with models, diagrams, designs, measurements, and all the facts—boring ahead to refute and inform the uninformed about whatever project he had undertaken. I will remember him best for that.

I used to say that if anyone is thinking of retiring in the next 10 or 20 years, KEN would be pleased to put your name on a Government building in your home district. Now it would be most appropriate if we turned the tables on KEN and named a building after him.

It has been a privilege to know KEN and be his friend. We all wish him well.

H.R. 16204, NATIONAL HEALTH POLICY PLANNING AND RESOURCES DEVELOPMENT ACT

HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 17, 1974

Mr. HUDNUT. Mr. Speaker, I did not have an opportunity to vote on H.R. 16204, the Health Policy Planning and Resources Development Act, when it was passed by the House on December 12. Had I been present I would have supported the Moss amendment that permits designation of units of local governments or regional planning bodies as health system agencies but allows existing metropolitan health agencies to continue to serve as the planning boards for their areas.

The adoption of this provision, in my opinion, strengthens the bill and vastly improves it.

In addition, I would have supported the Satterfield amendment that deletes the recertification of need requirements for institutional providers. The "periodic review" of each of the many services rendered by the Nation's hospitals and nursing homes would be an enormous task which would dilute and deter planning agencies from their principal function—the development of comprehensive health plans.

Another amendment, sponsored by the distinguished gentleman from North Carolina (Mr. PREYER) and adopted by the House, insures that direct providers of health care such as doctors and hospital administrators are adequately represented on the governing boards of HSA's. This provision improves the bill also.

With the adoption of these amendments I would have voted for H.R. 16204 on final passage because I feel there is a need for meaningful comprehensive health planning. On the other hand, it is my hope that the House conferees will insist steadfastly on the House version. In addition to the problems addressed by the three House-passed amendments I have discussed, the Senate bill includes a section entitled "Grants for regulation or establishment of rates for health services." Rate regulation was considered by our Subcommittee on Public Health and Environment and was rejected. The inclusion of rate regulation in planning legislation is extremely unwise and I, therefore, urge the conferees to stand firm in insisting that it be deleted.

The House bill is superior in every way to the Senate bill and I hope the points I have enumerated will be included in the final version.

SENATE—*Wednesday, December 18, 1974*

The Senate met at 10 a.m. and was called to order by Hon. J. BENNETT JOHNSTON, JR., a Senator from the State of Louisiana.

PRAYER

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

THE NATIONAL DAY OF PRAYER

God of our fathers and our God, give us, Thy servants, a true appreciation of our spiritual heritage as we keep this National Day of Prayer. Teach us to pray—in secret and alone, with others in this body and as a people. May the soul of the Nation be uplifted in thankfulness and hope. May our prayers ascend not in fear or anxiety but in faith and in love. Remind us that we are not called upon to fill the places of those who have gone, but to fill our own places in our own time, and to do the right as Thou dost help us to see the right, and leave the rest to Thy providence. Assure us, when we pray, that Thy continual presence is the answer to every prayer, for Thine is the kingdom and the power and the glory forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 18, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. J. BENNETT JOHNSTON, JR., a Senator from the State of Louisiana, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Tuesday, December 17, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. 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 to consider the nominations on the Executive Calendar.

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

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

NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all nominations on the calendar be considered en bloc.

There being no objection, the nominations were considered and confirmed en bloc, as follows: in the judiciary, in the Department of Justice, in the American Revolution Bicentennial Administration, in the Commission on Civil Rights, in the Federal Council on the Aging, in the Commission on Libraries and Information Science, in the National Council on Educational Research, in the National Science Foundation, and in the Railroad Retirement Board.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediatey notified of the confirmation of all the nominations today and those heretofore, if there are any heretofore concerning which he has not yet been notified.

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

LEGISLATIVE SESSION

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

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

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 1288 through 1296.

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

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS

The resolution (S. Res. 412) authorizing supplemental expenditures by the Committee on Veterans' Affairs for inquiries and investigations, was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 250, Ninety-third Congress, agreed to March 1, 1974, is amended by striking out the amounts "$221,000" and "$50,000" and inserting in

lieu thereof "$275,000" and "$60,000", respectively.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

The resolution (S. Res. 441) authorizing supplemental expenditures by the Committee on Interior and Insular Affairs for inquiries and investigations, was considered and agreed to, as follows:

Resolved, That S. Res. 245, Ninety-third Congress, agreed to March 1, 1974, is amended as follows:

In section 2, strike out the amount "$550,000" and insert in lieu thereof "$580,000".

WATER POLLUTION CONTROL PROGRAMS AND POLICIES

The resolution (S. Res. 442) authorizing the printing of the report (two volumes) entitled "Evaluation of Techniques for Cost-Benefit Analysis of Water Pollution Control Programs and Policies" as a Senate document, was considered and agreed to, as follows:

Resolved, That the report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in compliance with section 104(a)(6) of Public Law 92-500) entitled "Evaluation of Techniques for Cost-Benefit Analysis of Water Pollution Control Programs and Policies", be printed, with illustrations, as a Senate document.

SEC. 2. There shall be printed five hundred additional copies of such document for the use of the Committee on Public Works.

NURSING HOME CARE IN THE UNITED STATES

The resolution (S. Res. 444) authorizing the printing of additional copies of Senate report entitled "Nursing Home Care in the United States: Failure in Public Policy" (introductory report), was considered and agreed to, as follows:

S. RES. 444

Resolved, That there be printed for the use of the Special Committee on Aging two thousand five hundred copies of its report to the Senate entitled "Nursing Home Care in the United States: Failure in Public Policy (Introductory Report)".

REPRINTING OF HOUSE DOCUMENT 93-339

The concurrent resolution (H. Con. Res. 654) authorization for reprinting 10,000 copies for use of the Committee on the Judiciary of House Document 93-339, was considered and agreed to.

200TH ANNIVERSARY OF THE FIRST CONTINENTAL CONGRESS

The concurrent resolution (H. Con. Res. 680) to provide for the printing as a House document of the proceedings at the commemoration ceremony in honor of the 200th anniversary of the First Continental Congress, was considered and agreed to.

PORTRAIT OF THE HONORABLE LEONOR K. SULLIVAN

The concurrent resolution (H. Con. Res. 683) authorizing the printing of proceedings unveiling the portrait of the Honorable LEONOR K. SULLIVAN, was considered and agreed to.

PRINTING OF THE CONSTITUTION OF THE UNITED STATES

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 675) providing for the printing as a House document of the Constitution of the United States (pocket-size edition), which had been reported from the Committee on Rules and Administration with an amendment on page 1, at the end of line 4, strike out "two hundred and twenty-one thousand shall be for the use of the House of Representatives." and insert in lieu thereof:

there be printed two hundred seventy-two thousand five hundred additional copies of such document, of which two hundred twenty-one thousand shall be for the use of the House of Representatives and fifty-one thousand five hundred shall be for the use of the Senate.

The amendment was agreed to.

The concurrent resolution (H. Con. Res. 675), as amended, was agreed to.

CONSTITUTION AND THE DECLARATION OF INDEPENDENCE

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 679) to provide for the printing as a House document of the Constitution and the Declaration of Independence, which had been reported from the Committee on Rules and Administration with an amendment on page 1, in line 6, strike out "two hundred and twenty-one thousand additional copies be printed for the use of the House of Representatives." and insert:

there be printed two hundred seventy-two thousand five hundred additional copies of such document, of which two hundred twenty-one thousand shall be for the use of the House of Representatives and fifty-one thousand five hundred shall be for the use of the Senate.

The amendment was agreed to.

The concurrent resolution (H. Con. Res. 679), as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar Nos. 1325 and 1326.

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

BORROWING AUTHORITY OF THE PANAMA CANAL COMPANY

The bill (H.R. 14600) to increase the borrowing authority of the Panama Canal Company and revise the method of computing interest thereon was considered, ordered to a third reading, read the third time, and passed.

AUTHORITY OF THE CANAL ZONE GOVERNMENT

The bill (H.R. 15229) to expand the authority of the Canal Zone Government to settle claims not cognizable under the Tort Claims Act was considered, ordered to a third reading, read the third time, and passed.

TIME AGREEMENT FOR SWEARING-IN CEREMONY OF THE SENATOR-DESIGNATE FROM NEVADA

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at 12 o'clock noon today, the Senate proceed with the swearing-in ceremony of the Senator-designate from Nevada, Mr. LAXALT.

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

DISAPPROVAL OF S. 3537—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate a message from the President of the United States.

The message is as follows:

To the United States Senate:

I have today withheld my approval from S. 3537, "To modify section 204 of the Flood Control Act of 1965."

This bill would authorize a revised Willow Creek Project in Oregon and provide for advance payment of the Federal share of the cost to relocate the water system of the nearby town of Heppner.

The Department of the Army, on behalf of the Administration, opposed this bill in committee on the grounds that it raised unresolved issues relative to the general principles and standards governing the evaluation of water resources projects.

These departures include:

—Re-evaluation of the project by using questionable methods for calculating benefits.

—Coupled with these methods of computing benefits, retention of an interest rate of 3¼ percent provided for in the original 1965 project authorization, compared to the present rate of 5⅞ percent now being used.

—Authorization for advance payment of the Federal share of the costs to relocate the town's water system, as compared to the standard approach—to await the actual beginning of construction of a project.

While I fully understand the desire of the town of Heppner to obtain Federal assistance in financing its water system, I cannot, in good conscience, accept the departures which S. 3537 would make from the established principles and standards that are employed in the evaluation of other water resources projects.

In my judgment, the Willow Creek project should be considered for construction on the basis of current evaluation principles and standards. Any other course would be indefensible at a time when the Congress is being asked to defer funding for numerous other water resources projects.

GERALD R. FORD.

THE WHITE HOUSE, *December 17, 1974.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Presidential veto message be held at the desk, pending further disposition.

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

A FLAVORFUL SESSION

Mr. HUGH SCOTT. Mr. President, I am sure that the administration is most appreciative of the fact that the Senate today has cleared a long list of nominations which have been pending in various committees. This will enable the nominees, since their nominations have now been confirmed, to proceed with their duties. It is good that this has been done before we adjourn.

It is not often noticed how much work we do simply upon the call of the calendar. A number of additional bills have been thus disposed of today.

This has been an eventful session. We have considered everything here from the reduction of armaments to the high cost of living.

In other words, it might be said that we have run the gamut from SALT to sugar.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Hampshire (Mr. McINTYRE) is recognized for not to exceed 15 minutes.

TRIBUTES TO SENATOR NORRIS COTTON

A SALUTE TO NORRIS COTTON

Mr. McINTYRE. Mr. President, the close of a session of the Congress, like the close of a calendar year, is a time for looking to the months past to see what we have learned, and to the months ahead to see how we can put to good use what we believe we have learned.

For the purposes of this discourse, Mr. President, let me concentrate my remarks upon just one of the lessons the climactic events of 1974 should have taught us.

If ever again we allow politics to become clandestine warfare where opponents are targets not for defeat but for destruction, then we deserve to lose what we *so* narrowly saved this time around—our very system of participatory democracy and representative self-government.

The system was saved in 1974, Mr. President, and now we stand at the threshold of a new year, a new session, and, hopefully, a new era of good will and cooperation between a new President and a new Congress—and between two venerable political parties.

I, for one, am confident this will be the case, that partisan differences will not stand between individual legislators nor between the President and Congress in their mutual determination to meet and overcome the staggering problems that beset us today.

I hold that confidence, Mr. President, because for the past 12 years NORRIS COTTON and I have never let partisan differences stand between our mutual determination to do what was right for our State of New Hampshire. So I know it can be done.

But when the new session of the Congress convenes, half of that mutually supportive, bipartisan team from New Hampshire will be missing, Mr. President, for as all of our colleagues know, Senator COTTON is about to conclude more than 40 years of distinguished service to his State and to his Nation.

Today, Mr. President, I rise to pay tribute to my departing colleague, and I want this Chamber to know that this is no perfunctory exercise carried out simply because it is the courteous thing to do.

Like Thomas Jefferson—

> The happiest moments my heart knows are those in which it is pouring forth its affections to a few esteemed characters.

And NORRIS COTTON is one of those esteemed characters.

The retiring senior Senator from the Granite State was born in Warren, N.H., 74 years ago. After working his way through Tilton Academy and Phillips Exeter Academy, he entered Wesleyan University, graduating from that institution in 1923.

He then went on to work his way through George Washington University Law School as secretary to the late Senator George Moses.

In 1928, he was admitted to the New Hampshire bar, and joined the firm of Demon, Woodworth, Sulloway & Rogers at Concord, N.H. In 1933 he opened his own law practice in Lebanon, and still later formed the law partnership of Cotton, Tesreau & Stebbins.

His political career was launched at the tender age of 22 when he was elected to the New Hampshire Legislature. But he also served in other municipal and statewide posts—clerk of the State senate, prosecuting attorney for Grafton County, and municipal court judge in his hometown of Lebanon, to name a few.

In 1946 he made the leap to national office, winning election to the U.S. House of Representatives, and the voters in their wisdom honored him with three more consecutive terms.

And then it was time for NORRIS COTTON to move across the Hill. In 1954 he was elected to fill out the 2 years remaining in the unexpired term of the late Senator Charles W. Tobey. And that was followed by three more elections to 6-year terms.

Now I need not detail my colleague's considerable accomplishments in this body. Most of you are well aware of his sterling performance through the years in a variety of responsibilities. As the ranking minority member of the Commerce Commitee, he has played a crucial role in legislation dealing with aviation, transportation, consumer protection, and space age communications. As the ranking Republican on the powerful Appropriations Committee he has concentrated on the areas of labor, health, education, and welfare, and he considers this service the most gratifying of his long career.

Fortunately, Mr. President, a fitting and lasting monument to NORRIS COTTON's humanitarian concerns now graces that part of our State he calls home. A few miles from Lebanon stands the Norris Cotton Cancer Research Center, one of the most important institutes of its kind in the world, Mr. President, and I am comforted by the thought this institute will continue to attest to NORRIS COTTON's leadership in man's battle against disease long after all of us are gone from this Chamber.

But it would not require a monument of steel and stone to memorialize NORRIS COTTON, Mr. President. A lasting appreciation of NORRIS COTTON already is engraved upon the hearts of the people of New Hampshire.

A few years ago, NORRIS COTTON was presented with the coveted Robert Frost Contemporary American Award by the Alumni Association of Plymouth College, a college the great New England poet once served as an instructor.

At the time this honor was bestowed upon my colleague, I took to the floor of this Chamber and I said of NORRIS COTTON:

> The well-spring of his deep humanitarian concern—and, indeed, of his effectiveness—is the man's own character.
>
> We hear much these days of the estrangement between the people and their elected leaders, of the growing complaint that leadership has grown remote and aloof.
>
> That is not true of NORRIS COTTON.

And then, Mr. President, I went on to say:

> He has kept his humility. He has kept himself accessible. He has never forgotten that he is of the people. To this day, no citizen—regardless of how modest his station—is uncomfortable in NORRIS COTTON's presence. He has that rare ability to put everyone at ease.

Enhancing this admirable quality is NORRIS COTTON's humor. The newsletters he sent to constituents were marked, for many years, with his own inimitable light touch, and we in this Chamber know him as one of the Senate's most accomplished, entertaining, and appealing storytellers.

Robert Frost understood that such true humor draws on a deep taproot of humanity for he once said:

> I judge a man by his anecdotes. If he always attaches a famous name to them, like "the last time I saw the Duke of so-and-so," then I don't like him nearly as much as a man whose anecdotes are about the common people and common every day things.

And so it was, Mr. President, that NORRIS COTTON's warmth and wit, his easy accessibility, his humble touch, brought the people of New Hampshire to think of him as their friend as well as their senior Senator.

Lord Halifax once wrote:

> Friendship cannot live with ceremony and without civility.

While NORRIS COTTON refuses to stand on formality, he has consistently followed Emerson's caution that "life is not so short but that there is always time for courtesy."

Courtesy—civility—the touchstone of civilization, Mr. President. The unmistakable evidence of our will to live in common.

From the day I first entered this Chamber a dozen years ago, my senior colleague has accorded me not only the utmost civility—but the warm hand of friendship, counsel, and encouragement.

And despite the disparate votes we have cast on legislation, despite our contrasting viewpoints on national issues, despite our respective party allegiances, that warm hand has never been withdrawn, Mr. President.

If the senior Senator from New Hampshire will indulge me one more quote from the Founding Father of the Democratic Party, I think I can explain why.

For judging from his relationship with me, Mr. President, it is readily evident that NORRIS COTTON—like Thomas Jefferson—"never considered a difference of opinion in politics, in religion, in philosophy, as cause for withdrawing from a friend."

For those of my younger and newer colleagues, particularly those within whose breasts there may still burn the hot flame of partisanship, let me say that the friendship between the two Senators from New Hampshire came about more easily than they might think possible.

First of all, of course, we had the mutual bond of serving the same people—the people of New Hampshire. That responsibility, coupled with the senior Senator's warm welcome of the junior Senator to this Chamber, soon forged a bond of friendship. And friendship, being the bond of reason, made it much easier to understand each other and to respect each other's viewpoint.

This rightly implies that we do not always agree. Indeed, we disagree frequently, for we are, after all, independent men.

But NORRIS COTTON and I share an appreciation for that most familiar of Robert Frost lines, that old New England folk saying that "good fences make good neighbors."

We know that fences do not divide. Instead, they represent mutual respect. We share that North Country conviction that the individuality of neighbors is not to be subject, but to be cherished.

So all of this, the bond of joint responsibility for the welfare of the State we serve, the bond of friendship forged by his warm reception of me to this body, and the mutual respect we hold for each other's independent judgment have produced a very special relationship.

And now, Mr. President, one facet of this very special relationship between the two Senators from New Hampshire is coming to an end. For when the new Congress convenes, the junior Senator will be the senior Senator, and I wish I were coming to this new role with NORRIS COTTON'S strength and wisdom. I tell you this in all candor: For 12 years I looked to him more than to anyone else for the kind of supportive counsel one seeks from a big brother. More than anyone else, he taught me patience, restraint, the reality of legislative politics, and the need to persevere.

It was he who made me understand the constant disparity between what was aspired to and what was achieved. For, again like Robert Frost, this wise colleague of mine understood that—

Great events yield all but imperceptible effects.

But one event will have a most perceptible effect, Mr. President. When NORRIS COTTON departs this Chamber for the final time, the Senate of the United States will never be quite the same. Nor will the junior Senator from New Hampshire.

When he took to this floor on December 10 and said of me—

No Senator could have a better friend.

I was flattered as never before, as moved as I have ever been moved.

He has touched my life as few others have, Mr. President, and as long as I live I will cherish his friendship.

And now, as he prepares to return home and as I prepare for the challenge of taking his place as the senior Senator, I turn once more to Robert Frost to say to NORRIS COTTON, no matter where you are, no matter where I am—

Never let there be curtain drawn between you and me.

We share, NORRIS COTTON and I, a deep and abiding belief in the goodness and the worth of the people of our State, and just as I did in my tribute to him on the occasion of his receiving the Robert Frost Contemporary American Award, I would like to conclude now by recalling the lines Frost wrote to describe his move to New Hampshire:

I hadn't an illusion in my handbag
About the people being better there
Than those I left behind. I thought they weren't.
I thought they couldn't be. *And yet they were.*

They still are, Mr. President. And NORRIS COTTON is the evidence.

Mr. President, at this time I am happy to yield to the distinguished Senator from Pennsylvania (Mr. HUGH SCOTT), a longtime friend of my senior colleague, for remarks that he plans to make.

Mr. HUGH SCOTT. I thank the distinguished junior Senator from New Hampshire.

Mr. President, it is an unusual and a special pleasure to rise and speak of the service of the senior Senator from New Hampshire, who has occupied his place in the Senate with such distinction, such an awareness of his duties, and such devotion to his country, to his conception of the obligations of a Senator, to principles which guide and direct our doings.

He has done credit to the seat of the great Daniel Webster, which he occupies as the senior Senator of New Hampshire. We regret very much his decision not to be a candidate.

We regret it even more in view of the turmoil from which that decision has led to such murky consequences.

Aside from that, entirely, I cannot think of anyone whom it would be a greater pleasure to talk about, to mention with regard to his leadership outside of the Committee on Commerce, his influence on appropriations, the massive impact which he has had when he has taken strong positions on the floor of the Senate for or against various measures.

He has been independent in spirit and thought and action. He has not hesitated to disagree with Presidents. He has made his views known here in the councils of his colleagues. He has been strong in the defense of the Republic. He has been admired and respected and regarded with the utmost affection by all of his colleagues.

His sense of humor is memorable, and his ability, when the occasion requires, to use the metallic force of irony has proven not only persuasive, but has been a useful warning signal that if the senior Senator from New Hampshire rises in his wrath, others had better take heed. Yet he is a very gentle man, a very kind man, a man who has lived with us and among us and been a part of us and, at the same time, has guided and helped us in public and in private.

He knows the Senate better than any other Senator, because before he was a Senator, he served in the House as well, and, as we say, he dates back in that sense. He can remember lions and warhorses of the past who are but names in history books to the rest of us. Therefore, the breadth of his experiences and the depth of his acquaintances has proven extremely useful to this body.

I know it is very difficult for someone to sit here and listen while people heap anything on him, but I do suggest that praise is better to heap than anything else. Therefore, he must forgive us if we indulge our desire to pay this farewell tribute.

So, NORRIS, we are going to miss you. We are going to hope that you will frequently be back here with us. We shall welcome your advice and guidance in the future as in the past, and I think we shall all join in saying, "There goes a fine man, a great friend, a true statesman, an honest servant of the Republic."

Mr. McINTYRE. Mr. President, I yield now such time as may be required to the distinguished junior Senator from Vermont.

Mr. STAFFORD. Thank you very much, Mr. President. I appreciate the distinguished Senator from New Hampshire yielding to me.

I feel that I am losing both a friend and a neighbor from this body when NORRIS COTTON retires from the Senate at the end of this session—my neighbor across the Connecticut River, a man whom I have known and highly regarded ever since I came to understand what State and national politics are. Throughout many years, he has been a towering figure in the life of the State of New Hampshire, extremely highly regarded, both in his own State and in his neighboring State of Vermont, which I have the privilege to represent here, which lies just across the river. In fact, we are known as the twin States.

All of us know and have known for long how articulate and witty and intelligent NORRIS COTTON is. We have known his human qualities. We all respect him greatly. We are very happy in Vermont that this great American will not be leaving us, but will be living in our neighboring State and will be there to counsel us and help us in solving major problems of the day.

All of us here join in wishing New Hampshire's distinguished senior Senator NORRIS COTTON, much happiness in the future, and we know he will derive much satisfaction from his long and distinguished career in the U.S. Congress.

Mr. McINTYRE. Mr. President, I yield now to the distinguished Senator from North Dakota.

Mr. YOUNG. Mr. President, I share with all the Members of the Senate their deep sense of sadness that our wonderful

friend, NORRIS COTTON, will be retiring soon. I cannot blame him for wanting to retire, but I guess I am just selfish enough to want to believe he should have decided to stay.

There have been many great men who have served in the U.S. Senate who have characteristics and qualities of their own that brought them the admiration and respect of people everywhere.

NORRIS COTTON has spent much of his life here in the Senate. He was first a staff member as a young man—then he was a Member of the House—and, since I have known him, he has been one of the truly fine Members of the Senate.

He has some distinctive characteristics such as wit, humor, and frugality which seem to be common New England traits. NORRIS, though, seems to add unusual color to some of these traits.

If I could make a suggestion to my friend, NORRIS COTTON, it would be that he write a book giving his experiences in the Senate—and as a staff member long before. Not all of his stories would be printable—but maybe he could have a special edition for his friends in the Senate.

NORRIS COTTON is a very personable man—and one whose friendship I shall always cherish. He has long been recognized for other great qualities. He is one of the more able and influential Senate Members.

One characteristic I have particular reference to is his persuasiveness in debate—whether it be in a committee or on the floor of the Senate. Our friend Senator COTTON will go down in history as one of the finest Members of the Senate. We need more Senators like NORRIS COTTON—not less.

I know I share the feelings of all of the Members of the Senate when I say that we shall miss him. My wife Pat and I wish only the best in future years for NORRIS and his wonderful wife, Ruth.

Mr. McINTYRE. Mr. President, I yield now to the distinguished junior Senator from Maryland (Mr. BEALL).

Mr. BEALL. Mr. President, perhaps for an occasion such as this I should have prepared some formal remarks, but I did not.

I am happy to have an opportunity to rise and show my affection and respect for our distinguished colleague the senior Senator from New Hampshire (Mr. COTTON).

We have one thing in common that I think he may not like to acknowledge. Senator COTTON and I went to the same school, the Phillips Exeter Academy in Exeter, N.H. Apparently it was either a better school in his day, or he was a better student, because I do not seem to have come out of there with the same wide knowledge and ability to express that knowledge that the distinguished Senator from New Hampshire has, and I regret that.

I should also point out that I am the second Beall that the Senator from New Hampshire has had to endure, not only as a fellow Member of the Senate but as a fellow member of the Committee on Commerce, because my late father served here in the Senate with the distinguished Senator from New Hampshire, and also served with him on the Commerce Committee, and I have very vivid recollections of the many times my father talked of his close personal friendship with Senator COTTON. So therefore I came to the Senate feeling I had already known the man before I even met him.

I have also, Mr. President, had the opportunity, as a junior Senator and more particularly as a junior member of the Commerce Committee, to benefit from the wise counsel of the distinguished Senator from New Hampshire. I do not know that I have ever observed anyone who has more totally mastered the legislative art than has our friend Senator COTTON. It has been an unusual experience for me to be able to observe, sitting with him in the committee and here on the Senate floor, these skills used so forcefully, to hear his views expressed so articulately, and to see how his own constituency and the Nation have benefited from the services of such an able individual.

I am only thankful that for the last 4 years I have had the opportunity hopefully to learn a little bit by observing this faithful public servant perform in a most effective and outstanding way. As I say, I am happy to have had this experience, and I think we all owe him, as do the people of New Hampshire and the people of the United States, a debt of gratitude for the manner in which he has served as an example for us, and the way in which he has represented the interests of New Hampshire and the interests of all the people of the United States.

I certainly wish him well in his retirement, and hope he will come back to see us often, because we can all continue to benefit from his wise counsel.

Mr. JACKSON. Mr. President, my distinguished colleague from New Hampshire, NORRIS COTTON, is retiring at the end of the 93d Congress.

It has been my pleasure to have served with NORRIS for 6 years in the House of Representatives and for 20 years in the Senate.

During that time, Senator COTTON, who shied away from headlines, developed a reputation for intelligence and hard work.

That reputation will follow him home to New Hampshire, where he is known as a fierce defender of the New England spirit.

In the Senate, NORRIS will be remembered for his good humor and wit, which were unfailing despite our often strong disagreement when it came to voting.

Senator COTTON'S prime interests were health and education. As ranking minority member on the Health, Education, and Welfare Appropriations Subcommittee, he helped get millions of dollars in funds for a regional cancer research center in his home State. That center is fittingly called "The Norris Cotton Cancer Center."

Today, I join my colleagues in saluting NORRIS. Our country is better for his efforts.

Mr. HATHAWAY. Mr. President, New England is a geographical description of a group of States in this Union which has beauties and qualities endearing to the eye and mind. Poets and novelists make much of this small union within the larger Union, for it is in New England that living with the rigors of rugged terrain and stormy nor'easters serves as a crucible for the hardy, independent people which choose it as their home.

An outstanding example of what such a crucible can produce is my distinguished colleague and friend, NORRIS COTTON, the senior Senator from New Hampshire. For 20 years now he has been an articulate spokesman in this Chamber not only on behalf of his own State, but of the New England delegation. His legislative accomplishments are already legendary due in part to his persuasive skills, but more so because of his uncanny perceptions of people and their problems.

It is the latter that is brought out in the environment we call New England. For if we can claim anything as ours alone, that unique quality which stretches and molds the character, it is the acute sensitivity and awareness of people. This sensitivity is more than knowing how and when to help; it is knowing when not to help. For nothing can get a New Englander's hackles up more than too much help or too much intervention. My friend and colleague NORRIS COTTON knows this intuitively, and it is that quality which has helped him achieve in this Chamber.

But achievement in this Chamber is only a part of this man's life. It is interesting to note that his career began here more than 50 years ago, when he worked for U.S. Senator George H. Moses, a native of my State of Maine who was elected Senator from New Hampshire and served as President pro tempore of this Chamber. During those years, our colleague obtained his law degree at George Washington University. From Washington, NORRIS COTTON went back to his beloved State where he held a variety of elected offices which included the prestigious posts of majority leader and speaker of the New Hampshire House of Representatives. From that position of trust, New Hampshire citizens wisely sent him to Congress, four times as a Member of the House and later as a Senator.

His career of service to the public is long and productive. It reflects his interest in his home State of New Hampshire, in that community called New England, and, equally important, our sense of being as a United States. For borders may exist on maps and in the minds of men, but NORRIS COTTON is a man whose perceptions scan this Union and see it as a sum of its parts. If laws are the glue which holds this people and their Nation together, then NORRIS COTTON has earned his place in history, as he has worked hard for many years to mix the mucilage we call democracy.

He has chosen to retire now. And while I admit the Congress will suffer at his absence, I feel no remorse at his leaving. I feel instead a sense of joyful awe at a man who has given full measure of himself on behalf of his State, his region, and of his country. I know of no man who could feel sorrow or remorse at such an accomplishment.

Mr. BURDICK. Mr. President, as one who has served here in the Senate with

NORRIS COTTON for 16 years, I join with his friends and colleagues, who wish him the very best in his retirement.

Senator COTTON, first elected in 1954, has served ably on the Appropriations and Commerce Committees. The distinguished senior Senator from New Hampshire has displayed his nonpartisanship when he vigorously opposed the administration's bombing of Cambodia. I believe that Senator COTTON has made a significant contribution to the political process. He has served his constituents and his Nation well.

Mr. INOUYE. Mr. President, New Hampshire has had a fine and eloquent voice speaking on its behalf in the Senate for these past two decades. NORRIS COTTON is a man who fights for what he believes in. His expertise in the fields of transportation, health services, interstate commerce, electronic communications, and others, mark him as an extraordinary student of complex and essential issues. He is a student who has done his homework and, accordingly, has been an effective advocate for his views.

His Yankee heritage is apparent in his honest and hard-working approach to the job of being a Senator. His achievements in both domestic and foreign policy making are many and praiseworthy.

Mr. ALLEN. Mr. President, the U.S. Senate loses one of its outstanding Members with the retirement of the distinguished senior Senator from New Hampshire (Mr. COTTON).

I have long admired Senator COTTON's political philosophy, his stand for fiscal responsibility and his opposition to an ever expanding Federal bureaucracy. Time after time have I followed his leadership in the Senate, and I regard him as one of the Senate's ablest Members. It has been pleasing to me and something of a revelation that I, as a Deep South Senator, could find so much agreement in so many areas with a New England Senator. But then it is not surprising when that Senator is NORRIS COTTON, a rugged individualist, a man who stands for the right, as he sees it, without fear or favor, a man of courage, of honor, of dedication, integrity and ability.

In the Senate Chamber, Senator COTTON sits in the desk of the great Daniel Webster, believed by many to be the greatest of all Senators, who is claimed by New Hampshire, by Massachusetts, and by the entire Nation. While Webster served as a Senator from Massachusetts, it was in New Hampshire that he was born, it was as a Representative from New Hampshire that he first went to Congress and it was in the Dartmouth College case in the Supreme Court that he won his greatest fame.

Senator COTTON has been mindful of the oustanding Senate career of Daniel Webster and Webster's career has been a guiding light for Senator COTTON.

Senator COTTON's outstanding and honorable career of public service and his sterling qualities as a man have endeared him to every Member of the Senate and to the people of his State and Nation.

Another quality which has endeared him to all who know him has been his tender love and deep affection and concern for Mrs. Cotton, his beloved companion and helpmate of many years.

Senator COTTON retires from the Senate at the very height of his popularity in the Senate and among the people of his State whom he loves so much and whom he has represented so well.

We shall miss him. I will miss him. But yet all of us will draw strength from his example—from his achievements—from his dedicated public service.

Mrs. Allen joins me in sincerest expressions of our love and best wishes to you and Mrs. Cotton as your beloved State and her people receive you into their midst. You have done your State and your Nation proud, and I salute you as a great Senator and more than that, as a great patriot.

Mr. GOLDWATER. Mr. President, a man who has had more impact on all of us probably than nearly any other Senator and one that has done this in his quiet way, has been NORRIS COTTON of New Hampshire. It was NORRIS who did more than any one Member of the Senate to induce me to run for the Presidency in 1964 and no one served that campaign with more ardor and devotion than he did. We are going to miss him in this body, not just as an accomplished Senator, but as a man of real humor and deep understanding. All I can say to NORRIS as he prepares to go back to his beloved New Hampshire, is "via con Dios" which in my part of the country means "God go with you."

Mr. TALMADGE. Mr. President, I am very glad to join in this well deserved salute to the senior Senator from New Hampshire, NORRIS COTTON, on his retirement from the U.S. Senate.

Senator COTTON has dedicated his past 20 years in the Senate to service to his State and Nation. He is one of the hardest working and most respected Members of this body and he has held positions of influence and importance on a number of major Senate committees. Senator COTTON is a forthright and outspoken advocate of good government, and he takes that to mean government which operates and spends tax dollars in the best interests of the American people. He has never backed away from a legislative fight and he has consistently been among the first to make his position known on any controversial issue in no uncertain terms. He has proven himself to be a worthy ally and a formidable adversary, but always a gentleman.

I admire Senator COTTON for the courage of his convictions which he has always demonstrated in the Senate. We will miss his leadership and service and I wish him every happiness in his retirement.

Mr. WILLIAMS. Mr. President, I appreciate so much the generosity of the leader and the other Senators for allowing me to say just a word of regret at the decision of our colleague from New Hampshire to not seek reelection and to leave this body as a Member.

In times like these, memory moves in, and I recall as a lawyer in the State of New Hampshire in the fall of 1948, the first time I had ever had an opportunity to be in an area where Congressman NORRIS COTTON was. It happened to be in the Inn at Peterborough, and I sat in the back of the room and listened to Senator Styles Bridges and Congressman NORRIS COTTON, and I can recall how deeply moved I was by their dedication, their depth of thought and their humanity that was revealed so clearly that cold fall night in Peterborough, N.H.

I had no thought of ever having the opportunity to work with these men, and I had no dream of being in the U.S. Senate, and I am sure the Senator from New Hampshire will recognize that a Democrat in New Hampshire in 1948 had little prospects of coming to the Congress of the United States.

But as fortunes changed, and I went home to New Jersey and did have this great honor to come here, then the friendships began with our former colleague Styles Bridges, and our friend who we honor today, the senior Senator from New Hampshire, NORRIS COTTON.

It has been one of the most rewarding parts of being in the U.S. Senate to have had the opportunity to share with all of the Members the friendship of a man whose contribution to our country and its people has been so significant. NORRIS COTTON will be greatly missed here in this Chamber. His absence here will be but another good reason to be a visitor to see him in the majestic State of New Hampshire, the State he has served so faithfully.

Mr. STENNIS. Mr. President, I am most grateful to the Senator from Vermont. I cannot stand by entirely silent here on the occasion of the remarks being made about our friend and, I think, a true statesman from New Hampshire.

We often say that under our system we have a government of laws rather than a government of men. But, Members of the Senate, we all know that men do count. Men are a great part of our Government, after all, operating under legal principles, and our friend from New Hampshire has been just such a man, in my opinion, as we need to carry out the great principles of our constitutional system, our parliamentary system, and the concept of justice as beaten out on the anvil of time in England and related countries and our own great country. He has stood for something; he has stood for something, and that is what counts.

I have been privileged to serve on the Appropriations Committee with him for many years. I know that he is a worker. But, even beyond all that, his fine sense of justice in righting wrong, including a great sense of humor that he knows how to use, has been a major contributing factor here during his 20-year tenure.

To say that we will miss him much is to put it mildly. The country will miss him much, as it will his influence.

But I am thankful for the influence he had on me, with the other colleagues that we served with, with the very fine way that he represented his State in its best tradition.

I am thankful for the great relationship, too, between the Senators from New Hampshire which, to me, though of different parties, represent the Senate at its best in that way of working together, in spite of differences of opinion, for their State and for the fundamentals they consider sound.

I thank the Senator from New Hampshire again.

Mr. CANNON. Mr. President, it has been my honor to serve with Senator COTTON in the Senate since I came here in 1958.

As members of the Commerce Committee, he and I have worked closely for many years, especially on the Aviation Subcommittee which I chair and on which Senator COTTON is the ranking member.

I can very vividly recall the continuing fight he has made over the years for better air service, more adequate air service, for his part of the country. I even went with him up into New England to hold some hearings there many years ago. He has been a constant fighter, and I may say that this year he finally achieved at least in part his objective by getting some air service in there.

Believe me, he has really pounded on a lot of heads over the years to make sure that he did get some results.

But he has always shown a great capacity for compromise and for statesmanship.

He is a true gentleman in every sense of the word and I know he has been concerned with workable legislation and meaningful legislation over the period of years I have served with him here.

We are losing a great Senator and will, indeed, miss him when he and his wife Ruth return to New Hampshire.

As ranking member of the Commerce Committee, it is going to leave a void that I know will be difficult for anyone to fill after his retirement.

But I think he can really be proud of his many accomplishments when he looks back at his career in this body and knows full well that he will not be forgotten, nor will the legislation that he has sponsored and worked for over the years be forgotten.

I personally want to wish him the best of luck on his retirement and hope he will keep in touch with us here with our Senate activities because we will continue to need his advice, his input ideas, and input during the challenging years we have ahead of us.

I want to wish him the very best.

I thank the Senator for yielding.

Mr. STAFFORD. Mr. President, I will yield 2 minutes to the distinguished Senator from New York (Mr. JAVITS).

Mr. JAVITS. Mr. President, each of us takes away from this place a profound recollection of those with whom we are associated. I have such a vivid recollection of NORRIS COTTON that I am moved to speak of it in his presence and on the floor of the Senate.

NORRIS will always be to me a man who at some given point in a debate which interested him has just been over his ears and then with an unbelievable eloquence and depth of feeling, I think unmatched in this Chamber, he will speak the words that are deeply, deeply in his heart.

Often those words denote all our sentiments, sometimes they do not.

We might simply have felt something had gone beyond all reason, personally. But the sheer freedom of expression, the integrity, the hard-headed realism of the wonderful and historic area from which he comes, shines through it all.

While all of us wish for Senator COTTON the happiness and the contentment of years of peace and beauty with his wife and his family, I think the vividness of that recollection and his knowledge of the fact that one of his colleagues has him very clearly graven on his mind is something I would like to give him as a parting gift to go away with.

Of course, like all my colleagues, it is with the deepest affection and regard that we will observe his goings and his comings and we do hope he will feel, as a very honored alumnus, that he is not going to abandon us completely.

I thank my colleague for yielding.

Mr. PASTORE. Mr. President, for 28 years—in the House and in the Senate—NORRIS COTTON has nobly served his native State of New Hampshire—and, indeed, all our Nation. Even earlier on this "Hill," NORRIS COTTON served his apprenticeship under the guidance of New Hampshire's historic figure, Senator Moses.

In a very special way Senator COTTON has served the common and united interests of all our New England States—and the northeast corner of our country loses a tower of strength and leadership as this man of stature leaves this Senate of his full devotion.

Fate has made the Senator from Rhode Island and the Senator from New Hampshire geographical neighbors; and our years of association on the Appropriations and Commerce Committees have stamped that association as more personal than partisan.

Above all—NORRIS COTTON is a man of his word—and I have reason to know that to keep that word he will stand up against the highest pressure.

When Senator COTTON walks into this Senate he carries himself a man 10 feet tall—and he brings back to New Hampshire a character as rugged as the mountains of his lovely State—a man of the mountains who has proved himself a man of the people.

May those imperishable mountains frame for NORRIS COTTON and all dear to him the future of health and happiness and honor that he has so well earned.

Mr. FANNIN. Mr. President, I am pleased to join in paying tribute to the senior Senator from New Hampshire for his long and distinguished career of public service.

He had an outstanding record of service at the city, county, and State levels even before coming to the Congress where he has provided inspired leadership for the Nation and for his party.

The State of New Hampshire is indeed fortunate to have had him as a Member of Congress these past 28 years.

His devotion to our Nation, to the Senate, and to the principles upon which our country is founded have made Senator COTTON one of the great leaders of our time. His statesmanship and decorum have helped strengthen the Congress both in the public image and in substance.

He has been just in helping make the important decisions and he has been courageous in fighting for the causes he supports. I am most grateful to have had his friendship and his advice during the time that I have served in the Senate.

Mrs. Fannin joins me in wishing the Senator and his gracious wife, Ruth, all the best in the future.

Mr. PEARSON. Mr. President, today we honor and express our public farewells to a most distinguished colleague, NORRIS COTTON, the senior Senator from New Hampshire. At the conclusion of this, the 93d Congress, Senator COTTON will be retiring. NORRIS' retirement will mark the end of more than a quarter century of dedicated service to his New Hampshire constituents. I can attest that he has served faithfully and well.

Mr. President, for 18 years of his congressional service, NORRIS COTTON has served as a member of our Committee on Commerce. And for 12 of those years, he has served as the ranking Republican member of the committee. It was in this capacity, Mr. President, that I came to know and to appreciate the candor, the compassion, and the dedication of this most distinguished New Hampshireman.

Now, Mr. President, I recognize what perhaps may not be known to most people; the Senator from New Hampshire derives his greatest satisfaction from his work on the Subcommittee on Labor; Health, Education, and Welfare. As he has characterized such service, it affords him an opportunity to work directly for the well-being of not only his New Hampshire constituents, but of all the citizens of this great Nation. It, therefore, was perhaps the single most gratifying moment in our distinguished colleague's career when the cancer clinic at the Mary Hitchcock Memorial Hospital in Hanover, N.H., associated with Dartmouth College, was named after and dedicated to NORRIS COTTON. In my opinion, there could be no more fitting memorial to this man.

Mr. President, NORRIS was equally active on matters coming before our Committee on Commerce.

For example, Mr. President, I cannot recall the number of occasions that we, who served with NORRIS on the Committee on Commerce, took the graphic trip described by him and shared his tale of woe in commuting by air between Washington, D.C. and his home in Lebanon, N.H. It was a sorrowful experience to listen to our beloved colleague, NORRIS, describe the agony of rushing from one terminal to another in order to make a connecting flight at New York. And then the lonely drive for 3 hours over the road from Boston to Lebanon.

Mr. President, if NORRIS were able to make a connecting flight out of Boston to White River Junction-Lebanon, we would be regaled in by his graphic journey on one of those "puddle jumpers."

Chairman Mao has written about the trials and tribulations of "the long march." I think Chairman NORRIS, of our Republican conference, should set down for historians his observations on "the long commute." When one has suffered so, one has a duty to tell the world of it.

Mr. President, if any member of this body were to question a presently sitting member of the Civil Aeronautics Board concerning the location of White River Junction-Lebanon, that member of the CAB would know of its exact location,

the improvements deemed necessary, and its relationship with respect to the Delta-Northeast merger case and the New England service investigation. This intimate regional knowledge is a result of the remedial education program for bureaucrats conducted by the distinguished Senator from New Hampshire. I know of no occasion when a nominee for the Civil Aeronautics Board came before our committee that NORRIS did not fail to take the opportunity to "instruct" him on the unique and pressing problems of New Hampshire and its sister northern New England States for adequate and reliable air service. It worked.

On July 17, 1974, the Civil Aeronautics Board handed down its decision in the New England service investigation. For the first time in the past 24 years, the CAB has awarded a certificate for domestic multicity service to a new regional air carrier—Air New England—and that certificate will issue on January 1, 1975.

If there is any one individual, Mr. President, who should be on the inaugural flight of Air New England, it is the senior Senator from New Hampshire, who fought tenaciously throughout his congressional service, using the forum of our Committee on Commerce, that of the Committee on Appropriations, and even intervening on behalf of his constituents before the Civil Aeronautics Board, to urge the CAB to reach a decision on this important matter affecting his constituency.

Also, NORRIS I do not believe any of us will forget your admonition concerning federally financed airport terminal construction to keep passengers safe "but not warm and dry." But, do you suppose the New England Regional Commission might be able to help us finance some terminal construction out in Kansas, too?

Mr. President, my colleagues and I on the Committee on Commerce have also traveled from Washington to NORRIS' beloved New Hampshire—by rail and over the roads. Who among us will ever forget the "passenger be damned" attitude of the Boston and Maine as so vividly and vehemently described by our beloved colleague? Or, again, who among us will forget the picturesque, albeit hazardous journey over the "S" curve in the road going through Franconia Notch?

Mr. President, I know of few other Members of this body who have demonstrated such legislative adroitness when, shortly before we recessed for the November elections of this year, there was introduced in the Senate and immediately called up and passed a bill which amended the language in the Regional Rail Reorganization Act serving to make the New England States of New Hampshire and Vermont eligible for subsidy under the provisions of that act. Mr. President, the Senator from Kansas introduced the subsidy provision in the Senate. The Senator from New Hampshire, God bless him, got the benefits.

Mr. President, with the retirement of Senator NORRIS COTTON, the Granite State will be losing an able and a dedicated legislator. But the loss will not be New Hampshire's alone. The Committee on Commerce and the Senate also will be losing an able colleague and a fine gentleman. We will miss his fine sense of dry humor spiced with a Yankee flavor, which often served to relieve the tensions of a demanding workload. We will also miss his gentlemanly conduct and his unpretentious demeanor. Certainly, as a New Hampshire newspaper editorialized upon the announcement of his retirement, the gentleman at whose desk he now sits—

> Daniel Webster would have said, "Well done, Norris Cotton!"

I, therefore, believe it appropriate, Mr. President, to conclude with the following quote by Daniel Webster:

> Men hang out their signs indicative of their respective trades: shoemakers hang out a gigantic shoe; jewelers, a monster watch; and the dentist hangs out a gold tooth; but up in the mountains of New Hampshire, God Almighty has hung out a sign to show that there He makes men.

NORRIS COTTON'S service in the Congress of the United States has underscored the truth of Webster's observation.

Mr. President, I wish to extend to NORRIS and to his beloved wife, Ruth, my heartfelt wishes for health and happiness in his years of retirement. He has earned a lasting place in the hearts of his New England constituents. In the years ahead, he will share with them, and as a visiting professor at Dartmouth College, with his students and colleagues on the faculty, his observations on a distinguished career in the Congress.

Mr. President, we know NORRIS COTTON. And we know that his service to New Hampshire has not ended with the adjournment of the 93d Congress. He begins a second career of service and we wish him well.

Mr. HELMS. Mr. President, it would embarrass NORRIS COTTON if I tried to say all of the things that come to mind about him—his unwavering principles, his uncompromising integrity, his gentle willingness to help and encourage a freshmen Senator, and his ready wit.

And, yes, his New England frankness.

Senator COTTON, I think, knows how much I admire and respect him. And I hope he knows how much I will miss him. He is truly one of the most remarkable men I have ever known.

So, it goes without saying, Mr. President, that I join my other colleagues in the Senate in wishing this fine and decent man every happiness as he takes leave of this body. We are witnessing, Mr. President, the departure of one of nature's noblemen.

Mr. HUDDLESTON. Mr. President, one of my real regrets during these closing days of the session is that some of my colleagues and friends will not be in the Senate next session.

The distinguished Senator from New Hampshire (Mr. COTTON) is one of those who is retiring. I truly regret that I was able to serve only 2 years with the Senator because I always found him to be helpful, gracious, and dedicated to the best interests of this country.

I certainly wish him well in his new endeavors and I hope he will visit the Senate frequently.

Mr. BROOKE. Mr. President, with NORRIS COTTON'S retirement imminent, I feel I am losing a friend and confidant. But I know more importantly that NORRIS is gaining some well-deserved time for himself and his gracious wife, Ruth.

I will miss NORRIS in this Chamber where he has been vibrant. I will miss his phenomenal memory and mastery of intricate aspects of legislation. I will miss his powerful and persuasive oratory, particularly his extemporaneous remarks that have caused everyone in the Chamber to stop and take notice. And I will miss his unstinting work in his committees.

As the ranking Republican on the Committee on Commerce, NORRIS has been instrumental in assuring that New England was not short-changed in transportation. He led the battle for New England air service which led to the certification of Air New England as a new regional air carrier. He has prodded the Civil Aeronautics Board to undertake a New England air service investigation. NORRIS COTTON'S imprint can be seen in all aspects of transportation. He played an essential role in the drafting of the 1970 Merchant Marine Act, which has set up a 10-year program to revitalize our merchant marine. Senator COTTON has also been instrumental in the efforts to create, expand, and improve public broadcasting.

I know Norris best from our service together on the Committee on Appropriations, particularly its Labor, Health, Education and Welfare Subcommittee. This subcommittee is responsible for funding hundreds of HEW and Labor programs. And NORRIS COTTON, the subcommittee's ranking Republican, keeps a watchful eye on each and every program. NORRIS COTTON probably has a better grasp of the activities of HEW than anyone on the Hill. To those programs that are worthy, NORRIS allocates generously; to those programs that are not, NORRIS allocates sparingly. With NORRIS COTTON, health and education programs, programs for the handicapped and child development simply must meet the test. And NORRIS is exacting in his assessment. He maintains a Yankee caution best expressed by him several years ago when he said of uncontrolled spending:

> The fallacy of this whole approach is the ingrained belief that any human ill can be cured by applying gobs of money, just as our grandmothers used to slap a mustard plaster on our chest for any symptom of whatever nature.

But for those social programs that work effectively, NORRIS is inevitably a successful advocate.

He has always been on the go. Perhaps he is following his own admonition that the country would be healthier if the Democrats were "a little less slaphappy" and the Republicans "a little more alive." NORRIS COTTON is vibrantly alive with a joy of life and a keen sense of humor. I am going to miss him very much. And I wish him and Ruth all the best in the years ahead.

Mr. MOSS. Mr. President, I have served for many years on the Senate Committee on Commerce with NORRIS COTTON, where he has been the ranking member. During those years we have engaged in countless spirited arguments as again and again we found ourselves on differ-

ent sides of an issue. Often we have battled strenuously right down to the last vote.

On the other hand, there have been some occasions—fewer in number, I must confess—when our views have coincided, and these times we have joined forces readily in getting a measure reported in the form we both felt was best.

Throughout this entire period—in agreement and in disagreement—I have never lost my respect or admiration for him. He does not speak with rancor or bitterness; he simply holds fast to his views. I have enjoyed working with him.

One reason it has been easy to work with NORRIS COTTON, even in disagreement, is that he is consistently a man of good humor. He conducts his business with both wisdom and wit. He has contributed many light moments to committee discussions when the going might otherwise have been heavy.

It is hard to pinpoint in his long career the things for which he will be most remembered. There are many. But undoubtedly his contributions to the laws creating the Interstate Highway System and Federal aid to airports will rank among his accomplishments. Also the great effort and time he has put in on the HEW Appropriations Subcommittee to measures relating to education and health. The fact that the Norris Cotton Cancer Center has been dedicated to him at Hanover, N.H., indicates the regard with which he is held in the health field, and the contributions he has made to it.

One of the stalwarts of the Senate on the Republican side is leaving, but he will be missed on both sides of the aisle and in committee meeting rooms. He is a man of firm conviction and sound good will.

Mr. STEVENS. Mr. President, I rise with my colleagues today to honor the senior Senator from New Hampshire who is retiring after 20 years of loyal service to his State and our country.

NORRIS COTTON has been an able ranking member of the Senate Commerce Committee. His leadership abilities are known to all who observe the Senate.

I have also known Senator COTTON as a great friend to the State of Alaska.

Senator COTTON was a true friend to Alaska in its battle for admittance to the Union and during the years since we became a State he has consistently supported legislation of importance to Alaskans. His support of the Alaska pipeline project comes to mind immediately.

Even though our States are a continent apart, we have a great deal in common. Each of us counts among our constituents people who harvest the sea for a living. Most recently, Senator COTTON cosponsored the "200-mile bill" which is of vital interest to fishing communities in both of our States.

Yet, one area which is not mentioned too often is Senator COTTON's role in the quest for statehood by Alaska. At a time when he had some doubts about Alaskan statehood, he realized at the same time this was much too important an issue to deal with using second-hand information. He traveled to Alaska to see for himself what promise our great State held.

Senator COTTON looked to our people for a sign in this crucial question and recognized the spirit of Alaska's people and the great wealth of human resources our State had to offer.

I would like, Mr. President, to quote briefly from a press release from the office of Senator COTTON dated September 3, 1958. In it Senator COTTON describes what his visit and his meetings with Alaskans on their native soil meant to him—I met him in Fairbanks on that trip in 1958:

> When we consider the people (of Alaska) the scales tip overwhelmingly. They are small in numbers . . . but rich in quality. I received one indelible impression. It's a land of youth, ambitious youth. They are eager for Statehood and supremely confident that it will furnish the impetus and morale to make the region advance by leaps and bounds . . . I can tell you now I intend to vote for this bill (statehood) and against any parliamentary dodges to sidetrack it.

Mr. President, this is a perfect example of the professionalism, care, and foresight which have marked Senator COTTON's 20 years in the Senate.

Alaska owes a deep debt of gratitude to Senator COTTON and we shall not forget it. I wish him the best in the years to come and I can assure him he is welcome to visit the great State of Alaska, whose statehood he helped bring about, anytime.

SENATOR COTTON: A DISTINGUISHED LEGISLATOR

Mr. HANSEN. Mr. President, I am proud to join with other Senators to express appreciation to Senator COTTON for his very outstanding service and for his contributions to our Nation.

Few people have served in government as long and as effectively as Senator COTTON, who was the majority leader and speaker of the New Hampshire House of Representatives, later serving in the U.S. House of Representatives before being elected in 1954 to the Senate.

I have benefited greatly from the example of effective leadership set by Senator COTTON. He has played a major role in developing significant national legislation, and as the ranking Republican member of the Commerce Committee and the Appropriations Subcommittee for Health, Education, and Welfare, he has seen to it that the best interests of the people of New Hampshire and the Nation were served by the legislative process.

It has been an honor to work with Senator COTTON, and I am very proud of him and his achievements. I am pleased to join with his colleagues, family, and friends in expressing appreciation for all that he has done, and in wishing for him the time to pursue those personal endeavors which have long been put aside in the interest of serving others.

Mr. BAKER. Mr. President, it is my pleasure to join today in honoring our colleague, Senator NORRIS COTTON, of New Hampshire.

Since his election to the Senate two decades ago, Senator COTTON has established an outstanding record of service to the citizens of the Granite State and the entire Nation.

I have had the privilege of serving with Senator COTTON on the Senate Commerce Committee for the past 6 years. During that time, I have admired and appreciated his work as the ranking Republican member. Cooperativeness and fairness have been the hallmarks of his relationship with other members of the committee and the committee staff.

Senator COTTON's service on Capitol Hill actually began long before his election to the House in 1946 and to the Senate in 1954. Fifty years ago, as a student at George Washington University Law School, NORRIS COTTON served on the staff of U.S. Senator George Moses.

Later in his work as a county attorney and municipal court justice and as majority leader and speaker of the New Hampshire House of Representatives, Senator COTTON gained valuable experience in the operation of government at levels closest to the people which served him well throughout his congressional career.

In addition to his leadership on the Commerce Committee, Senator COTTON has served with distinction on the Appropriations Committee and as chairman of the Republican conference. He has always done his best in serving his party through his service to his country.

As a Tennessean, I take special pride in noting Senator COTTON's good judgment in selecting a native of the Volunteer State as his bride. Ruth Cotton is from Union City in my home State of Tennessee.

I join my colleagues in wishing them both the best of everything in the years ahead.

Mr. TOWER. Mr. President, the Senate, the State of New Hampshire, and America are losing a rare individual with the retirement of NORRIS COTTON.

First elected to the New Hampshire House of Representatives at the age of 22, he went on to hold every leadership position in that body.

It is little wonder that he made such an indelible impression when he began his service in Congress. NORRIS was elected to the House four times, and then served 20 years in the legislative body almost created for a man of his talents.

It was here that his real gifts as an orator were given full rein. I consider him one of the ablest, most effective, and most delightful speakers ever my privilege to hear.

And, I am happy that I could agree with him on most questions. For he was a tough man to stand up to. Indeed I recall him literally forcing a former Senator off the floor with the power of his remarks, on one memorable occasion.

Mr. President, NORRIS COTTON is a firm believer in the American principles of liberty, justice, and equality. He is an enemy of Government bureaucracy and arbitrary executive power.

There is quiet dignity to this man but underneath that dignity is the humor, understanding and compassion which is the attribute of all great men.

I found him most helpful. In particular, I appreciated his cooperation and friendship when he served as chairman of the Republican conference.

May God give you many more years, NORRIS, and incentive enough to pen your memoirs. They would indeed be delightful reading.

Mr. TAFT. Mr. President, I wish to add

my tribute to the service of NORRIS COTTON to his State and the Nation. For almost three decades, this dedicated and delightful Senator from New Hampshire has come to this Hill studiously prepared to do his work, to advocate, to oppose, to resolve; and with all the eloquence which has marked his pronouncements he has distinguished himself in domestic and foreign matters, particularly those with problems of broadest implications.

NORRIS COTTON came down to Washington for four consecutive terms in the House. He followed the late Senator Tobey, and because he maintained the tradition of honest enterprise and hard work of the New Hampshire people, was returned to be reelected for three consecutive terms here. I commend him to the history of this time and wish him many more years of happiness and contribution to his fellow Members.

Mr. BENTSEN. Mr. President, I wish to join my colleagues today in honoring my good friend, Senator NORRIS COTTON. Throughout his two decades in this Chamber, the Senator from New Hampshire has distinguished himself and set a standard of conduct for us all.

My friendship with Senator COTTON dates from our years together in the House of Representatives. I was impressed then with his selfless commitment to serving his State and Nation, and that reputation has only been enhanced by his years in the Senate.

I believe Senator COTTON has consistently demonstrated what is best in that sturdy type, the New England Yankee. Although of different political persuasion than my own, he has maintained a rigid self-reliance and an independence of thought. He has demanded convincing evidence before taking a position on any issue.

His commonsense has served him well throughout his career. He has been known for his wise judgment, and many of his less-experienced colleagues have benefited from his counsel.

The Appropriations Committee, the entire Senate, and all of the American people have benefited from his thrift. Never verbose, he has always chosen his words carefully and has succinctly presented his case.

More importantly, with his committee assignment, he has been charged with insuring that the taxpayers' dollar was most economically and effectively spent. He has honored that commitment but has coupled that responsibility with a compassion for the needs of our people, particularly those who have enjoyed less than their fair share of this Nation's bounty.

That compassion has been most clearly demonstrated by his concern for America's health and educational needs. He has been a frequent champion of medical research to free all of the American people from the scourges of catastrophic illness. He has taken a strong interest in the health needs of our rural population. And he has been determined in obtaining qualified instruction and special learning aids for our handicapped and disadvantaged children. He has contributed so much with his sensitivity for the needs of others, and we shall miss him.

I congratulate Senator COTTON for his service to this body, his State, and the Nation, and I wish him and his wife a blessed, prosperous, and happy future.

Mr. DOLE. Mr. President, no man in this body can lay claim to a more distinguished record of dedicated service to his State and Nation than can the Senior Senator from New Hampshire.

For the past 20 years, he has represented the people of New Hampshire in a manner that precisely does justice to the Yankee tradition of firm and forthright, rugged individualism.

And for the past 6 years especially, while I have been privileged to serve in the Senate, and in the Republican Senate minority with him, he has been a model for those who seek conscientiously to fulfill their function as legislator in a representative system.

A NEW HAMPSHIREMAN

True to the heritage of his native New Hampshire, he has been firm, even unyielding, on matters of principle. He has been flexible, and willing to compromise only when the hard facts dictated the necessity of compromise. And always he has been straightforward, tenacious and imaginative.

His record of public service spans more than the past 20 years in the Senate. For 8 years before that, he served in the U.S. House of Representatives and before that in the New Hampshire House of Representatives as majority leader and as speaker. His retirement, therefore, after long years of diligence and hard work, is well-deserved.

RESPECTED AS ALLY OR ADVERSARY

He will be missed in this body, by his colleagues on both sides of the aisle. He will be missed by those like myself who found him an invaluable ally in the pursuit of common legislative interests. And he will be missed as much as and as genuinely, I am sure, by those who more often found him a worthy legislative adversary.

The accomplishments of the senior Senator from New Hampshire as a legislator are one thing. They do, in fact, speak for themselves, and need on this occasion, no embellishments from the junior Senator from Kansas. They are well-known by all here. His talents are envied by many. All emulate his tenacity.

MAN OF WIT

But, I do not wish to leave out of this tribute—and I mean this genuinely as tribute—to my friend and colleague, the senior Senator from New Hampshire, the "merely human" side of NORRIS COTTON.

And by way of tribute, I wish to declare him the greatest story-teller in my personal knowledge and perhaps the Senate's greatest story-teller of this century.

And, as a sometime story-teller myself, I say that with the greatest admiration.

NORRIS COTTON is many things, outstanding legislator. The paradox of cold logic and warm heart. Memorable Senator. A true New Hampshireman.

But he is, of course, first and foremost, an American. And because of his example, reflecting on the American ideals and values which have stirred him to such great service to his country, I can say by way of closing tribute that he is preeminently an American. So in light of that and with genuine sincerity, I can quote his predecessor of the last century, Daniel Webster, and say, "Thank God! I—I also—am an American."

Mr. HATFIELD. Mr. President, others in this Chamber have pointed to the legislative accomplishments of Senator NORRIS COTTON, and one can certainly see his imprint in legislation. What I want to mention today, however, is the Cotton wit. While I will miss his wise counsel, I would be less than honest not to admit that I also will miss his sense of humor.

The keen Cotton wit. He has used it to see that an institution where stuffiness seems to seep from the walls does not take itself too seriously. The Cotton wit that occasionally provokes loud guffaws from our corner of the floor during solumn debate. The Cotton wit that has rescued debate in the cloakrooms from turning from issues into personalities.

Yes, it is the Cotton sense of humor, often with himself as the butt of the jokes, that we all will miss.

As first a member of the Commerce Committee, and now as a member of the Appropriations Committee, I have enjoyed the opportunity of a close working relationship with Senator COTTON, and I will miss his counsel during our committee consideration of the legislation before us.

Mr. HRUSKA. Mr. President, Senator COTTON and this Senator came to the Senate on the same date, November 8, 1954.

Senator COTTON came to the Congress well prepared. He came to the Senate even better prepared because of his four terms in the other body. Prior to that, and some 51 years ago, he served in the New Hampshire State Legislature, first as majority leader and later as speaker. He served as a county attorney from his county of Grafton. He had been on the staff of the Senator from New Hampshire, George Higgins Moses.

It has been my good fortune to have been associated with him very closely for the past 22 years, 2 in the other body and the balance of that period here in the Senate.

Mr. President, that "class of November 8, 1954," will break up at high noon on January 3, 1975, for at that time Senator COTTON will have retired from the Senate.

Such dissolution of any class of Senators is inevitable, to be sure, even though the timing cannot on all occasions be forecast in advance. It is sad, in a way. And yet it is gratifying, because of the long, loyal, and cordial association which we have enjoyed.

It is true that the constituents of our respective States are separated by hundreds of miles. They have different thoughts, different aspirations, even different cultures, in a way. And certainly the temperaments of Nebraska and New Hampshire have their differences when translated into characteristics of people.

But there is a common bond of a loyalty, a strong faith in their country, in its precedents, and in its future.

Senator COTTON, in his development as a public figure of sturdy distinction is possessed of that commonsense, percep-

tion, native intelligence, and diligence for which natives of New Hampshire are well and long noted.

He is possessed of a great many talents. He has many achievements.

Not long ago there was presented for permanent display in the New Hampshire State Capitol a portrait of Senator COTTON, the only one not a Governor of the State who has been accorded this honor. On that occasion, the Governor of New Hampshire, the Honorable Meldrim Thomson, Jr., made a statement, the text of which I ask unanimous consent be placed in the RECORD at this point in my remarks.

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

NORRIS COTTON

(By Meldrim Thomson, Jr.)

Oft times the great move in our midst without recognition.

They are with us in the sunshine of school days, share the dreams and hopes of budding maturity, and grow from day to day and from one service to another, until suddenly the total of the lifespan of their good deeds marks them as outstanding among their fellowman.

Such a one is Norris Cotton.

Born of America's great tradition in an humble farm home of Godloving parents, Norris grew up in the small town of Warren, New Hampshire, where friendship and neighborliness were as much a part of daily life as the woodstove in winter and the fishing hole in summer.

Born May 11, 1900, he attended Tilton School, Philips Exeter Academy, Wesleyan University and George Washington University Law School. In 1927 he married Ruth Isaacs of Union City, Tennessee.

Blending God's precious gifts of a strong physique, native intelligence, and great industry, he prepared himself as a young lawyer for the long, interesting, and unusual career of a half century of public service for the citizens of his native Granite State.

As a lawyer, prosecutor, legislator, Congressman and United States Senator, Norris Cotton wove the bright pattern that has marked his career of service.

And in between and interspersed throughout the pattern he managed to be an excellent preacher, a teller-of-tales—some tall and some a bit wide on the bias of time, but always in good fun and risable—a strong debater, author with a sharp and bouncy pen, an easy friend beside any hearth, and yet so astute and knowledgeable that his advice was sought by Presidents.

It is our heartfelt prayer that the warmth and beauty of NORRIS COTTON'S autumn will linger in health and happiness for unfolding years yet unreckoned.

To him we extend our sincere and grateful thanks for the fifty years of sacrifice and service that he gave to our sovereign State of New Hampshire.

And now, it is my rare and great privilege to unveil this permanent portrait of Norris Cotton, who is one of New Hampshire's all-time great citizens and one of America's finest statesmen.

Mr. HRUSKA. Governor Thomson stated his case well. His description and his characterization is in every respect a very splendid document.

Senator COTTON has enjoyed the confidence and the respect of his colleagues and of the public generally because of his forthrightness, integrity and his many other fine qualities.

To me, blessed with a large store of happy, fortunate personal relationships with Members of this body and of this Congress, there will always be a special debt to Senator COTTON for his friendship, his warmth and his graciousness of consideration, his good counsel and his encouragement. This, together with that cameraderie for which he has no peer.

The work done on the Appropriations Committee as well as on the Committee on Commerce has prospered. Their tradition will be much the better because of his presence and his participation.

Mrs. Hruska and I wish the best for Ruth and NORRIS in the years to come. We should like to put it in the words that were composed by the Governor of New Hampshire, as quoted above, to wit:

It is our heartfelt prayer that the warmth and beauty of NORRIS COTTON'S autumn will linger in health and happiness for unfolding years yet unreckoned.

That expresses well and in the spirit of poetry what both Mrs. Hruska and I fervently wish for Ruth and NORRIS.

Mr. McGEE. Mr. President, in the closing days of the 93d Congress, I would like to, at this time, take the opportunity to pay tribute to one of our retiring colleagues, the distinguished senior Senator from New Hampshire (Mr. COTTON).

NORRIS COTTON has served in the Senate for 20 years; and when he arrived in this body in 1954, he had already compiled an impressive record both in legislative affairs and public service.

Prior to his election to the Senate, he served four terms in the House of Representatives and prior to that, he served in the New Hampshire State Legislature having served both as majority leader and Speaker.

His broad knowledge and experience in legislative matters, together with his attitude of fairness on all matters, will be missed when we convene the new Congress in January. He will be particularly missed on the Appropriations Committee. On several occasions, I can recall where he resolved an apparent or threatened impasse with his sharp wit combined with some good old New England commonsense.

NORRIS COTTON is a man of strong convictions and deep principle, but at the same time, he is a man who has always been willing to listen to another's point of view. The legislative process has been described as the art of compromise and in this regard, NORRIS COTTON has been a master and a leader.

We shall miss him, and I wish to extend to him my best wishes as he leaves the Senate and returns to his native New Hampshire. I might add, Mr. President, that it has been said of many men on the floor of this Senate, "he will be hard to replace." That is indeed true of NORRIS COTTON and in saying that, I can rely upon both opinion and the record. As a matter of fact, the general election of 1974 was held some 6 or 7 weeks ago and the voters of New Hampshire still have not selected a successor to NORRIS COTTON. Thus, it is clear they are having a most difficult time replacing him.

Mr. RIBICOFF. Mr. President, I want to take this opportunity to salute a good friend and a good Senator—NORRIS COTTON of New Hampshire. He is retiring from our ranks after two decades of distinguished service to the people of New Hampshire and the Nation.

All of us who have known him and worked with him in the Senate will miss his wise counsel. His reputation for integrity, honesty, and moderation has made him a respected voice in the Senate.

He and I have worked together many times on issues and problems of special interest to New Hampshire, Connecticut, and the other New England States. And all of us in the New England delegation have benefited from the work that our distinguished colleague has done in behalf of these matters.

But NORRIS COTTON'S achievements have gone well beyond the borders of New England. He has long been active in the national problems of transportation, interstate commerce, and health research. Because of his deep interest in health problems, it is fitting that the "Norris Cotton Cancer Center" has been established to promote research and provide assistance to victims of this dreaded disease.

The Members of the Senate, the people of New Hampshire, New England, and all our States are going to miss the skilled leadership provided by NORRIS COTTON.

I hope that his retirement years will be long and fruitful.

Mr. BELLMON. Mr. President, I am pleased to join my colleagues in congratulating the senior Senator from New Hampshire, NORRIS COTTON, for his achievements as a Member of this body.

During his outstanding career, NORRIS COTTON has distinguished himself in the office of county official, speaker of the House of Representatives of New Hampshire, Member of Congress, and Member of the Senate for the past 20 years.

Having served on the Appropriations Committee and on the same side of the aisle with him, I am aware of his dedication, hard work, and integrity. His record of public service is a credit to his State and Nation.

Mr. President, I commend NORRIS COTTON for his many contributions and extend by best wishes to him in his retirement.

Mr. HUMPHREY. Mr. President, I take this opportunity to pay tribute to our colleague from New Hampshire, Senator NORRIS COTTON. From our days on the Appropriations Committee, Senator COTTON'S continued attention to the details of complex issues has made him an invaluable contributor to the conduct of the Nation's business. His New England heritage of hard work and honesty is the backbone of his achievements in the fields of commerce and health services.

One of the most rewarding aspects of public life is the privilege of knowing good people and sharing in their friendship. Senator COTTON is an able and respected legislator and I will remember him with affection, fondness, and friendship.

I join with my colleagues in wishing Senator COTTON a long and happy retirement and hope that he will continue to share with us his views on the critical issues of our times. Experience such as

his should not be confined to the great State of new Hampshire.

Mr. HASKELL. Mr. President, it is not necessary to understand what it is about New England that breeds men of sagacity and stature; it is enough to know that it does and that it sends us men like our colleague, NORRIS COTTON of New Hampshire.

Our joy for him in the prospect of a well-deserved retirement is mixed with sadness at losing his ability and his presence in the Senate. His work in the Senate—and the House of Representatives before that—has been outstanding. In typical New England fashion, Senator COTTON has been direct and straightforward, never burying in rhetoric what could be stated simply.

That virtue emerges in a comment Senator COTTON made after it appeared we had finally extricated ourselves from the Vietnam war in which we pursued our tragic course virtually alone: "No more of this Lone Ranger stuff for me," Senator COTTON said, "I will join a posse; nothing else."

If the Senator from New Hampshire joins anything, I hope it will be to his pleasure and to his liking. But whatever he joins will profit by his membership, I'm sure, just as the Senate has.

I wish him health and happiness.

Mr. RANDOLPH. Mr. President, on July 12 the senior Senator from New Hampshire (Mr. COTTON) reported to his constituents, "I shall not be a candidate for reelection." Members received that news with mixed feelings, with the realization that we will begin the New Year without the strong presence of NORRIS COTTON in our midst. We have the deepest respect for his decision to lay down his Senate burden and be with his beloved wife and companion, Ruth, in the days of convalescence ahead.

I have worked closely with this admirable man for 16 years, and I know him as a person of towering principles, tenacity and fairness. When he leaves the Hill, he will be remembered and respected by all its Members, regardless of party or political views. The diligence and dedication he has brought to the challenging assignments have set a standard of excellence.

I shall miss NORRIS COTTON and Ruth, his helpmate for so many years, and I am grateful for our friendship. Mary and I wish them many years of comfort and contentment among the verdant hills of New Hampshire.

Mr. TUNNEY. Mr. President, the Nation, the people of New Hampshire and we in the Senate owe NORRIS COTTON a great debt of gratitude for his years of unselfish public service.

It has been my privilege to serve on the Commerce Committee with the distinguished Senator from New Hampshire. I have always found him to be fair, scrupulously honest, willing to listen to all sides.

Senator COTTON, who is retiring from the Senate after 20 years, has been a tireless fighter for the elderly, working successfully for legislation improving the Social Security system and increasing benefits for our Nation's elderly.

Early in his Senate career Senator COTTON was one of those who pioneered the way for our present system of interstate highways. As a member of the special subcommittee which wrote this historic law, he contributed much to transportation, which has helped draw Americans closer together.

The Senate will miss his leadership and experience. As a top-ranking Republican and Chairman of the Republican Conference he has served as liaison with the White House conferring regularly with the President on important matters before the Senate.

While his retirement will bring to an end more than 50 years of public service, and while his friends in Washington will miss him greatly, I am sure that he and his wife, Ruth, look forward to returning to their beloved home State.

Mr. PELL. Mr. President, the retirement of Senator NORRIS COTTON, the distinguished senior Senator from New Hampshire, at the conclusion of this Congress deprives the Senate of a valued and able Member.

I know that Senator COTTON will be missed by all Members of the Senate, but he will be particularly missed by his fellow Senators from the New England region.

As a Senator from a New England State, I have a keen appreciation of the contributions that NORRIS COTTON has made to the work of the Senate and to the welfare of New England and the Nation.

During the past 20 years, Senator COTTON has been a bulwark of strength in the long, hard struggles here in the Senate to protect and further the vital interests of the New England region. He has been in the forefront of the struggle to prevent the complete destruction of New England's textile and shoe manufacturing industries and in the long fight to obtain justice for New England in our Nation's energy policies and transportation policies. One could not ask for a better or more effective ally in those causes.

Senator COTTON, in the tradition of New Hampshire republicanism, has been a fiscal conservative through his years in the Senate, demonstrating admirable Yankee frugality with the taxpayers' dollars.

But Senator COTTON's fiscal frugality has been tempered with a strong sense of compassion and concern for the needs of the American people in education and health care.

As a member of the Committee on Labor and Public Welfare and as chairman of its Subcommittee on Education, I have come to know and appreciate the strong support that Senator COTTON gave, as ranking minority member of the Health, Education, and Welfare Appropriations Subcommittee, to adequate funding of those programs. He has been a true friend of the cause of improved education and health care for the citizens of this Nation.

To Senator COTTON and his family, I extend my congratulations on an outstanding career of service to his State, to New England, and to the Nation, and my very best wishes for the future.

Mr. SCHWEIKER. Mr. President, I am pleased to join with my colleagues in paying tribute to the distinguished senior Senator from New Hampshire (Mr. COTTON) on the occasion of his retirement from the Senate.

Since 1946, when he was first elected to the U.S. House of Representatives, NORRIS COTTON has served the people of the Granite State with dedication and distinction. I have been privileged to serve with him on the Senate Appropriations Committee and its Subcommittee on the Departments of Labor and Health, Education, and Welfare. As ranking Republican on the Labor-HEW Subcommittee, Senator COTTON has been particularly helpful to me and the other junior members on the minority side.

In addition, NORRIS COTTON has compiled an enviable record of service to the Republican Conference, as its chairman, and the Republican Policy Committee. His leadership within these two organizations will be sorely missed.

Again, Mr. President, I am pleased to lend my voice to this testimonial, and to wish Senator COTTON health and happiness in the years to come.

Mr. THURMOND. Mr. President, it is a genuine pleasure to join in praising my distinguished colleague from New Hampshire, Senator NORRIS COTTON. Senator COTTON and I came to the Senate together in the election of 1954, and we have served here together in all of the 10 Congresses since then. During this period, Senator COTTON has compiled a record of achievement that does credit to himself, his State, the Nation, and this body. My admiration for his character and my high regard for his judgment have grown with each passing year.

Now, on the eve of his retirement, I am keenly aware of what the Senate will be losing when it loses him. Senator COTTON has brought all the virtues of New England into the counsels of Government. His frugality, independence, persistence and practicality have been not only useful to the Nation, but educational to many of his colleagues. With these special qualities he has combined the deep patriotism that should characterize all parts of the country, and a great capacity for friendship as well. In fact, many of us in the Senate shall miss his friendship next year just as much as his leadership. However, retirement will not diminish our regard for him any more than it will diminish the importance of his accomplishments.

Mr. President, I want to congratulate Senator COTTON for his outstanding record and thank him for all his services to the country. He has always impressed me as a man who not only has ability but integrity and high principle as well. He has followed a course in the Senate which is best for our Nation.

Although he stood firmly for principle, he has done it in a manner that does not offend. His unfailing courtesy will be remembered by all who have known him.

Senator COTTON is also an able lawyer with an astute legal mind. He has applied these talents most effectively in adhering strictly to our constitutional system. He has always been willing to fight

for the best interests of our Nation even though his position might have been in the minority.

Mr. President, Mrs. Thurmond joins me in extending best wishes to Senator and Mrs. COTTON. They are friends whom we sincerely admire and who will be greatly missed.

THE COLOSSUS OF NEW HAMPSHIRE

Mr. PACKWOOD. Mr. President, later today, the Senate will take note of Senator AIKEN'S departure from this Chamber after 34 years of service to the Nation.

But now, we mark the close of an equally remarkable senatorial career—the 20 years NORRIS COTTON served in the U.S. Senate, and prior to 1954 NORRIS was a Member of the House of Representatives for four consecutive terms.

I cannot help but note the irony of the double loss the Senate will suffer in the departure of both NORRIS COTTON and GEORGE AIKEN. Like the Colossus of Rhodes, one of the Seven Wonders of the World which spanned the harbor of Rhodes 2,200 years ago, Senators COTTON and AIKEN have been the Colossi of New England, representing the sister States of New Hampshire and Vermont. Their continued service to the public spans nearly 100 years in State and Federal Government, and this record of work is truly a wonder.

NORRIS COTTON has performed a vital role in the development of legislation which has had, and will continue to have, profound effects for America. To his credit, time and again, NORRIS COTTON has fought for fiscal responsibility in committee, on the floor, and in conference. And, I can well imagine that oftimes NORRIS' less frugal colleagues concurred that New Hampshire received its nickname—the Granite State—not for its landscape, but from her senior Senator's intractability regarding unnecessary spending. Few Senators are as firm in maintaining the frequently needed fiscal hardline. Had we more often alined our actions with the perceptions of NORRIS COTTON, this country would quite probably be in firmer economic condition today.

The Senate will miss NORRIS COTTON'S guidance, and particularly the Senate Commerce and Appropriations Committees, which he ably served, will suffer by his departure. NORRIS COTTON'S service was the Nation's gain, and for this we shall always be grateful.

Mr. McINTYRE. Mr. President, how much time remains to the junior Senator from New Hampshire?

The ACTING PRESIDENT pro tempore. The Senator's time has just about expired.

Mr. McINTYRE. Mr. President, I know of my distinguished senior colleague's appointment at the White House. I yield to him at this time, if appropriate, for just a few remarks.

Mr. COTTON. I thank the Senator, and I take heed of the fact that the time has expired.

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

Mr. COTTON. I yield.

Mr. GRIFFIN. I ask unanimous consent that such portion of the 15 minutes reserved to me as he may require be yielded to the Senator from New Hampshire.

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

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

Mr. COTTON. I yield.

Mr. ROBERT C. BYRD. Mr. President, I would hope that we would keep our orders straight. The last few days we have not been very careful to state precisely who is in control of the time, and I think we should not deviate from the proper procedure.

I ask unanimous consent to yield such portion of the time I have to the Senator from New Hampshire as he may need. If he does not need it, I retain it.

Mr. COTTON. Mr. President, it is most kind of the assistant minority leader and the assistant majority leader to yield time. At the same time, I am cognizant of the fact that the time has expired, and as a matter of fact I shall not use but about 2 minutes.

I remember in my youth it took me some 20 years to learn to make a speech, and then it took me about 40 years more to learn not to make a speech; and this is not an occasion for a speech.

I can only say that I feel this morning a deep and somewhat emotional sense of failure. It seems only yesterday that I first saw the Senate of the United States as an employee. It seems only last night that I came back, 20 years later, as a Member of the House of Representatives, where I served 8 years. It certainly seems only this morning that I took my oath as a Senator of the United States, and that has been 20 years ago.

One leaves this body with a sense of having failed to do all that he ought to have done. One leaves with memories of some mistakes he has made, because it is a solemn responsibility to be a Member of this body, and in my opinion the highest honor that can come to any man; and I do not except any other high office in the land.

I leave here, however, with many, many happy memories of the friendships and the associations of the Senators I have known through the years, some of them now dead and gone. I leave with deep regret, but at the same time with the feeling that there is a time for coming and a time for going, and that I do not for a moment regret my decision to retire.

When I was a freshman Senator, I drew a seat, naturally, in the back row, next to the corner seat in one section, and that corner seat, some of the older Members will recall, was occupied by a dear old friend, Senator Martin of Pennsylvania, who had a great career, first in the Army as General Martin, then as Governor Martin, and then, for many years, as Senator Ed Martin.

He kept that seat even though he had great seniority because it was handy to the door to the cloak room. He could slip in and out.

Well, my association with that elder statesman, who had a keen sense of humor, and who was a very shrewd man, was a very happy one.

I remember this last year when I made my decision, and I remember it this morning, the day that he announced in the newspapers and back in Pennsylvania that he would not be a candidate for reelection, that he was retiring, and I expressed to him my regrets.

I said:

It is too bad when you have so much influence in the Senate and when you are so vigorous and healthy, why, I cannot understand your not being a candidate for another term.

He said:

Norris, the reason—the public reason—I gave for retiring was that I have some things I must do before I end my life; things to attend to back home, family reasons.

He said:

But, the actual reason is that I am beginning to realize that my memory in some ways is beginning to slip just a little.

And he said:

I would like to have my colleagues and my home folks remember me while I still have most of my marbles.

I think that is about the soundest reason for retiring from the Senate when the calendar tells you that you are almost 75 years of age. So I know I am doing right because I am doing it. It is painful because I hate to leave my many friends in this body.

The distinguished dean of the Republican side of the Senate, the senior Senator from Vermont, whom we all love and revere so much, made a farewell speech in which he made some suggestions resulting from living his long life in the Senate. I have not any such suggestions, but I would like to leave you my very favorite quotation from a poem, a short poem, by Edna St. Vincent Millay that, through the years, I have quoted many many times. It has more significance to me today than it ever had before, and I think of it as being of some inspiration to every man who bears the awesome responsibility of legislating in this great historic body. Said she in her poem:

The world stands out on either side
No wider than the heart is wide;
Above the world is stretched the sky,—
No higher than the soul is high.
The heart can push the sea and land
Farther away on either hand;
The soul can split the sky in two,
And let the face of God shine through.
But East and West will pinch the heart
That cannot keep them pushed apart;
And he whose soul is flat—the sky
Will cave in on him by and by.

To you, my friends—and I do not know of anyone in the Senate on either side of the aisle that I do not count as a friend and feel the warmest feeling toward—to you I say goodby and wish you all that is good. And the thing I wish most for you is that you may be able in the hard days ahead to solve the problems that face you better than some of us who are leaving have heretofore been able to solve them.

I thank my colleague from New Hampshire (Senator McINTYRE) for his kindness, and I thank all those who have

expressed such friendly sentiments. Thank you.

ORDER OF BUSINESS

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

Mr. STAFFORD. Mr. President, I ask unanimous consent that the time reserved to the senior Senator from New York (Mr. JAVITS) may be assigned to me.

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

TRIBUTES TO SENATOR GEORGE D. AIKEN

Mr. STAFFORD. Mr. President, when the Senate returns next month to begin the 94th Congress, for the first time in more than 34 years we shall not be graced with the presence of one of our wisest and most decent Members.

My senior colleague from Vermont, the senior Member of the U.S. Senate, is going back to Vermont to resume on a full-time basis his love affair with the land and the people who have always been first in his heart and in his thoughts.

We shall be poorer for his absence from this Chamber.

Since he first came to the Senate from the hills of Vermont nearly 34 years ago, GEORGE AIKEN has graced this body with his wisdom, his integrity, and his independence.

Senator AIKEN has served during a period of time that saw many dramatic changes in our Nation and in the world. Through it all, this man of such uncommon character has made invaluable contributions to his State and to his Nation—and to better understanding around the world.

He has served on Senate committees that dealt with massive construction projects, with international affairs, with the atom, and with outer space.

