agency in carrying out the plan;

"(3) be consistent with the State health plan developed pursuant to section 1424(c)(2);

"(4) set forth, in accordance with criteria established in regulations prescribed under section 1502(a), and on the basis of a state-

wide inventory of existing medical facilities, a survey of need and the plans of health systems agencies within the State—

"(A) the number and type of medical facility beds and medical facilities needed to provide adequate inpatient care to people residing in the State, and a plan for the distribution of such beds and facilities in health service areas throughout the State,

"(B) the number and type of outpatient and other medical facilities needed to provide adequate public health services and outpatient care to people residing in the State, and a plan for the distribution of such facilities in health service areas throughout the State, and

"(C) the extent to which existing medical facilities in the State are in need of modernization or conversion to new uses;

"(5) set forth a program for the State for assistance under this title for projects described in section 1501, which program shall indicate the type of assistance which should be made available to each project and shall conform to the assessment of need set forth pursuant to paragraph (4) and regulations promulgated under section 1502(a);

"(6) set forth (in accordance with regulations promulgated under section 1502(a)) priorities for the provision of assistance under this title for projects in the program set forth pursuant to paragraph (4);

"(7) provide minimum requirements (to be fixed in the discretion of the State Agency) for the maintenance and operation of facilities which receive assistance under this title, and provide for enforcement of such standards;

"(8) provide for affording to every applicant for assistance for a medical facilities project under this title an opportunity for a hearing before the State Agency; and

"(9) provide that the State Agency will from time to time, but not less often than annually, review the plan and submit to the Secretary any modifications thereof which it considers necessary.

"(b) The Secretary shall approve any State medical facilities plan and any modification thereof which complies with the provisions of subsection (a) if the State Agency, as determined under the review made under section 1435(d), is organized and operated in the manner prescribed by section 1422 and is carrying out its functions under section 1423 in a manner satisfactory to the Secretary. If any such plan or modification thereof shall have been disapproved by the Secretary for failure to comply with subsection (a), the Federal Hospital Council shall, upon request of the State Agency, afford it an opportunity for hearing. If such Council determines that the plan or modification complies with the provisions of such subsection, the Secretary shall thereupon approve such plan or modification.

"APPROVAL OF PROJECTS

"SEC. 1504. (a) For each project described in section 1501 included within a State's State medical facilities plan approved under section 1503 there shall be submitted to the Secretary, through the State's State Agency, an application. The applicant under such an application may be a State, a political subdivision of a State or any other public entity, or a private nonprofit entity. If two or more entities join in a project, an application for such project may be filed by any of such entities or by all of them.

"(b)(1) Except as authorized under paragraph (2), an application for any project shall set forth—

"(A) in the case of a modernization project for a medical facility for continuation of existing health services, a finding by the State Agency of a continued need for such services, and, in the case of any other project for a medical facility, a finding by the State Agency of the need for the new health services to be provided through the medical facility upon completion of the project;

"(B) a description of the site of such project;

"(C) plans and specifications therefor which meet the requirements of the regulations prescribed under section 1502(a);

"(D) reasonable assurance that title to such site is or will be vested in one or more of the entities filing the application or in a public or other nonprofit entity which is to operate the facility on completion of the project;

"(E) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed;

"(F) the type of assistance being sought under this title for the project;

"(G) a certification by the State Agency of the Federal share for the project; and

"(H) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of Marh 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions sets forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

"(2)(A) The Secretary may waive—

"(i) the requirements of subparagraph (C) of paragraph (1) for compliance with modernization and equipment standards prescribed pursuant to section 1502(a)(2), and

"(ii) the requirement of subparagraph (D) of paragraph (1) respecting title to a project site,

in the case of an application for a project described in subparagraph (B).

"(B) A project referred to in subparagraph (A) is a project—

"(i) for the modernization of an outpatient medical facility which will provide general purpose health services, which is not part of a hospital, and which will serve a medically underserved population as defined under title XIII or as designated by a health systems agency, and

"(ii) for which the applicant seeks (I) not more than $20,000 from the allotments made under part B to the State in which it is located, or (II) a loan under part C the principal amount of which does not exceed $20,000.

"(c) The Secretary shall approve an application submitted under subsection (b) if—

"(1) in the case of a project to be assisted from an allotment made under part B, there are sufficient funds in such allotment to pay the Federal share of the project,

"(2) the Secretary finds that—

"(A) the application (i) is in conformity with the State medical facilities plan approved under section 1503, (ii) has been approved and recommended by the State Agency, (iii) is for a project which is entitled to priority over other projects within the State as determined in accordance with the approved State medical facilities plan, (iv) contains reasonable assurances as to title, financial support, and payment of prevailing rates of wages, and (v) contains an assurance satisfactory to the Secretary that in the operation of the medical facility for which the application is submitted there will be compliance with the State medical facilities plan requirement prescribed pursuant to section 1502(a)(5); and

"(B) the plans and specifications for the project meet the requirements of the regulations prescribed pursuant to section 1502(a).

"(d) No application shall be disapproved until the Secretary has afforded the State Agency an opportunity for a hearing.

"(e) Amendment of any approved application shall be subject to approval in the same manner as an original application.

"PART B—ALLOTMENTS

"ALLOTMENTS

"SEC. 1510. (a) For each fiscal year, the Secretary shall, in accordance with regulations, make from sums appropriated for such fiscal year under section 1513 allotments among the States on the basis of the population, the financial need, and need for medical facilities projects described in section 1501 of the respective States. The population of the States shall be determined on the basis of the latest figures certified by the Secretary of Commerce.

"(b)(1) The allotment to any State (other than Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands) for any fiscal year shall be not less than $1,000,000; and the allotment to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands for any fiscal year shall be not less than $500,000 each.

"(2) Notwithstanding paragraph (1), if the amount appropriated under section 1513 for any fiscal year is less than the amount required to provide allotments in accordance with paragraph (1), the amount of the allotment to any State for such fiscal year shall be an amount which bears the same ratio to the amount prescribed for such State by paragraph (1) as the amount appropriated for such fiscal year bears to the amount of appropriations needed to make allotments to all the States in accordance with paragraph (1).

"(c) Any amount allotted to a State for a fiscal year under subsection (a) and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the amounts allotted to such State for such purposes for such next two fiscal years; except that any such amount which is unobligated at the end of the first of such next two years and which the Secretary determines will remain unobligated at the close of the second of such next two years may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this title. Any amount so reallotted to a State shall be in addition to the amounts allotted and available to the State for the same period.

"PAYMENTS FROM ALLOTMENTS

"SEC. 1511. (a) If with respect to any medical facility project approved under section 1504 the State Agency certifies (upon the basis of inspection by it) to the Secretary that, in accordance with approved plans and specifications, work has been performed upon the project or purchases have been made for it and that payment from the applicable allotment of the State in which the project is located is due for the project, the Secretary shall, except as provided in subsection (b), make such payment to the State.

"(b) The Secretary is authorized to not make payments to a State pursuant to subsection (a) in the following circumstances:

"(1) If such State is not authorized by law to make payments for an approved medical facility project from the payment to be made by the Secretary pursuant to subsection (a), or if the State so requests, the Secretary shall make the payment from the State allotment directly to the applicant for such project.

"(2) If the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred re-

quiring action pursuant to section 1512, payment by the Secretary may, after he has given the State Agency notice and opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing.

In no event may the total of payments made under subsection (a) with respect to any project exceed an amount equal to the Federal share of such project.

"(c) In case an amendment to an approved application is approved as provided in section 1504 or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such amendment or revision is approved.

"(d) In any fiscal year not more than one-third of the amount of a State's allotment available for obligation in that fiscal year may be obligated for projects in the State for construction of new facilities for the provision of inpatient health care to persons residing in areas of the State which have experienced recent rapid population growth.

"WITHHOLDING OF PAYMENTS FROM ALLOTMENTS

"SEC. 1512. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Agency concerned finds—

"(1) that the State Agency is not complying substantially with the provisions required by section 153 to be included in its State medical facilities plan,

"(2) that any assurance required to be given in an application filed under section 1504 is not being or cannot be carried out, or

"(3) that there is a substantial failure to carry out plans and specifications approved by the Secretary under section 1504,

the Secretary may take the action authorized by subsection (b).

"(b)(1) Upon a finding described in subsection (a) and after notice to the State Agency concerned, the Secretary may—

"(A) withhold from all projects within the State with respect to which the finding was made further payments from the State's allotment under section 1510, or

"(B) withhold from the specific projects with respect to which the finding was made further payments from the applicable State allotment under section 1510.

"(2) Payments may be withheld, in whole or in part, under paragraph (1)—

"(A) until the basis for the finding upon which the withholding was made no longer exists, or

"(B) if corrective action to make such finding inapplicable cannot be made, until the State concerned repays or arranges for the repayment of Federal funds paid under this part for projects which because of the finding are not entitled to such funds.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1513. There are authorized to be appropriated for allotments under section 1510 $125,000,000 for the fiscal year ending June 30, 1975, $150,000,000 for the fiscal year ending June 30, 1976, and $175,000,000 for the fiscal year ending June 30, 1977.

"SPECIAL PROVISIONS FOR AMERICAN INDIANS

"SEC. 1514. (a) The Secretary may make grants directly to Indian tribes and intertribal Indian organizations to assist such tribes and organizations in meeting the costs of projects for the construction and modernization of public or nonprofit private outpatient or other health facilities, including alcoholism treatment centers, nursing homes, facilities for the care of the elderly, and mental health treatment facilities, which are in or will specifically serve—

"(1) a federally-recognized Indian reservation,

"(2) any land area in Oklahoma which is held in trust by the United States for Indians or which is a restricted Indian-owned land area, or

"(3) a Native village in Alaska (as defined in section 3(c) of the Alaska Native Claims Settlement Act).

"(b)(1) The amount of any grant made under this section for any project shall be determined by the Secretary, under such rules and regulations as he shall adopt, and may cover up to 100 per centum of the costs of the project.

"(2) No grant for any project may be made under this section unless an application therefor has been submitted to the Secretary and approved by him. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe, including assurances that preference shall be given to the employment of Indians and Indian business organizations in the construction or modernization of facilities for which funds are provided under subsection (a).

"PART C—LOANS AND LOAN GUARANTEES

"AUTHORITY FOR LOAN AND LOAN GUARANTEES

"SEC. 1520. (a) The Secretary, during the period beginning July 1, 1974, and ending June 30, 1977, may, in accordance with this part, make loans from the fund established under section 1522(d) to pay the Federal share of projects approved under section 1504.

"(b)(1) The Secretary, during the period beginning July 1, 1974, and ending June 30, 1977, may, in accordance with this part, guarantee to—

"(i) non-Federal lenders for their loans to nonprofit private entities for medical facilities projects, and

"(ii) the Financing Bank for its loans to nonprofit private entities for such projects,

payment of principal and interest on such loans if applications for assistance for such projects under this title have been approved under section 1504.

"(2) In the case of a guarantee of any loan to a nonprofit private entity under this title, the Secretary shall pay, to the holder of such loan and for and on behalf of the project for which the loan was made amounts sufficient to reduce by 3 per centum per annum the net effective interest rate otherwise payable on such loan. Each holder of such a loan which is guaranteed under this title shall have a contractual right to receive from the United States interest payments required by the preceding sentence.

"(c) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, may not exceed such limitations as may be specified in appropriation Acts.

"(d) The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof.

"ALLOCATION AMONG THE STATES

"SEC. 1521. (a) For each fiscal year, the total amount of principal of—

"(1) loans to nonprofit private entities which may be guaranteed, or

"(2) loans which may be directly made,

under this part shall be allotted by the Secretary among the States, in accordance with regulations, on the basis of the population, financial need, and need for medical facilities projects described in section 1501 of the respective States. The population of the States shall be determined on the basis of the latest figures certified by the Secretary of Commerce.