But, it comes as no surprise to hear him say that his most important committee has been the Committee on Agriculture and Forestry. For his feet have always been securely planted on the Earth and his heart has always been with rural America.

Countless millions of rural Americans are living better lives because of GEORGE AIKEN's efforts in the Congress. And many millions more of their sons and daughters will live better lives in the years ahead because Senator AIKEN was their champion. Indeed, millions of people of all races and nationalities around the world are better off because of his concern for underdeveloped nations.

The Aiken rural water bill, the Rural Development Act and the St. Lawrence Seaway bill are just a few of the many truly monumental legislative achievements that bear his stamp—and that have meant better lives for Americans who live on farms and away from our great cities.

For more than 3 decades, Senator AIKEN has given his loyalty and support to Republican and Democratic Presidents alike, even though he often disagreed with some of their policies and actions, and even though they often ignored his wise advice after they had requested it.

His partisanship has been limited to his love for, and duty to, his country and his State. He has resisted becoming the captive of any political party or ideological cult.

While Senator AIKEN has always appeared to be above politics, he was born into a political family.

At least one member of every generation of the Aiken family has been in public life ever since the Aikens settled in Vermont before the Revolutionary War.

GEORGE AIKEN was elected to the Vermont House of Representatives in 1931 on his second try. He has not lost an election since.

He moved quickly to become speaker of the Vermont House of Representatives, Lieutenant Governor, and then Governor of his State.

He was elected to the U.S. Senate in 1940.

The discriminating political wisdom of Vermonters has been obvious since then. Vermont voters have returned GEORGE AIKEN to the Senate time after time, often without opposition and generally with little fuss on his part or theirs.

He has won the formal nomination of the Democratic Party as well as of his own Republican Party during the last three decades. GEORGE AIKEN has responded by serving all Vermonters without regard for their political affiliations.

During his years of service, Senator AIKEN has exerted wise restraint on the political excesses of both major parties, just as he has steered a sound course of commonsense through shifting political ideologies.

Unlike so many who come to Washington to help guide the National Government, GEORGE AIKEN has never lost touch with those citizens back home who sent him on his mission.

Born to the fields and hills of Vermont, Senator AIKEN never really transplanted his roots to Washington.

He continued to farm his land when he served as a Vermont legislator and as Governor of the State, and he never missed an opportunity to return to Vermont throughout his years of service in the U.S. Senate.

GEORGE AIKEN has said many times that whenever things seemed to be darkest in Washington and in other parts of the world, he always tried to get back to Vermont to put things in perspective and to renew his faith in this Nation.

In just a few days, GEORGE AIKEN will return to Vermont to stay.

When he announced his retirement early this year, he said he wanted to go back home to Vermont to take care of some unfinished business.

His business will never be finished, of course.

For, despite the passage of time, GEORGE AIKEN remains a young man—in heart and in spirit.

He continues to step forward to meet the challenges of changing times with the zest and excitement of youth.

We can only hope and pray that he will find the time to get at all of his unfinished business.

There are flowers and berries to be grown.

And fish to be caught.

And hills and fields to be roamed.

And words to be written.

There are Vermonters, young and old, to be counseled.

GEORGE AIKEN is going home to do all these things—and more.

His departure from the seat he has held so long in this Chamber will be a loss for all of us, for the Senate, for the Nation and for the world.

But, few men before him have better earned the right to go home.

To GEORGE AIKEN—senior colleague, friend, wise counselor, first citizen of Vermont—I say, and we all say: Godspeed.

Mr. HUGH SCOTT. Will the distinguished Senator yield?

Mr. STAFFORD. Mr. President, I am delighted to yield to the distinguished Senator from Pennsylvania, the minority leader.

Mr. HUGH SCOTT. Mr. President, we are all familiar with that instrument of control in industry which is known as the governor. The governor tends to restrain excesses, and to correct what would otherwise lead to the breakdown of machinery.

The distinguished senior Senator from Vermont has long been known as the "Governor." It is his wife's expression of endearment for him. It is the way in which he is known to many in Vermont and to many here.

But I suppose the analogy could not be more apt than to point out that the "Governor," the distinguished Senator from Vermont, has also functioned through this principle of restraint and of control. He has seen through excesses and brought them to heel.

He has served to moderate those who might go off on a tangent or off the deep end. He has been an antidote to fustian and to humbug. In other words, his voice has offered the sane counsel of wise judgment.

Some of his suggestions have entered the body of our sayings which have had great impact upon others. I suppose the most celebrated one is that time when he referred to the war in Vietnam and suggested that what we ought to do is to say that we had won and then go home. The more time passed, the more it seemed that the Senator from Vermont had gone to the heart of the matter.

He has never hesitated to speak out. He has had the admiration of all the citizens of Vermont, because of that and other great qualities. He has been looked upon here with admiration and respect by all of us, and with a particular regard by his colleagues on this side of the aisle since he is our dean in the Senate, and because his guidance, his judgment, and his intervention at the proper time have often determined the course of our attitudes and, at times, the course of events in the Senate.

We will be losing one of the great national assets.

If this were Japan, what we would be doing now is to formally declare him to

be a national treasure. This is indeed the Japanese custom for its great men. Potters, with their skill in ceramic craftsmanship; painters, who have seen new visions and made them permanent, those who have risen above the level of daily concerns, are made national treasures.

Truly, GEORGE AIKEN is a national treasure. I believe that he is valued and respected in his own time for this.

He is, as the Roman Senate would have put it, a man who deserved well of the republic.

So I am glad to join here today in what his Franco-American constituents would call his chant du cygne, his swan song.

I hope that GEORGE, who has already said something by way of farewell, will at least give us a postscript before he leaves. Often the most interesting part of a letter is a postscript.

If GEORGE has something to say by the way, as he goes on his way, we will all benefit from it, I am sure.

So we wish him happiness with his beloved wife; we wish him joy in his future pursuits. The wild flowers will be glad to see him; the land will be enriched by his presence, and the country will always cherish the memory of one who brought to us the refreshing stimulus of rationality.

So we say we will not say goodby, but we will say that it has been a peculiar experience, rewarding in itself, to have known and to have served with so fine a man as GEORGE AIKEN, the senior Senator from Vermont.

I thank the junior Senator from Vermont.

Mr. STAFFORD. Mr. President, I yield 3 minutes to the Senator from New Hampshire (Mr. MCINTYRE).

GEORGE AIKEN—THE "YANKEE'S YANKEE"

Mr. MCINTYRE. Mr. President, in just 3 months this Nation will begin celebrating its Bicentennial, and I cannot help but wish the distinguished Senator from Vermont, the Honorable GEORGE AIKEN, could delay his retirement until that auspicious moment.

I say that, Mr. President, because, with the exception of the State of Virginia, no part of the Nation relates more directly to the founding of our Republic than Senator AIKEN's New England.

It seems to me most regrettable that this "Yankee's Yankee" will not be here with us for what promises to be perhaps the most "American" of all American celebrations.

I have many other regrets about Senator AIKEN's departure, Mr. President, and they, too, are linked to his point of origin.

This Chamber will miss his dry Yankee wit, his commonsense and sensible thrift, and his renowned independence—and so will the people of the United States who have benefited from each.

I am sure that many of my colleagues will rightfully praise the "Governor's" long list of accomplishments—his indispensable role in the development and enactment of such landmark legislation as Public Law 480, the Aiken Rural Water Act of 1965, and countless others dealing with agriculture, producer cooperatives, nuclear power, foreign aid, and the St. Lawrence Seaway; his stellar work on study and fact-finding commissions; and his earlier record as a State legislator, Lieutenant Governor and Governor of Vermont—so I will comment on the man himself.

I said he was the "Yankee's Yankee," Mr. President, and we from New England are unreservedly proud of the image of our region he projects to the world.

Let me cite some Aiken remarks to illustrate those characteristics we consider "Yankee."

I mentioned his wit, Mr. President. Consider his wry observation about an extension of Interstate Highway 91 which necessarily razed the house where the Governor was born. "Best monument a man could have," said our colleague. "Cost $7 million."

I mentioned his commonsense, and we all remember his telling us that the best way to get out of Vietnam was simply to declare victory and go home.

But there is another example which I particularly like, because it also displays Senator AIKEN as a living refutation of the myth that New Englanders are rigidly inflexible.

Senator AIKEN once said:

> Some people throw up their hands when they see a trend bearing down on them. But I believe it is better to jump on the trend and try to guide it rather than being run over. That's why I vote as I do on a lot of things I never would have started in the first place.

I spoke, too, of his sensible thrift, and by "sensible" I meant that GEORGE AIKEN has never been penny wise and pound foolish. When spending promised to effect longer-range economies, he did not hesitate to vote to spend. But his inclination, as is so common in the region of our origin, is to detest waste, abhor the ostentatious, save wherever possible.

The other day, Mr. President, I came across a quote from a figure far removed by culture and geography from the senior Senator from Vermont, but a quote, nevertheless, that epitomizes his lifestyle as well as his philosophy about life. And what this quote bespeaks, Mr. President, we could all take to heart in this time of ballooning inflation, concurrent recession, environmental jeopardy, and a worldwide crisis in fuels and energy.

Years ago and from the other side of the world, Gandhi once observed:

> Civilization consists not in the multiplication but in the deliberate and voluntary reduction of wants. This alone promotes happiness and contentment and increases the capacity for service.

GEORGE AIKEN has reduced his wants and multiplied his capacity for service, and in this, again, he manifests a wisdom far beyond the times.

Finally, Mr. President, I spoke of GEORGE AIKEN's renowned independence.

On this point I need not elaborate. We all know that despite his protestations of guilt and weakness a week ago, that few men who have ever sat in this Chamber were less beholden to others nor more beholden to conscience.

Let me close now, Mr. President, with a little story often told by that master Yankee raconteur, Allen R. Foley, for it expresses what I sincerely hope will be the case with the "Governor" soon after he leaves this Chamber.

Foley relates how he was once chatting with a 70-year-old neighbor in Norwich when the gentleman said:

> "D'you know what my next assignment is?"
>
> Foley allowed as he didn't
>
> "Well," said the gentleman, "It's to retire from retirement."

Mr. ROBERT C. BYRD. Mr. President, I yield some of my time, if there is no objection, to the Senator from Mississippi—3 or 4 minutes, whatever time he needs.

The PRESIDING OFFICER (Mr. MCGEE). Without objection, the Chair recognizes the distinguished Senator from Mississippi.

Mr. STENNIS. I thank the Senator for yielding me this time.

Mr. President, I want to say a word of appreciation for the so-called New England Yankees—their ideas of thrift and economy and their good humor and basic commonsense.

I know that the entire Senate and the entire Nation are greatly indebted to these Senators from that part of the country whom we have here and have had here over the years, for their strength of character and honor and commonsense. Outstanding among them has been the Senator from Vermont, GEORGE AIKEN, and I referred a few minutes ago to the Senator from New Hampshire.

There is a great deal in their philosophy and their beliefs and their basic principles of government as they see it which is reflected in the Constitution of the United States. There is no question that they have lived up to it and have given it meaning and at the same time have moved forward with the change of the times.

I am especially thinking of Senator AIKEN's fine contribution, in sound legislative ways, to agriculture throughout the Nation. Here is a so-called small farmer from the hill country of Vermont, with a vision that included an understanding of the problems that go with agriculture—the cotton farms in the South, the wheat fields in the West, the corn belt of the middle part of our country, and all other phases of agriculture—which, after all, is the backbone of the Nation in many ways, particularly the food basket of the Nation. His wisdom, as written into these provisions, will live for many, many decades.

Talking about New England and Senator AIKEN's interest in agriculture, I want to say a special word about Mrs. Aiken. I like to call her Miss Lola. That is a term of great respect in the area of the country I come from. I first knew her as a fine, valuable, dedicated member of the Senator's staff, and later I knew her as his fine, dedicated, highly valuable wife. But I do not stop there. Miss Lola does not belong just to Senator AIKEN in that sense. Miss Lola belongs to the Senate.

All who have had the pleasure of knowing her and associating with her appreciate her very much, with her fine dedication, her abundance of charm and talent and commonsense, her devotion to her husband, to her State, and to our great country.

I believe that God's richest blessings

will follow this noble couple, who have done so much for the country and for the Senate and for all who have come in contact with them or who have felt their influence, which reaches a long way.

Senator AIKEN is leaving behind here not only an illustrious record but also a very fine colleague, who carries on in the traditions of that area of the country, which has contributed so much.

So I join in a great deep feeling of respect for their choice and, at the same time, regret at their leaving. God bless them in the years ahead.

I thank the Senator very much for yielding.

Mr. STAFFORD. Mr. President, I thank the distinguished Senator from Mississippi for his words, not only for my senior colleague, GEORGE AIKEN, but his kind words for this junior Senator from Vermont.

The PRESIDING OFFICER. (Mr. MCGEE). And for Lola, the Chair will add.

Mr. STAFFORD. And for Lola. The Chair has made a good point.

Mr. President, I am very happy to yield to the distinguished Senator from North Dakota (Mr. YOUNG).

Mr. YOUNG. Mr. President, it is difficult to realize that this will be the last week that our good friend and colleague, Senator GEORGE AIKEN, will be serving in the U.S. Senate.

His service has extended over a period of more than 34 years. It has been my pleasure to have been closely associated with GEORGE AIKEN during most of those years as a member of the Senate Committee on Agriculture and Forestry. He has been on that committee during his entire service in the Senate.

Senator AIKEN has not only been a member of that committee, but I know of no other member who has contributed more to good farm programs—and in fact a great many programs for rural America—than he.

About the time GEORGE AIKEN came to the Senate, farm price supports for basic commodities were set at 90 percent of parity for the duration of World War II and 2 years thereafter. The major purpose of the relatively high supports was to encourage production of badly needed agricultural commodities.

His first major contribution to agriculture was the Aiken-Hope Act of 1948. This continued farm price supports at a level that it was expected at that time would assure better farm prices for what we then thought would be a long peacetime period.

Senator AIKEN either sponsored or helped write almost every piece of farm legislation that has been enacted during all the 34 years he has been on the Agriculture Committee. No one in the Senate has been more successful in sponsoring legislation than he. He usually got enough cosponsors of legislation he proposed to assure its passage when he introduced his bills.

He sponsored or cosponsored a great many special programs for rural America. The more important ones include:

Agricultural Acts of 1948 and 1954.
Commodity Credit Corporation Charter Act.
Federal Insecticide, Fungicide, and Rodenticide Act.
Federal Crop Insurance Act.
Farm Credit Act of 1953.
Water Facilities Act.
Watershed Protection and Flood Prevention Act.
Agricultural Trade Development and Assistance Act.
Food Stamp Act.
Rural Water and Sewer Facilities Act.
Agricultural Fair Practices Act.
Poultry Products Inspection Act.
Egg Products Inspection Act.
Eastern Wilderness Areas Act.

One of his greatest contributions of all to agriculture was his always staunch and effective support of the rural electric and rural telephone programs.

Our friend Senator AIKEN played a very active role in many other fields of legislation and policy and I have particular reference to foreign relations. As the ranking member of the Senate Committee on Foreign Relations he has had a powerful voice in international affairs. He is recognized by every Member of the Senate for his down-to-earth thinking and commonsense on the most involved of all international problems.

One of the most commendable and notable things about GEORGE AIKEN's long career in the Senate is that in his last days here he has been as active and effective as ever.

Senator AIKEN can always find happiness and consolation in the knowledge that he has left a matchless record not only for his beloved State of Vermont, but for the entire Nation.

Every Member of the Senate is going to miss GEORGE AIKEN very much, but no one more than I. We have worked very closely together on the Senate Committee on Agriculture during all these years. He has always been a warm personal friend.

My comments regarding Senator AIKEN would not be complete without paying well deserved tribute to his wonderful wife, Lola. Lola is a very distinguished lady in her own right, having served as assistant to GEORGE AIKEN during all the years he was Governor and in the U.S. Senate. She has done a most outstanding job. I recall that many years ago, when I wanted something from GEORGE AIKEN, I called Lola more often than I did the Senator!

The team of GEORGE and Lola will be missed very much. Pat and I express the fond hope that the world will always be kind to these two wonderful friends.

Mr. WILLIAMS. Mr. President, I join my colleagues today in bidding farewell to one of the most distinguished Members of this Chamber I have been privileged to serve with, and the dean of the Senate, GEORGE D. AIKEN.

When we adjourn sine die sometime in the next few days, Senator AIKEN will retire after serving in this body more than 34 years. He will return then to the place he has always called home, and where I know he has always been in spirit even when he could not be there in person, Putney, Vt. My personal regret that I will not be able to work with GEORGE AIKEN in the future is somewhat saved by the knowledge of how much he is looking forward to going home.

Mr. President, GEORGE AIKEN has devoted nearly his entire adult life to public service as an elected official. His political career began when he was elected town representative in 1931 and encompassed terms as Lieutenant Governor, and then Governor, of Vermont. He was first elected to the Senate in 1940 to fill the unexpired term left by the death of Senator Ernest Gibson, and he has been here ever since, having been reelected five times.

Senator AIKEN has been a respected voice on the Foreign Relations Committee where he has served since 1954 and where he is, of course, currently the ranking minority Member. He has played a leading role as a member of the Committee on Agriculture and Forestry for virtually his entire Senate career, including 2 years as chairman. In addition, he served for a quarter of a century as a member of the Subcommittee on Agriculture Appropriations.

Senator AIKEN has been a member of numerous commissions and delegations including the original Hoover Commission, and the U.S. Delegation that traveled to Moscow for the historic signing of the nuclear test ban treaty in 1963. He has received many prestigious awards, including the Distinguished Service Award of the American Farm Bureau Federation and the Congressional Distinguished Service Award of the American Political Science Association.

Mr. President, I can say most sincerely that it has been both a great pleasure and a rare privilege to have served in this body with GEORGE AIKEN. We will certainly miss him, but his mark is well established and he will be long remembered. I join my colleagues in wishing him and his gracious wife Lola every happiness in the years ahead.

Mr. GOLDWATER. Mr. President, not just the Republicans in this body, but all Members will miss GEORGE AIKEN. He has served longer than any of us, with great distinction and with great honor. He is a man who has always been above reproach, but not above approach. I found this out early in my days in the Senate when I looked to the elder statesman for guidance and he has never refused me once; advice or council on matters that disturbed me. He has not only served his State but he has served his Nation and his party with great accomplishment. My prayers and wishes are his and his charming wife for a long and successful life in retirement.

Mr. ALLEN. Mr. President, without doubt one of the most beloved men ever to serve in the U.S. Senate is the distinguished senior Senator from Vermont (Mr. AIKEN).

Mrs. Allen and I will never forget that on our first day in the Senate it was Senator AIKEN and his lovely wife, Lola, who came to our table in the Senate dining room and first welcomed us to the U.S. Senate.

While we had known Senator AIKEN by his outstanding reputation as a great U.S. Senator this was the first time we had had the pleasure of meeting him in person.

Since that day my admiration and regard and love of Senator and Mrs. Aiken

have grown steadily. It has been my observation that these same feelings are shared by all who know the Aikens.

Senator AIKEN's wise counsel and down to earth views and philosophy, and his plain speaking have been of great value to Presidents and to the Congress through the years. He is a man of few words but when he speaks the Senate listens and the Nation listens.

It has been a great privilege for me to serve in the U.S. Senate with Senator AIKEN. I have admired his integrity, his dedication, his ability, and his eternal youth, his ever youthful views and ideas and his commonsense.

What an outstanding record of public service is Senator AIKEN's first as Governor of Vermont and for 34 years as U.S. Senator from Vermont—a record in which he can take pride and of which the people of Vermont can be proud.

He is loved by the people of his State as few Senators ever are. The classic illustration of the high regard and love that his people have for him is that in his last election to the Senate he was nominated by the Republicans and Democrats alike but managed to spend $17 in his election drive. He had to retire from the Senate voluntarily because his people would never have retired him.

Thus, while he professes a certain degree of Republicanism, the Democrats can claim him as well. I regard him as a nonpolitical statesman, a patriot, and a great American.

As he and his loving wife Lola return to their beloved Vermont, let me assure them that they do with my love and best wishes and those of my wife Maryon and of millions of Americans from throughout the world.

Mr. DOMINICK. Mr. President, I am proud to join my colleagues today in paying tribute to our dear friend, the senior Senator from Vermont. Throughout my time in the Senate, I have thoroughly enjoyed and greatly benefited from my association with this distinguished gentleman.

Recently, in paying tribute to Senator AIKEN, commentators have noted that he was far ahead of his time in many areas of legislative initiative. I would add that his leadership, his candor and his insights have been of great assistance to all of us in the Senate—particularly in the early months of our careers.

One could spend endless time cataloging the areas of interest and influence which have characterized his career, including his leadership as a member, and now ranking Republican, on the Foreign Relations Committee; his efforts in the areas of social programs at home and humanitarian assistance abroad; and his often outspoken criticism of Federal interference in the affairs of the people.

The Senate is losing more than a vocal and sincere leader—the Senate is losing a warm and dedicated friend. It is my hope that the legacy of Senator GEORGE AIKEN's service will prove an inspiration to those new Senators who are joining this body in January, and that candor, humanitarianism and love of country will characterize the U.S. Congress in the years ahead. If this is the case, much of the credit will rest with our dear and distinguished colleague, Senator GEORGE AIKEN. I join with all of you on this occasion in wishing him peace and much happiness in all the days to come.

Mr. BELLMON. Mr. President, among those Members who are leaving the Senate to return to private life is our distinguished colleague from Vermont, GEORGE AIKEN.

As Speaker of the house of representatives in Vermont, as Lieutenant Governor and Governor of his State, and throughout his long career in the Senate, GEORGE AIKEN has won the respect of his colleagues and those he has represented.

It has been a pleasure to serve on the same side of the aisle and as a member of the Agriculture Committee with him.

Mr. President, GEORGE AIKEN's ability, integrity, and devotion to duty will long be remembered, and his presence will be missed by the Senate during the coming years. I join with the other Members of this body in congratulating GEORGE AIKEN for his outstanding record as a public servant.

Mr. BURDICK. Mr. President, I am pleased to have the opportunity to join my colleagues in paying tribute to Senator GEORGE AIKEN of Vermont. The distinguished gentleman is the senior Member of the Senate, and, for years, Senator AIKEN has been one of this body's most respected Members. He was long a vigorous spokesman for rural America who got most of his work done before Washington was awake, as good farmers have always done. We are all aware of his role as one of the authors of Public Law 480 which has come to be known as the food-for-peace program. One of his most recent contributions was the Rural Water Act, providing grants and an expanded loan program for rural water systems. This has appropriately been called "landmark legislation" in helping to stimulate farm prosperity.

Senator AIKEN has served admirably as the ranking Republican of the Senate Foreign Relations Committee. He was skeptical of administration policies in Southeast Asia and he once suggested that our Nation announce that it had "won the war and then withdraw." His work in the Senate has given ample evidence of his devotion to duty and love of country. By his leaving public life, the United States and the "Green Mountain State" will lose the services of an individual who has served his people well. My warmest wishes go with him and his wife, Lola.

Mr. CHURCH. Mr. President, it is with a heavy heart that I rise today to say farewell to my friend and colleague, GEORGE AIKEN, for I will deeply miss his service in the Senate.

When we pay tribute to retiring Senators, it is usually customary to do so by citing a page or two of legislative accomplishments. Certainly, one could easily do that in the case of our colleague, Senator AIKEN.

But in his case, there are things much more fundamental to be said. I will remember GEORGE AIKEN for his courage in questioning the conduct of a war which had nothing to do with the security and well-being of the United States. I will remember GEORGE AIKEN for his honesty in his dealings with all of us. I will remember GEORGE AIKEN as a decent human being who never let partisan considerations stand in the way of what he thought was the right thing to do.

Most of all, I will remember GEORGE AIKEN for the soundness of his counsel and the warmth of his friendship.

Bethine and I will find Washington a lonelier place with GEORGE and Lola Aiken: two of this world's special people.

Mr. DOMENICI. Mr. President, this first-term Senator has many reasons to admire the distinguished Senator from Vermont, Mr. AIKEN—he is honest, he is direct, he is intelligent, he still cares about good government after more than three decades around Washington. But, one reason stands above all others. During my first 2 years in this body, Senator AIKEN has always taken the time to help me when I have asked and has never failed to give me the aid of his counsel.

Senator AIKEN has seen many first-term Senators come and go. Yet, he has not become cynical. He still has time for the uninitiated. All of us in this body were first-termers at one time and we all know how much a helping hand means those first confused months.

As my colleagues have noted, this body will miss Senator AIKEN, his honesty, his ability to cut to the core of a matter, and his abiding wisdom. But, we will miss as much as anything his kindness.

After reading Senator AIKEN's recent "final statement" to the Senate, I thought, "Diogenes should have come here first." His remarks should be required reading for anyone who wishes to understand the legislative process, the fallibility of humans and their institutions, but also the factor that makes it all work—firm and pure character. Senator AIKEN's career stands as a monument to the power of character. I wish him all luck in his future.

Mr. EASTLAND. Mr. President, I was appointed to the U.S. Senate by Governor Johnson of Mississippi in June 1941, for an interim term of 88 days. At that time, GEORGE AIKEN had been a Member of the Senate about 1 year. We were both novices in the Senate and, as a result, we had many things in common.

Later on, after I was elected to a full term, the congenial atmosphere between us continued and ripened into a fast and firm friendship. We had many interests in common. We both had agricultural backgrounds. We both wanted to and did serve on the Senate Committee on Agriculture. It was during this service on this committee that I got to know the many varieties of GEORGE AIKEN's talents. He had a phenomenal grasp of the agricultural economy of the entire Nation. He knew as much about each crop as any Senator who represented the States where that crop was produced. He knew livestock. He even knew the habits of honeybees. I found that as a younger man he had authored a book on the wild flowers of his native New England.

GEORGE AIKEN was not a politician—he was a naturalist, and this brought him close to nature. Being close to nature made him close to man. The commonsense virtues that have been widely as-

cribed to GEORGE AIKEN can only be ascribed to his background. It has been said of him that he was probably one of the last of the homespun Yankee philosophers, and I think that is true.

It has been a privilege to know him. It has been a privilege to serve with him, and I hope as he leaves this Chamber after such a long and honorable career his remaining days will be kind to him, and the memories that he takes with him as he leaves this Chamber, I know, will keep his heart eternally warm.

I know the entire Senate joins with me in wishing him and his wife Lola, who was his devoted secretary for so many years, and that their remaining years be filled with happiness. I know they will be filled with contentment.

Mr. FANNIN. Mr. President, a very wise colleague of ours used to say that the Senate is composed of work horses and show horses. While the Senate could function without its show horses, it would come to an absolute halt without its work horses.

No one in this body has been more of a work horse than the senior Senator from Vermont, Mr. AIKEN. No Member of Congress has ever given more of himself and asked less of Congress or the people. He has toiled diligently and effectively to better this country, and he has sought neither great political power, nor wealth, nor even public recognition for his many contributions to America.

His work on behalf of agriculture and his independent, knowledgeable and strong positions regarding foreign relations, have been especially noteworthy.

As "dean" of the Senate he has provided us with sage observations and wise counsel during some very difficult times. For 34 years he has served his State and the Nation with energy and ability. The people of Vermont are very fortunate to have had his voice speaking for them, and the rest of the Nation benefited from the wisdom of Vermont in sending Mr. AIKEN to the Senate.

For more than four decades he has served in public office, and he certainly has earned our utmost respect upon his retirement from the Senate. Mrs. Fannin and I wish the Senator and Mrs. Aiken the best.

Mr. HATHAWAY. Mr. President, there is soon to be a vacancy on the other side of the aisle which goes beyond that of an empty chair or an empty desk. A man is leaving here to go back home after 34 years of service in this Chamber, a noteworthy achievement in and of itself. But my honorable colleague from Vermont, GEORGE D. AIKEN, has been much, much more than a physical presence in this Chamber, and that extra something he brought to his chair and desk here is going to be sorely missed.

That our friend from Vermont is a good legislator is far less important than other qualities he has. So I do not intend to say much about his legislative accomplishments other than the simple fact that in the past 34 years he has played an active role in every piece of major legislation that has passed through this chamber. Social security, tax reforms, housing programs and other issues have each felt the hand of GEORGE AIKEN upon them. He has been in this Chamber through seven Presidents and three wars, and has distinguished himself most by always being GEORGE AIKEN.

His tenure in the Senate is as much a salute to the integrity of the Vermont voter as much as it is to the integrity of the man himself. For his constituency has recognized that integrity, honesty, and candor are more important to this legislative body and this country than individual issues and individual parties. There is no GEORGE AIKEN the Republican, GEORGE AIKEN the conservative, or GEORGE AIKEN the liberal. GEORGE AIKEN is not now and never has been two persons. He has never shrouded himself in the cloak of senatorial dignity to enter this Chamber, for his own personal dignity is more powerful than that of his office.

And that is the mark he will leave behind; that is the vacancy that will be felt.

Integrity, honesty, and candor are the qualities for which I shall always remember GEORGE AIKEN. It is those qualities which brought him to this Chamber a week ago to confess to America what he considered to be his sins over the past 34 years of service. I have read that confession several times, trying to glean from it some guidance for my own behavior in this Chamber. All decisions are not clear cut; all issues are not black and white. Judgments often must be made based on alternative choices, and frequently both of those choices run contrary to what we want, or feel are best. I saw the list of sins, but cannot absolve my colleague any more than I can absolve myself of the act or art of compromise. Yet, I saw something else in his speech that weighed heavier in my mind:

> I have never known a President who, by his acts and in his own way, has not done considerable good while in the field of public service.
>
> When we judge the record of our Presidents, we should put the good they have done in one pile, and the mistakes they have committed in another pile, and then leave to history the decision as to which pile is greater.

Well, Mr. President, I think we should do the same for Senators, and in my judgment it does not take much of a historian to see that the stack of good our colleague from Vermont is leaving behind assures him the respect and esteem of Americans for all time.

And I am confident that the judgment of time and of history will be no different from that of mine today. That GEORGE D. AIKEN, who served as Governor for his State for two terms, and as a Senator from his State for six terms, is a man of honor and integrity and candor and courage. That is how I know him to be, and that is how I will remember him. And it is that vacancy which we all have to face next month, and do our very best to replace. For failure to replace those qualities which GEORGE AIKEN has in so much abundance, will be the sin each of us must confess to when our turn comes to leave this Chamber.

Mr. JACKSON. Mr. President, when the 94th Congress convenes next year, it will be without my dear friend and colleague from Vermont, Senator GEORGE AIKEN, who is going back to the farm, as he likes to say.

GEORGE will be just 2 weeks short of having spent 34 years in the Senate at the close of the 93d Congress. He is the dean of the Congress and cannot be replaced.

Before coming to the Senate, GEORGE was a public servant in his home State, serving as speaker in the Vermont Legislature, lieutenant governor, and Governor.

In all those years, GEORGE and Lola have followed the Aiken tradition of public service. For every generation since before the American Revolution, there has been an Aiken in public service in Vermont.

GEORGE AIKEN'S name will forever be associated with some of the most important legislation to come before the Congress, including the food stamp and food-for-peace programs, the rural water and sewer bill, the Rural Development Act, and the St. Lawrence Seaway, which opened up the Great Lakes.

As the titles of some of those bills show, GEORGE has always been very interested in rural America and underdeveloped countries. Through his work on the Agriculture, Public Works, and Foreign Relations Committees, he contributed greatly to these areas. I have been privileged to have served with Senator AIKEN on the Joint Committee on Atomic Energy.

Americans everywhere owe a debt of gratitude to GEORGE AIKEN. I hope GEORGE and Lola have good health and happiness on their return to Vermont.

Mr. MAGNUSON. Mr. President, I would like to take this opportunity to offer a few brief remarks on the career of my distinguished colleague, the senior Senator from the State of Vermont, GEORGE AIKEN.

Senator AIKEN was first elected to this body in 1940 and went on to be reelected five more times. In that time, Mr. President, Senator AIKEN has taken a leading role in important legislative matters affecting our Nation. Throughout the duration of his service to the citizens of his beautiful and historic State of Vermont, he has provided wise and constant leadership through one of the most critical periods of our history.

And like his great State of Vermont, one of the earliest bastions of freedom in America, he is a man of courage and determination. He has not hesitated to be strong, when strength was needed. And when compassion was called for, he has always been among the first to offer it—even feeding the pigeons daily in the park.

And, Mr. President, despite his comments in his farewell address to the Senate last Wednesday, Senator AIKEN has always formed his own opinions and acted on his own convictions. Had we followed his wise advice on the war in Vietnam, we could have avoided one of the greatest tragedies ever to face this Nation.

All of us will miss this man from Vermont. We will miss him, because we respect him and love him—for his honesty and sincerity. And, Mr. President, all of us are so much richer for having had Senator AIKEN as a fellow Member of this body—truly the dean of the Senate.

Mr. McGEE. Mr. President, after 34 years of distinguished service in the Senate, my friend and colleague from Vermont, GEORGE AIKEN, is retiring.

GEORGE AIKEN's career as a public servant began in 1931 when he was elected as a member of the Vermont house of representatives. In 1933, he assumed the position of speaker of the Vermont house and 2 years later became that State's Lieutenant Governor. In 1937, he was elected Governor and served in that position until he entered the U.S. Senate some 4 years later.

GEORGE AIKEN is a man beloved and respected not only by the people of Vermont but by all those Members of the Congress fortunate enough to have served with him. He retires first in seniority amongst his colleagues. My sincere best wishes go with him.

Mr. NUNN. Mr. President, although I have only served in this body with Senator AIKEN for a little over 2 years, I have developed the utmost respect and esteem for his honest and frank approach to government.

As a member and speaker of the Vermont house of representatives, as Lieutenant Governor and Governor of Vermont, and as a distinguished U.S. Senator for 34 years, GEORGE AIKEN's brilliant and dedicated career of public service is an inspiration to both his colleagues and our Nation. He represents the finest traditions of leadership, statesmanship and integrity—traits that are hallmarks of his over 43 years of public service.

GEORGE AIKEN's leadership and knowledge will be sorely missed here in the Senate. As the ranking minority member of the Foreign Relations Committee, as a ranking minority member on several important Foreign Relations Subcommittees, and as ranking Senate member on the Joint Committee on Atomic Energy, he has played a vital role in the passage of much important legislation.

GEORGE AIKEN is one of the most outstanding and effective legislators in the Senate and he has my best wishes for every success in the years to come.

Mr. PELL. Mr. President, in just a few days the Senate will adjourn, bringing to an end the 93d Congress. That day will also bring to a close the brilliant public career of the senior Senator from Vermont, GEORGE AIKEN.

That career has spanned 43 years, 34 of them spent in this body. This Senate, which has benefited from his wisdom, his Yankee commonsense, his independence of mind and his impeccable personal integrity for all of these years, will be a poorer place in his absence.

Senator AIKEN has always brought to the deliberations of the Senate a wisdom and independence of mind that has caused each of us to listen attentively whenever he took the floor.

During the days of national anguish over our military involvement in Vietnam, when so much of the Nation was split into hostile camps, Senator AIKEN's independent spirit was most aptly described by his longtime close friend and our distinguished majority leader, Mr. MANSFIELD.

"In the aviary of the Senate," Senator MANSFIELD said, "GEORGE AIKEN is cataloged as neither a hawk nor a dove, but as a very wise owl."

Mr. President, it has been my great pleasure to serve with this very wise owl as a member of the Committee on Foreign Relations and I know that I have benefited, as has the committee, on innumerable occasions from his sage counsel.

As the ranking minority member of the committee, Senator AIKEN has contributed significantly to the bipartisan approach to foreign policy which we have enjoyed for the past several years.

Senator AIKEN's service on the Foreign Relations Committee is of relatively recent vintage in contrast to his years on the Committee on Agriculture and Forestry, which he joined upon entering the Senate in 1941. On that important committee, he has been for many years the lone voice of New England, seeking always to protect the interests of our remaining New England farmers and at the same time of the vast portion of our New England citizens who are the consumers, not the producers, of food.

In these days when the decisions of the Agriculture Committee are so important both at home and to the millions of the world's population who have insufficient food and look to our Nation for relief, I know the committee will miss his expertise, his guidance and his wise approach to dealing with problems.

Senator AIKEN, in addition to being the dean of the Senate, has been, almost as long as I have been here, the dean of the New England congressional delegation and he has been our leader and our counsellor in the many battles we have waged for the causes of our region. In those battles, too, he will be sorely missed.

Mr. President, as GEORGE AIKEN and his lovely wife and helpmate Lola prepare to journey back to their home on the hill in Putney, Vt., I wish them both Godspeed and a long and happy life together in the tranquility of the Green Mountains.

Mr. SCHWEIKER. Mr. President, today the Senate bids farewell to its dean and one of its most highly respected Members, Senator GEORGE D. AIKEN of Vermont.

In an age of growing mistrust and skepticism in government and its leaders, GEORGE AIKEN represents what is good about our system. He is revered for his integrity and independence. He is refreshingly unassuming and candid. He has served in the Senate since before World War II and yet he is universally acknowledged to be retiring at a time when his powers and his influence upon his colleagues are at their zenith.

I consider myself privileged to have served in the U.S. Senate with GEORGE D. AIKEN, and I know his presence will endure within these walls long after his departure.

Mr. SPARKMAN. I am glad to join with my colleagues in tribute to one of the greatest men ever to serve in the U.S. Senate. I refer, of course, to our friend GEORGE AIKEN, of Vermont. Senator AIKEN came to the Senate in 1941. I came 6 years later. However, I served in the House of Representatives for 10 years, and I came to know the distinguished Senator from Vermont soon after he entered the Senate. I was impressed with him from the beginning.

Before coming to the Senate, Senator AIKEN had served as speaker of the house of representatives in Vermont, Lieutenant Governor of that State, and two terms as Governor.

I like to think of Senator AIKEN as being typical of his State of Vermont. I have often listened to his philosophy that seemed to come right from the hills of his beloved State. He is a man of unquestioned integrity and sincerity. He makes up his own mind, and, when he does, he stands firmly on the decision reached.

Senator AIKEN has been a great Senator. He is a fine citizen, a good man, a great friend. I know that every Member of the Senate regrets to see Senator AIKEN retire, but they will follow with interest all of his activities, wishing for him and his wife Lola great happiness throughout many years.

Mr. TALMADGE. Mr. President, we are going to miss GEORGE AIKEN in the U.S. Senate, and it is my privilege today to join my colleagues in paying tribute to the distinguished senior Senator from Vermont for the long and devoted service he has rendered his State and Nation.

Senator AIKEN has been an extremely able and conscientious Senator. He has represented the people of Vermont with dignity and integrity, and he has been an effective advocate of the best interests of the United States in his high-ranking positions on the Senate Committees on Agriculture and Forestry and Foreign Relations. I am particularly proud to have served with Senator AIKEN on the Committee on Agriculture and Forestry and I have greatly benefited, as have all the other members of the committee, from his vast experience, hard work, and legislative ability.

As the dean of the Senate, Senator AIKEN always spoke with clarity and authority on the issues of the day. Over a period of some 34 years in the Senate, he consistently maintained the respect of his colleagues from both sides of the aisle.

Senator AIKEN was a champion of conservation and rural development long before these areas of concern came into vogue. He is the father of legislation to preserve and protect the Eastern Wilderness System, and he is a pioneer in spearheading efforts to promote water and sewer expansion in rural areas which has been of immeasurable value in revitalizing small towns and agricultural areas. Senator AIKEN is returning to his beloved home State, and I wish him every future happiness.

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 in 1941, he joined the Senate Committee on Agriculture and Forestry. 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 Committee on Foreign Relations 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.

Mr. MOSS. Mr. President, I am sure that no one will quarrel with me when I say that with the retirement of GEORGE AIKEN the Senate will lose one of its most consistent voices of commonsense and reason.

What he has had to say may not always have been popular, and it may not always have represented the majority opinion in the Senate, but it has always been well worth pondering.

It is a tribute to the people of Vermont, in my opinion, that they have had the wisdom and the commonsense to keep this voice of reason in the Senate for 34 years so that not only they, but the whole country, could benefit from Senator AIKEN's sensible approach to life and to the solution of some of our national problems.

So much has been written and said these past few weeks about the retirement of this remarkable man—and he has said so much so well himself in his farewell speech—that there is little which most of us can add.

Vermont Life caught very well the spirit and the meaning of Senator AIKEN's stewardship in a recent issue and I ask unanimous consent that this article, written by Charles T. Morrisey, and entitled "George Aiken, Citizen," be included in the RECORD.

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

GEORGE AIKEN, CITIZEN

(By Charles T. Morrissey)

He is coming home to Vermont after 34 years of service in the United States Senate. A political career which began in Putney in 1931, when he was elected to represent his home town in the Vermont House of Representatives, is now concluding.

But at the age of 82, George D. Aiken isn't retiring; instead he is changing careers. He plans to see some parts of Vermont he hasn't seen for a while, and when he travels he expects to bring along his fishing pole. "Lots of people are laying out work for me," he says tartly. "Two or three publishers have asked me to write a book, but I haven't made up my mind about that yet."

The University of Vermont is raising $250,000 to sponsor an annual George D. Aiken Lecture Series. Speakers of national and international stature will offer their views on the three subjects the Senator was best known for in Washington—foreign affairs, energy, and agriculture. The first of the series is planned for December, and speakers will be asked to remain on the UVM campus for a day or two of classroom visits and informal discussions with students and faculty.

The Senator—actually he's called "The Governor" by those-who-know because he served as Vermont's Chief Executive from 1937 to 1941—won't be a stranger at the University. This January and February, he plans to pore over documents depicting his years in Washington and the events he was part of. He wants to go through the photographs in his files (they number between 2,000 and 3,000 prints) to label the people and occasions they portray, and he wants to tape-record personal memories of the history he has made and witnessed.

Originally a successful orchardist and cultivator of wild flowers by profession, George Aiken now hopes to experiment with growing a disease-free raspberry plant. Meanwhile Mrs. Aiken, the beloved Lola, hopes he writes a book for children about pigeons and squirrels because of his love for animals. When he wrote his book, *Pioneering with Wild Flowers*, in 1935, Aiken dedicated the volume to Peter Rabbit "in the hope that flattery will accomplish what traps and guns have failed to do and the little rascal will let our plants alone from this time on." His puckish, dry sense of humor has always served him well, often conveying a point with durable truth at its core. In Washington he is remembered wistfully for "the Aiken Formula" for ending the Vietnam War—"declare that we have won and get out."

In the Senate his closest associate was Democrat Mike Mansfield of Montana. Although they sat on opposite sides of the aisle they never let politics interfere with their friendship. Whenever possible they met for breakfast in the Senate dining room. In a speech on the Senate floor Mr. Mansfield once aptly remarked that "in the aviary of the United States Senate, George Aiken is catalogued as neither a hawk nor dove but a wise old owl."

Few senators were as influential as Aiken; his common-sense approach to issues was widely admired. Although he was the ranking Republican on the Senate Foreign Relations Committee he was always mindful of his Vermont constituents; for example, he ably piloted legislation providing water, electric, and sewer services which benefited rural Vermonters. Every letter received from Vermonters was answered promptly and signed personally by the Senator.

Although in length of service Aiken is dean of the Senate, he doesn't feel that age is a drawback. "Some folks are old at 21," he observes, "and then there are a lot of youngsters my age."

Quiet, independent, hard-working, George Aiken will be remembered for several legislative achievements and for being a modest countryman in a city of inflated egos. He is famous for not raising and spending large amounts of political contributions when reelection time occurred; in one senatorial campaign he spent less than $20. Being prominent and influential in Washington never turned his head. He once offered a helpful tip on how to survive in the Washington whirl: "when you go to the White House, get a seat near the door, so that when they dim the lights, you can sneak out."

A lot of former Senators loudly praise their native states in public speeches and then continue to live in Washington and work for the interest groups they dealt with in Congress. Not so with George Aiken; he's coming home to Vermont because this is where he wants to be.

Mr. MOSS. Mr. President, I join with my colleagues in wishing him only the happiest years ahead as he goes home to Vermont.

The Senate will be reduced in stature by his departure.

Mr. PASTORE. Mr. President, an important page of history is turned as our truly beloved colleague Senator AIKEN, chooses to depart this Senate where he has served so long and so well.

Just as Ethan Allen and his Green Mountain Boys ushered in the first century of our America—so its second century closes with the farewell of another Green Mountain patriot—the perpetual Senator from Vermont—the unfailing philosopher and faithful friend.

This home of the Senate will never be the same without that seasoned statesman—with his sagacity and simple hon-

esty—the worthy contestant when the good of the Nation is being debated—the cherished companion in our daily existence when a political aisle no longer divides us.

We of New England—irrespective of party—are possessively proud of GEORGE AIKEN—his simplicity and sincerity have been our priceless privilege to enjoy.

All America owes an eternal debt to his integrity and ability through a most dramatic and challenging period of our national existence.

Each of us is the better American—*the better* public servant—for the opportunity we have had to share some of his senatorial years.

May the satisfaction of the dedicated public servant—the good neighbor—the cherished friend—fill every day of GEORGE AIKEN's future with happiness—may God fill them with health—while every good wish flows from our friendly hearts to him and his dear ones.

Mr. BIDEN. Mr. President, as one who entered the Senate in January 1973 as its most junior Member, both as to service and age, I wish to pay tribute to Senator AIKEN, the senior Member. Senator AIKEN also ranks highest in respect and admiration—compiled during his 34 years of distinguished service in the Senate.

Long before I came to the Senate, I read about GEORGE AIKEN's stalwart character and I have been pleased to have served in the Senate long enough to have verified what I have read.

Somehow I am reminded on this occasion of a remark by Patrick Henry, speaking at the Virginia Convention, in 1775:

> I have but one lamp by which my feet are guided, and that is the lamp of experience. I know of no way of judging of the future but by the past.

Senator AIKEN's past is a lesson for our future.

Mr. PACKWOOD. Mr. President, like the rocky spine, the Green Mountains, which runs the length of Vermont, GEORGE AIKEN has often been the backbone of this Senate, touching all its Members with his truth and honesty, encompassing the length and breadth of this great Chamber.

GEORGE AIKEN would be the first to deny he has become a legend in Vermont or an important figure to the Nation. Yet he is the first to admit to what he confesses are his past sins. Ironically, and probably to GEORGE's grave dismay, just those admissions of guilt lend greatness to the Aiken character.

Never filled with the huff and puff of pomposity, GEORGE AIKEN has nevertheless been magnificent through the sheer power of simple, straightforward talk to his colleagues, his constituents and to our countrymen. He has a deep love for them all, and this Nation shall always hold GECRGE AIKEN close to its heart.

A little over 2 years ago, GEORGE helped celebrate my 40th birthday, and in fact just the month before, GEORGE had celebrated his 80th. GEORGE AIKEN was twice my age then, and now as this man, our friend, prepares to depart this body, I find myself wishing we all could become but half the man GEORGE AIKEN is.

The countryside of Vermont shall be blessed in the years to come with the return of the dean of the Senate. The profile of the Green Mountains shall be joined and matched by the stature of GEORGE AIKEN.

Mr. PEARSON. Mr. President, for 34 years, the town of Putney has lent the U.S. Senate the services of its former moderator and most distinguished horticulturist, GEORGE AIKEN. And now, Putney is about to reclaim its own. For 34 years, GEORGE AIKEN has served his Nation and his State with distinction seldom equaled in the history of this Republic. Putney will be infinitely richer for his return and we will be equally poorer for his leaving.

Mr. President, I have had the pleasure of sitting next to GEORGE AIKEN for some years now and have benefited from his insight into the complex problems with which the Senate has grappled during those years. I thank him for that.

Mr. President, Senator AIKEN has set standards for dedicated service, for wisdom and for wit which will be hard for us to match. He has also set a commendable standard for brevity which I intend to meet in this tribute to him. So, Mr. President, I will conclude with a few appropriate words from another Vermonter of distinction, Robert Frost, who may have been thinking of GEORGE AIKEN when he wrote:

> I shall be telling this with a sigh
> Somewhere ages and ages hence:
> Two roads diverged in a wood, and I—
> I took the one less traveled by,
> And that has made all the difference.

GEORGE AIKEN has made a difference. The Senate and the American people are enriched for his having traveled our way 34 years as a Senator.

The people of Kansas join with me in wishing GEORGE and Lola Aiken well in the years to come.

Mr. HELMS. Mr. President, our distinguished colleague from Vermont (Mr. AIKEN) is a man whom I shall never forget. He is truly one of the most remarkable men ever to serve in the Senate.

Others have had a longer relationship with him than I, and I confess a bit of envy that this is the case. But nobody has enjoyed Senator AIKEN more than I.

There is not the slightest trace of pompousness in him. And in a city where far too many people take themselves far too seriously, Senator AIKEN is an oasis of candor and good humor.

He has been good for America because he is a good American. This Senate will miss him. I shall miss him. He and his dear wife, Lola, will forever have Mrs. Helms' and my best wishes—and our gratitude for their having brightened our lives.

Mr. CASE. Mr. President, GEORGE AIKEN early became a Senate institution. His terse comments as well as his yellow shirts and red ties have long distinguished him from his more garrulous, more soberly dressed colleagues.

I suppose he and his wife know every voter in Vermont. And obviously every voter loves them. For who else among us has been the nominee on both Republican and Democratic tickets? Who else has financed his campaign in what amounts to petty cash fund?

I join in wishing the Aikens many bright years ahead as they prepare to return to their beloved State.

Mr. HUDDLESTON. Mr. President, I would like to join my colleagues in paying tribute to Senator AIKEN, one of the most respected Members of this body, and a Senator who is known and respected throughout the world.

Mr. President, last year during my initial year in the Senate I was called on to floor manage a joint resolution dealing with the perennial problem of boxcar shortages. As fate would have it, I found that my principal opponent on this measure was the distinguished Senator from Vermont.

But as always, the Senator from Vermont was gracious and understanding of his junior colleague. Certainly no one could ask for a stronger opponent on the floor of the Senate. Senator AIKEN is tenacious in support of his great State and in support of the principles for which he is well known.

People have called him the conscience of the Senate, and well they should. He will be greatly missed, and I regret that I was able to serve with him for only 2 years.

Mr. STEVENS. Mr. President, let me take a few minutes to add my voice to those who pay tribute to the senior Senator from Vermont, GEORGE AIKEN. If the walls of these Chambers could speak to us now, they would remind us that few who have walked here have had such a long and distinguished record of public service as GEORGE AIKEN.

We have known GEORGE AIKEN as a gentleman, as a champion of rural folk, as leader and legislator, as an author, and as a man from the beautiful countryside of Vermont.

If I may be allowed a moment of candid observation, Mr. President, I would imagine that there is hardly a man among us here who is not at least somewhat envious of the wonderful homecoming Senator AIKEN has planned for himself.

But, Mr. President, this is precisely the point which bears observation, I think. Senator AIKEN has never really been that far away from his beloved homeland in spirit. He can rejoin the part of himself which has been waiting for him back on the farm in Vermont while he has answered the call of his country—a reunion with the heart.

This, to me, is one of GEORGE AIKEN's most precious gifts. He has never forgotten who he is, where he comes from, and how much he owes to his rich American heritage. He has been faithful to his constituents and to himself.

This is a model each of us should strive to achieve. I know the future will hold many pleasant days for Senator AIKEN, so I will close by simply saying, Thank you, GEORGE, for your many years of inspiration and leadership. We wish you and Lola long life and happiness.

Mr. BROOKE. Mr. President, it is difficult for any Member of the Senate to bid farewell to GEORGE AIKEN for none of us knows what the Senate is like without our dean.

A Senate without GEORGE AIKEN shall be a less warm institution devoid of his

wry humor and down-to-earth commonsense. Things will be different without GEORGE AIKEN. But no one would seek to deter him from going. As he said last June:

When I came to Washington, I left much unfinished work at home and I now want to get back to it.

GEORGE AIKEN wants to get back to his house on the hill and to his orchard and flower gardens. He wants to get back to his native Vermont and his fellow Vermonters, who six times have selected him to be their Senator.

Some time ago the distinguished majority leader ably described GEORGE AIKEN. He said:

In the aviary of the Senate GEORGE AIKEN is catalogued as neither a hawk nor a dove but as a very wise owl.

GEORGE AIKEN is very wise, indeed, in foreign and domestic policy. His Senate service spans World War II, Korean, and the Vietnam conflict, and he is often remembered for his formula on how to end our involvement in the latter conflict. He is credited with saying:

The United States should declare victory and get out.

But that was not exactly what he said. History should note that his 1966 proposal was that the United States should announce "victory" in its limited military objective of deterring North Vietnamese aggression, but that American forces should be redeployed to defense strategic population centers. If the North did not respond with further attacks then according to GEORGE AIKEN the U.S. troops could begin their gradual withdrawal. Had this proposal been accepted and tried, years of struggle and thousands of lives might have been spared.

GEORGE AIKEN has been heeded on many occasions and millions of rural Americans are grateful to him for their electricity. Countless farmers are in his debt for their successful water conservation projects.

In his 33 years in the Senate, GEORGE AIKEN has accomplished so very much. But GEORGE AIKEN shuns credit or fame. He is content to do his good work without fanfare. But his work is known to most Americans and it is definitely known to his colleagues. GEORGE AIKEN is not a partisan fighter. Indeed, he shuns political battles. He can accomplish more by bringing people together. He is an extraordinary conciliator.

Notwithstanding his skills and accomplishments, there is one quality GEORGE AIKEN has that particularly endears him to me. It is GEORGE AIKEN's unbounded enthusiasm for life. His love of nature and people are fortunately contagious. We, who have been lucky to be around him, have caught his joyful exuberance for life.

And now he and his delightful wife, Lola, leave us for their house on the hill in Putney. May they be blessed with many years of health in which to joyfully cultivate their land. May they know how very much they are missed.

At a retirement party given for GEORGE and Lola Aiken by our mutual dear friends, Frank and Jayne Ikard, I read a poem which I had composed and which I would like to share with my colleagues on this occasion:

Six hundred miles from Washington, speech has a special twang
The air is clear, the mountains green, life is not tooth and fang
From those hills to Washington, 34 long years ago
Came a man Lola still calls "Governor", down through the winter snow
FDR was President, Hitler at freedom's door
It was a time of crisis, the cannon about to roar
Our guest of honor took his seat on the Republican side of the Senate aisle
Where, ever since, through good times and bad he served with honor and style
Without flamboyance, ostentation, arrogance or cant
Not once has his voice been lifted in nonsense or to rant
Vermont's gift has been, instead—a model to be heeded
He has brought to national politics, a commonsense and wisdom always needed
The Pericles of Putney, the Voltaire of Vermont
He'll blush at titles like that but aptness they do not want
As his days in the Senate dwindle down to a very precious few
It's both fitting and proper for us to voice a most sincere thank you
When adjournment comes and session ends
Millions of Americans who consider themselves friends
With us will wish him adieu, God speed
As back to his orchards and garden his path will lead
The soil, some books, a loving wife, his home sweet home
A happy fate with which to close this poem.

Mr. DOLE. Mr. President, it is as much a pleasure for me to join with my colleagues today in paying tribute to the senior Senator from Vermont as it has been a privilege to serve with him in the Senate over the last 6 years.

As a relatively junior Member of this body, I will confess that upon my arrival in the Senate, I held Senator GEORGE AIKEN in some awe. And this is so not only because he is now the senior Member of the Senate in terms of length of service but also because during his 34 years as Senator from Vermont he has matched wisdom with experience in a manner so compelling it demands respect. He is a man of uncommon candor, with a happy facility for seeing through to the heart of complex issues. Doubtless, his roots in the hardy climes of Vermont do much to explain this.

I can add little to the tributes given him—the tributes he has earned well—over the years. But I do want to join with others in noting this transition in his life which will take him from the Senate for some well-deserved leisure.

I have known him as a fellow Senator, fellow Republican, and a fellow member of the Senate Agriculture Committee. I am proud to call him friend and join with my colleagues in noting what I firmly believe to be true—that the Senate of the United States of America has been enriched by his presence.

Since he was first elected town representative in 1931 and to the present his career in public service has been intimately bound up with the history and the progress of his beloved State of Vermont. For almost as long, he has been in as valuable a role of service to the United States of America.

After such lengthy selfless service the pleasures of retirement seem his by right. I join with my colleagues in gratitude to him not only for his accomplishments but for his example and to wish both he and his gracious wife Lola the very best.

Mr. TOWER. Mr. President, when GEORGE AIKEN leaves the Senate, 34 years of wisdom and wit, experience, and judgment will go with him. Such departures leave a very large gap in the Senate world. Vermont's very most senior Senator has a gentle, benign appearance. But beneath it is a tough, independent mind, impatient of "puffoonery." And this could give a very sharp edge to his comments and questions—as many a startled bureaucrat found out when testifying before the Agriculture or Foreign Relations Committees, on which Senator AIKEN served so long and with such distinction.

So we may say farewell to the dean of the Senate, the respected elder statesman, as it were, of Republican Senators. We say it with a mixture of sorrow and gratitude. We all wish he would remain with us, but we are indeed fortunate to have had his counsel for these many years.

We know that he is too vigorous and restless to simply rusticate. So we wish GEORGE AIKEN and his charming wife Lola many more happy and active years.

Mr. BAKER. Mr. President, last week the Members of the Senate were privileged to hear a moving and memorable address by the Republican dean of the Senate, the senior Senator from Vermont.

In what he termed "A Confession by a Valedictorian," GEORGE AIKEN reflected on his 34 years as a Member of the Senate. The wisdom, warmth, and wit of that address typified the grand qualities he has brought to this body in his more than three decades of service.

Senator AIKEN's career in public life began with his election as a town representative in 1931. As Speaker of the Vermont House of Representatives and as a progressive Lieutenant Governor and Governor, he served the citizens of the Green Mountain State well.

In the Senate, GEORGE AIKEN has served as the ranking member of the Foreign Relations Committee and as a member of the Agriculture and Forestry Committee. I have been happy to serve with him on the Joint Committee on Atomic Energy, where he has been the senior Republican Senator.

Senator AIKEN has worked with seven sitting Presidents during his tenure in the Senate. All have benefited from his good judgment, and I am sure that they all have wished they had acted more often on his sound advice.

I have been especially impressed, too, with Senator AIKEN's advice to the Congress concerning its relationship with the executive branch:

So long as the Congress devotes its efforts to recovering the authority which it has handed to the executive branch but declines to take back the responsibility that goes with this authority, we will not succeed in restoring the equilibrium which the founders of this Nation contemplated.

Mr. President, it has often been observed that Senator AIKEN is an institu-

tion in his home State. It can rightly be said that he is truly a national resource.

GEORGE AIKEN and his wife, Lola, will soon be moving back to Vermont. Because of his diversity of interest and his active concern for his fellow citizens, however, we can all be glad that GEORGE AIKEN will never really retire from public service.

Mr. STEVENSON. Mr. President, this Midwest freshman is grateful to have served in the Senate for 4 years with a genuine "Green Mountain Boy." True to his heritage, Senator AIKEN has been taciturn when words were not needed, and both wise and witty when they were. He is always salty and tempers his wealth of experience with humor and pungent good sense.

He practiced campaign spending restraint long before that became an issue. I understand that in one of his campaigns his total expenditures were for gasoline to go to two picnics. Granted that Vermont's first citizen had no need to campaign in the traditional way, nevertheless, simplicity and frugality are qualities which more campaigns could usefully employ now that estimated expenditures for Senate campaigns go as high as a million dollars or more.

There is also the legend which I heard when I first came to the Senate that on his reelection in 1968—unopposed—he protested to his very good friend, the majority leader, that he had been discriminated against by not having been invited to the Democratic Caucus.

Mr. President, the Senate and the Nation will be poorer without the distinguished senior Senator from Vermont.

Mr. RIBICOFF. Mr. President, the retirement of our distinguished colleague from Vermont will leave a deep void in the Senate. It is difficult to believe that after January there will not be GEORGE AIKEN answering the Senate rollcall. His position in the Senate, Vermont, and the country is unique, for he has served as a symbol to all of those who have had the pleasure and privilege to associate with him.

The respect and admiration that we in the Senate have for GEORGE AIKEN is a direct tribute to the wisdom, commonsense, and sound New England conscience which he has conveyed in all of his work. One can gain a sense for his special appreciation of Vermont's rocky hills, autumn leaves, cold winters, fresh springs, and warm summers through his manner and words. He has brought to public life the prudence and experience of the New England background and tradition. The brief words of our distinguished colleague have served to puncture all inflated ideas and posturings. Moreover, the skeptical approach he has employed in all of his work has served to make our policies just a little bit more sensible.

In his final statement to this body, Senator AIKEN discussed the method which we can use to judge our Presidents. We should put the good they have done in one pile, he suggested, and the mistakes in another and leave the decision to history to conclude which pile is greater. I feel safe in saying now that if we apply this same criterion to GEORGE AIKEN, history will undoubtedly decide that the overwhelming weight is with the good that he has accomplished for this country. GEORGE AIKEN'S wisdom is a great national asset, and though he will be retiring from the Senate, the message contained in his final statement will have a lasting impact on our actions in this body.

As special as GEORGE AIKEN is his great wife, Lola, adds an additional dimension. Bright, personable, lovely, and thoughtful she has been a great helpmate to him and his constituents and those of us who serve in the U.S. Senate and our wives.

As they both return to their beautiful and beloved Vermont our best wishes go with them.

Mr. HANSEN. Mr. President, a very real pillar of the Senate, the distinguished senior Senator from Vermont, Mr. AIKEN, will be leaving our midst at the end of this session.

A total of 34 years of service in the Senate is a great record; working with seven Presidents is a very real contribution to government.

In his farewell address recently, Senator AIKEN talked about the legislative branch of government and also noted that persons with whom he had been associated had done considerable good while in the field of public service.

Certainly this can be said about Senator AIKEN in a most positive and wholesome way.

His work in the Halls of Congress has made a very real contribution to good government, and he is to be commended for his record of accomplishment.

There are few Federal legislators like GEORGE AIKEN, Mr. President, and we will miss his ready wit and wise counsel a great deal in the 94th Congress and in the years ahead.

He and Mrs. Aiken plan to return to Vermont soon and to spend some time, I am sure, traveling that great State and visiting with the people who have returned him again and again to the Senate. He spoke, in his December 11, 1974, "Confession by a Valedictorian," of sincerely regretting the breaking of associations. Let me say that I—and all of my colleagues—regret the breaking of the association with Senator AIKEN as much. He has been an outstanding U.S. Senator. He has added warmth and good will to these Chambers and we are saddened by his departure.

Mr. HUMPHREY. Mr. President, it is with genuine sadness that I join others in saying farewell to Senator GEORGE AIKEN of Vermont.

In the years since he was first elected to the Senate in 1940, GEORGE AIKEN has served his Nation and State with personal integrity, great ability, and responsibility. He is the best of men in both public and private life.

He has been a friend, a source of good counsel and a pillar of strength. I have enjoyed our association on the Agriculture and Foreign Relations Committees.

In his own recent farewell speech, Senator AIKEN confessed that he had not always voted according to his own best judgment. I would answer that most people who have had the good fortune to serve in the Congress would be delighted to approach GEORGE AIKEN'S record in terms of adhering to one's principles. He has set a standard for all of us.

I know that Senator AIKEN has many happy years of retirement ahead of him, as well as fond memories of many years of public service. I wish him well, and will continue to cherish his friendship.

Mr. HASKELL. Mr. President, it's difficult to imagine a tribute to our most senior colleague, which will not include his now-famous remark about American involvement in Southeast Asia, "Let's declare it a victory and get out."

I hope that in his retirement, Senator AIKEN will forgive us if he tires of hearing it. For in quoting that remark, we can sum up the man even if we cannot begin to recount his accomplishments and the leadership he has provided in 33 years of service in the U.S. Senate.

That statement about the futility of our role in Indochina condenses the wisdom, directness, and perception of the Senator from Vermont. But this man who towered, quietly, almost self-consciously in the Senate is also a gentleman, one who has authored books on wildflowers, on fruits and berries. I shall treasure a scene I witnessed recently leaving my office building to walk across to the Capitol: A flock of pigeons flew from the steps across Constitution Avenue. I thought they were startled. But they were merely joining others converging on Senator AIKEN who was walking along, sack of nuts in hand, to the regular evening feeding session.

They, like us, the people of Vermont and the Nation, will miss a good friend on whom they relied. I hope the retirement years are good to GEORGE AIKEN. And gentle.

Mr. CRANSTON. Mr. President, our colleague GEORGE AIKEN of Vermont, after a long and distinguished career in the Senate, will retire at the end of this year to his home in the Green Mountains. I join with my colleagues in wishing GEORGE and Lola the very best as they prepare to return to Vermont.

Senator AIKEN'S contributions to the Nation have been many. But his unique contribution has been his courage and perception to say the right thing at the right time in a few simple rock-hard words that go straight to the heart of an issue, and thus profoundly influence its outcome.

In the Senate GEORGE AIKEN has epitomized the practical wisdom of the New Englander's deep appreciation for the limits of what is possible. He is a man of wisdom, tolerance, and restraint. The Senate, which was greatly enhanced by his presence, will be greatly lessened by his retirement.

Mr. HRUSKA. Mr. President, at the conclusion of this session of the Congress we will say farewell to a distinguished colleague and dean of the Senate Republicans, Senator GEORGE AIKEN, the senior Senator from Vermont.

I join with my colleagues today in a tribute to Senator AIKEN who has served admirably and well for these many years. Senator AIKEN was a colleague and friend of my predecessor in the U.S. Senate, Senator Hugh Butler. Although they had a difference of opinion on some things,

they shared the same fine qualities of honesty, integrity, and wisdom.

Senator AIKEN has had a long and distinguished public career. He has served the people of Vermont in many capacities and they have shown their appreciation many times over. As a town representative, speaker of the legislature, Lieutenant Governor, Governor, and U.S. Senator, GEORGE AIKEN has always placed the welfare of his constituents in the forefront. They, his colleagues in this body and the people of the United States will sorely miss him.

Senator AIKEN has always considered himself, above all, a farmer—and a good one. That he is. Throughout his public life his concern and interest in the outdoors and in the preservation of the natural state of things have consistently shown through.

At the end of his outstanding career in the Nation's Capital, he will be returning to his beloved Vermont. Through the years he has never hidden his joy and excitement of being able to return at a congressional recess or adjournment period to his lovely mountain home. Now, he will be able to spend even more time there.

Through the years I have had the privilege of observing Senator AIKEN's willingness to share his friendship, good counsel, and experience. I thank him for the many times he has given me good advice.

I wish GEORGE AIKEN and his lovely wife, Lola, well in all of their future endeavors and I know that he will have many years to reflect on the rich experiences of the past and work for the future.

Mr. RANDOLPH. Mr. President, I gladly join with the Senator from Vermont (Mr. STAFFORD) and my colleagues in marking the impending departure of a truly noble individual, Senator GEORGE D. AIKEN of Vermont.

Each of us in this body has an especial fondness for the dean of the Senate, and each of us share respect and admiration for GEORGE AIKEN that is enduring.

In his 34 years here, he has been a rock of integrity and a model of legislative astuteness. I know that, on his return with his wonderful wife and partner, Lola, to the beautiful hills of Vermont, he carries with him the intense satisfaction of having served grateful citizens in an exceptional manner. It has been my privilege to work with GEORGE AIKEN for 16 years, and I know of no person who has more faithfully and diligently earned the title of "Senator." He is one of us, and he will always remain so in our hearts.

Mr. ROBERT C. BYRD. Mr. President, 43 years is a long time for a man to devote to the service of his community, his State, and his country.

When GEORGE AIKEN was first elected as town representative of his native Putney, in 1931, he began a life of public service that saw him distinguish himself as Speaker of the House of Representatives of Vermont, Lieutenant Governor, and Governor of that State, and, in 1940, and since, as U.S. Senator.

Throughout this odyssey, Vermont's senior Senator has brought to every office he has held, a distinction and a presence of which the people who elected him can be justly proud. That they are proud of GEORGE AIKEN is amply evidenced by the fact that they have elected him to the U.S. Senate six times. Had he not decided to retire, there is no question that the good people of Vermont would have elected him for just as long as he cared to run.

GEORGE AIKEN is a man whose wisdom transcends party affiliation, and whose patriotism transcends political philosophy. Many times on the floor of the Senate, his incisiveness and wit have leavened, and livened the course of debate. Many times, in public and in private, his measured counsel has been of inestimable value to his colleagues on both sides of the aisle.

For myself, and I am sure for my colleagues in this Chamber, I wish this distingiushed New England Senator a most regretful farewell, and express the hope that in the years to come, his love for Vermont will not preclude his frequent return to the city, and to the body in which he served, and which he graced for so many productive and fruitful years.

Mr. HATFIELD. Mr. President, I rise today to pay tribute to the dean of the Senate, Mr. AIKEN of Vermont. Throughout his service here in the Senate, Senator AIKEN has had the reputation of being a man of great integrity. He has been a man true to his word.

Mr. AIKEN served with distinction as ranking minority member on the Senate Foreign Relations Committee and as the second senior Republican member on the Senate Agriculture Committee. Senator AIKEN's expertise as a nurseryman is well known to all of the Members of this body, and we are all pleased that he will be returning to Vermont upon his retirement to continue the profession he so dearly loves.

Despite his many years of Government service, Senator AIKEN never lost touch with the people he represented here in Washington. Mr. AIKEN served his State and country well, and we all respect him not only for the service he provided here in the Senate, but also for the principles he has worked for throughout his life.

I know that I join my colleagues in wishing Senator and Mrs. AIKEN God's blessing as they prepare to return to their native State of Vermont.

Mr. TUNNEY. Mr. President, today we formally say goodbye to a man who has served the U.S. Senate with rare distinction for the last 34 years, Senator GEORGE AIKEN of Vermont.

It is true that GEORGE AIKEN is the "dean" of the Senate, and the senior Member of the Republican delegation. It is true that his work of the last 34 years has left its mark on every major piece of agricultural legislation during that period, and made him a leader in fighting for the interests of America's backbone, its family farmers.

It is true that GEORGE AIKEN has served on the Senate Committee on Foreign Relations during the most crucial period of that committee's existence—the years following World War II. In that position, he has brought his customary industry, candor, and insight to bear in creating and overseeing American foreign policy.

However, these facts somehow fall far short of describing the essence of the man that we, his colleagues in the Senate, have come to know so well and respect so much.

To try to sum up the parts of this remarkable man is a task which would tax someone with far greater descriptive powers than I possess. We do know however of some of the characteristics which most typify him—his candor, in a world and a profession where evasiveness is all too often a byword—his humility, all too often lacking in those of far fewer talents—and, perhaps most important, his humor, quality forgotten in an age of deadly seriousness.

We know GEORGE AIKEN for these and other traits, traits which have distinguished him and generations of his forebears from Vermont, and which have given him and them the deserved reputation for honesty, good sense, and dedication to the principles of democracy. For bringing those qualities to the Senate in 34 years of service to this institution, to the people of Vermont, and to the citizens of this country, we owe him a vote of thanks and our profoundest best wishes, as he and his lovely wife retire to their beloved north country. We would all do well to keep his example close at hand as a model of the public servant.

Mr. BAYH. Mr. President, adjournment of the 93d Congress this week will mark the end of one of the most distinguished careers in the history of the U.S. Senate, that of the distinguished Senator from Vermont, Mr. AIKEN. I would like to take this opportunity to join in the special accolade for Senator AIKEN.

Known as the dean of the Senate, our venerable colleague from Vermont has served the people of his State and the people of the Nation for over 40 years. His election to the State legislature in 1930 began a meteoric rise which led him to the positions of speaker of the house in the Vermont State Legislature by 1933, Lieutenant Governor in 1935, Governor of the State of Vermont in 1937, and U.S. Senator in 1941.

When he came to the Senate, Senator AIKEN brought with him a keen understanding of both the executive and legislative branches of government and in the ensuing years he used his expertise to the benefit of all. It is a tribute to his excellence and service to the Nation and the State of Vermont that the voters have returned him to the Nation's Capital for over 30 years without exception.

Mr. President, our distinguished colleague from Vermont has provided us with the finest example of courage and integrity throughout his outstanding career. He has taught us all too many lessons to count. I hope that in the future, we will all take time to reflect upon his service, and seek to emulate his record. I know that if we do, we will successfully continue his work of making the U.S. Senate a better legislative body.

THE WISDOM AND LEADERSHIP OF GEORGE AIKEN

Mr. JAVITS. Mr. President, for the past 34 years the Senate and the Nation have looked to GEORGE AIKEN for the wis-

dom and leadership he possesses in such abundance. In that long span of time he has not failed us.

We looked to GEORGE AIKEN during the depths of our despair over Vietnam and he did not fail us. He journeyed to Vietnam with Senator MANSFIELD in 1965 and sounded one of the earliest warnings of the morass into which we were sinking. We paid a tragic price for failing to heed his prophetic remarks on time.

We looked to GEORGE AIKEN amidst our anguish over Watergate and he stood as a living example of absolute and total integrity in Government. He is a man our country could trust and believe in when those qualities seemed in alarmingly short supply.

The people of Vermont have long known to look to the Aiken family for leadership. Each generation of Aikens has had a member holding public office since the Revolutionary War. GEORGE AIKEN is the proud upholder of a great American tradition.

Senator AIKEN has left a deep imprint upon the American spirit. As the people of Vermont will gladly attest, he has played a major role in improving the day-to-day aspects of life in that region. He was the leader of the decades-long struggle to construct the St. Lawrence Seaway.

This vital inland waterway has returned its initial investment many times over in increased trade, strengthened security and electricity generated for rural areas. Senator AIKEN has always taken justifiable pride in his role in improving water resources in New England. His Water Facilities Act of 1954 was literally a lifesaver for many rural communities threatened by dangerously low supplies.

The people of Vermont and the Nation will deeply feel his deserved retirement from public service. I am proud to have served with GEORGE AIKEN as a Senator and a Republican and to call him a friend. Mrs. Javits and my warmest good wishes go out to Senator and Mrs. GEORGE AIKEN.

Mr. THURMOND. Mr. President, I take great pleasure in adding a few more words of tribute to the many that have already been spoken about Senator GEORGE AIKEN of Vermont. Everyone knows that Senator AIKEN, with 34 years of service, in the dean of the Senate. However, I suspect that many people do not appreciate just how much history these 34 years include. What really brings home to me the durability of Senator AIKEN is the realization that he was a Member of the U.S. Senate before the beginning of World War II. He is the last Member of the Senate about whom this will ever be said. The retirement of GEORGE AIKEN really does mark, in the common phrase, the end of an era.

But GEORGE AIKEN will not be remembered only as one of the country's longest-serving Senators. He has been one of the country's most respected Senators as well. A true son of Vermont, he has never spoken rashly or garrulously, but has always weighed every word carefully. As a result, when GEORGE AIKEN speaks, people listen. I wish the whole Nation could have heard his farewell address to the Senate on December 10, which was full of wisdom from beginning to end. I thought that his remarks about the spiraling cost of government were particularly appropriate. GEORGE AIKEN is leaving the Senate as he entered it, a stanch supporter of fiscal responsibility.

There is no concealing the loss the Senate will suffer when GEORGE AIKEN retires. We shall miss him both as a Senator and as a man. His extraordinary kindness and gentleness have made him a highly respected figure in this body and all over Washington. The same can be said of Senator AIKEN's charming wife Lola, who has contributed so much to the Senator's career as his adviser and assistant. Her wisdom, dedication, and efficiency have been invaluable to him.

Mr. President, Mrs. Thurmond and I have become very fond of both Senator and Mrs. Aiken. We take this opportunity to thank them for all they have meant to the Senate and the Nation, and to wish them a long retirement full of health and happiness.

Mr. STAFFORD. Mr. President, I wish to express my appreciation.

The PRESIDING OFFICER. All the time of the Senator from Vermont has expired.

Mr. CANNON. Mr. President, I yield 2 minutes to the Senator from Vermont.

Mr. STAFFORD. In that event, I wish to express my appreciation to the Senator for yielding, and my appreciation to all the Senators who have joined with me in the tribute to my senior colleague, GEORGE AIKEN, this morning.

If it is in order, Mr. President, I ask unanimous consent that the RECORD might be kept open for 1 additional legislative day so that remarks of other Senators who may wish to do so may be placed in the RECORD.

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

Mr. STAFFORD. I yield back the remainder of the 2 minutes to the Senator from Nevada.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada is recognized for not to exceed 15 minutes.

TRIBUTES TO SENATOR ALAN BIBLE

Mr. CANNON. Mr. President, yesterday our colleague and my fellow Nevadan, Senator ALAN BIBLE, retired from the U.S. Senate after 20 years of distinguished service to the Nation.

Characteristically, ALAN stepped down early so that Senator-elect PAUL LAXALT can get a "leg-up" on seniority and committee assignments, thus placing Nevada in a better position when the new Congress is sworn in.

It is with a sense of personal loss but with great pride that I recount ALAN's service in the Senate and his assistance to me through the years. For it has been my fortune to have worked closely with ALAN since we formed what ALAN and I call "our team" 16 years ago in these Senate Chambers.

Over the years I have had a unique and most satisfactory opportunity for first-hand observations of ALAN's contributions to our State and Nation. Through diligence, creative energy, and tireless efforts, ALAN BIBLE played a vital and pivotal part in the growth and development of Nevada and the Nation.

His contributions to our country's park and recreational resources have been priceless. Under his leadership the Congress has expanded the Nation's parks and recreation programs on an unprecedented scale in the past decade.

ALAN BIBLE was first elected to the Senate in 1954 to complete the unexpired term of the late Senator Pat McCarran. His activities on the powerful Appropriations and Interior Committees have served the Nation well. As chairman of the Subcommittee on Parks and Recreation and the Subcommittee on Public Lands, ALAN wrote an unsurpassed record in expanding and improving the National Park System and was a leading proponent of water and land resources. He has received the National Distinguished Service in Conservation Award from the National Wildlife Federation, and was similarly honored by the National Trust for Historic Preservation and the American Scenic and Historic Preservation Society.

During his chairmanship of the Committee on the District of Columbia, ALAN BIBLE was author of the crime control bill enacted in 1967 and held up as a dynamic model for other large metropolitan areas to follow.

That measure for the Nation's capital also served as a pathfinder for many major provisions in the 1968 Crime Control and Safe Streets Act. He was coauthor of the omnibus victims of crime bill passed by this body last year and is a recognized leader in the battle against cargo theft and fencing of stolen property.

In 1961, ALAN BIBLE authored and pushed through his committee the first 18-year-old voting bill ever approved by a congressional committee. His legislation was the forerunner of congressional approval and ratification of the 26th amendment to the U.S. Constitution giving 18-year-olds the right to vote.

His Senate record on behalf of the State which gave him birth has a broad theme running through it—progress.

Progress in keeping up with the booming growth of the State's population and its demand on Nevada's resources, and progress on the social side of that growth, as the burgeoning population brought increasing demands for quality education, medical facilities, jobs, and social services.

A recounting is in order: In December 1954, when ALAN was sworn into the Senate, Nevada's population was about 222,000. Five years brought an additional 62,000 men, women, and children and 10 years after that, in 1970, our State's population stood at 489,000—almost one-half million persons. Today we exceed that mark, as Nevada's population is estimated at 548,000 persons.

ALAN, through his committee work in Interior and Insular Affairs and the

Committee on Appropriations, was on top of that growth every step of the way. Without ALAN's leadership we would not have our $83,000,000 southern Nevada water project. This project is designed to meet Clark County's growing water needs through the next half century.

Under ALAN's guidance as chairman of the Senate Subcommittee on Parks and Recreation, Lake Mead was established as the first national recreation area in the United States. As Interior Appropriations Subcommittee chairman, ALAN was able to secure more than $20 million for its development.

These same key committee assignments enabled ALAN to secure congressional approval for his plan to protect underdeveloped areas at Lake Tahoe. This involved the acquisition of 10,452 acres of land on the Nevada side of the lake for $10.6 million in Federal funds—the largest purchase ever made from a single owner in the history of the National Forest System.

The Washoe reclamation project, sponsored by ALAN BIBLE, was enacted in 1956. Under this vital multipurpose project developing the Truckee and Carson watersheds, Stampede and Prosser Creek Dams have been built. Construction of the Marble Bluff Dam and Pyramid Lake fishway is underway.

ALAN BIBLE also used his seniority and committee assignments for countless other projects in Nevada. It was with great pride and a sense of shared accomplishment that ALAN and I worked together for the expansion of Nellis Air Force Base and the naval ammunition depot in Hawthorne.

ALAN's foresight has meant much to Nevada, and in fact to the whole country, in the continued preservation of scenic wonders in a system of national parks and monuments for all Americans to enjoy.

I mentioned ALAN's efforts on the social side of that growth. No one is more familiar with his activities than the National Education Association which awarded him their distinguished service award.

No parent can be more thankful than those whose children are being educated under funds for the impacted areas school program, a program which two successive administrations attempted to dissolve, but which we teamed up to retain.

ALAN BIBLE is regarded as a prominent champion of education and health research programs through his activities on the Labor, Health, Education, and Welfare Appropriations Subcommittee.

ALAN and Loucile have left public life to return to Nevada, their first love. And this great State will welcome them home to resume a private life. I know ALAN will be active in the pursuits he finds rewarding, such as teaching, reading and enjoying his home and family life.

As for me, I am proud to have been his friend and colleague, proud that we have worked together for the Nation and State we both love.

Mr. GOLDWATER. Mr. President, serving in the U.S. Senate with Senator ALAN BIBLE has been a distinct pleasure and an honor for me, representing as he does the State of Nevada which borders on my own State of Arizona. In fact, their main county, Clark County, was once part of Arizona. He has understood thoroughly the problems of my State and has helped many, many times in getting legislation passed which would help our State and also in getting legislation killed which would damage it.

I know I speak for all of the people of Arizona when I say thank you, ALAN, for a job wonderfully done. We are going to miss you, but I wish you the very best for the coming years.

ALAN BIBLE: THE CRIMEFIGHTER

Mr. McINTYRE. Mr. President, when ALAN BIBLE, the senior Senator from Nevada, resigns his seat tonight, the Senate will have lost one of its most dedicated crimefighters. It has been my pleasure to serve on the Select Committee on Small Business under his chairmanship, and I know how zealously he has worked for legislation that would help our police and law enforcement officers carry out their duties His diligence has made the crimefighter's job a little easier, and the criminal's a lot tougher.

Let me cite some of Senator BIBLE's accomplishments:

First, and perhaps most noteworthy, has been his work in the area of criminal redistribution, or fencing, as it is more commonly known. Senator BIBLE has greatly increased this body's and the public's awareness of the fence and his role in crime. The Senator recently completed and filed a report on criminal redistribution, the first major Federal work on fencing done by this country since an English study done at the time of the American Revolution.

The fence, as we now know, is an integral part of the crime world. Far from the image of a shadowy figure on the edge of the criminal underworld who merely receives merchandise, the fence is a major purchaser and seller of stolen goods. He will often go as far as ordering the theft of appropriate goods, even automobiles, for resale. We can thank the distinguished Senator for our new knowledge of how the fence operates.

Second, Senator BIBLE has worked long and hard to cut cargo theft. During his years as chairman of my committee, he held hearings, introduced legislation, and pushed the administration to find new ways to reduce cargo theft that was costing small businessmen billions of dollars.

Following the Senator's recommendations, the Department of Transportation began a program for uniform cargo loss reporting.

Through the Department of Justice, the Senator encouraged the development of cargo security working groups. As a result of Senator BIBLE's efforts, the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Administration have all made progress in cutting the insidious costs and hardships brought on by cargo theft.

Finally, Senator BIBLE worked with the Department of Commerce to produce a diligent study on the volume and costs of cargo theft in this country.

Truly, the Senate, the people of the State of Nevada and the Nation, can be proud of Senator ALAN BIBLE and grateful for his many contributions to a safer society.

Mr. FONG. Mr. President, I rise to pay tribute to our distinguished senior colleague from Nevada (Mr. BIBLE) who resigned Tuesday night after 20 years as a U.S. Senator. ALAN BIBLE can look back with pride on a record of solid achievements that has established him as a distinguished and respected lawmakers.

First elected to the Senate in 1954 to complete the unexpired term of the late Senator Pat McCarran, ALAN BIBLE showed leadership qualities early in his Senate career. When he was appointed acting Senate majority leader for a brief time in 1956, it was the first time since the Senate was organized in 1789 that a Senator with less than 3 years' service had served in that key position.

As chairman of the Senate Appropriations Subcommittee on Interior and as a member of the Senate Committee on Interior and Insular Affairs, he has been very understanding and helpful in responding to the needs of island communities in the Pacific, such as my State of Hawaii.

In fact, on March 11, 1959, ALAN BIBLE cast his vote in favor of statehood in Hawaii. I know I speak for the people of my State when I say we shall never forget ALAN BIBLE and his colleagues who voted to make Hawaii the 50th State.

ALAN BIBLE has earned widespread recognition for his outstanding efforts in expanding and improving the National Park System and the Nation's water and land resources.

Having served on the Appropriations Committee with ALAN BIBLE, I can attest to his steadfast support of education and health research programs through his work on the Labor, and Health, Education, and Welfare Appropriations Subcommittee.

His expertise in so many fields and his ability to work with his colleagues will indeed be missed in the Senate, as will his very pleasant and agreeable personality. ALAN BIBLE is respected as a gentleman and beloved as a man who always treats others with courtesy and kindness.

As he nears retirement, I want to extend my warmest aloha and best wishes to ALAN and hope that he will enjoy many years of happiness and fulfillment.

Mr. TALMADGE. Mr. President, I join the Senate in this salute to Senator ALAN BIBLE on his retirement from the United States Senate.

Senator BIBLE has been a good friend and colleague. He has been an able senator who has served the State of Nevada and the Nation with great distinction. Senator BIBLE has earned the respect of people throughout the Nation for his untiring efforts and leadership in the field of conservation and protection of our natural resources. He has probably done more than any other senator in history to expand and improve our national park system.

Georgians are especially grateful to Senator BIBLE for steering legislation through the Senate to establish Cumberland Island off the coast of Georgia as a national seashore. In connection with this action, Senator BIBLE visited Cumberland Island, and Georgia was honored by his presence.

Senator BIBLE is deserving of commendation from the Senate and the Na-

tion for a job well done. I wish him every success and happiness in his retirement.

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

Mr. CANNON. I yield 2 minutes to the Senator from North Dakota.

Mr. YOUNG. Mr. President, while I can understand our friend Senator BIBLE'S decision to retire, I cannot help but feel a sense of sadness. I never had a better friend in the Senate, and I have enjoyed working with him these many years, both on the Senate Appropriations Committee and in the Senate itself.

Few, if any, Senators ever had more friends in the U.S. Senate or commanded more respect from his colleagues than ALAN. Among Senator BIBLE'S many fine qualities is that he is one of the most able chairmen of the several different subcommittees he chaired on the Appropriations Committee and on the other committees on which he served. No one ever gave more of his time, attention, and study to all of the problems involved in the important subcommittees he chaired on the Appropriations Committee, such as Interior.

I do not know of any chairman who has been more considerate of me than ALAN BIBLE in his capacity as chairman of the Interior Subcommittee. He has always been very helpful to me—and especially when I had a problem and a good case. He has a unique way of saying "No" when he thought you did not have a good case, and he could do this in such a way he could even make you believe you were wrong.

Senator BIBLE is a man of the highest integrity—and has evidenced a dedication and diligence—not only in the fields of legislation which come within the purview of his subcommittee—but in the entire work of the Committee on Appropriations on which we served together.

The record of achievement that he leaves behind him will long endure as a reminder of his accomplishments in the national parks, wilderness preservation, recreation, natural resource conservation—and in assuring that our Nation will have adequate supplies of energy in the future.

The citizens of Nevada, and all Americans, can be grateful for his independence of mind and his great contribution—not only to his beloved State of Nevada—but the entire Nation. While serving in the best traditions of the Senate he has brought honor to himself, his family, the U.S. Senate, and to our Nation.

May the years to come be very pleasant for both ALAN and his good wife, LOUCILE.

Mr. HELMS. Mr. President, I have many regrets about the departure of our distinguished colleague from Nevada (Mr. BIBLE), one of the main ones being that I have been privileged to serve with him only a mere 2 years. I envy Senators who have been blessed with longer associations with this great American.

But I count the blessing of having served with him for at least a little while. He is a sound, solid American, and his contributions to his country are obvious.

I shall miss his cheerful disposition, his constant willingness to lend a hand to a freshman Senator, and the quiet, deliberative way he went about his responsibilities.

As he moves into retirement, I have not the slightest idea, Mr. President, that ALAN BIBLE will really retire. I suspect that we will see him continue doing what he has always done—anything and everything to help this community, his State, and his country.

Mr. McGEE. Mr. President, yesterday officially brought to a close the long and distinguished Senate career of our colleague, the senior Senator from Nevada, Mr. BIBLE. He will be remembered by many different people for his many and varied accomplishments during his 20 years in the Senate. One area in which he has displayed dynamic and effective leadership involved water development, which is of such importance to his own State of Nevada and the entire western area of the United States.

Since his State and mine have experienced many similar problems involving water development, I have worked very closely with him on these matters of mutual interest and concern. As a result of this close association I can personally attend to his quiet but effective leadership.

A dual role as a member of both the Interior and Insular Affairs and the Appropriations Committees of the U.S. Senate has given Senator BIBLE a unique opportunity to leave a lasting imprint on water resources development in both his native Nevada and the Western United States. His record during 20 years in the Senate attests to how well he has used that opportunity.

His distinctive approach, seldom flamboyant but nearly always quietly effective, has resulted in legislation which has produced great benefits to the multipurpose development of the West's water and land resources, particularly in Nevada.

Largely through his efforts, southern Nevada staved off a water famine which most assuredly would have crippled the growth and economy of that entire section of the State. Along with other members of the Nevada congressional delegation, Senator BIBLE worked ceaselessly for authorization of and funding of the Bureau of Reclamation's southern Nevada water project, designed to meet the water needs of the rapidly growing Las Vegas metropolitan area.

Early in his Senate career, Senator BIBLE observed the need for a Federal program to provide funds for small reclamation projects in the Western States. With the backing of Senator BIBLE, Senator Clinton Anderson of New Mexico, and Senator Thomas Kuchel, of California, in the Senate and of Representative Clair Engle of California, in the House, the initial legislative act was approved in 1956, setting up a program of loans under what is now known as the Small Reclamation Projects Act—Public Law 84–984.

Since that time, over 50 projects, totaling over $132 million in cost, have been authorized under the Small Reclamation Act loan program, and another $10 million is in the works during fiscal year 1975.

In January 1965, Senator BIBLE introduced a bill in the Congress to authorize the Secretary of the Interior to construct the southern Nevada water project. This project was subsequently authorized in October 1965. Construction of the first phase of this project, capable of delivering up to 132,000 acre-feet of water annually from nearby Lake Mead to meet the municipal and industrial water needs of Las Vegas, North Las Vegas, Henderson, Boulder City and Nellis Air Force Base, was started in the spring of 1968. The project delivered its first water in the summer of 1971 to metropolitan Las Vegas, just in time to alleviate a serious water shortage in the area and to forestall an overdraft on the underground water supply which was increasing pumping costs as well as threatening to totally deplete that water source. During the interim between authorization and construction completion, Senator BIBLE diligently fought for and obtained funds for this project.

This year, only 3 years since first delivery of water through the project's system, Nevada's new Division of Colorado River Resources is working with the Bureau of Reclamation in planning the second stage, which will be capable of delivering an additional 166,800 acre-feet of water annually from Lake Mead to the project area. Thanks in large part to the unflagging efforts of Senator BIBLE to meet the rapidly expanding water needs of southern Nevada, $500,000 of unbudgeted funds was added to the fiscal year 1975 public works appropriations bill for advance planning for this second stage.

The southern Nevada project will make it possible for the State to beneficially use its entire entitlement of 300,000 acre-feet of Colorado River water.

Looking toward the possible development and utilization of other water resources in southern Nevada, Senator BIBLE has been instrumental in the investigations of the Amargosa and Moapa Valley pumping projects. Purpose of these investigations include development of the land and ground-water resources of the Amargosa Valley in Nye County and plans for the most beneficial use of available water and land in the Moapa Valley area of Clark County.

Nevada's senior Senator is regarded as the "father" of the incorporated community of Boulder City, Nev., that small oasis in the desert near Las Vegas which was built by the Bureau of Reclamation in 1931 to house workers building Hoover Dam. It was through his untiring efforts that the Boulder City Act of 1958 was passed, permitting the incorporation of Boulder City as a municipality under the laws of the State of Nevada. The legislation also provided for the renovation of McKeeversville, the so-called Lakeview addition. Existing houses in the addition were relocated as needed, streets were paved, sewer, water and power facilities were added and the land offered for sale to the householders. The Lakeview addition has since developed into an attractive area. Many new homes, with a beautiful view of Lake Mead, have been added and increased valuations and tax revenues have resulted. Boulder City is now an attractive community of nearly 6,000 residents, with self-government and a multitude of other benefits.

To assure adequate water service to Boulder City, Senator BIBLE was instrumental in obtaining funds in 1970 for construction of twin 5-million-gallon-capacity underground reservoirs for the city. These reservoirs receive water from the southern Nevada water project, another "pet project" of the Senator's. Without this increased storage, the increased growth of the city would have resulted in water shortages in peak demand periods and in substandard water pressures.

Facilities of the Pacific Northwest-Pacific Southwest and Mead substation have materially strengthened the power transmission system between Southern Nevada and the Phoenix, Arizona, area. Senator BIBLE was one of the major proponents of this system and was the major speaker at the groundbreaking ceremony for Mead substation, near Boulder City. Efforts of Senator BIBLE to secure funds played a major role in installation of the last hydroelectric generating unit in the Hoover Dam powerplant. This unit went on the line in late 1961, raising the installed capacity of the Hoover powerplant to 1,344,800 kilowatts and generating power used over much of the State of Nevada.

One long-time dream of Senator BIBLE has yet to materialize, despite constant efforts. This is authorization for construction of a bridge across the Colorado River a mile downstream from Hoover Dam. This crossing would greatly relieve the traffic congestion on the roadway atop the massive dam and, in addition, would provide a visitor lookout point downstream from which Hoover Dam would be in full view. Moreover, the reduced traffic across the dam would provide more enjoyment to the tourist and act as an additional safety factor.

Senator BIBLE was a cosponsor of legislation authorizing the Colorado River Basin Salinity Control Act and was instrumental in effecting the inclusion in the act of a program to reduce the salinity of the water flow from Las Vegas Wash into Lake Mead. He also was a strong supporter of moves to include three other upstream salinity control programs in the legislation, which is aimed primarily at reducing salinity in the lower reaches of the river. Most immediately, this far-reaching program will improve the quality of water delivered by the United States to Mexico and thus reduce a longstanding dispute between the two nations over water salinity. From the long-range standpoint, this landmark legislation will improve the overall quality of Colorado River water which annually irrigates some 3 million acres of land and quenches the thirst of nearly 11 million people in the Colorado River Basin and some adjacent areas.

While his support of legislation to develop and utilize the water resources of the West has been of great significance, the role played by Senator BIBLE in effectively obtaining appropriations for these projects has been of equal importance.

Early in his Senate career, he was a prime mover in efforts to restore funds budgeted for construction of the Prosser Creek Dam, a major facility of the Washoe project in Nevada. His efforts to obtain continuing funds for completion of this project resulted in construction of Stampede Dam and Reservoir and the Hope Valley Reservoir in the midsixties.

One of his continuing interests in Nevada was development of facilities for the Truckee-Carson Irrigation District. After his persistent efforts to obtain funds resulted in completion of Stampede Dam and Reservoir, Senator BIBLE turned his attention in the seventies toward effecting construction of Marble Bluff Dam and the Pyramid Lake fishway and these efforts are now bearing fruit. He has also been instrumental in obtaining continuing funds for advance planning for expansion of Rye Patch Reservoir and this work is scheduled to begin in 1976.

Throughout his career, his ability to look to the future and his support of new and innovative water development concepts has been a major characteristic of Senator BIBLE.

An example of this forward-looking approach is his early and continued support of efforts by the Bureau of Reclamation to provide a new water source through weather modification programs. Since the program started in 1965, Senator BIBLE has been a strong supporter of and advocate for the Bureau's cloud-seeding research and efforts to increase precipitation in the arid regions of the West. He was instrumental in obtaining funds for the University of Nevada's Desert Research Institute and fought for continued funding of the entire weather modification program.

Senator BIBLE is a lawyer by profession, and his quick grasp of the legal ramifications of complex issues has been one of his outstanding characteristics. His skill in guiding legislation vital to the water-short western area of the Nation and his effectiveness in working to convince his Senate colleagues of the economic necessity of multipurpose water development projects have been outstanding and have made his contributions to Nevada and the Nation into tangible monuments to his memory.

Mr. BUCKLEY. Mr. President, ALAN BIBLE, the distinguished Senator from Nevada, is retiring from the Senate after 20 years of service to the people of Nevada and to our country. I would like to take this opportunity to pay tribute to this able and devoted public servant.

It has been my good fortune to know and work with ALAN BIBLE as a member of the Interior and Insular Affairs Committee, and I can say that during the almost 4 years that I have been a Member of the Senate I have learned from and have been guided by his example. Although we sit on opposite sides of the aisle, it has been my experience that the Senator from Nevada never descends to mere partisanship or political maneuvering in reaching decisions that will affect our Nation. Indeed, the balanced, rational approach to complex problems, combined with his spritely good humor, have been the hallmarks of a style that have persuaded the voters of Nevada to send him to the Senate in 1954 and to reelect him three times after that. Finally, there is that consideration for others that is typified by his resignation this week so that his successor, even though of another party, might gain the advantages of seniority. Although I warmly welcome the new Senator from Nevada, who today succeeds Mr. BIBLE, I think it is safe to say that we will all miss ALAN BIBLE's counsel, his wisdom, his judgment, and his infinite good nature.

I know that there are many in this body who have known ALAN BIBLE longer than I have and that they are ready to speak of his admirable record over the years. Allow me then, Mr. President, to speak of him from my own personal knowledge during the relatively brief period in which it has been my privilege to know and work with him.

When most of us think of the word "conservation" we tend to think in terms of those great stretches of public lands, for the most part located in the western part of our Nation. But the need for conservation of public land is as important in crowded urban areas as it is in the ralatively sparsely populated West; indeed, I believe it can reasonably be argued that in some cases the need for rational use of scarce public lands in and around large cities is even more pressing.

I mention this only to point out that it was with the help of the Senator from Nevada in October of 1972 that the Gateway National Recreation Area Act, of which I am a cosponsor, became law. This act was directed to the wise use of public lands in New York and New Jersey, land that can be used as an urban recreation area with the ability to serve 20 million Americans who live in and around these States. Here is an example of the foresight and truly national vision of a man who, although representing a western State, knows that the need for wise use of public lands knows no bounds of a political or geographical nature.

It is this kind of wisdom, this kind of vision, that will be missed in the Senate as ALAN BIBLE retires. He leaves, however, a legacy of dedicated service, matchless knowledge of the intricacies of matters concerning public lands and thier use, and an enviable record of accomplishment.

Mr. ALLEN. Mr. President, it is a privilege to pay tribute to the distinguished senior Senator from Nevada (Mr. BIBLE), as he retires after 20 years of service in the U.S. Senate.

His record in the Senate is filled with outstanding leadership and major accomplishments. He has served on powerful committees and has been influential in the passage of much legislation beneficial to all Americans.

His committee assignments include the Appropriations and the Interior Committees, the Joint Committee on Atomic Energy, the Special Committee on Aging, and he is chairman of the Small Business Committee.

The great mountains and lakes and the expansive plateaus of his native State of Nevada helped develop in Senator BIBLE a love for the great outdoors and a concern that future generations of Americans would be able to enjoy them. As chairman of the Interior Committee's Subcommittee on Parks and Recreation,

Senator BIBLE has been a leader in the never ending battle to conserve our resources.

His tireless efforts made possible national parks and recreational sites for all Americans to enjoy, and every State has benefited by his tireless efforts. He leaves his mark on landmark anticrime legislation and while a member of the District of Columbia Committee, he authored the first 18-year-old voting bill ever approved by a congressional committee, and his pioneering efforts in this field were to lead to the 26th amendment giving the vote to 18-year-olds.

I have always admired his political philosophy, his stand for fiscal responsibility, and his opposition to a mushrooming Federal bureaucracy; and also his knowledge of and support of conservative issues including the right of extended debate in the Senate. Senator BIBLE has been particularly mindful of and sympathetic toward problems affecting the South and the people of the South.

Last night at midnight his resignation from the Senate became effective—a resignation made in order to give his successor, Governor Laxalt, added seniority in the Senate. This action on Senator BIBLE's part is typical of his unselfish, dedicated service to the people of Nevada and the Nation.

Senator BIBLE has made a record of achievement in the Senate equaled only by few.

He leaves the Senate, not for full retirement but to a new field of public service—that of teaching government at the University of Nevada where he can share with young people coming on his vast knowledge, experience, and expertise.

We will miss him but we shall profit by our contact with him and shall draw strength from his example. It has been a privilege to serve in the Senate with my dear friend ALAN BIBLE.

Mrs. Allen joins me in sincerest best wishes to Senator and Mrs. Bible as they return to their beloved State and its people.

Mr. PASTORE. Mr. President, one of the most personal and valued rewards of my own years in this Senate are the 20 years it has been my good fortune to know and admire ALAN BIBLE.

In the beginning, fate made us office neighbors—and any distance between Nevada and Rhode Island quickly disappeared—and I like to believe that we immediately developed an affinity and affection for each other.

The quietly efficient newcomer—soft spoken, diligent, dignified and absolutely dependable commanded the respect of all of us and quickly rose to high responsibility in the committees of the Senate.

Each of us through our association with him will choose an ideal activity to praise. I like to think of the impetus he gave to the role of small business in the economy of America.

I stress this only because you and I have heard his praises sung so sincerely by the small business elements of our own States. But that has been his conduct and achievement in every post he has been given.

Few men have so devoted their lives to public service from the conclusion of their school days as has ALAN BIBLE—and he chooses to return to the privacy he has denied himself through all these years.

I count it a grievous personal loss—a personal sorrow—that our genial colleague from Nevada will no longer respond to our Senate calls—but I pray that circumstances may make him the frequent visitor we wish him to be—as from our heart of hearts we speak our sincerest wishes for health and happiness to this great American—and happiness and health to his dear ones.

Mr. HARRY F. BYRD, JR. Mr. President, yesterday, the Senator from Nevada (Mr. BIBLE) tendered his resignation from the Senate so that his newly elected successor could be sworn into office prior to the convening of the 94th Congress. With this gesture of magnanimity—typical, I might add, of this splended man—a term of 20 years of devotion and high accomplishment in the U.S. Senate has been brought to a close.

I am proud to say that ALAN BIBLE has been one of my closest friends in the Senate, as well as a splended, dedicated colleague. As a matter of fact, our acquaintance spans many more years than just my tenure in the Senate. I first knew him through my father.

Their interests, too, were quite similar. My father loved the outdoors and especially the timeless beauty of the Blue Ridge Mountains and the Shenandoah Valley. This area captures the heart of every individual who ventures there, but it captured the imagination of Senator BIBLE, as well.

Due in large part of his tireless efforts, the legislation to create a wilderness in the Shenandoah National Park was considered in the 92d Congress and reconsidered and passed by the Senate early in the 93d Congress.

The people of Virginia and the Nation have many other tangible reasons to applaud Senator BIBLE. It was through his patient and unceasing efforts that the view from Mount Vernon and across the Potomac—probably the best-known pastoral scene in this country—was finally preserved and protected for all time.

And under his watchful eye and masterful direction, the Assateague Island National Seashore was established.

His understanding and expertise have been indelibly imprinted upon the legislation and operation of our national parks and recreational facilities. He was appointed to the Senate Committee on Interior and Insular Affairs when he first came to the Senate in 1954. In the 87th Congress he chaired the Public Lands Subcommittee and in 1963, with the establishment of the Subcommittee on Parks and Recreation, he took control of that important committee.

His master touch can be seen in the Wilderness Act of 1964, the Land and Water Conservation Fund Act, the Bureau of Outdoor Recreation Organic Act, the Nationwide System of Scenic Trails Act, national parks, urban recreation areas and an almost endless list of bills which have led to the enrichment of the lives of every American and to the lasting preservation and development of our national heritage.

I cannot say enough good things about my close friend, ALAN BIBLE. And his accomplishment and skill as a legislator, a statesman and a gentleman are a tribute to his fine State and a lasting honor to his name and his family.

I shall miss him.

Mr. HUDDLESTON. Mr. President, I would like to rise in tribute to the outstanding Senator from Nevada (Mr. BIBLE), who is retiring at the end of this session.

As a junior Member of this body, I have naturally turned to the more senior Members of the Senate for advice and guidance. The Senator from Nevada has always been more than willing to help me, and his advice has without exception been good advice.

He was particularly helpful to me in certain matters relating to water resources—especially with certain projects that were both complicated and controversial. He went out of his way to give many of my constituents an opportunity to testify, even when it meant long hours of hearings.

I would like to say "thank you" to Senator BIBLE, both for his friendship and his help.

Mr. HANSEN. Mr. President, the Senate Interior and Insular Affairs Committee in particular and the Senate in general is losing one of its truly fine Senators with the retirement of ALAN BIBLE of Nevada.

To say that we will miss his steady hand and competency in the committee is an understatement; his work on important matters before that committee—and the Appropriations Committee—will be greatly missed. I have enjoyed serving with him on the Parks and Recreation Subcommittee and have always found him to be a gentleman and a most resourceful legislator who I am proud to count as a friend.

Senator BIBLE thinks so much of his State of Nevada that he has laid aside any thoughts of partisanship to resign a few days before his official Senate term is up in order to provide his successor, PAUL LAXALT, with valuable seniority in order that his beloved State can benefit.

This, I think, Mr. President, is a good example of Mr. BIBLE's sincere interest and great love for his State and his constituents, and I commend him for it as the mark of a real statesman and fine public servant.

No one knows the needs of the public land States better than Senator BIBLE, and we will surely miss his wise counsel and vast experience in this important area.

It is my understanding that Senator BIBLE will be returning to Nevada and will be doing some lecturing at the University of Nevada in the field of political science. That is all to the good as the young people who hear him recount his legislative experiences will be richer for it—as have all of us who have worked with him in Washington.

Mr. STEVENS. Mr. President, I too would like to pay my respects to the senior Senator from Nevada, who is leaving us here in the Senate after 20 years of distinguished service to both his State and his country.

In the time I have had the privilege of

working with ALAN BIBLE, I have gained great respect for his knowledge and integrity. He has given me much more help than I had a right to expect.

ALAN BIBLE'S record of outstanding achievement we know, but this should be a day to record his consistent record of progressiv and far-reaching legislation in such areas as energy and Federal highway construction programs which helped to open up our States in the West and Northwest.

But for me, history should note first the great humanitarian concern ALAN BIBLE has shown these many years in the area of Indian affairs. His educational and health programs have been instrumental in helping to upgrade the lives of our native Americans.

As a member of the Senate Committee on the Interior, I admired his pioneering efforts in guiding the National Park Service through its greatest period of growth. All Americans who visit our national parks and take pleasure in their recreational facilities owe a debt of gratitude to Senator BIBLE. He has been in a unique position as chairman of the Interior Appropriations Committee to see to it that Congress has funded the commitments it has made to the Park Service.

Alaska especially has much to thank Senator BIBLE for. A champion of statehood, he led the fight in conference for the Alaskan Native Claims Settlement Act, and he worked hard to help us recover from the great 1964 Good Friday Alaskan earthquake.

Alaska owes a heartfelt "thank you" to Senator BIBLE. I regret very much that he is leaving the Senate. All Alaska wishes him the best in years to come. ALAN BIBLE richly deserves our tributes here today. He will always be welcome to visit our fine State as a friend in special standing. I look forward to the times he will come to Alaska for a visit or perhaps a little fishing. And I shall earnestly seek his advice as more of us try to carry on the work he has done so well here in the Senate.

Mr. HATFIELD. Mr. President, as the only Senator who serves with Senator BIBLE on both the Interior Committee and the Appropriations Committee, I will feel the loss of this beloved colleague doubly. As I have mentioned before, Senator BIBLE was my mentor on public lands matters when I arrived as a freshman Senator. While we differed occasionally on substantive matters, he helped provide my education in public lands issues that are so important to both our States. I remember how quickly I learned from him the differences in perspective toward these issues of a Senator from the viewpoint of serving as Governor of Oregon.

We in the West have a special relationship with the land, and I don't think my colleagues from other parts of the country realize this feeling. I knew from my first discussions with Senator BIBLE that he embodied this respect for the land.

The people of Oregon recognize that ALAN BIBLE has helped shape our State because of his position as chairman of the Interior Appropriations Subcommittee, and as chairman of the Parks and Recreation Subcommittee of the Interior Committee. We are in his debt for his continuing interest in our State's welfare. I know that on such proposals as the Oregon Dunes, his push was important in securing approval of the bill. On appropriations matters as well, his understanding of forestry-related issues has been of great benefit to the Northwest.

The Senate will be a poorer place without ALAN BIBLE'S comments to keep matters and issues in their proper perspective. While he has given his office great dignity, he never has let the "aura" of being a Senator distract him. His open, friendly manner toward all who come in contact with him testify to the lack of stuffiness that might be thought of to be appropriate for one in his position.

As I mentioned in opening these remarks, I will miss Senator BIBLE'S kind spirit, for I have valued our association greatly over the past years. His warmth toward the staff, toward witnesses who appeared before him, and to those of us in this Chamber will be difficult to match.

Recently, the Portland Oregonian carried an article by its former Washington correspondent about Senator BIBLE. In it, Phil Cogswell did a good job in capturing the spirit of Senator BIBLE, and I ask unanimous consent that this article appears at this point in the RECORD.

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

SENATOR BIBLE'S RETIREMENT LOSS TO OREGON'S INTERESTS

(By Phil Cogswell)

When Congress ends its current session, Oregon will lose a valuable but little-publicized ally in the Senate as Alan Bible, D-Nevada, retires.

Among the massive senatorial egos that garner the bulk of public attention—often with the publicity bearing little relationship to the actual work performed—Bible is one of the senators who are little known outside of their own state but are responsible for the day-to-day business getting done, as much as it is.

For 20 years, Bible has represented Nevada, and in a larger sense the West, in the Senate. Described once by a reporter as "gray and portly and his suits don't fit," he has a folksy, personable style refreshing to behold in the formal Senate setting.

He held the onerous and politically unrewarding chairmanship of the District Committee for 11 years and was an advocate of home rule and increased federal assistance for the District of Columbia. He currently serves as chairman of the Select Committee on Small Business.

But it has been as a member of the Interior and Appropriations committees that Bible has had his particular impact on Oregon. As chairman of the Appropriations subcommittee that handled funding for the U.S. Forest Service, and Bureau of Land Management—which together own more than half the state—he consistently has assisted Oregon congressmen in obtaining and protecting funds for items of special interest to the state.

And as chairman of various Interior subcommittees through his career, he frequently played a major role in legislation of direct importance to Oregon.

These chairmanships probably will pass to senators much less familiar with Northwest problems.

"Alan Bible knows Oregon by personal exposure to the state," commented Sen. Mark Hatfield, R-Ore., who shares Bible's Interior and Appropriations committee assignments.

In the Senate, Hatfield said, Bible was "very much the key man" in passage of the Oregon Dunes recreation area. Passage of the bill came after Bible told Hatfield, "You put together something to do the job and I'll give you full support," ending a decade of controversy.

Hatfield added that Bible also can be considered "the father of the geothermal act" which established procedures for the federal government to lease land for development of geothermal power. In recent years, Bible has also given key support to increased funding for reforestation, retention and remodeling of the Chemawa Indian School in Salem and lesser-known issues dear to the Oregon delegation.

"He really was my mentor on the subject of public land management," Hatfield said. "But he is not geographical in interest." Nevertheless, it should be noted, Bible carried on the western tradition of pushing for increased expenditures for his state from the federal government and of carefully guarding the interests of his constituents, which frequently were the interests of Oregon residents as well.

Bible had his tangles with the Northwest, but even then they were not acrimonious. Along with other southwestern congressmen, he advocated diverting some of the Columbia River flow to provide irrigation water for his region.

"He would say, 'I know you have to consider your voters, but I have to look at mine too,' " Hatfield said. The water diversion issue died for the time being with a 10-year moratorium pushed through by Northwest delegations.

To the casual observer of the Senate, Bible stands out for his informal manner, reflecting his Nevada small-town origins.

"I would say he is one of the most egoless persons in the Senate," Hatfield commented. "But he also is aware of Senate protocol and traditions."

But, Hatfield added, "with all his courtliness and gentleness, Bible can be tough."

It's a toughness, though, that is reflected in determination rather than shouting or emotionalism, and in a willingness, for instance, to tell House conferees on a bill, "I'll sit here as long as you want if you don't want to recede."

He is a striking contrast in manner to the equivalent House Interior appropriations subcommittee chairman, Julia Butler Hansen, D-Wash., who also is retiring this year.

Mrs. Hansen has also shown consideration for Oregon interests, but her operation of her subcommittee has been more in the nature of a usually friendly monarch, one quick to take offense if she feels she has been slighted or not given her fair share of credit.

Bible, on the other hand, not only doesn't seek out credit, he almost appears to be fleeing publicity, a refreshing trait for any congressman. "He doesn't like to take the time for interviews," an aide once explained. "He doesn't feel he needs them; he doesn't crave attention."

"You don't read about him in Time or Newsweek," Hatfield commented. "His name is not on a lot of bills. But when the people you read about are making their speeches on the floor, he's working away in committee."

"He's one of the workhorses, the kind of guy that if you have a problem he will try to help you."

These are perilous times to commend any politician too highly, and Bible can be faulted for some of his views and votes. He has not supported liberals as much as they would prefer; neither has he voted with conservatives as often as they would like.

But taken over-all, his approach to the job of being a senator could stand some imitating by his colleagues. And he especially de-

serves before he leaves recognition from the people of Oregon.

Mr. DOLE. Mr. President, this 93d Congress may be marked for many noteworthy milestones. Its achievements have not been insignificant.

But among all the items for which it will be remembered, one stands out in my mind on this day.

The 93d Congress will be the last to enjoy the membership of several men who have distinguished the American political and governmental process by their service over the last 20 years or more. One of these, the senior Senator from Nevada, is, I am proud to say, as much a personal friend as he has been a friendly adversary across the aisle.

Mr. President, I am a partisan and I certainly offer no apology for that because of my belief that reasonable, moderate, and balanced partisanship conscientiously pursued need not and does not conflict with service to the Nation.

The senior Senator from Nevada is likewise a partisan. There is none more committed to, nor more ably representative of his party's approach to governmental policy than he.

There is none who more willingly and tenaciously defends and supports that approach in this body. And, too, there is none, on the other side of the aisle, who more strongly reinforces my belief that partisanship and patriotism can productively complement one another.

It has been my pleasure, my privilege, to serve with my friend Senator ALAN BIBLE for the last 6 years. I respect him for the experience he gained in the years before that and for the productive ways in which he channeled and exploited that experience in behalf of the interest of the people of his State and of the United States.

We have served together on the Senate Select Committee on Small Business where he was my chairman. In that committee, as on this floor, we have disagreed from time to time. As I said, Mr. President, we are both partisan with sometimes different approaches. But when we have differed, we have done so amicably and, for my part, I have always found debate with Senator BIBLE to be both pleasant and dynamic, an experience I always enjoy and often learn from.

It is my pleasure to join with my colleagues today in offering our tribute to our retiring friend and colleague. I wish on a personal note to extend to him my own heartfelt sentiment of best wishes for the future and I am sure I speak for many who express gratitude for his distinguished service. And hope that as he enters into his retirement from active Senate duties, he will keep in mind this country's pressing need for the wisdom his experience has gained him and that he will interrupt his leisure from time to time to share his insights with others.

Mr. HASKELL. Mr. President, this is my first experience with the biennial sadness of saying goodby to colleagues who are leaving the Senate. I am sure it will become no easier with repetition, however.

We shall miss all the men whose friendship and leadership have enhanced the Senate. But I shall especially miss the distinguished Senator from Nevada, ALAN BIBLE, with whom I feel a special kinship.

I have served on both the Aeronautical and Space Sciences and the Interior and Insular Affairs Committees with Senator BIBLE since I came to the Senate 2 years ago. He once was chairman of the Interior Public Lands Subcommittee, a position it is my privilege to hold now.

While he was chairman of that subcommittee, ALAN BIBLE contributed significantly to the work of the Public Land Law Review Commission of which he was a member. Those of us who live in the West, which encompasses most of the Nation's public lands, owe him a special debt for that work. And the Commission's report, "One Third of the Nation's Land," should be required reading for anyone who seeks to understand the special problems of administering our public land.

All who love, use, and enjoy the Nation's national park system owe ALAN BIBLE a debt, too. He has been an ardent supporter of expanding and improving that system as chairman of the Interior Subcommittee on Parks and Recreation and the Interior Subcommittee of the Appropriations Committee.

ALAN BIBLE and the people of Nevada he served so well have every reason to be proud of his record over the past 20 years. I am only sorry I did not have the pleasure of working with him longer. I hope he enjoys his retirement as much as I have enjoyed knowing him.

Mr. HUMPHREY. Mr. President, after 20 years of distinguished service, our colleague from Nevada is retiring from the Senate. ALAN BIBLE leaves a rich legacy of legislative effort—from conservation and crime control to energy and tax reform.

While attending Georgetown Law School, ALAN BIBLE worked part time as an elevator operator in the U.S. Capitol. One of his first passengers was Senator Carl Hayden of Arizona. Almost 30 years later, Senator BIBLE succeeded the former dean of the U.S. Senate as chairman of the Interior Appropriations Subcommittee.

From this position, Senator BIBLE has worked to reconcile both energy and environmental imperatives. He played a major role in the expansion and improvement of the national park system and has been an important influence on improved land use policies. For such efforts, he received the National Wildlife Federation's Award for National Distinguished Service in Conservation. Senator BIBLE has been equally concerned about the Nation's energy crisis and has pushed the development of geothermal energy as a potential new and clean energy source.

And this is not all. Senator BIBLE chaired the Small Business Committee and served on the Special Committee on Aging and the Joint Committee on Atomic Energy. Earlier, he chaired the District of Columbia Committee for 12 years and authored the first 18-year-old voting bill to be approved by a congressional committee.

I can do no better than echo what President Kennedy once said about the Senator who sat alongside him in our Chamber:

Nevada has every reason to be proud of ALAN BIBLE. He has always preferred headway to headlines. His many solid accomplishments for his State and Nation add to his stature as one of America's outstanding lawmakers.

We shall miss him.

Mr. BELLMON. Mr. President, it has been a pleasure to serve in the Senate with the distinguished senior Senator from Nevada, ALAN BIBLE.

Throughout a long and notable career as a public servant, ALAN BIBLE has won the respect of his colleagues. His contributions during two terms as attorney general of Nevada and as U.S. Senator since 1954 will long be remembered.

Having served on the Committee on Interior and Insular Affairs as well as on the Interior Subcommittee of the Appropriations Committee with him, I know of his great concern for the preservation of the environment for citizens of this country.

Mr. President, I join my colleagues in congratulating ALAN BIBLE for his service to his State and Nation and in extending best wishes for a pleasant retirement.

Mr. RIBICOFF. Mr. President, all Americans concerned about the future of our Nation's natural resources are going to miss ALAN BIBLE's leadership in the Senate.

As a member of both the Senate Interior and Appropriations Committees ALAN BIBLE recognized early the growing threats to the Nation's environment and worked hard to protect it.

I know from personal experience his deep interest in preserving our natural heritage for future generations to enjoy.

One of my strongest concerns in the Senate has been the preservation of the Connecticut River Valley.

On April 15, 1969, I introduced legislation creating the 4-State 56,700-acre Connecticut River National Recreation Area in Connecticut, Massachusetts and New Hampshire-Vermont.

The legislation was referred to Senator BIBLE's Senate Interior Subcommittee on Parks and Recreation. A westerner, ALAN comes from the part of America which has plenty of land and wide open spaces and an abundance of magnificent public parkland. He knows the value of Federal preserves and the necessity of acting now to protect our natural heritage. But the Senator was not, in 1969, very familiar with the Connecticut River Valley or with our conservation needs and pollution problems.

In turn, we would never progress without his support. So I invited ALAN to come up to Connecticut as my guest—to take a riverboat ride with me.

At 8:30 a.m. on May 22, 1970, Senator BIBLE, his wife, Loucile, myself, and others set sail up the river from the pier at Old Saybrook aboard the *Dolly Madison*.

Senator BIBLE became a believer. The river, the valley—the priceless New England heritage they embodied—won him over. That afternoon the Sun came out and, as we lunched at Gillette Castle on barbecued shad roe fished from the river below us, the Senator said:

Abe, you've convinced me and I will try to convince the other Senators on the Interior Committee.

The next morning, May 23, Senator BIBLE, Senator KENNEDY, and I held a public hearing on the proposed preserve in South Hadley, Mass., and later that day Senator BIBLE and I flew in an Air Force plane over the New Hampshire-Vermont section of the project.

Back in Washington, Senator BIBLE concluded—and I agreed—that, as I had anticipated, planning and public support for the park were still insufficient in Massachusetts, New Hampshire, and Vermont to warrant going ahead with the entire proposal immediately. But his enthusiasm for the Connecticut section—which was known then as the Gateway Unit—remained high.

Under his leadership the Senate twice passed the Connecticut historic riverway bill.

I shall never forget ALAN BIBLE's commitment to this project. The people of Connecticut will be forever grateful to him for his strong personal interest in the future of the Connecticut River Valley.

I wish him good health and happiness in his retirement.

Mr. TAFT. Mr. President, I rise today to add my deep appreciation and gratitude to our distinguished colleague from Nevada, Senator ALAN BIBLE.

Senator BIBLE and I—though we sit on different sides of the aisle in this Chamber, share many common views and priorities. He is renowned for his expertise in the fields of conservation, the complex appropriations process, nuclear energy, and his devotion to the welfare of this country's small businesses.

During the 19 years he has served in this body, he has also established himself as a major advocate of small business, tax reform, and strong crime control.

Senator BIBLE has an impressive record in expanding and improving the national park system and is a leading proponent of water and land resources. He has many honors in this field.

He has also devoted great time and attention to the special problems which confront our aging Americans. His range of understanding the problems which face our constituents and the many solutions he has offered successfully on the floor are to be greatly commended.

His departure from Congress will leave many voids. His wise counsel and experience will be missed. I join my colleagues in wishing Senator BIBLE a productive and happy retirement.

Mr. HARTKE. Mr. President, I am pleased to join my colleagues in paying tribute to my good friend and colleague from Nevada, Senator ALAN BIBLE, who today is retiring after serving the people of his State and the Nation for nearly 20 years.

During his long tenure in the Senate, ALAN BIBLE has distinguished himself in innumerable legislative areas, but to my mind, his greatest legacy lies in the abiding concern which he has always demonstrated for the maintenance and care of this Nation's system of public parks and land.

Under Senator BIBLE's able tutelage and guidance as chairman of the Senate Public Lands Subcommittee, we have seen our national park system continually expand and adjust to the ever-growing recreational needs of a burgeoning population. Lest we forget, it was Senator BIBLE who first acted in a legislative capacity to give real substance and meaning to the innovative concept of bringing the parks to the people. Indeed, it was along the heavily populated shores of Lake Michigan—on the beautiful dunes of northwest Indiana, that Senator BIBLE helped secure this country's first truly urban national park. For those efforts, the people of my State will forever be appreciative.

Senator BIBLE ends his service in the U.S. Senate with the knowledge that he has been an outstanding public servant who has earned the abiding respect of his colleagues. There can be no greater tribute than the inner satisfaction and the earned respect of others which he takes with him.

ALAN BIBLE—AN HONORABLE RECORD FOR THE PEOPLE OF NEVADA

Mr. JAVITS. Mr. President, today marks the closing chapter in the long and distinguished Senate career of ALAN BIBLE. During the past 20 years, the State of Nevada has been privileged to have this dedicated public servant as its Senator; for ALAN BIBLE has done much to shape not only modern Nevada, but modern America as well.

In the fifties he had the foresight to recognize the critical need for long-range water resource planning so vital to the development of the Western United States. Senator BIBLE championed the Washoe Flood Control and Reclamation project through the Congress. Thanks to his efforts, Nevada is quite literally a flower blooming in the desert.

Long before it was popular to do so, ALAN BIBLE fought for ideas whose time he knew would come. In 1961, he was chairman of the first subcommittee ever to approve the 18-year-old vote. As chairman of the Senate District Committee, he waged an often lonely battle to grant full equality and home rule for the District of Columbia. Today we can see the full measure of his wisdom.

We have much to thank ALAN BIBLE for. We owe him a great deal. But it is our children and grandchildren who will reap the complete benefits of ALAN BIBLE's foresight. No one in the Senate has done more to expand our national system of parks and safeguard the natural beauty of our wilderness and recreation areas.

During Senator BIBLE's term as chairman of the Parks and Recreation Subcommittee, more than 50 new areas and 100 new historic sites have been added to the national park system. For the millions of Americans who will follow us on this land, there can be no greater legacy than America itself.

I have had the honor and privilege of working closely with Senator BIBLE on the Select Committee on Small Business, of which he is the chairman. I have had the opportunity to observe firsthand the dedication, imagination, and integrity he commits to his work. Small businessmen around the Nation can thank him for his leadership in reforming the tax laws affecting small businesses, his fight to unmask the problem of cargo theft and hijacking and his efforts to secure more adequate Federal loans for small business.

Finally, Mr. President, I think it is a tribute to Senator BIBLE that he so unselfishly relinquishes his seat to his successor, PAUL LAXALT. It was an act that will benefit his State and a gesture typical of ALAN BIBLE's thought and goodness of heart.

We have known him to be a quiet man and a deeply thoughtful man. His powers of persuasion have had a deep influence on us all and I, along with all of my colleagues, will miss him during the years ahead.

Mrs. Javits and I extend our warmest good wishes to Senator and Mrs. ALAN BIBLE.

Mr. THURMOND. Mr. President, yesterday was the last day that the Senate enjoyed the company of Senator ALAN BIBLE of Nevada. Senator BIBLE and I both entered the Senate in December of 1954, and I had the privilege of working with him here for 20 years. His patriotism, his diligence, his ability, and his character have always had my deepest respect. He has been a loyal and dedicated servant of his country and his State.

Today, however, I respect him more than ever. Senator BIBLE has resigned his Senate seat before the expiration of his term in order to give his successor experience and seniority in the new Congress. This is not only an unselfish act, but one which will be of considerable benefit to the citizens of Nevada. This noble gesture typifies ALAN BIBLE's whole career in public life. He has always put the good of the people ahead of any consideration of convenience or personal advantage.

Senator BIBLE and I did not always vote alike, but his abilities and his leadership were inspiring to Senators on both sides of the aisle. Even more inspiring was his patriotism. Patriotism is one of the most important attributes a Senator can possess, and Senator BIBLE has enough for several Senators. As he prepares to leave us, I want to thank and congratulate him for all he has accomplished in Washington, and to wish him many more years of happiness and achievement in his home State. He and his charming wife Loucile can return to Nevada with deep pride in the excellent and important work they have done.

At the same time, let me extend a cordial welcome to Senator BIBLE's distinguished successor, Senator PAUL LAXALT. His reputation as a sound and responsible public servant has preceded him here, and I look forward to working with him.

ALAN BIBLE'S 40 YEARS OF OUTSTANDING PUBLIC SERVICE IS PRAISED

Mr. RANDOLPH. Mr. President, with the retirement of our friend and former colleague, Senator ALAN BIBLE, Nevada loses one of its most outstanding and unselfish legislators. His unselfishness has helped bring a better community spirit to the State. His 40 years of public service, with 20 years in the Senate, have served well thousands of people.

President John Kennedy, in talking about ALAN BIBLE, said he is "a man who has always preferred headway to headlines." I have had the privilege of working with ALAN BIBLE since 1958 in the Senate and know of his effectiveness. As fellow members of the Special Committee on Aging I share his concern for the elderly in this country. The measures that he sponsored on the Appropriations Committee, the Committee on Interior and Insular Affairs, and as the chairman of the Select Committee on Small Business are innumerable.

It was my enjoyable experience to accompany Senator BIBLE to Harpers Ferry, W. Va., on September 30 to join with the National Park Service officials and friends in honoring the Senator for his "exceptional leadership and personal commitment in bringing parks to the people of the United States." Over 100 people in that historic and scenic area honored ALAN and Loucile Bible.

Mr. President, when Harpers Ferry became a national park in 1963, through the measure I authored and was cosponsored by Senator ROBERT BYRD, Senator BIBLE was chairman of the Public Lands Subcommittee, the forerunner to the Parks and Recreation Subcommittee which Senator BIBLE later chaired. Largely through Senator BIBLE's leadership, during the past 14 years about 100 areas have been authorized by Congress as additions to the National Park System. Because of his part in the Wild and Scenic Rivers Act, nature enthusiasts can paddle their canoes through beautifully preserved waterways. The Nationwide System of Trails Act, which Senator BIBLE spearheaded, has provided many hours of climbing pleasure for people. Last week "the Gentle Trail" in Huntington, W. Va., was designated. This recreation trail for the blind and visually handicapped, is the fifth of its kind in the Nation. This trail helps the visually handicapped enjoy nature's wonders through braille markers. ALAN BIBLE has touched the lives of many for good.

It was my privilege to testify on May 9 before the Subcommittee on Parks and Recreation with Chairman BIBLE and ranking minority member, Senator HANSEN, in behalf of the bill I authored to develop and expand the Harpers Ferry National Historical Park. I shall recall the words of the knowledgeable chairman, Senator BIBLE, as he mentioned his support of that bill:

> We have great parks and wonderful scenery out in the States that Senator Hansen and I are privileged to serve. But we do not have the people that you have here. So I like to bring the parks to the people, because the people that are park-oriented and go out in the great outdoors are better and richer for the experience.

Nevada may have lost an effective legislator, but it gains a top professor.

ALAN will continue to share his knowledge and background of the Senate and the Federal Government by teaching at the University of Nevada. The students at the University will be fortunate to receive his firsthand knowledge in political science.

The 23d chapter of Matthew in the New Testament can be used to extend a message to ALAN BIBLE:

> Well done, thou good and faithful servant: thou hast been faithful over a few things, I will make thee ruler over many things.

Mary and I wish Loucile and ALAN BIBLE a fulfilling future as they return to Nevada.

Mr. WILLIAMS. Mr. President, I want to add my sentiments to those of my colleagues today in congratulating Senator ALAN BIBLE as he concludes an outstanding, 20-year career in the Senate.

Certainly, ALAN BIBLE's unswerving leadership in the field of conservation will be sorely missed. He is currently the ranking member of the Committee on Interior and Insular Affairs, behind Chairman HENRY JACKSON, and he serves with great distinction as chairman of the Subcommittee on Parks and Recreation. Senator BIBLE's impact in this area is further enhanced by his position as chairman of the Appropriations Subcommittee on Interior and Related Agencies.

I think my colleagues would agree that no Member of Congress has surpassed Senator BIBLE's record in the field of conservation and in leading the expansion and improvement of our National Park System. In recognition of these accomplishments he has received the National Distinguished Service in Conservation Award from the National Wildlife Federation, and similar honors from the National Trust for Historic Preservation and the American Scenic and Historic Preservation Society.

Mr. President, I have been privileged to work closely with ALAN BIBLE over the years in a number of areas where we shared a strong interest. One was on the Select Committee on Small Business where he has compiled an outstanding record as chairman, and where I had the honor of serving as a member for many years. In addition, it has been a special pleasure for me to work with Senator BIBLE in developing and securing funding for programs in the field of worker protection, education, and health. As chairman of the committee which authorizes these programs, I have often worked with Senator BIBLE in his capacity as a member of the Appropriations Subcommittee on Labor, Health, Education, and Welfare.

Perhaps the story of Senator BIBLE's career in the Senate was best summed up by President John F. Kennedy, with whom Senator BIBLE had a close working relationship when they served in the Senate together. Asked about Senator BIBLE in 1962 President Kennedy responded:

> Nevada has every reason to be proud of Alan Bible. He has always preferred headway to headlines. His many solid accomplishments for his state and nation add to his stature as one of America's outstanding lawmakers.

Mr. President, I know that all of us who have been privileged to serve in the Senate with ALAN BIBLE would agree with that assessment. I want to join in wishing him and his wife Loucile great happiness in the years ahead.

Mr. CANNON. Mr. President, I ask unanimous consent to have printed in the RECORD a statement on behalf of the Senator from Maine (Mr. HATHAWAY) on the retirement of Senator BIBLE.

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

SENATOR HATHAWAY'S REMARKS UPON THE RETIREMENT OF SENATOR BIBLE

I am pleased to join with many of my colleagues in paying tribute to Senator ALAN BIBLE upon his retirement from the Senate.

It has been my privilege and pleasure to serve during this last Congress as a Member of the Senate Small Business Committee under the chairmanship of Senator BIBLE. His dedication to furthering causes which benefit small business and his leadership in fostering the growth and viability of this important segment of our business economy has been inspiring to all of us who have served with him. He will long be remembered for the many contributions he has made to improving the climate in which the small businesses of this country take root and grow.

The successes of ALAN BIBLE are varied and many. As a member of the Interior Committee and chairman or past chairman of several of its subcommittees, he has an unsurpassed record in the fields of conservation, environment, and improvement of the National Park System.

As chairman of the Senate District of Columbia Committee for 12 years, he was the author of the first 18 year old voting bill which was approved by a Congressional committee. Under his leadership the District Committee reported legislation establishing the Federal City College, the Metro System, the elected Board of Education, representation by a delegate in the House of Representatives, reorganization of the District government to provide for a Mayor and City Council and numerous home rule measures.

Alan Bible has known his way around the Senate for more years than he has been a member of this body. In the 1930's, while attending Georgetown Law School, he was a part-time elevator operator in the Capitol. One of his first passengers was the former dean of the Senate, Senator Carl Hayden of Arizona. Some thirty years later he succeeded Senator Hayden as chairman of the Senate Interior Appropriations Committee.

Upon election to the Senate in 1954, Senator Hayden told the newly elected Senator from Nevada that the Senate is composed of "show horses" and "work horses." He said the Senate needed "work horses" more than it needed "show horses." Alan Bible by nature is a "work horse," and he has been a splendid one for the 20 years he has served in the Senate. We are grateful for his efforts.

Alan Bible has worked tirelessly for the State of Nevada and the people of this country in the years he has served in the Senate. He has the respect and admiration of all of us who have had the privilege and good fortune to know and work with him. I join the many others in wishing Alan and Loucile, his wife, good health, happiness and success in the years ahead.

ALAN BIBLE—AMERICAN PATRIOT

Mr. SYMINGTON. Mr. President, it has been my privilege to have worked in the Senate with ALAN BIBLE for some 20 years. Hardworking, capable, courageous, and conscientious, he has been a great Senator and he will be sorely missed, not only for his statesmanship but as a beloved friend. To him and his gracious wife I send every good wish for happiness in the years to come.

Mr. PELL. Mr. President, I am delighted to join today in paying tribute to the very distinguished and able senior Senator from Nevada, ALAN BIBLE, who

has just concluded an outstanding career of 20 years in the U.S. Senate.

All of us who have known and worked with ALAN BIBLE these many years will miss his friendly manner, his wise counsel, and his courteous and cooperative approach to the business of the Senate.

ALAN BIBLE has been truly a leader in this body. In the dual role of chairman of the Parks and Recreation Subcommittee of the Committee on Interior and Insular Affairs and chairman of the Interior Subcommittee of the Committee on Appropriations, he has been a vital force in the growth, both in quantity and quality, of our vast system of national parks.

His wisdom and leadership have benefited not only the States in his own region of the country with their large national parks but also the urban States, such as my own Rhode Island, which have been able to preserve much of their remaining open lands and historical sites thanks to the Federal programs which Senator BIBLE authorized and for which he provided funding.

Senator BIBLE was particularly helpful to me in obtaining passage of legislation creating the Roger Williams National Monument in Providence, R.I. This project is not yet completed, but when it is I and all those who have worked for its completion will remember gratefully the encouragement and the cooperation of ALAN BIBLE.

Mr. President, the appropriations subcommittee which Senator BIBLE chaired so ably also has jurisdiction over the National Endowments for the Arts and for the Humanities, both of which were created under legislation I sponsored in 1966. Senator BIBLE has played a significant role in the growth of these two endowments. His sympathetic understanding of their problems and needs and his wisdom in seeing the vital role that the arts and humanities play in our national life have been crucial to an expanded Federal role in assisting the arts and humanities.

In another area Senator BIBLE's leadership has been of great benefit to my own State. As chairman of the Select Committee on Small Business Senator BIBLE has helped to focus the attention of the Senate and of the administration on the special and important needs of our Nation's small businesses. The work of the select committee has stimulated a greatly expanded role and authorization for the Small Business Administration to the point where today the SBA plays a key role in States such as Rhode Island which have so many small businesses.

Mr. President, I join with my colleagues in wishing ALAN BIBLE Godspeed, a happy and relaxed retirement, and a long and good life.

Mr. SPARKMAN. Mr. President, I join with my colleagues in tribute to a man with whom I have had the privilege of serving for 20 years in the U.S. Senate. I speak now about my friend, Senator ALAN BIBLE of Nevada.

In serving with ALAN in the Senate, I have observed his tremendous drive and enthusiasm, and the vigor which he gave to every job to which he devoted himself. He has been a tremendous asset in the Senate to the people of Nevada and to the entire country in any cause which he undertook to support on the Senate floor.

In January of 1969 this senior Nevada Senator became chairman of the Select Committee on Small Business. His untiring efforts and service on behalf of America's small businessman throughout his 12 years' tenure on this committee will be long remembered.

I salute ALAN BIBLE, our friend and colleague, and wish him success and happiness in what I know will be additional and fruitful service to the people of Nevada throughout the years that lie ahead.

ALAN BIBLE: FIRST CITIZEN OF THE WESTERN UNITED STATES

Mr. CRANSTON. Mr. President, a great American and a great conservationist is retiring from the U.S. Senate. We shall miss his wisdom, his energetic work on behalf of important causes, and his irreplaceable counsel. But ALAN BIBLE, in his 20 years of distinguished public service as Senator from the great State of Nevada, is leaving the U.S. Senate—and the more than 200 million Americans it represents—with a rich legacy of accomplishment in some of the most significant issues of our time.

ALAN BIBLE was born in Nevada, was elected to public office first in Nevada, and came to the U.S. Senate as that State's representative in 1954. The citizens of Nevada, knowing quality when they find it, have kept him in the Senate until now, when he retires at his own option.

For the past two decades, ALAN BIBLE has brought his heritage as a native of the Sagebrush and Silver State to bear in enacting some of the greatest conservation legislation in our history. As a member of the Senate Interior Committee and chairman of its Subcommittee on Parks and Recreation, he has evidenced his intense love of open space and his passionate regard for the wonders of the out-of-doors by exercising persistent and energetic leadership in providing all Americans with the chance to spend their leisure time in national parks, wilderness areas, and areas for open space recreation.

Specifically in my own State of California, ALAN BIBLE'S name is nearly synonymous with two of the most spectacular recreation areas in the Western World: the Point Reyes National Seashore and the Golden Gate National Recreation Area. Not only are Californians indebted to ALAN BIBLE for bringing these and many other recreation areas into reality as public law; Californians, as well as all Americans, owe thanks to ALAN BIBLE for keeping these areas maintained and expanding to meet growing needs, through his chairmanship of the Senate Subcommittee on Interior Appropriations.

As Senator from California, I shall miss ALAN BIBLE in some very special ways. He knows the West and its unique values. He knows the needs of Californians. And he has been a tireless evangelist for the style of living and thinking that is particularly western, a style that recognizes the need of all peoples for the elbow room to engage in a true pursuit of happiness in an overcrowded world.

In ALAN BIBLE, Nevada found a man to carry out its motto: "All for our country." He has done his job energetically and well. On behalf of Californians, I wish him the very best in the years ahead.

Mr. FANNIN. Mr. President, it has been my good fortune to work with a number of great Senators, but there is none I have respected more than the senior Senator from Nevada, ALAN BIBLE.

The Senator is for very good reason viewed by his colleagues as the master at conducting hearings and meetings efficiently, fairly, and productively. He has a rare talent for cutting to the heart of issues. Time and again under his leadership we have accomplished more in minutes than might have been achieved in hours or days without his expertise.

As much as we admire his efficiency and effectiveness, the quality which puts him in the highest esteem on both sides of the aisle is his fairness. Senator BIBLE now sacrificed fairness to expedite the legislative process.

It has been my privilege to work with the Senator on many programs in the Interior Committee. He has been the champion of efforts to develop our tremendous geothermal resources in the West. I know that other western Senators join me in thanking Senator BIBLE for the great work he has done on behalf of all our States. Personally, I thank the senior Senator from Nevada for his advice and help on numerous occasions, and I value the friendship I have enjoyed these years.

Mr. President, it occurs to me that Senator BIBLE is one of a regrettably vanishing breed of what I would call the old school—and in my opinion best school—of politics. These are men who won office because they earned the high esteem of the people of their States, and served with distinction in local offices before coming to Washington. In Washington they concentrated on serving their constituents, on studying the problems facing our Nation, and on taking actions legislatively to improve this country. They did not need nor want high-powered public relations because they did not seek personal aggrandizement. These are men of deep conviction and dignity. Such a man is Senator BIBLE.

His retirement is a great loss to the Senate and the Nation, but he most certainly has earned the right to relinquish the burdens he has borne for so long. I wish him all the best.

Mr. PERCY. Mr. President, it is with mixed emotions that I bid farewell to my good friend from Nevada, ALAN BIBLE. After many years of hard work in the Senate, he certainly is deserving of the retirement he has chosen. I extend my heartiest wishes to him for a fruitful and happy new life. I hope he will still be able to find the time to give us the benefit of his counsel from time to time.

We shall miss him in the Senate. As former ranking Republican on his Appropriations Committee Interior Subcommittee, I had the opportunity to see firsthand his intimate knowledge of the

natural resources and assets we have as a Nation, his devotion and dedication to preserving this country and its recreational areas, and his interest in all the projects that came under the jurisdiction of that subcommittee.

I shall never forget how helpful he was to me and to the people of Illinois, in his capacity as second ranking member of the Interior Committee, on a project that was close to all of our hearts—the designation of the Lincoln Home in Springfield, Ill., as a National Historic Site. We are all very grateful for his support and cooperation.

ALAN BIBLE has my respect, admiration, and affection. I know we all wish him the very best.

ALAN BIBLE: THE CRIMEFIGHTER

Mr. McINTYRE. Mr. President, when ALAN BIBLE, the senior Senator from Nevada, resigned his seat last night, the Senate lost one of its most dedicated crimefighters. It has been my pleasure to serve on the Select Committee on Small Business under his chairmanship, and I know how zealously he has worked for legislation that would help our police and law enforcement officers carry out their duties. His diligence has made the crimefighter's job a little easier, and the criminal's a lot tougher.

Let me cite some of Senator BIBLE'S accomplishments:

First, and perhaps most noteworthy, has been his work in the area of criminal redistribution, or fencing, as it is more commonly known. Senator BIBLE has greatly increased this body's and the public's awareness of the fence and his role in crime. The Senator recently completed and filed a report on criminal redistribution, the first major Federal work on fencing done by this country since an English study done at the time of the American Revolution.

The fence, as we now know, is an integral part of the crime world. Far from the image of a shadowy figure on the edge of the criminal underworld who merely receives merchandise, the fence is a major purchaser and seller of stolen goods. He will often go as far as ordering the theft of appropriate goods, even automobiles, for resale. We can thank the distinguished Senator for our new knowledge of how the fence operates.

Second, Senator BIBLE has worked long and hard to cut cargo theft. During his years as chairman of my committee, he held hearings, introduced legislation, and pushed the administration to find new ways to reduce cargo theft that was costing small businessmen billions of dollars.

Following the Senator's recommendations, the Department of Transportation began a program for uniform cargo loss reporting.

Through the Department of Justice, the Senator encouraged the development of cargo security working groups. As a result of Senator BIBLE'S efforts, the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Administration have all made progress in cutting the insidious costs and hardships brought on by cargo theft.

Finally, Senator BIBLE worked with the Department of Commerce to produce a diligent study on the volume and costs of cargo theft in this country.

Truly, the Senate, the people of the State of Nevada, and the Nation can be proud of Senator ALAN BIBLE and grateful for his many contributions to a safer society.

Mr. BURDICK. Mr. President, I want to join my colleagues in honoring Nevada's Senator ALAN BIBLE as he prepares to leave the Senate. He has served a distinguished term of 20 years and has done a fine job for his State and for his Nation.

I want to make a special point to praise and thank Senator BIBLE for his work on behalf of our national parks and historic sites. In his positions on the Appropriations and Interior Committees, he has shown an interest and dedication in this area that has benefited the entire Nation. More and better outdoor recreation facilities will be available throughout the country for future Americans to enjoy because of the efforts of ALAN BIBLE.

I also want to mention Senator BIBLE'S extensive work on behalf of the small businessman. As chairman of the Senate Select Committee on Small Business, he has given America's small businessmen a voice in Congress and done much on their behalf.

I am honored to have worked with Senator BIBLE here in the Senate, and I wish him continued success and happiness in his future endeavors.

Mr. CHURCH. Mr. President. Idaho is about to lose a special friend in the Senate, and I rise today to say "Thank you" on behalf of the citizens of the State I am privileged to represent.

I refer to our colleague from Nevada, ALAN BIBLE.

Idaho owes ALAN BIBLE a special debt of gratitude for his help, his interest and his neighborly support dating back over 20 years of service in the Senate.

A recent example is the passage, 2 years ago, of legislation creating the Sawtooth National Recreation Area. In one form or another, bills to protect this magnificent alpine region in central Idaho had been stalled for decades. Without the good counsel of ALAN BIBLE, the Sawtooth National Recreation Area might still be a dream awaiting realization.

More recently, ALAN BIBLE gave his attention to legislation, which has passed the Senate, to create a Hells Canyon National Recreation Area. When that bill finally becomes law, it will be in large measure because of Senator BIBLE'S personal interest and staunch support.

I speak of ALAN BIBLE'S help to my State. In fact, there is hardly a State in the Union that does not owe a debt to this quiet-spoken gentleman from Nevada. As chairman of the Subcommittee on Parks and Recreation, ALAN BIBLE'S imprint is to be found upon every bill dealing with outdoor recreation that has passed Congress in the last decade.

But grateful as I am to ALAN BIBLE for his leadership in this important field, I shall miss him most as a colleague to lean upon. He always leveled with me; his advice I learned to value as that coming from a trusted friend. And, of course, I shall miss future opportunities to form what the senior Senator from Nevada liked to call "a natural alliance between Bible and Church."

The BIBLES and the CHURCHES got on well. Bethine and I want both ALAN and Loucile to know that we will find Washington emptier without them.

Mr. CANNON. I yield 2 minutes to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator from Nevada.

Mr. President, I cannot be impersonal in what I say about the Senator from Nevada (Mr. BIBLE), who is retiring, because we have had a very close association and friendship. I have respected him highly, and will continue to do so. I feel, I believe, as much as any other Senator, the loss we are sustaining here as he retires.

I think one of the sources of our strength here has been the relationship between him and his valuable colleague (Senator CANNON). They have worked side by side and shoulder to shoulder, so to speak, for many years. We are fortunate to be able to keep the other axis of that source of strength and power.

Senator BIBLE has believed that a public office is a public trust; and he has acted accordingly. He believed and followed that principle of government, and he will continue, now, to teach it in a different way. As I understand, he is going to be at least a part-time teacher of political science in his fine home State. I have felt compensated, at least in some measure, for losing him here, to know that he is going to continue this teaching in his State.

There is one point I want to mention where I believe his philosophy is especially sound. He was by no means the vassal of anyone, much less the chief executive. He was by no means a rubber stamp; in fact, he was the very opposite. But he has had a basic philosophy that he was very skillful in following. He knew and knows that the Government must have a Chief Executive, and the purpose of the Government is to govern. He would follow what he thought was right and sound, but at the same time his general course was to build rather than to tear down, and he knew that the Executive, whether of his party or not, had to have some solid support.

So, when he could, he gave the chief of state that support. There has to be that principle running through the legislative branch of the Government I, too, believe.

I remember so well when he came here in the fall of 1954 at the time of Mr. Eisenhower's incumbency of the Presidency, and he has maintained that general broad support of the Government and its problem of governing in every sense, making his share, and more, of a contribution to the load.

I want to mention another characteristic of him. No one was more willing than he was, without seeking credit, to help out and help carry the load of someone else. More than once I called on him to help with an appropriation bill, and he would manfully fill in.

He carried forward in a fine way. After having already completed one ap-

propriation bill himself, he nearly always was the first one to finish his hearings and get his bill moving on the floor of the Senate and stood by and helped others.

I got him into one of the worst scrapes a man could have here when he was taking the lead for me when we got into the SST, and he had to stay here with that.

We went over after Christmas, then we came back, you will recall, January 3, and then we had to take it up again. But not one whimper out of him even though he worked double time day and night.

I never would want to close on such a fine career as this without saying a lot, but at this time I would like to quote here one verse from a very fine poem that I think he represents:

God, give us men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie;
Strong men, who live above the fog
In public duty and in private thinking . . .
—JOSIAH GILBERT HOLLAND.

Our friend from Nevada (Mr. BIBLE) personifies the theme and the thought of that poem as few men can.

So we salute him and hope he receives God's blessings for himself and his lifetime mate, his wife, as they leave this Chamber where their work though will want to live.

I thank the Senator very much.

The PRESIDING OFFICER. All the time of the Senator from Nevada has expired.

Mr. CANNON. I thank my distinguished colleague from Mississippi.

Mr. ROBERT C. BYRD. I have a minute or 2.

Mr. CANNON. I simply want to thank my distinguished colleague for his very, very fine remarks about Senator BIBLE, my colleague.

Mr. President, I ask unanimous consent that the RECORD be held open for 10 days so that additional statements may be submitted by his colleagues who wish to submit them.

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

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business for not to exceed beyond 12 noon.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

SENATE RESOLUTION 464—RESOLUTION ELECTING MR. NELSON AS CHAIRMAN OF THE SELECT COMMITTEE ON SMALL BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution electing Mr. Nelson as Chairman of the Select Committee on Small Business.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

There being no objection, the Senate proceeded to consider the resolution.

The resolution was agreed to, as follows:

Resolved, That the Senator from Wisconsin, GAYLORD NELSON, be and is hereby elected Chairman of the Select Committee on Small Business vice the Senator from Nevada, ALAN BIBLE, resigned.

AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN MARITIME PROGRAMS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Senator MAGNUSON I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 13296.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 13296) to authorize appropriations for the fiscal year 1975 for certain maritime programs of the Department of Commerce and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. On behalf of Senator MAGNUSON I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. HARTKE, Mr. MUSKIE, Mr. STEVENS, and Mr. BEALL conferees on the part of the Senate.

HEALTH MANPOWER ACT OF 1974

Mr. ROBERT C. BYRD. Mr. President, on behalf of Senator KENNEDY I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3585.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3585) to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in th health and allied health professions, to revise the National Health Service Corps program and the National Health Service Corps scholarship training program, and for other purposes, as follows:

Strike out all after the enacting clause, and insert:

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Manpower Act of 1974".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—GENERAL PROVISIONS

SEC. 101. (a) Sections 701 through 711 are repealed.

(b) Sections 724, 725, 799, and 799A are transferred to part A of title VII and are redesignated as sections 701, 702, 703, and 704, respectively.

(c) Section 701 (as so redesignated) is amended—

(1) by striking out "As used in this part and parts C, E, and F—" and inserting in lieu thereof "For purposes of this title:";

(2) by inserting "or an equivalent degree" after "degree in public health" in paragraph (4); and

(3) by adding at the end the following new paragraphs:

"(7) The term 'program for the training of physician assistants' means an educational program which has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to effectively provide primary health care under the supervision of a physician and which meets guidelines prescribed by the Secretary. Such guidelines shall be prescribed on or before March 1, 1975, after consultation with appropriate professional organizations and shall, as a minimum, require that such an educational program (A) have (i) a program of classroom instruction and supervised clinical practice directed toward preparing students to deliver primary health care and (ii) a minimum course of study of one academic year, and (B) have an enrollment in each year of not less than twenty-five students.

"(8) The term 'program for the training of nurse practitioners' means an educational program which has as its objective the education of professional nurses who will, upon completion of their studies in the program, be qualified to effectively provide primary health care and which meets the guidelines prescribed by the Secretary. Such guidelines shall be prescribed on or before March 1, 1975, after consultation with appropriate professional organizations and shall, as a minimum, require that such an educational program (A) have (i) a program of classpractice directed toward preparing nurses to deliver primary health care and (ii) a minimum course of study of one academic year, and (B) have an enrollment in each year of not less than twenty-five students.

"(9) The term 'program for the training of expanded function dental auxiliaries' means an educational program which has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to effectively provide primary dental care under the supervision of a dentist and which meets guidelines prescribed by the Secretary. Such guidelines shall be prescribed on or before March 1, 1975, after consultation with appropriate professional organizations and shall, as a minimum, require that such an educational program (A) have (i) a program of classroom instruction and supervised clinical practice directed toward preparing students to deliver primary dental care and (ii) a minimum course of study of one academic year, and (B) have an enrollment in each year of not less than twenty-five students."

(d)(1)(A) The second sentence of subsection (a) of section 702 (as so redesignated) is amended to read as follows: "Of the appointed members of the Council (1) twelve shall be representatives of the health professions schools assisted under programs authorized by this title, including at least six persons experienced in university administration and at least one representative of schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and public health, and entities which may receive a grant under section 791, (2) two shall be full-time students enrolled in health professions schools, and (3) six shall be members of the general public.".

(B) The amendment made by subparagraph (A) with respect to composition of the National Advisory Council on Health Professions Education shall apply with respect to appointments made to the Council after the date of the enactment of this Act, and the Secretary of Health, Education, and Welfare shall make appointments to the Council after such date in a manner which will bring about, at the earliest feasible time, the Council composition prescribed by the amendment.

(2) Section 702 (as so redesignated) is amended by striking out "E, and F" in subsection (a) and inserting in lieu thereof "E, F, and G".

(3) Section 702 (as so redesignated) is amended by striking out "parts A and G" in subsections (b) and (c) and inserting in lieu thereof "part H".

(e) Section 703 (as so redesignated) is amended to read as follows:

"ADVANCE FUNDING

SEC. 703. An appropriation under an authorization of appropriations for grants or contracts under this title for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under such authorization for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation for such grants or contracts before the fiscal year for which such appropriation is authorized.".

(f) Part A of title VII is amended by adding after section 704 (as so redesignated) the following new sections:

"RECORDS AND AUDITS

"SEC. 705. (a) Each recipient of a grant or contract under this title shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the funds paid to it under such grant or contract, the total cost of the project or undertaking for which such grant or contract is made, and the amount of the portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) Each recipient of a grant or contract under this title shall provide for an annual financial audit of any books, accounts, financial records, files, and other papers or property which relate to the disposition or use of the funds received under such grant or contract. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received under such a grant or contract, each such audit shall be conducted in accordance with such requirements concerning the individual or agency which conducts the audit and the standards applicable to the performance of the audit as the Secretary may by regulation provide. The report of each such audit shall be filed with the Secretary at such time and in such manner as he may by regulation prescribe.

"(c) The recipient of a scholarship or traineeship under this title or a grant under subsection (f) or (g) of section 747 shall not with respect to the scholarship, traineeship, or grant be required to keep the records prescribed under subsection (a) or provide the audit prescribed by subsection (b).

"DELEGATION

"SEC. 706. The Secretary may delegate the authority to administer any program authorized by this title to the administrator of a central or regional office or offices in the Department of Health, Education, and Welfare, except that the authority—

"(1) to review, and prepare comments on the merit of any application for a grant or contract under any such program for purposes of presenting such application to the National Advisory Council on Health Professions Education, and

"(2) to make such a grant or enter into such a contract,

shall not be delegated to any administrator of, or officer in, a regional office or offices.".

(g)(1) The heading for part A of title VII is amended to read as follows:

"PART A—GENERAL PROVISIONS"

(2) The heading for part H of title VII is repealed.

SEC. 102. Section 212 is amended by adding after subsection (d) the following new subsection:

"(e) Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for the purposes of all rights, privileges, immunities, and benefits now or hereafter provided under the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C. 501 et seq.).".

TITLE II—ASSISTANCE FOR CONSTRUCTION OF TEACHING FACILITIES

SEC. 201. Section 720 is amended to read as follows:

"GRANT AUTHORITY; AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 720. (a) The Secretary may make grants to assist in the construction of teaching facilities (including teaching hospitals) for the training of physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, and professional public health personnel.

"(b) There are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1975, $25,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977, for grants under this part.".

SEC. 202. (a)(1) Subsection (a) of section 722 is amended to read as follows:

"(a) The amount of any grant under this part for construction of a project shall be such amount as the Secretary determines to be appropriate after obtaining advice of the Council, except that no grant for any project may exceed 80 per centum of the necessary costs of construction, as determined by the Secretary of such project. In determining the portion of the construction costs to be covered by a grant under this part for a construction project for teaching facilities for the training of physicians located in a State which has no such facilities, the Secretary shall provide that the grant for the project cover 80 per centum of its construction costs unless he determines a grant for such portion of such costs is not needed.".

(2) The amendment made by paragraph (1) shall take effect with respect to grants made under part B of title VII of the Public Health Service Act from appropriations under section 720 of such Act for fiscal years beginning after June 30, 1974.

(b) Subsection (d) of section 722 is amended by striking out "(within the meaning of part A of this title)".

(c) Subsection (e) of section 721 is amended by adding at the end the following new sentence: "In considering applications submitted for a grant under this part for the cost of construction of teaching facilities for the training of physicians, the Secretary shall give special consideration to projects in States which have no such facilities.".

SEC. 203. (a) Subsections (a) and (b) of section 729 are each amended by striking out "1974" and inserting in lieu thereof "1977".

(b) The second sentence of section 729(e) is amended by striking out "and" after "June 30, 1973," and by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "$2,000,000 for the fiscal year ending June 30, 1975, $3,000,000 for the fiscal year ending June 30, 1976, and $3,000,000 for the fiscal year ending June 30, 1977.", and the fourth sentence of such section is amended by inserting a period after "Treasury" the second time it appears in that sentence and by striking the remainder of that sentence.

(c)(1) The third sentence of section 729(a) is amended to read as follows: "No such loan guarantee may, except under special circumstances and under such conditions as are prescribed by regulations, apply to any amount which, when added to any grant under this part or any other law of the United States, exceeds 90 per centum of the cost of the construction of the project.".

(2) The amendment made by paragraph (1) shall apply with respect to loans guaranteed under section 727(a) of the Public Health Service Act (as redesignated by section 204(b) of this Act) after the date of the enactment of this Act.

(d) Subsections (a) and (b) of section 729 are each amended by inserting "or the Federal Financing Bank" after "non-Federal lender".

SEC. 204. (a) Section 721(c) is amended—

(1) by striking out "section 770(f) of this Act" in paragraph (2) and inserting in lieu thereof "section 771";

(2) by striking out the sentence at the end of paragraph (2);

(3) by striking out paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively;

(4) by striking out "and" at the end of paragraph (5) (as so redesignated), by striking out the period at the end of paragraph (6) (as so redesignated) and inserting in lieu thereof "; and", and by inserting after paragraph (6) the following:

"(7) the application contains or is supported by adequate assurance that any laborer or mechanic employed by a contractor or subcontractors in the performance of work on the construction of the facility 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 March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act).

The Secretary of Labor shall have with respect to the labor standards specified in paragraph (7) the authority and functions set 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).";

(5) by striking out "725" in the last sentence and inserting in lieu thereof "702".

(b) Sections 726, 727, 728, and 729 are redesignated as sections 724, 725, 726, and 727, respectively.

TITLE III—STUDENT ASSISTANCE; NATIONAL HEALTH SERVICE CORPS

SEC. 301. (a) Subsection (a) of section 740 is amended by striking out "or veterinary medicine" and inserting in lieu thereof "veterinary medicine, or public health".

(b)(1) Subsection (b) of section 740 is amended (A) by striking out "and" at the end of paragraph (4), (B) by redesignating paragraph (5) as paragraph (6), and (C)

by inserting after paragraph (4) the following new paragraph:

"(5) provide that the school shall advise, in writing, each applicant for a loan from the student loan fund of the provisions of section 741 under which outstanding loans from the student loan fund may be paid (in whole or in part) by the Secretary; and".

(2) Paragraph (4) of such subsection (b) is amended by striking out "veterinary medicine or an equivalent degree," and inserting in lieu thereof "veterinary medicine or an equivalent degree or to a graduate degree in public health or an equivalent degree,".

(c) Subsection (a) of section 741 is amended to read as follows:

"(a) Loans from a student loan fund established under an agreement under section 750 may not exceed for any student for any academic year (or its equivalent) the sum of—

"(1) the cost of tuition for such year at the school for which such fund was established, and

"(2) $2,500."

(d) Subsection (b) of section 741 is amended by striking out the period at the end and inserting in lieu thereof "or to a graduate degree in public health or an equivalent degree.".

(e) Subsection (c) of section 741 is amended by striking out "or veterinary medicine" and inserting in lieu thereof "veterinary medicine, or public health".

(f)(1) Subsection (e) of section 741 is amended by striking out "3 per centum" and inserting in lieu thereof "7 per centum".

(2) The amendment made by paragraph (1) shall apply with respect to loans made after the date of the enactment of this Act from student loan funds established under section 740 of the Public Health Service Act.

(g) Subsection (f)(1) of section 741 is amended—

(1) by inserting before the semicolon at the end of subparagraph (A) the following: "or a graduate degree in public health or an equivalent degree"; and

(2) by striking out "or podiatry" in subparagraph (B) and inserting in lieu thereof "podiatry, or public health".

(h) In the case of any individual who, on or after November 18, 1971, and before the date of the enactment of this Act, met the requirements of subparagraphs (A) and (B) of section 741(f)(1) of the Public Health Service Act and who practiced his profession in an area described in subparagraph (C) of such section (as in effect before the date of the enactment of this Act) while a member of the National Health Service Corps or as an officer of the Regular or Reserve Corps of the Public Health Service or as a civilian employee of the Public Health Service, the individual shall, for purposes of section 741(f) of such Act, be deemed to have entered into the agreement required by such subparagraph (C) with respect to that practice.

(i) Effective with respect to appropriations under section 742 of the Public Health Service Act for fiscal years beginning after June 30, 1975, subsection (a) of section 742 is amended to read as follows:

"(a) For the purpose of making Federal capital contributions into the student loan funds of schools which have established such funds under an agreement under section 740, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1976, and $30,000,000 for the fiscal year ending June 30, 1977. For the fiscal year ending June 30, 1978, and each of the two succeeding fiscal years there are authorized to be appropriated such sums as may be necessary to enable students who have received a loan under this part for any academic year ending before July 1, 1977, to continue or complete their education."

(j) Section 743 is amended by striking out "1977" each place it occurs and inserting in lieu thereof "1980".

(k)(1) Section 744 is repealed.

(2) The health professions education fund created with the Treasury by section 744(d)(1) of the Public Health Service Act shall remain available to the Secretary of Health, Education, and Welfare for the purpose of meeting his responsibilities respecting participations in obligations acquired under section 744 of such Act. The Secretary shall continue to deposit in such fund all amounts received by him as interest payments or repayments of principal on loans under such section 744. If at any time the Secretary determines the moneys in the fund exceed the present and any reasonable prospective future requirements of such fund, such excess may be transferred to the general fund of the Treasury.

(3) There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable the Secretary to make payments under agreements entered into under section 744(b) of the Public Health Service Act before the date of the enactment of this Act.

(4) Section 742(b) is amended (1) by striking out ", and for loans pursuant to section 744" in paragraph (1); and (2) by striking out "(whether as Federal capital contributions or as loans to schools under section 744)" in paragraph (3).

(l)(1) Section 746 is repealed.

(2) Section 740 is amended (A) by striking out "of Health, Education, and Welfare" in subsection (a); and (B) by striking out ", except as provided in section 746," in paragraphs (2) and (3) of subsection (b).

(3) Section 745 is redesignated as section 744.

(m)(1) the heading for part C of title VII is amended to read as follows:

"PART C—STUDENT ASSISTANCE".

(2) The heading for subpart I of part C of title VII is amended to read as follows:

"Subpart I—Student Loans".

SEC. 302. (a) Subparts I, II, and III of part F of title VII are repealed.

(b) The Secretary of Health, Education, and Welfare during the period beginning July 1, 1974, and ending June 30, 1977, may (1) make grants to public and nonprofit private schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry and pharmacy to enable such schools to continue making payments under scholarship awards to students who initially received such awards out of grants made to the schools under section 780 of the Public Health Service Act for fiscal years ending before July 1, 1974, and (2) make scholarship grants under section 784 of such Act (as in effect before the date of the enactment of this Act) to individuals who initially received such grants before July 1, 1974.

SEC. 303. Part C of title VII is amended by adding at the end of the following new subpart:

"Subpart III—Traineeships for Students in Schools of Public Health

"TRAINEESHIPS

"SEC. 751. (a) The Secretary may make grants to schools of public health for traineeships to train students enrolled in such schools.

"(b)(1) No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary and payments under such a grant may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"(2) Traineeships awarded under grants made under subsection (a) shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(c) For the purposes of making payments under grants under subsection (a), there are authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1975, $6,000,000 for the fiscal year ending June 30, 1976, and $6,000,000 for the fiscal year ending June 30, 1977.".

SEC. 304. (a) Section 329 is amended to read as follows:

"NATIONAL HEALTH SERVICE CORPS

"SEC. 329. (a) There is established, within the Service, the National Health Service Corps (hereinafter in this section referred to as the 'Corps') which shall consist of those officers of the Regular and Reserve Corps of the Service and such other personnel as the Secretary may designate and which shall be utilized by the Secretary under this section to improve the delivery of health services to medically underserved populations.

"(b)(1) The Secretary shall designate the medically underserved populations in the States. For purposes of this section, a medically underserved population is the population of an urban or rural area (which does not have to conform to the geographical boundaries of a political subdivision and which should be a rational area for the delivery of health services) which the Secretary determines has a critical health manpower shortage or a population group determined by the Secretary to have such a shortage; and the term 'State' includes Guam, American Samoa, and the Trust Territory of the Pacific Islands. In designating medically underserved populations, the Secretary shall take into account (A) the recommendations of the entities responsible for the development of the plan referred to in section 314(b) which cover all or any part of the areas in which populations under consideration for designation reside, and (B) in the case of any such area for which no such entity is responsible for developing such a plan, the recommendations of the agency of the State (or States) in which such area is located which administers or supervises the administration of a State plan approved under section 314(a).

"(2) Any person may apply to the Secretary (in such manner as he may prescribe) for the designation of a population as a medically underserved population. In considering an application under this paragraph, the Secretary shall, in addition to criteria utilized by him in making a designation under paragraph (1), taking into account the following:

"(A) Ratios of available health manpower to the population for which the application is made.

"(B) Indicators of the population's access to health services.

"(C) Indicators of the health status of the population.

"(D) Indicators of such population's need and demand for health services.

"(3) The Secretary shall (A) provide assistance to persons seeking assignment of Corps personnel to provide under this section health services for medically underserved populations, and (B) conduct such information programs in areas in which such populations reside as may be necessary to inform the public and private health entities serving those areas of the assistance available to such populations by virtue of their designation under this section as medically underserved.

"(c)(1)(A) The Secretary may assign personnel of the Corps to provide, under regulations prescribed by the Secretary, health

services for a medically underserved population if—

"(i) the State health agency of each State in which such population is located or the local public health agency or any other public or nonprofit private health entity serving such population makes application to the Secretary for such assignment, and

"(ii) the

"(I) local government of the area in which such population resides, and

"(II) any State and district medical, osteopathic, or dental society for such area, or any other appropriate health society (as the case may be) for such area,

certify to the Secretary that such assignment of Corps personnel is needed for such population.

"(B) The Secretary may not approve an application under paragraph (1)(A)(i) for an assignment unless the applicant agrees to enter into an arrangement with the Secretary in accordance with subsection (e)(1) and has afforded—

"(i) the entity responsible for the development of the plans referred to in section 314(b) which covers all or any part of the area in which the population for which the application is submitted resides, and

"(ii) if there is a part of such area for which no such entity is responsible for developing such plans, the agency of the State in which such part is located which administers or supervises the administration of a State plan approved under section 314(a),

an opportunity to review the application and submit its comments to the Secretary respecting the need for and proposed use of the manpower requested in the application. In considering such an application, the Secretary shall take into consideration the need of the population for which the application was submitted for the health services which may be provided under this section; the willingness of the population and the appropriate governmental agencies or health entities serving it to assist and cooperate with the Corps in providing effective health services to the population; and recommendations from medical, dental, or other health societies or from medical personnel serving the population.

"(C) If with respect to any proposed assignment of Corps personnel for a medically underserved population the requirements of clauses (i) and (ii) of subparagraph (A) are met except for the certification by a State and district medical, osteopathic, or dental society or by any other appropriate health society required by clause (ii)(II) and if the Secretary finds from all the facts presented that such certification has clearly been arbitrarily and capriciously withheld, the Secretary may, after consultation with appropriate medical, osteopathic, dental, or other health societies, waive the application of the certification requirement to such proposed assignment.

"(2)(A) In approving an application submitted under paragraph (1) for the assignment of Corps personnel to provide health services for a medically underserved population, the Secretary may approve the assignment of Corps personnel for such population during a period (referred to in this paragraph as the 'assistance period') which may not exceed four years from the date of the first assignment of Corps personnel for such population after the date of the approval of the application. No assignment of individual Corps personnel may be made for a period ending after the expiration of the applicable approved assistance period.