"(b) Any amount allotted to a State for a fiscal year under subsection (a) and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next two fiscal years (and for such years only), in addition to the amounts allotted to such State for such purposes for such next two fiscal years; except that any such amount which is unobligated at the end of the first of such next two years and which the Secretary determines will remain unobligated at the close of the second of such next two years may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to other States which have need therefor, on such basis as the Secretary deems equitable and consistent with the purposes of this title. Any amount so reallotted to a State shall be in addition to the amounts alloted and available to the State for the same period.

"GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND LOANS

"SEC. 1522. (a)(1) The Secretary may not approve a loan guarantee for a project under this part unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this part.

"(2)(A) The United States shall be entitled to recover from the applicant for a loan guarantee under this part the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this part (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

"(C) Any loan guarantee made by the Secretary under this part shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest), who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

"(D) Guarantees of loans under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this title will be achieved.

"(b)(1) The Secretary may not approve a loan under this part unless—

"(A) the Secretary is reasonably satisfied that the applicant under the project for which the loan would be made will be able to make payments of principal and interest thereon when due, and

"(B) the applicant provides the Secretary

with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

"(2) Any loan made under this part shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this part, minus 3 per centum per annum, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

"(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reasons of the failure of a borrower to make payments of principal of and interest on a loan made under this part, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

"(c)(1) The Secretary may from time to time, but with due regard to the financial interests of the United States, sell loans made by him under this part.

"(2) The Secretary may agree, prior to his sale of any such loan, to guarantee to the purchaser (and any successor in interest of the purchaser) compliance by the borrower with the terms and conditions of such loan. Any such agreement shall contain such terms and conditions as the Secretary considers necessary to protect the financial interests of the United States or as otherwise appropriate. Any such agreement may (A) provide that the Secretary shall act as agent of any such purchaser for the purpose of collecting from the borrower to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by the borrower under such loan; and (B) provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this paragraph.

"(3) After any loan under this part to a public entity has been sold and guaranteed under this subsection, interest paid on such loan which is received by the purchaser thereof (or his successor in interest) shall be included in the gross income of the purchaser of the loan (or his successor in interest) for the purpose of chapter 1 of the Internal Revenue Code of 1954.

"(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the fund established under subsection (d).

"(d)(1) There is established in the Treasury a loan and loan guarantee fund (hereinafter in this subsection referred to as the 'fund') which shall be avaialble to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts—

"(A) to enable him to make loans under this part,

"(B) to enable him to discharge his responsibilities under loan guarantees issued by him under this part,

"(C) for payment of interest under section 1520(b)(2) on loans guaranteed under this part,

"(D) for repurchase of loans under subsection (c)(2)(B), and

"(E) for payment of interest on loans which are sold and guaranteed.

There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. There shall also be deposited in the fund amounts received by the Secretary in connection with loans and loan guarantees under this part and other property or assets derived by him from his operations respecting such loans and loan guarantees, including any money derived from the sale of assets.

"(2) If at any time the sums in the funds are insufficient to enable the Secretary—

"(A) to make payments of interest under section 1520(b)(2),

"(B) to otherwise comply with guarantees under this part of loans to nonprofit private entities,

"(C) in the case of a loan which was made, sold, and guaranteed under this part, to make to the purchaser of such loan payments of principal and interest on such loan after default by the entity to which the loan was made, or

"(D) to repurchase loans under subsection (c)(2)(B), and

"(E) to make payments of interest on loans which are sold and guaranteed,

he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from the fund.

"(e)(1) The assets, commitments, obligations, and outstanding balances of the loan guarantee and loan fund established in the Treasury by section 626 shall be transferred to the fund established by subsection (d) of this section.

"(2) To provide additional capitalization for the fund established under subsection (d) there is authorized to be appropriated to the fund $40,000,000 in the aggregate for the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.

"PART D—GENERAL PROVISIONS

"JUDICIAL REVIEW

"SEC. 1530. If—

"(1) the Secretary refuses to approve an application for a project submitted under section 1504, the State Agency through which such application was submitted, or

"(2) any State is dissatisfied with the Secretary's action under section 1512, such State,

may appeal to the United States court of appeals for the circuit in which such State Agency or State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the Court, operate as a stay of the Secretary's action.

"RECOVERY

"SEC. 1351. If any facility constructed, modernized, or converted with funds provided under this title is, at any time within twenty years after the completion of such construction, modernization, or conversion with such funds—

"(1) sold or transferred to any person or entity (A) which is not qualified to file an application under section 1504, or (B) which is not approved as a transferee by the State Agency of the State in which such facility is located, or its successor; or

"(2) not used as a medical facility, and the Secretary has not determined that there is good cause for termination of such use,

the United States shall be entitled to recover from either the transferor or the transferee in the case of a sale or transfer or from the owner in the case of termination of use an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction, modernization, or conversion of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment.

"FEDERAL HOSPITAL COUNCIL

"SEC. 1532. (a) In administering this title, the Secretary shall consult with a Federal Hospital Council consisting of the Secretary, who shall serve as Chairman ex officio, and twelve members appointed by him. Six of the twelve appointed members shall be persons who are outstanding in the fields of health planning and resources development and fields pertaining to medical facilities, three of such members shall be authorities in matters relating to the operation of hospitals or other medical facilities, one of such members shall be an authority in matters relating to the mentally retarded, one of such members shall be an authority in matters relating to mental health, and six members shall be appointed to represent the consumers of health services provided by medical facilities and shall be persons familiar with the need for such services in urban or rural areas.

"(b) Each appointed member shall hold

office for a term of four years, except that any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. An appointed member shall not be eligible to serve continuously for more than two terms (whether beginning before or after the date of the enactment of this section) but shall be eligible for reappointment if he has not served immediately preceding his reappointment.

"(c) The Council shall meet as frequently as the Secretary deems necessary, but not less than once each year. Upon request by three or more members, it shall be the duty of the Secretary to call a meeting of the Council.

"(d) The Council is authorized to appoint such special advisory or technical committees as may be useful in carrying out its functions.