"(B) Upon expiration of an approved assistance period for a medically underserved population, no new assignment of Corps personnel may be made for such population unless an application is submitted in accordance with paragraph (1) for such assignment. The Secretary may not approve such an application unless—

"(i) the application and certification requirements of paragraph (1) are met;

"(ii) the Secretary has conducted an evaluation of the continued need for health manpower of the population for which the application is submitted, of the utilization of the manpower by such population of the growth of the health care practice of the Corps personnel assigned for such population, and of community support for the assignment; and

"(iii) the Secretary has determined that such population has made continued efforts to secure its own health manpower, that there has been sound fiscal management of the health care practice of the Corps personnel assigned for such population, including efficient collection of fee-for-service, third-party, and other funds available to such population, and that there has been appropriate and efficient utilization of such Corps personnel.

"(3) Corps personnel shall be assigned to provide health services for a medically underserved population on the basis of the extent of the population's need for health services and without regard to the ability of the members of the population to pay for health services.

"(4) In making an assignment of Corps personnel the Secretary shall seek to match characteristics of the assignee (and his spouse (if any)) and of the population to which such assignee may be assigned in order to increase the likelihood of the assignee remaining to serve the population upon completion of his assignment period. The Secretary shall, before the expiration of the last nine months of the assignment period of a member of the Corps, review such member's assignment and the situation in the area to which he was assigned for the purpose of determining the advisability of extending the period of such members' assignment.

"(5) To assist in the recruitment of health manpower, the Secretary shall provide technical assistance to all medically underserved populations to which are not assigned Corps personnel. The Secretary shall also give such populations current information respecting public and private programs which may assist in securing health manpower for them.

"(d)(1) In providing health services for a medically underserved population under this section, Corps personnel shall utilize the techniques, facilities, and organizational forms most appropriate for the area in which the population resides and shall, to the maximum extent feasible, provide such services (A) to all members of the population regardless of their ability to pay for the services, and (B) in connection with (i) direct health services programs carried out by the Service; (ii) any direct health services program carried out in whole or in part with Federal financial assistance; or (iii) any other health services activity which is in furtherance of the purposes of this section.

"(2)(A) Notwithstanding any other provision of law, the Secretary (i) may, to the extent feasible, make such arrangements as he determines necessary to enable Corps personnel in providing health services for a medically underserved population to utilize the health facilities of the area in which the population resides and if there are no health facilities in or serving such area, the Secretary may arrange to have Corps personnel provide health services in the nearest health facilities of the Service or the Secretary may lease or otherwise provide facilities in such area for the provision of health services, (ii) many make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of other equipment and supplies, and (iii) may secure the temporary services of nurses and allied health professionals.

"(B) If such area is being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary shall, in addition to such other arrangements as the Secretary may make under subparagraph (A), arrange for the utilization of such hospital or facility by Corps personnel in providing health services for the population, but only to the extent that such utilization will not impair the delivery of health services and treatment through such hospital or facility to persons who are entitled to health services and treatment through such hospital or facility.

"(3) The Secretary may make one grant to any applicant with an approved application under subsection (c) to assist in meeting the costs of establishing medical practice management systems for Corps personnel, acquiring equipment for their use in providing health services, and establishing appropriate continuing education programs and opportunities for them. No grant may be made under this paragraph unless an application therefor is submitted to, and approved by the Secretary. The amount of any grant shall be determined by the Secretary, except that no grant may be made for more than $25,000.

"(4) Upon the expiration of the assignment of Corps personnel to provide health services for a medically underserved population, the Secretary (notwithstanding any other provision of law) may sell to the entity which submitted the last application approved under subsection (c) for the assignment of Corps personnel for such population equipment of the United States utilized by such personnel in providing health services. Sales made under this paragraph shall be made for the fair market value of the equipment sold (as determined by the Secretary).

"(e)(1) The Secretary shall require as a condition to the approval of an application under subsection (c) that the entity which submitted the application enter into an appropriate arrangement with the Secretary under which—

"(A) the entity shall be responsible for charging in accordance with paragraph (2) for health services by the Corps personnel to be assigned;

"(B) the entity shall take such action as may be reasonable for the collection of payments for such health services, including if a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of such health services if it had not been provided by Corps personnel under this section, the collection, on a fee-for-service or other basis, from such agency or third party the portion of such cost for which it would be responsible (and in determining the amount of such cost which such agency or third party would be responsible, the health services provided by Corps personnel shall be considered as being provided by private practitioners); and

"(C) the entity shall pay to the United States as prescribed by the Secretary for each calendar quarter (or other period as may be specified in the arrangement) during which any Corps personnel are assigned to such entity the sum of—

"(i) the pay (including amounts paid in accordance with subsection (f)) and allowances of such Corps personnel for the portion of such quarter (or other period) during which assigned to the entity:

"(ii) if such entity received a grant under subsection (d)(3) for the assistance period, an amount which bears the same ratio to the amount of such grant as the number of days in such quarter (or other period) during which any Corps personnel were assigned to the entity bears to the number of days in the assistance period after such entity received such grant; and

"(iii) if during such quarter (or other period) any member of the Corps assigned to such entity is providing obligated service pursuant to an agreement under the Public Health and National Health Service Corps Scholarship Training Program, for each such member an amount which bears the same ratio to the amount paid under such Program to or on the behalf of such member as the number of days of obligated service provided by such member during such quarter (or other period) bears to the number of days in his period of obligated service under such Program.

The Secretary may waive in whole or in part the application of the requirement of subparagraph (C) to an entity if he determines that the entity is financially unable to meet such requirement or if he determines that compliance with such requirement would unduly limit the ability of the entity to maintain the quality of the services it provides. The excess (if any) of the amount collected by an entity in accordance with subparagraph (B) over the amount paid to the United States in accordance with subparagraph (C) shall be used by the entity to expand or improve the provision of health services to the population for which the entity submitted an application under subsection (c) or to recruit and retain health manpower to provide health services for such population. Funds received by the Secretary under such an arrangement shall be deposited in the Treasury as miscellaneous receipts and shall be disregarded in determining the amounts of appropriations to be requested under subsection (i) and the amounts to be made available from appropriations made under such subsection to carry out this section.

"(2) Any person who receives health services provided by Corps personnel under this section shall be charged for such services on a fee-for-service or other basis at a rate approved by the Secretary, pursuant to regulations, to recover the value of such services; except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary shall provide for the furnishing of such services at a reduced rate or without charge.

"(f)(1) The Secretary shall conduct at medical and nursing schools and other schools of the health professions and at entities which train allied health personnel, recruiting programs for the Corps. Such programs shall include the wide dissemination of written information on the Corps and visits to such schools by personnel of the Corps.

"(2) The Secretary may reimburse applicants for positions in the Corps for actual expenses incurred in traveling to and from their place of residence to an area in which they would be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip.

"(3) Commissioned officers and other personnel of the Corps assigned to provide health services for medically underserved populations shall not be included in determining whether any limitation on the number of personnel which may be employed by the Department of Health, Education, and Welfare has been exceeded.

"(4) The Secretary shall, under regulations prescribed by him, adjust the monthly pay of each physician and dentist member of the Corps who is directly engaged in the delivery of health services to a medically underserved population as follows:

"(A) During the first thirty-six months in which such a member is so engaged in the delivery of health services, his monthly pay shall be increased by an amount (not to exceed $1,000) which when added to the member's monthly pay and allowances will provide a monthly income competitive with the average monthly income from an established practice of a member of such member's profession with equivalent training.

"(B) During the period beginning upon the expiration of the thirty-six months referred to in subparagraph (A) and ending with the month in which the member's monthly pay and allowances is equal to or exceeds the monthly income he received for the last of such thirty-six months, the member shall receive in addition to his monthly pay and allowances an amount which when added to such monthly pay and allowances equals the monthly income he received for such last month.

For purposes of subparagraphs (A) and (B), the term 'monthly pay' includes special pay received under chapter 5 of title 37 of the United States Code. In the case of a member of the Corps who is directly engaged in the provision of health services to a medically underserved population in accordance with a service obligation incurred under the Public Health Service and National Health Service Corps Scholarship Training Program, the provisions of this paragraph shall apply to such member upon satisfactory completion of such service obligation and the first thirty-six months of his being so engaged in the delivery of health care shall, for purposes of this paragraph, be deemed to begin upon such satisfactory completion.

"(g) The Secretary shall report to Congress no later than May 15 of each year—

"(1) the number and identity of all medically underserved populations in each of the States in the calendar year preceding the year in which the report is made and the number of medically underserved populations which the Secretary estimates will be designated under subsection (b) in the calendar year in which the report is made;

"(2) the number of applications filed in such preceding calendar year for assignment of Corps personnel under this section and the action taken on each such application;

"(3) the number and types of Corps personnel assigned in such preceding year to provide health services for medically underserved populations, the number and types of additional Corps personnel which the Secretary estimates will be assigned to provide such services in the calendar year in which the report is submitted, and the need (if any) for additional personnel for the Corps;

"(4) the recruitment efforts engaged in for the Corps in such preceding year, including the programs carried out under subsection (f)(1) and the number of qualified persons who applied for service in the Corps in each professional category;

"(5) the total number of patients seen and patient visits recorded during such preceding year in each area where Corps personnel were assigned;

"(6) the number of health personnel electing to remain after termination of their service in the Corps to provide health services to medically underserved populations and the number of such personnel who do not make such election and the reasons for their departure;

"(7) the results of evaluations made under subsection (c)(2)(B)(ii), and determinations made under subsection (c)(2)(B)(iii), during such preceding year; and

"(8) the amount (A) charged during such preceding year for health services by Corps personnel, (B) collected in such year by entities in accordance with arrangements under subsection (e)(1), and (C) paid to the Secretary in such year under such arrangements.

"(h)(1) There is established a council to be known as the National Advisory Council on the National Health Service Corps (hereinafter in this section referred to as the 'Council'). The Council shall be composed of fifteen members appointed by the Secretary as follows:

"(A) Four members shall be appointed from the general public to represent the consumers of health care, at least two of whom shall be members of a medically underserved population for which Corps personnel are providing health services under this section.

"(B) Three members shall be appointed from the medical, dental, and other health professions and health teaching professions.

"(C) Three members shall be appointed from State health or health planning agencies.

"(D) Three members shall be appointed from the Service, at least two of whom shall be members of the Corps directly engaged in the provision of health service for a medically underserved population.

"(E) One member shall be appointed from the National Advisory Council on Comprehensive Health Planning.

"(F) One member shall be appointed from the National Advisory Council on Regional Medical Programs.

The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this section, and shall review and comment upon regulations promulgated by the Secretary under this section and section 747.

"(2) Members of the Council shall be appointed for term of three years and shall not be removed, except for cause. Members may be reappointed to the Council.

"(3) Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive for each day (including traveltime) in which they are so serving the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government service employed intermittently.

"(i)(1) To carry out the purposes of this section, there are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1975; $36,000,000 for the fiscal year ending June 30, 1976; and $45,000,000 for the fiscal year ending June 30, 1977.

"(2) An appropriation under an authorization under paragraph (1) of this subsection for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under an authorization under paragraph (1) for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation under this section before the fiscal year for which such appropriation is authorized.".

(b)(1) The Secretary of Health, Education, and Welfare shall report to Congress (1) not later than three months after the date of the enactment of this Act, the criteria used by him in designating medically underserved populations for purposes of section 329 of the Public Health Service Act, and (2) not later than six months after the date of the enactment of this Act, the identity and number of medically underserved populations in each State meeting such criteria.

(2) The Secretary of Health, Education, and Welfare shall conduct or contract for studies of methods of assigning under section 329 of the Public Health Service Act National Health Service Corps personnel to medically underserved populations and of providing health care to such populations. Such studies shall be for the purpose of identifying (A) the characteristics of health manpower who are more likely to remain in practice in areas in which medically underserved populations are located, (B) the characteristics of areas which have been able to retain health manpower, (C) the appro-

priate conditions for assignment of nurse practitioners, physician's assistants, and expanded function dental auxiliaries in areas in which medically underserved populations are located, and (D) the effect that primary care residency training in such areas has on the health care provided in such areas and on the decisions of physicians who received such training respecting the areas in which to locate their practice.

(c)(1) The amendment made by subsection (a) which changed the name of the advisory council established under section 329 of the Public Health Service Act shall not be construed as requiring the establishment of a new advisory council under that section; and the amendment made by such subsection with respect to the composition of such advisory council shall apply with respect to appointments made to the advisory council after the date of the enactment of this Act, and the Secretary of Health, Education, and Welfare shall make appointments to the Advisory Council after such date in a manner which will bring about, at the earliest feasible time, the Advisory Council composition prescribed by the amendment.

(2)(A) Section 741(f)(1)(C) is amended by striking all that follows after "in a State" and inserting in lieu thereof "in which is located a medically underserved population designated under section 329(b);".

(B) The amendment made by subparagraph (A) shall apply with respect to agreements entered into under section 741(f) of the Public Health Service Act after the date of the enactment of this Act.

SEC. 305. (a) Section 747 is repealed and effective July 1, 1975, section 225 is transferred to subpart II of part C of title VII, is redesignated section 747, and is amended to read as follows:

"PUBLIC HEALTH AND NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP TRAINING PROGRAM

"SEC. 747. (a) The Secretary shall establish the Public Health and National Health Service Corps Scholarship Training Program (hereinafter in this section referred to as the 'Program') to obtain trained physicians, dentists, and nurses and, if needed by the Corps or other unit of the Service, podiatrists, optometrists, pharmacists, graduates of schools of public health, graduates of programs in health administration, and other health-related specialists.

"(b) To be eligible for acceptance in the Program, an applicant for the Program must—

"(1) be accepted for enrollment, or be enrolled, as a full-time student (A) in an accredited (as determined by the Secretary) educational institution in a State and (B) in (i) a course of study offered by such institution and approved by the Secretary which leads to a degree in medicine, osteopathy, dentistry, nursing, or other health-related specialty as determined by the Secretary or (ii) a program offered by such institution for the training of physician assistants, expanded function dental auxiliaries, or nurse practitioners;

"(2) to be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Service; and

"(3) agree in writing to serve, as prescribed by subsection (d) of this section, in the Commissioned Corps of the Service or as a civilian member of the Service.

To remain in the Program an individual must pursue at such an institution such an approved course of study or such a program and maintain an acceptable level of academic standing in it.

"(c)(1)(A) Each participant in the Program shall receive a scholarship for each approved academic year of training, not to exceed four years. A participant's scholarship shall consist of (i) an amount equal to the basic pay and allowances of a commissioned officer on active duty in pay grade O–1 with less than two years of service, and (ii) payment of the tuition expenses of the participant and all other reasonable educational expenses incurred by the participant, including fees, books, and laboratory expenses.

"(B) The Secretary may contract with an institution in which participants in the Program are enrolled for the payment to the institution of the tuition and other educational expenses of such participants. Payment to such institution may be made without regard to section 3648 of the Revised Statutes (31 U.S.C. 529).

"(2) When the Secretary determines that an institution has increased its total enrollment for the sole purpose of accepting members of the Program, he may provide under a contract with such an institution for additional payments to the institution to cover the portion of the increased costs of the additional enrollment which are not covered by the institution's normal tuition and fees.

"(d)(1) Each participant in the Program shall provide service as prescribed by paragraph (2) for a period of time (hereinafter in this section referred to as a 'period of obligated service') prescribed by the Secretary which may be not less than—

"(A) one year of such service for each academic year of training received under the Program, or

"(B) two years.

For persons receiving a degree from a school of medicine, osteopathy, or dentistry, the commencement of a period of obligated service shall be deferred by the Secretary, at the request of the participant, for the period of time required to complete internship, residency, or other advanced clinical training. For persons receiving degrees in other health professions the obligated service period shall commence upon completion of their academic training. Periods of internship, residency, or other advanced clinical training shall not be creditable in satisfying a service obligation under this subsection.

"(2)(A) Except as provided in subparagraphs (B), (C), and (D), an individual obligated to provide service on account of his participation in the Program shall provide such service for the period of obligated service applicable to him as a member of the National Health Service Corps or the Indian Health Service in the clinical practice of his profession.

"(B) If at the time an individual is required by the Secretary to begin his period of obligated service neither the National Health Service Corps nor the Indian Health Service has a position available for a member of the profession for which such individual was trained, such individual shall serve as a member of the Service in the clinical practice of his profession in connection with the delivery of health services under the authority of section 321 (relating to hospitals), 322 (relating to care and treatment of seamen and others), 323 (relating to care and treatment of Federal prisoners), 324 (relating to examination and treatment of certain Federal employees), 325 (relating to examination of aliens), or 326 (relating to services to certain Federal employees) or part D of title III (relating to services for persons with Hansen's disease).

"(C) If at the time an individual is required by the Secretary to begin his period of obligated service—

"(i) the Corps and the Indian Health Service have no positions available for a member of the profession for which such individual was trained, and

"(ii) the Service has no need for such individual in connection with the delivery of health services under the authorities referred to in subparagraph (B),

such individual shall serve in the clinical practice of his profession for such period in a medical facility of a State correctional facility, State mental hospital, community mental health center, migrant health center, community health center, or other medical entity designated by the Secretary as having a priority need for health personnel.

"(D) If at the time an individual is required by the Secretary to begin his period of obligated service—

"(i) the Corps and the Indian Health Service have no positions available for a member of the profession for which such individual was trained,

"(ii) the Service has no need for such individual in connection with the delivery of health services under the authorities referred to in subparagraph (B), and

"(iii) no entity designated under subparagraph (C) has positions available for a member of the profession for which such individual was trained,

such individual shall serve for such period as a member of the Public Health Service in such unit of the Department as the Secretary may prescribe.

"(e) If, for any reason, a person fails to either begin his service obligation under this section in accordance with subsection (d) or to complete such service obligation, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula

$$A = 2\phi\left(\frac{t-s}{t}\right)$$

in which 'A' is the amount the United States is entitled to recover; 'ϕ' is the sum of the amount paid under this section to or on behalf of such person and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate; 't' is the total number of months in such person's service obligation; and 's' is the number of months of such obligation served by him in accordance with subsection (d). Any amount which the United States is entitled to recover under this subsection shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States.

"(f)(1)(A) The Secretary shall release any participant in the Program from his service obligation under subsection (d) if such participant enters into a written agreement with the Secretary to engage on a full-time basis in the private practice of his profession—

"(i) in an area in a State in which is located a medically underserved population designated under section 329(b); and

"(ii) for a period of—

"(I) one year for each academic year of training received under the Program, or

"(II) two years,

whichever is greater.

"(B) An agreement described in subparagraph (A) shall—

"(i) provide that during the period of private practice by a participant pursuant to the agreement—

"(I) any individual who receives health services provided by the participant in connection with such private practice will be charged for such services at the usual and customary rate prevailing in the area in which such services are provided, except that if such individual is unable to pay such charge (as determined in accordance with regulations prescribed by the Secretary) such individual shall be charged at a reduced rate or not charged any fee; and

"(II) the participant in providing health services in connection with such private practice shall not discriminate against any individual on the basis of such individual's ability to pay for such services or because payment for the health services provided to such individual will be made under the insurance program established under part A or B of title XVIII of the Social Security Act or under a State plan for medical assistance approved under title XIX of such Act; and

"(ii) contain such additional provisions as the Secretary may require to carry out the purposes of this subsection.

"(2)(A) The Secretary may make one grant to any participant—

"(i) who has entered into an agreement under paragraph (1), and

"(ii) who has agreed to extend the period of practice under such agreement by a period of not less than one year,

to assist such participant in meeting the costs of beginning the practice of his profession in accordance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. No such grant may be used for the purchase or construction of any health care facility.

"(B) The amount of the grant to any participant under subparagraph (A) shall be—

"(i) $12,500, if such participant agrees to extend the period of practice under the agreement under paragraph (1) for a period of at least one year but less than two years; or

"(ii) $25,000, if such participant agrees to extend the period of practice under the agreement under paragraph (1) for a period of at least two years.

"(3) The Secretary may not enter into any agreement under paragraph (1) or make any grant under paragraph (2) unless an application therefor has been submitted to, and approved by, the Secretary.

"(4)(A) The Secretary shall pay, as soon as practicable after the close of each calendar quarter, to each participant who entered into an agreement under paragraph (1) an amount which is equal to the excess (if any) of—

"(i) the amount of basic pay and allowances which such participant would have received for the period—

"(I) in which he practiced his profession in accordance with the agreement under paragraph (1), and

"(II) which is in the calendar year in which such calendar quarter occurs and ends at the close of such calendar quarter,

(which period is hereafter in this paragraph referred to as the 'service period') if during his service period he was a commissioned member of the National Health Service Corps providing service during a period of obligated service under subsection (d), over

"(ii) the sum of the net income (as determined under regulations prescribed by the Secretary) derived by such participant during his service period from the private practice of his profession and the amount (if any) paid before the close of such calendar quarter to such participant under this paragraph with respect to the portion of his service period which ended at the close of the preceding calendar quarter.

"(B) If after the close of any calender year—

"(i) the amount described in subparagraph (A)(ii) which was received by the participant for the period in such year in which he practiced his profession in accordance with an agreement under paragraph (1), exceeds

"(ii) the amount of basic pay and allowances which the participant would have received for such period if during such period he was a commissioned member of the National Health Service Corps providing service during a period of obligated service under subsection (d)."

the Secretary shall be entiled to recover from the participant an amount equal to the lesser of the amount of such excess or the amount paid to the participant under subparagraph (A) for the period in such year in which he practiced his profession in accordance with an agreement under paragraph (1).

"(C) The Secretary may not make any payment to any participant under subparagraph (A) unless—

"(i) an application therefor has been submitted to the Secretary in such manner and containing such information as he shall by regulation prescribe; and

"(ii) such participant keeps such records as the Secretary may prescribe and makes such records available to the Secretary for any examination he may require.

"(g)(1) The Secretary may make one grant to any individual (other than an individual who entered into an agreement under subsection (f)(1))—

"(A) who has completed his period of obligated service under the Program, and

"(B) who has agreed in writing to engage on a full-time basis in the private practice of his profession in accordance with subsection (f)(1) for a period of not less than one year,

to assist such individual in meeting the costs of beginning the practice of his profession in accordance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. Such grant may not be used for the purchase or construction of any health care facility.

"(2) The amount of the grant under paragraph (1) to any individual shall be—

"(A) $12,500, if such participant agrees to practice his profession in accordance with subsection (f)(1) for a period of at least one year but less than two years; or

"(B) $25,000, if such participant agrees to practice his profession in accordance with subsection (f)(1) for a period of at least two years.

"(3) The Secretary may not make a grant under paragraph (1) unless an application therefor has been submitted to, and approved by, the Secretary.

"(h) If the Secretary determines that an individual has violated an agreement under subsection (f)(1) or (g)(1)(B), he shall, as soon as practicable after making such determination notify the individual of such determination.

If within one hundred and twenty days after the date of giving such notice, such individual is not practicing his profession in accordance with the agreement under subsection (f)(1) or (g)(1)(B), as the case may be, and has not provided assurances satisfactory to the Secretary that he will not knowingly violate such agreement again, the United States shall be entitled to recover from such individual an amount determined under subsection (e), except that in applying the formula contained in such subsection—

"(1) in the case of an agreement under subsection (f)(1), 'Φ' shall be the sum of the amount paid under this section (other than any amount paid under subsection (f)(4)) to or on behalf of such person and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, 't' shall be the number of months that such individual agreed to practice his profession under such agreement, including the number of months that the period of practice under such agreement was extended under subsection (f)(2)(A), and 's' shall be the number of months that such individual practiced his profession in accordance with such agreement; or

"(2) in the case of an agreement under subsection (g)(1)(B), 'Φ' shall be the sum of the amount of the grant made under subsection (g) to such person and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, 't' shall be the number of months that such individual agreed to practice his profession under such agreement, and 's' shall be the number of months that such individual practiced his profession in accordance with such agreement.

"(i)(1) When a person undergoing training in the Program is academically dismissed or voluntarily terminates academic training, he shall be liable for repayment to the Government for an amount equal to the scholarship which he received under the Program.

"(2)(A) Any obligation of any individual under paragraph (1) or under subsection (e) or (h) shall be canceled upon the death of such individual.

"(B) The Secretary shall by regulation provide for the waiver or suspension of any obligation under paragraph (1) or under subsection (e) or (h) applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

"(j) Notwithstanding any other provision of law, persons undergoing academic training under the Program shall not be counted against any employment ceiling affecting the Department of Health, Education, and Welfare.

"(k) The Secretary shall issue regulations for the implementation of this section.

"(l) To carry out the Program, there are authorized to be appropriated $80,000,000 for the fiscal year ending June 30, 1976, and $120,000,000 for the fiscal year ending June 30, 1977.".

(b) Effective July 1, 1975, the heading for subpart II of part C of title VII is amended to read as follows:

"Subpart II—Student Scholarships".

TITLE IV—GRANTS FOR HEALTH PROFESSIONS SCHOOLS

SEC. 401. (a) Subsection (a) of section 770 is amended to read as follows:

"(a) GRANT COMPUTATION.—The Secretary shall make annual grants to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry for the support of the education programs of such schools. The amount of the annual grant to each such school with an approved application shall be computed for each fiscal year as follows:

"(1) Each school of medicine and osteopathy shall receive—

"(A) $2,100 for each full-time student enrolled in such school in such year; and

"(B) $650 for each student who is enrolled in such year on a full-time basis in such school in a program for the training of physician assistants (as defined by section 701(7)).

"(2) Each school of dentistry shall receive—

"(A) $2,100 for each full-time student enrolled in such school in such year; and

"(B) $650 for each student who is enrolled in such year on a full-time basis in such school in a program for the training of expanded function dental auxiliaries (as defined by section 701(9)).

"(3) Each school of public health shall receive $1,500 for each full-time student enrolled in such school in such year.

"(4) Each school of veterinary medicine shall receive $1,500 for each full-time student enrolled in such school in such year.

"(5) Each school of optometry shall receive $700 for each full-time student enrolled in such school in such year.

"(6) Each school of pharmacy (other than a school of pharmacy with a course of study of more than four years) shall receive $700 for each full-time student enrolled in such school in such year. Each school of pharmacy with a course of study of more than four years shall receive $700 for each full-time student enrolled in the last four years of such school. For purposes of sections 771, 772, and 782, a student enrolled in the first year of the last four years of such school shall be considered a first-year student.

"(7) Each school of podiatry shall receive $1,500 for each full-time student enrolled in such school in such year.".

(b) Subsection (c) of section 770 is amended to read as follows

"(c) APPORTIONMENT OF APPROPRIATIONS.— If the total of the grants to be made in accordance with subsections (a) and (b) for any fiscal year to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry with approved applications exceeds the amounts appropriated under subsection (f) for such grants, the amount of the grant for that fiscal year to a school which may not because of such excess receive for that fiscal year the amount determined for it under such subsections shall be an amount which bears the same ratio to the amount so determined for it as the total of the amounts appropriated for that year under subsection (f) for grants to such schools bears to the amount required to make grants in accordance with subsections (a) and (b) to such schools.".

(c)(1) Subsections (d), (e), (f), and (g) of section 770 are repealed.

(2) Subsection (h) of section 770 is (A) redesignated as subsection (d), and (B) is amended to read as follows:

"(d) ENROLLMENT DETERMINATIONS.—

"(1) For purposes of this section and sections 771 and 772, regulations of the Secretary shall include provisions relating to the determination of the number of students enrolled in a school or in a particular year-class in a school on the basis of estimates, on the basis of the number of students who in an earlier year were enrolled in a school or in a particular year-class, or on such other basis as he deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

"(2) For purposes of this section and sections 771, 772, and 782 the term 'full-time students' (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of optometry or an equivalent degree, doctor of veterinary medicine or an equivalent degree, or doctor of podiatry or an equivalent degree or to a graduate degree in public health or equivalent degree. In the case of a training program of a school designed to permit the students enrolled in such program to complete, within six years after completing secondary school, the requirements for degree of doctor of medicine, doctor of dentistry or an equivalent degree, or doctor of osteopathy, the term 'full-time students' shall only include students enrolled on a full-time basis in the last four years of such program and for purposes of sections 771, 772, and 782 students enrolled in the first of the last four years of such program shall be considered as first-year students.".

(3) Subsection (i) of section 770 is (1) amended by inserting ", public health" after "osteopathy", and (2) redesignated as subsection (e).

(4) Subsection (j) of section 770 is redesignated as subsection (f) and is amended to read as follows:

"(f) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1)(A) There are authorized to be appropriated $165,000,000 for the fiscal year ending June 30, 1975, $170,000,000 for the fiscal year ending June 30, 1976, and $167,000,000 for the fiscal year ending June 30, 1977, for payments under grants under this section to schools of medicine, osteopathy, and dentistry based on the number of full-time students enrolled in such schools.

"(B) There are authorized to be appropriated $3,500,000 for the fiscal year ending June 30, 1975, $4,000,000 for the fiscal year ending June 30, 1976, and $4,500,000 for the fiscal year ending June 30, 1977, for payments under grants under this section to schools of medicine, osteopathy, and dentistry based on the number of students enrolled in such schools in programs for the training of physician assistants and programs for the training of expanded function dental auxiliaries.

"(2) There are authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1975, $6,750,000 for the fiscal year ending June 30, 1976, and $7,500,000 for the fiscal year ending June 30, 1977, for payments under grants under this section to schools of public health.

"(3) There are authorized to be appropriated $9,250,000 for the fiscal year ending June 30, 1975, $9,750,000 for the fiscal year ending June 30, 1976, and $10,500,000 for the fiscal year ending June 30, 1977, for payments under grants under this section to schools of veterinary medicine.

"(4) There are authorized to be appropriated $21,700,000 for the fiscal year ending June 30, 1975, $22,600,000 for the fiscal year ending June 30, 1976, and $23,500,000 for the fiscal year ending June 30, 1977 (for payments under grants under this section to schools of optometry and pharmacy.

"(5) There are authorized to be appropriated $2,800,000 for the fiscal year ending June 30, 1975, $3,100,000 for the fiscal year ending June 30, 1976, and $3,200,000 for the fiscal year ending June 30, 1977, for payments under grants under this section to schools of podiatry.

"(6) No funds appropriated under any provision of this Act (other than this subsection) may be used to make grants under this section."

(d) For the fiscal year ending June 30, 1975, and for each of the next two fiscal years, there are authorized to be appropriated such sums as may be necessary to continue to make annual grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, and podiatry under section 770(a) of the Public Health Service Act (as in effect before the date of the enactment of this Act) based on the number of enrollment bonus students (determined in accordance with subsections (d) and (e) of section 770 of such Act (as so in effect)) enrolled in such schools who were first-year students in such schools for school years beginning before June 30, 1974, except that the amount of any grant made to such a school from sums appropriated under this subsection may not exceed the amount of the grant the school received in the fiscal year ending June 30, 1974, based on the number of such students enrolled in it.

(e) Effective with respect to fiscal years beginning after June 30, 1976, paragraphs (1)(A) and (2)(A) of section 770(a) are each amended by striking out "$2,100" and inserting in lieu thereof "$2,000".

(f) The heading for part E of title VII is amended to read as follows:

"PART E—GRANTS AND CONTRACTS TO IMPROVE THE QUALITY OF SCHOOLS OF MEDICINE, OSTEOPATHY, PUBLIC HEALTH, DENTISTRY, VETERINARY MEDICINE, OPTOMETRY, PHARMACY, AND PODIATRY".

SEC. 402. Part E of title VII is amended (1) by redesignating section 771 as section 772, and (2) by adding after section 770 the following new section:

"ELIGIBILITY FOR CAPITATION GRANTS

"SEC. 771. (a) IN GENERAL.—The Secretary shall not make a grant under section 770 to any school in a fiscal year beginning after June 30, 1974, unless the application meets the following requirements:

"(1) The application shall contain or be supported by reasonable assurances satisfactory to the Secretary that the first-year enrollment of full-time students in the school year beginning after the fiscal year in which the grant applied for is to be made will not be made than the first-year enrollment of such students in the school in the preceding school year.

"(2) The application of each school shall contain or be supported by reasonable assurances satisfactory to the Secretary that the applicant will expend in carrying out its functions as a school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry, as the case may be, during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the fiscal year preceding the fiscal year for which such grant is sought.

"(3)(A) The application of each school shall contain or be supported by reasonable assurances satisfactory to the Secretary that the school (i) will enter into a legally enforceable agreement with each student enrolled in the school in a school year beginning after June 30, 1976, under which the student agrees to pay, in equal annual installments in accordance with subparagraph (B), to the United States an amount equal to the amount which the school received under section 770 because of the enrollment of the student in the school in school years beginning after such date, and (ii) will make annual reports to the Secretary respecting the amount owed under such agreements.

"(B)(i) A student subject to an agreement entered into with a school pursuant to subparagraph (A) shall pay to the United States in equal annual installments an amount equal to the total amount received by the school after June 30, 1976, under section 770 on account of the enrollment of the student in school years beginning after such date. The number of annual installments shall be equal to the number of fiscal years (beginning after June 30, 1976) in which the school received a grant under section 770 on account of the enrollment of the student in school years beginning after such date.

"(ii) The first annual installment under an agreement under subparagraph (A) shall be paid in the first calendar year which begins more than eleven months after the month in which the student subject to the agreement completed or terminated his course of study at the school, except that—

"(I) if the course of study was terminated in connection with a transfer to another school to pursue the same course of study and the transfer was made within twelve months of the termination date, the first an-

nual installment shall be paid in the first calendar year which begins more than eleven months after the date the student completes his course of study at the school to which he transferred; or

"(II) if the student begins an internship, residency, or other advanced clinical training within six months after the month in which he completed his course of study, the first annual installment shall be paid in the first calendar year which begins more than eleven months after the month in which such internship or residency training ends.

No installment shall be required to be paid in a calendar year in which more than six months is spent in an internship or in residency training.

"(C) For each year that an individual subject to such an agreement—

"(i) provides service during a period of obligated service in accordance with section 747(d) or practices his profession in accordance with an agreement entered into under section 747(f); or

"(ii) in the case of an individual who is not providing service during a period of obligated service in accordance with section 747(d), practices his profession—

"(I) as a member of the National Health Service Corps in an area in which is located a medically underserved population designated under section 329(b), or

"(II) as a member of the Indian Health Service;

the individual shall be relieved of his liability to pay one annual installment.

"(D) The obligation of an individual under an agreement shall be canceled upon his death. The Secretary shall by regulation provide for the waiver or suspension of such an obligation whenever compliance by the individual subject to it is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to him would be against equity and good conscience.

"(b) SCHOOLS OF MEDICINE, OSTEOPATHY, AND DENTISTRY.—

"(1) The Secretary shall not make a grant under section 770 to any school of medicine, osteopathy, or dentistry in a fiscal year beginning after June 30, 1974, unless the following requirements are met:

"(A) The application for such grant shall contain or be supported by reasonable assurances satisfactory to the Secretary that—

"(i) for the second school year beginning after the close of the fiscal year in which such grant is made and for each school year thereafter beginning in a fiscal year in which such a grant is made the first-year enrollment of full-time students in such school will exceed the number of such students enrolled in the school year beginning during the fiscal year ending June 30, 1974—

"(I) by 10 per centum of such number if such number was not more than one hundred, or

"(II) by 5 per centum of such number, or ten students, whichever is greater, if such number was more than one hundred; or

"(ii) for the second school year beginning after the close of the fiscal year in which such grant is made and in each school year thereafter beginning in a fiscal year in which such a grant is to be made the school, if it is a school of medicine or osteopathy, it will offer a program for the training of physician assistants or, if the school is a school of dentistry, it will offer a program for the training of expanded function dental auxiliaries.

"(B)(i) In the case of an application for a grant to be made in a fiscal year beginning after June 30, 1975, the applicant shall submit to the Secretary and have approved by him before the grant applied for is made, a plan to train, in the school year beginning after the close of the fiscal year in which the grant is made and in each school year thereafter beginning in a fiscal year in which such a grant is made and in areas geographically remote from the main site of the teaching facilities of the applicant (or any other school of medicine, osteopathy, or dentistry which has joined with the applicant in the submission of the plan), full-time students and students enrolled in programs of the applicant of the training of physician assistants and expanded function dental auxiliaries

"(ii) More than one applicant may join in the submission of a plan described in clause (i). No plan may be approved by the Secretary unless—

"(I) the application for a grant under section 770 of each school which has joined in the submission of the plan contains or is supported by reasonable assurances satisfactory to the Secretary that each such school will obligate to implement the plan an amount equal to not less than 25 per centum of the amount received under such grant;

"(II) the application for a grant under section 770 of each school which has joined in the submission of the plan contains or is supported by reasonable assurances satisfactory to the Secretary that all full-time students enrolled in such school will receive a majority of their training at the main site of the training facilities of the school and at least six weeks (in the aggregate) of training in an area geographically remote from such site during the last two years of enrollment in such school and that, in the case of a school of medicine or osteopathy, all students enrolled in its programs (if any) for the training of physicians' assistants and, in the case of a school of dentistry, all students enrolled in its program (if any) for the training of expanded function dental auxiliaries, will receive at least six weeks (in the aggregate) of training in an area geographically remote from such main site at any time during such program;

"(III) the plan contains a list of the areas where the training under such plan is to be conducted, a detailed description of the type and amount of training to be given in such areas, and provision for periodic review by experts in medical, osteopathic, or dental education (as may be appropriate) of the desirability of providing training in such areas and of the quality of training rendered in such areas;

"(IV) the plan contains a specific program for the hiring, as members of the faculty of the school or schools submitting the plan, of practicing physicians or dentists (as appropriate) to serve as instructors in the training program in areas geographically remote from the main site of the teaching facilities of such school or schools; and

"(V) the plan contains a plan for frequent counseling and consultation between the faculty of the school or schools at the main site of their training facilities and the instructors in the training program in the areas geographically remote from such site.

"(2) The Secretary may waive (in whole or in part) the requirement of paragraph (1)(A) with respect to any school of medicine, osteopathy, or dentistry if he determines, after consultation with the National Advisory Council on Health Professions Education, that, because of limitations of physical facilities available to the school for training or because of other relevant factors—

"(A) such school cannot increase its first-year enrollment of full-time students in accordance with clause (i) of such paragraph; and

"(B) such school cannot offer a program for the training of physician assistants or a program for the training of expanded function dental auxiliaries to comply with clause (ii) of such paragraph;

without lowering the quality of education provided in such school.

"(c) SCHOOLS OF PUBLIC HEALTH.—

"(1) The Secretary shall not make a grant under section 770 to any school of public health in a fiscal year beginning after June 30, 1974, unless the application for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that for the second school year beginning after the close of the fiscal year in which such grant is made and for each school year thereafter beginning in a fiscal year in which such a grant is made the first-year enrollment of full-time students in such school will exceed the number of such students enrolled in the school year beginning during the fiscal year ending June 30, 1974—

"(A) by 10 per centum of such number if such number was not more than one hundred, or

"(B) by 5 per centum of such number, or ten students, whichever is greater, if such number was more than one hundred.

"(2) The Secretary may waive (in whole or in part) the requirements of paragraph (1) with respect to any school if he determines, after consultation with the National Advisory Council on Health Professions Education, that such school, because of limitations of physical facilities available to the school for training or because of other relevant factors, cannot increase its first year enrollment in accordance with such paragraph without lowering the quality of education provided in such school.

"(d) SCHOOLS OF VETERINARY MEDICINE, OPTOMETRY, PHARMACY, AND PODIATRY.—

"(1) SCHOOLS OF VETERINARY MEDICINE.—The Secretary shall not make a grant under section 770 to any school of veterinary medicine in a fiscal year beginning after June 30, 1974—

"(A) unless the application for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that for the second school year beginning after the close of the fiscal year in which such grant is to be made and for each school year thereafter beginning in a fiscal year in which such a grant is made the first year enrollment of full-time students in the school making the application will exceed the number of such students enrolled in the school year beginning during the fiscal year ending June 30, 1974—

"(i) by 10 per centum of such number if such number was not more than one hundred, or

"(ii) by 5 per centum of such number, or ten students, whichever is greater, if such number was more than one hundred; or

"(B) unless the application for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that at least 20 per centum of the first year enrollment of full-time students in the school making the application will for the second school year beginning after the close of the fiscal year in which the grant applied for is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made be comprised of students who are residents of States in which are not located any accredited school providing the training provided by the school making the application.

"(2) SCHOOLS OF OPTOMETRY.—The Secretary shall not make a grant under section 770 to any school of optometry in a fiscal year beginning after June 30, 1974, unless the application for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that for the second school year beginning after the close of the fiscal year in which such grant is to be made and for each school year thereafter beginning in a fiscal year in which such a grant is made the first year enrollment of full-time students

in the school making the application will exceed the number of such students enrolled in the school year beginning during the fiscal year ending June 30, 1974—

"(A) by 10 per centum of such number if such number was not more than one hundred, or

"(B) by 5 per centum of such number, or ten students, whichever is greater, if such number was more than one hundred.

The Secretary may waive (in whole or in part) the requirements of this paragraph with respect to any school if he determines, after consultation with the National Advisory Council on Health Professions Education, that such school, because of limitation of physical facilities available to the school for training or because of other relevant factors, cannot increase its first year enrollment in accordance with such paragraph without lowering the quality of education provided in such school.

"(3) SCHOOLS OF PHARMACY.—The Secretary shall not make a grant under section 770 to any school of pharmacy in a fiscal year beginning after June 30, 1974—

"(A) unless the application for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that for the second school year beginning after the close of the fiscal year in which such grant is to be made and for each school year thereafter beginning in a fiscal year in which such a grant is made the first year enrollment of full-time students in the school making the application will exceed the number of such students enrolled in the school year beginning during the fiscal year ending June 30, 1974—

"(i) by 10 per centum of such number if such number was not more than one hundred, or

"(ii) by 5 per centum of such number, or ten students, whichever is greater, if such number was more than one hundred; or

"(B) unless the school has submitted to and had approved by the Secretary a plan for the establishment, expansion, improvement, or operation, in the second school year beginning after the fiscal year in which the grant applied for is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made, of at least two of the following programs: (i) a program to teach pharmacy in a hospital, extended care facility, or other clinical setting, (ii) a program of training in clinical pharmacology, or (iii) a program to train pharmacists to assist physicians and counsel patients on the appropriate use and reactions to drugs.

"(4) SCHOOLS OF PODIATRY.—The Secretary shall not make a grant under section 770 to any school of podiatry in a fiscal year beginning after June 30, 1974—

"(A) unless the application for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that for the second school year beginning after the close of the fiscal year in which such grant is to be made and for each school year thereafter beginning in a fiscal year in which such a grant is made the first year enrollment of full-time students in the school making the application will exceed the number of such students enrolled in the school year beginning during the fiscal year ending June 30, 1974—

"(i) by 10 per centum of such number if such number was not more than one hundred, or

"(ii) by 5 per centum of such number, or ten students, whichever is greater, if such number was more than one hundred; or

"(B) unless the application for such grant contains or is supported by reasonable assurances satisfactory to the Secretary that at least 40 per centum of the first year enrollment of full-time students in the school making the application will for the second school year beginning after the close of the fiscal year in which the grant applied for is to be made and in each school year thereafter beginning in a fiscal year in which such a grant is made will be comprised of students who are residents of States in which are not located any accredited school providing the training provided by the school making the application.".

SEC. 403. (a) Section 772(a)(1) (as so redesignated) is amended by striking out "or dentistry" and inserting in lieu thereof: ", dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry".

(b) Section 772(a)(4) (as so redesignated) is amended by striking out "or dentistry" and inserting in lieu thereof "dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry".

(c) Section 772(a)(6) (as so redesignated) is amended to read as follows:

"(6) There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1975, $5,000,000 for the fiscal year ending June 30, 1976, and $5,000,000 for the fiscal year ending June 30, 1977, for payments under grants under this subsection. Sums appropriated under this paragraph shall remain available until expended."

(d) Section 772(b)(2) (as so redesignated) is amended (1) by striking out "1974" and inserting in lieu thereof "1977", and (2) by striking out "1975" and inserting in lieu thereof "1978".

SEC. 404. (a) Subsection (a) of section 773 is amended to read as follows:

"(a) There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1975, $5,000,000 for the fiscal year ending June 30, 1976, and $5,000,000 for the fiscal year ending June 30, 1977, for payments under grants under this section."

(b) Section 773 is amended by inserting "public health," after "dentistry," in subsections (b) and (d).

SEC. 405. (a) Section 775 is redesignated section 774 and is amended

(1) by striking out "770, 771, 772, or 773" each place it occurs and inserting in lieu thereof "770, 772, or 773";

(2) by inserting ", public health after "dentistry" in subsection (b);

(3) by striking out "this part" in subsection (c) and inserting in lieu thereof "section 770, 772, or 773";

(4) by striking out "770, 771, or 773" in subsection (d)(1) and inserting in lieu thereof "770, 771, 772, or 773"; and

(5) by amending subsection (d)(3) to read as follows:

"(3) provides for such fiscal control and accounting procedures and reports, including the use of such standard procedures for the recording and reporting of financial information as the Secretary may prescribe, and access to the records of the applicant, as the Secretary may require to enable him to determine the costs to the applicant of its program for the education or training of students."

(b) The section heading of section 774 (as so redesignated) is amended by striking out "SPECIAL PROJECT".

SEC. 406. Sections 312 and 313 are repealed.

TITLE V—SPECIAL PROJECT GRANTS AND CONTRACTS

SEC. 501. (a) Section 767 (entitled "GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN FAMILY MEDICINE") is transferred to part F of title VII and redesignated as section 781.

(b) Section 781 (as so redesignated) is amended as follows:

(1) Such section is amended by striking out "and" after "1973," and by inserting after "1974," the following: "$40,000,000 for the fiscal year ending June 30, 1975, $40,000,000 for the fiscal year ending June 30, 1976, and $40,000,000 for the fiscal year ending June 30, 1977,".

(2) Such section is amended by inserting '(a)" before "There are" and by inserting at the end thereof the following:

"(b) Sums appropriated under subsection (a) may be used by the Secretary to make grants to any public or nonprofit private school of dentistry or accredited postgraduate dental training institution—

"(1) to plan, develop, and operate an approved residency program in the general practice of dentistry; and

"(2) to provide financial assistance (in the form of traineeships and fellowships) to residents in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry.".

(3) The title of such section is amended by inserting after "FAMILY MEDICINE" the following: "AND IN THE GENERAL PRACTICE OF DENTISTRY".

SEC. 502. Section 772 (as in effect before the date of the enactment of this Act) is transferred to part F of title VII, is redesignated section 782, and is amended to read as follows:

"ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

"SEC. 782. (a)(1) For the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake education to enter a health profession, the Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, and podiatry and other public or private nonprofit health or educational entities to assist in meeting the costs described in paragraph (2).

"(2) A grant or contract under paragraph (1) may be used by the health or educational entity to meet the costs of—

"(A) identifying, recruiting, and selecting individuals from disadvantaged backgrounds, as so determined, for the education provided by a health professional school.

"(B) facilitating the entry of those individuals into such a school,

"(C) providing counseling or other services designed to assist those individuals to complete successfully their education at such a school,

"(D) providing, for a period prior to the entry of those individuals into the regular course of education of such a school, preliminary education designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education, and

"(E) publicizing existing sources of financial aid available to persons enrolled in the education program of such a school or who are undertaking training necessary to qualify them to enroll in such a program.

"(3) No grant may be made or contract entered into under paragraph (1) to a school of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry unless its application for such grant or contract contains or is supported by assurances satisfactory to the Secretary that in the second school year beginning after the close of the fiscal year for which such grant is made or contract entered into, such school will enroll in its first-year class a number of full-time students from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, which is at least equal to the lesser of—

"(A) 5 per centum of the number of full-time first-year students enrolled in the school in the preceding school year, or

"(B) ten.

"(b) There are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1975, $20,000,000 for the fiscal year ending June 30, 1976, and $20,000,000 for the fiscal year ending June 30, 1977, for pay-

ments under grants and contracts under subsection (a).".

SEC. 503. (a) Section 774 (as in effect before the date of the enactment of this section) is transferred to part F of title VIII, is redesignated section 783, and is amended to read as follows:

"AREA HEALTH EDUCATION CENTERS

"SEC. 783. (a) For the purpose of improving the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system and for the purpose of encouraging the regionalization of educational responsibilities of the health professions schools, the Secretary may make grants and enter into contracts for projects for area health education centers—

"(1) to conduct programs to alleviate shortages of health personnel in rural areas with sparse populations or urban areas with unusually dense populations through training or retraining of health personnel in community hospitals and other facilities located in such areas (including training of students enrolled in residency programs in family medicine, general internal medicine, general pediatrics, psychiatry, and obstetrics and gynecology) or to otherwise improve the distribution in such areas of health personnel by area or by specialty group;

"(2) to provide training programs in such areas leading to more efficient utilization in such areas of health personnel, emphasizing multidisciplinary and interdisciplinary patterns of undergraduate, graduate, and continuing education of health personnel; and

"(3) to provide education programs for the general population of such areas regarding the appropriate use of health services, the availability of health services in such areas (including services provided under federally funded programs), and the contribution each individual can make to the maintenance of his own health.

"(b) The costs for which a grant or contract under this section may be made may include such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the students in such programs as the Secretary may deem necessary and costs of construction of new primary care facilities and of medical school facilities necessary for the administration of the training program for which the grant or contract is made.

"(2) An applicant for a grant or contract under this section shall be a public or nonprofit private educational entity which has, or which is affiliated with, at least three degree or diploma granting health professions education programs (of which at least one shall be a program offered by a school of medicine or osteopathy). No application for a grant or contract may be approved unless the application—

"(A) contains assurances satisfactory to the Secretary that, to the maximum extent feasible, the project of the applicant will be conducted in conjunction with (including the sharing of faculty and facilities with) the projects (if any) of any schools of medicine or osteopathy participating in the project of the applicant for the remote site training of undergraduate students of medicine or osteopathy conducted pursuant to plans approved under section 771(b)(1)(B);

"(B) contains a designation of the geographic boundaries of the areas to be served by area health education centers established under the project;

"(C) contains a list of the manpower needs of the areas to be served by area health education centers established under the project, the relative order in which those needs should be addressed, a detailed description of the types of programs to be carried out by the area health education centers and provision for periodic review and evaluation of such programs by experts in medical or osteopathic or other health professions education (as may be appropriate);

"(D) contains assurances that each medical and osteopathic school participating in the project will provide not less than six weeks of training per year in area health education centers for at least 50 per centum of the students enrolled in such schools in residency programs in family medicine, general internal medicine, general pediatrics, psychiatry, obstetrics, and gynecology;

"(E) contains assurances satisfactory to the Secretary that each participant in the project will contribute a significant portion of its faculty to serve as instructors in graduate training and continuing education programs in areas served by the area health education centers;

"(F) contains a specific program for multidisciplinary and interdisciplinary training programs both at the main site of the training or clinical facilities of the applicant and in area health education centers established under the project;

"(G) contains a plan for frequent counseling and consultation between the faculty of the applicant at the main site of its training or clinical facilities and instructors and other appropriate participants in the applicant's programs in the areas served by the area health education centers;

"(H) contains a detailed plan for frequent consultation and coordination of the applicant's project with appropriate local, regional, State, and Federal agencies in order to exchange information, and avoid unnecessary duplication of programs; and

"(I) contains assurances that the applicant will designate a local advisory board for each area health education center.

Each advisory board for an area health education center shall be comprised of consumers of health services residing in the area and shall, as a group, represent the residents of that area taking into consideration their employment, age, sex, race, place of residence, and other demographic characteristics. The advisory board shall meet on a regular basis (not less than twice a year) for purposes of determining the project's responsiveness to the health manpower needs of the area and making recommendations to the area health education centers with respect to the provision of health manpower in the area.

"(3) The amount of any grant or contract under this section shall be determined by the Secretary, except that no grant or contract for any project may exceed 75 per centum of the costs, as determined by the Secretary, of such project.

"(c) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1975, $20,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for the fiscal year ending June 30, 1977, for payments under grants and contracts under this section."

(b) For the fiscal year ending June 30, 1975, and for each of the next two fiscal years there are authorized to be appropriated such sums as may be necessary to continue payments to entities under contracts entered into under section 774 of the Public Health Service Act (as in effect before the date of the enactment of this Act) for projects for area health education centers, except that no payment shall be made to an entity under such a contract unless the entity provides assurances satisfactory to the Secretary that not later than January 1, 1976, the project for which the payment is to be made will be a project described in subsection (a) of section 783 of such Act and the entity and its application will meet the requirements of subsection (b)(2) of such section. Such payments may only be made from such sums for the periods and the amounts specified in such contracts.

(c) On and after January 1, 1976, the Secretary of Health, Education, and Welfare shall assess the program of grants under section 783 of the Public Health Service Act to determine the effect of the projects funded under such grants on the distribution of health manpower and on the access to and quality of health care in the areas in which such projects are located. Not later than January 1, 1977, the Secretary shall submit to the Congress a report on the assessment conducted under this subsection.

SEC. 504. Part F of title VII is amended by adding after section 783 the following new section:

"PROJECT GRANTS AND CONTRACTS FOR SCHOOLS OF OPTOMETRY, PHARMACY, AND PODIATRY

"SEC. 784. (a) SCHOOLS OF OPTOMETRY.—The Secretary may make grants to and enter into contracts with schools of optometry to meet the costs of projects to assist in—

"(1) the affiliation between optometric training programs and medical, osteopathic, and other health professions training programs and academic institutions,

"(2) establishing cooperative arrangements between optometric training programs and medical, osteopathic, and other health professions training programs and academic institutions,

"(3) planning, developing, and operating residency training programs in special optometric services or in meeting the optometric needs of special populations, or

"(4) planning, developing, and operating educational programs which provide training in the early detection and diagnosis of health problems which are accompanied by visual or ocular symptoms.

"(b) SCHOOLS OF PHARMACY.—

"(1) The Secretary may make grants and enter into contracts with schools of pharmacy to meet the costs of projects to assist in—

"(A) the affiliation between clinical pharmacy training programs and medical, osteopathic, and other health professions training programs and academic institutions, or

"(B) establishing cooperative arrangements between clinical pharmacy training programs and medical, osteopathic, and other academic institutions.

"(2) The Secretary may make grants to and enter into contracts with schools of pharmacy to meet the costs of projects to establish, expand, or improve—

"(A) programs for the teaching of pharmacy in hospitals, extended care facilities, and other clinical settings,

"(B) clinical pharmacology training, and

"(C) programs to train pharmacists to assist physicians and counsel patients on the appropriate use and effects of and reactions to drugs.

"(c) SCHOOLS OF PODIATRY.—The Secretary may make grants to and enter into contracts with schools of podiatry to meet the costs of projects to assist in—

"(1) the affiliation between podiatric training programs and medical, osteopathic, and other health professions training programs and academic institutions, or

"(2) establishing cooperative arrangements between podiatric training programs and medical, osteopathic, and other health professions training programs and academic institutions.

"(d) TECHNICAL ASSISTANCE.—If the Secretary does not approve an application for a grant or contract under this section, he shall advise the applicant of the reasons for disapproval of the application and provide the applicant such technical and other nonfinancial assistance as may be appropriate to enable the applicant to submit an approvable application.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1975, $5,000,000 for the fiscal year ending June 30, 1976, and $5,000,000 for the fiscal year ending June 30, 1977, for payments under grants and contracts under this section.".

SEC. 505. (a) Section 769A (entitled "GRANTS FOR COMPUTER TECHNOLOGY HEALTH

CARE DEMONSTRATION PROGRAMS") is transferred to part F of title VII, inserted after section 784, and redesignated as section 785.

(b) Section 785 (as so redesignated) is amended (1) by striking out "and" after "1973,", and (2) by inserting after "1974," the following: "$3,000,000 for the fiscal year ending June 30, 1975, $3,000,000 for the fiscal year ending June 30, 1976, and $3,000,000 for the fiscal year ending June 30, 1977,".

SEC. 506. (a) Section 766 (entitled "TRAINING IN EMERGENCY MEDICAL SERVICES") is transferred to part F of title VII, inserted after section 785, and redesignated as section 786.

(b) Section 786 (as so redesignated) is amended by striking out subsections (b), (c), (d), and (e) and inserting in lieu thereof the following:

"(b) No grant or contract may be made or entered into under this section unless the applicant therefor is a public or nonprofit private entity. Grantees and contractees under this section shall make such reports at such intervals, and containing such information, as the Secretary may prescribe.

"(c) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $7,000,000 for the fiscal year ending June 30, 1975, $7,000,000 for the fiscal year ending June 30, 1976, and $7,000,000 for the fiscal year ending June 30, 1977."

Section 507. Part F of title VII is amended by adding after section 786 the following new section:

"EDUCATION OF RETURNING UNITED STATES STUDENTS FROM FOREIGN MEDICAL SCHOOLS

SEC. 787. (a) The Secretary may make grants to schools of medicine and osteopathy in the United States to plan, develop, and operate programs—

"(1) to train United States citizens who have been enrolled in medical schools in foreign countries before July 1, 1975, to enable them to meet the requirements for enrolling in schools of medicine or osteopathy in the United States as full-time students with advanced standing; or

"(2) to train United States citizens who have transferred from medical schools in foreign countries in which they were enrolled before July 1, 1975, and who have enrolled in schools of medicine or osteopathy in the United States as full-time students with advanced standing.

The costs for which a grant under this subsection may be made include the costs of identifying deficiencies in the medical school education of the United States citizens who have been enrolled in foreign medical schools, the development of materials and methodology for correcting such deficiencies, and specialized training designed to prepare such United States citizens for enrollment in schools of medicine or osteopathy in the United States as full-time students with advanced standing.

"(b) More than one school of medicine or osteopathy may join in the submission of an application for a grant under subsection (a).

"(c) The Secretary may not approve an application for a grant under subsection (a)(1) unless such application contains assurances satisfactory to the Secretary, to the maximum extent feasible, that every individual who—

"(1) satisfactorily completes the training program for which such grant is to be made, and

"(2) is qualified to be accepted for enrollment in the school or schools which submitted such application as a full-time student with advanced standing,

will be accepted for enrollment as a full-time student with advanced standing in the school, or in one of the schools, which submitted such application.

"(d) Any school of medicine or osteopathy which receives a grant under subsection (a) for the final year ending June 30, 1975, shall submit to the Secretary before January 1, 1976, a report on the deficiencies (if any) identified by the school in the foreign medical education of the students trained by such school under the program for which such grant was made. The Secretary shall compile the reports submitted under the preceding sentence, and before July 1, 1976, submit to the Congress his analysis and evaluation of the information contained in such reports.

"(e) There are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975, $3,000,000 for the fiscal year ending June 30, 1976, and $4,000,000 for the fiscal year ending June 30, 1977, for payments under grants under subsection (a).".

SEC. 508. Part F of title VII is amended by adding after section 787 the following new section:

"PROJECT GRANTS FOR INSTRUCTION IN FAMILY MEDICINE

"SEC. 788. (a) The Secretary may make grants to schools of medicine and osteopathy to meet the costs of projects to establish and maintain academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in family medicine.

"(b) The Secretary may not approve an application for a grant under subsection (a) unless such application contains—

"(1) assurances satisfactory to the Secretary that the academic administrative unit with respect to which the application is made will (A) be comparable to academic administrative units for other major clinical specialties offered by the applicant, (B) be responsible for directing an amount of the curriculum for each member of the student body engaged in an education program leading to the awarding of the degree of doctor of medicine or doctor of osteopathy determined by the Secretary to be comparable to the amount for other major clinical specialties in the school, (C) have a number of full-time faculty which is determined by the Secretary to be sufficient to conduct the clinical instruction required in clause (B) and to be comparable to the number of faculty assigned to other major clinical specialties in the school, and (D) have control over a three-year approved or provisionally approved graduate training program in family practice or its equivalent as determined by the Secretary which shall have the capacity to enroll a total of no less than twelve interns or residents per year; and

"(2) such other information as the Secretary shall by regulation prescribe.

"(c) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1975, $15,000,000 for the fiscal year ending June 30, 1976, and $20,000,000 for the fiscal year ending June 30, 1977, for payments under grants under subsection (a).".

SEC. 509. (a) Section 769B is transferred to part F of title VII, inserted after section 788, and redesignated as section 789.

(b) Section 789 (as so redesignated) is amended—

(1) by striking out "grant may be made under sections 767, 769, and 769(A)" in subsection (a) and inserting in lieu thereof "grant may be made or contract entered into under this part";

(2) by adding at the end of subsection (a) the following: "The Secretary may not approve or disapprove any application for a grant or contract under this part except after consultation with the National Advisory Council on Health Professions Education.";

(3) by striking out "grants under sections 767 and 769(A)" in subsection (b) and inserting in lieu thereof "grants or contracts under this part"; and

(4) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The amount of any grant or contract under this part shall be determined by the Secretary. Payments under such grants may be made in advance or by way of reimbursement, at such intervals and on such conditions, as the Secretary finds necessary. Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).".

SEC. 510. Section 768 (entitled "GRANTS FOR SUPPORT OF POSTGRADUATE TRAINING PROGRAMS FOR PHYSICIANS AND DENTISTS") and section 769 (entitled "GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS FOR HEALTH PROFESSIONS TEACHING PERSONNEL") are repealed.

SEC. 511. The heading for part F of title VII is amended to read as follows:

"PART F—SPECIAL PROJECT GRANTS AND CONTRACTS".

TITLE VI—PUBLIC AND ALLIED HEALTH PERSONNEL

SEC. 601. (a) Part G of title VII is amended to read as follows:

"PART G—TRAINING PROGRAMS FOR PUBLIC AND COMMUNITY HEALTH PERSONNEL

"DEFINITION

"SEC. 790. For purposes of this part, the term 'public and community health personnel' means individuals who are engaged in—

"(1) the planning, development, monitoring, or management of health care or health care institutions, organizations, or systems,

"(2) research on health care development and the collection and analysis of health statistics, data on the health of population groups, and any other health data,

"(3) the development and improvement of individual and community knowledge of health and the health care system, or

"(4) the planning and development of a healthful environment and control of environmental health hazards.

"INSTITUTIONAL GRANTS FOR GRADUATE PROGRAMS IN HEALTH

"SEC. 791. (a) From funds appropriated under subsection (d), the Secretary shall make annual grants to public or nonprofit private educational entities (except schools of public health) to support the graduate educational programs of such entities in health administration, hospital administration, or health planning.

"(b) The amount of the grant for any fiscal year under subsection (a) to an educational entity with an application approved under subsection (c) shall be equal to the amount appropriated under subsection (d) for such fiscal year divided by the number of educational entities which have applications for grants for such fiscal year approved under subsection (c).

"(c)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to the Secretary before such time as he shall by regulation prescribe and has been approved by the Secretary. Such application shall be in such form, and submitted in such manner, as the Secretary shall by regulation prescribe.

"(2) The Secretary may not approve an application submitted under paragraph (1) unless—

"(A) such application—

"(i) contains assurances satisfactory to the Secretary that in each academic year (as defined in regulations of the Secretary) for which the applicant receives a grant under subsection (a)—

"(I) at least twenty-five individuals will complete the graduate educational program of the entity for which such application is submitted; and

"(II) such entity will expend or obligate at least $100,000 in funds from non-Federal sources to conduct such programs;

"(ii) contains such assurances as the Secretary shall by regulation prescribe respecting one or more of the following: Increases

in overall enrollment in the programs for which such application is submitted and increases in enrollment in programs for the training of needed types of public and community health personnel; and

"(iii) contains such other information as the Secretary may by regulation prescribe; and

"(B) the programs for which such application was submitted have been accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education and meet such other quality standards as the Secretary shall by regulation prescribe.

The Secretary may not approve or disapprove such an application except after consultation with the National Advisory Council on Health Professions Education.

"(d) There are authorized to be appropriated for payments under grants under this section $1,750,000 for the fiscal year ending June 30, 1975, $2,000,000 for the fiscal year ending June 30, 1976, and $2,500,000 for the fiscal year ending June 30, 1977.

"TRAINEESHIPS

"SEC. 792. (a) The Secretary may make grants to public or nonprofit private educational entities eligible for grants under section 791 for traineeships to train public and community health personnel for which the Secretary determines there is unusual need.

"(b) (1) No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by reguation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary and payments under such grant may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"(2) Traineeships awarded under grants made under subsection (a) shall provide for such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(c) For the purposes of making payments under grants under subsection (a), there are authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1975, $2,500,000 for the fiscal year ending June 30, 1976, and $2,500,000 for the fiscal year ending June 30, 1977.

"STATISTICS AND ANNUAL REPORT

"SEC. 793. (a) The Secretary shall, in coordination with the National Center for Health Statistics, continuously develop, publish, and disseminate on a nationwide basis statistics and other information respecting public and community health personnel, including—

"(1) detailed descriptions of the various types of activities in which public and community health personnel are engaged,

"(2) the current and anticipated needs for the various types of public and community health personnel, and

"(3) the number, employment, geographic locations, salaries, and surpluses and shortages of public and community health personnel, the educational and licensure requirements for the various types of such personnel, and the cost of training such personnel.

"(b) The Secretary shall submit annually to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate a report on—

"(1) the statistics and other information developed pursuant to subsection (a); and

"(2) the activities conducted under this part, including an evaluation of such activities.

Such report shall contain such recommendations for legislation as the Secretary determines is needed to improve the programs authorized under this part. The Office of Management and Budget may review such report before its submission to Congress, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission and may submit to Congress its comments respecting such report. The first report under this subsection shall be submitted not later than September 1, 1975."

(b) Title VII is amended by adding at the end the following new part:

"PART H—TRAINING PROGRAMS FOR ALLIED HEALTH PERSONNEL

"DEFINITION

"SEC. 795. For purposes of this part, the term 'allied health personnel' means individuals with training and responsibilities for (1) supporting, complementing, or supplementing the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients, or (2) assisting environmental engineers and other personnel in environmental health control activities.

"PROJECT GRANTS AND CONTRACTS

"SEC. 796. (a) The Secretary may make grants to public and nonprofit private entities and enter into contracts with individuals and public and private entities to assist in meeting the costs of planning, study, development, demonstration, and evaluation projects undertaken with respect to one or more of the following:

"(1) Methods of coordination, management, and articulation of education and training at various levels for allied health personnel within and among educational institutions and their clinical affiliates.

"(2) Methods and techniques for State and regional coordination and monitoring of education and training for allied health personnel.

"(3) Educational programs (including programs in a junior college) which lead to—

"(A) a baccalaureate degree, an associate degree, or the equivalent of either degree, or

"(B) a higher degree,

in medical technology, ophthalmic dispensing, dental hygiene, or such other of the curricula for the training of allied health personnel as the Secretary may by regulation specify, and other methods and curricula (including model curricula) for training various types of allied health personnel.

"(4) Programs, or means of adapting existing programs, for training as allied health personnel special groups such as returning veterans, the economically or culturally deprived, and persons reentering any of the allied health fields.

"(5) New roles and functions for allied health personnel and methods for increasing the efficiency of health manpower through more effective utilization of allied health personnel in various practice settings.

"(6) New methods of credentialing allied health personnel, including techniques for appropriate recognition (through equivalency and proficiency testing or otherwise) of previously acquired training or experience, developed in coordination with the Secretary's program under section 1123 of the Social Security Act.

"(7) Methods of recruitment and retaining of allied health personnel.

"(8) Meaningful career ladders and programs of advancement for practicing allied health personnel.

"(9) Continuing education programs for practicing allied health personnel.

"(b) (1) No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, ad contain such information, as the Secretary shall by regulation prescribe.

"(2) Contracts may be entered into under subsection (a) without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(3) The amount of any grant under subsection (a) shall be determined by the Secretary. Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary.

"(c) For the purpose of making payments under grants and contracts under subsection (a), there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1975, $20,000,000 for the fiscal year ending June 30, 1976, and $20,000,000 for the fiscal year ending June 30, 1977.

"TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL

"SEC. 797. (a) The Secretary may make grants to public and nonprofit private entities for traineeships provided by such entities for the training of allied health personnel to teach in training programs for such personnel or to serve in administrative or supervisory positions.

"(b) (1) No grant may be made under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

"(2) Payments under such grants (A) shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the trainees; and (B) may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

"(c) For the purposes of making payments under grants under subsection (a), there are authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1975, $6,000,000 for the fiscal year ending June 30, 1976, and $6,000,000 for the fiscal year ending June 30, 1977.

"GRANTS AND CONTRACTS TO ENCOURAGE FULL UTILIZATION OF EDUCATIONAL TALENT FOR ALLIED HEALTH PERSONNEL TRAINING

"SEC. 798. (a) The Secretary may make grants to and enter into contracts with State and local educational agencies and other public or nonprofit private entities—

"(1) to (A) identify individuals of financial, educational, or cultural need who have a potential to become allied health personnel, including individuals who are veterans of the Armed Forces with military training or experience similar to that of allied health personnel, and (B) encourage and assist, whenever appropriate, the individuals described in clause (A) to (i) complete secondary school, (ii) undertake such post-secondary training as may be required to qualify them to undertake allied health personnel training, and (iii) undertake post-secondary allied health personnel training; and

"(2) to publicize existing sources of financial aid available to individuals undertaking allied health personnel training.

"(b) (1) No grant may be made or contract entered into under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(2) Contracts may be entered into under subsection (a) without regard to section

3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(3) The amount of any grant under subsection (a) shall be determined by the Secretary. Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(c) For payments under grants and contracts under subsection (a) there are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1975, $1,000,000 for the fiscal year ending June 30, 1976, and $1,000,000 for the fiscal year ending June 30, 1977.

"STATISTICS AND ANNUAL REPORT

"SEC. 799. (a) The Secretary shall, in coordination with the National Center for Health Statistics, continuously develop, publish, and disseminate on a nationwide basis statistics and other information respecting allied health personnel, including—

"(1) detailed descriptions of the various types of such personnel and the activities in which such personnel are engaged,

"(2) the current and anticipated needs for the various types of such health personnel, and

"(3) the number, employment, geographic locations, salaries, and surpluses and shortages of such personnel, the educational and licensure and certification requirements for the various types of such personnel, and the cost of training such personnel.

"(b) The Secretary shall submit annually to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Labor and Public Welfare of the Senate a report on—

"(1) the statistics and other information developed pursuant to subsection (a); and

"(2) the activities conducted under this subpart, including an evaluation of such activities.

Such report shall contain such recommendation for legislation as the Secretary determines is needed to improve the programs authorized under this part. The Office of Management and Budget may review such report before its submission to Congress, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission and may submit to Congress its comments respecting such report. The first report under this subsection shall be submitted not later than September 1, 1975.".

(c) Section 704 (as so redesignated) is amended (1) by striking out "any training center for allied health personnel" and inserting in lieu thereof "an entity for the training of public and community health personnel or allied health personnel", and (2) by striking out "or training center" each place it occurs and inserting in lieu thereof "or entity".

TITLE VII—MEDICAL RESIDENCY TRAINING PROGRAMS

SEC. 701. The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XIV—MEDICAL RESIDENCY TRAINING PROGRAMS

"FIRST-YEAR POSITIONS IN MEDICAL RESIDENCY TRAINING PROGRAMS

"SEC. 1401. (a)(1)(A) The number of first-year positions in any accredited medical residency training program in the United States which may be made available in a calendar year beginning after calendar year 1977 may not exceed such number as may be established for such calendar year for such program under section 1403; and the aggregate number of first-year positions in all accredited medical residency training programs in the United States which may be made available in a calendar year beginning after calendar year 1977 to graduates of schools of medicine and osteopathy may not exceed 125 per centum of the estimated number of graduates from accredited schools of medicine in the preceding calendar year.

"(B) The Secretary shall prepare by October 1 of each calendar year an estimate of the number of graduates that there will be from accredited schools of medicine in the succeeding calendar year, and shall by that date report the estimate of the agency designated or established under section 1403.

"(2) For purposes of this title, the term 'medical residency training program' means a program which trains graduates of schools of medicine and schools of osteopathy in a medical specialty recognized by the Liaison Committee for Specialty Boards established jointly by the American Board of Medical Specialties and the Council on Medical Education of the American Medical Association (or any successor of such Committee) and which provides the graduate education required by the specialty board (recognized by such Liaison Committee) for certification in such specialty. Such term does not include a residency training program in an osteopathic hospital.

"(b)(1) No entity which is engaged in business as a health care facility may include in any charge (or otherwise collect) for the provision in any calendar year of any health service by any physician in a medical residency training program an amount which is attributable to compensation paid to the physician by the health care facility in connection with such program unless the medical residency training program has been accredited under section 1402 for such calendar year and the number of first-year positions in such program made available in such calendar year does not exceed the number prescribed for such program under section 1403. Any entity which makes a charge or collection prohibited by this paragraph shall for each such charge or collection be subject to a civil penalty of not more than $5,000. Such penalty shall be assessed by the Secretary and may be collected in a civil action brought by the United States district court under section 1355 of title 28, United States Code.

"(2) If the Secretary determines that an entity is—

"(A) operating a medical residency training program which has not been accredited under section 1402, or

"(B) operating a medical residency training program with a number of first-year positions which exceeds the number established for that program under section 1403, the Secretary shall notify the entity of his determination, shall publish the determination in the Federal Register, and shall not make any grant to or enter into any contract with such entity under this Act for the fiscal year beginning after the date the Secretary publishes such determination in the Federal Register.

"MEDICAL RESIDENCY TRAINING PROGRAM ACCREDITING AGENCY

"SEC. 1402. (a)(1) For the purposes of accrediting the medical residency training programs for which first-year positions may be authorized under section 1403, the Secretary shall in accordance with subsection (b) designate or establish a medical residency training program accrediting agency (hereinafter in this section referred to as the 'accrediting agency').

"(2) The accrediting agency shall review, in accordance with procedures established and published by the agency and made available to the public, each medical residency training program in the United States and shall either accredit or disapprove such program. Each such program shall be reviewed at least every three years and an accreditation of a program shall be in effect for three years unless the accrediting agency terminates the accreditation before the expiration of three years. During the three-year period beginning January 1, 1976, the accrediting agency may accredit such a program on the basis of an accreditation granted such program by an entity generally recognized by the medical profession for purposes of accrediting such a program, except that an accreditation made under this sentence may not be in effect after January 1, 1979.

"(3) The accrediting agency shall submit to the agency designated or established under section 1403 and keep current for it a list of the medical residency training programs the accreditations of which are in effect.

"(b)(1) Not later than March 31, 1975, the Secretary shall prescribe and publish in the Federal Register requirements which must be met by an entity before it may be designated as the accrediting agency for purposes of this title. Such requirements shall provide that an entity—

"(A) have a governing body which is comprised of representatives of the medical profession, medical specialty boards, medical specialty societies, hospitals, schools of medicine, and the general public; and

"(B) meet the criteria established by the Secretary for recognition of nationally recognized accrediting agencies and associations.

"(2)(A) An entity which seeks designation as the accrediting agency shall submit an application to the Secretary not later than August 31, 1975. If such an application has been submitted to the Secretary by the Liaison Committee for Graduate Medical Education of the Coordinating Council for Medical Education before such date, and—

"(i) if the Secretary determines that the Liaison Committee meets the requirements prescribed under paragraph (1), he shall approve such application and designate it as the accrediting agency; or

"(ii) if the Secretary finds that the Liaison Committee does not meet such requirements, he shall provide it with such technical and other nonfinancial assistance as may be appropriate to enable it to meet such requirements, and if the Secretary determines not later than October 31, 1975, that it meets such requirements, he shall designate it as the accrediting agency.

"(B) If, by October 31, 1975, the Secretary has not designated the Liaison Committee as the accrediting agency he shall consider other applications for such designation and shall if he determines that an entity under such an application meets the requirements prescribed under paragraph (1) and that such entity is otherwise qualified to accredit medical residency training programs, designate, not later than January 1, 1976, such entity as the accrediting agency.

"(3)(A) A designation of the accrediting agency shall be in effect for three years unless the Secretary terminates such designation before the expiration of three years upon a determination by the Secretary (after notice and reasonable opportunity for a public hearing) that the agency no longer meets the requirements of paragraph (1) or is not qualified to accredit medical residency training programs. A designation may, upon application, be renewed for a period of three years.

"(B) If the Secretary terminates a designation or determines a designated accrediting agency is not qualified to have its designation renewed, the Secretary shall publish notice of such termination or determination and solicit application from other entities for designation as the accrediting agency.

"(4)(A) If—

"(i) by January 1, 1976, the Secretary determines that no entity which has applied for designation meets the requirements prescribed under paragraph (1) or is otherwise qualified to accredit medical residency training programs or if by such date no entity has applied for designation, or

"(ii) upon the expiration of a designation under this section, the Secretary determines that the designated agency is not qualified

to have its designation renewed and that there are no other qualified applicants for designation, or upon the termination of such a designation, the Secretary determines that there are no qualified applicants for designation,

the Secretary shall, within three months of the determination, establish an accrediting agency for purposes of this title.

"(B) An accrediting agency established by the Secretary under subparagraph (A) shall meet the criteria established by the Secretary for recognition of nationally recognized accrediting agencies and associations and the membership of which shall be fairly representative of the medical profession, medical specialty boards, medical specialty societies, hospitals, schools of medicine, and the general public. Members of the agency shall carry out the functions of the agency in accordance with this title. While away from their homes or regular places of business in the performance of services for the agency, members of the agency 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. The agency may appoint, without regard to the provisions of title 5, United States Code, respecting appointments in the competitive service, and pay, without regard to the provisions of such title respecting rates of pay, such personnel as it deems necessary for the agency to carry out is functions.

"(C) The establishment of an accrediting agency under subparagraph (A) shall be for such period (but not more than three years) as the Secretary prescribes. If an accrediting agency has been established by the Secretary an entity may apply for designation as such agency upon the termination of the period for which the accrediting agency was established. If no entity submits an approvable application for designation before the date of such termination, the Secretary shall renew the authority of the established accrediting agency for a period not to exceed three years.

"ESTABLISHMENT OF POSITIONS

"SEC. 1403. (a) (1) The number of first-year positions in each medical residency training program, accredited under section 1402, in the United States which may be made available in any calendar year beginning after calendar year 1977 shall be established by an agency designated or established under this section by the Secretary.

"(2) The aggregate number of such positions which may be established by the designated or established agency for any calendar year may not exceed the limit prescribed by section 1401(a)(1). In determining the number of such positions in any such accredited program the designated or established agency shall—

"(A) take into consideration the report made with respect to the study conducted under section 15(c) of the Act of December 31, 1973 (Public Law 93-233), and the report made with respect to the study conducted under section 801 of the Health Manpower Act of 1974;

"(B) insure that first-year positions in medical residency training programs are distributed equitably throughout various geographical areas of the United States;

"(C) afford special consideration to first-year positions in medical residency training programs maintained in conjunction with area health education centers under section 783 of this Act; and

"(D) afford particular attention to the need for medical residency training programs in the primary care specialties of general internal medicine, general pediatrics, family medicine, and obstetrics and gynecology.

"(3) The agency designated or established under this section shall, by April 1, 1977, establish (and publish in the Federal Register) the number of first-year positions to be made available in calendar year 1978 by accredited medical residency training programs and shall give to each entity which maintains such a program written notice of the number of first-year positions which it may make available in such program. The number of positions established for any calendar year thereafter shall be published in the Federal Register not later than April 1 of the preceding calendar year and each entity which maintains an accredited medical residency training program shall be given written notice by such date of the number of first-year positions which may be made available in such program.

"(b)(1) Not later than March 31, 1975, the Secretary shall prescribe and publish in the Federal Register requirements which must be met by an entity before it may be designated as the agency to establish the number of first-year positions which may be made available in accredited medical residency training programs. Such requirements shall provide that an entity have a governing body which is comprised of the Secretary (or his delegate) and representatives of the medical profession, medical specialty boards, medical specialty societies, hospitals, schools of medicine, and the general public.

"(2)(A) An entity which seeks designation under this section shall submit an application to the Secretary not later than August 31, 1975. If such an application has been submitted to the Secretary by the Coordinating Council for Medical Education before such date, and—

"(i) if the Secretary determines that the Coordinating Council meets the requirements prescribed under paragraph (1), he shall approve such application and designate it; or

"(ii) if the Secretary finds that the Coordinating Council does not meet such requirements, he shall provide it with such technical and other nonfinancial assistance as may be appropriate to enable it to meet such requirements, and if the Secretary determines not later than October 31, 1975, that it meets such requirements, he shall designate it.

"(B) If, by October 31, 1975, the Secretary has not designated the Coordinating Council for Medical Education, he shall consider other applications for such designation and shall if he determines that an entity under such an application meets such requirements and is otherwise qualified to establish the number of first-year positions in medical residency training programs, designate such entity not later than January 1, 1976.

"(3)(A) A designation of an agency under paragraph (2) shall be in effect for three years unless the Secretary terminates such designation before the expiration of three years upon a determination by the Secretary (after notice and reasonable opportunity for a public hearing) that the agency no longer meets the requirements of paragraph (1) or is not qualified to establish the number of first-year positions in accredited medical residency training programs. A designation may, upon application, be renewed for a period of three years.

"(B) If the Secretary terminates a designation or determines a designated agency is not qualified to have its designation renewed, the Secretary shall publish notice of such termination or determination and solicit applications from other entities for designation under this section.

"(4)(A) If—

"(i) by January 1, 1976, the Secretary determines that no entity which has applied for designation meets the requirements prescribed under paragraph (1) or is not otherwise qualified to establish the number of first-year positions in accredited medical residency training programs or if by such date no entity has applied for designation, or

"(ii) upon the expiration of a designation under this section, the Secretary determines that the designated agency is not qualified to have its designation renewed and that there are no other qualified applicants for designation, or upon the termination of such a designation, the Secretary determines that there are no qualified applicants for designation.

the Secretary shall, within three months of such determination, establish an agency to establish the number of first-year positions in accredited medical residency training programs.

"(B) The membership of an agency established by the Secretary under subparagraph (A) shall be fairly representative of the medical profession, hospitals, schools of medicine, medical specialty boards, medical specialty societies, and the general public. Members of the agency shall carry out the functions of the agency in accordance with this title. While away from their homes or regular places of business in the performance of services for the agency, members of the agency 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. The agency may appoint, without regard to the provisions of title 5, United States Code, respecting appointments in the competitive service, and pay, without regard to the provisions of such title respecting rates of pay, such personnel as it deems necessary for the agency to carry out its functions.

"(C) The establishment of an agency under subparagraph (A) shall be for such period (but not more than three years) as the Secretary prescribes. If an agency has been established by the Secretary an entity may apply for designation as such agency upon the termination of the period for which the agency was established. If no entity submits an approvable application for designation before the date of such termination, the Secretary shall renew the authority of the established accrediting agency for a period not to exceed three years.

"(5) The Secretary may make grants to agencies designated under this section for their costs in carrying out their functions under this section. A grant to an agency under this paragraph shall be made for its costs incurred under this section during a period not to exceed one year after the date the grant was made. No single grant to an agency may exceed $300,000.".

TITLE VIII—MISCELLANEOUS

STUDY OF DISTRIBUTION OF PHYSICIANS

SEC. 801. (a) The Secretary of Health, Education, and Welfare shall, within ninety days after the date of the enactment of this Act, contract for the conduct of a study for the following purposes:

(1) To analyze the current distribution of physicians by specialty. In making such analysis—

(A) the geographical distribution of medical and osteopathic physicians by specialty and subspecialty and by geographic area shall be determined, and in connection with such determination physician specialties and subspecialties shall be defined in a manner consistent with recognized categories and geographical areas shall be defined as reasonable medical trade areas for each specialty or subspecialty; and

(B) special attention shall be given to determining (i) the percentage of time physicians in each specialty and subspecialty spend in primary care activities and in other activities unrelated to their specialty training, and (ii) the percentage of time primary care physicians spend in specialty care.

(2) To project the expected distribution of physicians by specialty and subspecialty by geographic area in the years 1980, 1985, and 1990. Such projection shall be based on current trends in physician specialty training

and choice of practice sites, the activities of various specialty boards and other organizations, and the retirement-death rate of physicians by specialty and subspecialty.

(3) To examine and evaluate the various methodologies for estimating the optimal distribution of physicians by specialty and subspecialty by geographic area controlling the supply of specialists and subspecialists. Methodologies examined and evaluated shall include (A) methodologies utilized by foreign countries, and (B) consideration of the use of nonphysicians to perform functions normally performed by physicians.

(4) To develop a reliable and appropriate methodology to establish the optimal distribution of physicians by specialty and subspecialty by geographic area. Utilizing such methodology, projections shall be made for the optimal number of physicians by specialty and subspecialty by geographic area for the years 1980, 1985, and 1990.