"(e) The Council shall supersede the existing Federal Hospital Council appointed under *section* 641 and the appointed members of the Federal Hospital Council serving on the date of the enactment of this title shall serve as additional members of the Council appointed under this section for the duration of their terms then existing, or for such shorter time as the Secretary may prescribe.

"(f) The provisions of section 14 of the Federal Advisory Committee Act respecting termination shall not apply with respect to the Council under this section.

"STATE CONTROL OF OPERATIONS

"SEC. 1533. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility with respect to which any funds have been or may be expended under this title.

"DEFINITION

"SEC. 1534. For the purpose of this title—

"(1) The term 'State' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the District of Columbia.

"(2) The term 'Federal share' means the proportion of the cost of a medical facilities project which the State Agency determines the Federal Government will provide under allotment payments or a loan or loan guarantee under this title, except that—

"(A) in the case of a modernization project—

"(i) described in section 1504(b)(2)(B), and

"(ii) the application for which received a waiver under section 1504(b)(2)(A),

the proportion of the cost of such project to be paid by the Federal Government under allotment payments or a loan may not exceed $20,000 and may not exceed 100 per centum of the first $6,000 of the cost of such project and 66⅔ per centum of the next $21,000 of such cost,

"(B) in the case of a project (other than a project described in subparagraph (A)) to be assisted from an allotment made under part B, the proportion of the cost of such project to be paid by the Federal Government may not exceed 66⅔, and

"(C) in the case of a project (other than a project described in subparagraph (A)) to be assisted with a loan or loan guarantee made under part C, the principal amount of the loan directly made or guaranteed for such project, when added to any other assistance provided the project under this title, may not exceed 90 per centum of the cost of such project.

"(3) The term 'hospital' includes general, tuberculosis, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, facilities related to programs for home health services, self-care units, and central service facilities, operated in connection with hospitals, and also includes education or training facilities for health professional personnel operated as an integral part of a hospital, but does not include any hospital furnishing primarily domiciliary care.

"(4) The term 'public health center' means a publicly owned facility for the provision of public health services, including related publicly owned facilities such as laboratories, clinics, and administrative offices operated in connection with such a facility.

"(5) The term 'nonprofit' as applied to any facility means a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(6) The term 'outpatient medical facility' means a medical facility (located in or apart from a hospital) for the diagnosis or diagnosis and treatment of ambulatory patients (including ambulatory inpatients)—

"(A) which is operated in connection with a hospital,

"(B) in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State, or in the case of dental diagnosis or treatment, under the professional supervision of persons licensed to practice dentistry in the State; or

"(C) which offers to patients not requiring hospitalization the services of licensed physicians in various medical specialties, and which provides to its patients a reasonably full-range of diagnostic and treatment services.

"(7) The term 'rehabilitation facility' means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of—

"(A) medical evaluation and services, and

"(B) psychological, social, or vocational evaluation and services,

under competent professional supervision and in the case of which the major portion of the required evaluation and services is furnished within the facility; and either the facility is operated in connection with a hospital, or all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

"(8) The term 'facility for long-term care' means a facility (including a skilled nursing or intermediate care facility) providing inpatient care for convalescent or chronic disease patients who require skilled nursing or intermediate care and related medical services—

"(A) which is a hospital (other than a hospital primarily for the care and treatment of mentally ill or tuberculous patients) or is operated in connection with a hospital, or

"(B) in which such care and medical services are prescribed by, or are performed under the general direction of, persons licensed to practice medicine or surgery in the State.

"(9) The term 'construction' means construction of new buildings and initial equipment of such buildings and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings; including architects' fees, but excluding the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of land.

"(10) The term 'cost' as applied to construction, modernization, or conversion means the amount found by the Secretary to be necessary for construction, modernization, or conversion, respectively, under a project.

"(11) The term 'modernization' includes alteration, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

"(12) The term 'title,' when used with reference to a site for a project, means a fee simple, or each other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than twenty-five years' undisturbed use and possession for the purposes of construction or modernization and operation of the project.

"(13) The term 'medical facility' means a hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, or other facility (as may be designated by the Secretary) for the provision of health care to ambulatory patients.

"(14) The term 'State Agency' means the State health planning and development agency of a State designated under title XIV.

"FINANCIAL STATEMENTS

"SEC. 1535. In the case of any facility for which an allotment payment, loan, or loan guarantee has been made under this title the applicant for such payment, loan, or loan guarantee (or, if appropriate, such other person as the Secretary may prescribe) shall file at least annually with the State Agency for the State in which the facility is located a statement which shall be in such form, and contain such information, as the Secretary may require to accurately show—

"(1) the financial operations of the facility, and

"(2) the costs to the facility of providing health services in the facility and the charges made by the facility for providing such services,

during the period with respect to which the statement is filed.

"PART E—AREA HEALTH SERVICES DEVELOPMENT FUNDS

"DEVELOPMENT GRANTS FOR AREA HEALTH SERVICES DEVELOPMENT FUNDS

"SEC. 1540. (a) The Secretary shall make in each fiscal year a grant to each health system agency—

"(1) with which there is in effect a designation agreement under section 1415(b),

"(2) which has in effect an HSP and AIP reviewed by the Statewide Health Coordinating Council, and

"(3) which, as determined under the review made under section 1435(c), is organized and operated in the manner prescribed by section 1412(b) and is performing its functions under section 1413 in a manner satisfactory to the Secretary,

to enable the agency to establish and maintain an Area Health Services Development Fund from which it may make grants and enter into contracts in accordance with section 1413(c)(3).

"(b)(1) Except as provided in paragraph (2), the amount of any grant under subsection (a) shall be determined by the Secretary after taking into consideration the population of the health service area for which the health systems agency is designated, the average family income of the area, and the supply of health services in the area.

"(2) The amount of any grant under subsection (a) to a health systems agency for any fiscal year may not exceed the product of $1 and the population of the health service area for which such agency is designated.

"(c) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be sub-

mitted in such form and manner and contain such information as the Secretary may require.