(b) The organization selected by the Secretary to conduct the study required by subsection (a) shall—

(1) have a national reputation for objectivity in the conduct of studies for the Federal Government;

(2) have the capacity to readily marshal the widest possible range of expertise and advice relevant to the conduct of such study;

(3) have a membership and competent staff which have backgrounds in government, the health sciences, and the social sciences;

(4) have a history of interest and activity in health policy issues related to such study; and

(5) have extensive existing contracts with interested public and private agencies and organizations.

(c) An interim report providing a plan for the study required by subsection (a) shall be submitted by the organization conducting the study to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate by October 31, 1975; and a final report giving the results of the study shall be submitted by such organization to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate by October 31, 1976.

QUALITY ASSURANCES RESPECTING EDUCATION AND TRAINING OF ALLIED HEALTH PERSONNEL

SEC. 802. The Secretary of Health, Education, and Welfare shall within one year of the date of the enactment of this Act (1) submit to the Congress a report which identifies and describes each of the programs which he administers under which the costs of programs of education and training for allied health personnel (as defined in section 795 of the Public Health Service Act) are directly or indirectly paid (in whole or in part); and (2) take such action as may be necessary to require that such assistance is provided only those programs which meet such quality standards as the Secretary may by regulation prescribe.

ALLIED HEALTH PERSONNEL STUDY

SEC. 803. (a)(1) The Secretary of Health, Education, and Welfare shall, in accordance with paragraph (2), arrange for the conduct of studies—

(A) to identify the various types of allied health personnel and the activities in which such personnel are engaged and the various training programs currently offered for allied health personnel;

(B) to establish classifications of allied health personnel on the basis of their activities, responsibilities, and training;

(C) using appropriate methodologies, to determine the cost of educating and training allied health personnel in each classification; and

(D) to identify the classifications in which there are a critical shortage of such personnel and the training programs which should be assisted to meet that shortage.

(2)(A) The Secretary shall request the National Academy of Sciences to conduct such studies under an arrangement under which the actual expenses incurred by such Academy in conducting such studies will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such studies.

(B) If the National Academy of Sciences is unwilling to conduct one or more such studies under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such studies and prepare and submit the reports thereon as provided in subsection (b).

(b) The studies required by subsection (a) shall be completed within the two-year period beginning on the date of the enactment of this Act; and a report on the results of such study shall be submitted by the Secretary to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate before the expiration of such period.

(c) Within six months after the date prescribed for the completion of the studies under subsection (a), the Secretary of Health, Education, and Welfare shall transmit to Congress such recommendations for legislation as he determines is necessary to provide appropriate support for the training programs referred to in subsection (a)(1)(D).

SEC. 804. If, within twenty years (or ten years in the case of a facility constructed with funds paid under part A of title VII of the Public Health Services Act (as in effect before the date of the enactment of the Health Manpower Act of 1974)) after completion of the construction of any facility for which funds have been paid under such part A (as so in effect) or under part D of such title VII (as in effect before July 1, 1967)—

(1) the applicant for such funds or other owner of such facility shall cease to be a public or nonprofit private entity, or

(2) such facility shall cease to be used for the purposes for which such funds for its construction were provided, unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Senator KENNEDY I move that the Senate disagree to the amendment of the House on S. 3585 and request a conference with the House on the disagreeing votes therein, 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.

ORDER VACATING TIME RESERVED FOR SENATOR HELMS

Mr. ROBERT C. BYRD. Mr. President, I assume that Mr. HELMS and Mr. PERCY are not going to claim their order.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order reserved for Senator HELMS of North Carolina be vacated.

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

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, without prejudice to Mr. PERCY until further information is received, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 1300, 1301, 1306, 1308, 1309, 1310, 1312, 1313, 1314, 1317 through 1322, and 1324.

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

JIRI EMANUEL HUEBNER

The bill (S. 2314) for the relief of Jiri Emanuel Huebner was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Jiri Emanuel Huebner shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

DR. JESUS FERNANDEZ TIRAO AND WIFE

The bill (S. 2406) for the relief of Dr. Jesus Fernandez Tirao and his wife, Benylin-Lynda Obiena Tirao, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Jesus Fernandez Tirao and his wife, Benylin-Lynda Obiena Tirao shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or

the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

DR. BENDICTO PRINCIPE AND WIFE

The Senate proceeded to consider the bill (S. 3735) for the relief of Dr. Bendicto Principe and his wife, Erlinda Madula Principe, which had been reported from the Committee on the Judiciary with an amendment.

The amendment was agreed to.

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

S. 3735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Benedicto Principe and his wife, Erlinda Madula Principe, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Amend the title so as to read: "A bill for the relief of Doctor Benedicto Principe and his wife, Erlinda Madula Principe."

PATRICK ANDRE TASSELIN AND WIFE

The bill (S. 3977) for the relief of Patrick Andre Tasselin and his wife, Fabienne Francoise Tasselin, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Patrick Andre Tasselin and his wife, Fabienne Francoise Tasselin shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

NEPTY MASAUO JONES

The bill (H.R. 3203) for the relief of Nepty Masauo Jones, was considered, ordered to a third reading, read the third time, and passed.

DELMIRA DE BOW

The bill (H.R. 3339) for the relief of Delmira De Bow, was considered, ordered to a third reading, read the third time, and passed.

SAMUEL CABILDO JOSE

The bill (H.R. 7767) for the relief of Samuel Cabildo Jose was considered, ordered to a third reading, read the third time, and passed.

FERNANDO LABRADOR DEL ROSARIO

The bill (H.R. 9182) for the relief of Fernando Labrador del Rosario, was considered, ordered to a third reading, read the third time, and passed.

MR. ALDO MASSARA

The bill (H.R. 9654) for the relief of Mr. Aldo Massara, was considered, ordered to a third reading, read the third time, and passed.

RAYMOND W. SUCHY, U.S. ARMY (RETIRED)

The bill (H.R. 2208) for the relief of Raymond W. Suchy, second lieutenant, U.S. Army (retired) was considered, ordered to a third reading, read the third time, and passed.

WILLIAM L. CAMERON, JR.

The bill (H.R. 8322) for the relief of William L. Cameron, Jr., was considered, ordered to a third reading, read the third time, and passed.

ARANSAS PASS, TEX.

The bill (H.R. 9588) for the relief of the city of Aransas Pass, Tex., and the Urban Renewal Agency of the city of Aransas Pass, Tex., was considered, ordered to a third reading, read the third time, and passed.

FIRE DISTRICTS IN THE STATE OF MISSOURI

The bill (H.R. 11847) for the relief of certain fire districts and departments in the State of Missouri to compensate them for expenses relating to a fire on Federal property, was considered, ordered to third reading, read the third time, and passed.

CHANGE IN NAME OF PATENT OFFICE

The bill (H.R. 7599) to amend the Trademark Act of 1946 and title 35 of the United States Code to change the name of the Patent Office to the "Patent and Trademark Office," was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT OF THE TRADEMARK ACT

The bill (H.R. 8981) to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patent Office, and to provide for awarding attorney fees, was considered, ordered to a third reading, read the third time, and passed.

PATENTS

The bill (H.R. 9199) to amend title 35, United States Code, "Pater.ts", and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois (Mr. PERCY) is recognized for not to exceed 15 minutes.

DR. FLOYD M. RIDDICK

Mr. PERCY. Mr. President, Dr. Floyd M. Riddick, after 27 years of distinguished service to the U.S. Senate, is retiring at the end of this session of Congress. I would like to take a moment to voice a personal thank you for his thorough, efficient, and always patient service.

During the 8 years I have been privileged to serve in this body, I have known Dr. Riddick as a hard-working, nonpartisan, and invaluable Parliamentarian. His interpretation of the Senate rules has always been reasoned and fair. He has somehow found the secret of the 25-hour day and is always available to share his expertise with all 100 Members of this body as well as their staffs.

I believe the Senate owes a special debt of gratitude to Dr. Riddick for his work on the 1958 and 1964 editions of Senate procedure, and for his untiring work in preparing an updated and revised edition for publication this past summer.

I am pleased that Dr. Riddick has agreed to continue to serve the Senate as a consultant and as Parliamentarian Emeritus. This Chamber has been most fortunate to have had him in its service, and I am certain I can express its unanimous gratitude and best wishes to him.

From a personal standpoint, all of us look upon Doc Riddick as a deep friend and I think he epitomizes the great contribution to the work of the Senate, work of the Congress, work of the U.S. Government, that is given by devoted members of the staff who have accrued great seniority, who stay in the Senate and its work because they love it, because they believe it is needed, and feel it is vital to an efficiently functioning America.

Certainly, Dr. Riddick epitomizes and certainly capsulizes, we might say, all of those fine, outstanding qualities that a great public servant in the service of the U.S. Government and the U.S. people has symbolized to all of us.

INTRODUCTION OF ENERGY CONSERVATION LEGISLATION

Mr. PERCY. Mr. President, the inescapable linkages become clearer each day among this country's wasteful use of energy, the staggering cartel-administered

price of world oil, the burdensome worldwide inflation, the acceleration toward deeper worldwide recession, the impending collapse of the world monetary order, and the potential for conflict in the Middle East.

In my view, the best solution to this rapidly deteriorating economic situation lies in bringing down the world price of oil by reducing worldwide consumption far below the present rate of production by the oil-producing countries. The United States must lead in this effort—*by cutting* about 1.7 million barrels per day, or 10 percent, from our present consumption of oil by the end of 1975—because we use and waste more energy than anyone else.

In fact, FEA has indicated and computed that the United States of America wastes more energy than the total Japanese people, economy and nation, actually consume in the way of energy.

To achieve this essential objective fairly and equitably, we cannot rely solely on voluntary measures. For that reason I am today introducing five mandatory energy conservation measures, which if enacted would accomplish at least a 10-percent reduction in U.S. oil consumption.

This package of five bills will implement specific proposals I first announced on November 17. Despite the fact that Congress will adjourn this week, the national debate on solutions to our energy problem will continue. I will, of course, reintroduce these bills in the 94th Congress next month and urge their prompt consideration.

FUEL CONSERVATION TAX

The first bill I am introducing provides for a new fuel conservation tax on gasoline sales, with a tax credit to the consumer for essential driving. The tax would be 10 cents a gallon during 1975, and would increase to 20 cents a gallon on January 1, 1976. The Federal Energy Administration has estimated that such a tax would save about 250,000 barrels of oil a day in the first year, and half a million barrels a day in subsequent years.

This tax would apply only to gasoline, not to diesel fuel, so that most large vehicles used in commercial and public transportation would be exempt. Local transit authorities would continue to receive a rebate of one-half any gasoline taxes paid to the Federal Government. Owners of commercial and public transport vehicles which use gasoline could, of course, continue to deduct their fuel costs as a business expense for income tax purposes, just as they do now.

The revenue from this fuel conservation tax would not be earmarked for highways or any other special purpose. The revenue would be paid into the general fund of the Treasury, where it would be available for mass transportation, public employment programs, energy research and development, or other vital national needs.

An annual tax credit would be provided on the first 500 gallons of gasoline purchased by an individual. This is the amount of gasoline that the FEA estimates the average individual uses for "essential" driving during a year. Five hundred gallons is the amount consumed by a car traveling 10,000 miles and delivering 20 miles per gallon.

The credit is obtained by filing a Federal income tax return, whether or not the individual has any income tax liability. The amount of tax paid would be totally refundable for farm vehicles, as is the case with the existing gasoline tax.

Under the fuel conservation tax, an individual would receive a tax credit of up to $50 in the first year—10 cents times 500 gallons—and up to $100—20 cents times 500 gallons—in subsequent years. The average driver now consumes about 700 gallons a year, of which 200 gallons are used in nonessential driving. Thus the tax and credit combination would be a financial incentive to use less gasoline. Low income individuals who do not pay Federal income taxes would receive a cash refund of up to $50 in the first year, and up to $100 in subsequent years.

I do not like new taxes any more than anyone else. But I like even less the inflationary forces that are destroying our economic values. We must "pay as we go" on all new programs, such as public service job programs, or we will continue to add to the Federal deficit.

AUTO EFFICIENCY TAX INCENTIVE PROGRAM

The second bill seeks to spur development of more efficient automobiles over the next few years so that the constant upward trend in U.S. gasoline consumption will be broken for good.

This proposal establishes an automobile efficiency tax incentive program. It would set an initial fuel economy standard of between 15 and 17 miles per gallon, which is the average gas mileage range for 1975 model cars. The weighted average of fuel economy for 1975 automobiles in urban and highway driving is 15.7 miles per gallon, according to tests conducted by the Environmental Protection Agency. Persons who purchase cars with fuel efficiencies in the 15.1 and 17 miles per gallon range would be subject to no tax and would receive no payment.

After the date of enactment, purchasers of new cars which deliver more than 17 miles per gallon would receive a cash payment from the Federal Treasury on a sliding scale, up to $280 for a car that gives 23 miles per gallon or more. Conversely, buyers of new cars that give 15 miles per gallon or less would pay a tax that would start at $140 and increase in steps to a maximum of $680 on "gas-guzzlers" that deliver 9 miles per gallon or less.

The entire scale for taxes and payments would be increased by 2 miles per gallon every 2 years until 1983 as a further incentive to design cars that will go farther on less gasoline. This will raise the standard for fuel economy every other year until it reaches the range of 23.1 to 25 miles per gallon in 1983 and thereafter.

The tax is not designed to solely penalize big car purchasers. Its purpose is to provide a strong incentive for the development of more fuel-efficient automobiles of whatever size. A recent study conducted jointly by the Department of Transportation and the Environmental Protection Agency concluded that automakers could improve gasoline mileage by 60 percent or more by 1985, thus achieving an average of 25 miles per gallon. Moreover, the study determined that this improvement could be attained with available technology and without deviating from present Federal clean air standards.

The purpose of the rebate portion of this tax incentive program is not to subsidize auto sales, but to provide a positive stimulus to the production and purchase of the most energy-conserving cars.

For too many years Americans have been spoiled by cheap fuel and indulged themselves in the use of fuel-consuming vehicles, while people in foreign countries have been far more prudent. For example, 1974 model Italian cars average almost 26 miles per gallon compared with only 14 miles per gallon for 1974 U.S. cars. Yet our average tax on a gallon of gasoline is only 12 cents, while Italy's is at least $1.16. Now that we are faced with the same staggering oil import prices as the other industrial nations, we must seek to convert American automobiles into the same type of fuel-efficient vehicles Europeans have used for years.

We can and must change our wasteful consumption habits now in both the design of automobiles and the purchase of gasoline. That is the reason I have proposed both an auto efficiency tax incentive program and a rebatable gasoline tax.

It is estimated that in the first year of the tax incentive program the net cost would be $250 million. This estimate is based on projected production, import, and sales figures for the 1975 model year and the EPA test results for 1975 model cars. The estimate reflects expected tax revenues of $1 billion in the first year, and expected total cash refunds of $1.25 billion. I anticipate that after the first year, this program will be self-financing. In other words, the estimated revenue would approximately equal the total rebate each year.

REPEAL OF DEDUCTIBILITY OF STATE AND LOCAL GASOLINE TAXES

The third bill I am introducing would repeal the Federal income tax deduction now allowed for State and local gasoline taxes, retroactive to January 1, 1974. The income tax deduction Americans now enjoy is in reality a Federal subsidy on gasoline sales. National policy now emphasizes fuel conservation rather than consumption. The current subsidy works against that policy.

Moreover, the income tax deduction for State and local gasoline taxes should be repealed because, like other deductions, it benefits only those taxpayers whose incomes are high enough to warrant itemized deductions. Those taxpayers are, of course, the ones least in need of selective tax benefits.

In addition, this deduction currently deprives the Federal Treasury of about $600 million annually. There is no doubt that such a sum can be put to better use.

ENFORCEMENT OF THE 55 MILES PER HOUR SPEED LIMIT

The fourth bill I am introducing today would require strict enforcement of the 55 mile-per-hour speed limit on our Nation's highways. While the life-saving

effect of the 55 mile-per-hour limit could be considered sufficient reason for enforcement, the fact remains that as much as 73 million barrels of fuel could be saved each year if the 55 mile-per-hour speed limit were observed by all vehicles.

The Congress, the administration, and the public are in general agreement on the importance of retaining that limit. The Federal aid highway amendments, approved by the Senate in August, includes an indefinite extension, which I sponsored, of the current temporary limit. The companion House bill, recently reported out of the Public Works Committee, contains a similar provision. The Department of Transportation and President Ford himself have endorsed the extension legislation, and a Gallup poll recently showed that 73 percent of adult Americans favor retaining the 55 mile-per-hour limit.

Despite this widespread approval of the 55 mile-per-hour limit, it is apparent to anyone who has traveled on the highways in the last few months that all those who approve the limit do not adhere to it. The New York Times has reported that more than 70 percent of the vehicles on the road are routinely traveling faster than 55 miles per hour. Checks in Missouri, Connecticut, and Oregon show that at least twice as many speeding tickets are being issued this year as last year.

In my view, the reason for the discrepancy between what the driving public believes and what it does is primarily psychological: The 55 mile-per-hour limit is temporary and only intermittently enforced, and the public's reaction is consequently inconsistent. Extending the law will, I believe, eliminate much of this confusion. Legislation requiring enforcement of the 55 mile-per-hour limit would help convince both the States and the American people that Congress means business on the 55 mile-per-hour limit.

The bill I am introducing today would require the Secretary of Transportation to set standards for State enforcement of any maximum speed limit on any public highway required by Federal law. If a State, after notice, consultation and hearing, does not comply with such standards of enforcement, its access to Federal highway funds would be suspended. If the States realize that Federal highway aid might be terminated, I believe they will make sincere efforts to enforce the 55-miles-per-hour limit and to convince their citizens that adherence to the limit will be required. The House-passed bill carries an enforcement provision that calls for suspension of Federal highway aid to States negligent in enforcing the 55-mile-per-hour limit.

ABOLITION OF THE HIGHWAY TRUST FUND

The fifth and final bill in my energy conservation package would abolish the highway trust fund, which every year earmarks billions of dollars of Federal gas tax revenue primarily for highway construction, whether the highways are needed or not.

The highway trust fund has outlived its usefulness. It has discouraged the development of other modes of transportation which are far more energy efficient than cars. Because the law provides that States can build highways by contributing only 10 percent of the construction cost, States naturally choose highways over mass transit, for which they would be required to pay 20 to 30 percent of the construction cost.

A trust fund designed for highway construction is anachronistic in our present economic situation. The trust fund inflexibly withholds money for a restricted use and subverts the normal budgetary process. This money should be channeled into general revenues where it could be used to help finance various types of transportation or other national needs.

As of September 30, 1974, there was a balance of $8,156,923,000 in the highway trust fund. In the 3 months ending September 30, $1,653,863,000 came into the fund, with almost $13 million of that coming from interest earned, as opposed to excise revenues. As of that same date, work had either been completed or was underway on 99 percent, or 42,062 miles of the 42,000-mile Interstate Highway System, with 84.5 percent of the system actually open to traffic. It is estimated that about 36 percent of the total cost of the entire system remains to be funded.

With the trust fund abolished, the balance in the fund and future tax revenues earmarked for the fund would be directed to general revenues.

Enactment of the energy conservation measures I am proposing today are imperative if there is to be any hope of reducing the world price of oil, the leading cause of inflation. Moreover, cutting oil imports is essential to lowering our balance-of-payments losses, which were $2.6 billion in the third quarter of 1974 alone.

Energy is, of course, only one part of the mix of ingredients that lead to a 12.2-percent increase in the consumer price index this year. Years of excessive deficit spending by the Federal Government have also made a direct contribution.

I am concerned that in our effort to counteract the current economic downturn, we will overreact and run up a deficit far in excess of what is fiscally prudent. As President Ford said in his address on December 12:

Long-term success is not assured by short-term panaceas.

Certainly we should spend the funds necessary to ease the burden of unemployment and provide incentives for the investment necessary to promote real economic growth in the future. I advocated and voted for the Special Employment Assistance Act passed by the Senate last week. Public service jobs have a demonstrable effect in easing unemployment without creating undue inflationary pressure. In fact, I believe the Federal Government should play an even greater role in promoting work opportunities for the unemployed. The measure passed by the Senate last week will provide approximately 500,000 jobs over the next year. But as many as 6.5 million people may be unemployed by spring.

Congress should give serious consideration to a full-employment program that is balanced between the production of goods and services and involves the private as well as public sector. It is mindless to embark upon a massive public employment program without assuring that the supply shortages that contributed so heavily to inflation earlier this year do not occur again. A full employment program must involve goods-producing industries through a mechanism such as the human investment tax credit endorsed by the Republican Conference last week.

Certainly, it makes a great deal more sense to provide funds to train people by those who will hire them, train them for jobs that will exist, then to try to wean away as rapidly as possible, as the economy picks up, those people who are ready, willing, and able to work and get them into the private sector as rapidly as possible.

A human investment tax credit, expended jointly by the private sector that hires people, and expended also by the Federal Government, as a supplement for the training of these individuals, would be the most desirable kind of program by which we should embark.

In addition, I believe Congress should increase the investment tax credit for utilities and other industries as proposed by the President. Increased capital investment is essential to assure long-term growth.

The funds necessary for these programs must, however, be part of a comprehensive, responsible fiscal package. I am dubious that the current budget estimates of the Treasury Department are accurate. The most recent deficit estimate of approximately $9.2 billion for fiscal year 1975 should provide about the correct amount of fiscal stimulus at this time. But a realistic analysis of estimated revenues and outlays indicates that the deficit could go as high as $17 billion.

The deficit for fiscal year 1976 could be substantially higher than this—up in the $25 billion to $30 billion level.

In the last conversation I had with Secretary Simon, he indicated the budget deficit may be $11 billion to $12 billion. I estimated $17 billion.

The revised outlay estimate of $302.2 billion for this fiscal year is based on congressional adoption of $4.586 billion in budget cuts, rescissions and deferrals recommended in the President's message of November 26. However, the number and the controversial nature of many of these proposals have made serious congressional action on them impossible before next year.

The revised revenue estimates of $293 billion include approximately $1 billion in revenues from the President's proposed income tax surcharge proposal and the tax reform bill previously under consideration by the House Ways and Means Committee. Neither of these measures will be adopted this year. In addition, the revised revenue estimates are based on an estimated unemployment rate of 6.5 to 6.7 percent through the end of the fiscal year next June 30 and do not include a possible revenue loss of up to $4 billion due to changes in corporate accounting methods.

A $17 billion deficit clearly would be inflationary. Because of the danger of continued inflation, there are two steps

I believe the 94th Congress must take as first order of business.

First, the responsible committees must give serious consideration to the President's proposals to reduce outlays during the remainder of fiscal 1975 and for fiscal 1976, making those modifications and substitutions which are appropriate. All unnecessary spending must be eliminated if we are to reduce the Federal deficit and still have sufficient funds to deal effectively with the current economic downturn.

Second, Congress should adopt the revenue-raising measures necessary to fund the counter-recessionary programs adopted and keep the deficit at a safe level. The measures I am introducing today will produce approximately $5 billion in revenue on an annual basis. The 5-percent surtax on corporate income proposed by the President should be enacted to pay for the increase in the investment tax credit. Taxes paid by energy-producing industries, particularly the oil industry, should be closer to the amount paid by other corporate taxpayers. And Federal excise taxes on luxury items such as tobacco and alcoholic beverages should be increased. The tax rates on alcohol and tobacco have not been increased for 20 years. A 50-percent increase in these rates would yield nearly $4 billion annually in new tax revenue.

I am aware that some of the measures I am advocating will be initially burdensome. But we all must make sacrifices now to avoid economic disaster later. And we must be careful that our short-term efforts to alleviate the burden on those hardest hit today do not themselves give rise to new problems in the future. Our challenge is to adjust policy to combat the energy crunch, worsening recession and ruinous inflation. To do nothing, or to develop an inadequate program, would be irresponsible.

The PRESIDING OFFICER. The time of the Senator has expired.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. 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 PRESIDENT pro tempore. Without objection, it is so ordered.

DR. FLOYD M. RIDDICK

Mr. McGEE. Mr. President, it is with a deep sense of regret that I view the retirement of Dr. Floyd M. Riddick as Senate Parliamentarian at the end of this session of the U.S. Congress.

I do want to take this opportunity to pay tribute to an individual who has made many valuable and significant contributions to the orderly conduct of Senate business. These contributions cannot be underestimated for it has been largely due to Dr. Riddick's efforts that the Senate processes have been adapted to present day needs. We have all benefited by his wisdom and foresight in approaching the daily business of this body.

Therefore, while his retirement is well-deserved, we will sorely miss his conscientious and diligent attention to his Senate duties. He has served each and every Member of this body with extraordinary attention to each of our needs. Not only has he been a fair and impartial Parliamentarian, he has also been the one individual each of us could turn to for guidance and advice.

I wish Dr. Floyd Riddick nothing but the best in his retirement years and express my deep and sincere appreciation for his outstanding contributions to the U.S. Senate.

Mr. MONTOYA. Mr. President, on Thursday, December 5, 1974, by action of the Senate, a great honor and distinction was bestowed upon a great public servant, Mr. Floyd Riddick, the Parliamentarian of the Senate. During his tenure he has had to recommend many important rulings with respect to perhaps the most important items of legislation ever to be considered during our Nation's history.

Having presided over the Senate on many occasions, I have had ample opportunity to adequately evaluate Dr. Riddick as a Parliamentarian. His great ability and impartiality have been demonstrated most admirably. This is in the great tradition of all the great Parliamentarians who have served in the Senate. As an individual, he was always courteous and most attentive to the needs of Senators.

Mr. McINTYRE. Mr. President, I am sure many of my colleagues view the retirement of Dr. Riddick as our Parliamentarian with the same mixture of regret and apprehension I do.

When I came to this Chamber 12 years ago, I laid no claim to parliamentary expertise. And I am sorry to say that despite experiences chairing this body, I have not developed that much expertise in the interim.

Part of that failure I can lay to my own learning disabilities, Mr. President, but another part I can lay to the luxury of depending upon Dr. Riddick time and time and time again.

So as I recall his many instances of patience, kindness, and counsel for this "slow learner," and express my appreciation for them, I want to wish Dr. Riddick a happy and fulfilling retirement.

When I consider how expertly and frequently he extricated us from the parliamentary complexities of the last few hectic days, I worry about how I will fare without his help when I am called to chair proceedings in the days and months to come.

Mr. THURMOND. Mr. President, it is with regret that I note that Dr. Floyd Riddick will retire as Senate Parliamentarian at the end of the 93d Congress. This is a loss which all the Members of the Senate will feel very deeply.

Dr. Riddick has served the Senate well and faithfully. He has been thoughtful and accommodating in his rulings. Moreover, he has an unsurpassed memory and knowledge of the precedents and rules of the Senate. Additionally, he has been most cordial in his willingness to discuss any parliamentary problem with individual Members of the Senate.

Although he is retiring, I am pleased that he has decided to act as a consultant to the Senate in future parliamentary matters. It is my understanding that he will continue to serve with the Rules Committee in an advisory capacity next year.

Mr. President, I can think of no more fitting honor that the Senate can bestow on Dr. Riddick than the title of "Parliamentarian Emeritus."

TRIBUTES TO SENATOR J. WILLIAM FULBRIGHT

Mr. CHURCH. Mr. President, when a speaker is introduced to an audience, the length of the introduction is supposed to bear an inverse relationship to the prominence of the featured guest. The more important the speaker, the shorter the introduction. So it should be with tributes.

No one can doubt the importance of BILL FULBRIGHT'S career in the Congress. He came to national prominence while still a Member of the House of Representatives, as author of the legislation which has enabled many thousands of young people to secure some part of their advanced education in a foreign land. The Fulbright scholarships not only inaugurated a new era of exchange in education on a global scale, but it made the Senator's name famous in the early years of his remarkable career.

I have heard BILL FULBRIGHT say that he regards the scholarships as his foremost accomplishment. If that be so, it takes nothing from his great works in the Senate. For it was in the Senate that FULBRIGHT took his stand against our war in Vietnam; it was here that he earned his reputation as a dissenter, a role in which he displayed not only his keen intelligence, but admirable independence, as well. I shall always believe that BILL FULBRIGHT'S best moment in the Senate came when he decided to unleash the Committee on Foreign Relations from its captivity behind closed doors by conducting public hearings on that misbegotten war.

Afterwards, he devoted himself to the effort of reversing the waning role of the Senate in the formulation of American foreign policy. It was a task he could not complete, but it will be carried forward on the momentum of his leadership and example.

Upon his defeat last May in Arkansas, I issued a statement which summed up my feelings about the contribution BILL FULBRIGHT made during his summit years in the Senate. I said:

> Bill Fulbright has been a stand-up Senator during a period when most have preferred to sit. As Chairman, he brought the Senate Foreign Relations Committee back to life, and he tried his best to achieve a renaissance in the Senate, itself. So he will leave an historic mark that will be remembered long after his time. This can be said of few men.

Inasmuch as Bethine and I have treasured our friendship with the FULBRIGHTS—both that of BILL and Betty—we hope there may be many occasions in the future for the enjoyment of their company.

And we wish them well.

ABOUT SENATOR FULBRIGHT

Mr. PERCY. Mr. President, as this session draws to a close, and reflecting on the career of Senator J. WILLIAM FULBRIGHT, the distinguished chairman of the Committee on Foreign Relations, I would like to comment on his important service over the years in both the Senate and the House of Representatives.

It is my judgment that no Member of Congress has done more to redress the balance of power between the executive and legislative branches. As all in this Chamber know, Senator FULBRIGHT has stood up for the constitutional powers of Congress and has never wavered in this cause. He has been willing to accept the brickbats of those who disagreed with him, and he has had the courage to pursue his considered views and express them forcefully regardless of executive branch or popular reaction.

Mr. FULBRIGHT's initiative in the House for the creation of a foreign scholarship program, which bears his name, has made him well known throughout the world. His eloquent opposition to U.S. involvement in the Vietnam war helped crystallize American public opinion against the folly of that war.

We shall miss Senator FULBRIGHT in this body and in the Committee on Foreign Relations, where I was privileged to serve with him in recent years. I wish him well in his future career, and I want him to know that there are many of us on this side of the aisle who hold him in the highest regard.

Mr. HANSEN. Mr. President, the junior Senator from Arkansas, Mr. FULBRIGHT, as chairman of the Committee on Foreign Relations, during the Vietnam war years had many accolades and probably an equal amount of criticism—or perhaps even a heavier amount of the latter at times.

While most of us, and I was not a Member of the Senate at the time, had misgivings about the insertion of American troops into Vietnam, the distinguished chairman was one of the first to recognize that we ought to get out. And he showed a courage and purposefulness to back up his belief—arguing head on, and publicly, with an administration of his own political party against that administration's policy of waging what everyone eventually would realize was a no-win war.

You can ask many young adults today what their first vivid memory of the Senator from Arkansas is, and it is likely they will tell you of his confrontations with the then Secretary of State, disputing tenaciously and persuasively the merits of administration policy. Although it is unlikely that it could be documented, it is reasonable to assume that Mr. FULBRIGHT's efforts helped lead to the election of a new President with a new policy—the result of which eventually was the bringing home of American forces from Vietnam.

Among the many other worthwhile achievements of the distinguished Senator was his leadership in establishing a scholarship fund for American students to study abroad. It is appropriate that these scholarships are known as Fulbright scholarships. This program enhances our students understanding of our world community and fosters good will for our Nation.

The Senator from Arkansas has built an honorable record in the U.S. Senate of which the people of his State can be proud.

WOULD THAT WE WERE AS FARVISIONED AND COURAGEOUS

Mr. McINTYRE. Mr. President, I seriously question whether any of us at this moment fully realizes the loss this Chamber will sustain with the departure of our distinguished colleague from the great State of Arkansas.

Though it was never my privilege to work with Senator FULBRIGHT in the intimacy of committee endeavor, I fully appreciate his abilities because it was my awesome task on a number of occasions to defend Defense budget items against the onslaughts of his questioning mind and articulate tongue.

But that is neither here nor there, Mr. President, except as it relates to Senator FULBRIGHT'S overall contribution to the deliberations of this body.

He, perhaps more than but a few Senators of our time, had the courage to think the unthinkable and say the unsayable when the time had come to do both.

Would that the rest of us were always that far-visioned and courageous.

Mr. President, with all sincerity I wish the distinguished junior Senator from Arkansas a happy retirement, as I urge him in all sincerity to continue, in one format or another, to goad us all into thinking through the issues that directly bear on the life or death of the world we live in.

TRIBUTES TO SENATOR SAM J. ERVIN, JR.

Mr. FANNIN. Mr. President, it is a privilege to join my colleagues in paying tribute to the senior Senator from North Carolina who is retiring after 20 years of distinguished service in the Senate.

As chairman of the Government Operations Committee and as an extremely active member of the Judiciary Committee, the Senator has provided great leadership.

Millions of Americans have come to look upon Senator ERVIN as the leading authority on and the most outspoken champion of the Constitution of the United States.

His dedication to freedom and democracy has taken him to the battlefield where he served with valor, to the field of law were he practiced with dedication, to the judicial branch where he demonstrated wisdom, and to the Senate where he provided inspirational leadership.

We have been thankful for his wit as well as wisdom; he has a marvelous capacity for restoring perspective to problems which are being blown out of proportion in the heat of debate. He has enriched the Senate immeasurably, and I am grateful to have had the opportunity to serve with him.

SENATOR ERVIN—A GOOD MAN, SPEAKING WELL

Mr. PEARSON. Mr. President, in the Senate we are a group of craftsmen whose tools are words. It is fitting, therefore, that we pay tribute to the one among us who has consistently employed the English language as a finely honed tool for the betterment of our country. I am, of course, speaking of the senior Senator from North Carolina, Mr. ERVIN.

In an era in which rhetoric has often been synonymous with vacuous speeches, Senator ERVIN has given new meaning to Quintilian's definition of an orator: "A good man, speaking well."

This is, I think, a particularly appropriate way to describe our good friend from the Tar Heel State. He is, perhaps most importantly, a good man. To the ancient Greeks and Romans, this meant an honest man, an intelligent man, and a compassionate man. Senator ERVIN is all of these things. Most recently, of course, he has gained fame for his honesty through his handling of the Senate investigation into the Watergate affair. As chairman of the Senate Select Committee on Presidential Campaign Activities, Senator ERVIN demonstrated that honesty and forthrightness can still be an important means of improving the American system of government.

Long before his recent fame, however, Senator ERVIN's own personal standards demonstrated to those of us who worked with him that he was in the forefront of the good men seeking to improve our country. It is only appropriate, therefore, that the respect which our community—the Senate—has accorded Senator ERVIN is now given to him by the entire country.

In addition to being a good man, "Senator SAM" has spoken well. This means much more than speaking eloquently, a talent which we all know the gentleman from North Carolina possesses. It also means being well prepared and speaking in behalf of honorable causes. There can be no doubt that Senator ERVIN, as he thumbed through his personal copy of the Constitution, was speaking in behalf of one of the most honorable of all causes—the preservation of the Constitution.

I have not always agreed with the causes for which Senator ERVIN has spoken. There can be no doubt, however, that when he spoke, we all listened and were usually the better for it. On those occasions when I did work with our colleague, such as safeguarding freedom of the press through a newsman's privilege law, I was always gratified to learn that Senator ERVIN was on my side.

Mr. President, through more than half a century of public service as an advocate for the people, a judicial officer, and a legislator, Senator ERVIN has established a standard which will be hard to match. Surely, we can pay him no greater tribute than to say he is a good man, speaking well.

Mr. HUDDLESTON. Mr. President, a new Member of the Senate naturally looks to a few of his more senior colleagues for guidance and for the example they set. Certainly no one has had a greater influence on me in that regard than the distinguished senator from

North Carolina (Mr. ERVIN), who is also my chairman on the Government Operations Committee.

The whole world, of course, is now familiar with the greatness and wisdom of the Senator from North Carolina. It is the Nation's loss that this recognition was so late in coming. The greatness and the wisdom and the vision has always been there—it just took a great constitutional and moral crisis in this country for the rest of the world to realize it.

The very fact that Watergate and all of the attendant horrors associated with it did not subvert or do lasting damage to our great Constitution will be an eternal monument to the Senator from North Carolina.

He is a man who has always been ahead of his time—whether it be on matters of separation of powers, individual liberties, the freedom of the press, illegal impoundments of funds, abuse of executive power and privilege, or the right of privacy.

Hopefully the Nation is catching up with the Senator from North Carolina; hopefully, we are beginning to see the wisdom of his words; hopefully, we will learn to live by them and protect them and adhere to them.

I know that I shall always keep them uppermost in my mind as I seek to fulfill the duties of my office.

MY FRIEND, SAM ERVIN

Mr. HANSEN. Mr. President, the distinguished senior Senator from North Carolina has had my respect since it has been my privilege to know him. He has the respect and admiration of all of his colleagues and of the people of his State. He has had this for years.

But he has lately become nationally and even internationally known, primarily I believe because of his role as chairman of the Watergate Committee. He has become a familiar face on television, in the newspapers, on lapel buttons, and even on T-shirts. Many of the caricatures we have seen attempt to portray our colleague as a lovable, comic figure. He is lovable. We love him here. But while we know of his great sense of humor, none of us would consider him comic.

America knows SAM ERVIN best today for his role in connection with Watergate. History will remember him for his sheer brilliance in defending constitutional issues and his dedication to preserving the Constitution and the cherished freedoms that we, as Americans, enjoy. He will be remembered, and praised, for his strong fights in behalf of preserving State rights. He will be remembered on this floor, and recorded in history, as an excellent parliamentarian, who often fought skillfullly as a member of the minority when he felt the majority had been careless on constitutional questions—and was thanked later by members of the majority for his having been successful in thwarting their efforts of the moment. Generations of Americans to come will thank him too, if I am judge of his great work in the Senate.

We are saddened to see the distinguished Senator end his service here. I will miss my friend, SAM ERVIN.

Mr. CANNON. Mr. President, we are today saluting a great man upon his retirement from the U.S. Senate, a man who, perhaps more than any other, has through the years deserved the tribute as "the conscience of our Nation." That man is our esteemed colleague, SAM J. ERVIN, Jr.

So now, as he takes leave of us, let us praise this rare man whose fame, though great, does not match his great virtues, a man every bit as fine as his nation affectionately thinks he is.

These words of homage to SAM ERVIN by columnist George F. Will echo my sentiments about Mr. SAM from North Carolina.

A man who believes in the Constitution of the United States with the fervor of his belief in the Bible, a man whose dogged determination in defending and upholding the Constitution from every well-meaning and not so well-meaning interloper, SAM ERVIN has baffled political operatives of all political spectrums because he followed through on his belief that our Government is one of precisely enumerated, carefully delegated, and strictly limited powers.

Let me cite some of Mr. SAM's accomplishments in his 20 years of U.S. Senate service: He is the author and sponsor of much significant legislation which would streamline America's criminal justice and law enforcement system. Through legislation and oration he has steadfastly asserted the first amendments, freedoms of free speech and assembly, separation of church and state, and the right to security in one's own home. He has vigorously opposed unwarranted governmental invasions of privacy of individuals, the use of the military to spy on civilians, and eactment of preventive detention and no-knock laws.

Some positions SAM ERVIN has taken have not been popular and in some areas such as civil rights legislation and the equal rights amendment, his views have not prevailed. But he has raised the level of debate on these issues. And the course the Nation has taken on many such issues have had to pass the litmus test of constitutionality, a standard to which he strictly adhered.

The Senate and the people of North Carolina and the Nation can take great pride in his contributions to the preservation of our Constitution. We will miss SAM ERVIN but we wish him and his wife Margaret a most happy and rewarding new life back home in North Carolina.

Mr. HASKELL. Mr. President, those whom we will welcome to the Senate next month will be denied a singular pleasure—the opportunity of working with and learning from the distinguished Senator from North Carolina, SAM ERVIN.

That pleasure has been mine during the 2 short years I have been in the Senate and I envy my colleagues who have known SAM ERVIN longer. But even those who will come after he has returned to North Carolina will find evidence of SAM ERVIN's presence here. For every time they delve into the area of individual rights, they will find Senator ERVIN has preceded them. And every time they perceive a threat to the Constitution, they will find he has recognized it first, exposed it most eloquently and defended against it most ferociously.

Though his chairmanship of the Senate Watergate Committee earned him his greatest fame, it was just one more defense of his beloved Constitution in a career filled with such defenses. Still, it is a useful measure of the man. He eschewed partisan shrillness in a situation ripe for it. He was fair when his own simple outrage would have justified excess.

He never abandoned the exhausting search for the truth; lesser men would have shed the burden earlier on and exploited a situation tailor-made for exploitation.

Just as we must always regret there was ever a Watergate chapter in this Nation's history, we must always be grateful there was a SAM ERVIN to help guide us through it.

Early in my term in the Senate SAM talked to me about his desire to save the New River in North Carolina from destruction. He had introduced a bill to add the New River to the National Wild and Scenic Rivers System. As chairman of the Subcommittee on Public Lands I was privileged to hold a hearing on the bill and to assist in securing passage of slightly modified legislation in the Senate. The fate of that legislation is as yet unresolved and will likely be resolved in these closing days of the 93d Congress. The Senate passage of the New River legislation is but one example of the North Carolina Senator's legislative abilities and his tireless enthusiasm for worthwhile causes.

No one is more deserving of a respite than he and we all wish him happiness, health and joy in his retirement. That is the object of these tributes to him.

But I believe the best tribute we can pay SAM ERVIN is to heed the dangers he identified and to take up the fierce guardianship of the Constitution to which he devoted so much of his life. And it will take us all to do the job that single sentinel did so well.

Mr. TAFT. Mr. President, I rise in honor and tribute to the gentleman from North Carolina. I join in saluting the honored colleague whose study and observations on the vital legal and constitutional questions have served the deliberations in this Chamber. He has kept honest counsel with his convictions. He has remained fearless and composed in the current of these difficult times.

I speak in great respect for Senator SAM ERVIN, the distinguished Democrat. We note this man's devotion to his legislative and judicial service to North Carolina and the Nation, his guidance to the public schools and institutions of higher learning in his great State.

The service of SAM ERVIN to the needs of the people will be remembered. It is through the efforts of great individuals like SAM that our country and our love for it perseveres.

Mr. McGEE. Mr. President, my distinguished colleague, the senior Senator from North Carolina (Mr. ERVIN) has become an institution not only in the U.S. Senate, but throughout the Nation as well.

Now, as we approach the adjournment of the 93d Congress, we witness SAM

ERVIN's last days in this body, having earlier made the decision to retire at the expiration of his present term. SAM ERVIN will be missed. Yet, although he may not be with us in body, his spirit will continue to pervade these halls and those of the Nation as well for many decades to come. SAM ERVIN, the man, leaves us to go into retirement, but SAM ERVIN, the institution, will always be here.

Few individuals, who devote the greater part of their lives to public service, have reached the pinnacle that SAM ERVIN has achieved. The Constitution has been his life, and he has come to epitomize that historic document upon which the very foundation of this Nation rests. The rights of the individual have been a sacred trust to which the gentleman from North Carolina has paid assiduous attention. The safeguard of these rights has been his constant goal.

Before closing my remarks, I must appropriately note the role SAM ERVIN played as chairman of the Senate Special Watergate Committee. It was a critical role and one which was vital to the Nation reeling under the trauma of events characterized as Watergate. It was probably SAM ERVIN's finest hour, if not the finest hour of the U.S. Senate. SAM ERVIN demonstrated our system operating at its best and we survived one of our worst crises as a Nation because of his leadership, wisdom, and guidance.

I wish SAM ERVIN the very, very best in his retirement. He will be sorely missed. But we are fortunate the institution will still remain with us as we continue to grapple with the problems of individual rights and liberties and continue striving to live up to the ideals contained in that historic document known as the Constitution.

Mr. JAVITS. Mr. President, I wish to join my colleagues in paying tribute to Senator SAM ERVIN whose long, distinguished, indeed remarkable, public career is now coming to an end.

It has been my privilege to serve with him, to join with him in many legislative battles, and also to oppose him on issues upon which we deeply disagreed. He has been to me both a staunch and effective ally, and a respected and honorable adversary. I have particularly enjoyed serving with him on the Government Operations Committee where in the past year an enormous amount of important public law originated, including the extraordinary Congressional Budget and Impoundment Control Act.

SAM ERVIN has been a profound believer in the individual's rights and has won landmark battles in his struggle to protect the freedom of the individual from the power of the state. He has always believed that the Constitution could and should be made to work, and he has tirelessly espoused the position that the words of that document meant exactly what they said.

In this modern age, we frequently hear that freedom for the individual is sometimes incompatible with the needs of a modern, industrialized urban society. Senator ERVIN has demonstrated again and again that that freedom for the individual is based not on relics of 18th century utopianism. In this last session of Congress alone, he has labored mightily to enact legislation to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals by Federal, State, and local governments.

He has sought to promote governmental respect for the privacy of citizens by requiring all departments and agencies of the executive branch and their employees to observe constitutional rules in the computerization collection, management, use, and disclosure of personal information about individuals.

I had the privilege of joining with him in developing this legislation, as well as on a number of other measures. His leadership this year in repealing the "no-knock" provisions of the Federal and District of Columbia drug enforcement laws, and his determined investigation of army surveillance programs aimed at civilian political activities are but two examples of his extraordinary contributions to the public interest.

No comment about the public life and achievements of SAM ERVIN could be complete without reference to his extraordinary role in the investigation of the entire Watergate matter. His sensitivity to the clear-cut assaults on the Bill of Rights which were at the heart of this tragic episode had a significant impact in setting in motion the ultimate vindication of our constitutional system.

The power at the disposal of any modern government to repress the individual is fearsome. Senator ERVIN's long vigilance in preserving that freedom is his greatest legacy.

Mr. THURMOND. Mr. President, so much has been said and written about Senator SAM ERVIN in the past few years that there is hardly anything new that I can add. However, I cannot let a man who has served his country so long and so well depart from this Chamber without a few words of thanks and congratulations.

SAM ERVIN has represented the State of North Carolina for more than 20 years. When he first came to Washington in 1954, he already had quite a reputation as an expert in constitutional law, but it was confined mostly to legal and political circles. Today, as he prepares to retire, his eminence in this field is known to the entire Nation. A thorough knowledge of our Constitution is an accomplishment which I cannot praise highly enough, and which I cannot recommend highly enough to other Members of Congress. The Constitution is the foundation of our strength as a Nation, and SAM ERVIN has understood this important truth as well as any man of our time.

Another attribute of Senator ERVIN which I have particularly admired is his sharp wit. He has frequently enlivened a dull committee session or Senate debate with an appropriate Biblical quotation, or a few lines from Shakespeare, or a humorous anecdote from his colorful home State. Sometimes he has used his wit merely to make us laugh, but just as often he has made us think more clearly about the subject under discussion. Senator ERVIN is living proof that a man can be serious without being somber.

Mr. President, the Senate will never be quite the same without SAM ERVIN. He combines scholarship, wisdom, and humor in a personality that is unique. Mrs. Ervin, too, is an exceptional and charming individual. Mrs. Thurmond and I have greatly enjoyed knowing both of them. As they get ready to leave Washington, we wish them a long and happy retirement, and the same success in all future endeavors that they have enjoyed in the service of this country.

TRIBUTES TO SENATOR WALLACE F. BENNETT

Mr. PERCY. Mr. President, the Senate will lose a mighty champion of economic responsibility and the free enterprise system when WALLACE BENNETT retires at the end of this session of Congress. One of the very few Members of the Senate with a business background, WALLACE BENNETT consistently espoused those continuing principles which have made the economy of this country the envy of the world.

First elected to the Senate in 1950, WALLACE BENNETT has served with distinction, most notably on the Senate Banking and Senate Finance Committees. For 4 years I had the privilege of serving on the Senate Banking Committee with him. There I observed his efforts to make the institutions over which the committee had jurisdiction more efficient and better serving their constituencies and clientele. The banking laws and the housing laws of this country are better formulated due to WALLACE BENNETT. His concern for individual privacy, of growing concern to all Americans, was evidenced years ago in his concern over passage of the Foreign Bank Secrecy Act which he felt would violate fundamental individual liberties. Belatedly many others in this Chamber have also come to the same realization.

I salute WALLACE BENNETT also as a person for his many personal kindnesses and his devotion to his family and to his church. I wish him more years in which to further his interests outside the Senate.

Mr. HANSEN. Mr. President, retirement of the distinguished gentleman from Utah, Mr. BENNETT, is a very real and personal loss to me because his guidance and strong leadership as the ranking Republican member of the Senate Finance Committee, on which I serve, has meant much and added significantly to the solid laws that committee has helped put on the law books for a number of years at a critical time in our Nation's history.

Mr. BENNETT has been a source of inspiration to all of us, and I am pleased to have this means to salute his efforts and wish him and Mrs. Bennett well as they make plans to return to Utah.

The U.S. Senate will be a poorer place with Senator BENNETT's leaving; he has added much to our proceedings in a quiet and effective way, and his knowledge and courtesy have made him most persuasive.

Senator BENNETT can look back on a long list of accomplishments for the State of Utah, the West, and the United States. Those accomplishments are the

mark of a true leader and will stand as an enduring monument to his legislative abilities.

On a personal note, Senator BENNETT's contributions to the weekly Senate prayer breakfast group have been important to me, and I want to thank him sincerely for his interest and dedication to those gatherings. They have helped me to try to be a better person—and hopefully, a better Senator—and I am most grateful to him.

His interest in the Senate prayer group mirrors his strong tie and constant interest in his church activities, the Church of Jesus Christ of Latter-day Saints. I know he will continue to be most active in that fine work, especially in the West, and that is certainly a labor of love for him.

We will miss Senator BENNETT here in the Senate. But his fine work will live on as an enduring testament of excellent performance and steadfast dedication to principle.

Mr. MOSS. Mr. President, as many of the Members of this body know, my Utah colleague, WALLACE BENNETT, and I have not always seen alike on all problems, and have not cast our votes on the same side of every issue. But throughout the 16 years we have served together in the U.S. Senate, I have maintained the highest regard and admiration for him. It is with deep regret and a genuine sense of loss that I contemplate his retirement at the end of this session.

WALLACE BENNETT has been consistent in the posture he has assumed and the votes he has cast. He is a conservative Republican who has held steadfastly to his belief in government which governs least. He has opposed many of the Federal programs which I have supported, but I have always respected his point of view because I knew it came from deep conviction. We can ask no more of a man in the U.S. Senate than he be true to himself, and that he vote for what he feels is best for his country and his State, and this I believe WALLACE BENNETT has always done.

Senator BENNETT and I have agreed wholeheartedly on a number of issues of special importance to Utah, including the development of our scarce water resources—notably the development of the Central Utah project—and we have agreed on the necessity of continuing the defense contracts the State now has, and of bringing in more of them. It has been good to have his considerable effort and influence in these battles, and Utah has profited from them.

Utah has also felt—as has the rest of the country—the impact of his services as ranking member of the Senate Finance Committee and the Senate Banking and Currency Committee. Many of the significant bills which have come from these committees have had his imprint on them. His most outstanding accomplishments are probaby his legislation which established the peer review of the work of physicians paid by Federal funds, and his bill which eliminated silver in American coins.

One of the greatest tributes which can be paid this son of Utah is that, although he has been in Washington for 24 years, his roots have always remained firmly planted in his native State. He is of pioneer stock—his father was brought across the plains at the age of 3—and he has held steadfastly to the principles and beliefs of his pioneer heritage—hard work, clean living, high moral standards.

He has had at his side one of the finest and most charming wives a man could have—Frances Grant Bennett, daughter of former president of the LDS Church, Heber J. Grant, Frances Bennett will be missed in Washington equally as much as her husband.

WALLACE BENNETT has two notable achievements which probably no one else will mention, so which I, as his Utah colleague, wish to call to your attention. He is the first popularly elected Senator in Utah's history to retire voluntarily. And he has 27 grandchildren—the Senate record, so far as I know.

WALLACE BENNETT has left his mark on American life in many ways during his 24 years in the Senate, and he should retire with a sense of achievement and satisfaction. He will be sincerely missed.

Mr. BAKER. Mr. President, I am pleased to join today in honoring our distinguished colleague from Utah, Senator WALLACE BENNETT.

Since 1959, Senator BENNETT has served on the Joint Committee on Atomic Energy, and, for the last 3 years, I have had the pleasure of working with him as a member of that body. Senator BENNETT has worked unceasingly to maintain the delicate balance between the peaceful and military applications of nuclear energy. As a tireless advocate of international cooperation in the development of atomic power, he has traveled throughout the world in support of the International Atomic Energy Agency and the Atoms for Peace program. At the same time, Senator BENNETT has been one of the foremost advocates of a nuclear defense capability "second to none" and he is one of the major congressional supporters of a nuclear-powered Navy. It has been my great privilege to serve beside him on the Joint Committee, and he has been a constant source of inspiration and guidance.

Although Senator BENNETT's other committee assignments are many and varied, he is perhaps known best of all among his colleagues as the champion of fiscal responsibility, through leadership as ranking minority member of the Senate Finance Committee and service as a member of the Committee on Banking, Housing and Urban Affairs, the Joint Committee on Internal Revenue Taxation and the Joint Committee on Reduction of Federal Expenditures.

Senator BENNETT's retirement this year will end 24 years of service in the Senate—service which has been of equal value to his party and to the Nation. But his contributions throughout those years will remain with us, and I believe his colleagues will all feel enriched through having served with him.

I will miss Senator BENNETT's friendship, leadership and guidance; and I wish him peace and happiness during the years of his retirement ahead.

SENATOR FROM NEVADA

The PRESIDENT pro tempore. The Chair lays before the Senate communications, which the clerk will report.

The legislative clerk read as follows:

DECEMBER 11, 1974.

Hon. MIKE O'CALLAGHAN,
Governor of Nevada,
Carson City, Nev.

DEAR GOVERNOR O'CALLAGHAN: This is to inform you that I have, by letter to The Honorable James O. Eastland, President Pro Tempore of the Senate, tendered my resignation as a Member of the United States Senate from Nevada, effective as of the close of business Tuesday, December 17, 1974.

It is my understanding that this advice enables you to proceed pursuant to NRS 304.030 to appoint an individual to serve in the Senate for the balance of the term expiring in January, 1975. The enclosed form of "Certificate of Appointment" is sufficient for the certification of such an appointment.

Cordially,

ALAN BIBLE.

DECEMBER 11, 1974.

Hon. JAMES O. EASTLAND,
President pro tempore, U.S. Senate,
Washington, D.C.

DEAR SENATOR EASTLAND: I herewith tender my resignation as a Member of the United States Senate from Nevada to become effective as of the close of business on Tuesday, December 17, 1974.

Cordially,

ALAN BIBLE.

The PRESIDENT pro tempore. The Chair lays before the Senate the certificate of appointment of Senator-designate PAUL LAXALT, of Nevada, to fill the unexpired term of Senator ALAN BIBLE. The clerk will read the certificate.

The legislative clerk read as follows:

[State of Nevada, Executive Department]

CERTIFICATE OF APPOINTMENT

To the President of the Senate of the United States:

This is to certify, That pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Nevada, I, Mike O'Callaghan, the Governor of said State, do hereby appoint

PAUL LAXALT

a Senator from said State to represent said State in the Senate of the United States until the vacancy therein, caused by the resignation of Senator ALAN BIBLE, is filled by election, as provided by law.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson City, this 18th day of December, in the year of Our Lord one thousand nine hundred and seventy-four.

[SEAL]

MIKE O'CALLAGHAN,
Governor.
WILLIAM D. SWACKHAMER,
Secretary.

The PRESIDENT pro tempore. If the Senator-designate will present himself at the desk, the oath of office will be administered to him.

Mr. LAXALT, escorted by Mr. CANNON, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the President pro tempore; and he subscribed to the oath in the official oath book.

[Applause, Senators rising.]

TEN-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now stand in recess for 10 minutes, so that Senators may greet their new col-

league and that he may meet his new colleagues.

There being no objection, at 12:09 p.m. the Senate took a recess for 10 minutes.

The Senate reassembled at 12:19 p.m., when called to order by the Presiding Officer (Mr. BURDICK).

COMMITTEE ASSIGNMENTS OF SENATOR LAXALT

Mr. HUGH SCOTT. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The resolution (S. Res. 465) relating to the committee assignments of Senator LAXALT, was read, considered by unanimous consent, and agreed to, as follows:

S. RES. 465

Resolved, That Mr. LAXALT of Nevada is hereby assigned to service on the Committee on Appropriations and the Committee on Interior and Insular Affairs during the remainder of the 93d Congress.

ESTABLISHMENT OF A WORKING CAPITAL FUND IN THE DEPARTMENT OF JUSTICE

Mr. HRUSKA. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 17010.

The PRESIDING OFFICER (Mr. BURDICK) laid before the Senate the bill (H.R. 17010) to establish a working capital fund in the Department of Justice, which was read twice by its title.

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

There being no objection, the Senate proceeded to consider the bill.

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

Mr. HRUSKA. I yield.

Mr.ROBERT C. BYRD. For the record, has this measure been cleared with the appropriate Senators on the committee on this side of the aisle?

Mr. HRUSKA. It has. It has been cleared, Mr. President, with the members of the committee. In fact, at the regular session of the Committee on the Judiciary yesterday, this bill was considered and approved for favorable consideration in its present form.

Mr. ROBERT C. BYRD. Was there any objection?

Mr. HRUSKA. There was no objection.

The bill (H.R. 17070) was considered, ordered to a third reading, read the third time, and passed.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 12:21 p.m. the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 12:24 p.m., when called to order by the Presiding Officer (Mr. BURDICK).

AMENDMENT OF FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8958.

The PRESIDING OFFICER (Mr. BURDICK) laid before the Senate the amendemnt of the House of Representatives to the amendment of the Senate to the bill (H.R. 8958) to amend the Federal Property and Administrative Services Act of 1949 to provide for the disposal of certain excess and surplus Federal property to the Secretary of the Interior for the benefit of any group, band, or tribe of Indians.

In lieu of the matter proposed to be inserted by the Senate amendment, insert: : *Provided*, That such transfers of real property within the State of Oklahoma shall be made to the Secretary of the Interior to be held in trust for Oklahoma Indian tribes recognized by the Secretary of the Interior when such real property (1) is located within boundaries of former reservations in Oklahoma as defined by the Secretary of Interior and when such real property was held in trust by the United States for an Indian tribe at the time of acquisition by the United States, or (2) is contiguous to real property presently held in trust by the United States for an Oklahoma Indian tribe and was at any time held in trust by the United States for an Indian tribe.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendemnt of the House of Representatives.

The motion was agreed to.

EXTENSION OF AUTHORIZATIONS UNDER WATER POLLUTION CONTROL ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 4073.

The PRESIDING OFFICER (Mr. BURDICK) laid before the Senate the amendment of the House of Representatives to the bill (S. 4073) to extend certain authorizations under the Federal Water Pollution Control Act, as amended, and for other purposes, as follows:

Page 3, after line 4, insert:

SEC. 5. Section 315(h) of the Federal Water Pollution Control Act is amended by striking out "$15,000,000" and inserting in lieu thereof "$17,000,000".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 12:25 p.m. the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 12:36 p.m., when called to order by the Presiding Officer (Mr. ROBERT C. BYRD).

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The Senator from Michigan.

H.R. 13869—A BILL FOR THE RELIEF OF CARL C. STRAUSS AND MARY ANN STRAUSS

Mr. GRIFFIN. Mr. President, I ask that the bill (H.R. 13869), which is at the desk, be made the pending business.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD) laid before the Senate a message from the House of Representatives on H.R. 13869, an act for the relief of Carl C. Strauss and Mary Ann Strauss.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to the consideration of the bill.

Mr. GRIFFIN. Mr. President, I will recite that this bill, which involved the sum of $3,634.50, has been cleared and approved by the chairman of the Committee on the Judiciary, the ranking Republican on the committee and also the chairman and the ranking member of the subcommittee having jurisdiction of that matter, and I have the authority of the chairman and ranking member to call it up and seek passage by unanimous consent.

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

RECESS UNTIL 1:15 P.M.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:15 today.

There being no objection, the Senate, at 12:39 p.m., recessed until 1:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HUDDLESTON).

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized, and following the remarks by Mr. HUGH SCOTT of Pennsylvania, Mr. CLARK be recognized for not to exceed 15 minutes; that Mr. HARRY F. BYRD, JR., be recognized for not to exceed 15 minutes; that Mr. BROCK of Tenneessee and Mr. JAVITS be recognized for not to exceed 15 minutes; and Mr. ROBERT C. BYRD for not to exceed 15 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The 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. (Mr. HUDDLESTON). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 3922

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 3922, a bill to amend the Coastal Zone Management Act of 1972, is called up and made the pending business before the Senate, there be a time limitation thereon of 10 minutes, to be equally divided between and controlled by the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Alaska (Mr. STEVENS), with a time limitation on amendments thereto of 10 minutes each, except for an amendment to be offered by the Senator from Wisconsin (Mr. NELSON), on which there be a time limitation of 20 minutes, and a time limitation on any debatable motion or appeal of 10 minutes; and that the agreement be in the usual form except as to the amendment by Mr. NELSON, which, as I understand, may not be germane.

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

RETIREMENT OF SENATOR HAROLD HUGHES

Mr. MOSS. Mr. President, HAROLD HUGHES has left his mark in many ways during his 6 years in the U.S. Senate, but in no way more deeply than through enactment of legislation to help control alcoholism and end drug abuse.

It was my privilege to work with Senator HUGHES, especially in the area of alcoholism control, and I shall always be happy that I had this opportunity. One of the first bills I introduced when I came to the U.S. Senate was a measure to give the Federal Government some responsibility in resolving this tragic human problem. I was joined sometime later by Senator JAVITS, and together we introduced and pushed through a bill which provided the first Federal assistance in combating alcoholism.

But it was not until HAROLD HUGHES came to the Senate, and assumed the chairmanship of the Senate Subcommittee on Alcoholism and Narcotics that legislation was enacted which launched a full-scale attack on both problems—legislation which recognized that both alcoholism and drug abuse are medical and not criminal problems. We cannot give too much credit to Senator HUGHES for his leadership in putting this new concept and this massive attack into law.

The Senator from Iowa has also made his influence felt in the environmental field, in efforts to assure equal educational opportunity, in disclosing the full truth about the bombings in Cambodia, and in many other ways.

It will be hard to see him go; it will be hard to lose his effective and dedicated service. But he goes to devote himself to full-time religious work, a decision which has been in the making for more than 20 years, and which is based on his convictions that it is God's will that he do so. I am confident he will use his life well for this "greater purpose" to which he has dedicated himself.

Mr. BAYH. Mr. President, when this Congress adjourns sine die we will lose the valuable services and insights of the senior Senator from Iowa, HAROLD HUGHES. The Senator has opted to continue serving the people, as he has so long in public life in Iowa and here in the Senate, out in the field as a lay religious leader. To achieve this end, Senator HUGHES decided to relinquish his Senate seat.

Senator HUGHES has been with us for a relatively brief time, but in this short time he has impressed me as a tireless individual with unselfish dedication to the people of Iowa and the United States.

In the time we have served together, Senator HUGHES and I have worked closely with one another on several issues. It was my pleasure to work with him on the very important Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act passed by this Congress—Public Law 93-282.

As can be inferred from my opening statement, the fact that Senator HUGHES is leaving the Senate does not mean he is abandoning his commitment to the public well-being. Fortunately that commitment burns brightly.

It is a tribute to his devotion to God, as well as his sincerity and integrity that the good Senator from Iowa has decided to leave the Senate to work within the church following his conscience in a manner that evokes our deep respect. I have no doubt that he will prove as effective a public servant in this endeavor as he has in the Senate.

Senator HUGHES has led a varied and full life; a life which has led him from behind the wheel of a semitruck to the Halls of the U.S. Capitol. The breadth of his experience far exceeds that of many of us in this body, and it is appropriate that he is retiring from the Senate to follow still another path for the public good. While the people of Iowa will lose the services of a fine Senator and those of us staying behind will lose a valued and respected colleague, many others will be the beneficiaries of the special dedication and devotion of this servant of the people . . . and God.

TRIBUTE TO SENATOR HOWARD M. METZENBAUM

Mr. BAYH. Mr. President, when the 94th Congress convenes in January, we will be without the service of several of our distinguished colleagues. Among those who will not be returning is the junior Senator from Ohio, my good friend (Mr. METZENBAUM) and I would like at this time to convey to the Senator my appreciation for the fine work he has done in this body.

Mr. METZENBAUM was appointed by Governor Gilligan to his Senate seat in early 1974 when former Senator William Saxbe left to take the post of Attorney General of the United States. In but a very short period of time, Mr. METZENBAUM established himself as an able legislator and made a significant contribution to deliberations and the accomplishments of the 93d Congress.

I had the good fortune to observe closely the fine legislative hand of HOWARD METZENBAUM on several measures including the Foreign Investment Review Act (S. 3955), which I was proud to cosponsor and which is now pending before the Commerce Committee. I was consistently impressed with the depth of the Senator's knowledge and his political acumen.

There is no doubt that Senator METZENBAUM has left an important mark upon the Senate, but his achievements here should have surprised no one. His work as U.S. Senator is simply one additional aspect of a long and distinguished public record. Mr. METZENBAUM served in the Ohio State Legislature from 1943 to 1950, and has been for years a leading member of the Ohio Democratic Party organization, serving as a member of the Democratic executive committee since 1966, and as a member of the Democratic finance committee since 1967.

We will miss Mr. METZENBAUM, but I prefer to believe that while his talents are lost to the Senate, he will continue to serve the public and that the Nation's loss will be one of a very temporary nature.

TRIBUTE TO SENATOR MARLOW W. COOK

Mr. HANSEN. Mr. President, I am pleased to join with my colleagues to express appreciation to Senator MARLOW COOK for his achievements as a member of the U.S. Senate.

As a member of the Commerce, Judiciary, and Rules Committees, Senator COOK has played an important part in the development of significant legislation of benefit to the people of Kentucky and all the States.

I admire Senator COOK's ability and the contributions he has made to good government as a Member of this body. I am pleased to join with his colleagues, his family and friends in thanking him for a job exceptionally well done, and in wishing him the very best for the future.

I have admired Senator COOK's ability as a debater on the floor of the Senate. His great speaking abilities were always clearly evident, and it was obvious that he enjoyed the give and take of that part of the legislative process and was most effective at making a point and pushing amendments he considered important.

That quality, Mr. President, is a rare one, and he will be missed as we enter the first session of the 94th Congress in January of 1975.

Mr. President, MARLOW COOK's legislative experience has been extensive, beginning with service in the Kentucky House of Representatives in 1957, so I know that he will continue to be involved in activities that are important to our country's future.

To that end, we wish him well in the years ahead, safe in the knowledge that we have not heard the last of him as an effective leader who is deeply concerned about our Federal Government and the way it conducts its business.

It has been my very real pleasure to know Senator COOK and to work with him in the Senate for the past 6 years. He will not be forgotten.

SENATOR GEORGE AIKEN AND SENATOR NORRIS COTTON: A TRIBUTE TO TWO SENATE INSTITUTIONS

Mr. BUCKLEY. Mr. President, it is one of the customs of the Senate to pay tribute to Senators who are retiring. In the case of GEORGE AIKEN of Vermont and NORRIS COTTON of New Hampshire, however, we do more than publicly honor two distinguished public servants. These men have, through many years of dedicated service to the people of their States and to the people of this country, achieved the status of Senate institutions. It has been estimated that the Senator from Vermont has held public office for more than 43 years at the local, State, and national levels, and that the Senator from New Hampshire, as he retires from public life this year, will have completed more than 50 years of public service. Almost 100 years of experience in public affairs can be traced in the lives of these two men. I think it is not necessary to add that both the Senate and the Nation will sorely miss their counsel, their wisdom, and their accomplishments.

Senator AIKEN, known and revered as the dean of the U.S. Senate, and Senator COTTON, chairman of the Republican Conference have demonstrated the rare gift of leadership. Yet despite the well-deserved influence they have had among their colleagues, they have never lost sight of the fact that it is the people who elected them and the people whom they represent.

Mr. President, I have chosen to pay tribute to both of these Senators in one speech for a special reason. They have typified the admirable qualities long associated with the small but important States of Vermont and New Hampshire: common sense, common decency, the ability to work long and hard to achieve desirable goals, and the admirable personal characteristic of integrity. They represent together the very special contribution to this Nation that has long come from the New England area. For this and for so much, it is fitting that we honor them.

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. McCLURE. 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. McCLURE. Mr. President, I ask unanimous consent that Harrison Loesch and Fred Craft be accorded the privileges of the floor.

Mr. ROBERT C. BYRD. Reserving the right to object, for what length of time?

Mr. McCLURE. During the pendency of the debate.

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

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

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. 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 ALLOWING SENATOR STAFFORD TO SIGN CONFEREES' REPORT ON SENATE JOINT RESOLUTION 40

Mr. STAFFORD. Mr. President, I ask unanimous consent that I be allowed to sign the conferees' report on Senate Joint Resolution 40.

I was a conferee on that resolution, but due to my presence at another conference, I was unable last night to sign the report during the evening.

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

PRIVILEGE OF THE FLOOR—S. 3839—NATIONAL HISTORIC PRESERVATION FUND

Mr. HANSEN. Mr. President, I ask unanimous consent that my staff man, Brent Kunz, may be granted privilege on the floor during the debate and vote on this bill.

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

PRIVILEGE OF THE FLOOR—LAND AND WATER CONSERVATION FUND ACT

Mr. JOHNSTON. Mr. President, I ask unanimous consent that my legislative assistant, Mr. Haygood, and Mr. James Beirne of the Interior Committee be granted privilege of the floor during debate and during voting on the Land and Water Conservation Fund Act.

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

Mr. JOHNSTON. 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. 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, may we have order in the Senate?

TIME LIMITATION AGREEMENT—S. 3839—NATIONAL HISTORIC PRESERVATION FUND

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 3839, the land and water conservation bill, is called up and made the pending business before the Senate, there be a time limitation thereon of 30 minutes, the time to be equally divided between Mr. JOHNSTON and Mr. HANSEN; there be a time limitation on any amendment thereto of 20 minutes; a time limitation on an amendment by Mr. BUCKLEY of 1 hour; a time limitation on any amendment to an amendment of 20 minutes; a time limitation on any debatable motion or appeal of 10 minutes; and that the agreement be in the usual form, with the exception of an amendment to be offered by Mr. JAVITS, which may not be germane.

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

NATIONAL HISTORIC PRESERVATION FUND

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3839.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A 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.

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

There being no objection, the Senate proceeded to consider the bill (S. 3839) which had been reported from the Committee on Interior and Insular Affairs with amendments:

On page 1, in line 5, strike out "That the" and insert "SEC. 101. The".

On page 2, in line 2, strike out "$750,000,000" and insert "$1,000,000,000".

On page 2, in line 5, strike out "$750,000,000" and insert "$1,000,000,000".

On page 2, beginning with line 7, strike out:

(b) After clause (2) of section 2(c) insert the following new clauses:

"(3) of the $750,000,000 authorized to be credited to the fund for each of the fiscal years 1975 through 1989 under clause (2) a sum of $250,000,000 shall be set aside each year in a special account in the Treasury of the United States to be administered in conjunction with, but separate from, the revenues in the Land and Water Conservation Fund. The revenues in this special account each such year shall be available for appropriation, in addition to appropriations authorized for the same purposes under any other law, to the Secretary of the Interior for grants to the States and through the States to local public bodies, under the terms and conditions specified in section 6(f) of this Act or such other terms and conditions as the Secretary may prescribe, to finance not more than 70 per centum of the cost of acquiring open space land in urban areas, and fragile or historic lands, and the remaining share of such cost shall be borne by the State in a manner and with such funds or services as shall be satisfactory to the Secretary. The appropriations made pursuant to this clause shall be available to the Secretary for administrative expenses and to provide technical assistance in connection with the grants authorized by such clause, and shall remain available until expended;

"(4) the appropriations made pursuant to clause (3) of this subsection shall be allocated to the States by the Secretary on the basis of needs as determined by him, except that the total allocation to an individual State shall not exceed 10 per centum of the total amount allocated to the several States in any one year. Any amount of any fiscal year allocation which has not been paid or obligated by the Secretary at the end of two

succeeding fiscal years shall be allocated to the States without regard to such 10 per centum limitation.

"(5) As used in clause (3) of this subsection the term—

"(i) 'Fragile or historic lands' means those areas identified by the State in the comprehensive statewide plan required by subsection 6(d) as areas of critical environmental concern where uncontrolled or incompatible development could result in substantial damage to important historic, cultural, scientific, or esthetic values or natural systems that are of more than local significance, such lands to include shorelands, rare or valuable ecosystems and geological formations, significant wildlife habitats, wilderness areas, and wetlands.

"(ii) 'Local public body' means any public body (including a political subdivision) created by or under the laws of a State or two or more States, or a combination of such bodies, and includes recognized Indian tribes.

"(iii) 'Open space land' means any land located in an urban area and which has value for park and recreational purposes, for conservation of land and other natural resources, or for historic, architectural, or scenic purposes.

"(iv) 'Urban area' means any area which is urban in character, including those surrounding areas which, in the judgment of the Secretary, form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities."

On page 4, in line 25, strike out "(c)" and insert "(b)".

On page 5, beginning with line 5, insert:

(c) The first sentence of section 6(c) of the Act is amended to read as follows: "Payments to any State shall not cover more than 50 per centum of the cost of planning or development projects, and not more than 70 per centum of the cost of acquisition projects, which are undertaken by the State."

(d) Subsection (d) of section 6 is amended by inserting the following new language after the first sentence: "Each State requesting assistance under this Act shall submit its plan to all relevant areawide planning agencies designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1968 and for title IV of the Intergovernmental Cooperation Act of 1968. The Secretary is directed to consider any views or comments submitted to him by such agencies as well as by any subdivision of a State, which views have first been submitted to the Governor of such State, in his evaluation of the statewide plan and in his consideration of individual projects pursuant to subsection (f) of this section.

On page 5, in line 24, strike out "(d)" and insert "(e)".

On page 6, at the end of line 6, insert "under this Act for recreation purposes".

On page 6, in line 8, after "the" insert "planning and".

On page 6, in line 10, strike out "when" and insert "within areas where the Secretary determines that (1) the".

On page 6, in line 12, strike out "other".

On page 6, in line 13, strike out "resources." and insert: "resources; and (2) the increased public use thereby made possible justifies the construction of such facilities.".

On page 6, beginning with line 16, insert:

(f) The fourth paragraph of subsection (f) of section 6 is amended by deleting "and (2)" and inserting in lieu thereof "(2) provide to the Secretary not later than 90 days after the close of each fiscal year, a list of all projects funded during that fiscal year, including, but not limited to, a description of each project, the amount of Federal funds employed in such project, the source of other funds, and the estimated cost of completion of the project, and (3)".

(g) Section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9(a)(1)) is amended by striking out:

"ENDANGERED SPECIES AND THREATENED SPECIES.—For lands, waters, or interests therein, the acquisition of which is authorized under section 5(a) of the Endangered Species Act of 1973, needed for the purpose of conserving endangered or threatened species of fish or wildlife or plants.

"RECREATION AT REFUGES.—For the incidental recreation purposes of section 2 of the Act of September 28, 1962 (76 Stat. 653; 16 U.S.C. 400k–1); and"

and inserting in lieu thereof the following:

"NATIONAL WILDLIFE REFUGE SYSTEM.—Acquisition for (a) endangered species and threatened species authorized under section 5(a) of the Endangered Species Act of 1973; (b) areas authorized by section 2 of the Act of September 28, 1962, as amended (16 U.S.C. 460k–1); (c) national wildlife refuge areas under section 7(a)(5) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(5)); (d) any areas authorized for the National Wildlife Refuge System by specific acts; and".

On page 7, at the beginning of line 22, insert "SEC. 201."

On page 7, beginning with line 24, insert:

(a) Subsection (c) of section 102 is redesignated as subsection (d), and the following new subsection (c) is inserted before said subsection:

"(c) The Secretary may in his discretion waive the requirements of paragraph (3) of subsection (a) of this section for the purposes of making grants (i) for the preparation of statewide historic preservation plans and surveys and project plans, (ii) for projects to preserve historic properties of national significance, (iii) for projects to demonstrate methods and techniques of historic preservation, and (iv) for projects to restore certain historic properties with a view to designating and preserving such properties for use as meeting houses in connection with this Nation's bicentennial. Any grant made pursuant to this subsection may not exceed 70 per centum of the cost of a project, and the total of such grants made pursuant to this subsection in any one fiscal year may not exceed one-half of the funds appropriated for that fiscal year pursuant to section 108 of this Act."

On page 8, at the beginning of line 16, strike out "(a)" and insert "(b)".

On page 8, after 'Secretary," insert "." and strike out:

and insert thereof: "*Provided*, That the Secretary may, in his discretion, waive the requirements of paragraph (3) of subsection (a) of section 102 of this Act for the purposes of making grants for the preparation of statewide historic preservation plans and project plans, but any such grant shall not exceed 70 per centum of the cost of such plans."

On page 9, at the beginning of line 3, strike out "(b)" and insert "(c)".

On page 9, beginning with line 22, insert:

TITLE III

SEC. 301. Notwithstanding any other provision of law, any appointment to the following Federal offices after the date of enactment of this Act shall be made by the President by and with the advice and consent of the Senate—

(1) Director of the Bureau of Land Management;

(2) Director of the National Park Service;

(3) Director of the Bureau of Outdoor Recreation;

(4) Commissioner of Reclamation; and

(5) Governor of American (Eastern) Samoa.

TITLE IV—STATES' OIL SHALE FUNDS

S53. 401. Section 35 of the Act of February 25, 1920 (41 Stat. 450), as amended (30 U.S.C. 191), is further amended by striking the period at the end of the proviso and inserting in lieu thereof the language as follows: ": And provided further, That all moneys paid to any State from sales, bonuses, royalties, and rentals of oil shale in public lands may be used by such State and its subdivisions for planning, construction, and maintenance of public facilities, and provision of public services, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by the development of the resource."

so as to make the bill read:

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

TITLE I—LAND AND WATER CONSERVATION FUND

SEC. 101. The Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended (16 U.S.C. 4601–4 et seq.), is further amended as follows:

(a) In clause (1) of section 2(c) strike out "and not less than $300,000,000 for each fiscal year thereafter through June 30, 1989" and insert in lieu thereof "not less than $300,000,000 for each of the fiscal years 1971 through 1974, and not less than $1,000,000,000 for each of the fiscal years thereafter through June 30, 1989". In clause (2) of section (2) strike out "or $300,000,000" and insert in lieu thereof ", $300,000,000 or $1,000,000,000".

(b) In the third sentence of section 6(b), delete "7" and substitute "10", and at the end of the fifth sentence of said section, change the period to a comma and add "without regard to the 10 per centum limitation to an individual State specified in this subsection."

(c) The first sentence of section 6(c) of the Act is amended to read as follows: "Payments to any State shall not cover more than 50 per centum of the cost of planning or development projects, and not more than 70 per centum of the cost of acquisition projects, which are undertaken by the State."

(d) Subsection (d) of section 6 is amended by inserting the following new language after the first sentence: "Each State requesting assistance under this Act shall submit its plan to all relevant areawide planning agencies designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1968 and for title IV of the Intergovernmental Cooperation Act of 1968. The Secretary is directed to consider any views or comments submitted to him by such agencies as well as by any subdivision of a State, which views have first been submitted to the Governor of such State, in his evaluation of the statewide plan and in his consideration of individual projects pursuant to subsection (f) of this section.

(e) In section 6(e) delete the paragraph numbered (2) and substitute the following paragraph:

"(2) DEVELOPMENT.—For development of basic outdoor recreation facilities to serve the general public, including development of Federal lands under lease to States for terms of twenty-five years or more: *Provided, however*, That not more than 25 per centum of the total amount allocated to a State in any one year under this Act for recreation purposes may be approved by the Secretary for the planning and development of sheltered facilities for recreation activities normally pursued outdoors within areas where the Secretary determines that (1) the unavailability of land or climatic conditions provide no feasible or prudent alternative to serve identified unmet demands for recreation resources; and (2) the increased public use thereby made possible justifies the construction of such facilities.".

(f) The fourth paragraph of subsection (f) of section 6 is amended by deleting "and (2)" and inserting in lieu thereof "(2) provide to the Secretary not later than 90 days after the close of each fiscal year, a list of

all projects funded during that fiscal year, including, but not limited to, a description of each project, the amount of Federal funds employed in such project, the source of other funds, and the estimated cost of completion of the project, and (3)".

(g) Section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)(1)) is amended by striking out:

"ENDANGERED SPECIES AND THREATENED SPECIES.—For lands, waters, or interests therein, the acquisition of which is authorized under section 5(a) of the Endangered Species Act of 1973, needed for the purpose of conserving endangered or threatened species of fish or wildlife or plants.

"RECREATION AT REFUGES.—For the incidental recreation purposes of section 2 of the Act of September 28, 1962 (76 Stat. 653; 16 U.S.C. 400k-1); and"

and inserting in lieu thereof the following:

"NATIONAL WILDLIFE REFUGE SYSTEM.—Acquisition for (a) endangered species and threatened species authorized under section 5(a) of the Endangered Species Act of 1973; (b) areas authorized by section 2 of the Act of September 28, 1962, as amended (16 U.S.C. 460k-1); (c) national wildlife refuge areas under section 7(a)(5) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(5)); (d) any areas authorized for the National Wildlife Refuge System by specific acts; and".

TITLE II

National Historic Preservation Fund

SEC. 201. The Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. 470), is amended as follows:

(a) Subsection (c) of section 102 is redesignated as subsection (d), and the following new subsection (c) is inserted before said subsection:

"(c) The Secretary may in his discretion waive the requirements of paragraph (3) of subsection (a) of this section for the purposes of making grants (i) for the preparation of statewide historic preservation plans and surveys and project plans, (ii) for projects to preserve historic properties of national significance, (iii) for projects to demonstrate methods and techniques of historic preservation, and (iv) for projects to restore certain historic properties with a view to designating and preserving such properties for use as meeting houses in connection with this Nation's bicentennial. Any grant made pursuant to this subsection may not exceed 70 per centum of the cost of a project, and the total of such grants made pursuant to this subsection in any one fiscal year may not exceed one-half of the funds appropriated for that fiscal year pursuant to section 108 of this Act."

(b) Amend section 103(a) by deleting "*Provided however*, That the amount granted to any one State shall not exceed 50 per centum of the total cost of the comprehensive statewide historic survey and plan for that State, as determined by the Secretary,".

(c) Amend section 108 to read as follows:

"SEC. 108. To carry out the provisions of this Act, there is hereby established in the Treasury of the United States a special fund to be known as the National Historic Preservation Fund (hereafter referred to as the 'Fund'). During the period commencing July 1, 1974, and ending June 30, 1979, there shall be covered into such Fund $150,000,000 annually from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 1338, and/or under the Act of June 4, 1920 (41 Stat. 813), as amended (30 U.S.C. 191), which otherwise would be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this Act. Moneys covered into the Fund shall be available for expenditure only when appropriated therefor. Any moneys not appropriated shall remain available in the Fund until appropriated for said purposes: *Provided*, That appropriations made pursuant to this paragraph may be made without fiscal year limitation."

TITLE III

SEC. 301. Notwithstanding any other provision of law, any appointment to the following Federal offices after the date of enactment of this Act shall be made by the President by and with the advice and consent of the Senate—

(1) Director of the Bureau of Land Management;

(2) Director of the National Park Service;

(3) Director of the Bureau of Outdoor Recreation;

(4) Commissioner of Reclamation; and

(5) Governor of American (Eastern) Samoa.

TITLE IV—STATES OIL SHALE FUNDS

SEC. 401. Section 35 of the Act of February 25, 1920 (41 Stat. 450), as amended (30 U.S.C. 191), is further amended by striking the period at the end of the proviso and inserting in lieu thereof the language as follows: ": And provided further, That all moneys paid to any State from sales, bonuses, royalties, and rentals of oil shale in public lands may be used by such State and its subdivisions for planning, construction, and maintenance of public facilities, and provision of public services, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by the development of the resource."

Mr. JOHNSTON. Mr. President, the Land and Water Conservation Fund Act, signed into law in 1964, established a program of matching grants to State and local units of government for the planning, acquisition, and development of outdoor recreation lands. Amendments to the act in 1968 designated portions of the Federal receipts from the Outer Continental Shelf leasing program to be covered into the fund. This reflected the intent of Congress that at least some part of the revenues collected by the Federal Government for disposing of natural resources should be used to acquire other natural resources of lasting value.

The fund is currently authorized at a level of $300,000,000 each year. Unless appropriations are made to the contrary, 60 percent of the appropriations made from the fund are to be used for matching grants to State and local governments. This program has met with enthusiastic response at all levels of government. The matching grant program has funded over $1 billion to date. Thus, the fund has brought forth a massive response to the program of inadequate recreational areas, and State park systems and community outdoor recreation programs have been benefited.

The remaining 40 percent of the fund used for Federal land acquisition has been the source of over $700,000,000 for land acquisition programs by the Federal agencies involved in managing recreation lands. The fund has become the sole Federal funding source for land acquisition programs by the Federal agencies involved in managing recreation lands.

But the level of response to the program has now far exceeded the capacity of the fund at its current authorized level. State administrators of the program have emphasized in testimony before the committee that State and local governments have both the identified needs and the funding capabilities effectively to utilize a matching program at a much higher level.

This response is especially impressive when one notes that the matching grants are made on a 50/50 basis. Each dollar of Federal grant money is bringing forth an equal response from the State and local agencies that benefit from the program. The salutary effects of the recreation benefits derived through the projects are apparent in every part of the country. In any consideration of efforts to improve the quality of life for our Nation, the Land and Water Conservation Fund must rank as a major positive influence.

The National Historic Preservation Act of 1966, as amended, provides for a program of matching grants to the States for the preservation of significant historic properties. Currently, the authorization for this program is at the level of $25,000,000 per annum. The Federal funds for use in this program are authorized to be appropriated from miscellaneous receipts. The funds are then made available on the basis of 50/50 matching grants.

As with the Land and Water Conservation Fund, the response to this program has been enormous. In fiscal year 1975, State historic preservation officers have identified over $160,000,000 in requests for matching funds for historic preservation. The current level of Federal support is vastly insufficient to assist the demonstrated needs for preservation activities. In addition, many historic properties are being lost to other uses due to the lack of available support. The approach of the Bicentennial year has led to widespread willingness to support historic preservation projects on a variety of levels. However, increased Federal funding of matching grants is needed to catalyze this interest.

The demonstrated willingness on the State and local level to match a greatly expanded level of funding is particularly critical for the historic preservation program. Great numbers of structures of identified historic value are lost each year, as a lack of funds to make preservation or restoration possible consigns them to further decay or outright destruction. Also lost are the positive economic benefits that have been demonstrated in cases in which historic restoration work has taken place.

Past experience has shown that the restoration of one structure in an area will frequently stimulate the repair and improvement of nearby buildings, raising property values and stimulating interest throughout the locality. The positive impact of this program extends far beyond the dollars from the Federal grants to benefit entire communities. Now the need is to increase the matching grants program to meet this need.

Mr. President, the legislation which we are considering today represents a major effort to deal with the growing recreational needs of the American people. In an era of energy shortages, recession, and unchecked inflation, we must bring our recreation facilities to the people. The States and the Federal

Government have recognized this. But the price of a decent life is high, and it will not get cheaper.

States have identified over $45 billion in recreational needs to 1985 in their statewide outdoor recreation plans, and the land acquisition backlog of the National Park Service may very well reach $700 million. Every day, more and more land is lost to development—open land, green land, land where children can play and families can enjoy a nonurban environment.

We can sit back and watch areas such as the Santa Monica Mountains outside Los Angeles, the Cuyahoga Valley between Akron and Cleveland, the Chattahoochee outside Atlanta, and a hundred other open areas outside a hundred other cities disappear; or we can act.

We can condemn the children of our cities to a world of concrete and soot-filled skies, teaching them to play in the streets and alleys; or we can provide recreational facilities.

The choice is ours.

Historic properties also are being lost to development. Our heritage, to the extent that it is reflected in our historical properties, is indeed an endangered species. The Historic Preservation Act, since its enactment in 1966, has provided over $32 million; but this is not nearly enough. In my own State of Louisiana last year, a request for over $500,000 was met by only $100,000. This year Louisiana has requested four times as much. States have placed over $160 million to the cause of historic preservation. This legislation will seek to match that dedication.

Mr. President, this bill is very simple, but very important to this Nation.

What it does is increases the Land and Water Conservation Fund from $300 million to $1 billion annually and establish a National Historic Preservation Fund of $150 million annually.

To those who say that this is inflationary, I say, Mr. President, that it is essential that property for recreation, for open space, be acquired now while prices, though inflationary, are fractions of what they will be in the future.

Even at the $1 billion funding level, Mr. President, it will take years and years to finance those projects which the Congress already has authorized for acquisition.

Mr. President, this bill also contains $150 million for historic preservation—again to acquire and restore these properties while these historic treasures of the Nation are still available and not yet destroyed through time and neglect.

Mr. President, this bill in committee received very strong bipartisan support, and I recommend it. I urge it to everyone in the Senate as important for the Nation, and important for the quality of life for all the citizens of this country I urge that the Senate today enact the bill.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HANSEN. I yield 5 minutes to the Senator from Idaho.

Mr. McCLURE. Mr. President, I think this is the first time in my service in the Congress that I have risen to oppose the action that is being taken in ostensibly increasing funding for outdoor recreation.

It is the first time in my experience in the Senate that I have felt it necessary on the floor of the Senate to oppose the action that was taken by my committee. But in good conscience, I cannot sit by and see what has been done in this bill as being portrayed to the American people as an assist towards the parks and recreation program of the States and Federal Government.

I think this might be best stated as one small step toward the stated need and one great leap backwards from real accomplishment in the field to which we are addressing ourselves, Mr. President, that we embarked upon the creation of the land and water conservation fund for one reason alone. That is, that the appropriations process of the Congress had not felt it necessary, had not yielded itself really to addressing the needs for outdoor recreation opportunities for the people of this country, and we created initially a trust fund concept in order to earmark some revenues from a special program creating income to that trust fund in order to get more money into the field of land and water conservation, primarily for outdoor recreation.

That move was successful, although the original fund did not generate the receipts that it was supposed to generate. So we later supplemented that by going into the outer continental shelf funds and brought that up from $30 million a year, at first, to $200 million a year, and later to $300 million a year. I supported each and every one of those efforts because I thought it was important. I served for 6 years in the House of Representatives. I served on the Interior Committee, and the Parks and Recreation Subcommittee of that committee, as well as my service on the Parks and Recreation Subcommittee in this body.

During the period of time that I have been in Congress, we have made more significant advances in the field of outdoor recreation than in all of the rest of the history of this country put together. I believe the record bears that out.

We do have a backlog of acquisitions because we tarried too long. We tarried too long because we were not able to compete in the budget for the necessary number of dollars to put into this effort.

Now we are going to destroy all that effort overnight by overdoing a good thing. We are going to kill the goose that laid the golden egg, as we try to find the source of all these goodies.

We are overdoing it by increasing this fund from $300 million a year to $1 billion a year. It is not because we do not need the money that I oppose this; it is because we are not going to get the money. The Senator knows it and I know it.

The Senator from Oklahoma proposed an amendment in the committee, discussed it, and I understand proposed the amendment today, to provide what is already a fact, that if the Appropriations Committee does not see fit to give us all the money that is in he fund, that money will lapse back into the Treasury.

I say to you, if we put a ceiling on this fund that is so large that no one here really believes that we will actually get that money from the appropriations process, and we put it into that fund and then provide for it reverting back to the Treasury, we have destroyed the trust fund concept. All in the world we will be doing is cycling dollars through a trust fund without any real increase in the needs of outdoor recreation in this country.

This is a devastating blow to the hopes of those of us who have worked to create a trust fund concept that will actually get more money into the outdoor recreation needs of our country.

We have had arguments over how it should be divided between the States and the Federal Government. We will have some arguments later on, I understand, on the apportionment among the States of the States' share of this fund.

THE PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. McCLURE. Will the Senator from Wyoming yield an additional 5 minutes?

Mr. HANSEN. Yes.

Mr. McCLURE. I thank the Senator for yielding the additional time.

The backlog of needs is enormous. We know that. We can add it up. It is billions.

The Senator from Louisiana is exactly correct when he says at the rate we are spending it will take years to clear up the backlog, just the Federal need. It will take even more years to clear up the backlog of State needs.

The State recreation plans that have been developed under the stimulus of this program is one of the most constructive steps we have taken in years in the field of outdoor recreation.

Yet we are going to throw that all away as we try to upstage everyone else in saying we are more for outdoor recreation than anyone else.

I resent the implication that if you do not vote for $1 billion somehow you are opposed to it. We know we are not going to get $1 billion a year into this fund. The Appropriations Committee will not give us that amount of money. The administration will not stand still for that amount of money.

We have been debating in this last week how do we spend additional billions of dollars to create jobs for men and women who are idled by economic downturn. That is the kind of priority that we are going to be addressing ourselves to as we try to stem inflation and at the same time curb the effects of the downturn in economic activity upon the jobs and the livelihood of men and women in this country who are affected by economic recession.

It is madness for us to talk about going from $300 million a year to $1 billion a year as though we really intended that to happen.

We have been debating the public service employment. The Senator from West Virginia and I, among others, have been trying to focus the efforts of the Federal payments on job production, a matter of absolute first priority to this country.

Here we are talking about an additional $700 million to go into the acquisition of parks and recreation areas. God knows we need them. I know we need them. But the priority has to be with the job preservation of people in this country.

I would ask the Senator from Michigan if all these men who are unemployed by the downturn in the auto industry are going to be satisfied with the fact that we will create more parks for them to spend their idle time in while they are unemployed.

Our country will not stand for that priority. Our country should not stand for that priority. This Congress will not stand for that priority.

When we get around to the budgetary process, as we will have it next year, there is no question in my mind, no question at all, that we will not go into the Outer Continental Shelf Fund for an additional $700 million a year to put into the acquisitions, as worthy as they are, as great as that need is.

I say all we are doing in this measure now, as we seek to increase it, is to kill off a good program, render all the efforts of the last several years absolutely in vain, and we will have done nothing except grandstand for the galleries and for the public of this country in trying to tell them that we are doing something for them which we know very well we are not doing.

That is why I have to say that I very reluctantly and sadly oppose the action that is taken by this committee. Later I will propose an amendment to cut it back to what I think is a reasonable, attainable, honest figure which we can take before the Appropriations Committee with, and before the Office of Management and Budget, and defend. But we cannot defend this. I do not think there is anyone here who has any illusions that we are going to get that kind of money.

It is with a sad heart that I make these comments. I know that the Senator from Louisiana is very sincere in stating the need. But he has not been through this battle of trying to get these dollars through the trust fund concept. He is not sensitive to the fact that if we had not had this trust fund we would not have had these dollars at all, nothing like we have been able to accomplish.

So I very sadly, and I hope with some humility, stand before this body and say this is not a step forward, but a great leap backwards, in our efforts to provide outdoor recreation facilities for our people.

Mr. JOHNSTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Five minutes remain.

Mr. JOHNSTON. I yield myself 2 minutes, Mr. President.

Mr. President, never, or rarely, have I been opposed by someone on a bill who agrees so strongly with the thrust of the bill—the thrust of this bill being that we need recreation and that we need to acquire these lands while they are still available, before they come under the developer's bulldozer, and we lose them forever.

With that, the distinguished Senator from Idaho and I are in agreement. The disagreement is whether by increasing the fund we will actually somehow get less money.

I would suggest to the distinguished Senator that under the Constitution this Congress has the power to pass a law and to set up a trust fund.

As the distinguished Senator said, we would never have gotten $300 million, had we not put it in a trust fund.

I think the American people are demanding, wanting, urging, and mandating the Congress to give a high priority to parks and recreation, and that they do not think that $1 billion, out of a budget in excess of $300 billion, is too much to acquire properties that, after all, are not going to be spent—they are not going to be wasted—but they are going to be kept in perpetuity for the people of the United States.

Mr. President, I think unless we do increase the fund, we are going to guarantee that we are not going to get any more money from the Appropriations Committee than we have been getting. We both agree that $300 million is not enough. We both agree that the Appropriations Committee is not appropriating enough. But at least one reason they are not appropriating enough is that they cannot exceed the $300 million limit contained in present law.

I say, let us pass this bill with $1 billion, which is not an excessive goal, not profligate spending, but a reasonable reachable goal.

Mr. McCLURE. Mr. President, will the Senator yield for one comment in regard to his comments?

Mr. JOHNSTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining. The Senator was misinformed originally about the 5 minutes. He had 12 minutes at that time.

Mr. JOHNSTON. I promised the Senator from Wyoming that I would yield to him.

Mr. McCLURE. Will the Senator yield me 1 minute?

Mr. JOHNSTON. I yield 1 minute to the Senator.

Mr. McCLURE. The Senator indicated that Congress is now limited by the $300 million ceiling, and that is totally false. I warned at the time we went to $200 million from the $30 million approximately that we had that the Appropriations Committee would regard the $200 million as a ceiling, not as a floor, not because the law said that but because they take it that way. That is precisely what has happened.

They have regarded that as the ceiling. They have put the entire reliance of the Federal budget for outdoor recreational facilities within this trust fund, and there is no ceiling.

All we have to do, as the Senator from Louisiana indicates, is to persuade the Appropriations Committee to appropriate more. They can go over the $300 million now, if we can persuade them. But we were not able to persuade them before; we will not be able to persuade them under this bill.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). Who yields time?

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc.

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

Mr. McCLURE. Mr. President, reserving the right to object, may I ask that they be considered as original text for the purpose of amendment?

Mr. JOHNSTON. Yes. I so modify my request, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry. I ask recognition to offer an amendment.

Mr. JOHNSTON. That was with respect to the committee amendments.

Mr. WILLIAMS. The only change, then, would be in identification of the amendments to be offered, I suppose, but it does not affect the substance, as I understand it.

Mr. JOHNSTON. Yes. It does not affect the matter to which the Senator from New Jersey wishes to address himself.

AMENDMENT NO. 2085

Mr. WILLIAMS. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS), for himself and Mr. BUCKLEY, proposes amendment No. 2085.

The amendment is as follows:

On page 5, between lines 15 and 16, insert the following:

(e) In the first sentence of subsection 6(b), delete paragraphs numbered (1) and (2) and substitute the following:

"(1) 20 per centum shall be apportioned equally among the several States;

"(2) 75 per centum shall be apportioned on the basis of need to individual States by the Secretary in such amounts as in his judgment will best accomplish the purposes of this Act. The determination of need shall include, among other things, consideration of density and urban concentration within individual States as well as consideration of the Federal resources and programs in the particular State; and

"(3) 5 per centum shall be made available to individual States to meet special or emergency needs, as determined by the Secretary.".

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

Mr. WILLIAMS. I yield.

Mr. BUCKLEY. I call attention to the fact that this is the amendment as to which we reserved 1 hour under the unanimous consent agreement.

Mr. WILLIAMS. I yield myself 5 minutes.

Mr. President, this amendment which the Senator from New York and I have submitted is an effort to use this great program in a way that will bring a new measure of benefit in recreational op-

portunity to areas in this country where the predominant number of people live. The formulas have been oriented more toward area than toward people, and this is designed to redress that imbalance in some degree.

Mr. President, today, 7 of every 10 Americans live in relatively few large metropolitan areas—on 1.5 percent of our Nation's land area, while only 3 percent of our public recreation lands are within 1 hour's driving time from the center of the major metropolitan areas.

The resources for outdoor recreation are simply not available to our urban dwellers, but the overwhelming majority of recreation is sought close to home in the afterwork, afterschool hours or on short 1-day outings.

It is interesting to note that only 2 of our 50 largest cities are within a 50-mile range of a national park and only 6 more major cities are within a 100-mile range of a national park.

The magnitude of the popular support for the Gateway National Recreation Area in New York and New Jersey and similar projects elsewhere is due in large part to the fact that the parks will be accessible to residents of crowded urban areas.

In the face of these facts, we find that the Land and Water Conservation Fund, which has been the greatest Federal resource for the acquisition and development of parks and recreation areas is weighted heavily in favor of our less populous areas.

Forty percent of the Fund is used by the various Federal agencies—such as the National Park Service—to acquire land for public recreation.

The other 60 percent of the LWCF is made available to the various States for their park programs.

This State's share is apportioned under a statutory formula which requires that 40 percent of the annual appropriations be divided equally among the 50 States.

The balance of the "States share" is to be distributed according to need.

The inequity of this formula is manifest.

The State of Alaska receives $4.73 per capita while Texas gets only 60 cents, nearly 8 times less.

Wyoming gets $4.32 per capita while my home State, New Jersey, receives only 73 cents.

This disparity exists at the local level as well.

Analyses by the Bureau of Outdoor Recreation have demonstrated that densely populated counties received the least funds per capita from the LWCF and sparsely populated counties received the most funds.

In an evaluation of all Federal outdoor recreation programs, the General Accounting Office stated flatly that:

> The LWCF formula for apportioning grant funds to the states does not meet the needs of the people living in urban areas.

The GAO study goes on to state that:

> Greater benefits could have been achieved had more projects been located in densely populated, low-income areas having few outdoor recreation opportunities and whose residents were limited by low income from traveling to areas having more abundant facilities and opportunities.

The amendment which Senator BUCKLEY and I offer today would partially redress this imbalance.

Alaska would still do better than Texas, but it would receive only 3.8 times as much money per capita instead of 8 times as much.

Our amendment would distribute 20 percent of the "States share" of the LWCF evenly.

Seventy-five percent would be apportioned on the basis of need, and 5 percent would be allocated at the discretion of the Secretary.

In recent years pollution, development, and suburbanization have taken a heavy toll on urban outdoor recreational sites.

The days are gone when one could go for a swim in the city's river or take the trolley to the amusement park at the end of the line.

The inequities that exist in the distribution of outdoor recreation resources are severe, and they are steadily becoming more pressing.

In the face of diminishing opportunities, Department of the Interior studies show that most Americans now participate in some form of outdoor recreation.

Furthermore, participation is increasing at the rate of 10 percent per year, and conservative projections indicate that with rising income and more leisure time, participation will increase fourfold by the year 2000.

The inadequacy of urban recreational facilities is felt most keenly by those at the lower end of the income scale.

These people are almost entirely dependent upon nearby public facilities.

On the other hand, many more opportunities are available to affluent city dwellers because of their ability to take advantage of private recreational facilities and because of their increased mobility.

Studies by the Department of the Interior, for example, have shown that those using the national parks are most likely to be better educated, white, young, well off economically, and residents of suburban areas.

Our major parks simply are out of reach for most Americans.

In 1969, Department of the Interior studies indicated that it would require at least $25 billion above existing expenditure levels to afford urban dwellers the same amount of nearby recreational opportunity by 1975 that was available on the average in 1965.

Obviously, if we set out to perform that task today, in 1974, it would be much, much more costly.

It may be that we are unable to provide fully for the urban recreation space which is so desperately needed.

Nevertheless, we have an opportunity with this amendment to correct a serious inequity.

We can redirect our LWCF dollars to those areas where they are most needed and where they will be most beneficial.

We can do this at no loss to any State because we are increasing the size of the Fund at the same time we are changing the distribution formula.

I should note that this amendment will not alter our ability to protect and preserve our most extraordinary natural resources.

Money for our national parks and for other Federal recreation lands is not affected at all by this proposal.

In 1970 in testimony before the Subcommittee on Department of the Interior and Related Agencies, House Committee on Appropriations, the Director of the Bureau of Outdoor Recreation stated:

> What we end up with is an overall conclusion that in effect we have the people on one part of the continent and the recreational facilities on another part.
>
> What the Senator from New York and I propose is equitable and simple.
>
> We propose to bring parks to the people.
>
> That is where they should be.

In urging colleagues to support this amendment, I should like to say that the formula that we used is, I think, precisely the formula that was advanced by a prior administration, the Nixon administration. It has the dignity of having had administration support—at that time.

It has the unqualified support of an organization of great dignity, the National League of Cities.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the letter addressed to me from the National League of Cities, signed by Mr. Pritchard, the executive vice president, which indicates not only their support for this, but their dismay if it is not accepted by the Senate.

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

NATIONAL LEAGUE OF CITIES,
December 17, 1974.

Hon. HARRISON A. WILLIAMS,
U.S. Senate,
352 Old Senate Office Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: I am writing to express the strong support of the National League of Cities, representing 15,000 cities nationwide, for your amendment to the Land and Water Conservation Fund legislation which will go before the Senate this week. This amendment, by increasing the amount of funds apportioned to the states for recreation projects on the basis of need, is the minimum step that must be taken this year to gain some equity in the distribution of federal funds under this program.

The cities of this nation are in desperate need of recreational outlets for the citizens. They are lacking in open space; they are lacking in funds to acquire and develop land for recreation; and their citizens, particularly minortiy and low income persons, cannot afford the luxury of traveling to the wide open space into which the federal government has invested so much over the last decade.

It is time that Congress and the Administration recognize and do something to meet the need for recreation opportunities *where people are*—in the cities and in the populous states of this nation. It should no longer be acceptable for per capita federal recreation assistance in the least populous states to be five and even ten times that of states like New York, Californai, Ohio, and New Jersey. We cannot afford this because of the cost of

energy, and we cannot afford it because the results are grossly inequitable.

City representatives have worked long and hard this year to convince both the House and Senate that a change in the Land and Water Conservation Fund formula is necessary, that more weight must be given to population factors in the distribution of these funds. Now we find ourselves in the position of being unable to support legislation to expand the LWCF program unless tangible progress is made toward this goal. We feel that your amendment, introduced in earlier years by the Administration, represents such progress, and the nation's city officials fully support you in your effort to have it enacted.

Sincerely,

ALLEN E. PRITCHARD, Jr.,
Executive Vice President.

Mr. WILLIAMS. I say to my cosponsor and colleague, the Senator from New York, I know the herculean work that he has put in on this amendment, not only in advancing it today but in building an understanding over a long period of time in the Senate of the nature of the amendment and the equity of the amendment. I am happy to be, with him, sponsor of this legislation.

Mr. BUCKLEY. Mr. President, I thank the distinguished Senator from New Jersey for his kind remarks. I believe that he has demonstrated, over the years, his own tremendous interest in doing precisely what he outlined; namely, to make sure that we have a more equitable distribution of funds so that we may create adequate recreational facilities and parks within reach of our major centers of population.

Mr. President, the objective of our amendment to S. 3839, a bill to amend the Land and Water Conservation Fund Act of 1965 is a simple one. We propose to change the formula under which the Secretary of the Interior apportions the Land and Water Conservation Fund among the States and territories so that we can better meet the need for recreation opportunities where the people are, in the cities and populous States and this Nation.

Currently, 40 percent of the Land and Water Conservation Fund appropriation is made available to various Federal agencies such as the National Park Service to acquire land for public recreation; our amendment would have absolutely no effect upon the Federal share. The States share, however, is apportioned to the States and territories under a statutory formula requiring two-fifths of the annual appropriation be apportioned equally among the 50 States; the remaining three-fifths of this money is distributed to the 55 States and territories according to need. Of this, 5 percent is placed in a contingency fund for special uses and the remaining 55 percent is distributed on population and land resource considerations.

The grossly inequitable results of using this formula are, for example, at current authorization levels, that the State of Alaska could receive $4.73 per capita, while populous States, including New York, New Jersey, California, Michigan, Ohio, Florida, Texas and others could each receive less than 73 cents per capita.

This disparity is further exacerbated by the fact that those States which now benefit most under the present States share formula happen also to be those States which tend to receive the most money under the Federal share. This is due to the fact that there is a heavy concentration of National Park acreage and other recreation land in a few sparsely populated States. For example, the beautiful State of Wyoming boasts 7.24 percent of the National Park Acreage, but only .17 percent of the U.S. population.

Our amendment would not eliminate the disparity entirely since factors other than population ought to be taken into account in distributing funds, but it would mitigate the inequity so that Alaska could only receive 3½ times the per capita distribution of California instead of 8 times as much.

As reported by the Committee on Interior and Insular Affairs, S. 3839 would raise the authorization level from the existing $300 million level to $1 billion. Our amendment calls for 20 percent of the State share to be apportioned equally instead of 40 percent.

We cannot afford to waste our finite financial resources by inefficiently allotting abundant recreation funds to one State while its neighbor State with more people must forego park acquisition and development plans for its residents because of a smaller allotment. As the GAO stated in an evaluation of all Federal outdoor recreation programs:

Greater benefits could have been achieved had more projects been located in densely populated, low-income areas having few outdoor recreation opportunities and whose residents were limited by low income from traveling to areas having more abundant facilities and opportunities.

Furthermore, our energy situation argues persuasively for the acquisition and development of land where people can best use and enjoy it.

As the executive vice president of the National League of Cities has written to me:

The cities of this nation are in desperate need of recreational outlets for their citizens. They are lacking in open space; they are lacking in funds to acquire and develop land for recreation; and their citizens, particularly minority and low income persons, cannot afford the luxury of traveling to the wide open spaces into which the federal government has invested so much over the last decade.

I urge my colleagues to join us in voting to reduce the great disparity in recreation allotments to the several States. Now is an appropriate time to make this sensible change since the committee is recommending a substantial increase in the Fund; no State would actually lose funds under our amendment.

Certainly, some States will benefit more than others under a formula change. But I must emphasize that the principle of more equitable distribution of Federal resources is vitally important because only in this way will adequate funds be distributed to the areas of greatest need, while still meeting the needs of smaller, less populous States.

Mr. President, I summarize four points: No. 1, considerations of equity. Under the existing formula for distribution of funds, we see an extraordinary per capita distortion. For example, the State of Alaska would receive $4.73 per capital, whil the more populous States, such as New York, New Jersey, California, Michigan, Ohio, Florida, Texas, and others receive far less. In fact, California would receive just 60 cents per capita.

This disparity is further exacerbated by the fact that those States which now benefit the most from the President's "States share" formula happen to be those States which tend to receive the most money under the Federal share; namely, those areas that have large percentages of their land in Federal ownership.

In this connection, I cite as an example that the State of Alaska has 28 percent of its total national park acreage, with only 0.15 percent, or one and a half tenths of a percent, of the population.

A second point that I should like to make has to do with the energy crisis. It has been widely observed that this past summer, many of the recreational areas closer to cities had a far larger patronage than in the past, whereas, some of the remoter recreation areas were having far fewer visitors than in the recent pass. What this suggests is that fuel conservation-minded motorists will utilize areas closer to home if they are available; therefore, if we can encourage the trend to develop such nearby recreational areas, we shall contribute significantly to the savings of gasoline for family vacations.

Third, the land values in the more populous States are significantly higher than in the less-populated ones. Therefore, in terms of actual need on the basis of cost per acre, it makes sense to make the kind of redistribution utilizing the new formula that we propose.

Finally, to reinforce a point I had alluded to earlier, those States which benefit most on a per capita basis under existing conditions are those States that have the least need, for the simple reason that they already have the greater predominance of existing national parks and recreational facilities.

The formula that the Senator from New Jersey and I are urging is, as he has stated, a formula that has been recommended by the administration after a careful study of cost-effectiveness. Second, it does not create parity, it merely begins to approach parity.

Under the existing formula, for example, Alaska would receive eight times as much in per capita distribution as California. Under the formula that we have submitted, that excess would be reduced to merely 3.5 times the California share.

I suggest to my friends from the West that what we are proposing here is equity. What we are proposing here makes sense. What we are proposing is merely a step toward compromise.

Mr. President, I reserve the remainder of my time.

Mr. BIDEN. Mr. President, will the manager of the bill yield a few minutes to hear a statement in opposition to the points raised?

Mr. JOHNSTON. I yield to the Senator from Delaware.

Mr. BIDEN. Mr. President, as the Senator from New Jersey knows, even though I am from the second smallest State in the Nation in terms of land size and, I guess, fifth or sixth smallest in the Nation in regard to population, I have voted with him and others from the larger States when it comes to formulas for the distribution of highway funds and mass transit funds, because I thought there was merit to the arguments in those instances. However, I am worried about this formula for two reasons.

No. 1, there are some States, like the State of Delaware—and I shall not presume to say what other States are in the same position—that have neither national parks nor large population, but have need.

What the Senator's formula will do in this particular instance, with the limited amount of dollars that we have to deal with to begin with, will be to insure that a State like Delaware, which is on that fast-growing east coast megalopolis, will have an opportunity to face the same problem he is now facing, having urbanized before they were wise enough to purchase the necessary land to meet people's needs. There are States like mine in that situation.

Second, there is the situation that the Senator from New York and the Senator from New Jersey have pointed out, that national park studies show that the affluent middle class are the only ones who get to those national parks and use them, and that the ones who are in desperate need of open space, which I concur in wholeheartedly, are those in congested urban areas. However there is, as a practical matter, no way to meet that need with the dollars we have provided in this bill, to meet the tremendous need for open spaces to provide for the people in those circumstances with whom we are most concerned.

I suggest that studies would show that the people in New York City, New York, and New Jersey have little opportunity even to go to the Adirondacks, let alone go to Utah, Arizona, or any of the States which have the larger national park systems; so I do not know that the Senators will solve that problem.

In a State like my own, the situation will become worse as we continue to grow. Density is really the question here—as my little State becomes more densely populated and acreage becomes more scarce, because we are unable to move under the Federal legislation to insure that we keep some of that property green and clean, we will be in the situation, some few years from now, where we have the same problem as the larger urban States, with none of the clout to be able to rectify our situation.

For that reason, as well as others which I do not have time to go into, since I asked for only 3 minutes, I would hope that my colleagues, whether for parochial reasons or more esthetic reasons than those I have suggested here today, will vote against the amendment proposed by the distinguished Senator from New York and the distinguished Senator from New Jersey.

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, the arguments made by the distinguished Senators from New Jersey and New York are most appealing until you look at the facts.

The facts are that this bill as it is presented, with the committee amendments that have been incorporated en bloc, now provides for the very kind of help that I think can be most meaningful for those highly populated, dense areas of the East. The formula of Federal money in relation to State money that can go for the purpose of land acquisition will provide increased recreational opportunities. The matching requirements had been increased from a 50–50 split to a 70–30 split, with the Federal Government picking up 70 percent of the tab for the cost of acquisition.

I know that when Laurance Rockefeller, when head of the ORT Committee back some 10 or 15 years ago, identified as one of the real needs of the country, the opportunity for people in large metropolitan areas to have access, readily and easily, to recreational areas.

This bill will provide the kind of muscle to permit New York and New Jersey—two States which, incidentally, have among the highest per capita incomes of the 50 States—to have the chance to take their dollars and get for each one of their dollars two and one-third times as much Federal money to go toward the acquisition of such areas than they would have under the existing formula.

With respect to the second point the Senator from New York spoke about, the public lands in the West, it is very true that we have public lands in the West. It is also true that they are not without some fiscal strain and fiscal drain on the States. We have to provide opportunities for people who come out there. As the Senator from Utah, Mr. Moss, whom I see in the Chamber, knows perfectly well, when people come to visit Bryce, Zion, or any of the other great natural areas in the State of Utah, the State of Utah has the added burden, as we have found to be true in Wyoming, of taking care of people who come out there.

I think this bill is entirely correct in spreading the money around as is being done. Additionally, while there is a 70–30 split on the Federal contribution for acquisition, it is also true that 60 percent of the total moneys available under this act will be expended on the basis of 50–50 for providing for planning and development. As you work down through the formula, the money needed to provide States with the opportunity to meet special or emergency needs is also in there. As the bill is now, 60 percent is apportioned on the basis of need, and 40 percent is apportioned equally among the States.

So there is no reason now at all why the State of New York or the State of New Jersey could not tap this fund or take moneys from the fund in order to meet their requirements on two different bases: First, to have the Federal Government participate in the purchase of needed real estate; and second, to do it on the basis of need.

When we authorized the Gateway National Park a few years ago, Mr. President, Congress appropriated $12 million for acquisition, to respond specifically to the needs of the people in New York City and in the metropolitan areas juxtaposed to New York City and New Jersey. In addition, there was an appropriation of $92 million for development.

Congress has not been insensitive at all to the needs of the bigger, more densely populated States, as is proven by the action in authorizing and in creating the Gateway National Park and making available $104 million of Federal funds.

I think the formula should not be changed. I think it is exactly right the way that it is, and I would hope that Congress makes no changes from the committee report.

Mr. JOHNSTON. I yield myself 3 minutes.

Mr. President, we have recognized that urban areas must be given priority and must be given recreational opportunity where it is possible to do so. In fact, the Department of the Interior has, indeed, established urban parks. For example, $104 million was granted for the Gateway Park outside of New York City, and a great thing it is. The Golden Gate Park has been established in San Francisco. The President now has before him the Cuyahoga Park in the Cleveland-Akron area. Santa Monica and Chattahoochee, two areas outside Los Angeles and Atlanta, respectively, are under consideration. Hearings have been held on these areas, and consideration is being given to Federal programs in these areas.

Mr. President, the reason for the formula is that it recognizes that some areas that have the area and do not have the people are the areas visited by the people from the cities. If we gave a billion dollars for a park right inside of New York City, we could not tear the buildings down, plant the trees, make the lakes, and do the other things necessary. We would have to go somewhere outside of the city. That was the basic reason for this formula.

Mr. President, I believe the most persuasive argument I can make is that under the Buckley amendment, some 33 States would lose revenue, three would stay the same, and 14 would gain revenue. For the benefit of those who are interested in how the States would come out, let me recite the list, showing the States that would lose under the Buckley formula: Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Iowa, Kansas, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina is about even, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin about the same, and Wyoming.

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

Mr. JOHNSTON. Yes.

Mr. WILLIAMS. I know it is helpful to the Senate to have that list read. I

wonder if the population of the States that have gained and the States that have lost has been added up, too. I wonder if the Senator from Louisiana has it.

Mr. JOHNSTON. I have not. It is very clear that the bigger population States gain and the relatively smaller population States lose. There is no question about that.

But I would suggest that arguments made to those States that are going to lose would have to be pretty persuasive. For instance, under the Williams-Buckley amendment Alaska would receive $2,949,000 rather than $5,205,000.

Mr. WILLIAMS. What percentage of Alaska right now is federally owned?

Mr. JOHNSTON. A rather large percentage of Alaska is governmentally held.

Mr. WILLIAMS. So the part of Alaska that is available to this fund is decreased by the amount that is already in Federal hands, is it not?

Mr. JOHNSTON. That is correct. But, of course, the money in this fund is available for building facilities as well. So it can be used for development costs to some extent, as well.

I simply mention these States to alert the Senator, and I am sure he is aware of this, that his case must be very persuasive to convince States to give up their money.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JOHNSTON. I will reserve the remainder of my time.

Mr. MOSS. Mr. President, will the Senator yield 2 or 3 minutes?

Mr. HANSEN. I yield such time as the Senator may desire.

Mr. MOSS. I have listened with interest and care to the arguments here presented by the Senator from New Jersey and the Senator from New York, as well as the others who have spoken.

This is an area to which I have given considerable concern over a number of years, and I had some part in working out the formula that we are talking about here.

Of course, whenever you get to a formula for a distribution of the funds, you can get all kinds of variations, and what we have here today is an attempt to rewrite on the floor a formula so that it tilts more toward the large populous States and less toward the more sparsely settled States.

That puts into the formula a greater weight on simple population. But there are other factors to be considered, and this is what we took into account when we worked out the formula in the first place, and that is what the Interior Committee has done as it has considered this amendment, this changing of the amount of money to come into the land and water conservation fund. We have considered that formula again and tried to take into account these other factors, and there are other factors.

The Senator from Wyoming mentioned the fact that some States have a large proportion of their lands that are federally owned now. Mine is one of those States. But that is a mixed blessing because Federal lands, other than some small part of the fees for rental for grazing or something, do not pay any taxes to the State, and yet the State has the burden of police services for those lands and those who go on those lands, providing medical care, hospitalization, all of the services that must be provided, and yet the lands still belong to the Federal Government.

So those States really have less in resources with which to put in to match the Federal money when it is necessary if they want to acquire lands for park purposes.

Now, all of us seem to agree, even the Senator from Idaho in his speech against the bill, in general, to the laudable purpose of the bill, and agree with what we are trying to do. The manager of the bill especially is stressing the fact that there is an urgency because of the accelerated costs of land that are going up, and that we will not be able to acquire them for economic reasons, as well as the fact that many of these lands may be filled and destroyed and unusable when we do want to get them, so we all agree we ought to move on with it.

I think we ought to move on, and I think we ought to keep the formula that is now proposed by the committee and in the bill because I think it is a very fair one. It does give some balance to population.

If you read the amounts of money that are going to come to the various States, you will see that the big populous States are going to get in numbers of dollars a lot of money, more than the other States.

When you begin to relate it back and forth, population and dollars, then it changes a little bit because that is when the other factors come in.

Therefore, I strongly oppose changing the formula here on the floor. I think it is a good one. I think we ought to go forward with it. And if, after living with it another 3 or 4 years, we want to come back on the floor or come into the committee and talk about it, surely we can. But let us not jiggle it up now. Let us go forward with the bill as it is. Let us pass it and see if we cannot get this augmentation of the funds that we need for the acquisition of lands for recreational purposes.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, I believe that the principal arguments have been blocked out, but I would like to address myself to two or three points that have been raised.

First of all, my distinguished friend, the Senator from Wyoming, stated that somehow or other shifting from a 50–50 matching formula to a 70–30 percent Federal-State formula uniquely benefited the more populous States.

I would suggest that to the extent this is a desirable thing to do—and I have doubts about it frankly—it benefits Wyoming and Alaska as well as anyone else.

Secondly, in terms of Gateway National Recreation Area, yes, finally after 180 years there is a park, a national park, in the metropolitan area of New York and New Jersey.

On the other hand, I would like to point out this deals with 40 percent of the funds having to do with Federal expenditures for Federal parks, whereas what we are discussing here is a formula, a change in the formula, for the distribution of the 60 percent of the fund to the States to meet so-called State needs.

Also I would like to point out that even while talking about the Gateway National Recreation Area we are talking about an area where the great preponderance of the land involved was not purchased or contributed by the Federal Government but was contributed by the city and State of New York and also by the State of New Jersey.

What we have here really is a formula that is flamboyantly arbitrary and cannot be justified on any basis of fact.

I appreciate the concern of my friend, the Senator from Utah, about having floor amendments come up as to which people have had an insufficient opportunity to assess the facts, and so on.

That is not the case here. The formula was proposed early in the year. I introduced in the Interior Committee an amendment to this bill to have this formula adopted. This was rejected, unfortunately, and so we bring it up again here.

There are no consequences that cannot be foreseen. It is straightforward in its effect, and it reduces the per capita disparity from 8 to 1 to something closer to 3½ to 1. I submit that it is reasonable. I submit that it would move toward fairness, and I submit that the Senate ought to enact it.

Mr. President, I ask unanimous consent that Miss Jackie Schaefer may have the privileges of the floor during the vote on this bill.

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

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second?

Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Louisiana yield for a question?

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

Mr. President, I again ask for the yeas and the nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and the nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I will yield to the distinguished Senator from Virginia for a question.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. I would like to ask the distinguished Senator a question on the bill. Is that appropriate at this time?

Mr. JOHNSTON. Yes, we are on the amendment, but a question on the bill is all right.

Mr. HARRY F. BYRD, JR. I note that the authorization is for a period of 15 years.

Mr. JOHNSTON. That is correct.

Mr. HARRY F. BYRD, JR. Well, is

that not quite a precedent for this body. Have we ever had such 15-year authorizations?

Mr. JOHNSTON. Yes, this is a trust fund, somewhat in the nature of the highway trust fund, for example, which under present law goes to 1989.

So this is not extending the life of the trust fund, it is increasing the amount of money in the trust fund.

Mr. HARRY F. BYRD, JR. And the money for the trust fund comes from what source?

Mr. JOHNSTON. From the Outer Continental Shelf revenues which this year are expected to run in the neighborhood of $8 billion.

Mr. HARRY F. BYRD, JR. Does the committee feel that it is justified in having a 15-year authorization?

Mr. JOHNSTON. Yes, the idea of the trust fund is to have a designated amount payable from a depletable resource, that is, the Outer Continental Shelf revenues, that can be used to plan intelligently for acquisitions of land.

If we had $10 billion to spend this year, we would not be able to spend it all in the first year.

Mr. HARRY F. BYRD, JR. I agree. I think it is a fine program, and I support the program.

I am just wondering whether it is good legislation to authorize a program for 15 years. It seems to me that the Congress would want to authorize it for a shorter period of time so that every 3 years, or whatever it might be, we would have an opportunity to debate the matter and go into it.

Mr. JOHNSTON. Well, actually, we have to appropriate every year, the trust fund is created.

Mr. HARRY F. BYRD, JR. Yes.

Mr. JOHNSTON. But it is subject to appropriations each year, so that the money does not actually go out of the trust fund, it is appropriated.

Mr. HARRY F. BYRD, JR. It would have to be appropriated, but it appears to me somewhat similar if the Committee on Armed Services were to give the Defense Department a 15-year authorization for x number of dollars.

Mr. JOHNSTON. The difference would be that the money still has to be appropriated.

As I say, this bill makes absolutely no change in the language of the appropriation. The Land and Water Conservation Fund was created initially with a 25-year life and it has some 15 years yet to run, so, really, that question is not before us now because we are not trying to change that at all.

Mr. HARRY F. BYRD, JR. Yes, but the question before us now is whether we want, in one piece of legislation, to authorize the expenditure of, in this particular case, $1 billion for a 15-year period, annually for a 15-year period.

Mr. JOHNSTON. The wisdom of that is, I think, very, very strong.

We have projects already authorized by Congress, already enacted into law, which at the present level of funding would, I believe, extend beyond the 15-year life.

In other words, if we did not acquire one new park, one new acre, but used every cent they have available to us in that fund right now, over the 15-year life, we still would not acquire them all by the end of the life of the fund.

Mr. HARRY F. BYRD, JR. But that is not the point that the Senator from Virginia is interested in.

The point that the Senator from Virginia is trying to make is, should we establish a precedent of authorizing appropriations for 15 years ahead of time?

Mr. JOHNSTON. Well, I believe very strongly so, yes.

Mr. McCLURE. Will the Senator yield?

Mr. JOHNSTON. Yes, I yield a minute to the Senator from Idaho.

Mr. McCLURE. Mr. President, in response to the distinguished Senator from Virginia, I think it is well to look at the historical evolution of this fund, which when it was first created had a precise set of income factors, the sale of license fees, the sale of excess Federal property, which was thought at the time it was set up to generate funds in the neighborhood of $35 million to $45 million a year.

At that time, the trust fund concept was set up over a period of time.

Congress later then went to the Outer Continental Shelf Fund to raise that income in steps to the present $300 million a year, but still preserving the trust fund concept.

The committee's bill now purports to extend that trust fund concept, by putting $1 billion a year into the trust fund.

I spoke earlier to the fact that although we were going to put $1 billion a year under this authorization——

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

Mr. McCLURE. Will the Senator yield 1 additional minute?

Mr. JOHNSTON. I yield.

Mr. McCLURE. I thank the Senator.

It would destroy the trust fund concept. And while the Senator from Louisiana rightly says it depends upon appropriation, the appropriation is the money coming out of the trust fund, not going in.

The Committee on Appropriations would not appropriate money from the Outer Continental Shelf Fund into the trust fund, but only appropriate out of the trust fund, the rest of the money would accumulate within the trust fund, if it were not expended.

Mr. HARRY F. BYRD, JR. I believe that is an excellent explanation.

Mr. JOHNSTON. I thank the Senator from Virginia.

Mr. President, if there is nothing further, I am prepared to yield back the remainder of my time.

Mr. HANSEN. I yield back my time.

Mr. BUCKLEY. Mr. President, I do not see the Senator from New Jersey here, but if the Senator from New Jersey is prepared to yield back the remaining time, I am.

The PRESIDING OFFICER. All time having been yielded back——

Mr. BUCKLEY. Mr. President, I said if the Senator from New Jersey is prepared.

I believe we are checking with him right now.

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

The PRESIDING OFFICER. On whose time?

Mr. BUCKLEY. To be equally divided. Is that agreeable?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUCKLEY. 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. WILLIAMS. Mr. President, is there any time remaining, just one moment?

I congratulate the committee on the work it has done on this program.

True, I am trying to improve it according to my likes, in terms of the formula distribution, trying to reach metropolitan areas, with an increased opportunity and share of the increased funds.

But the committee has done something that is close to miraculous, has made everybody representing any part of the country the beneficiaries of an increased fund. Everybody, all people in all States, is a gainer under the bill, and that is also true if the amendment advanced by the Senator from New York and this Senator is accepted.

All peoples in all States will receive more resources for the recreational purposes; the objectives here, the noble objective.

But I want to end on a high note of appreciation and understanding of the fine work done by our committee.

Mr. HANSEN. Mr. President, on behalf of the minority, we acknowledge all the accolades most graciously.

Mr. JOHNSTON. Mr. President, on behalf of the majority, we do so also with appreciation.

I point out to the Senator that we are acutely aware of the needs of urban areas and I hope in the new Congress that we can examine that and determine whether by formula or whether by program or whether by priority we can give a greater funding and a greater emphasis to urban parks.

As a matter of fact, my original bill had a $250 million fund for acquisition of urban parks, as well as sensitive environmental areas.

So perhaps as the future chairman of the subcommittee, if the lights shine correctly, I will certainly give attention to that point.

Mr. WILLIAMS. Will the Senator yield for an observation?

Mr. JOHNSTON. Yes.

Mr. WILLIAMS. I very much appreciate the statement of the distinguished Senator from Louisiana. While at first blush the 15-year authorization period within the bill might give us a little anxiety that it would be followed and examined to see if within that authorization adjustments might be made, the long period of authorization does not, obviously, shut out this opportunity for review and adjustment within the authorization as we advance over the years.

Mr. JOHNSTON. That is correct.

Mr. President, I yield back the remainder of my time.

Mr. HANSEN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from New Jersey yield back the remainder of his time?

Mr. WILLIAMS. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on the amendment of the Senator from New Jersey and the Senator from New York. The yeas and nays have been ordered, and the clerk will call the roll.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. 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. McCLURE. Mr. President, I ask unanimous consent that it be in order to request the yeas and nays on an amendment which I will call up.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLURE. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the amendment of the Senator from New Jersey (Mr. WILLIAMS). 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) and the Senator from Arkansas (Mr. FULBRIGHT) 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 a death in the family.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON), and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 26, nays 68, as follows:

[No. 568 Leg.]

YEAS—26

Bayh	Eagleton	Percy
Beall	Griffin	Schweiker
Brooke	Gurney	Scott, Hugh
Buckley	Hart	Stevenson
Byrd, Harry F., Jr.	Hartke	Symington
Case	Javits	Taft
Chiles	Kennedy	Tower
Cranston	Mathias	Tunney
	Metzenbaum	Williams

NAYS—68

Abourezk	Goldwater	Mondale
Aiken	Gravel	Montoya
Allen	Hansen	Moss
Baker	Haskell	Muskie
Bartlett	Hatfield	Nelson
Bellmon	Helms	Nunn
Bennett	Hollings	Packwood
Biden	Hruska	Pastore
Brock	Huddleston	Pell
Burdick	Hughes	Proxmire
Byrd, Robert C.	Humphrey	Randolph
Cannon	Inouye	Ribicoff
Church	Jackson	Roth
Clark	Johnston	Scott, William L.
Cook	Laxalt	Sparkman
Curtis	Long	Stafford
Dole	Magnuson	Stennis
Domenici	McClellan	Stevens
Dominick	McClure	Talmadge
Eastland	McGee	Thurmond
Ervin	McGovern	Weicker
Fannin	McIntyre	Young
Fong	Metcalf	

NOT VOTING—6

Bentsen	Fulbright	Mansfield
Cotton	Hathaway	Pearson

So Mr. WILLIAMS' amendment was rejected.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Indiana (Mr. HARTKE) may call up a conference report at this time, with a time limit thereon of 2 minutes. This has been cleared on both sides of the aisle.

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

TRANSPORTATION SAFETY ACT OF 1974—CONFERENCE REPORT

Mr. HARTKE. Mr. President, I submit a report of the committee of conference on H.R. 15223, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). The report will be stated by title.

The 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. 15223) to amend the Federal Railroad Safety Act of 1970 and the Hazardous Materials Transportation Control Act of 1970 to authorize additional appropriations, and for other purposes.

having met, after full 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 13, 1974. at p. 39678.

Mr. HARTKE. Mr. President, this bill, basically, deals with the transportation of hazardous substances. It has been the subject of long hearings in the House of Representatives and the Senate. It is an emergency type of bill, and has the unanimous consent of the conferees of both the Senate and the House of Representatives, without any real disagreement at all.

This piece of legislation today represents the most significant effort at insuring a safe transportation network that we have undertaken in recent memory. The Transportation Safety Act of 1974 is an omnibus—three title bill designed to improve the regulatory and enforcement authority of the Secretary of Transportation with regard to the transportation of hazardous materials and transportation by rail, and to create a stronger, more independent National Transportation Safety Board.

Title I of the legislation concerns the Secretary's authority to regulate hazardous materials. This legislation is based upon legislative recommendations made by the administration last year.

The effort by the Federal Government to insure the safe transportation of hazardous materials is a fragmented and bifurcated program involving almost a half dozen agencies. The current program is based upon statutory efforts over the past 100 years which, in retrospect, have resulted in an inefficient and partially fabric of regulatory authority. This legislation is designed to remedy that problem.

There can be no question that hazardous materials transportation is a major transportation safety problem. The Department of Transportation estimates that more than 2 billion tons of hazardous materials are shipped back and forth in this country each year, in as many as 250,000 shipments per day. The Department estimates that hazardous materials incidents occurring during fiscal 1973 caused 20 fatalities, 435 injuries, and property damage that was estimated to exceed $4 million. And even these figures, according to the Director of the Office of Hazardous Materials, are on the conservative side, because there is good reason to believe that few of the carriers actually report the hazardous materials incidents they are supposed to report.

But far beyond these levels of death, injury, and economic loss, is the tremendous potential for disaster that the transportation of hazardous materials poses. Imagine, for example, a spill involving radioactive plutonium. After all, with the increasing presence of nuclear powerplants, there is more and more plutonium being transported on our highways and adjacent to our cities and towns. In the case of a plutonium spill, the affected area may be contaminated for literally hundreds of thousands of years. The inhalation of only one small particle of plutonium waste can result in cancer for the victim. Similarly, a recent explosion in Wenatchee, Wash., involving the transportation of monomethylamine nitrate resulted in 2 deaths, 60 injuries, and $5 million to $10 million in economic loss. Had this accident been in a tunnel or through a metropolitan area, the losses would have been astronomical.

The thrust of title I is to centralize in the Secretary of Transportation the authority to promulgate and enforce hazardous materials regulations for all modes of transportation. This centralization of functions is particularly significant with regard to the intermodal transportation of hazardous materials. Under

the regulatory scheme today, each of the modal Administrations—the Federal Aviation Administration, the Federal Highway Administration, the Federal Railroad Administration, the Office of Pipeline Safety, and the Coast Guard—are responsible for the hazardous materials regulations in their respective modes. Thus, there may be unnecessary inconsistencies between the standards from mode to mode resulting in extreme burdens on intermodal transportation. Likewise, the enforcement of hazardous materials regulations by each mode is itself inefficient. Rather than inspecting a single shipment traveling intermodally at one point in the transportation scheme, under today's program, the shipment is subject to investigation by each of the intermodal Administrations. As a result, only a very few of our shipments are inspected for compliance with the Federal hazardous materials regulations. This legislation will remedy that problem.

The hazardous materials program has been undermined by the practice of the Department of Transportation to grant so-called "special permits" which are, in effect, private exemptions from the hazardous materials regulations. I have grave doubts as to whether the Department even has authority to grant such special permits. The Department claims that it does so in order to acquire experience in shipping new hazardous materials or to test new methods of transporting existing products. However, it is really nothing more than experimenting on the public. Moreover, there are no limitations on the number of shipments which may be made under special permit or on the duration of the permit. Nor does the public have the opportunity to comment on any of the proposed special permits, and in fact, there is reason to believe that in some instances, laboratory and other test data submitted in justification of a special permit were inadequate. The spectacular railroad tank car explosion at Wenatchee, Wash., on August 6, 1974, was moving under a special permit.

This legislation would not prohibit the granting of special permits but would place it within a strict legislative framework. First, no exemption could be granted unless the petitioner files with the Secretary a safety analysis which shows that a shipment would provide a level of safety equal to or exceeding the level of safety achieved if he were to comply with the standard from which he seeks exemption. Second, the public must be given notice that the petitioner seeks an exemption and must be given an opportunity to comment on the petition. Finally, the legislation would limit the duration of any exemption granted from the regulations. In short, through this legislation, we are filling a gaping hole in the Federal regulatory scheme for hazardous materials.

Perhaps the most serious problem plaguing the Federal regulatory activities relating to hazardous materials is the poor compliance and enforcement record. For example, an FAA draft study made public at the Commerce Committee's June 1974 hearings revealed that 90 percent of the shipments inspected were in violation of the regulations. A total of 240 violations were found in 70 shipments examined carefully over a 60-day period. And the record of the other modes is equally as poor. A 1973 GAO report revealed the following results during a 21-month period:

FRA inspections of 10 large railroads disclosed 674 violations;

FHWA inspections of 74 motor carriers disclosed 1,258 violations by 58 carriers;

Coast Guard inspections in three districts disclosed 1,819 vessels in violations. Inspection reports for 334 of these vessels showed 817 violations.

In short, the carriers and shippers do not seem to be complying with Federal regulations. In addition, there is a serious gap in existing law—manufacturers of containers used in shipping hazardous materials are not subject to the provisions of the act.

This legislation is designed to improve the compliance record in this area. As mentioned previously, with a consolidation of the enforcement responsibilities in the Secretary, we will have a more efficient enforcement program. Hopefully, the Office of Management and Budget will provide sufficient resources to enable inspection of 10 percent of the shipments; we are currently inspecting less than 1 percent. Additionally, the sanctions for violating a standard are inconsistent and inadequate among the modal agencies. Some of the agencies do not have civil forfeiture authority—only criminal penalties are available. Thus the agency must either let the violation go by, since the criminal sanction is so severe and difficult to prove, or expend great agency resources to obtain a criminal conviction. Similarly, some agencies do not have criminal sanction authority.

Thus, where there is an egregious knowing violation, an offender gets away with a small fine and a slap on the wrist. The legislation would authorize both civil and criminal sanctions for all violators of the Federal regulations. There would be a civil sanction of up to $10,000 for each day of each violation. And there would be a potential criminal sanction of up to 5 years in prison and $25,000 fine for a willful violation.

Container manufacturers would also be subject to the hazardous materials regulations.

This legislation also addresses the problem of carriage of radioactive materials on passenger carrying aircraft. In 1973, there were some 600,000 shipments of radioactive materials on passenger aircraft. Although there have been no deaths or serious injuries specifically attributable to such shipments as yet, there have been a number of spills of such material which could have had catastrophic results. The most recent such incident occurred in Louisiana early this year. Moreover, there is also a danger that passengers, and particularly crewmembers, could receive cumulative low level radiation exposure, the ill effects of which might not show up for many years. For these reasons, a special report prepared for the Joint Committee on Atomic Energy earlier this year recommended that limitations be placed on the types of radioactive materials permitted on passenger aircraft, and that there be a tenfold reduction in the permissible radiation exposure level.

The conference report would ban all radioactive materials from passenger carrying aircraft except those used for research or medical diagnosis or treatment. In enacting this provision, we reasoned that while it would be unwise to burden hospitals requiring radiopharmaceuticals or other nuclear medicines, such a need did not exist by those who use radioactive materials for industrial purposes. It should be noted, however, that industrial users of radioactive materials may still utilize cargo planes or air taxi services for quick deliveries. Furthermore, the conferees have defined "radioactive materials" in such a way so as not to prevent the carriage on passenger carrying aircraft of certain consumer products such as pacemakers and radium dial watches which contain some minor degree of radioactivity.

Under the existing statutory scheme, anyone may engage in the transportation of hazardous materials. All he need do is comply with existing regulations. It seemed to the conferees that at least with regard to certain materials, it would be desirable to have on record registration statements from those who transport certain hazardous materials. Accordingly, the conference report adopts in part a provision contained in the Senate bill authorizing the Secretary to require registration. Under this authority, the Secretary may also establish criteria which must be met before one can engage in handling hazardous materials subject to the registration materials.

The Senate bill provided that to the extent that hazardous materials are subject to regulations by other Federal laws, including the Occupational Safety and Health Act of 1970 and the Consumer Product Safety Act, the Secretary shall not regulate such materials with respect to any risk to employees in their places of employment or to consumers of marketed products containing such material. While the conferees agreed to delete this provision, it was done so on the assumption that the agencies themselves would determine jurisdiction so as to preclude double regulation.

Turning to title II of the act, the provisions of the original Senate bill emerged from the conference virtually unchanged, with the exception of the deletion of the provision authorizing citizen petitions to prod the Secretary of Transportation into action. Title I intensifies the Federal Government's effort to maintain and increase safety on the Nation's railroads, in light of increasingly frequent derailments and other serious accidents. It amends the Federal Railway Safety Act of 1970 to increase the amount of resources actually spent in the important areas of inspection, enforcement, and information gathering concerning railway safety.

The key provision requires the Secretary of Transportation to prepare and submit to the President and Congress simultaneously by March 17, 1976 a comprehensive report on rail safety which

will analyze in depth the current Federal and State safety programs, the areas in which rail safety action is authorized but has not been taken, and suggestions for further action.

This report is expected to give the Congress and President, as well as the Department of Transportation sufficient data on which future programs may be based.

The 1970 rail safety law is also amended to improve the reporting requirements concerning rail accidents, and, by breaking down the authorizations of appropriations into subject areas, to prod the Secretary of Transportation into according safety inspection and enforcement activities higher priorities.

These amendments to the earlier rail safety act come in response to an ever increasing number of rail accidents and of people killed and injured in such accidents. The amendments are particularly important as the Nation turns back to rail transportation in this age of energy shortages.

Finally, with regard to title III, the conferees agreed on the importance of reconstituting the National Transportation Safety Board as an independent Government agency and on giving that agency broader investigatory powers than it has at present. The function of investigating accidents is the cornerstone of any transportation safety policy and the conferees were unanimous in desiring that Congress take whatever steps necessary to insure that such investigations were undertaken in an impartial and effective fashion.

The structure of the National Transportation Safety Board was left largely unchanged by the conferees who agreed that it has proved sufficient in the past and should be sufficient for the independent agency.

In addition, the Board would have the authority to work with the Secretary of Transportation in investigating any transportation accident where there is no indication of government misfeasance or nonfeasance. Thus the Board could delegate functions to the Department of Transportation where that Department would be best suited to certain kinds of investigatory work. However, the conferees were unanimous in feeling that it was important that the newly independent Board be charged with full responsibility for making its own final determination of probable cause in any accident investigated.

The conferees also agreed on the Senate provision which extended the authority of the National Transportation Safety Board to investigate serious accidents involving the surface modes. A major thrust of this legislation is to insure that the Board becomes more active in investigating surface accidents. Since many such accidents can have an impact as severe as their accidents, and since Congress is continually called on to evaluate proposals dealing with such accidents, the conferees felt it was important for Board's investigatory power to be extended to these areas.

The various parts of this bill work together as a unit to overcome the low priority that has been accorded transportation safety by the Department of Transportation and that should reduce the carnage in the Nation's transportation network.

The key provision is, of course, that dealing with the transportation of hazardous materials. In the past, the Department of Transportation hindered by enforcement powers scattered over various branches of the Department, and by the general disinterest in the problem, has done little to prevent serious accidents or mitigate the damages that accidents cause.

With this bill, the Congress has given the Department of Transportation the legal authorization they requested to put together an effective program and has authorized money sufficient to the purpose. The Congress expects the Department of Transportation to act vigorously in creating an effective program aimed at reducing the dangers inherent in the transportation of hazardous materials. It is expected that such a program will be a vast improvement over the disinterest of the past and to significantly reduce the toll of injuries, death, and property damage that have been caused by accidents involving the transportation of hazardous material.

As well as providing a legal authorization for a vigorous program of regulation and enforcement, this bill authorizes the appropriation of funds sufficient to the purpose, and it is expected that the Office of Management and Budget will provide a level of appropriation consistent with the high need of improving the Nation's effort in this crucial area.

The Congress and the Senate Committee on Commerce will maintain a high interest in the Department of Transportation's activities in this area and intend to watch this program closely. Should the program at the Department of Transportation prove insufficient to the task, we will actively search for alternative approaches.

Mr. MAGNUSON. Mr. President, the problems which this legislation is intended to solve are so serious that the Congress cannot wait any longer to act. In an increasingly complex and technologically oriented society, more and more hazardous materials with higher and higher risks are being transported by all modes of transportation. An average of 250,000 shipments of hazardous materials are made each day in the United States, totaling some 2 billion tons per year. These shipments include all kinds of flammable materials, explosives, compressed and poisonous gases, corrosives, radioactive materials, and many others.

Unless adequate precautions are taken, these shipments represent serious risks not only to the traveling public but also to residents of the thousands of communities through which they pass. In fiscal 1973, there were 6,014 reported inadvertent releases of hazardous materials during shipment leading to 20 deaths, 435 injuries, and millions of dollars in property damage. There is no way of knowing how many such incidents went unreported or how many near misses occurred.

A number of very serious accidents resulting from mishandling of hazardous materials has occurred this year—a cargo plane crashed into Boston Harbor due to a fire resulting from improperly labeled and packaged chemicals. In Louisiana, radioactive materials being transported aboard a passenger plane leaked, exposing both passengers and airline personnel. In Los Angeles, a warehouse burned down after a truck carrying a flammable substance exploded inside. In Decatur, Ill., a tank car carrying liquified propane gas was perforated and exploded. And in Wenatchee, in my home State of Washington, a railroad tank car carrying a substance used in the manufacture of explosives blew up. This substance which was not itself supposed to be explosive went off with the force of 100,000 pounds of TNT, leaving a crater some 65 feet wide and 35 feet deep, 2 people dead, 70 injured, and over $10 million in property damage. This substance had been traveling under a special permit exempting it from existing regulations since 1968.

Mr. President, we were lucky in that most of these accidents occurred under such circumstances that large numbers of people were not in the immediate vicinity. However, unless we take prompt action to strengthen the Government's regulation of the transportation of hazardous materials, sooner or later we are going to have a catastrophic accident with great loss of life.

The committee's hearings on this legislation indicated that one of the major problems was a division of responsibility for the regulation of hazardous materials transportation among five Federal agencies. This resulted in a lack of uniformity in regulations and standards for different modes of transportation. In addition, the hearings provided documentation showing that the inspection and enforcement programs were inadequate.

The legislation would remedy these defects by centralizing the authority for regulating the transportation of hazardous materials in the Secretary of Transportation and authorizing additional funds for inspection and enforcement. It also extends coverage of the law to persons not now included, such as container manufacturers, and provides increased penalties, both civil and criminal, for violations. It also prohibits the shipment of radioactive materials aboard passenger aircraft, unless they are intended for medical research or treatment and authorizes the Secretary, when he deems it necessary, to require shippers of hazardous materials to register and provide such information as the Secretary may require by regulation.

Mr. President, this legislation also deals with another problem, equally as serious as the transportation of hazardous materials, and that is rail safety. Hearings before the committee indicated that there has been a noticeable increase in train accidents in the last 2 or 3 years and that the largest single cause of such accidents is defects in track or roadbed, accounting for over one-third of all accidents. The committee found that 42 slow orders were in effect on 99.8 of the

108 miles of track used by Amtrak between Indianapolis and Louisville. A number of serious derailments have occurred on tracks found to be in violation of Federal safety standards. Again, the committee has found that FRA does not have adequate inspection personnel.

Mr. President, this is all very distressing in that it has occurred since enactment of the Federal Railroad Safety Act of 1970. The proposed legislation seeks to deal with this problem by requiring the Secretary of the Department of Transportation to submit a special report on rail safety to the President and Congress by March 1976, by stepping up enforcement, and by authorizing additional funding at least half of which must be used for investigation and enforcement.

Mr. President, the final title of this bill deals with the independence of the National Transportation Safety Board.

When Congress created the Department of Transportation in 1966 it also established the National Transportation Safety Board to investigate and determine the causes of accidents in all modes of transportation and to make recommendations designed to prevent the recurrence of such accidents. Although the Board was located within the Department of Transportation this was done for housekeeping, budget, and personnel purposes only. Congress made it quite clear in the legislation that the Board was to operate independently of the Secretary and other officers of DOT and of all other agencies in the executive branch. In so doing Congress recognized that the Board could act fairly and impartially only if it were truly independent, since its investigations would cover the actions of other Government agencies as well as the transportation industry.

Hearings before the Commerce Committee during this Congress demonstrated that the independence of the Board has been seriously eroded by its location within DOT. Therefore, the proposed legislation removes the NTSB from the Department of Transportation and reconstitutes it as an independent agency.

Mr. President, I believe that the Senate bill was much stronger than the House version, and in conference, the Senate prevailed on most of the important points in disagreement. Although a few major concessions had to be made, most were relatively minor in nature and did not affect the soundness of the bill.

Mr. President, I urge my colleagues to vote for the adoption of this conference report. I do not believe that we can afford to wait until a major tragedy occurs.

Mr. CANNON. Mr. President, I am pleased to have been a conferee on this important bill as it contains a provision for which I have personally worked very hard. Namely, the bill reestablishes the National Transportation Safety Board—the Government's watchdog over transportation accidents—completely independent of the executive branch.

In hearings before our committee during the last 2 years, we have compiled a record of continuing interference in the Board's duties and responsibilities by the administration. Even though the Board in 1966 was established as an independent agency, it was located within the Department of Transportation for housekeeping purposes.

Several Members of the Board testified under oath before the Commerce Committee that they were given orders from the administration, through the Chairman of the Board, to do or not to do certain things in connection with their responsibilities as Board members. For example, one Board member was told by the Chairman that if the annual report of the Board was critical of the FAA, the Republican board members would be "disciplined by the White House."

Such conduct, of course, is outrageous because one of the most important, if not the most important responsibilities, of the Board is to be the watchdog of the Federal Aviation Administration.

It has been our committee's view that only with a truly independent safety board could we minimize the opportunity for tampering with the Agency by the executive branch. This we have achieved in this bill.

In addition, I am pleased that the conference report recognizes the need that the President appoint qualified persons to this highly important Agency. In the past, I am sorry to say, some members of the Board have been nominated on the basis of politics or cronyism. In our view, such appointments are entirely unacceptable. The safety board is an agency which deals with highly technical and complex problems, most of which are little understood by lawmen. The determination of probable cause of accidents, particularly in aviation, is an extremely complicated process which requires some technical background and expertise.

In the Senate bill which we passed earlier this year we required that each board member be technically or professionally qualified to serve. We believe that there should be no basis for appointment to this highly specialized board except professional qualifications and experience in the field of transportation safety. Unfortunately, our colleagues in the House would not accept in entirety our proposal. Several expressed concern that, if all members nominated to the board had to possess professional qualifications, then the President would have to nominate persons from the industries which in some instances the board monitors. Of course this is not the case. Professionals in the field of transportation safety are found in the national, State, and local governments; in the academic world, in private foundations, in labor organizations and, of course, in industry. Our intent was certainly not to limit board membership to those from industry and I am disappointed that some Members of the House cast that interpretation on our qualification requirement.

Nonetheless, I am pleased that as the conference report now reads at all times at least two of the five Board members must have been appointed and confirmed on the basis of technical or professional qualification. In addition, the conferees agreed, but the conference report does not indicate that the President, in making appointment to the National Transportation Safety Board, shall "seek to appoint individuals to the Board upon the basis of technical qualification and professional standing in the field of accident reconstruction, safety engineering or transportation safety." This was to have been an admonition to the President that even though only two members of the Board were required to possess technical qualifications, he should nonetheless make an effort to make all appointments on such basis.

Mr. President, I regret that this admonition is not in the conference report despite the fact that it was my understanding that the conferees had agreed to it. It has been omitted from the report because staff counsel of the House Interstate Committee apparently did not comprehend the agreement and refused to include the specific language that had been agreed to in the bill. I did not learn of the omission until after the report had been filed. Once the report had been filed, House conferees refused to reopen the matter so that the report could be corrected.

Mr. President, I feel very strongly about the way in which the conference on this bill was mishandled by staff. It is only because of the lateness of the session that I am not insisting that conferees meet again to rewrite the conference report. I do not want to jeopardize passage and enactment of the bill and for this reason only I am acquiesing.

Even though the report is missing the language about which I've spoken, I want to emphasize as chairman of the Senate Aviation Subcommittee I will not look with favor on appointments to the National Transportation Safety Board who do not possess some technical or professional qualifications for the job. My colleagues on the conference, Senator MAGNUSON and Senator HARTKE, will also look with disfavor on nontechnical and nonprofessional appointments.

Now that we have created a completely independent Board, I am hopeful that in the spirit of this bill the President will appoint highly qualified individuals to the Board.

Mr. HARTKE. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. HARTKE. I thank the distinguished assistant majority leader for his kindness.

NATIONAL HISTORIC PRESERVATION FUND

The Senate continued with the consideration of 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.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 2059

Mr. JAVITS. Mr. President, I call up my amendment No. 2059, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an amendment numbered 2059, at

the end of the bill, to add a new section as follows—

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. JAVITS' amendment (No. 2059) is as follows:

At the end of the bill add a new section as follows:

SEC. . FRANKLIN D. ROOSEVELT NATIONAL HISTORIC SITE.—The first sentence of section 301 of the joint resolution approved July 18, 1939 (53 Stat. 1062), is hereby amended to read as follows:

"SEC. 301. The head of any executive department may accept for and in the name of the United States title to any part or parts of the said Hyde Park Estate and title to any contiguous property or properties located in the town of Hyde Park, Dutchess County, State of New York, which shall be donated to the United States for use in connection with any designated function of the Government administered in such Department.".

The PRESIDING OFFICER. The Senate will be in order.

Mr. JAVITS. Mr. President, I promised the Senator from Missouri (Mr. SYMINGTON) I would only take a minute, and I shall.

The whole story about this amendment is that it is intended to facilitate the acquisition of an additional piece of property, some 16 acres in size, to be added to the historic site at the home of Franklin D. Roosevelt at Hyde Park, N.Y. The authority is needed by the Department of the Interior, because the previous authorization related only to land which was formerly in the Roosevelt estate. This land is being donated by a neighbor, Mr. Gerald Morgan, Jr., of Richmond, Va., and in order to avail itself of that donation, which the Interior Department says is highly desirable to make more accessible to visitors the Franklin D. Roosevelt memorial site, it needs this added authority.

I have been requested, accordingly, by the Department of the Interior to offer the amendment. The full story is contained in the CONGRESSIONAL RECORD of December 12,1974, at page 39419.

I hope very much the amendment will be agreed to.

Mr. JOHNSTON. Mr. President, we are prepared to accept the amendment. The matter is as described by the Senator from New York; and I understand that the Senator from Missouri has some comments to add.

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

Mr. SYMINGTON. I yield to the acting majority leader.

Mr. JAVITS. Mr. President, will the Senator allow us to vote on this amendment, or did he wish to address himself to it?

Mr. SYMINGTON. No, I am not speaking to that amendment.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. JAVITS. I yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment (No. 2059) of the Senator from New York (Mr. JAVITS).

The amendment was agreed to.

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

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

HARRY S TRUMAN MEMORIAL SCHOLARSHIPS

Mr. SYMINGTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3548.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT) laid before the Senate the amendments of the House of Representatives to the bill (S. 3548) to establish the Harry S Truman memorial scholarships, and for other purposes, as follows:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Harry S Truman Memorial Scholarship Act".

STATEMENT OF FINDINGS

SEC. 2. The Congress finds that—

because a high regard for the public trust and a lively exercise of political talents were outstanding characteristics of the thirty-third President of the United States;

because a special interest of the man from Independence in American history and a broad knowledge and understanding of the American political and economic system gained by study and experience in county and National Government culminated in the leadership of America remembered for the quality of his character, courage, and commonsense;

because of the desirability of encouraging young people to recognize and provide service in the highest and best traditions of the American political system at all levels of government, it is especially appropriate to honor former President Harry S Truman through the creation of a perpetual education scholarship program to develop increased opportunities for young Americans to prepare and pursue careers in public service.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Board" means the Board of Trustees of the Harry S Truman Scholarship Foundation;

(2) "Foundation" means the Harry S Truman Scholarship Foundation;

(3) "fund" means the Harry S Truman Memorial Scholarship Fund;

(4) "institution of higher education" means any such institution as defined by section 1201(a) of the Higher Education Act of 1965;

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands; and

(6) "Secretary" means the Secretary of the Treasury.".

SEC. 4. The Harry S Truman Scholarship Program as authorized by this Act shall be the sole Federal memorial to President Harry S Truman.

ESTABLISHMENT OF THE HARRY S TRUMAN SCHOLARSHIP PROGRAM

SEC. 5. (a) There is established, as an independent establishment of the executive branch of the United States Government, the Harry S Truman Scholarship Foundation.

(b)(1) The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) two Members of the Senate, one from each political party, to be appointed by the President of the Senate;

(B) two Members of the House of Representatives, one from each political party, to be appointed by the Speaker;

(C) eight members, not more than four of whom shall be of the same political party, to be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, one a chief executive officer of a city or county, one a member of a Federal court, one a member of a State court, one a person active in postsecondary education, and three representatives of the general public; and

(D) the Commissioner of Education or his designate, who shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(c) The term of office of each member of the Board shall be six years; except that (1) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

SCHOLARSHIPS

SEC. 6. (a) The Foundation is authorized to award scholarships to persons who demonstrate outstanding potential for and who plan to pursue a career in public service. Award recipients shall be known as Truman scholars.

(b) Scholarships under this Act shall be awarded for such periods as the Foundation may prescribe but not to exceed four academic years.

(c) A student awarded a scholarship under this Act may attend any institution of higher education offering courses of study, training, or other educational activities designed to prepare persons for a career in public service as determined pursuant to criteria established by the Foundation.

(d) Each student awarded a scholarship under this Act must have indicated a serious intent to enter the public service upon the completion of his or her educational program. Each institution of higher education at which a student is in attendance will make reasonable continuing efforts to encourage such a student to enter the public service upon completing his or her educational program.

SELECTION OF TRUMAN SCHOLARS

SEC. 7. (a) The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for the purpose of selecting Truman scholars.

(b) The Foundation shall adopt selection procedures which shall assure that at least one Truman scholar shall be selected each year from each State in which there is at least one resident applicant who meets the minimum criteria established by the Foundation.

STIPENDS

SEC. 8. Each student awarded a scholarship under this Act shall receive a stipend which shall not exceed the cost to such student for tuition, fees, books, room and board, or $5,000 which ever is less for each academic year of study.

SCHOLARSHIP CONDITIONS

SEC. 9. (a) A student awarded a scholarship under the provisions of this Act shall continue to receive the payments provided in this Act only during such periods as the

Foundation finds that he or she is maintaining satisfactory proficiency and devoting full time to study or research designed to prepare him or her for a career in public service and is not otherwise engaging in fainful employment other than employment approved by the Foundation pursuant to regulation.

(b) The Foundation is authorized to require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any student awarded a scholarship under the provisions of this Act. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in, and is devoting essentially full time to, study or research, except as otherwise provided in subsection (a).

TRUMAN MEMORIAL SCHOLARSHIP FUND

SEC. 10. (a) There is established in the Treasury of the United States a trust fund to be known as the Harry S Truman Memorial Scholarship Trust Fund. The fund shall consist of amounts appropriated to it by section 14 of this Act.

(b) It shall be the duty of the Secretary to invest in full the amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the marketplace. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

EXPENDITURES FROM THE FUND

SEC. 11. (a) The Secretary is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of the Act.

(b) The activities of the Foundation under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

EXECUTIVE SECRETARY

SEC. 12. (a) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this Act as the Board shall delegate.

(b) The Executive Secretary of the Foundation shall be compensated at the rate specified for employees placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

ADMINISTRATIVE PROVISIONS

SEC. 13. (a) In order to carry out the provisions of this Act, the Foundation is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade 15 of the General Schedule set forth in section 5332 of title 5, United States Code;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of such title;

(3) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(7) make advances, progress, and other payments which the Board deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(8) rent office space in the District of Columbia; and

(9) make other necessary expenditures.

(b) The Foundation shall submit to the President and to the Congress an annual report of its operations under this Act.

APPROPRIATIONS AUTHORIZED

SEC. 14. There are authorized to be appropriated $30,000,000 to the fund.

Amend the title so as to read: "An Act to establish the Harry S Truman memorial scholarships, and for other purposes."

Mr. SYMINGTON. Mr. President, out of the legislation which happily the Senate and the House can agree upon today comes additional promise for America and our democratic ideals. A public service scholarship program based on competitive merit and created in memory of an outstanding American and a great President, Harry S Truman, is the legislative vehicle which offers that promise.

Joined by 59 of my colleagues, along with my colleague Senator EAGLETON, last May 30 I introduced S. 3548, the Harry S Truman Memorial Scholarship bill, and expressed the hope we would enact the bill into law this year.

All the Missouri delegation, therefore, is very grateful for the cooperative efforts and interest of Senator PELL, chairman of the Senate Education Subcommittee, and Senator WILLIAMS, chairman of the full committee in the Senate; also Congressman JAMES O'HARA of Michigan, chairman of the House Select Committee on Education, and Congressman CARL PERKINS, the chairman of the full House Committee on Education and Labor as well as many others who helped bring this bill to final action in these closing days of the 93d Congress.

The House made a few changes in the bill which the Senate approved. Primarily, the House modifications give the foundation wider latitude in the conduct of the scholarship program.

In the Senate, we awarded 51 scholarships to young men and women interested in pursuing public service careers; and specified that all 51 scholarships were to be awarded for undergraduate study.

The House modified the bill to permit the award of graduate scholarships as well as undergradute scholarships; also has left the determination of the number of such scholarships within the judgment and means of the foundation.

By including authority for the foundation to award scholarships to qualifying graduate students, the House added a needed measure of flexibility, particularly desirable under circumstances where otherwise a State would not participate for lack of a qualifying undergraduate applicant.

Since a major purpose of the memorial, however, is to encourage young men and women to make a choice early on to pursue public service careers, we trust the Board would take that factor into consideration in establishing the circumstances and the proportion of scholarships for graduate students.

Although there are many scholarship programs, we are not aware of any at the undergraduate level designed especially to encourage young Americans to prepare in college for government careers. It would seem, therefore, that this program is a particularly unique and constructive way to memorialize Harry S. Truman.

Another provision in the Senate concerning a Washington semester for Truman scholars has been modified. In the Senate bill, for an institution to qualify, we required the college to agree to permit a Truman scholar to spend an academic year in a Washington area university or consortium of universities under arrangements to be made by the Board. The House has deleted the mandatory provision as a requirement of participating institutions. The deletion, however, would not affect foundation efforts to work with the colleges and universities in arranging Washington semesters or other forms of public service fieldwork.

I would also mention one other modification. Under the Senate bill, the selection process was to be arranged by each State in conjunction with the foundation.

The House provided instead for the foundation, either directly or by contract, to conduct a nationwide competition. The fact of the nationwide competition would not, however, change the requirement that an award is to be given in each State annually to a qualified applicant.

Unlike the Senate bill, the House has provided for an award to be given annually also to one qualified applicant from Puerto Rico, a qualified applicant from Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

In the years to come we envision Truman scholars entering public service at all levels of government—city, county, State, and Federal.

The need of our time today is no different than that described by Harry Truman in his 1949 inaugural address when he said—"the supreme need of our time is for men to learn to live together in peace and harmony." That is the goal which should inspire young men and women to serve in a government based on the consent of the governed.

Let us see in the Truman memorial scholarship program the courage and candor which characterized Harry Truman and his belief in hard work pointing the way to desirable solutions of our problems.

Mr. President, I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

NATIONAL HISTORIC PRESERVATION FUND

The Senate continued with the consideration of 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.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. On whose time?

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the time for the quorum call not be charged to either side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? Without objection, it is so ordered. 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 OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on a request which has been cleared on both sides, Mr. RANDOLPH be recognized at this time to call up a conference report, and that there be a time limitation on the conference report of not to exceed 10 minutes equally divided between Mr. RANDOLPH and Mr. BAKER.

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

The Senator from West Virginia is recognized.

FEDERAL-AID HIGHWAY AMENDMENTS OF 1974—CONFERENCE REPORT

Mr. RANDOLPH. Mr. President, I submit a report of the committee of conference on S. 3934, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3934) to authorize appropriations for the construction of certain highways in accordance with title 23, of the United States Code, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

Mr. RANDOLPH. Mr. President, I yield myself 3 minutes.

Mr. STENNIS. Mr. President, may we have order so that the Senator may be heard.

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. RANDOLPH. I thank the Chair.

Mr. President, we today bring to the Senate the conference report on S. 3934, the Federal-Aid Highway Act Amendments of 1974. This was a difficult conference because we had many tough issues to resolve in a very short time.

The deliberations were time consuming but important. The end result is a bill that clarifies some actions taken under the Federal-Aid Highway Act of 1973 and extends and refines a program which affects the life of most Americans.

The bill makes some changes in the highway program in keeping with the wishes of the Senate and House of Representatives. The bills of both Houses contained provisions establishing programs which are not presently in existence. These stances contributed to the difficulty of the deliberations and the ultimate agreement. I believe that we resolved all issues in a manner consistent with the positions of both the Senate and House.

The Federal-Aid Highway Act of 1973 was a landmark legislation, but as with every innovative product certain problems have arisen in the implementation. Certain sections of that legislation needed to be clarified. Through the years we have endeavored to modify the Federal-aid program to maintain its ability to respond to these changes. The conference bill continues this process.

I call attention to the inclusion in this conference report of a provision which will both save lives and conserve America's dwindling energy supplies. This is the permanent national 55-mile-per-hour speed limit. The National Highway Traffic Safety Administration has estimated the total lives saved since the beginning of the year to be an estimated 8,225. Fuel consumption will be approximately 4 percent less for 1974 than for the calendar year 1973, according to the Department of Transportation. Strong State enforcement language has been agreed to by both Senate and House conferees.

Since enactment of the bridge replacement program, substantial progress has been made in identifying bridge problems throughout the country. Many States have been assisted in beginning programs to replace or repair deficient structures, but thousands of dangerous bridges remain throughout the country. While the conference committee felt the need for fiscal restraint in this inflationary period we are now experiencing, we agreed to increase the authorization for replacement to $50 million for fiscal year 1975.

Another critical issue in the conference was the matter of increasing truck weights. There was much discussion of this problem and resolution was difficult. The conference committee ultimately agreed to include the provisions of the Senate bill allowing an increase in truck weight to a maximum of 80,000 pounds and the initiation of a bridge formula for the distribution of weight over the truck configuration, with two modifications. The provision regarding weight limitations on the steering axle was deleted at the insistance of the House conferees because it was felt that the Bureau of Motor Safety has the authority to regulate in this area under the Interstate Commerce Act.

The conferees also agreed to include language which would allow any State which had a weight limitation in excess of that provided in the Senate bill for a vehicle with any group of two or more consecutive axles operating on the Interstate System to continue enforcing their State law, thus allowing continued operation of some trucks.

I am sure that there are individuals who are dissatisfied with our answer to this extremely difficult question. The decisions of the point, however, are realistic and workable. I believe this to be the only decision we could reach to avoid a complete breakdown of the conference. If we had not resolved this issue, no highway bill would have been possible this year. Failure to reach agreement would have only postponed resolution of problems which have been debated by the Congress.

The legislation, also, restates our commitment to providing good public transportation in rural as well as in urban areas. Many sparsely populated areas of our country, of which West Virginia is one, are totally without or have inadequate public transportation services. The bill authorizes an additional $45 million for expansion of the rural highway public transportation demonstration program which I feel will have widespread impact throughout the country.

Since creation of the highway trust fund, our major goal has been to devel-

op a national highway system for integrated and efficient movement of goods and people. Our Interstate System is such a system. As that network nears completion, we realize that more attention must be paid to the other Federal aid systems, especially the farm to market roads so essential to a viable national economy. Senate and House conferees have seen fit to increase authorization on our two rural systems by $100 million and $50 million, respectively, for fiscal year 1976.

The conference committee adopted a provision of the House which provides for the reconstruction and improvement of "offsystem roads." It was recognized that many roads which are not part of any Federal-aid system are important to Americans and to commerce. Many such roads are in need of substantial repairs. Such repairs will improve the use of the roads and contribute to safer conditions thereon.

This provision took a great deal of the conference's time. It was authorized at a level of $200,000,000 for only 1 year with the expectation that a more thorough examination of the problem will be made in the next Congress. After such reexamination the Congress will hopefully enact legislation to make permanent a program to upgrade these offsystem roads which are of critical importance to continued economic growth in this country. It is the intention of the conferees that the funds authorized in this measure for offsystem activities be utilized only for reconstruction and upgrading of existing roads and bridges.

To insure that our countryside and highways would maintain a compatible interface with regard to scenic enhancement the Congress in 1965 enacted the Highway Beautification Act. This program is just now beginning to get off the ground and certain changes have been made in just compensation for removal of signs, and allowable distance from highways. The conferees feel these changes will be fair both to those who make their living from outdoor advertising and those States who do not want to see a proliferation of billboards on their highways.

A $50 million authorization was agreed to by members of the conference for the program in 1975. An additional $15 million is provided for junkyard screening and/or removal and $10 million for landscaping for fiscal year 1975. Another important section included in the conference report provides funding for replacement and reconstruction of the bridge system in the Florida keys essential to our defense installation located there and for the residents of that community. Although $109.2 million has been authorized for the Federal portion of this project, the conferees limited obligations to $10 million in 1975 and $15 million in 1976.