"(d) For the purpose of making payments pursuant to grants under subsection (a), there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1975, $100,000,000 for the fiscal year ending June 30, 1976, and $150,000,000 for the fiscal year ending June 30, 1977.

"(e) The Secretary shall make in each fiscal year a grant to each Indian tribe and inter-tribal Indian organization which received in such fiscal year a grant under section 1416(d). A grant under this subsection shall be used by such tribe or organization to make grants to public and nonprofit private entities and to enter into contracts with individuals and public and nonprofit private entities to assist such entities in planning and developing programs and projects located within or which will specifically serve—

"(1) a federally recognized Indian reservation,

"(2) any land area in Oklahoma which is held in trust by the United States for Indians or which is a restricted Indian-owned land area, or

"(3) a Native village in Alaska (as defined in section 3(c) of the Alaska Native Claims Settlement Act),

which programs and projects the tribe or organizations determines are necessary for the achievement of the health systems planned by it for such reservation, land area, or village."

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

SEC. 5. (a)(1) There are authorized to be appropriated for the fiscal year ending June 30, 1975, and the next fiscal year such sums as may be necessary to make grants under section 314(a) of the Public Health Service Act, except that no grant made to a State with funds appropriated under this paragraph shall be available for obligation beyond (A) the date on which a State health planning and development agency is designated for such State under section 1421 of such Act, or (B) June 30, 1976.

(2) There are authorized to be appropriated for the fiscal year ending June 30, 1975, and the next fiscal year such sums as may be necessary to make grants under section 304 of the Public Health Service Act for experimental health services delivery systems, section 314(b) of such Act, and title IX of such Act, except that no grant made with funds appropriated under this paragraph shall be available for obligation beyond (A) June 30, 1976, or (B) the date on which a health systems agency has been designated under section 1415 of such Act for a health service area which includes the area of the entity for which a grant is made under such section 304, 314(b), or title IX.

(b) Any State which has in the fiscal year ending June 30, 1975, or the next fiscal year funds available for obligation from its allotments under part A of title VI of the Public Health Service Act may in such fiscal year use for the proper and efficient administration during such year of its State plan approved under such part an amount of such funds which does not exceed 4 per centum of such funds or $100,000, whichever is less.

(c) A reference in any law or regulation—

(1) to the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) of the Public Health Service Act shall in the case of a State for which a State health planning and development agency has been designated under section 1421 of such Act be considered a reference to the State agency designated under such section 1421;

(2) to an agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) of the Public Health Service Act shall if all or part of the area covered by such plan or plans is within a health service area established under section 1411 of the Public Health Service Act be considered a reference to the health systems agency designated under section 1415 of such Act for such health service area; and

(3) to a regional medical program assisted under title IX of the Public Health Service Act shall if the program is located in a State for which a State health planning and development agency has been designated under section 1421 of the Public Health Service Act be considered a reference to such State agency.

(d) Section 316 of the Public Health Service Act is repealed.

ADVISORY COMMITTEES

SEC. 6. (a) An advisory committee established by or pursuant to the Public Health Service Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after the date of the enactment of this Act.

(b) The Secretary of Health, Education, and Welfare shall report, within one year after the date of the enactment of this Act, to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (1) the purpose and use of each advisory committee established by or pursuant to the Public Health Service Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and (2) his recommendations respecting the termination of each such advisory committee.

AGENCY REPORTS

SEC. 7. The Secretary of Health, Education, and Welfare shall report, within one year of the date of the enactment of this Act, to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives (1) the identity of each report required to be made by the Secretary under the Public Health Service Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to the Congress (or any committee thereof), (2) the provision of such Acts which requires each such report, (3) the purpose of each such report, and (4) the due date for each such report. The report of the Secretary under this section may include such recommendations as he considers appropriate for termination or consolidation of any such reporting requirements.

Mr. KENNEDY. Mr. President, I move that the Senate disagree to the amendment of the House on S. 2994 and request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. KENNEDY, Mr. WILLIAMS, Mr. NELSON, Mr. EAGLETON, Mr. CRANSTON, Mr. HUGHES, Mr. PELL, Mr. MONDALE, Mr. HATHAWAY, Mr. SCHWEIKER, Mr. JAVITS, Mr. DOMINICK, Mr. BEALL, Mr. TAFT, and Mr. STAFFORD conferees on the part of the Senate.

AMENDMENT OF THE WILD AND SCENIC RIVERS ACT

Mr. HASKELL. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3022.

The PRESIDING OFFICER (Mr. BIDEN) laid before the Senate the amendment of the House of Representatives to the bill (S. 3022) to amend the Wild and Scenic Rivers Act (82 Stat. 906), as amended, to designate segments of certain rivers for possible inclusion in the national wild and scenic rivers system; to amend the Lower St. Croix River Act of 1972 (86 Stat. 1174), and for other purposes, as follows:

Strike out all after the enacting clause, and insert: That section 5(a) of the Act of October 2, 1968 (82 Stat. 906, 911; 16 U.S.C. 1276), is amended by adding the following new subsections:

"(28) American, California: The North Fork from the Cedars to Auburn Reservoir.

"(29) Au Sable, Michigan: The segment downstream from Foote Dam to Oscoda; upstream from Loud Reservoir to the source of the river and including its principal tributaries, but excluding Mio and Bamfield Reservoirs.

"(30) Cahaba, Alabama: The segment downstream from United States Highway 31 south of Birmingham in Jefferson County and upstream from United States Highway west of Selma in Dallas County.

"(31) Clark's Fork, Wyoming: The segment from the Clark's Fork Canyon to the Crandall Creek Bridge.

"(32) Colorado, Colorado: The segment from the Colorado/Utah boundary to a point upstream near the town of Loma, Colorado.

"(33) Kettle, Minnesota: The entire segment within the State of Minnesota.

"(34) Manistee, Michigan: The segment upstream from Manistee Lake to the source of the river and including its principal tributaries and excluding Tippy and Hodenpyl Reservoirs.

"(35) Nolichuckey, Tennessee and North Carolina: The entire main stream.