For continued energy conservation and relief of urban congestion we have provided a 1-year extension in our carpooling program and provided $7½ million for startup programs distributed to the States at the discretion of the Secretary of Transportation. We have also provided $10 million out of the general fund for urban bikeways in hopes of getting more urban residents off the road, thus reducing highway congestion.

The amount of $53 million is provided for the high-density, urban corridor project which will relieve a bottleneck in the city of Minneapolis, Minn. If a balanced and efficient transportation system is to be achieved we must get the commuter out of his car during rush hour. Only 1.4 persons per car occupancy presently exists during city rush hours, causing congestion and decreasing the efficiency of existing mass transportation.

The conferees have also included, small bridge authorizations for certain areas in Indiana, Kentucky, and California, as well as funding for a preliminary study of railroad relocation project in Indiana. These combined programs total less than $4 million.

In concert with railroad-highway safety provisions, conference members agreed to correction of certain low-hazard railroad crossings along the Northeast Corridor at grade level.

Another important issue raised by both the Senate and House was the construction of access highways to public recreation areas on certain lakes. Often a Federal water project which creates a recreation area cannot be adequately used because access roads are not adequate to serve the needs of the potential users.

The conference committee adopted the House amendment which authorizes the Secretary of Transportation to construct or reconstruct access highways which are within 35 miles of the recreation area and recommended by the State for improvement. Funding was set at $25,000,000 for the fiscal year ending June 30, 1976.

The conference feels that such a program is necessary if the public is to effectively utilize recreation areas created by Federal water projects.

The problems of Indian Reservation roads and bridges was also addressed by the conference committee. The conference adopted the Senate provision which authorized an additional $25,000,000 spread over the fiscal years 1974, 1975, and 1976. These funds may be used on any Indian reservation road which is also on any Federal-aid system and are supplemental to a not-in-lieu-of funds regularly apportioned to States under the Federal-aid highway program. The consent of the governing body of the tribe, band, or group of Indians or Alaskan Natives is required before any appropriated funds are expended.

Mr. President, this was not an easy conference. Members from both Houses were diligent in pursuit of their objectives and steadfast in resisting proposals which they considered at variance with their obligations.

Some of my colleagues, although disagreeing with certain provisions, have upheld the integrity of the Senate regarding this bill. I thank my colleagues and extend personal regards and admiration for these Members.

The responsible completion of this legislation could not have taken place without the participation of other conferees. Senators QUENTIN BURDICK, MIKE GRAVEL, HOWARD BAKER, and ROBERT STAFFORD made major contributions to the conference procedure. They were faithful in their attention to this legislation and their actions reflected keen awareness of its importance.

The House conferees, Representatives JIM WRIGHT, JOHN KLUCZYNSKI, HAROLD JOHNSON, WILLIAM HARSHA, and JAMES CLEVELAND were diligent in their duties and approached them with a seriousness that helped us to succeed.

I would also like to thank all Senate and House Public Works staff members who worked on the conference committee. From the Senate: M. Barry Meyer, John Yago, George F. Fenton, Jr., Richard Harris, Ron Katz, Bailey Guard, Katherine Cudlipp, and Harold Bravman. From the House: Richard Sullivan, Lloyd Rivard, Clyde Woodel, Liz Forshay, Cliff Enfield, Sheldon Gilbert, and Jeff O'Neil. Without their efforts and dedication, this conference report could never have reached such a swift and satisfactory conclusion.

I yield back the remaining part of my time for the moment, at least, because I want to accommodate Senators BAKER and, perhaps, STAFFORD, so that they may present their views, which were not the views of the majority of the conferees.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I yield myself such time as I may utilize.

Mr. President, I join again with the distinguished senior Senator from West Virginia whom I revere, and who has been instrumental year after year in bringing highway legislation to the floor of the Senate. While I do not believe S. 3934 represents a major transportation measure, nevertheless I certainly want to acknowledge the efforts of the chairman of the committee, as well as those of the subcommittee chairman (Mr. BENTSEN) and other members and staff who have devoted their efforts to the development of this bill.

I signed the conference report, as did Senator STAFFORD the ranking Republican member of the Subcommittee on Transportation. I think it is fair to say we did so in order to bring this measure before the Senate, and in part as a means of acknowledging the progress that was made by the conference committee.

I intend, however, to vote against the conference report—as I advised the chairman, and in fact the conference. I will do so because it is my conclusion that although the bill may contain several useful or relatively harmless provisions, it enters new fields which have not been fully considered by the Senate Committee on Public Works and cannot possibly be fairly considered by the Senate at this late hour—and that on balance these risks outweigh its possible benefits. My own concern goes to three issues:

First, increased truck axle and gross weights. The Senate bill contained a provision increasing the truck axle and gross weights which the States may permit on the Interstate Highway System, and of course as a conferee I was bound to support the Senate position in conference. However, I am opposed to such increases. I have opposed increased vehicle widths

and weights in the past. I voted against the increase in the committee. I am convinced the people of Tennessee are strongly opposed to heavier trucks and bigger buses—and I will vote against the conference bill today which contains increased truck weights.

I point out also that the conference report makes two changes in the Senate truck weight language which make the provision even less desirable: The protection for the steering axle not to exceed 10,000 pounds has been deleted. And a grandfather clause has been inserted which may go far toward vitiating the protection for bridges which was to be secured by the bridge formula. In the conference, I did oppose the House provision for wider buses, and am glad the conference report does not contain this provision.

My second concern is that conference report includes the House provisions authorizing Federal grants for roads that are not on any Federal-aid highway system—and which would draw upon General Treasury funds rather than the highway trust fund for this purpose. The conference provision is identical to the House provision, as the House managers stated they were instructed on this point. Acceptance of such provisions, in my view, could lead to a pattern of increasing difficulty in future conferences—or even frustrate accommodation between the two bodies. Beyond the procedural issue, however, I think it a mistake to rush into such unknown territory at this late hour—in effect establishing a new categorical-aid program, by definition off the Federal-aid system but following some of the requirements of that system, and adding to the burden on the budget and demands on Treasury funds instead of relying upon the trust fund we have established for highways.

Third, while I support the rural primary and secondary highway programs, this bill contains increased authorizations even though the amounts we have already authorized are far from exhausted. The bill contains authorizations, totaling more than three-quarters of a billion dollars, for programs and projects many of which I do not consider essential—and perhaps not even desirable at this time of economic difficulty which ought to be characterized by restraint.

Finally, the conference report includes language that will alter the national program for beautification. It was my view that given the profound differences in the Senate and House provisions, no billboard provisions, other than possibly a 1-year authorization, should have been included in this bill. This issue could have been carried over until next year, when its ramifications could have been studied with care.

Mr. President, it is with regret that I find myself voting against a highway bill, but I point out that this is not the regular biennial authorization which our committee is charged with producing, and which guides the national highway construction program. Rather, it is a collection of amendments, many of special interest and specific purpose, almost none of which could not be addressed more responsibly and effectively next year. Again, I in no way derogate the efforts of those who support this measure, and who have worked diligently to bring an acceptable bill before the Senate. Rather, I express my own view that we are not equipped at this time in the closing hours of the 93d Congress to do justice to the issues presented by this bill.

I yield to the distinguished Senator from Vermont such time as he may wish.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. STAFFORD. Mr. President, I thank the distinguished ranking member of the full committee for yielding to me.

Mr. President, it is with reluctance that this Senator states that he will vote against passage of the conference report on the Federal-Aid Highway Amendments of 1974. There are certain provisions in the bill which are most desirable: a permanent 55 miles-per-hour speed limit; an extension and revision of the car pooling program; increased authorizations for the rural highway public demonstration program; and a new bikeway demonstration program.

As commendable as these provisions are, however, in the opinion of this Senator the undesirable features of the bill predominate.

First, there are the changes which were made in the Senate's truck weight provision. As my colleagues will remember, the Senator from Vermont opposed the weight increase as passed by the Senate. As one of the Senate conferees, however, this Senator supported the measure as passed.

What has emerged from conference, however, is a section significantly different from that approved by the Senate. The bill passed by the other body contained no provision for truck weight increases—in fact, such a provision had been defeated by an overwhelming majority when attached to a mass transit bill.

In spite of the fact that the Senate provision was the only one before the conferees, two amendments, which would increase the hazardous character of heavier trucks, were accepted.

The first of these amendments deleted the 10,000-pound front axle weight limitation which had been added at the urging of the Teamsters and other truck drivers. The drivers tell us that weights in excess of 10,000 pounds mean greater steering difficulty in crisis situations and greater likelihood of front tire blowouts. Counter arguments by carrier companies and engineers are less convincing to this Senator than testimony from those who actually drive these vehicles.

The second amendment "grandfathers in" truck axle weight loadings permitted by States prior to enactment of this legislation. Thus, rather than having a uniform national formula designed to protect bridges, as the Senate bill provided, the conference report perpetuates numerous variations which may not assure maximum bridge life and safety.

Deletion of a House provision permitting wider buses on the interstate was the only decision by the conferees against larger vehicles.

Another aspect of the conference report which disturbs this Senator is the so-called off-system road program. While the idea of permitting Federal funds to be spent on construction of roads not a part of a Federal-aid system is possibly a very sound one, it represents a major departure from past practice.

Next year the Congress must examine the whole highway program and quite possibly make major changes in its entire structure. To institute another new categorical program at a time when States are asking that categories be reduced and the Federal program simplified appears short-sighted and ill-advised.

Another feature of the off-system roads program which this Senator finds objectionable at this time is the use of general Treasury funds to build highways. Perhaps we will eventually fund all Federal highway programs from the general Treasury; there are many who argue for such an idea.

At present, however, there is a highway trust fund, the existence of which is justified by the claim that it provides funding for all Federal-State highway construction on a pay-as-you-go basis.

To begin to tap general funds while the trust fund continues in robust health appears to overemphasize highway transportation at the expense of other needed domestic programs.

Mr. President, there are, of course, other provisions in the conference report which one may agree or disagree with in varying measure.

The determinative issues for this Senator have been outlined in my statement. I regret being unable to agree with my fellow Senate conferees who support the conference report and who worked in good faith to try to fashion an acceptable compromise.

In the reasoned judgment of this Senator, however, the gains to be realized from passage of this report are outweighed by the negative impact certain provisions could have on safety and the orderly development of our national transportation program.

Mr. CHILES. Mr. President, I congratulate the Senator from West Virginia for the hard work he has done. I do not want to take from his time, but he and his staff have been so diligent in this matter and paid such attention to the problem, particularly to one of great concern to my State, I congratulate him on bringing this back to the Senate so we can vote.

I hope the Senate adopts it.

Mr. RANDOLPH. Mr. President, the Senator from Florida is correct and I wish to thank him for his support on this bill. Throughout this bill there are benefits to all the States.

I must disagree, in good purpose and humor, with my colleague from Tennessee with respect to the beautification program.

We have tried for 6 years to extend the beautification program and have been unable. In this conference report we have authorized $50 million for that program, and we prohibit signs beyond 660 feet from an Interstate highway, something

we have not been able to accomplish before.

That certainly is an important provision in this conference report.

I close by saying I respect the conviction of my colleague from Tennessee, of my colleague from Vermont, and others, who would not agree with all of the provisions in this conference report. It is an important conference report and I trust the Senate will approve it.

Mr. HUGHES. Mr. President, does the Senator from Tennessee have any time remaining?

The PRESIDING OFFICER. All time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Iowa may have 2 minutes.

Mr. HUGHES. I thank the distinguished leader.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 2 minutes.

Mr. HUGHES. Did I understand the distinguished Senator from Tennessee that this conference report does now allow a 12,000-pound axle weight on the steering axle?

Mr. BAKER. Mr. President, the conference report in its present form is silent on steering axle weights. However, the Senate version which went to conference had a 10,000-pound limitation on the truck-tractor steering axle. That has been removed in conference.

Mr. HUGHES. Will the distinguished chairman of the committee reply to the question?

Mr. RANDOLPH. Yes, I am very happy to reply to my able colleague from Iowa in reference to his question.

I think it is important. We only had so much time on the conference report, otherwise I would have discussed all the provisions.

I can understand the concern of those who believe the provision relating to the weights on the steering axle of trucks should have been retained.

The language was offered by the able Senator from Michigan (Mr. HART) during our Senate debate on S. 3934. We agreed in this body to the amendment, it was taken to conference.

We encountered resistance, the firmest type of resistance, and in the end it was necessary for the Senate to recede in order to assure that there would be a conference report on this measure.

I do want to add, however, that I believe personally the intent of the steering axle limitation to be a good one. In writing its provision relating to vehicle weights, the Senate Public Works Committee gave primary attention to safety considerations. We are, therefore, sympathetic to this situation.

However, there was never a proposal to the committee relating to front axle weight restrictions. We have had no opportunity to explore the issue either in hearings or in committee deliberations.

The deletion of this amendment does not mean that there cannot be or should not be control over front axle weights.

Under existing law, the Secretary of Transportation has the authority to issue regulations dealing with all safety aspects of trucks and truck operations. Because of the interest in this subject, which has been expressed properly in the Senate, and which I supported, I urge the Secretary to exercise this authority to determine what would be the proper action.

I believe that this would be a correct approach that would be realistic and would avoid potential pitfalls that could result from legislating without adequate examination of the issues and without precise knowledge about what appropriate steering axle limitations should exist.

I am very happy to have the question asked by a Senator who has worked on this subject matter and is as knowledgable as any Senator concerning trucking matters. I am aware of the Senator's experience in the trucking industry and his concern for safety.

Mr. HUGHES. Mr. President, I thank the distinguished Senator, the chairman of the committee.

I would like to state that any weight engineeringly in excess of 10,000 pounds on the steering axle has been considered in the past exceedingly dangerous.

I appreciate the chairman asking the Secretary to place limits by regulation, and I pray that he will exercise oversight until this matter is explored thoroughly, because if it is not done I am afraid we may have provided for what could be an exceedingly dangerous situation if that front axle is overloaded.

Thank you.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, may I ask Senator BAKER, Senator RANDOLPH, and Senator STAFFORD if it would be agreeable to backing this vote immediately back to back behind the vote on the McClure amendment; or when the time on the McClure amendment has expired, vote on the conference report and have the McClure amendment voted back to back to that; so that Senators who are in conferences today with the House on matters that need to be cleared before we adjourn sine die would not be forced to run back and forth and could continue their conferences?

Mr. RANDOLPH. I am agreeable to what the Senator from West Virginia asks.

Mr. BAKER. Mr. President, reserving the right to object, and I will not, might I inquire about when that will occur.

Mr. ROBERT C. BYRD. I think there is a time limitation on Mr. MCCLURE's amendment of 20 minutes.

Mr. BAKER. So within half a hour?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I have no objection.

The PRESIDING OFFICER. The Chair hears no objection.

Mr. ROBERT C. BYRD. Mr. President, if it is agreeable, I would ask that the vote occur on the McClure amendment when the time has expired and then vote immediately on the conference report.

Mr. RANDOLPH. I thank the Senator.

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

Mr. ROBERT C. BYRD. I thank all Senators.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. MCCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MCCLURE. Has all time on the conference report expired?

The PRESIDING OFFICER. Yes, all time on the conference report has expired.

NATIONAL HISTORIC PRESERVATION FUND

The Senate continued with the consideration of 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.

Mr. MCCLURE. What is the pending business, Mr. President?

The PRESIDING OFFICER. The bill, S. 3839, is open to further amendment.

Mr. MCCLURE. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, line 2, insert the following: Strike the figure "$1,000,000,000" and insert in lieu thereof the figure "$650,000,000".

On page 2, line 5, strike the figure "$1,000,000,000" and insert in lieu thereof the figure "$650,000,000".

Mr. MCCLURE. Mr. President, I ask unanimous consent that the Senator from Oklahoma (Mr. BARTLETT) be added as a cosponsor.

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

Without objection, the amendment will be considered en bloc.

Mr. MCCLURE. Mr. President, stated very simply, all this amendment does is seek to set up what I think are more realistic authorization limits on what has been described correctly as a trust fund.

Now, a trust fund to be of any meaning at all has to be somewhat related to the amount of money that is actually going to be spent out of that fund.

I do not think there is anyone in this body that really honestly believes that we are going to go from a spending level of $300 million a year to a spending level of $1 billion a year in this single program at a time that the budget is under the restraints that it is now.

My amendment does not seek to interfere in any way with the very constructive provision that was voted by the committee of adding for a trust fund purpose the expenditure for historic preservation.

I commented at the time the Senator from New Jersey and the Senator from New York were offering their amendments that this money was not being spent for the benefit of the urban States.

Now, as a practical matter, most of this historic preservation money or the great bulk of it will flow to the urban States.

The smaller and less populous States will, as a matter of course, spend a smaller proportion of the historic preservation money than the urban States. My amendment will preserve the addition of $150 million for this very worthwhile purpose where no money was being spent effectively prior to this time.

It seems to me unreasonable to expect this great increase while we are talking about massive Federal expenditures to create jobs.

I just returned from the Appropriations Subcommittee after testifying in favor of some money to be put into that bill which we just completed passing through the Senate and the House, and just completed action on the conference report.

We do not know yet whether the President will sign it because of the amount of money that is involved in it. We sought in the Senate to add $4 billion for public service employment, and another $1 billion for an analysis of Federal programs that were job productive in areas of high unemployment. That has now been cut in conference to $2.5 billion and $500 million. The Appropriations Committee is not going to be able to do that to respond to the needs of thousands of men and women who are unemployed.

Does the Senator tell me that this body is going to vote to take money away from those job-creating possibilities and spend a 67 percent increase over the present amount of money, even under my amendment? That is, let alone the three and a half times as much that the committee has voted for a very worthwhile cause, I admit. But when the budget simply will not stretch to cover everything, you cannot get everything you want. You cannot even get everything you need.

We should preserve this land and water conservation fund as a trust fund in which we have a legitimate right to go to the Appropriations Committee and say, "This is a trust fund. Appropriate all of the money."

We have been successful in doing that. We have been successful in going to the administration and saying, "This is a trust fund. Spend all of the money that has been appropriated, $300 million a year."

Two years ago we had all but $60 million of that impounded for a while. We were successful, because of the backlog, because of the great need, because of the escalating prices, and all of the other factors that have been mentioned, in getting the administration to release and commit the entire amount of $300 million in each of the last 2 years.

But now to suggest that we will be successful in getting them to increase that amount of money to $850 million from the $300 million we are now spending in that area, plus another $150 million for historic preservation, just seems to me to fly in the face of reality.

The Appropriations Committee will not do it. The Budget Committee will turn thumbs down on it. The administration will rebel at it. We will have ended up destroying the very lever that we so carefully and tediously constructed over the years to get more dollars put into this very, very worthwhile program.

As I said in my opening remarks, I oppose this $1 billion ceiling very reluctantly, because it is needed.

The Senator from Louisiana was correct in saying that he and I are in agreement, that this money is needed, that the backlog of demand is there. The backlog of demand under the State programs is much larger than the backlog of demand under the Federal program. One of the figures ranges as high as $45 billion in backlog of need.

Surely we need it. Surely it will take years to meet that need. But you cannot convince me that we will actually match that need with dollars while we have men and women unemployed; when we are finding difficulty getting the money into the employment programs that are so vitally needed.

As I said earlier, I cannot believe that we really will create parks for idle people to spend their time while they are unemployed.

I think the priorities that are before this Nation are very clearly stated. That is the reason I have offered this amendment. I believe if we will limit our appetite, if we will be realistic in the goals we have set, and set a $650 million ceiling on the entire program, the full $150 million for historic preservation, but increase the balance of the fund only from $300 million, to $500 million a year, we have a chance to get it.

I think if we do not, we will get even less.

I believe we are overreaching. I feel we are grasping too far. When we do that, we destroy the very thing we try to create.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself as much time as I desire.

Mr. President, when I was a kid growing up in Shreveport, to the north of me we had about a half mile of woods. To the south there were woods as far as the eye could see.

I have since moved from that home, moved south of town about 6 miles. But where I used to live, Mr. President, no longer has any woods. It has streets, it has houses, it has sewage lines, and it has all of the incidia of civilization. Never again, Mr. President, will that area be like it was when I was a kid growing up.

Maybe that area was not suitable for a national park. I am not suggesting that it was. But I am suggesting that little story of where I grew up is replicated thousands of times all over this country. Areas that used to be sylvan pristine areas of beauty are lost forever once they are developed.

I say this, Mr. President, because of the urgency of time, that we cannot afford to wait forever.

The Chattahoochee River, for example, flowing through Atlanta, had some of the prettiest water and passed some of the prettiest scenery you have ever seen in the middle of a city. Once that is lost, it is lost. You cannot bring it back and unpave the roads, replant the trees, and purify the water as it is now.

Mr. President, we are told that we ought to cut this money in half, and yet this Congress, and past Congresses, have authorized expenditures of $2.776 billion. If we spent every bit of money in that fund at the present level it would take 22½ years to just pay off what we presently authorize. That assumes no additions to the fund, and that assumes no inflation.

Mr. President, I do not think we can wait 22½ years.

The Everglades National Park, for example, was authorized in 1934, and there is still some land in Everglades that is in private ownership.

It is just not fair, Mr. President, to create a park, to authorize its existence, and, in effect, tell the landowners in the park that they cannot use it for anything else—as a practical matter this is true—and yet make them wait for 10, 20, or 30 years before their land is recompensed for by the Federal Government. That is not right. That is not fair.

What this bill does in its present form, Mr. President, is to reduce from 22½ years to 6 years 7 months the length of time it will take to acquire the backlog, without getting any new projects added to the number already authorized by Congress.

Mr. President, my good friend, the distinguished Senator from Idaho, says if we authorize more money than is appropriated, somehow we destroy the fund. I hope, Mr. President—and I think the American people will insist—that more money will be put into parks. However, this year, only $76 million was appropriated by the Appropriations Committee, and the fund still exists, the fund still has its integrity.

I say, Mr. President, we need the full amount of this bill. I would like to see the amount be greater. It is not an inflationary expenditure. We still have those assets. We are not using them up. We are not destroying them. We are keeping these great national assets in perpetuity for the use and benefit of the American people.

Mr. NELSON. Mr. President, will the Senator yield for a moment?

Mr. JOHNSTON. Yes, I yield to the distinguished Senator from Wisconsin.

Mr. NELSON. I will not interject myself in the midst of the distinguished Senator's remarks. I am chairing the OEO conference, however, I simply wanted to endorse the remarks that the Senator has just made respecting land and water projects purchased by the Federal Government and the States with the use of Land and Water Conservation Fund Act revenues.

I point out that this Congress has authorized projects totaling approximately $2.7 billion. This amount involves wild rivers all over this country, new national parks, recreation areas, and national forests. It involves the redwoods in the West and the Apostle Islands in Lake Superior. It involves areas on the east and west coasts, and projects in Florida.

We have told the people of this country that we are going to save these magnificent assets. We have told the people of this country that these assets are too valuable to lose. We have passed laws

to begin preservation. Everybody thinks they are saved; but they are not.

At the current rate of funding out of the land and water conservation fund, it will be 22½ years before we will spend enough money to pay for currently authorized projects; 22½ years from now, we will finish with the redwoods, the Apostle Islands, the St. Croix River; 22½ years if we do not add any more and if we do not have inflation neither of these alternatives are practical.

What kind of fraud is the Congress perpetuating on the American public if we do not appropriate the money to pay for the projects that we have authorized? And we have told the public we have acquired for them.

Mr. JOHNSTON. Twenty-two and one-half years, assuming no inflation.

Mr. NELSON. Yes. At the current rates. The prices will be quadrupled. Land prices are going up. It is an absolute, total fraud to proceed this way. We should put sufficient money in there to pay for them or let the redwoods go down the drain and let the wild rivers go.

Under the funding in this bill, it will still take, without inflation, without new authorizations, 6 years and 7 months to pay for the projects we have authorized for our national forests and for our national park system. The price of land at the end of the 6 years will be two, three, four, and five times as much.

We should keep faith with the American people.

The additional funding will be paid for out of oil royalties. If we are going to deplete one resource in this country, we should at least use some of the royalties to preserve, to protect, and to replenish our natural resources.

The oil royalties in 1972 were $279 million. This year, they will be over $8.2 billion. Can we not take part of that and create a living heritage for future generations? It is a smaller percentage than we were using three years ago. Can we not use part of those oil royalties and keep faith with the American people?

I commend the Senator for his bill and his proposal, and I regret that I cannot be in the Chamber longer to participate in this debate. I believe very strongly that it would be a tragedy that will come back to haunt this Chamber for years if we accept this amendment.

Mr. JOHNSTON. I thank the distinguished Senator from Wisconsin, whose imprint is very strong not only on this bill but also on the entire environmental movement.

Mr. McCLURE. Mr. President, will the Senator yield, on my time?

Mr. JOHNSTON. I yield.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I know it is a dangerous and perhaps improper activity on the floor of the Senate to ask pointed and sharp questions of colleagues. But would either the Senator from Louisiana or the Senator from Wisconsin vote for a tax increase to pay for this?

Mr. NELSON. Let me answer the Senator.

Three years ago, when President Nixon made a very popular request to reduce the taxes, I was one who voted against it.

Mr. McCLURE. The Senator is not answering my question.

Mr. NELSON. Would I vote for an increase in taxes to pay for this?

Mr. McCLURE. Yes.

Mr. NELSON. The answer is "yes."

Mr. McCLURE. I thank the Senator. I hope he has that opportunity.

Mr. President, will the Senator from Louisiana respond to the question?

Mr. JOHNSTON. The Senator from Idaho is asking a question which is not before the Senate. The Senate created this Land and Water Conservation Fund out of oil royalties, the majority of which come from my State, and out of which we get not one nickel. All those revenues produce billions of dollars, produced off our shores, and we get not one nickel. That fund was $279 million in 1972, and now it is $8 billion.

I say it is not necessary, it is not proper, to get a tax increase simply to pay for this kind of investment, this kind of permanent investment.

This is not inflationary. What we are doing, in effect, is transferring from one column in the Federal budget the cash balance and putting it over in the land balance. Those same dollars are still there, the Federal land holdings, and we are not depleting by one cent the value of property that the Government holds.

Mr. McCLURE. Mr. President, I yield a minute and a half to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I compliment the Senator from Idaho. What he is doing here is following, so far as I know, the dictates of the people of this country to reduce the authorization for spending and reduce the debt.

As I understand, this amendment would make $350 million more available to Congress and would bring the budget that much more into balance in the future.

This bill flies right in the face of the new budget proposal that was passed by Congress and signed into law, which recognized that we had real problems with the budgetary process, that we were going more and more into debt; and it recognized the problems of so much money being earmarked.

So we are earmarking more money, which will accumulate in a fund and will not be available for general expenditures. This money coming from the Outer Continental Shelf bonuses and royalties. At this time, when we are having real problems with the economy, when we are having real problems with inflation and real problems with Government overspending, it is not the time to take on this kind of outlay by increasing the authorization from $300 million to $1 billion. This would reduce very sharply the moneys that otherwise would be available for balancing the budget and paying for the many things we are doing that are not paid for today.

I am happy to join the Senator from Idaho.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLURE. Mr. President, I believe I have a minute and a half remaining.

I thank the Senator from Oklahoma. He is correct. We can say that this money comes from the oil royalties, the Outer Continental Shelf Fund. It comes directly out of what would otherwise be money in the Treasury of the United States. While it may have its genesis in oil royalties, it actually deprives the Treasury of that amount of money during the period of time that it is within this fund, regardless of whether or not it is expended.

Talk about a fraud upon the American people! The real fraud lies not just in authorizing beyond our ability to appropriate and spend for the creation of these parks. The fraud lies in promising them something in this action which we know will not happen; and we know that in this time of budgetary crisis we are not going to increase the spending of this particular program from $300 million a year to $1 billion a year.

I just listened to the administration witnesses testifying that the difficulty in getting the money into the job-creating opportunities of public service employment and title 3, which I authored in the bill which was just passed. They say the money is just not there. We just created a budget deficit in the last year of more than $20 billion. Probably next year, it will be more than $35 billion; and if we keep going the way we are, the second year after this it will be $50 billion. Then what will happen to the inflation about which the Senator is talking?

If we are going to have fiscal responsibility in this country, it has to start somewhere. One of the places in which it must start is in limiting our appetite to spend in areas where it is not absolutely essential that it be spent this year.

Yes, I voted for those authorizations. I was proud to do so. And we did not have the budget constraints. We have that now. We did not have the inflation and the unemployment then that we have now. Those are our priority items today. Those are the priority items which my amendment addresses.

I hope the Senate will support me in this effort to be responsible.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the second vote, it being a back-to-back vote, be limited to 10 minutes on the rollcall.

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

PRIVILEGE OF THE FLOOR

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Jeffrey Nedelman, of Senator NELSON'S staff, be accorded the privilege of the floor during the vote.

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

All time has expired. The yeas and nays have been ordered. The question is on agreeing to the amendment of the Senator from Idaho (Mr. McCLURE). 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) and the Senator from Arkansas (Mr. FULBRIGHT) 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 a death in the family.

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. PEARSON) is necessarily absent.

The result was announced—yeas 35, nays 60, as follows:

[No. 569 Leg.]

YEAS—35

Allen	Domenici	Percy
Baker	Dominick	Randolph
Bartlett	Eastland	Roth
Bellmon	Ervin	Scott, William L.
Bennett	Goldwater	Stennis
Brock	Gurney	Taft
Buckley	Helms	Talmadge
Byrd, Harry F., Jr.	Hollings	Thurmond
Cook	Hruska	Tower
Cotton	Javits	Young
Curtis	Laxalt	
Dole	McClellan	
	McClure	

NAYS—60

Abourezk	Hart	Montoya
Aiken	Hartke	Moss
Bayh	Haskell	Muskie
Beall	Hatfield	Nelson
Biden	Huddleston	Nunn
Brooke	Hughes	Packwood
Burdick	Humphrey	Pastore
Byrd, Robert C.	Inouye	Pell
Cannon	Jackson	Proxmire
Case	Johnston	Ribicoff
Chiles	Kennedy	Schweiker
Church	Long	Scott, Hugh
Clark	Magnuson	Sparkman
Cranston	Mathias	Stafford
Eagleton	McGee	Stevens
Fannin	McGovern	Stevenson
Fong	McIntyre	Symington
Gravel	Metcalf	Tunney
Griffin	Metzenbaum	Weicker
Hansen	Mondale	Williams

NOT VOTING—5

Bentsen	Hathaway	Pearson
Fulbright	Mansfield	

So Mr. MCCLURE's amendment was rejected.

Mr. KENNEDY. Mr. President, the bill under consideration by the Senate to increase the Land and Water Conservation Fund and to establish the National Historic Preservation Fund is among the most important pieces of legislation that we will have the opportunity to act on in this Congress. It provides the funds to protect our most precious and our most fragile resources—our land and our water and our cultural heritage.

The Land and Water Conservation Fund established in 1965 provides funds for the acquisition of lands administered by the Federal Government as recreation areas and for matching grants to State and local governments for planning, acquisition, and development of recreation lands and facilities. Fund revenues are derived primarily from the sale of Federal surplus property and Outer Continental Shelf mineral receipts.

The legislation we act on today is designed to take advantage of the rapid increase in mineral receipts from the leasing program and is a direct response to the increasing backlog of recreation land acquisition needs on both the Federal and State level.

The bill provides for an increase in the Land and Water Conservation Fund to $1 billion which is a crucial first step in catching up with the backlog of acquisition and recreation needs in this country. The National Park Service alone estimates it will need $638 million to complete its land acquisition backlog.

An important amendment to this bill offered by Senator BUCKLEY and Senator WILLIAMS will assure that where the recreation needs are the greatest, the money will be more available. By adjusting the allocation formula to provide that 75 percent of the money available to the State will be distributed on a need basis, we insure that in the densely populated areas of the east coast where green space and recreation is needed most and least available, that acquisition can proceed on a level in some way commensurate with the need.

There are some areas in this country where legislation especially suited to the complex problems of preservation of our resources is required; where simple acquisition cannot solve the problems. In the Commonwealth of Massachusetts, the islands lying off the coast of Cape Cod require an innovative program of management which will allow the local residents to determine how to burb overdevelopment on privately owned lands. In Boston, we have worked out a framework to protect the sites of the Revolutionary War period and at the same time leave ownership in the hands of those who have cared for these landmarks for 200 years. In the Connecticut River Valley, a plan which provided areas of recreation as well as areas suitable for residential and commercial growth has been the subject of legislation at both the State and Federal level.

But the fact remains that there are thousands of places in this country where acquisition for the development of recreation areas is feasible and the most effective way to accomplish our goals. Those most expert in the field, the National Park Service and the agencies of the States themselves have identified these areas. Only the lack of sufficient funds has hampered this effort. And today we have an opportunity to begin turning that around.

There is no one today who would suggest that preservation of our resources is optional or that development of recreation areas is frivolous. We have lost a great deal of time by not authorizing adequate funding sooner; and we have lost some valuable resources that are not renewable. We can assure today that this tragic loss is not perpetuated.

Of all the depressing accounts of lost resources, one of the most distressing is the destruction of so much of our history as a nation. As testimony before the House Interior Subcommittee on National Parks and Recreation substantiates, over 50 percent of the 12,000 buildings listed in the Historic America Building Survey since 1933 have been destroyed. There is nothing we can do to bring those symbols of history back to life for our children. But we can see that this kind of senseless loss is stopped by providing the financial assistance crucial to the historic preservation effort.

By setting up the National Historic Preservation Fund to provide financial assistance to the States, we have not solved all the problems in historic preservation. We need a greater emphasis on planning, the development of new methods of preservation, and greater support of local community preservation groups. But the financial assistance that the fund will provide is critical in demonstrating our commitment to preservation of our heritage.

Historic preservation is not building museums dedicated to the past. It is not making a showcase of relics and artifacts of our history. It is not cordoning off antique buildings and furniture. Historic preservation is breathing new life into our cities and making our birth and growth as a nation come alive for all our young people. Mr. Tersh Boasberg of Preservation Action pointed out in his testimony:

> Fed by the national concern for environmental quality and the upsurge of Bicentennial interest, the preservation movement offers a real hope that our cities yet can stave off economic and social catastrophy. . . . Over 80 percent of our Nation now lives in urban areas. Our interest in historic preservation is no more or no less than a concern for the quality of life in Twentieth Century urban America. For historic preservation means not only recognition of the values and landmarks of our past; but it means community renewal, economic development, and local progress for our future.

The action we take today in acting favorably on legislation to increase funding for historic, land, and water conservation is in no way inflationary; it is an investment in our future. It is not expenditure without gain; it is the acquisition and conservation of life-giving resources and the preservation of the finest moments of our past.

Mr. TUNNEY. Mr. President, the Senate today is considering S. 3839, a bill to establish a National Historic Preservation Fund, and to authorize an increase in the level of the land and water conservation fund.

I am delighted that the Interior Committee has reported this bill which increases the authorization for the fund from $300 million to $1 billion. In addition, the bill contains a provision to raise from 7 to 10 percent the amount of funds that a State can receive from the fund in any one year.

Passage of this legislation will have a major impact on California because it will significantly increase the amount of funds available as grants-in-aid to local government in order to provide urgently needed public outdoor recreation areas and facilities. The State's current share of the fund, which comes primarily from offshore oil lease receipts, is $12.4 million and would increase to $51.7 million if the bill is approved.

In addition, Senator BUCKLEY has offered an amendment which would alter the basis upon which the States' share of the fund is distributed. Forty percent of the moneys from the fund are now distributed equally among the States and 55 percent is distributed based on population and land resource consideration. The amendment proposed by Senator BUCKLEY would provide for 75-percent distribution based on need and 20 percent would be divided evenly among the States.

I strongly suport the Buckley amendment because it provides for a more equitable distribution of Federal re-

sources based upon the needs of the States. By increasing the fund from $300 million to $1 billion, the Congress will be making available a significant amount of additional money for recreation purposes.

California, with a population of 21 million, urgently needs additional moneys for land acquisition. There are a number of recreation areas which need funding for acquisition and development of facilities for the use of both California residents and also for out of State tourists.

Any State which can match funds coming from the Federal Government should have access to that money, rather than permitting it to be allocated to States that will never have the kind of resources that would allow such large expenditures for recreation purposes.

Mr. President, as pressures grow to develop and expand our cities and suburbs, less and less land will be available for recreation. I feel it is essential that we act now to preserve as much open space as possible so that our children will have places to visit that provide peace and quiet and a chance to escape from the pressures and hectic pace of everyday life. S. 3839 will do that and I urge the Senate to approve this vital measure.

Mr. ROBERT C. BYRD. Mr. President, a rollcall vote is to occur immediately on the conference report on the Federal aid highway bill. I am advised by Members on both sides of the aisle that they are agreeable to moving the bill presently before the Senate immediately to third reading, having a voice vote thereon, and then having the rollcall vote on the conference report. I ask unanimous consent that that be done.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

The question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 3839) was passed.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL-AID HIGHWAY AMENDMENTS OF 1974—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 House to the bill (S. 3934) tc authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

RAILROAD TRACK RELOCATION IN LAFAYETTE, IND.

Mr. HARTKE. Mr. President, I was pleased to learn late last evening that the conferees on the highway authorization bill had included a proposal which will give the city of Lafayette, Ind., a go-ahead on its proposed railroad relocation project. Along with approval for the Lafayette project, the conferees also authorized an expenditure of $360,000 for planning costs during the first year.

As soon as this legislation becomes law, efforts can begin to secure an appropriation for the Lafayette project. I expect that the necessary appropriation can be made during the early part of the next session of Congress.

This is an important step for the people of Lafayette. As early as next spring, the city can begin planning for the consolidation and relocation of its downtown railroad tracks to a new rail corridor along the Wabash River. When completed, the relocation will eliminate both the problems of costly, irritating, and sometimes hazardous traffic congestion together with chronic, disruptive and always exasperating noise pollution.

I commend the work of the conferees and, on behalf of the residents of Lafayette, extend to them my appreciation.

Mr. DOMENICI. Mr. President, I rise to give my support to the conference report on the Federal-Aid Highway Amendments of 1974, particularly that provision dealing with carpooling. I would like to comment briefly on the carpooling assistance aspect of the conference report.

This provision should provide incentives for carpooling programs across the country. It will be beneficial in my home State of New Mexico which, although essentially a rural State, has metropolitan transportation problems. In Albuquerque, for example, only 2 percent of the workers in the metropolitan area use public transportation. The national average for driving private automobiles to work is 77 percent in the Nation's largest cities. In Albuquerque this figure is 88 percent. This provision creates the means by which the city of Albuquerque and cities in similar circumstances could receive help in effectively reducing the level of inefficient and wasteful commuter traffic.

The legislation which I originally introduced, with the able assistance and support of the distinguished Senator from Minnesota (Mr. HUMPHREY), who has also been instrumental in the development of a national energy policy and energy conservation measures, should provide to the Nation as well as to my home State of New Mexico important incentives for carpooling.

The measure provides $7.5 million for carpooling with the funds being derived from the Highway Trust Fund. It does not change the present system where States can choose between spending part of their funds on carpooling or on highway construction projects. By this action today, the Congress will provide the States an additional source of funds for carpooling programs.

The energy savings and rate of return for the dollar is higher in carpooling than in any other change of transportation modes in which we could invest public funds. Carpooling is not the complete answer. There is still a need across America for adequate, efficient public transportation systems as well as the redesign of many of our downtown areas to accommodate these programs.

However, I strongly feel that the Federal-Aid Highway Amendments of 1974 is a move in the right direction, a move designed to change our metropolitan highways from large parking lots into effective transportation arteries.

The distinguished ranking minority member of the Public Works Committee (Mr. BAKER) and the distinguished ranking member of the Transportation Subcommittee (Mr. STAFFORD) and others have pointed out deficiencies in the conference report. I, too, feel that this version of the legislation has some flaws and it is not the final version I would have preferred. It is, however, a legislative measure that has too many good features, too many advantages for the whole country to be rejected at this point in time. Accordingly, Mr. President, I urge the Senate to adopt the conference report.

Mr. STEVENS. Mr. President, I favor passage of the conference report on S. 3934, the Federal Aid Highway Amendments of 1974. However, I believe an important provision of S. 3934 as originally passed by the Senate was deleted in conference. That provision would have set a limit on front steering axles at 10,000 pounds.

During our consideration of this bill, we have heard the concerns of those who favored increased truck weights, and I am not opposed to those increases. We must not forget, however, those who will be directly affected by these weight inincreases—the drivers. These people must be given some sort of relief—and by that I mean legislative relief—with regard to the safety of the vehicles they operate. The 10,000-pound weight limitation on front steering axles would have provided a measure of that safety. I think we should be prepared to address the problem of truck safety early in the 94th Congress.

Mr. BAYH. Mr. President, this measure is of particular importance to the citizens of Indiana, who will benefit from two provisions retained by the conferees.

First, S. 3934 authorizes $360,000 in Federal funding assistance to the city of Lafayette to facilitate further planning in connection with the relocation of railroad tracks running through that community. The conference report to the Department of Transportation and Related Agencies Appropriations Act of 1973 recognized the critical nature of the grade crossing situation in Lafayette by naming that city as one of three eligible to receive Federal assistance in the form of a study conducted by the Stanford Research Institute, under contract with the Federal Railroad Administration.

In all three cases, SRI has completed its work and presented a detailed analysis of alternatives to resolve the problems caused by railroad facilities in each of the three communities. While implementation of the relocation projects contemplated in the study has been authorized in Wheeling, W. Va. and Lincoln, Nebr., Lafayette is currently unable to proceed with plans to implement its choice of the alternatives considered by SRI. I wish to express my deepest per-

sonal gratitude to the distinguished chairman of the Public Works Committee (Mr. RANDOLPH) for the spirit of understanding and cooperation which his committee demonstrated in insuring that the citizens of Lafayette will be able to proceed with efforts to relocate the disruptive railroad tracks in their community.

This bill also increases the authorization for the construction of a bridge across the Markland Dam on the Ohio River by $2.5 million, in order to permit the completion of this project in the face of inflationary cost increases. This bridge will provide a tremendous boost to the flow of commerce between Indiana and Kentucky, and the willingness of the committee to permit the fulfillment of our earlier commitment to the citizens of both States is deeply appreciated.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). The question is on agreeing to the conference report on S. 3934, the Federal-Aid Highway Amendments of 1974.

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) and the Senator from Arkansas (Mr. FULBRIGHT) 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 a death in the family.

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. PEARSON) is necessarily absent.

The result was announced—yeas 68, nays 27, as follows:

[No. 570 Leg.]

YEAS—68

Abourezk	Fong	Metzenbaum
Allen	Gravel	Mondale
Bayh	Hansen	Montoya
Beall	Hartke	Moss
Bellmon	Haskell	Muskie
Bennett	Hatfield	Nunn
Burdick	Hollings	Packwood
Byrd, Harry F., Jr.	Hruska	Pastore
Byrd, Robert C.	Huddleston	Pell
Cannon	Hughes	Percy
Case	Humphrey	Randolph
Chiles	Inouye	Ribicoff
Church	Jackson	Sparkman
Clark	Johnston	Stennis
Cook	Kennedy	Stevens
Curtis	Laxalt	Stevenson
Dole	Long	Symington
Domenici	Magnuson	Taft
Eagleton	McClellan	Talmadge
Eastland	McClure	Tower
Ervin	McGee	Tunney
Fannin	McGovern	Williams
	Metcalf	Young

NAYS—27

Aiken	Goldwater	Roth
Baker	Griffin	Schweiker
Bartlett	Gurney	Scott, Hugh
Biden	Hart	Scott, William L.
Brock	Helms	Stafford
Brooke	Javits	Thurmond
Buckley	Mathias	Weicker
Cotton	McIntyre	
Cranston	Nelson	
Dominick	Proxmire	

NOT VOTING—5

Bentsen	Hathaway	Pearson
Fulbright	Mansfield	

So the conference report was agreed to.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield to the Senator from Utah (Mr. Moss) for not to exceed 1 minute without losing my right to the floor.

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

PRIVILEGE OF THE FLOOR—S. 356

Mr. MOSS. Mr. President, I ask unanimous consent that on the consideration of the conference report on S. 356 the following members of the Committee on Commerce staff be given access to the floor during the debate and vote: Ed Merlis, Lynn Sutcliffe, Tom Allison, Tom Adams, and Art Pankopf.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that I may yield to Mr. NELSON for not to exceed 1 minute.

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

ALLOCATION OF GRANTS TO COASTAL STATES—PRIVILEGE OF THE FLOOR

Mr. NELSON. Mr. President, I ask unanimous consent that Ray Calamaro of my staff and Mr. Bickwith, Mr. Lane, Mr. Hussey, and Mr. Cortillo of the Senate Commerce Committee staff be given privilege of the floor during the consideration of S. 3922 and the vote thereon.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield 1 minute to Mr. BAYH under the same conditions.

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

AMENDMENT OF FEDERAL LAW RELATING TO EXPLOSIVES

Mr. BAYH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1083.

Mr. GRIFFIN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. I do object.

The PRESIDING OFFICER. The objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I yield 1 minute to the Senator from Louisiana (Mr. JOHNSTON).

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

ORDER TO HOLD BILL AT DESK (S. 3839)

Mr. JOHNSTON. I ask unanimous consent that the bill (S. 3839) which has been passed be held at the desk pending action on a similar measure in the House of Representatives.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I do not want to yield the floor, but how much time would the Senator like; a minute or two, or whatever he wants?

Mr. BUCKLEY. Mr. President, I would like to have a colloquy with the Senator from Virginia.

Mr. ROBERT C. BYRD. Very well.

Mr. President, I ask unanimous consent—this has been cleared on both sides of the aisle—that on the military construction appropriation conference report there be a 10-minute limitation to be equally divided between Mr. PROXMIRE and Mr. SCHWEIKER.

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

Mr. ROBERT C. BYRD. Now, Mr. President, I ask uanimous consent that Mr. HARRY F. BYRD, JR., and Mr. BUCKLEY may proceed for not to exceed 15 minutes with the time equally divided.

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

THE TRADE ACT OF 1974

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, a week ago today this body, after an extended debate, adopted a trade bill of great significance and adopted with it an amendment offered by the Senator from Washington (Mr. JACKSON) that received the unanimous support of this body on the——

Mr. President, may we have order?

The PRESIDING OFFICER. The Chair would request that the Senators take their seats and take their conversations to the cloakroom, if they have to engage in audible conversations.

The Senator is entitled to be heard. The Senate will be in order. The Senators will please take their seats.

The Senator from New York.

Mr. BUCKLEY. Mr. President, this body adopted that amendment and adopted that trade bill on the explicit understanding that there existed between the Soviet authorities and Dr. Kissinger an understanding with respect to Soviet emigration policy.

This was the basis on which we undertook to authorize the President to extend to the Soviet Union most-favored-nation status and to make available preferential credits to finance the transfer to the Soviet Union of American technology.

Today, Mr. President, the UPI carried the following item, and I quote:

> The Soviet Union Wednesday flatly renounced any trade agreement with the United States binding Moscow to ease emigration.
>
> An official government statement dis-

tributed by the Tass News Agency denounced the trade bill passed by the U.S. Congress last Friday for "attempts to include provisions concerning . . . the departure of Soviet citizens for other countries."

It said Moscow "flatly rejected as unacceptable . . . any attempts to interfere in internal affairs that are entirely the concern of the Soviet state and no one else."

A few minutes later, Mr. President, UP carried an additional item, and again I quote:

After two years of delay, the U.S. Senate last Friday passed one version of a trade bill to offer the Soviet Union non-discriminatory trade terms in exchange for freer emigration, particularly of Soviet Jews.

The bill awaits reconciliation with a similar bill from the House of Representatives before going to President Ford for his signature.

The move came in a letter from Soviet Foreign Minister Andrei Gromyko handed to Secretary of State Henry Kissinger on Oct. 26, Tass reported.

Gromyko protested that "elucidations" given by the Soviet Union were interpreted by the United States as "assurances and nearly obligations on our part regarding the procedure of the departure of Soviet citizens from the USSR."

Mr. President, I believe that this is most important information, and I know that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) will discuss, after I have completed my remarks, some of the implications in the information about the Gromyko letter.

We do know from past experience that the Soviet Union has placed the most severe restrictions on emigration; and has, in fact, harassed those having the courage to indicate their desire to leave for other countries. I believe that it is important and entirely appropriate, in the light of the statement that has just been issued from Moscow, that we call for positive evidence of a change in Soviet policy liberalizing emigration and doing away with harassment, before there is any extension to the Soviets of the benefits provided for in the trade bill.

In an exchange on the floor with the distinguished Senator from Washington (Mr. JACKSON) in which I raised the question as to whether or not the various understandings he had with Secretary Kissinger and the administration will permit the termination of any benefits extended to the Soviet Union upon receipt of credible evidence that they were in violation of their agreement to liberalize their emigration policies, he had this to say:

There are two points I wish to make: One is that in a personal discussion between the President of the United States and myself, the President gave his personal assurance that if in this 18-month period there is a course of action that is in violation of the agreement, he would act himself to cut off MFN and credit.

Mr. President, I submit that the announcement that an agreement does not exist constitutes a most explicit violation.

I can understand that perhaps this is an exercise in Soviet internal public relations, an attempt to maintain "face," to indicate to their own people that they are not yielding to outside pressures as to a matter they consider to be of internal concern. Nevertheless, in the face of the past record, in the face of this statement, I believe that the President should start out withholding the authority granted him under the trade bill unless and until he has positive evidence of a change in Soviet practice.

To this end, Mr. President, I have written the President today urging him to do so. I believe that for him to do otherwise would be to break faith with the Congress and to break faith with the citizens of the Soviet Union who are seeking freedom, free lives elsewhere.

Mr. President, I hope that my colleagues will join with me in this plea to the President and this message to the Soviet Union.

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

Mr. BUCKLEY. Gladly.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I understand completely why the question is raised. I think it is properly raised. But the one important fact that should be inserted is that Senator JACKSON and I have just talked with the press at considerable length about this very matter.

The clarifying point, and it is clearly implied from what Senator BUCKLEY has said, is that the United States is not, by the trade law, to enter into any agreement with the Soviet Union about favored nation treatment, or anything else. That is point one. Therefore, if he does not do it, the operative requirement that Senator JACKSON's agreement, backed by Senator RIBICOFF and myself, should be complied with does not become operative.

The second part of it is the proclivities between the President, Senator JACKSON, Senator RIBICOFF and myself, as expressed by Secretary Kissinger. Therefore, Senator JACKSON's assurance to Senator BUCKLEY, which is very important, remains fully valid. That is, that the obligation will be that the President of the United States to see, one, that he does not make that agreement unless he believes in utmost good faith that the Russians will act in such a way as to enable him to comply with his agreement with us; and, second, that they will continue to do so, or that whatever he does with them will be susceptible of being cut off if they do not.

Read within that context, what the Senator has said is perfectly proper.

The press asked us, "What happens if the Russians choose to reject the trade agreement?"

Then we go back to square one, the fight we have been waging for some years now under the United Nations Human Rights Convention, which the Russians are a party to.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. JAVITS. Will the Senator from Virginia yield 2 more minutes?

The PRESIDING OFFICER. The time will be equally divided.

Mr. JAVITS. Will the Senator from Virginia yield me 2 minutes?

The PRESIDING OFFICER. The Senator from Virginia is recognized for 7 minutes.

Mr. HARRY F. BYRD, JR. I yield 2 minutes.

Mr. JAVITS. I thank my colleague.

Then we go back to the struggle in which Senator BUCKLEY, Senator BYRD, and many others have participated in a most active way. I make that point because I think the Senator is absolutely right, that this thing should be debated and understood in connection with our impending action on the trade bill when the conference report comes before us.

I thank my colleague.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, it is a very astonishing report which the wire services carried from Moscow today. The report states that Soviet leaders flatly rejected as unacceptable the new U.S. trade bill with emigration strings attached, and say there may be fewer rather than more Soviets leaving this country.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is entitled to be heard. The Senate will be in order.

The Senator from Virginia.

Mr. HARRY F. BYRD, JR. This report from Moscow today also stated that Tass, the official Russian news agency, published the text of a letter which Soviet Foreign Minister Gromyko handed to Secretary of State Henry A. Kissinger on October 26.

Mr. President, so far as the Senator from Virginia can determine, the existence of this letter has never been made known to Members of the Senate interested in this subject matter.

I have just this afternoon received a copy of this letter addressed to Secretary Kissinger and signed by A. Gromyko, Minister of Foreign Affairs, in the U.S.S.R.

According to the news agency report, this was hand delivered to the Secretary of State on October 26.

The second paragraph of this letter states as follows, after discussing the Kissinger-Jackson exchange of letters:

I must say directly that the cited materials, including the correspondence between you and Senator Jackson, create a distorted presentation of our position and of what was said by us to the American side on this question.

Mr. President, the trade bill was handled by the Senate Committee on Finance. The original hearing was held on March 7, 1974. The committee considered this bill at length and was prepared to report the bill in November. At my request, the committee held up reporting the bill until the committee could again have before it the Secretary of State. He had testified only once, the opening day, March 7.

I found the Kissinger-Jackson exchange of letters to be most unusual. I was concerned, also, that Senator JACKSON had one view and one impression of the correspondence, and Secretary of State Kissinger had a different view.

I felt that before this trade bill was acted on, granting most-favored-nation treatment to Russia, permitting the granting of long-term loans at low subsidized interest rates to Russia, this issue should be clarified.

On December 3 the Secretary of State appeared before the Committee on Finance. I put a number of questions to him. One question was this:

What firm commitments do you have from Russia?

Secretary Kissinger replied at some length. At a later time, I will put in the RECORD the entire colloquy, but I point out now one or two paragraphs. Secretary Kissinger said that the arrangement was not a formal one, the commitment was not a formal one. Then Secretary Kissinger stated:

Nevertheless, the President in his conversations with the three senators, and I in my letter to Senator Jackson, summed up these clarifications and indicated that the United States Government would stand behind them as having been received from the Soviet Government as a means of clarifying the issue.

That was Secretary Kissinger's statement on December 3.

In the same testimony, in another colloquy I had with the Secretary, I asked him this question:

Mr. Secretary, does the Department of State have or plan to have a monitoring system to check on the Soviet performance under the Kissinger-Jackson compromise?

Secretary Kissinger replied, "Yes."

In another part of the testimony, Secretary Kissinger made this statement, and I read one paragraph:

So there are no specific assurances with respect to each form of harassment, but there has been a general assurance with respect to harassment, and I believe that we should make an effort to see whether it can be made to work.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator may be permitted to proceed for 3 additional minutes.

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

Mr. HARRY F. BYRD, JR. With those assurances by Secretary Kissinger, the Senate moved to consider the revised Jackson-Vanik amendment, or the so-called Kissinger-Jackson compromise.

Now we find this astonishing, new development today.

One thing this dramatizes to me is the wisdom of the Senate in writing firmly into the legislation a ceiling on the amount of long-term credit and loans that may be extended to the Soviet Union.

No one appears to know today where our Government stands in regard to assurances from the Soviet Union. We have statements by the Secretary of State, in testimony on December 3, before the Committee on Finance, that the U.S. Government would stand behind the statements made in Secretary Kissinger's letter to Senator JACKSON, would stand behind those statements as having been assurances received from the Soviet Government.

Yet, we have a letter, made available only today, dated October 26, hand-delivered to the Secretary of State by Foreign Minister Gromyko on October 26, stating that those letters—the Kissinger-Jackson exchange of letters—"create a distorted presentation of our position and what was said by us to the American side of this question."

Mr. President, I ask unanimous consent to have printed in the RECORD the letter of October 26 signed by Mr. Gromyko, and a transcript of the Committee on Finance meeting held on December 3, including my questions and Secretary Kissinger's replies.

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

OCTOBER 26.

DEAR MR. SECRETARY: I consider it necessary to draw your attention to the matter of publication in the USA of materials known to you regarding the exit from the Soviet Union of a certain category of Soviet citizens.

I must say directly that the cited materials, including the correspondence between you and Senator Jackson, create a distorted presentation of our position and of what was said by us to the American side of this question.

Clarifying the real situation, we stressed that in itself this question relates entirely to the internal competence of our state. We told you beforehand in this connection that we have acted and will act exclusively in accordance with our present legislation on this subject.

But it is precisely this that has not been mentioned. At the same time, there are attempts to give our clarifications the nature of some kind of assurances if not obligations on our part concerning the exit procedures for Soviet citizens from the USSR. Certain figures are even given concerning the supposed number of such citizens. There is talk of an expected increase in this number in comparison with previous years.

We decisively reject such an interpretation. What we said—and you know this very well, Mr. Secretary—concerned only the actual situation on this question. And if, in informing you of the actual situation, the conversation turned to figures, then it was only about the reverse observed tendency toward a reduction in the number of persons wishing to leave the USSR for permanent residence in other countries.

We consider it important that in this whole matter, in view of its importance of principle, that there should not remain any lack of clarity with regard to the position of the Soviet Union.

A. GROMYKO,
Minister of Foreign Affairs of the U.S.S.R.

TRANSCRIPT

The CHAIRMAN. Senator Byrd asked that these hearings be held and has insisted that we should understand this subject before the Senate takes the bill up. I, therefore, yield my place to Senator Harry Byrd.

I would suggest that the first round of questions would be limited to ten minutes for each senator and thereafter we perhaps can have a longer time for those who care to participate further.

Senator BYRD. Thank you, Mr. Chairman.

Mr. Secretary, the Trade Reform Bill as approved by the House Ways and Means Committee and by the House of Representatives and by the Committee on Finance includes the Jackson-Vanik Amendment, of which I am a co-sponsor, which requires certain concessions from Russia in return for being granted most-favored-nation treatment and long-term low-interest rate loans.

You told this committee on March 7 that you would recommend a veto of the Trade Reform Bill if the Jackson-Vanik Amendment remains in the bill, because it would be interfering in the internal affairs of the Soviet Union.

My question, Mr. Secretary, is this: In return for the United States granting most-favored-nation tariff treatment, U.S. technology and long-term credits at taxpayer-subsidized interest rates to Russia, do you think the United States should demand concessions from Russia?

Secretary KISSINGER. Senator, to complete the record of what I said on March 7, I also pointed out to Senator Nelson and others that I was prepared to work with members of this committee or other interested senators on a compromise between their concerns and the concerns that I expressed here, and I did not flatly say that we would veto any bill that included the Jackson-Vanik Amendment.

To answer your question, Senator, I believe that the United States has a right, indeed it has a duty, to ask for reciprocity of some sort from the Soviet Union in return for any concessions that we make to the Soviet Union.

Senator BYRD. What firm commitments do you have from Russia?

Secretary KISSINGER. As I pointed out in my testimony, we have to separate two problems. We have to separate the problem of state-to-state relationships, and we have the problems that do not lend themselves to international negotiations as they are commonly practiced.

As I pointed out in my testimony on March 7, the United States cannot even begin any commercial negotiations with the Soviet Union for three years in the face of considerable pressure that we do not do so until the Soviet Union had satisfied certain international standards of conduct which we thought were necessary before a more normal trading relationship could be established.

It was only after the Soviet Union began to practice greater restraint in certain important areas that we began these commercial negotiations.

Now with respect to the Soviet emigration practices, we face the dilemma that it is highly unusual, in fact, I know of very few precedents in international relations, where the domestic relations of another country becomes the subject of an international quid pro quo, and we, therefore, had to find a formula which would satisfy the concerns of those who were concerned with the emigration issue and at the same time the Soviet's refusal to make this the subject of a state-to-state negotiation.

I would also like to point out that even prior to this we had made repeated presentations to the Soviet Union, which we did not publicize, on the issue of emigration, and these presentations were clearly not without effect because Jewish emigration from the Soviet Union rose between 1949 and 1973 from a rate of 400 a year to a rate of 33,500.

Now, what I have attempted to set down before this committee, Senator, is a formula by which the Soviet leaders explain their domestic practices and legislation to us in the form of certain clarifications, assurances and information.

This is not a formal commitment. Nevertheless, the President in his conversations with the three senators, and I in my letter to Senator Jackson, summed up these clarifications and indicated that the United States Government would stand behind them as having been received from the Soviet Government as a means of clarifying the issue, and we thought that this formula would satisfy the concerns of all interested parties, and we would propose that the Congress would permit us to see whether this can operate. And then in 18 months we can all see whether this system of indirect assurances will in fact operate as we hope it will.

Senator BYRD. You say the Jackson-Vanik Amendment interfere with the internal affairs of Russia.

Does or does not the Kissinger-Jackson compromise interfere in Russia's internal affairs?

Secretary KISSINGER. The compromise which I have put before the committee takes great care to maintain the distinctions that

we have tried to elaborate while hopefully producing a positive outcome of what we are attempting to achieve, namely, increased Jewish emigration.

Senator BYRD. In replying to my second question, you stated it was very unusual for one nation to attempt to interfere in the emigration matters of another nation, and I certainly agree with that statement.

Then you point out that you have made great progress in this regard. What continually comes to my mind is why would the second most powerful nation in the world bow to the demands of the Congress for concessions on Soviet emigration?

Does this not suggest just how badly Russia needs and wants American technology, long-term loans and taxpayer-subsidized interest rates?

Secretary KISSINGER. Well, Senator Byrd, again I would like to point out that we had made these presentations before there had been any congressional pressures or any formal congressional pressures.

I believe that what has been achieved through a variety of means does indicate that the Soviet Union places considerable importance on improved relations with the United States, including the acquisition of the benefits which you have described.

However, there is a point beyond which this cannot be pressed. It is a question of judgment where that point is.

Senator BYRD. The Soviet Union has turned to the United States for economic assistance, for our capital, our agricultural produce, and our advanced technology, all the while improving and expanding its nuclear and conventional military power.

My question is this: Whatever its intended purpose, does not the extending of long-term credit to the Soviet get them out of an economic bind while permitting them to continue their high rate of defense spending?

Are we not actually subsidizing the Soviet military build-up?

Secretary KISSINGER. Soviet history, Senator, tends to indicate that the Soviet Union will maintain a high rate of defense spending regardless of its trading relationship with other countries. It maintained a high rate of defense spending during the period of complete ostracism by other countries. It maintained a high rate of defense spending during the period of a substantial cut-off of economic relations with the United States.

The judgment that has to be made is whether to relate the Soviet Union to more normal economic practices and in a way improve, substantially improve primarily the position of the population, whether this will not create more incentives for more responsible international conduct.

This consideration, if I may so say, is all the more important if one keeps in mind that there are many other nations that are eager to step in where we withdraw, especially Western Europe and Japan.

Senator BYRD. Mr. Secretary, neither the Congress nor the taxpayers have been told the extent of the obligation to extend subsidized credit to the USSR, would you tell the committee what commitments have been made in this regard?

Secretary KISSINGER. I am not sure that I understand the question that the Congress has been told about the extent of the obligations.

I am not aware of any commitments that have been made to the Soviet Union. All commitments have been held in abeyance subject to the passage by the Congress of the Trade Reform Act and the associated Exim authorization.

Senator BYRD. What brings me to that question is the record which shows that the Russian Government has receieved $469 million in loans from the Exim Bank plus $118 million in guarantees for a total of $587 million.

Secretary KISSINGER. Over a three-year period.

Senator BYRD. Over less than a three-year period, about a 14-month period.

The Senate last month put a ceiling on additional loans and guarantees to Russia of $300 million. The Senate-House conferees removed the ceiling.

Do you oppose a ceiling on additional loans and guarantees to Russia?

Secreatry KISSINGER. Senator, from the point of view of the flexibility in the conduct of foreign policy, I would prefer that no ceiling be placed on these loans, but I would favor congressional consultation so that this committee is informed in a timely fashion of what is contemplated. But I believe it would increase the flexibility of our foreign policy if no ceilings were placed on——

Senator BYRD. What you are asking for is a blank check.

Secretary KISSINGER. No, Senator, if you asked what will support our foreign policy most effectively, I would have to say that I do not believe that a ceiling—that we would be better off without a ceiling.

I do not think that this would necessarily constitute a blank check if there are adequate consultation provisions because this will give the Congress sufficient opportunity to present its operation and presumably the Administration would not grant loans unless in its judgment it supported the objectives of our foreign policy. And I can assure you we will do so with considerable restraint.

Senator BYRD. I will get to the 18-month period a little bit later. But to clarify one point, the information given to the Senate by the manager of the Exim Bank was that these credits had been extended over a period of 13 to 14 months.

Secretary KISSINGER. Senator, I believe that the difference in perspective arises from the fact that the discussions may well have started three years ago and did not result in the granting of credits until about 15 months ago. So my perception of it is that the discussions from a foreign policy point of view started shortly after the visit to Moscow by Secretary Lynn and myself in 1972, though it is quite possible that the first loan was not approved until some time afterwards.

I think this is where the difference between your perception and mine arises.

Senator BYRD. Mr. Secretary, is it not correct what the Soviet Union really wants and really needs from the United States are technology, know-how, long-term credits, and low interest rates? That is really what it needs.

Secretary KISSINGER. What was the last thing?

Senator BYRD. Subsidized low interest rates.

Secretary KISSINGER. Well, I think it is correct that the Soviet Union has indicated an interest in all of these items and that the decision that we have to make is to balance the relative strengthening of the Soviet economy that this represents against the advantages of drawing the Soviet Union into more normal international relations.

I think it is also important to point out that these credits which you have mentioned represent a very small fraction of the total of an economy that has several hundred billion GNP.

Senator BYRD. Thank you, Mr. Secretary.

Now, on page 15 of your statement today, you mentioned the Senate amendment 2000. I have not seen the amendment so I cannot comment categorically on it. But your statement says that Senate Amendment 2000 would authorize the President to waive the provisions of the original Jackson-Vanik Amendment and to proceed with the granting of most favored nation treatment and Export-Import Bank facilities for at least an initial period of 18 months.

Now the reason that I would have difficulty supporting that amendment is that if there is no ceiling on Exim Bank loans to Russia, then during that next 18 months hundreds of millions or billions of dollars can be made in loans and guarantees to Russia, and then 18 months later, when the Congress reviews it, all of the money has left the country and what do we do then?

Secretary KISSINGER. Well, first of all, the reason Exim Bank facilities is mentioned here is because the granting of Exim facilities has been tied to the passage of the Trade Reform Act. We recognize that the Exim Bank facilities are subject to separate legislation. Whatever you pass here in the Trade Reform Bill only removes the impediment that has been created by making Export-Import loans subject to the passage of the Trade Reform Bill, it does not prevent the Congress from passing whatever legislation it wishes with respect to the Exim Bank.

Senator BYRD. Yes, but if I may interrupt there, Mr. Secretary, the State Department has lobbied against the ceiling—

Senator BYRD. On loans to Russia.

Secretary KISSINGER. That is correct.

Senator BYRD. You yourself say you do not favor a ceiling?

Secretary KISSINGER. That is correct.

Senator BYRD. Yet you want the Jackson-Vanik provision waived for 18 months, which certainly clearly makes possible the granting of hundreds of millions of dollars or billions of dollars of Export-Import credits?

Secretary KISSINGER. You proceed from the premise that there is an unquenchable desire to pour money into the Soviet Union.

Senator BYRD. Yes, I do proceed from that, I will be frank with you, I do proceed from that premise.

Secretary KISSINGER. I would suggest to you, Senator, that for the first three years of our dealings with the Soviet Union the criticism that was made against us in the Senate, to be sure not from you, was that we were too reluctant to extend commercial benefits to the Soviet Union and the argument then was that commercial benefits would have a tendency to bring about a more moderate Soviet policy. So I can assure you that our policy has always been to relate the economic benefits to complete progress in international affairs so that the danger you describe, even in the absence of any other congressional restraints, would be minimum.

Secondly, while we do not want a legislated ceiling we are prepared to work out consultative arrangements by which the Congress would be fully informed about the rate of complicated loans and in which, therefore, the Congress would have an opportunity to express its objections while these loans were being considered.

So I am opposed to a legislated ceiling because it would deprive us of flexibility but I do not object to congressional review in such a manner that we would have to take very seriously into account the congressional views before major loans were being made.

Senator BYRD. Major loans have been made. The Senate has evidence of it. It wishes a ceiling of $300 million be established on additional loans, at the end of which time the Administration could come back and make additional requests if it wishes.

Secretary KISSINGER. Of course the Senate is a co-equal branch of the government and has a right to legislate what it wishes. When the Senate asks us for our opinion we have to state that we think it would be better if this were not done. After that, it is up to the judgment of the Senate.

Senator BYRD, Mr. Secretary, does the Kissinger-Jackson Agreement, or rather the agreement you have reached with the Soviet Union, apply to all citizens of Russia or just to the Jewish citizenry.

Secretary KISSINGER. Well, we were talking about Jewish emigration.

Now, again, these documents do not specif-

ically refer to those of the Jewish faith but I think it is a reasonable extrapolation from the record that this was the predominant concern.

Senator BYRD. I won't do it at the moment because I don't know what the time element at the moment will be, but a little later I want to present to you 6,000 signatures from 6,000 Volta German families representing some 25,000 to 30,000 individuals.

It occurs to me that the question is broader than just one minority group.

As you know, Senator Buckley has recently been in the Soviet Union and he met with the dissident physicist Sakarov and at this meeting it was recommended that the United States press for freer emigration of all peoples, not just the Jews, but Ukranians, Armenians, Germans, Estonians, Latvians, Lithuanians, and other Soviet Nationalities, and Volta Germans, in return for U.S. trade concessions.

Did your assurances from Mr. Brezhnev cover those categories?

Secretary KISSINGER. I somehow have the impression, but I would have to check to see whether that is correct, that there is some understanding between the German government and the Soviet government on the Volta Germans but I am not absolutely sure that is correct. I seem to have that at the back of my mind.

If you consider these letters legal documents, which as I pointed out they are not in the strict sense of the term, then strictly speaking they would apply to all nationalities.

There is no specific reference I believe to Jewish emigration but I think in the legislative history of this matter one would have to say that this has been the primary focus of the conversations.

Senator BYRD. Is it not correct that since 1972, in a period of so-called détente, there has been a methodical improvement and expansion of nuclear and conventional power in the Soviet Union and in eastern Europe?

Secretary KISSINGER. Yes, that is correct.

Senator BYRD Would it not be wise for the United States to insist on a genuine and secure peace in the Middle East as a condition of its subsidized long term credit and technology which Moscow desperately needs?

Secretary KISSINGER. Well, first of all, I think we should clarify to some extent what the Export Import loans are, which I am sure you know better than I do.

Their basic purpose is to help American industry to be competitive. They are spent for American goods and they are, therefore, a means of assuring jobs for American workers.

Senator BYRD. Also it is a loan directly to the Russian government.

Secretary KISSINGER. That is true. I just wanted to mention what the basic purpose of that legislation has been.

With respect to peace in the Middle East, that is an extraordinarily complicated problem in which our legislations with the Soviet Union are both competitive and cooperative and in which the point of direct influence of all of the parties has certain limits, but we do look for Soviet restraints in the Middle East, as we consider Soviet restraint in the Middle East an integral part of détente policy.

Senator BYRD. Mr. Secretary, is it not correct that there has been a significant build up of Soviet tactical nuclear weapons in Central Europe?

Secretary KISSINGER. Over what period of time are you talking about?

Well, at any rate, there has been an increase of Soviet nuclear weapons in Central Europe.

Senator BYRD. Would you comment on the following paragraph written by Mr. James Reston in the New York Times on November 22, 1974. This is the paragraph, "The Soviets cannot be unhappy with the present drift of world events, particularly the political and economic disarray in Europe. They have established a rule that all Communists or socialist governments are off limits for the U.S. but that the rest of the world from Southeast Asia to Cuba is an open hunting ground for them."

Secretary KISSINGER. Well, the disarray to which Mr. Reston refers is not the product of Communist actions or to a considerable extent is not the product of Soviet actions. There is a major crisis in the industrialized nations of the world to produce by inflationary pressures, by complicated domestic situations, by the failure up to now to adjust their relationships to a rapidly altered international environment.

The biggest challenge we face is that most of our difficulties are within our power to solve. These have not been produced by the Soviet Union but could nevertheless be of enormous benefit to our adversaries if we do not solve them.

The energy crisis, the whole problem of the inflationary pressures, the weakening of governmental authorities, are not the direct result of Soviet action but they are very real problems and undoubtedly are not looked at unhappily from our standpoint.

Senator BYRD. Mr. Secretary, does the Department of State have or plan to have a monitoring system to check on the Soviet performance under the Kissinger-Jackson compromise?

Secretary KISSINGER. Yes.

Senator BYRD. You plan to have a monitoring system?

Secretary KISSINGER. Well, we plan to have a monitoring system and I have the impression that Senator Jackson is a pretty good monitoring system, too.

Senator BYRD. How do you monitor a nation of nine million square miles and 240 million people?

Secretary KISSINGER. Let us analyze what the essence of the understanding is.

The essence of the understanding is that there will be no interference with missions, that there will be no harassment of applicants and that there will be no obstacles to emigration visas as except national security considerations.

Now, I have the impression that the various organizations that are concerned with emigration are in sufficiently close contact with those who want to emigrate for us to be able to obtain a judgment whether in fact there is an interference with applications and whether the rate of emigration is in proportion in the historic proportion to the number of applicants. It is a matter that really I will have an official in the department who will be responsible to whom interested groups can turn on this matter.

But I have talked to the various groups that are interested in this emigration question and they seem to be convinced, not that they can catch every individual case, but that they would know about any substantial violations of this understanding.

Senator BYRD. Mr. Secretary, as you possibly gather, I am a little skeptical about detente and not 100 percent sold on it.

This section of the trade bill ties in precisely with that matter.

Would you tell the committee what commitment or commitments have been made in regard to long-term subsidized credits to Russia?

Secretary KISSINGER. No commitments have been made to the Soviet Union about any long-term commitments, to the best of my knowledge.

No, no commitments have been made.

Senator BYRD. On the question of harassment, which is one of the key points of the Jackson Amendment, is not the entire system of government in Russia based on harassment and terror, as a practical matter?

Secretary KISSINGER. Well, I think the government is more obtrusive than in our country.

Senator BYRD. I will not press the issue.

Mr. Secretary, there is some evidence that Moscow cooperated up to a point, but is it not true that when the Soviet Union actively urged other Arab nations to join in the Yom Kippur war, they violated the basic principles of relations between the United States of America and the USSR signed in May of 1972?

Secretary KISSINGER. You mean after the war had started in some of the exhortations that were then made?

Senator BYRD. Yes.

Secretary KISSINGER. Of course, I would say basically that when the Soviet Union urges other countries to participate in a war any place, that it would be violating the basic principles of the 1972 agreement.

Now then, one has to analyze why the Soviet Union may have done this. But to answer your question, yes, I would say this was a violation.

Senator BYRD. Thank you for that clear-cut answer, Mr. Secretary.

Now what will be the criteria for Soviet fidelity to the Kissinger-Jackson compromise?

Secretary KISSINGER. As I pointed out this morning, Senator Byrd, there are at least three basic questions. Is there any interference with applications? It there any harassment of applicants? Is there any denial of applications for any ground other than national security reasonably defined?

It is by impression, and I have consulted the groups in this country that have the greatest interest in promoting emigration, that we should be able to get substantially accurate answers to those questions, and if it should turn out that these questions cannot be answered satisfactorily. I would believe that the Administration has an obligation to point this out to the Congress, in addition to the fact that the Congress has a review authority at the end of 18 months.

Senator BYRD. At this point I want for the record to point out and commend the senator from New York, Mr. Buckley, for his trip to the Soviet Union. I am particularly impressed with the fact that Senator Buckley did not spend his time with high government officials, but instead got out among the people. The senator from New York visited with the people, among the Jewish community there, among the German minority there, among dissident groups, and I think he brought back a lot of information.

In an Associated Press dispatch for Moscow dated November 11, 1974, Senator Buckley quoted leading Jewish activists as telling him that the Kremlin has increased its harassment of Jewish dissidents since the announcement in Washington of the Kissinger-Jackson agreement.

Would you comment on that?

Secretary KISSINGER. Well, may I indirectly say, as flattered as I am being bracketed with Senator Jackson, the ultimate agreement was reached between President Ford and Senator Jackson. Nevertheless, I will be delighted to answer the question.

This exchange of letters or the implications of this exchange of letters cannot be expected to go into force until the subject to which it refers comes into being, so I would think that if the claims that are made were still valid after the passage of the Trade Reform bill and the granting the MFN, this would be a subject of considerable concern which we will bring to the attention of the appropriate authorities.

Senator BYRD. Well, the problem with that, as I see it, the way the compromise amendment is worked out, the waiver can take place, the waiver of the original Jackson-Vanik amendment will take place at the President's option for a period of 18 months and during that period of time vast amounts of credits and guarantees could be extended

to the Soviet Union before the Congress would have an opportunity to review it.

Secretary KISSINGER. Vast amounts of credits have not been in the past extended to the Soviet Union and vast amounts of credits would certainly not be extended if we felt that there had been bad faith in any of our understandings.

Senator BYRD. Well, the point I am suggesting is that there may not be evidence of bad faith until after the credits are extended. Once the credits are extended, I assume there is no way to retrieve the credits.

Secretary KISSINGER. I believe what will insure Soviet performance is not the credits but that general interest in the relationships with the United States. If for any reason that should flatten, then if détente should be substantially jeopardized, then I believe the overall performance of what we are discussing here will also be in jeopardy.

As long as this interest is maintained, I think this is our primary point of pressure or attack.

Senator BYRD. I visualize something like what happened with Japan when the United States gave in to the demand of Japan and gave Okinawa back to Japan, which we had by treaty, then we lost all leverage over Japan.

I am glad to say I opposed that treaty giving Okinawa back to Japan. We have lost all leverage over Japan. Once we give these credits, my fear is we will lose all leverage over the Soviet Union.

Secretary KISSINGER. Well, of course, Senator, I do not fully agree with, not only fully I do not agree with you at all about Okinawa, because one could argue without the reversion of Okinawa to Japan our relationship with Japan would have been so mortgaged that we would have lost a lot more leverage than we have.

With respect to the credits, this is not immediately affected by this exchange of correspondence. It is, of course, true if huge credits are extended all at once in one decision that then that will create one situation.

On the other hand, this has not been our past history and this will not be our history in the future.

Senator BYRD. It has been the history in the 13-month period to extend $587 million in credits and guarantees to the Soviet Union.

Secretary KISSINGER. Senator, I would like to review that figure because what sticks in my mind is that we began the examination of these credits in 1972. It is quite possible that the paper work may not have produced the first credit until 1973 or 1974. What sticks in my mind is that the credits were extended in a sense that I am concerned with, that is, in relationship to foreign policy over a period of two and a half to three years, whenever the ultimate decision by the Ex-Im Bank took place.

This is the rate, the manner in which we would expect to proceed in the future.

Senator BYRD. Under the amendment, as I read your statement to the committee this morning, on page 15, under the amendment, with no ceiling on credits, that would mean under the law the Administration could, if it wishes, and you say it probably will not wish, but it could if it wishes under the law extend unlimited credit to the Soviet Union.

Secretary KISSINGER. Well, not exactly, because there is a total limitation, of course, on the amount of Ex-Im credits that can be given.

Senator BYRD. My goodness, that is $25 billion.

Secretary KISSINGER. Even allowing for our normal exuberance, we would not ear-mark them all, we would not earmark them all for the Soviet Union. But we have agreed that there should be very significant consultive provisions with the committee or with the Congress so that the Congress would have an idea of what is ear-marked.

At any rate, it is not our intention to earmark unlimited amounts or huge amounts, but we would like to have the ability for flexible credits in order to have some incentives in a situation that is likely to be rather complicated over the next two years.

Senator BYRD. The Jewish leaders told Senator Buckley that the telephone lines over which the dissidents communicated with the West had been cut since Senator Jackson announced on October 18 that the Soviet Government was liberalizing Jewish emigration policies to obtain trade concessions from the Congress.

Would the Jackson compromise propose to deal with a matter of that type?

Secretary KISSINGER. I do not believe that any exchange of correspondence between two Americans could possibly account for all the forms of harassment that an authoritarian state can impose on its subjects.

I believe that to the extent one would have to assume that for this to work there has to be good faith on the part of all of the parties.

So there are no specific assurances with respect to each form of harassment, but there has been a general assurance with respect to harassment, and I believe that we should make an effort to see whether it can be made to work.

I have pointed out in my statement that I did not know how this would in fact work in practice, but we have now reached the point, as Senator Packwood pointed out this morning, where we simply have to make the choice on what gamble we want to take.

Senator BYRD. Mr. Secretary, Sakarov provided Senator Buckley with a list of German origin residents in the Soviet Republic. These Germans were originally residents in the former Soviet Volga German Republic in Eastern Russia. They were deported en masse by Stalin in the Forties. The list was collected by a number of Germans during 1974. Twenty to 30 of these individuals, I am informed, who were involved in the collection efforts were arrested and are now in jail.

All of the families on the list, the signed list, have applied for permission to leave, but were refused.

Sakarov reported to Senator Buckley that the Soviet regime is unwilling to allow them to emigrate because they are more efficient workers in the farms and mines of the region than the local residents.

The list represents about 25,000 to 30,000 individuals.

This is the first of several attempts to collect lists of Volga Germans who will be transmitted to the West when it is available. I have this list which was given to me by Senator Buckley, with these signatures gathered at great cost, personal cost by the way of damage to the individuals who collected the list. Twenty to 30 of them are now in prison.

With your permission, I would like to turn this list over to the State Department for whatever help it might be able to give.

Secretary KISSINGER. I will check on that.

Senator BYRD. Thank you.

Now, is it correct that the Russian Government does not expect to pay for products obtained from the United States by hard currency but, rather, from Russian products in a barter deal?

Secretary KISSINGER. My impression is they will pay for it by currency.

Senator BYRD. Does the waiver in the Jackson compromise apply to all Communist nations or only to Russia?

Secretary KISSINGER. It applies to all nonmarket economies, in other words, to all Communist nations.

I mean the right to waiver applies to all of them, but it will have to be exercised in each individual case separately.

Senator BYRD. But the right to waiver in the compromise applies to all Communist nations?

Secretary KISSINGER. That is right.

Senator BYRD. Including, I think you said this morning, China?

Secretary KISSINGER. That is right.

Senator BYRD. Senator Buckley has recently suggested that an ad hoc congressional committee be formed to monitor Soviet behavior to see if the agreement is breached.

Would you favor or oppose such an ad hoc congressional committee?

Secretary KISSINGER. Will you repeat the question, please?

Senator BYRD. Yes.

Senator Buckley has suggested that an ad hoc congressional committee be formed to monitor Soviet behavior to see if the agreement is breached. Would you favor or oppose an ad hoc congressional committee?

Secretary KISSINGER. I have not thought this through, but my understanding would be to be opposed to it because I am very much afraid systematic intrusion in what is defined by the Soviet Union as a domestic jurisdiction is likely to have a counterproductive consequence.

If I change my mind on this, I will let you know.

MILITARY CONSTRUCTION APPROPRIATIONS, 1975—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on H.R. 17468, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The 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. 17468) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of today.)

The PRESIDING OFFICER. There is a limitation of 10 minutes on this conference report, equally divided, 5 minutes to each side.

Mr. PROXMIRE. Mr. President, the conference committee agreed on an overall figure of $3,072,842,000 for military construction for fiscal year 1975. This is an amount of $10,734,000 over the amount approved by the House, $9,638,000 under the amount approved by the Senate, and $310,158,000 under the budget estimate of $3,414,662,000. The conferees agreed on the following amounts for the military services and the Department of Defense:

Army, $656,828,000; Navy, $606,376,000; Air Force, $456,439,000; and Department of Defense, $31,260,000.

The following amounts were not in conference but were appropriated in this bill:

Army Reserve, $43,700,000; Army National Guard, $59,000,000; Navy Reserve, $22,135,000; Air Force Reserve, $16,000,-

000; Air National Guard, $35,500,000; family housing, $1,245,790,000; and home owners assistance, $5,000,000.

Mr. President, it is the consensus of the conferees that we have brought back to the Senate floor a bill that is equitable and fair. Of course, we would have liked to have sustained completely the Senate position. However, in a bill this large compromises have to be made and the conferees feel that we have made the best compromise possible. The conferees have approved a bill of approximately $9,000,000 under the bill reported by the Senate. This bill provides for actual military construction projects of approximately $2,000,000,000. The reduction of $310,158,000 in the overall bill represents a reduction of 15 percent for construction projects, exclusive of housing. I believe that this is the largest reduction that has been made in any appropriation bill this year.

I wish to compliment my fellow conferees on their help in working out the differences in this bill. It is my judgment that this bill provides for all of the essential operating facilities needed by the military services and I wish to state categorically that there are no moneys in this bill for plush accommodations for the military services.

Mr. President, I thank the distinguished Senator from North Dakota (Mr. YOUNG), who is the ranking minority member, who was so hopeful and so useful in arriving at this conclusion.

I also thank the distinguished Senator from Iowa (Mr. HUGHES) for his understanding. We were unable to bring back his amendment. We did bring back a compromise, which I understand will be quite helpful for Iowa and Illinois and other States that are involved.