"(36) Sipsey Fork, the West Fork, Alabama: The segment of the impoundment in Winston County formed by the Lewis M. Smith Dam upstream to the point of origin in the William B. Bankhead National Forest in Lawrence County; and the tributaries to the segment.

"(37) Snake, Wyoming: Beginning at the southern boundaries of Teton National Park to the entrance to Palisades Reservoir.

"(38) Sweetwater, Wyoming: The segment between Wilson Bar downstream to Spring Creek.

"(39) Tuolumne River, California: The main river from its sources on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir.

"(40) Wisconsin, Wisconsin: The main stem from the dam at Prairie du Sac, Wisconsin, to its confluence with the Mississippi River at Prairie du Chien, Wisconsin."

SEC. 2. Secton 5 of the Act of October 2, 1968 (82 Stat. 910), as amended, is further amended by relettering subsections (b) and (c) as (c) and (d), respectively, and inserting a new subsection (b) as follows:

"(b) The studies of rivers in subparagraphs (28) through (40) of subsection 5(a) shall be completed and reports thereon submitted by not later than October 2, 1978, and in accordance with the provisions of section 4(a) of this Act. For the purpose of conducting such studies, there are authorized to be appropriated such sums as may be necessary, but not more than $975,000."

Mr. HASKELL. Mr. President, I move that the Senate disagree to the amend-

ments of the House on S. 3022 and request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. HASKELL, Mr. METZENBAUM, Mr. HANSEN, and Mr. HATFIELD conferees on the part of the Senate.

QUORUM CALL

The PRESIDING OFFICER. What is the will of the Senate?

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

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

DECLARING THAT CERTAIN FEDERALLY OWNED LANDS SHALL BE HELD BY THE UNITED STATES IN TRUST FOR THE HUALAPAI INDIAN TRIBE OF THE HUALAPAI RESERVATION, ARIZ., AND FOR OTHER PURPOSES

Mr. FANNIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 7978. The bill is reported at this time without amendment.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7978) to declare that certain Federally owned lands shall be held by the United States in trust for the Hualapai Indian Tribe, of the Hualapai Reservation, Arizona, and for other purposes.

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.

QUORUM CALL

The PRESIDING OFFICER. What is the will of the Senate?

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.

DR. FLOYD M. RIDDICK

Mr. GRIFFIN. Mr. President, after nearly 30 years of Senate service, Dr. Floyd M. Riddick, the distinguished Parliamentarian of the U.S. Senate, will retire at the end of this session of the Congress.

Few men have ever served the Senate in any capacity so long and so well. None has worked more diligently and conscientiously in a position which demands the wisdom of Solomon, as well as a full measure of patience.

Day in and day out, he has been available to guide each and every Senator of both parties. During my service in the Senate, I can say that no one has done so much for so many in this body as Dr. Riddick—as he has quietly provided education and guidance for all who seek it.

Dr. Riddick has always been fair, he has been impartial, he has called the shots as he saw them.

His career is an interesting story—all the more so because when he started out, as he tells it, he had no idea in the world of ever becoming Parliamentarian of the U.S. Senate.

Born in Trotville, N.C., he grew up on a farm in Gates County. He became interested in law and entered Duke University with the objective of becoming an attorney. However, he soon changed his mind and decided on an academic career.

After graduating from Duke, he took his master's degree at Vanderbilt and then returned to Duke for a doctorate. His dissertation was a forecast of the future. It dealt with parliamentary procedures in the House of Representatives.

After a year's study at the University of Berlin on an international fellowship, Dr. Riddick spent several years in private employment dealing with the affairs of Congress and writing scholarly articles. In 1947, he came to the Senate to begin publication of the Daily Digest section of the CONGRESSIONAL RECORD.

In 1951, he became assistant Parliamentarian, working with Charles L. Watkins, the Senate's first Parliamentarian. He became Parliamentarian on January 1, 1965.

We are indebted to Dr. Riddick for the volume entitled "Senate Procedure" which Mr. Watkins and he first coauthored in 1958 and revised in 1964. This year he published a new volume of "Senate Procedures."

It is altogether fitting and a well-deserved tribute that the Senate last week, by resolution, has named Dr. Riddick the Senate's Parliamentarian Emeritus.

I join others who have expressed the wish that he may enjoy many happy retirement years, with frequent visits, of course, to this Chamber and to the many friends he leaves behind.

ORDER THAT H.R. 17558 BE HELD AT THE DESK PENDING FURTHER DISPOSITION ON TOMORROW

Mr. GRIFFIN. Mr. President, I understand that the bill, H.R. 17558, has been passed by the House, and I ask unanimous consent that when it arrives in the Senate it be held at the desk pending further disposition on tomorrow.

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

ORDER FOR PERMISSION TO FILE CONFERENCE REPORT ON H.R. 10701, PORT FACILITIES ON RIVERS AND HARBORS, BY MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that permission be given to file the conference report on H.R. 10701, the Deepwater Port Act, by midnight tonight.

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

COMMITTEE MEETINGS DURING SENATE SESSION TOMORROW AND WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce be authorized to meet tomorrow, December 17, 1974, to consider the House-passed version of certain bills; that the Committee on the Judiciary be authorized to meet tomorrow, December 17, 1974, and Wednesday, December 18, 1974, to discuss committee business; and that the Armed Services Committee be authorized to meet tomorrow, December 17, 1974, to consider reprogramming actions requiring early attention.

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

ORDER GRANTING PERMISSION TO WITHDRAW CLOTURE MOTION ON THE AMENDMENT OF THE EXPORT-IMPORT BANK ACT—CONFERENCE REPORT ON WHICH A VOTE WAS TO OCCUR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to withdraw a cloture motion on the amendment of the Export-Import Bank Act conference report on which a vote was to occur tomorrow.

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

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today that it stand in adjournment until the hour of 9:30 a.m. tomorrow.

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

ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, as I recall, Senator DOMINICK was the last in a series of Senators whose names had been presented earlier for recognition tomorrow morning.

The PRESIDING OFFICER. The Senator is correct.

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

RECOGNITION OF SENATOR JAVITS FIRST TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. JAVITS be recognized first among the Senators for whom orders have been and will be entered for tomorrow.

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

ORDER FOR RECOGNITION OF VARIOUS SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after Mr. JAVITS is recognized tomorrow, and after Mr. DOMINICK is recognized tomorrow, under an order already entered, Mr. ALLEN be recognized, Mr. TALMADGE be recognized, and Mr. HELMS be recognized, each for not to exceed 15 minutes, and in that order.

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

ORDER FOR RECOGNITION OF SENATOR GRIFFIN AND SENATOR ROBERT C. BYRD ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the orders for the recognition of Senators which have been previously entered, have been consummated, the Senator from Michigan (Mr. GRIFFIN) be recognized for not to exceed 10 minutes, and that the junior Senator from West Virginia (Mr. ROBERT C. BYRD) be recognized for not to exceed 10 minutes tomorrow.

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

PROGRAM

RECOGNITION OF VARIOUS SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, tomorrow the following Senators will be recognized each for the time stated and in the order stated, after the two leaders or their designees have been recognized under the standing order: Mr. HOLLINGS, Mr. BARTLETT, Mr. DOMENICI, Mr. NUNN, Mr. CHILES, and Mr. COOK, each for not to exceed 10 minutes; Mr. JAVITS, Mr. DOMINICK, Mr. ALLEN, Mr. TALMADGE, Mr. HELMS, each for not to exceed 15 minutes, and in that order; Mr. GRIFFIN and Mr. ROBERT C. BYRD, each for not to exceed 10 minutes, and in that order.

So quite a number of Senators will be speaking tomorrow at the beginning of the day.

H.R. 17045 AND H.R. 421—CLOTURE MOTIONS—ORDER FOR THE HOUR OF DEBATE UNDER RULE XXII TO COMMENCE RUNNING AFTER THE ORDERS FOR THE RECOGNITION OF VARIOUS SENATORS HAVE EXPIRED

During the day, Mr. President, after the orders for the recognition of Senators have expired, I ask unanimous consent that the hour under rule XXII begin running on the first of the motions which were introduced on Saturday by the distinguished Senator from Louisiana (Mr. LONG) and that the time for debate be equally divided between Mr. LONG and the ranking member on the other side of the aisle who, I believe, is Mr. BENNETT.

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

Mr. ROBERT C. BYRD. Mr. President, what happens after that cloture vote will, of course, depend upon the outcome of the vote. But following the disposition of that measure the vote on the motion to invoke cloture on the second of the two measures introduced by Mr. LONG on Saturday will occur immediately after the establishment of a quorum. I take it that Senators would probably prefer some time for debate on that cloture motion also.

I, therefore, ask unanimous consent now, following the disposition of the first measure, there be 1 hour to be equally divided between Mr. LONG and Mr. BENNETT on the motion to invoke cloture on the second measure. That time may be yielded back if the Senators so wish.

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

Mr. ROBERT C. BYRD. Mr. President, what happens thereafter depends, of course, on what has gone before.

TIME LIMITATION AGREEMENT ON AGRICULTURAL APPROPRIATION CONFERENCE REPORT

I should state that it will be the intention of the leadership on tomorrow at some point to assist in the calling up of the conference report on the Agricultural Appropriation bill, and ask unanimous consent, it having been cleared with Mr. MCGEE, Mr. MUSKIE, and Mr. FONG, that there be a time limitation on the agricultural appropriation conference report of 3 hours to be equally divided between Mr. FONG and Mr. MCGEE.

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

Mr. ROBERT C. BYRD. Beyond that I am unprepared to say what business may come before the Senate tomorrow. Other conference reports, of course, being privileged matters, will be eligible for call-up after the measures on which cloture may be invoked are disposed of.

I can only suggest that there will be rollcall votes tomorrow, and I would suggest to Senators that they make plans for possible late sessions on Thursday night and on Friday night. Rollcall votes will occur daily.

ADJOURNMENT TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9:30 a.m. tomorrow.

The motion was agreed to; and at 6:42 p.m. the Senate adjourned until tomorrow, Tuesday, December 17, 1974, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 16, 1974:

IN THE AIR FORCE

The following officers for temporary appointment in the U.S. Air Force under the provisions of Chapter 839, title 10 of the United States Code:

To be major general

Brig. Gen. Robert M. White, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Harrison Lodbell, Jr., xxx-xx-x... FR, Regular Air Force.

Brig. Gen. George H. Sylvester, xxx-xx-... FR, Regular Air Force.

Brig. Gen. William C. Burrows, xxx-xx-... FR, Regular Air Force.

Brig. Gen. Paul W. Myers, xxx-xx-xxxx FR, Regular Air Force, Medical.

Brig. Gen. John G. Albert, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Charles L. Wilson, xxx-xx-xxxx FR, Regular Air Force

Brig. Gen. Lucius Theus, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Robert C. Thompson, xxx-xx-... FR, Regular Air Force.

Brig. Gen. John R. Spalding, Jr., xxx-xx-x... xxx... FR, Regular Air Force.

Brig. Gen. Robert E. Sadler, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Winfield W. Scott, Jr., xxx-xx-x... xxx-... FR, Regular Air Force.

Brig. Gen. Richard H. Schoeneman, xxx-xx-... xxx... FR, Regular Air Force.

Brig. Gen. Thomas M. Sadler, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Lovic P. Hodnette, Jr., xxx-xx-x... xxx-... FR, Regular Air Force.

Brig. Gen. Walter D. Druen, Jr., xxx-xx-... FR, Regular Air Force.

Brig. Gen. Benjamin R. Baker xxx-xx-xxxx FR, Regular Air Force, Medical.

Brig. Gen. Richard C. Bowman, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Gerald J. Post, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Carl D. Peterson, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Don D. Pittman, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Kermit C. Kaericher, xxx-xx-x... xxx-... FR, Regular Air Force.

Brig. Gen. Don D. Pittman, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Robert A. Rushworth, xxx-xx-x... xxx-... FR, Regular Air Force.

Brig. Gen. Charles C. Blanton, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. John J. Murphy, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. James P. Mullins, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Wayne E. Whitlatch, xxx-xx-... FR, Regular Air Force.

Brig. Gen. Thomas M. Ryan, Jr., xxx-xx-... FR, Regular Air Force.

Brig. Gen. Malcolm E. Ryan, Jr., xxx-xx-... FR, Regular Air Force.

Brig. Gen. James L. Brown, xxx-xx-xxxx FR, Regular Air Force.

Brig. Gen. Benjamin F. Starr, Jr., xxx-xx-x... xxx... FR, Regular Air Force.

The following officers for appointment in the Regular Air Force to the grades indicated, under the provisions of chapter 835, title 10 of the United States Code:

To be major general

Lt. Gen. James E. Hill, xxx-xx-xxxx FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Howard M. Lane, xxx-xx-xxxx FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Edward P. McNeff, xxx-xx-xxxx FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Howard P. Smith, Jr., xxx-xx-x... xxx-... FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. James E. Paschall, xxx-xx-xxxx FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Travis R. McNeil, xxx-xx-xxxx FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. George Rhodes, xxx-xx-xxxx FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Kendall Russell, xxx-xx-xxxx FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Jack Bellamy, xxx-xx-xxxx FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Timothy I. Ahern, xxx-xx-x...

[redacted]FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Charles E. Buckingham, [redacted]FR, (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. Brent Scowcroft, [redacted]FR, (brigadier general, Regular Air Force), U.S. Air Force.

To be brigadier general

Brig. Gen. David W. Winn, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. John R. Spalding, Jr., [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Cecil E. Fox, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Kermit C. Kaericher, [redacted]FR (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Bohdan Danyliw, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Benjamin F. Starr, Jr., [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Norman C. Gaddis, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Henry B. Stelling, Jr., [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Jack I. Posner, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. James B. Currie, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Rupert H. Burris, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Thomas F. Rew, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. William C. Norris, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Carl G. Schneider, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Richard C. Bowman, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Richard H. Schoeneman, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. John G. Albert, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Frank G. Barnes, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. George M. Wentsch, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. James P. Mullins, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Carl D. Peterson, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Donald N. Vivian, [redacted]FR, (colonel, Regular Air Force, Medical), U.S. Air Force.

IN THE NAVY

Rear Adm. Edward C. Waller, III, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

HOUSE OF REPRESENTATIVES—*Monday, December 16, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The people that walked in darkness have seen a great light.—Isaiah 9: 2.

Holy Father, the giver of every good and perfect gift, we thank Thee for the significance of the Advent season and for the coming of Jesus into our human world. In Him and in Thy Word Thou hast revealed the greatness of Thy love and the glory of our own lives. In doing so Thou hast blessed the families of the Earth.

During this season and throughout the new year may we be grateful for the ties that bind us together in the home, the church, and the Nation. Remove from within us all thoughts that are bitter and narrow, all feelings of pride and prejudice and may we learn to live as little children, glad-hearted and free, with spirits filled with love and joy.

We pray that this same spirit may come into the heart of our Nation and into the life of our world. Thus may we live together in peace, helping one another, lifting one another, and loving one another.

In the dear Redeemer's name we offer our morning prayer. 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 bills of the House of the following titles:

H.R. 5056. An act to provide for crediting service as an aviation midshipman for purposes of retirement for nonregular service under chapter 67 of title 10, United States Code, and for pay purposes under title 37, United States Code;

H.R. 14349. An act to amend section 3031 of title 10, United States Code, to increase the number of authorized Deputy Chiefs of Staff for the Army Staff;

H.R. 15067. An act to prevent reductions in pay for any officer or employee who would be adversely affected as a result of implementing Executive Order 11777; and

H.R. 16006. An act to amend section 2634 of title 10, United States Code, relating to the shipment at Government expense of motor vehicles owned by members of the Armed Forces, and to amend chapter 10 of title 37, United States Code, to authorize certain travel and transportation allowances to members of the uniformed services incapacitated by illness.

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. 16136) entitled "An act to authorize certain construction at military installations, and for other purposes."

The message also announced that they agreed to the House amendments to Senate amendments numbered 1 and 3 until further announced that the Senate receded from its amendments numbered 5 and 6 to a bill of the House entitled:

H.R. 10834. An act to amend the act of October 27, 1972, establishing the Golden Gate National Recreation Area in San Francisco and Marin Counties, Calif., and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3538. An act for the relief of Selmer Amundson;

H.R. 10710. An act to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and for other purposes;

H.R. 12860. An act to amend title 10 of the United States Code in order to clarify when claims must be presented for reimbursement of memorial service expenses in the case of members of the Armed Forces whose remains are not recovered;

H.R. 14449. An act to provide for the mobilization of community development and assistance services and to establish a Community Action Administration in the Department of Health, Education, and Welfare to administer such programs;

H.R. 15912. An act to amend chapter 37 of title 38, United States Code, to improve the basic provisions of the veterans home loan programs and to eliminate those provisions pertaining to the dormant farm and business loans, and for other purposes;

H.R. 16925. An act to make technical amendments to the act of September 3, 1974, relating to salary increases for District of Columbia police, firemen, and teachers, and to the District of Columbia Real Property Tax Revision Act of 1974, and for other purposes; and

H.R. 17450. An act to provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10710) entitled "An act to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. MONDALE, Mr. BENNETT, Mr. FANNIN, and Mr. HANSEN to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 14449) entitled "An act to provide for the mobilization of community development and assistance services and to establish a Community Action Administration in the Department of Health, Education, and Welfare to administer such programs," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NELSON, Mr. WILLIAMS, Mr. RANDOLPH, Mr. KENNEDY, Mr. MONDALE, Mr. CRANSTON, Mr. HUGHES, Mr. HATHAWAY, Mr. JAVITS, Mr. DOMINICK, Mr. SCHWEIKER, Mr. TAFT, and Mr. BEALL to be the conferees on the part of the Senate.