I do not intend to make a long and involved statement on the actions taken by the committee of conference. The conference report explains in a most succinct manner the actions taken by the conference committee.

Mr. President, this completes my brief statement, I will be glad to answer any questions from individual Senators regarding construction projects in their States.

I ask unanimous consent to have printed in the RECORD a tabulation comprising a summary of the conference action on the Military Construction Appropriation bill for fiscal year 1975.

There being no objection, the tabulation 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

Item	New budget (obligational) authority, fiscal year 1974	Budget estimates of new (obligational) authority, fiscal year 1975	New budget (obligational) authority recommended			Conference action compared with—			
			In House bill	In Senate bill	By conference action	New budget (obligational) authority, fiscal year 1974	Budget estimates of new (obligational) authority, fiscal year 1975	New budget (obligational) authority recommended in— House bill	New budget (obligational) authority recommended in— Senate bill
Military construction:									
Army	$578,120,000	$740,500,000	$650,023,000	$655,976,000	$656,825,000	+$78,705,000	—$83,675,000	+$6,802,000	+$849,000
Navy	609,292,000	643,900,000	602,702,000	626,760,000	606,376,000	—2,916,000	—37,524,000	+3,674,000	—20,384,000
Air Force	247,277,000	536,400,000	456,801,000	446,202,000	456,439,000	+209,162,000	—79,961,000	—362,000	+10,237,000
Defense Agencies	0	50,600,000	30,640,000	31,600,000	31,260,000	+31,260,000	—19,340,000	+620,000	—340,000
Transfer, not to exceed	(20,000,000)	(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	59,000,000	+23,800,000			
Air National Guard	20,000,000	30,000,000	35,500,000	35,500,000	35,500,000	+15,500,000	+5,500,000		
Army Reserve	40,700,000	43,700,000	43,700,000	43,700,000	43,700,000	+3,000,000			
Naval Reserve	22,900,000	20,800,000	22,135,000	22,135,000	22,135,000	—765,000	+1,335,000		
Air Force Reserve	10,000,000	16,000,000	16,000,000	16,000,000	16,000,000	+6,000,000			
Total, military construction	1,563,489,000	2,140,900,000	1,916,501,000	1,936,873,000	1,927,235,000	+363,746,000	—213,665,000	+10,734,000	—9,638,000
Family housing, defense	[1] 1,192,405,000	1,342,283,000	1,245,790,000	1,245,790,000	1,245,790,000	+53,385,000	—96,493,000		
Portion applied to debt reduction	—100,908,000	—105,183,000	—105,183,000	—105,183,000	—105,183,000	—4,275,000			
Subtotal, family housing	1,091,497,000	1,237,100,000	1,140,607,000	1,140,607,000	1,140,607,000	+49,110,000	—96,493,000		
Homeowners assistance fund, defense	7,000,000	5,000,000	5,000,000	5,000,000	5,000,000	—2,000,000			
Grand total, new budget (obligational) authority	2,661,986,000	3,383,000,000	3,062,108,000	3,082,480,000	3,072,842,000	+410,856,000	—310,158,000	+10,734,000	—9,638,000

[1] Includes $3,866,000 requested in H. Doc. 93-266.

Mr. PROXMIRE. Mr. President, I also wish to thank, especially, my good friend from Pennsylvania (Mr. SCHWEIKER) for his wisdom and assistance to me in this area. He is not only very expert but is a good friend of mine. I did not want to neglect thanking him for his good work.

Mr. SCHWEIKER. Mr. President, I commend the distinguished Senator from Wisconsin for his leadership on this bill in the absence of the Senator from Montana (Mr. MANSFIELD).

As the distinguished Senator from Wisconsin has already given a detailed explanation of the bill I shall only touch on one issue of particular concern—the proposed expansion of facilities at Diego Garcia in the Indian Ocean.

The Department of Defense proposal called for a $32.3 million program to expand the Navy and Air Force facilities on the island. The military construction authorization passed by Congress only last week allows $18 million for this program and provided that either House of Congress could disapprove of the program when and if the Department requests the use of funds to begin construction.

The House version of this appropriation bill provided $18 million for this program, however, this funding was deleted by the Senate. The conferees agreed to delete all funds specifically for Diego Garcia but has provided a means by which construction may be undertaken during the fiscal year should the requirements of the authorization act be met.

Mr. President, I am confident that the conference report we have before us today is a fair and responsible one. It balances the many and sometimes conflicting demands and considerations placed on our Nation's military construction program. I, therefore, urge the adoption of the conference report.

Mr. President, I am willing to yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I yield to the Senator from Mississippi whatever time he wishes.

Mr. STENNIS. I thank the Senator for yielding to me. I shall not take over a minute or two, at the most.

As a member of the Committee on Appropriations, I wish to thank these gentlemen, who have worked on the bill and handled most of it. They have done a good job on the bill and in the conference, too.

I point out, Mr. President, there was around a billion dollars, or near thereto, in this bill that they really had no control over, because it is for liabilities that have accrued over the years, like military housing and so forth.

Mr. President, the Senator from Wisconsin and I have worked on this Diego Garcia matter, and he wrote me a letter about the item, which was settled for the time being without having a debate here and a rollcall vote. I hand him a copy of his letter for the RECORD, and suggest that, for historical purposes, he might offer that or I shall offer it for the RECORD at this point.

Mr. PROXMIRE. I am happy to do that. I think the Senator from Mississippi is absolutely correct. We should clarify this matter. It is a very important issue that should be fully discussed and considered by the Senate.

Mr. President, I ask unanimous consent that the letter I wrote to Senator STENNIS, dated December 13, 1974, be printed in the RECORD at this point.

There being no objection, the letter

was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C. December 13, 1974.

Hon. JOHN STENNIS,
Chairman, Armed Services Committee, U.S. Senate, Washington, D.C.

DEAR JOHN: In keeping with our conversation about the Military Construction Appropriations bill, as Acting Chairman in Senator Mansfield's absence, it is my intention to seek an equitable agreement with the House Conferees on the Diego Garcia matter.

Specifically I will propose the addition of language to the Conference Report recognizing that all funds for the construction of Diego Garcia be deleted but that there be a clear understanding that "if neither House adopts a resolution of disapproval, in accordance with the provisions of section 613 of the Military Construction Authorization Act of 1975," the Air Force and Navy may utilize any construction funds available to carry out the Diego Garcia construction.

This language further will state that such funds, should they become available under the authorizing bill, do not have to be reprogrammed.

The full text of my proposed Conference Report language is attached.

Sincerely,

WILLIAM PROXMIRE,
U.S. Senator.

Mr. SCHWEIKER. Mr. President, I commend the distinguished chairman of the Committee on Armed Services for his leadership in resolving this controversy. I think this is a fair and equitable solution, and I support the chairman's efforts to work this out.

Mr. STENNIS. I thank the Senator from Wisconsin again for his fine work.

I thank the Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I yield back my time.

Mr. PROXMIRE. Mr. President, before yielding back my time, I ask unanimous consent that a summary of the bill, as agreed to by the conference, adopted by both parties, be printed in the RECORD.

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

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17468) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1975, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Amendment No. 1, military construction, Army: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to appropriate $656,825,000 instead of $650,023,000 as proposed by the House and $655,976,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This would provide the following changes to the amounts and line items as proposed by the House:

Fort Bragg, North Carolina: Aircraft parking apron/aircraft maintenance hangars	+$2,355,000
Fort Stewart/Hunter Army Airfield, Georgia:	
Barracks modernization (Hunter AAF)	+$7,750,000
Company administration and supply facilities (Hunter AAF)	+1,944,000
Sacramento Army Depot, California: Industrial plating shop	+2,599,000
Schofield Barracks Military Reservation, Hawaii: Barracks modernization	−3,000,000
Germany, Various:	
EM barracks with dining facility, Preum	−2,492,000
EM barracks, Preum (FY 74 deficiency)	−364,000
Funding adjustment for prior years' deficiencies	−2,000,000

The conferees have restored $2,355,000 of the House reduction of $4,855,000 for aircraft parking apron/aircraft maintenance hangars at Fort Bragg, North Carolina. The conferees understand that facilities, including hangar space, are being made available to the Army by the Air Force at Pope Air Force Base, North Carolina. The use of some of the funds approved to provide necessary modifications to portions of these existing facilities is specifically approved.

Amendment No. 2, military construction, Navy: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to appropriate $606,376,000 instead of $602,702,000 as proposed by the House and $626,760,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This would provide the following changes to the amounts and line items as proposed by the House:

Naval Underwater Systems Center, Newport, Rhode Island:	
Weapons development center	+$4,742,000
Technical service shop	+2,507,000
Naval District, Washington, D.C	+5,000,000
Naval Air Station, Norfolk, Virginia: Operational flight trainer facility	+571,000
Naval Air Station, North Island, California:	
Aircraft parking apron	+1,039,000
Aircraft maintenance hangar	+6,195,000
Naval Regional Medical Center, San Diego, California: Dental clinic and school	+9,650,000
Naval Station, Keflavik, Iceland:	
Runway navigational aids	+473,000
Entrance to airport terminal	+1,844,000
Naval Station, Norfolk, Virginia: Bachelor enlisted quarters	−3,284,000
Naval Air Station, Miramer, California: Hangar improvements (utilities)	−418,000
Naval Regional Medical Center, San Diego, California: Land acquisition, Murphy Canyon (Naval Hospital)	−3,843,000
Naval Communications Facility, Diego Garcia, Indian Ocean	−14,802,000
Funding adjustment for prior years' deficiencies	−6,000,000

In approving the amount of $36,300,000 for Naval District, Washington, D.C., the conferees recognize the priorities set in the House report and require that the Navy provide a full report on its plans in this regard to the Committees on Appropriations of the House of Representatives and the Senate for their approval.

The managers on the part of the House insist that further justification be made available by the Navy before any of these funds are spent for a combat information center or new planetarium at the Naval Academy, Annapolis, Maryland.

The conferees, mindful of the positions taken by the House and Senate Appropriations Committees during the appropriations process for the current fiscal year concerning the question of the transfer of naval activities from the Washington area, call on the Navy to present a comprehensive plan during next year's hearings on the military construction appropriations request indicating those missions which may be logical candidates for movement, taking into consideration economies and the overall efficiency of the naval service. This plan is expected to be material in scope.

The conferees have restored funding for two items deleted by the House at Naval Air Station, North Island, California, an aircraft parking apron of $1,039,000 and an aircraft maintenance hangar for $6,195,000. The conferees take note of language contained in the House report with regard to hangar facilities requested at Naval Air Station, North Island, and Naval Air Station, Miramar, California, to support the realignments resulting from the closure of Naval Air Station, Imperial Beach, California. Accordingly, before constructing these facilities or the aircraft parking apron and maintenance hangar approved for Naval Air Station, North Island, the Navy must inform the Committees on Appropriations of the House of Representatives and the Senate of their long-range base utilization plans for naval air stations and for stationing of carrier aircraft on the west coast.

The most difficult question for the conferees to settle was the one regarding funds for the construction of facilities on the island of Diego Garcia.

After prolonged discussions and the consideration of various proposals and compromises, the conferees arrived at a solution satisfactory to conferees on both sides and one they believe will be acceptable to both Houses of Congress.

The conferees agreed to delete all funds specifically earmarked for the construction of facilities on Diego Garcia; however, that action was agreed upon with the clear understanding that if neither House adopts a resolution of disapproval, in accordance with the provisions of section 613 of the Military Construction Authorization Act, 1975, for the construction of any facility requested for Diego Garcia, any construction funds available to the Navy and the Air Force in the appropriation act may be utilized by the Navy and Air Force to carry out the construction project. It is further agreed by the conferees that any funds applied to construction on the island of Diego Garcia do not have to be reprogrammed. The same limitations and conditions shall apply with respect to the obligation of any funds in the appropriation act for the construction of facilities at Diego Garcia in the same manner and to the same extent as if funds had been specifically included in the act for such facilities.

The conferees have not approved appropriations in the amount of $1,300,000 for a new commissary store at the Naval Commissary Store, Newport, Rhode Island. Although funds were provided in the Senate bill, the conferees are in agreement that the policy of the Committees on Appropriations of the Senate and House of Representatives is not to provide appropriations for the construction of commissaries within the United States.

The conferees take note of legislation allowing the Navy and other services to increase the commissary surcharge in order to

provide for the construction of commissary facilities. The conferees feel that the new commissary store at Newport should have first priority for Navy funds generated in this manner.

The conferees have approved an amount of $6,000,000 for funding adjustments of prior-year deficiencies. The conferees note that the Navy, in support of this item, indicated that additional funds were required for fiscal year 1973 pollution abatement items. After considering these items, the conferees feel that the amount requested by the Navy can be reduced.

Amendment No. 3, military construction, Air Force: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to appropriate $456,439,000 instead of $456,801,000 as proposed by the House and $446,202,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This would provide the following changes to the amounts and line items as proposed by the House.

Andrews Air Force Base, Maryland: Special aircraft support facilities	+$6,000,000
Brooks Air Force Base, Texas: Human resources research facility	+3,100,000
Langley Air Force Base, Virginia: Aircraft corrosion control facility	+300,000
Offutt Air Force Base, Nebraska: Intelligence operations facility/Addition to weather central facility	+500,000
Robins Air Force Base, Georgia: Add to and alter depot avionics shop	+792,000
Various Locations: Tactical operations range facilities	+1,195,000
Access roads	+3,000,000
Eglin Air Force Base, Florida: Assault strip	−1,200,000
Tactical airlift support facilities	−1,480,000
Hickam Air Force Base, Hawaii: Post office	−623,000
Richards-Gebaur Air Force Base, Missouri: Aircraft flight control facility	−805,000
Scott Air Force Base, Illinois: Land	−341,000
Naval Communications Facility, Diego Garcia, Indian Ocean	−3,300,000
Aircraft protective shelters (Europe)	−7,500,000

The conferees have agreed to restore $6,000,000 of the $8,770,000 deleted by the House for special aircraft support facilities at Andrews Air Force Base, Maryland. The conferees are in full agreement that the total amount of $19,500,000 thereby provided in this Act represents an absolute limitation upon the amounts which the Air Force may expend for construction in support of these special aircraft at Andrews.

The Air Force is prohibited from making future military construction requests at Andrews for this purpose. The Air Force is directed to present to the Committee on Appropriations of the Senate and House of Representatives its plans for providing suitable facilities within the amount appropriated prior to obligating any of the funds herein provided.

The conferees are in agreement that only the minimum hangar structure necessary to protect the aircraft from the elements should be provided, if necessary for reasons of safety. Furthermore, the conferees feel that a hangar structure, if constructed, should be of relocatable design, if possible in order to reduce waste if this mission is required to be relocated from Andrews in future years. Therefore, the conferees require that before construction of such structure of its supporting facilities commence, the Secretary of Defense certify its necessity, and further that if it is not to be of relocatable construction, the Secretary of Defense certify the reasons therefor.

The House conferees insisted on their position with regard to the deletion of funds requested for an operational apron at Hickam Air Force Base, Hawaii, in view of the large amount of ongoing military construction and other construction in Hawaii this year. This action is taken without prejudice to future requests to improve facilities at Hickam Air Force Base.

The conferees have agreed to provide two of the three items deleted by the Senate at Scott Air Force Base, Illinois, the base supply facility for $2,110,000 and $3,000,000 for improvements to the runway. The conferees feel that the Air Force has failed to prove that a runway extension of the scope requested is necessary to accommodate the aircraft which are stationed at or which transit Scott Air Force Base. Accordingly, a project to acquire land and easements for the overrun of the runway extension, requested in the amount of $341,000, has been denied. The conferees acknowledge some modifications to the runway are necessary for safety reasons at Scott Air Force Base, and the Air Force is directed to restudy this problem and submit plans to correct it within the $3,000,000 provided for this purpose.

The conferees are anxious to avoid the costly problems of the earlier shelter program in Europe. Design of shelters should be completed in all respects before construction begins. The design of a new type of flush-mounted doors, as opposed to the older doors which were located under a portion of the shelter overhang, presents a technical problem that should be approached on an orderly basis. Doors should be carefully weapons tested concurrent with the first phase of this construction effort. The conferees will expect any changes indicated by the weapons test to be incorporated in the construction contract. Furthermore, the Committees on Appropriations of the House of Representatives and the Senate must be notified by the Air Force that the new U.S. design complies with NATO criteria before construction contracts are awarded. Furthermore, construction must be carried out using NATO procedures. This will enable the United States to claim recoupment of construction costs from NATO infrastructure funds. With these provisos the conferees are willing to support this additional increment of a program which they recognize is of vital importance.

Amendment No. 4, military construction, Defense Agencies. Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to appropriate $31,260,000 instead of $30,640,000 as proposed by the House and $31,600,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This would provide the following change to the amounts and line items as proposed by the House:

Defense Construction Supply Center, Columbus, Ohio: Road drainage improvements	+$620,000

Amendment No. 5, general provisions. The conferees agreed to delete language contained in the Senate amendment numbered 5. The conferees are in agreement that the objectives of this amendment are met by requiring the Army to make a full disclosure of its plans with regard to establishment of an armaments development center to the Commitees on Armed Services and Appropriations of the Senate and House of Representatives in connection with any reprogramming request for funds, other than for planning and minor construction, for projects to establish such a center.

Amendment No. 6, general provisions. The conferees agreed to the language contained in section 111 of the House bill.

Mr. HUGHES. Mr. President, the conference report on military construction appropriations does not contain the amendment I offered on Monday, and which was adopted by the Senate, to prohibit obligation of funds during the current fiscal year for construction of facilities to house an Army armament development center.

I am, of course, disappointed that the amendment could not be sustained in conference, but I am grateful that it was considered thoroughly and debated vigorously before a consensus was achieved to drop the amendment and substitute strong language in the conference report.

I want to express my appreciation to the Senator from Wisconsin (Mr. PROXMIRE) as manager of the bill, the Senator from North Dakota (Mr. YOUNG), the Senator from Pennsylvania (Mr. SCHWEIKER), and the other members of the conference committee for their indulgence and interest in this matter.

I am grateful that they agreed with the objective of the amendment, which was to insure that the Army does not obligate any substantial amount of military construction funds for an armaments development center until Congress is advised of the Army's plans.

Toward that end, the conference, in its report, has instructed the Army:

. . . to make full disclosure of its plans with regard to establishment of an armaments development center to the Committees on Armed Services and Appropriations of the Senate and House of Representatives in connection with any reprogramming request for funds, other than for planning and minor construction, for projects to establish such a center.

This language does not, in my view, close the barn door altogether, but it serves notice on the Army that extensive and expensive reorganizations are a matter of considerable concern in Congress, and it insures that four major committees will be provided with data and documentation at crucial stages of the decisionmaking process.

Mr. President, we received an indication this morning of the possible cost of establishing an Army armaments development center from Gen. Henry A. Miley, Jr., commander of the Army Materiel Command.

In a meeting with members of the Iowa and Illinois delegations in Congress, General Miley suggested that military construction costs alone might be on the order of $40 million for one of the more modest of the eight options the Army is considering, ranging up to as much as $200 million for an option that involves purchase of land and construction of a new installation.

These figures are only casual approximations, Mr. President, but they do indi-

cate the magnitude of the reorganization projects under consideration by the Army.

I would emphasize that the Army has presented no testimony to any committee of Congress regarding a reorganization of its research and development activities, and I maintain my conviction that Congress should be apprised before funds are spent.

I know that my colleagues in the Senate will agree.

Mr. PROXMIRE. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question recurs on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will report the amendments in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered one to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: $656,825,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered two to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: $606,376,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered three to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: $456,439,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered four to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: $31,260,000

Mr. PROXMIRE. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 1, 2, 3, 4.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin.

The motion was agreed to.

AMENDMENT OF THE COASTAL ZONE MANAGEMENT ACT OF 1972—S. 3922

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1287, S. 3922.

There is a time limitation on this measure.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3922) to amend the Coastal Zone Management Act of 1972 to provide more flexibility in the allocation of administrative grants to coastal States, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. TUNNEY. Mr. President, I strongly urge my colleagues to support S. 3922, as reported. While this bill makes only rudimentary changes in the Coastal Zone Management Act of 1972, the changes are essential to the improved administration of coastal zone management grants by the Department of Commerce.

Because of a meeting of the Appropriations Committee at this hour, Senator HOLLINGS, the sponsor of this bill, is unable to be here this afternoon to manage the bill on the floor, and has asked me to handle it in his absence.

By way of a brief explanation, S. 3922 would amend the Coastal Zone Management Act in four ways.

First it would increase the authorization for section 305 program development grants from $9 million to $12 million in order to clear the way for an expected administration request for an additional $3 million in planning funds for this fiscal year. I am pleased that the administration supports this provision, and I hope it is an indication that it will be placing greater emphasis in the future on coastal zone management in conjunction with its plans for leasing on the Outer Continental Shelf.

Mr. President, California places strong emphasis on coastal zone management, and has asked the Department of the Interior to delay leasing off southern California until the California Coastal Conservation Commission completes its coastal zone management plan sometime next year. So far Interior has refused to delay the proposed lease sale, and the matter is now in the courts. It is absurd to think that California or any other coastal State can cope with the impacts of oil and gas leasing without proper advanced planning and coordination. The additional funds authorized by this amendment will be useful in assisting the State of California and other States to cope with the tremendous developmental pressures that OCS drilling is expected to bring.

Mr. President, the bill also provides for removing the present 10-percent limitation on the amount an individual State can receive for administering a completed coastal zone program and replaces it with specific per year dollar limitations of $2 million for fiscal year 1975, $2.5 million for fiscal year 1976 and $3 million for fiscal year 1977.

This amendment is designed to deal with an unusual situation that is expected to occur only in the first and last years of the implementation of section 306. In those years the 10-percent limitation places those States that complete their program early, or late, as the case may be, at a disadvantage by limiting the amount of section 306 funds that they can receive. For example, if in one year NOAA only has four applicants for grants, as will probably be the case next year, only 40 percent of the amount appropriated could be used toward the purpose of this section. Our amendment would correct this situation and make distribution of funds more equitable.

The act also includes two other amendments, the first of which would extend the section 305 and 306 grant programs for 2 additional years beyond the fiscal year 1977 deadline now imposed by the act and the second of which would extend for 3 years the section 312 estuarine sanctuary grant program at its present $6 million per year level. The latter program's authorization expired on June 30 of this year.

Mr. President, S. 3922 was reported unanimously by the committee. I think it is a good bill, and one which will make the Coastal Zone Management Act an even better tool for coastal States to use as they continue the tough process of providing for the protection and management of our threatened coastal areas.

Mr. President, I ask unanimous consent that a statement by Senator HOLLINGS on S. 3922 be printed at this point is the RECORD.

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

STATEMENT BY SENATOR HOLLINGS

S. 3922 was reported unanimously by the Committee on Commerce on December 12 and has the support of the Department of Commerce, the National Advisory Committee on Oceans and Atmosphere, and the Administration.

A similar bill, H.R. 16125, was reported last week by the House Merchant Marine Fisheries Committee, and is expected to come up for consideration in the House this afternoon under a suspension of the rules.

Mr. President, the technical changes this bill would make in the Coastal Zone Management Act of 1972 are necessary for the improved administration of grants to coastal States for the development and implementation of coastal zone management programs. At the present time 31 of the 34 coastal States and island territories are participating in the Act.

The bill, as reported, would make four technical changes in the Act.

First, it would increase the authorization for section 305 program development grants from $9 million to $12 million per year in order to accommodate the additional planning assistance required by coastal States in planning for the anticipated coastal impacts of accelerated Outer Continental Shelf oil and gas development. The Administration has recognized the need of this increased funding and has agreed that it should be made available for fiscal year 1975. Since the current level of appropriations under section 305 of the Act is at the $9 million ceiling at the present time, the increased authorization level is needed to accommodate the $3 million request for funding expected early next year from the Administration.

The second amendment in the bill would remove the 10 percent limitation on the amount an individual coastal State can receive for program management assistance under section 306 of the Act, and would replace it with specific graduated dollar limitations for each year in which the section applies. Individual coastal States would, therefore, be limited to $2 million in fiscal year 1975, $2.5 million in fiscal year 1976, and $3 million in fiscal year 1977.

This provision is designed to deal with an unusual situation which is expected to occur only at the beginning and the end of the section 306, or the management phase, of the coastal zone program. Not all States will complete their coastal zone management programs at the same time, and only three or four are expected to be eligible for grants under this section during this fiscal year. Since initial appropriations for this section will be small, a situation could result where only 40 percent of the grant assistance could

be expended, and those grants would be much smaller than necessary to do the job. This amendment will provide NOAA with badly needed flexibility for making grants under this section, while imposing a more realistic per State limitation.

The 1 percent minimum grant limitation would, however, be retained in section 306, but would be modified so that States desiring less than 1% of the appropriated funds could receive less.

The third amendment would reinstate grant assistance for the section 312 estuarine sanctuary program at the $6 million per year level for three additional years. This program was limited to one year under the original Act, and therefore expired on June 30, 1974. Since nearly 20 states have expressed an interest in establishing an estuarine sanctuary, additional authorization will be necessary to meet the expected State applications. Estuarine sanctuaries are an essential part of the coastal zone management program since they are meant to serve as field laboratories for the study of the complex ecological relationships in the various types of estuaries throughout the coast.

Finally, Mr. President, S. 3922 would extend both the section 305 program development grants and the section 306 administrative grants for an additional two years beyond the present 1977 deadline authorized by the Act. As you will recall, Mr. President, the Office of Management and Budget did not recommend funding for the Act during its first year on the books. It was not until after extended negotiations between members of the Commerce Committee and the Administration that funding was finally made available. This delay has shaved almost a year off the time that Congress intended for grants to be available to States for developing and managing their programs. In addition, many unforeseen planning problems have cropped up as a result of the Administration's proposed 10 million acre leasing program that were unforeseen at the time the Act passed in October of 1972. Because of these two factors, Mr. President, the Committee feels that the Secretary's authority to administer sections 305 and 306 grants should be extended for an additional two years.

Mr. President, it is essential that this bill be passed before the adjournment of the 93rd Congress so that the States can be allowed the maximum benefits that the Act was intended to provide.

Mr. KENNEDY. Mr. President, I urge the Senate to act promptly in approving the pending amendments to the Coastal Zone Management Act.

The coastal zone plans being developed by 31 States and territories at the present time are an essential part of our national effort to preserve our natural heritage and to permit orderly development of our resources for the common good.

In Massachusetts, for example, we are well along in developing a well-designed coastal zone management plan. On July 15th, we received $210,000 in Federal funds under the Coastal Zone Management Act of 1972. Our Governor's task force on coastal resources set out an ambitious program to be accomplished with these funds including: an inventory of our State's coastal resources; the definition of permissible land and water uses; an inventory of potentially critical areas; the setting of management policy; the definition of coastal zone boundaries of 87 of our cities and towns which lie along the coast; the involvement of local officials and the public in the process; the administration of the coastal zone management program for Massachusetts; and the establishment of a coastal review board to review major projects along the coast.

It is clear to me, Mr. President, that this is a great deal to accomplish with a very small amount of money. This is particularly true for a State like ours, which faces the possibility of extensive offshore oil and gas drilling. We must be able to move along as quickly as possible if we are to have our management plan in place in time to deal with the massive impact which offshore drilling can be expected to have on our State's coastal areas.

The amendments before the Senate today, developed under the leadership of Senator HOLLINGS and the Senate ocean policy study, will first, increase the authorization for program development grants from $9 million to $12 million; second, remove the 10-percent limitation on the amount an individual State can receive for program management assistance, and third, reinstate the authorization for estuarine sanctuary grants which expired on June 30, 1974.

Mr. President, 31 or 34 eligible States and territories have taken advantage of the assistance available under the Coastal Zone Management Act. The amendments before us today will insure that funds are available for the completion and implementation of those plans. In addition, it is my understanding that the administration will include in its first supplemental appropriation request the funds to implement the provisions of these amendments.

I urge my colleagues to give this legislation their full support so that a well-received, much needed, Federal-State cooperative program can move ahead without delay.

Mr. TUNNEY. Mr. President, I yield to the Senator from Michigan.

Mr. HART. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 3, on line 5, after the words, "of this title.", insert the following:

"SEC. 2. In any action requesting equitable relief, under any Act administered by the Administrator of the Environmental Protection Agency or instituted at the request of such Administrator, where a risk to public health is alleged, the failure by the party requesting such relief to prove that demonstrable harm to health now exists or will result, shall not, in and of itself, constitute a permissible basis to deny such relief. The preceding sentence shall govern all proceedings in actions brought after the date of enactment of this Act and all further proceedings in actions then pending, except to the extent that in the opinion of the court its application in a particular action then pending would not be feasible or would work injustice."

The PRESIDING OFFICER. Is this an amendment on which there has been a time agreement?

Mr. HART. Twenty minutes, 10 minutes to a side, I am advised.

Mr. President, I yield myself such time as I may need.

Mr. President, this is an amendment which Senator NELSON and I believe is extremely important for the future of public health legislation. The provision was prompted by a decision by a panel of the U.S. Court of Appeals for the Eighth Circuit in litigation involving environmental discharges by the Reserve Mining Co.

Mr. President, I should add that the Senators from Minnesota (Mr. MONDALE and Mr. HUMPHREY) support the amendment.

In the Reserve Mining case, the eighth circuit's panel stayed a lower court injunction against the company—thus allowing the company to continue its discharges—on the ground that the parties requesting the injunction "had failed to prove a demonstrable health hazard." The panel made clear that by those words it intended to require plaintiffs to establish actual harm to the public before it could grant the relief requested.

Under our provision, such proof would not be required of the Government or private plaintiffs in lawsuits involving public health issues. It is our view that to require such proof of harm is in many cases to ask of plaintiffs more than science is capable of delivering. The feared result of such a requirement is that polluting activities may continue which severely risk—but do not demonstrably harm—the health of the public.

Our amendment thus specifically rejects the policy of the court of appeals panel by prescribing that in injunctive enforcement actions grounds on risks to public health, the plaintiffs' failure to prove actual harm would not in and of itself amount to a bar to relief. It is the intention of the provision that in such cases, in the absence of such proof of harm, the court is to balance any risk of harm established against the costs of the relief requested—together with all other factors properly bearing on the matter—in deciding what relief is appropriate.

This provision has been endorsed in principle by the Department of Justice, the Environmental Protection Agency, and the Council on Environmental Quality, and was adopted without objection by the Commerce Committee when that committee considered it earlier this year. It is my hope that the amendment can be accepted by the managers of the bill and then adopted by the Senate as a whole.

Mr. NELSON. This measure is extremely important for the future of public health legislation and certain court cases where public health is at stake. The point of it is to permit a judge to stop a dangerous potential threat to public health before, not after, the harm has been done. The amendment was stimulated by a decision of the U.S. Court of Appeals for the Eighth Circuit in a Federal lawsuit known as the Reserve Mining case, where the court's decision suggested that all uncertainties

should not be resolved in favor of health safety.

The amendment is a compromise which has the endorsement of the Department of Justice, the Environmental Protection Agency, and the Council on Environmental Quality. Its basic language was adopted without objection by the Commerce Committee in connection with another piece of legislation which was rereferred to another committee but not reported to the Senate. The Reserve Mining Co. is in Minnesota and the two Senators from that State, Mr. HUMPHREY and Mr. MONDALE, both support it.

The eighth circuit itself, in the Reserve case, suggested that this legislation is necessary. In that case, the United States, as well as the States of Wisconsin, Michigan, and Minnesota, and other plaintiffs, sought to enjoin the Reserve Mining Co. from dumping tailings of "taconite" into the waters of Lake Superior. The plaintiffs charged that there was a risk of cancer to those living in the Superior-Duluth region who ingested the water from the lake.

The district judge, Judge Miles W. Lord, enjoined the company from continuing the dumping. In issuing his injunction, Judge Lord refused to "permit the present discharge until such time as it can be established that it has actually resulted in death to a statistically significant number of people. The sanctity of human life is of too great value to this court to permit such a thing," he said. Aware that "any environmental litigation must involve a balancing of economic dislocation with the environmental benefits," Judge Lord based his decision on his view that the defandants "have the engineering and economic capability to obviate the risk and chose not to do so in order to continue (the) profitability of the present operation." He put the whole issue into a few words and said:

> This court cannot honor profit over human life and therefore, has no other choice but abate the discharge.

But the Eighth Circuit Court of Appeals disagreed and lifted the injunction. In doing so, it said that:

> Judge Lord apparently took the position that all uncertainties should be resolved in favor of health safety, and ruled that Judge Lord's "determination to resolve all doubts in favor of health safety represents a legislative policy judgment, not a judicial one."

In other words, that court was of the opinion that a statute was necessary to achieve the result plaintiffs then sought.

The eighth circuit justified its decision on the grounds that the parties requesting the injunction "had failed to prove a demonstrable health hazard." The panel made clear that by those words it intended to require plaintiffs to establish actual harm to the public before it could grant the relief requested. Under the provision reported by the Commerce Committee such proof would not be required of the government or private plaintiffs in law suits involving public health issues. It is our view, as sponsors of the provision, that to require such proof of harm is in many cases to ask of plaintiffs more than science is capable of delivering.

Our provision thus specifically rejects the policy of the court of appeals panel by prescribing that in injunctive enforcement actions grounded on risks to public health, the plaintiffs' failure to prove actual harm would not in and of itself amount to a bar to relief. It is the intention of the provision that, in the absence of such proof of harm, the court is to balance any risk of harm established against the costs of the relief requested—together with all other factors properly bearing on the matter—in deciding what relief is appropriate.

Courts are used to making this sort of balancing test. On August 19, 1974, Senator HART and I introduced a similar measure and in that day's CONGRESSIONAL RECORD I cited the cases and statutes which describe this balancing test and explain the law in this field.

On that day, I made it clear on the record that my sponsoring this amendment should not be seen as a tacit concession that I believed the eighth circuit was correct that such a law would be necessary before a court could rule for plaintiffs in such a case. On the contrary, under the statutes and cases which I cited, there is ample authority, I believe, to permit a court to enjoin the conduct creating a potentially serious health hazard, in cases where there is some evidence of it, but the evidence is inconclusive.

Mr. TUNNEY. Mr. President, I think that the amendment is a good one, and I hope that it will be accepted by the House of Representatives, assuming it passes the Senate. It seems to me to be a ridiculous situation where we would have to have proof that the ingestion of asbestos causes cancer before we can take remedial steps to prevent companies from discharging asbestos tailings into a waterway where, downstream, that water is brought into a municipal drinking water system.

It is clear that asbestos causes cancer when it is inhaled in the lungs. We have workers in asbestos factories who have developed cancer, and there is no reason for a rational person to suggest that there is no likelihood of asbestos causing cancer when it is ingested orally.

For the court to have thrown out the case may conceivably be a proper application of the law; it is not necessary for us to make a judgment on that. But it does not make any sense when we look at the problem of protecting human life.

I might say it usually takes 20 to 30 years for a carcinogen to produce the cancer, so it may be some years before the individuals who have ingested this asbestos come down with cancer. At any given point in time, no one really knows how many will have cancer, and I think that this is a most appropriate amendment, because it will enable the court to look at the total picture, all the factors, and make a determination that such asbestos tailings being dumped into the water should be prohibited under the law, because it is likely to cause serious health injury to the citizens.

So I am willing to accept the amendment for the committee.

Mr. STEVENS. Mr. President, before the amendment is accepted, I would like to inquire. This does not cover just the Minnesota Mining case, though certainly that is what it is aimed at.

I come from an area where ice fogs cause a peculiar kind of pollution, and the Environmental Protection Agency has been trying to prevent us from driving cars in Fairbanks on certain days in the year.

The amendment states:

> Where a risk to public health is alleged, the failure by the party requesting such relief to prove that demonstrable harm to health now exists or will result, shall not, in and of itself, constitute a permissible basis to deny such relief.

I do not have any objection to that language, but will the Senator tell me what they do have to prove if they bring an action for an injunction alleging risks to public health? What do they have to prove?

If the Senators want a Minnesota mining amendment, I wish they would put in a Minnesota mining amendment. This is such a broad amendment that I do not know what it will do to EPA actions throughout the country.

Mr. HART. Mr. President, let me answer the Senator from Alaska in this fashion: It is the intent of the amendment that in suits based on health risks, the absence of proof of harm, which we seek to make clear is not in and of itself a bar to these claims, would then impose on the court the burden of balancing such risks to health as may have been established against the cost of the relief that has been requested—together with all other relevant factors.

Mr. STEVENS. I appreciate the Senator's statement, but I would like the record to be clear as to what we are doing.

Suppose the EPA goes in and seeks an injunction to prevent a particular activity, what does it have to prove? I am sure the notorious problem we are talking of here is the problem of the Great Lakes. But EPA is bringing cases all over the country alleging risks to public health. As I understand this amendment, it says you would not have to prove that such harm has actually resulted or will likely result in the immediate future. "That alleged risks to health" obviously means risks to human health, I presume.

Mr. HART. Yes.

Mr. STEVENS. And although they allege a particular type of result, they do not have to prove it under this amendment. What do they have to prove, though? The allegation is based upon risk to human health. If they do not have to prove actual harm now or in the near future, what do they have to prove? I assume they will have to prove a substantial risk of harm to human beings would result, even though they cannot prove it has resulted from the alleged action in the past. Is that the approach? Where is the breaking line here?

Mr. TUNNEY. Mr. President, if the Senator will yield, it is my understanding that what has to be proved is that there is a danger to health, but they do not have to prove that actual harm has

been caused by the particular discharge or the effluent that has been put into the water bay.

I think the difference is really one of proof. On the one hand, you are showing that it may cause harm; on the other hand, as I understand the amendment, under the law as it has been interpreted by the court of appeals panel, you have to prove that harm in fact does exist. It is a difference in what is required on the part of that person who is seeking injunctive relief. In the case of this discharge of asbestos into the water bay, it has yet to be proved that the ingestion of asbestos causes cancer, although we certainly know that when you breathe asbestos it causes cancer. But ingestion has yet to be demonstrated to cause cancer.

So in this particular case, all the plaintiff would have to allege and establish would be that there was a risk that cancer would be caused, not that the costs of the relief requested were not unreasonable in view of the degree of protection provided by that relief.

It would be a question of fact and proof of fact, but it would certainly diminish to a degree the amount of proof that the plaintiff would have to bring before the court in order to get injunctive relief.

Mr. STEVENS. Again the Senator has addressed himself to a particular instance. This covers any action of the EPA under any act of Congress, and it says where EPA alleges, under any of those acts, that an injunction is sought because of a risk to public health, they do not have to prove particular harm.

What does the judge have to go on, if you allege risk to public health and seek an injunction to prevent that, and then do not have to prove it? I entirely support the EPA objectives, but my city of Fairbanks objects to the findings of the EPA with regard to air pollution caused by ice fogs, and we have a continuing controversy. This amendment covers my situation at Fairbanks as much as it covers the situation on the Great Lakes.

I think we ought to be specific. If they do not have to prove that ingestion of asbestos has actually caused cancer yet—and frankly I do not know whether they can prove it or not; I take it they cannot—what do they have to prove? Certainly they have to prove a substantial risk to public health before they can get an injunction. EPA does not have a right—at least I would hope they do not; otherwise we are giving them carte blanche to get injunctions, and in every case the court could say, "Congress has said we do not have to prove risk even though we allege it." That would deny every opponent to the position of EPA their day in court, including the city of Fairbanks.

Mr. HART. Let me state it again. This states something that does not have to be proved.

The amendment says that failure to prove demonstrable harm does not put you out of court. Inability to prove that this body is dead because the fiber was cancer causing does not put you out of court. But I would believe that it is still required on the part of the court, where the allegation and the basis of the suit is that there is a risk there, that evidence establishing a measure of risk must be introduced, and the court then judges the magnitude and likelihood of the risk and the cost of protecting against that degree of risk before it issues its final order. But it is not a bar to successful prosecution that demonstrable harm, as distinguished from a risk to public health, has not been established.

Mr. STEVENS. I would say to the Senator from Michigan if we were not talking about equitable relief I would agree. We are talking about the ability of a party—and I have done this as an attorney, and anybody who has practiced as an attorney in this body has also—to file an affidavit, start an action, and seek an injunction right there and then. That is the thing we are saying.

When you allege that you have a risk to public health in order to get an injunction today you have to prove it, and we are saying you do not have to prove that this is a risk to public health, and I think we ought to give them some guidelines.

I have no objection to what the Senator is trying to do. I just think there ought to be some guidelines to the court. If you say you do not have to prove a risk to public health, you ought to establish the reasons why you cannot prove that today because scientific evidence is not conclusive. You have to establish that you know there is a body of scientific evidence which is being formulated which does lead or would lead any reasonable person to conclude that there is a substantial risk of harm to the public at large by the action that is sought to be enjoined.

I think we ought to have some standards. If we do not have standards, then what we have done, I think, is we have denied a lot of people their day in court because of a cause celebre. I am familiar with the cause celebre, and I am trying to support what the Senator is trying to do.

Mr. HART. Will the Senator from Alaska find it helpful if, in addition to the language in the amendment as offered, we added after "where a risk to public health is alleged," the additional language "and established"?

Mr. STEVENS. That still leaves a burden on the Environmental Protection Agency to show that the risk itself can be established even though the immediacy of the connection between that risk and a harm would not have to have immedate proof, such as my friend, the Senator from California says, of a dead body and the proof of death caused by cancer derived from the source of the risk. I think that it would be a problem to prove such conclusion, but the risk of harm to public health must still be established to get temporary relief or get equitable relief in an injunction action.

Mr. HART. With the addition of those words it would be clear that we intend that.

Mr. STEVENS. I would be grateful if the Senator would amend it in that fashion.

Mr. HART. Mr. President, I amend the language of the amendment so that on the third line——

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

Mr. STEVENS. Mr. President, I understand that the Senator from Michigan is going to offer the amendment, and I am very grateful for the exchange and for assisting those of us who are trying to maintain protection of people who are really seeking their day in court.

The PRESIDING OFFICER. The clerk will report the amendment as modified.

The assistant legislative clerk proceeded to read the amendment.

Mr. HART. Can the clerk read it?

Mr. President, I can read it and, perhaps, the clerk, as he hears it, will understand what I have got on it:

> In any action requesting equitable relief, under any act administered by the Administrator of the Environmental Protection Agency or instituted at the request of such Administrator, where a risk to public health is alleged and established, the failure, . . .

And then there are no further changes.

Mr. NELSON. Mr. President, may I ask a question of the Senator?

The PRESIDING OFFICER. Does the Senator yield?

Mr. HART. I apologize. This is, as we explained at the outset, Senator NELSON'S amendment as well as mine.

The PRESIDING OFFICER. The time of the Senator from Michigan has expired. There are 2 minutes on the other side remaining.

Mr. STEVENS. I would be happy to yield to my good friend, the Senator from Wisconsin.

Mr. NELSON. We are talking about what you are always talking about in this kind of a case, and that is proof that the risk of harm is greater than whatever other benefits there may be; that is what we are really talking about.

I wonder about using the word "established." Maybe it is all right. We know that people die from the ingestion of asbestos inhaled into the lungs, as the Senator from California has pointed out.

What Federal Judge Lord of Minnesota was concerned about was that we have not yet proved that any body ingesting water with the taconite tailings in it would die from it, and he did not want to wait 20 years to find out whether 200,000 people would end up that way dying. So you have proof it is carcinogenic but not proof that ingested in that way would cause death.

I am assuming when the Senator says "establish" he does not mean establish in drinking water in this case.

Mr. HART. What I mean to say is that Judge Lord found properly there was a risk.

Mr. STEVENS. Yes.

Mr. HART. The appellate court said, "Ah, but you did not find and cannot find that there was harm," harm being the body that is sick or dying. But the risk is clear.

Mr. NELSON. All right.

Mr. HART. We want to make clear that in suits grounded on risks to public health there has to be a finding that the record in fact establishes a risk.

Mr. STEVENS. That is all I seek.

The PRESIDING OFFICER. All time has expired on the amendment.

The question is on agreeing to the amendment, as modified, of the Senator from Michigan.

The amendment, as modified, was agreed to.

ORDER GRANTING PERMISSION FOR THE FOREIGN RELATIONS COMMITTEE TO MEET ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be given permission to meet on Thursday, December 19, to consider various nominations.

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

AMENDMENT OF THE COASTAL ZONE MANAGEMENT ACT OF 1972

The Senate continued with the consideration of the bill (S. 3922) to amend the Coastal Zone Management Act of 1972 to provide more flexibility in the allocation of administrative grants to coastal States, and for other purposes.

Mr. TUNNEY. Mr. President, I am prepared to yield back the remainder of my time if the Senator from Alaska is prepared to yield back the remainder of his time.

Mr. STEVENS. If I am in control of that bill—and I think I am—then I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 3922) was passed, as follows:

S. 3922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Coastal Zone Management Act of 1972 (86 Stat. 1280) is amended as follows:

(1) Subsection (h) of section 305 is amended by deleting "1977" and by inserting in lieu thereof "1979".

(2) Subsection (b) of section 306 is amended by deleting all after "relevant factors:" and by inserting in lieu thereof "*Provided*, That no annual grant made under this section shall be in excess of $2,000,000 for fiscal year 1975, in excess of $2,500,000 for fiscal year 1976, nor in excess of $3,000,000 for fiscal year 1977 and succeeding fiscal years: *Provided further*, That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section, unless at the discretion of a State a lesser amount will suffice.".

Section 315 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 315. (a) There are authorized to be appropriated—

"(1) the sums of $9,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, and the sum of $12,000,000 for each of the five succeeding fiscal years, for grants under section 305, to remain available until expended;

"(2) such sums, not to exceed $30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1979, as may be necessary, for grants under section 306, to remain available until expended; and

"(3) such sums, not to exceed $6,000,000 for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years, as may be necessary, for grants under section 312, to remain available until expended.

"(b) There are also authorized to be appropriated such sums, not to exceed $3,000,000 for fiscal year 1973, and for each of the six succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.".

SEC. 2. In any action requesting equitable relief, under any Act administered by the Administrator of the Environmental Protection Agency or instituted at the request of such Administrator, where a risk to public health is alleged and established, the failure by the party requesting such relief to prove that demonstrable harm to health now exists or will result, shall not, in and of itself, constitute a permissible basis to deny such relief. The preceding sentence shall govern all proceedings in actions brought after the date of enactment of this Act and all further proceedings in actions then pending, except to the extent that in the opinion of the court its application in a particular action then pending would not be feasible or would work injustice.

EXTENSION OF AUTHORIZATION FOR THE STRIKING OF COMMEMORATIVE MEDALS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 17655.

The PRESIDING OFFICER laid before the Senate H.R. 17655, an act 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, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

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

Mr. ROBERT C. BYRD. Will the Senator withhold that request?

Mr. ALLEN. Yes.

ORDER FOR THE COMMITTEE ON COMMERCE FOR PERMISSION TO FILE A REPORT ON H.R. 13296 UNTIL MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, on behalf of the Committee on Commerce, that that committee have until midnight tonight to file a report on H.R. 13296, the maritime authorization bill.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the conference report on public service employment be made the order of business at this time and that the Senator from Wisconsin be recognized.

The PRESIDING OFFICER. Does the distinguished majority leader want to dispose of the bill he laid down or lay it aside?

Mr. ROBERT C. BYRD. Yes, I want to dispose of it. I thought it had been disposed of.

Mr. ALLEN. I would like to have a quorum call prior to the approval. I want to look at the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that—well, I withdraw my request wth respect to the bill, whatever that number is.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

SPECIAL EMPLOYMENT ASSISTANCE ACT OF 1974—CONFERENCE REPORT

Mr. NELSON. Mr. President, I submit a report of the committee of conference on H.R. 16596, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the 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 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 today.)

Mr. NELSON. Mr. President, is there a time limitation?

The PRESIDING OFFICER. Not to the knowledge of the Chair.

Is there a time limitation on this bill?

Mr. ROBERT C. BYRD. Not at the moment, Mr. President.

Mr. NELSON. This conference report was signed by all the conferees, both minority and majority, of both the Senate and the House. The conference report passed the House today by a vote of 346 to 58. The original bill passed the Senate by a vote of 75 to 13.

Mr. President, we have before us today the conference report on H.R. 16596, the Emergency Jobs and Unemployment Assistance Act of 1974. When the Senate votes to pass this unprecedented emergency measure, it will be the last formal action required to send the bill to the President for his signature. And even as we act here today, Congress is preparing to appropriate the money necessary to begin funding these measures, so that this legislation can have some immediate impact on the serious economic problem of intolerable unemployment generated by the deepening recession.

The package of congressional unemployment measures we expect to pass this week is designed to ease the problems of as many unemployed workers as pos-

sible at a time when new jobs are hardest to find. That package includes a renewed and expanded commitment to public service employment, new federally funded coverage for the approximately 12 million workers who are not currently covered under any State or Federal unemployment insurance program, and an expanded labor intensive public works program designed to put people to work today and increase future economic development and jobs in the private sector at the same time, as well as the bill reported by the Finance Committee which passed the Senate yesterday to provide extended and supplemental unemployment compensation for unemployed workers who exhaust their regular State benefits.

All of these measures except the Finance Committee bill—the new supplemental benefits for covered workers who exhaust their regular unemployment compensation—are included in the conference report before us today. The measure to extend benefits for those exhausting State unemployment insurance benefits was embodied in a bill I introduced 2 weeks ago with the cosponsorship of Senator RIBICOFF, Senator JAVITS, and more than a third of my other Senate colleagues. It has passed the House and Senate with virtually identical language, the latter by a vote of 84 to 0, and should be on the President's desk at the same time as this conference report.

The conference report before us today reconciles the differences between the other unemployment assistance measures passed by the House and Senate last week.

The public service employment bill which passed the Senate included a $4 billion 1-year authorization to create approximately 530,000 jobs, a program providing up to 26 weeks of unemployment compensation type benefits for workers not currently covered by any other unemployment compensation law, and a $1 billion job-creating public works title which was added on the floor of the Senate at the request of the distinguished chairman and ranking minority member and other members of the Senate Committee on Public Works.

The public service jobs bill passed by the Senate would have distributed funds to all prime sponsors under the Comprehensive Employment and Training Act of 1973—CETA—by allocating in proportion to the total number of unemployed persons in those areas in relation to the total number of unemployed persons in the country, with 25 percent earmarked for local areas of substantial unemployment, that is, local pockets of 6½ percent unemployment or more.

The Senate title creating new unemployment compensation entitlements would be in effect so long as nationwide unemployment exceeds 6 percent for 3 or more consecutive months, or if it nationwide falls below that rate, then in local prime sponsor areas exceeding 6.5 percent unemployment.

The House-passed unemployment assistance bill contained an authorization for a $2 billion public service jobs program, with the funds distributed to CETA prime sponsors 50 percent on the basis of overall unemployment as in the Senate bill and 50 percent on the basis of the number of unemployed persons in such areas in excess of 4.5 percent in relation to the number of unemployed persons in excess of 4.5 percent in all parts of the country.

The House-passed bill also contained an unemployment compensation provision for previously ineligible workers, but limited the program to areas of 6.5 percent with the additional requirement that nationwide unemployment exceeds 6 percent.

The conference committee considered these measures, and has reported a bill which contains the following major provisions:

PUBLIC SERVICE JOBS

The conference agreement authorizes $2.5 billion for the creation of approximately 330,000 public service jobs during 1975. These jobs will be created at the State and local level with the money distributed to CETA title I prime sponsors according to the following formula: 50 percent of the funds would be distributed on the basis of the total number of unemployed persons in an area, 25 percent on the basis of the unemployment in such areas in excess of 4.5 percent, and 25 percent on the basis of unemployment in local areas with 6.5 percent unemployment or more.

The conference agreement requires a worker to be unemployed for at least 15 days before that worker becomes eligible for a public service job, and includes a provision giving preferred consideration for such jobs to workers who have exhausted all other benefits or were not eligible for any such benefits, or to workers who have been unemployed for 15 weeks or longer. All the provisions of CETA that currently apply to public service employment programs would apply to jobs under this new authorization, except that the conference bill includes a provision stressing the intent of Congress that certain reemployment goals in the current law are to be considered goals rather than requirements. The final bill also includes a provision waiving certain CETA title II requirements which are difficult to meet in high-unemployment areas, as well as authorizing special capital improvement projects in areas experiencing excessively high levels of unemployment—7 percent or more—and areas of substantial unemployment.

Finally, miscellaneous provisions of the conference agreement authorize part-time work for unemployed persons, such as older or handicapped workers, who are not capable of working full time; prohibit discrimination on the basis of age; include child care in the definition of a public service activity; and provide for maximum efforts to produce job and job-training opportunities for Vietnam-era veterans.

SPECIAL UNEMPLOYMENT ASSISTANCE PROGRAM

The conferees accepted the Senate trigger provision for unemployment type compensation for previously ineligible workers. Thus, a nationwide program will go into effect as soon as this title is enacted, since the 6 percent, nationwide unemployment trigger was met as of November, and all previously ineligible workers in the country will continue to be eligible for benefits under this title for as long as unemployment continues to average 6 percent or more, until December 31, 1975. If national unemployment drops below 6 percent this title expires. Workers will still be eligible for benefits in CETA title I prime sponsor areas having 6.5 unemployment or more.

Individual entitlement for benefits under this program depends first upon the existence of an agreement between the Secretary of Labor and the State where the individual was last employed for at least 5 days. The conferees want to encourage States to enter into such agreements as quickly as possible following enactment of this bill. In no event is it intended that a State should be required to change its law in order to enter into such an agreement, since it is the intention of Congress that all benefits and all State administrative expenses associated with them be funded by the Federal Government.

Once such an agreement is in effect, an individual unemployed worker must qualify for benefits in the same manner as if his employment had been covered by the unemployment insurance law of the State where he or she was last employed. The level of the worker's benefits and their duration—up to a maximum of 26 weeks—will also be determined as if the worker's employment had been covered, except that a State must use a uniform base year of the most recent 52 weeks prior to a worker's claim for assistance in determining such benefits and duration.

The State is also directed to employ affidavits to determine a worker's eligibility for benefits if the use of employment records is not possible or would result in delaying relief. False statements in such affidavits would render an individual ineligible to receive benefits and would also subject the individual to prosecution.

One final thing the conference committee wanted to make clear is that this temporary title is in no way intended to be a substitute for needed broader reform of the unemployment compensation laws.

LABOR-INTENSIVE PUBLIC WORKS PROGRAM

The conference committee agreed to accept a modified version of the Senate public works amendment, after receiving assurances that there would be no objections to such a provision in the House of Representatives. The sum of $500 million is authorized for fiscal year 1975 for programs and projects which have the potential to stimulate the creation of jobs for unemployed persons in areas experiencing high unemployment. Determinations on applications for funding for such projects are to be made jointly by the Secretary of Commerce and the Secretary of Labor, with the proviso that no less than half of any funds appropriated are to be spent for projects in which at least 75 percent of the money goes for wages.

Mr. President, on behalf of 6 million unemployed Americans, I wish to commend my colleagues in the Senate and

House for acting with extraordinary cooperation on this package of emergency unemployment measures. By the time Congress adjourns later this week, no fewer than eight congressional committees—The Labor Committees of both Houses, the Finance, and Ways and Means Committees, and the Appropriations and Public Works Committees of both Houses—will have acted in concert to produce and appropriate funds for this legislation, not to mention the tireless work of all the individual Members of both branches in deliberating and enacting these measures. When we act upon this bill today and clear it for the President's signature, we should do so recognizing that this legislative body, which has often been characterized as a cumbersome and slow-moving creature is, indeed, capable of responding swiftly and effectively when the need arises. I hope and trust that this cooperation will carry over into the 94th Congress.

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. 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 not to exceed 2 minutes.

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

UNITED NATIONS PEACEKEEPING FORCES IN THE MIDDLE EAST AND CYPRUS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1285.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 16982), an act to authorize United States payment for fiscal year 1975 to the United Nations for expenses of the United Nations peacekeeping forces in the Middle East and the United Nations forces in Cyprus, reported with amendments.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill (H.R. 16982) which had been reported from the Committee on Foreign Relations with an amendment on page 1, beginning with line 5, strike out:

SEC. 2. There is authorized to be appropriated to the President for fiscal year 1975 funds for payment by the United States of its share of the expenses for the United Nations Disengagement Observer Force and the Emergency Force in the Middle East for the period November 1, 1974, through October 31, 1975, except that from the sums authorized to be appropriated by this Act, the United States shall pay at no higher rate of assessment than the rate established for the United States for the period preceding such period. Such funds shall remain available until expended.

SEC. 3. There is authorized to be appropriated to the President for fiscal year 1975 for payment by the United States of its share of the expenses for the United Nations Force in Cyprus, $4,800,000. Such amount shall remain available until expended.

And insert:

SEC. 2. There is hereby authorized to be appropriated to the Department of State such sums as may be necessary from time to time for payment by the United States of its share of the expenses of the United Nations peacekeeping forces in the Middle East, as apportioned by the United Nations in accordance with article 17 of the United Nations Charter.

Mr. ROBERT C. BYRD. Mr. President, I yield to Senator MCGEE.

Mr. McGEE. Mr. President, the only point to the authorization is that early in December the peacekeeping authorization for the U.N. troops in the Middle East and Cyprus expired and it had to be renewed through this body.

All this does through the Foreign Relations Committee is to reauthorize the American payment for its proportionate share of that operation, to keep those truce forces in place both on the Golan Heights and on Cyprus.

We have agreement on both sides. There was unanimous approval that this be enacted into law.

I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An act to authorize U.S. payment to the United Nations for expenses of the United Nations peacekeeping forces in the Middle East, and for other purposes."

Mr. McGEE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. AIKEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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. 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.

EXTENSION OF AUTHORIZATIONS FOR THE STRIKING OF COMMEMORATIVE MEDALS

The Senate continued with the consideration of the bill (H.R. 17655) 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.

Mr. GRIFFIN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The clerk will state the pending business.

The assistant legislative clerk read as follows:

H.R. 17655, an act 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.

The bill was considered, ordered to a third reading, read the third time, and passed.

SPECIAL EMPLOYMENT ASSISTANCE ACT OF 1974—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 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.

Mr. ROBERT C. BYRD. Mr. President, what is the business now before the Senate?

The PRESIDING OFFICER. The matter at the desk——

Mr. ROBERT C. BYRD. Mr. President, the conference report on public service employment is still before the Senate.

The PRESIDING OFFICER. The question then is on the adoption of the public service conference report.

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, we have talked of the views of the conferees on this side of the aisle and have had no requests for time from any of these conferees.

Mr. President, I urge Senate approval of the conference agreement on the Emergency Jobs and Unemployment Assistance Act of 1974.

This is landmark legislation to deal with what might be described as a "landmine" national unemployment situation with about 6 million persons unemployed in November when the national unemployment rate was 6.5 percent, and with the Chairman of the Council of Economic Advisers' recent prediction that the Nation may well be at 7 percent national unemployment within the next 6 months. Already, New York State and New York City are over the danger mark with 5.9 percent and 7.1 percent, respectively.

To deal with this situation, the bill authorizes $2.5 billion for the creation of approximately 330,000 1-year slots—at $7,800 per year—in transitional public service employment under title I; provides coverage to approximately 12 million workers not covered by the existing unemployment insurance system with a projected cost of $2.5 billion at present unemployment rates,

under title II; and authorizes a job generating public works program with an authorization of $500 million in fiscal year 1975 under title III.

But even beyond the very extensive aid to particular individuals—which is, of course, most important—the conference agreement must be considered compelling evidence to the country as a whole that the Congress intends to deal decisively with the current recession and economic crisis.

It should be a strong indication to the Nation that this "lameduck" Congress has not been helpless or ineffective in meeting the challenge, but has pushed forward in concert with a concerned administration to see that in this important field of jobs and expanded unemployment compensation benefits, the Nation pursues an active policy that will provide for those hurt by the recession.

Mr. President, this is the first installment on that appeal to congressional leadership which represents an effort to deal with the present recession and serious unemployment as contrasted with what we have been doing in respect of inflation, and, of course, the situation thoroughly warrants this kind of treatment.

Mr. President, with this general background, I shall now comment on how the conference resolved various differences between the Senate and House bills.

TITLE I—PUBLIC SERVICE EMPLOYMENT

First, authorization of appropriations. The Senate bill authorized $4 billion for fiscal year 1975 to fund an estimated 530,000 transitional public service jobs during calendar year 1975—at an estimated average cost of $7,500 per year per job—in vital areas such as education, environmental quality, and health care, conducted through the system of State and local governmental prime sponsors established under title I of the Comprehensive Employment and Training Act of 1973. These funds would have supplemented the $1 billion and 170,000 jobs already made available under title II of CETA, which is confined to areas having unemployment of 6.5 percent or more for 3 consecutive months.

The House authorized $2 billion for fiscal year 1975, for an estimated 300,000 transitional public service jobs basically during calendar year 1975.

The conference agreed on an authorization of $2.5 billion for fiscal year 1975 for approximately 330,000 public service jobs at an average of $7,800 per year per job, but with the understanding expressed in the statement of managers that should that authorization be inadequate to meet next year's situation, the general authorization contained in the Comprehensive Employment and Training Act could be utilized to obtain additional funds.

Second, method of distribution. Both bills utilized the CETA system—an improvement over the administration's proposal—but the formulas of distribution differed. The House bill provided that 50 percent of the allocated funds would be distributed on the basis of the relative number of unemployed persons and 50 percent on the basis of the number of unemployed in excess of 4.5 percent.

The Senate provided that 75 percent of the allocated funds be distributed on the relative number of unemployed persons and 25 percent distributed solely to areas previously qualifying under title II—areas having unemployment of 6.5 percent or more for 3 consecutive months.

Following a compromise I proposed, the conference agreement worked in elements of both the Senate and House bills as follows: 50 percent of the allocated funds are to be distributed among prime sponsors based on the number of unemployed; 25 percent on the basis of excess of unemployed above 4.5 percent; and 25 percent for use in CETA title II areas within the prime sponsorship areas.

Thus, the factor that was very important to the Republican conference in its economic recommendations; namely, severity, was taken into account to some extent.

Third, eligible persons. Both bills continued the CETA eligibility—which includes unemployed and underemployed persons generally—but the House gave "preference" to those unemployed persons who have exhausted unemployment insurance benefits; are not eligible for such benefits; or have been unemployed for 15 weeks or more. The Senate gave "special consideration" to persons who had been unemployed for 15 or more weeks.

The conference agreement provides for "perferred consideration" to the House categories—except those lacking in work experience—to the maximum extent feasible consistent with the provisions of the act.

Fourth, waivers. The House bill had provided that in areas of 7-percent unemployment, and certain prime sponsorship areas—such as certain unemployment areas and balance of State employment areas—certain provisions regarding public employment programs contained in the current CETA Act would be waived so as to accelerate the availability of jobs.

The Senate—which did not have waiver provisions—did agree to accept the House provisions in part as follows:

The House provisions would have waived various requirements relating to training, occupational mobility, and review policy dealing with transition; we accepted all but the waiver on the review policy to insure transition, having in mind that we need to continue to search for "regular" jobs for participants.

The House reduced to 7 days the current requirement that a person be unemployed for at least 30 days; we agreed to 15 days, providing that the applicant certifies that the hiring of an individual will not violate the "paper layoffs" provisions.

The House provisions permitting the payment of wages for community capital improvement projects were accepted with slight clarifying modifications.

Fifth, cost per job. The Senate bill had directed the Secretary to maintain a national average of $7,500 per job as a goal; the House was concerned that this might be translated in terms of administration into a requirement.

Accordingly, the Senate provision was accepted but with language to insure that no requirements would be established and the prime sponsor would still be governed principally only by the $10,000 limitation.

TITLE II—SPECIAL EMPLOYMENT ASSISTANCE PROGRAM

Both the House and Senate bills authorize such sums as may be necessary to provide temporary wage loss compensation to workers who are given no protection under the present unemployment insurance system. It is estimated that approximately 12 million workers in this country, including State and local government employees, domestic service employees, and farmworkers, are excluded from Federal-State unemployment insurance law.

In order to protect workers during the present economic emergency, who lose their jobs through no fault of their own, partial replacement of income must be provided as a means of enabling them to provide the basic necessities of life for themselves and their families, and to help prevent further downward movement in this economic cycle. This program is particularly important as a supplement to public service employment since State and local governmental jobs can be provided to only a fraction of the unemployed.

Under this bill, any unemployed individuals who, during the most recent 52-week period before filing their claim, meet the qualifying requirements of the applicable State law, will be eligible to receive financial assistance for a period of up to 26 weeks. Benefit amounts will be computed on the basis of the unemployment insurance law of the State in which the worker was last employed.

This program will be effective upon enactment, subject only to the execution of agreements between the Secretary of Labor and each State. It is intended that this legislation begin providing benefits as promptly as possible and that no new State statutory authority will be required. Thousands of workers have been without jobs for months and it is essential that the Department of Labor, in cooperation with the State, establish the administration of this program as expeditiously as possible.

In this connection, I call to the attention of the Department of Labor that many of these newly covered workers are unfamiliar with the workings of the unemployment insurance system and in many cases may not become aware of their new entitlement. I therefore urge the Department to prepare a public service advertising program to inform those unemployed workers of their rights under this Act, and I also ask the news media to cooperate in every way possible to disseminate this information.

Only one significant area of this legislation was affected by differences between the House and Senate bill. The House provided that the program would trigger "on" in an area when the national unemployment rate averaged 6 percent or more for 3 consecutive months, and the rate of unemployment in the area averaged 6.5 or more for 3 consecutive months. The Senate bill provided that all areas of the Nation would

trigger "on" when the national rate of unemployment averaged 6 percent or more for 3 consecutive months; it also provided that areas having unemployment rates of 6.5 percent or more would trigger "on" even if the national trigger conditions were not met.

Since both bills provided for computation of the "on" indicator on the basis of the past three consecutive calender months, the "on" indicator has already been triggered and the program will therefore, take effect immediately upon enactment.

The conference agreed to accept Senate indicator provisions, which will provide special assistance payments on a nationwide basis at an estimated cost of $2.5 billion for calendar year 1975.

TITLE III—JOB OPPORTUNITIES PROGRAM

The bill would provide a third type of relief for the Nation's slumping employment picture by providing incentives for the creation of jobs under the job opportunities program of title III. This title has been worked out in careful coordination with the members of the Public Works Committees of the House and Senate.

It would provide for the use of up to $500 million by the Secretary of Commerce for the purpose of supporting projects which have high job creation potential and which would be located in areas of substantial unemployment. The money provided by this title could be used to supplement ongoing projects that were identified by Department of Commerce and Department of Labor review as possessing this significant job creation potential. Further, these funds could provide the initial loan or grant financing for job creation activities in target areas.

The funds allocated under this title should be used to maximize job opportunities for the unemployed, and expenditures for materials, supplies and equipment must be kept to the minimum amount necessary to support additional jobs. In particular, eligible sponsors should be required to fund new projects that could not otherwise have been undertaken, and no projects under this title should have undue leadtime or substitute for work that would have otherwise have been performed by private employers. It would defeat our purpose if added employment in the public sector were to be created at the expense of workers in the private sector.

This provision was added to the bill on the floor of the Senate in recognition of the urgent need for a program designed to stimulate increased private sector job opportunities. In that same spirit, the House and Senate conferees agreed to retain this title in the legislation which we consider today.

In conclusion, Mr. President, the conferees signed the report and are unanimous in urging this upon the Senate. In my judgment, Mr. President, it is a sound approach to a very serious situation and will be extremely helpful. It will be especially helpful if we can succeed in the very few days remaining in the session to give the first installment of the appropriation to be sought by the administration for the purpose of promptly implementing this measure.

Mr. MAGNUSON. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. MAGNUSON. I hope the Senate will quickly adopt this conference report. We have just acted in the Appropriations Committee to appropriate the money to implement this report.

I rise to suggest that we have a lot of critics about slow movement of Congress, but how fast we can operate when the conditions require that we do. The appropriation will now be reported to the Senate. We will pass this report tonight, and we will be ready to start the program after the President signs it, probably before the first of the year, or immediately after the first of the year.

I compliment the legislative group on the report because they moved as fast as the Appropriations Committee to meet the emergency.

Mr. JAVITS. It might interest the Senate to know that Senator NELSON sat through about 19 hours of conference in the most painstaking and indefatigable way to bring about this result. I did all I could to assist him, but he really carried the ball for us jointly, as we had both sponsored this measure. In a most splendid way it is to the credit of the Senate and also to the great credit of the country.

He and his staff—Dick Johnson and Larry Gage—and my staff—John Scales, Don Zimmerman and David Dunn—are really entitled to enormous credit as the real heroes.

Also, I would like to pay tribute to the other Members of Congress and staffs in the conference; and to Senator McCLURE, and Senator DOMENICI, Senator BAKER, and Senator RANDOLPH, of West Virginia, who fought for title III of this measure, and who then, when we ran into great difficulty with it, cooperated with us in respect of the amount and the conditions in order to bring about an agreement with the House.

Senator MAGNUSON was very gracious about the appropriation.

It was a very collaborative venture.

We had the great benefit of the assistance and participation in the most active way of the chairman of our committee (Mr. WILLIAMS).

I am very pleased that, because of the enormous labor concentrated, as I say, in these hours upon hours of conference, we were able to act in tandem with the Appropriations Committee.

Mr. President, I commend the report to the Senate, and hope that it will be adopted by a heavy majority.

Mr. NELSON. Mr. President, I just wish to endorse the remarks of the distinguished Senator from New York respecting the merits of this legislation, as well as the fine contribution made by the respective staffs of the committees and the Senators. I am particularly appreciative of the cooperation of Senator JAVITS' staff, John Scales, Don Zimmerman, and David Dunn, who worked on this legislation with my staff, Dick Johnson and Larry Gage. The staffs of all majority and minority members of the conference were very helpful to the conferees.

I also wish to commend the conferees on the House side: Mr. PERKINS, Mr. DOMINICK V. DANIELS, Mr. MEEDS, Mr. QUIE, Mr. ESCH, and Mr. STEIGER. On every occasion when we have had to go into conference with the House Committee on Education and Labor, we have had a very cooperative and fruitful conference.

The same has been true of the bipartisan cooperation on the part of all the Senate conferees.

I particularly wish to thank the distinguished Senator from New York (Mr. JAVITS), the Senator from Ohio (Mr. TAFT), the Senator from California (Mr. CRANSTON), the Senator from West Virginia (Mr. RANDOLPH), and especially the chairman of the full Labor and Public Welfare Committee for their great effort in reaching agreement on this legislation.

I believe the final legislation is very well designed. The legislation was handled expeditiously from beginning to end.

Those Senators and the staff who participated are entitled to enormous credit for accomplishing this feat in such a short period of time.

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

Mr. McCLURE. Will the Senator withhold that?

Mr. ALLEN. For what purpose?

Mr. McCLURE. So that I may make some remarks on the pending conference report.

Mr. ALLEN. I would like to suggest the absence of a quorum now.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

CALL OF THE ROLL

Mr. ROBERT C. BYRD. Mr. President, I shall reinstitute the quorum; it will be live. I wish that the cloakroom inform all Senators that there probably will be rollcall votes yet tonight, so that they will be informed of that.

I suggest the absence of a quorum. It will be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 571 Leg.]

Aiken	Griffin	McClure
Allen	Hart	McGee
Bennett	Hollings	Moss
Byrd, Robert C.	Hruska	Nelson
Case	Hughes	Stennis
Cranston	Inouye	Stevens
Curtis	Javits	Symington
Domenici	Magnuson	Taft

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 presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

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	Fong	Nunn
Baker	Goldwater	Packwood
Bartlett	Gravel	Pastore
Bayh	Gurney	Pell
Beall	Hansen	Percy
Bellmon	Hartke	Proxmire
Biden	Haskell	Randolph
Brock	Hatfield	Ribicoff
Brooke	Helms	Roth
Buckley	Huddleston	Schweiker
Burdick	Humphrey	Scott, Hugh
Byrd, Harry F., Jr.	Jackson	Scott, William L.
Cannon	Johnston	Sparkman
Chiles	Kennedy	Stafford
Church	Laxalt	Stevenson
Clark	Long	Talmadge
Cook	Mathias	Thurmond
Cotton	McClellan	Tower
Dole	McGovern	Tunney
Dominick	McIntyre	Weicker
Eagleton	Metcalf	Williams
Eastland	Metzenbaum	Young
Ervin	Mondale	
Fannin	Montoya	
	Muskie	

The PRESIDING OFFICER (Mr. HOLLINGS). A quorum is present.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I think I should inform Senators as to what the problem is at the present time. The Senate has before it a conference report on public service employment. Efforts have been made throughout the day to get an agreement on the conference report on the Consumer Warranty Act.

I have repeatedly discussed the conference report with various Senators in that effort. The Senator from Utah (Mr. Moss) has been on the floor practically all afternoon, hoping to have the report called up, and I have prevailed on him throughout the afternoon not to call it up, because we had other conference reports on which we could get time agreements, and in order to prevent a roadblock to keep the Senate from acting on other conference reports, he very agreeably was persuaded not to bypass me on that particular conference report.

I think I ought to say this, too: We have made such progress yesterday, today, and all of last week that the prospects for adjourning sine die by tomorrow night were excellent—were excellent, up until 10 or 15 minutes ago.

I am going to move shortly to proceed to the consideration of the conference report on the Consumer Warranty Act. That motion will not be debatable. Once the conference report is before the Senate, a cloture motion will be offered on that, which means that the vote would not occur on the motion to invoke cloture until the day after tomorrow, which is Friday. I hope that all Senators will understand and commiserate with me in this turn of events, and that we will have as much cooperation as we possibly can. I do not know whether it is possible to break out of this box and still adjourn tomorrow evening or not.

On tomorrow, after the House of Representatives acts on the Rockefeller nomination—and there is every indication that that nomination will be confirmed; I understand the House will vote around 3 o'clock—1 hour after the House acts, the Senate would hope to proceed with the swearing-in ceremony. That will be televised.

In the morning we had hoped to call up the supplemental appropriation bill, and I have every indication that I can get a 40-minute time limitation on that bill. We had hoped to follow that with the continuing resolution, on which there will be some little discussion, but I hope that can be disposed of after 3 or 4 hours.

So I think that the one thing that may keep us from adjourning tomorrow night would be the consumer warranty conference report. If we can get a vote on that, it would no longer be a problem. So I hope that Senators will understand. I am sorry if you have to cancel your planned departures, but maybe with a little good luck and some changes of viewpoints around here, we might still be able to adjourn sine die as we had hoped.

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

Mr. ROBERT C. BYRD. I yield.

Mr. PASTORE. I really believe that the acting majority leader is deserving of applause from this body. In the absence of MIKE MANSFIELD, I think he has done a splendid, splendid job. He has kept the Senate moving. He has disposed of considerable legislation. He has forgone even his luncheon and his dinner at times, just to make sure that he would get unanimous-consent agreements on debate limitation.

I would hope that this body would cooperate with the acting majority leader. He is doing his job and doing it well. I think we all want to get home to be with our families on Christmas, and I would hope, I repeat again, that the Senate will support him in anything he proposes.

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

Mr. ROBERT C. BYRD. I thank the distinguished senior Senator from Rhode Island. May I say I have never witnessed such splendid cooperation and understanding on the part of all Senators on both sides of the aisle as during these last few days.

I yield to the Senator from Michigan, with the undertanding that I do not lose my right to the floor.

Mr. GRIFFIN. Mr. President, I want to join in the expressions of the Senator from Rhode Island concerning the excellent work and leadership of the acting majority leader. I certainly think he has done an outstanding job to bring us to the point where we are so close to adjournment sine die.

If the acting majority leader mentioned the progress being made with respect to the trade bill, I missed it, but I am sure he would agree that that is a very important piece of legislation that we have to get behind us somehow and deal with tomorrow. I have been hearing some disturbing rumors——

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. HOLLINGS). The Senate will be in order.

Mr. GRIFFIN. That agreement on the trade bill is somehow being interlocked with whether or not there will be agreement on other bills, or something. I hope that is not true. I hope the trade bill will be considered by itself on its own merits, and that we will get a conference report here tomorrow that we can have an opportunity to vote on.

I am sure that the Senator from West Virginia would agree with me that both of these measures, the consumer warranty bill and certainly the trade bill, are going to be must items before we can get to adjournment.

Mr. ROBERT C. BYRD. Mr. President, I had not heard that there was any quid pro quo in any way involved with respect to the conference report on the trade bill.

Mr. GRIFFIN. I hope it is not true.

Mr. ROBERT C. BYRD. I have talked with the Senator from Louisiana (Mr. LONG) daily for the last 2 days, urging that every effort be made to expedite action on the conference report, because it was our full expectation to adjourn tomorrow night. I think that can still be done. I think the one thing that would now prevent it would be failure to get action on the Consumer Warranty Act.

Mr. ALLEN. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I thank the Senator for his expression. I want to join with the distinguished Senator from Rhode Island (Mr. PASTORE) and the distinguished assistant minority leader (Mr. GRIFFIN) in commending the distinguished assistant majority leader for his efforts in this "lameduck" session of Congress.

Many thought that this session would be a failure, and it is the hard work of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) that has turned it into a session that has passed some landmark legislation. I hope I am not violating a confidence when I say that I had prepared a resolution that I wanted to introduce here in the Senate commending the distinguished Senator from West Virginia for his outstanding efforts during this "lameduck" session in making it the success that it has been. He persuaded me not to do that.

Now as to the matter of the consumer warranty bill, the distinguished assistant majority leader knows that I stated to him that the problem was not the warranty bill, but the fact that rumors were rife that, cloture having been so successful on a number of bills, a cloture motion would be offered on the consumer protection bill, which had been laid to rest here in the Senate some time ago.

When I mentioned that to some of the Senators who are supporting that measure, they did not dispute it. Just in the

last few minutes the distinguished Senator from Utah (Mr. Moss) has given me assurance that that bill will not come up. Is that correct? Is the Senator present?

Mr. MOSS. Yes, here I am.

Mr. ALLEN. Is that correct? If assurances are made to that effect, I think we will have no problem whatsoever. It is not the consumer products safety bill, it is the specter of the consumer protection legislation, which has been laid to rest here in the Senate and which should not be revived here in the last 2 or 3 days of the session.

Mr. MOSS. If the Senator will yield to me for a moment——

Mr. ROBERT C. BYRD. I yield to the Senator from Utah.

Mr. MOSS. I did discuss with the Senator from Alabama (Mr. ALLEN) this matter of the consumer protection bill and I, of course, have not been able to talk with all Members of the Senate, but I have talked with the members—most of the members—of the Commerce Committee and of the Consumers Subcommittee on both sides of the aisle, and I can assure the Senator from my conversations that as far as I can ascertain, no effort to bring that bill will come forward now.

Mr. ALLEN. Yes.

Mr. MOSS. As it was recalled it was laid aside. It is on the table, and it could be called off the table, but it seems to me that the time factor alone makes that impractical, and I can assure him that no effort will be made to do that.

Mr. ALLEN. If the Senator will concede, discussions have been held in the last day or so leading to the possibility of breathing life into that dead body; is that not correct?

Mr. MOSS. I had heard some rumors. I had not participated in it, but I had heard the rumors; yes.

Mr. ALLEN. And the Senator can assure the junior Senator from Alabama that that bill will not come up further during the lameduck session.

Mr. MOSS. So far as I can assure him, I will do so; and I will make every effort to dissuade anyone who wants to bring it up.

Mr. McGEE. Will the Senator yield for a modification on that?

Mr. ROBERT C. BYRD. Mr. President, I have the floor. I yield to the Senator from Wyoming.

Mr. McGEE. Just for a modification. The Senator continually refers to this lameduck session, and I understand that phrase; it does not adequately describe this body. I would hope that he would refer to it as the post-election session of the Congress, because there are going to be a few of them here who are going to be around in January, and I think it would be regarded as an ongoing legislative body.

Mr. ALLEN. I accept the modification.

Mr. ROBERT C. BYRD. I yield to the Senator from Washington with the understanding that I do not lose my right to the floor.

Mr. MAGNUSON. This is the first time I have heard in the last hour about what he says or about some rumors of the other bill. I have sort of a one-track mind. I want to get the warranty bill done. I have not heard anything about that.

Mr. ALLEN. In the last hour, did the Senator say?

Mr. MAGNUSON. I, as chairman of the committee, did not suggest it be brought up. I do not know how these rumors float around here. I would like to pass that other bill. I would like to.

Mr. ALLEN. I think possibly the presence of Mr. Nader out in the Senate reception room gave rise to some of those rumors.

Mr. MAGNUSON. Well, I do not know who gave it out, but I never heard about it. Just about 40 minutes ago, and what I was thinking about was let us get this warranty bill done, and I do not think the time is going to permit these other things. So far as I am concerned, I join with the Senator from Utah (Mr. Moss) in this matter.

Mr. ROBERT C. BYRD. Mr. President——

Mr. SPARKMAN. Would the Senator from West Virginia yield?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Alabama.

Mr. SPARKMAN. I simply want to say to the leader that just a little while ago we completed action in the conference on the Export-Import Bank. I imagine—I am not sure—it will not satisfy everybody, but I think perhaps we can move it.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Michigan.

Mr. HART. With respect to the subject of the Consumer Protection Agency, this is a bill which I have long supported but in recent years not as a floor activist. But within the last 30 minutes I was asked to seek to bring the bill up tomorrow morning off the calendar, and I made inquiry of the distinguished acting majority leader. There were problems, very substantial problems, in terms of timing, and I was about to approach some of my colleagues with respect to what course of action should be taken.

I think the matter is academic now. We failed three or four times in obtaining cloture in earlier days, although for whatever chemical reasons the mood seems to have changed to our attitude toward cloture. But if the able chairman of the Commerce Committee and the chairman of the Consumer Subcommittee would regard this as an inappropriate effort, whatever the change in the chemistry, it is not going to change the result of cloture then on this proposal.

So I can under these conditions, to the extent that my efforts in the last 30 minutes have sparked the Senator from Alabama (Mr. ALLEN)—but I take the earlier efforts, about which I am not aware, to the extent that I might be, was a disturbing factor—I would put his mind at ease.

Mr. ALLEN. I thank the distinguished Senator from Michigan.

Mr. ROBERT C. BYRD. Mr. President, I still have the floor.

Mr. ALLEN. Yes.

So apparently the so-called rumors then had a whole lot of substance in fact, because the Senator from Michigan was actively planning to seek to bring the other up.

With these assurances that this bill will not come up, I feel that the last 30 minutes have been profitably used by getting that assurance and, as I stated, I have no desire to hold up on this bill that the distinguished Senator from West Virginia wishes to move to its consideration. Of course that motion is subject to a yea and nay vote, but I have no objection to a voice vote and then going ahead with that. It will not be necessary to lay down a cloture motion in regard to this.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Alabama, and I thank him for his earlier kind remarks with respect to me.

Mr. President, both Senators have stated the facts precisely. The Senator from Michigan (Mr. HART) approached me with respect to calling up the House bill on the Consumer Protection Agency. It is on the calendar under "Subjects on the Table." I told him if a unanimous-consent request were objected to, a motion to take that measure from "Subjects on the Table" would be debatable unless it were made tomorrow morning during the morning hour at which time it would not be debatable, but even then a cloture motion, if introduced at that time, would have to stay around until Saturday to be voted on. So it was not really a rumor.

I did not really understand the Senator from Alabama as I now understand him. I thought his concern was with respect to both measures—the Consumer Warranty Act and the bill that is on the "Subjects on the Table," the Consumer Protection Agency. I now understand he was really only basically concerned with the bill that is on the "Subjects on the Table" calendar, and that we can proceed with the conference report on the consumer warranty bill with an understanding that no effort will be made to call the measure from that calendar.

Now, the Senator has given his word that there is no need to offer a cloture petition. I never doubt his word, but other Senators could so offer it, and I do not know what other Senators might be disposed to do. They have their own rights under the rules, and I feel it necessary to offer the cloture motion once I get the measure up for consideration.

I know the Senator has given his word, but to protect all Senators, I will call up the measure and then offer the cloture motion.

Mr. ALLEN. I do not believe that will be necessary. So far as I know, if the Senator moves the conference report up it will be subject to being passed. I should think we would get a time limit and later file a cloture motion.

If the Senator insists on filing a cloture motion, well, the Senator from Alabama will resist then if that is the way the Senator wishes to operate.

Mr. ROBERT C. BYRD. I do not mean to proceed with it.

Mr. ALLEN. I think the Senator, if he would just call up the bill, would get it passed in a matter of minutes, and this other would be a moot question.

Mr. ROBERT C. BYRD. If we could do it, that is fine. All right.

Mr. McCLURE. Mr. President, would the Senator yield for a parliamentary inquiry without losing his right to the floor?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. I thank the Senator for yielding.

My understanding is the conference report on H.R. 16596—is it in order to set aside one privileged matter in favor of another privileged matter?

The PRESIDING OFFICER. By motion it can be done.

Mr. McCLURE. I thank the Senator for yielding.

The PRESIDING OFFICER. By unanimous consent.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. With the understanding that there will be no effort made, and I never once meant to question the word of the Senator from Alabama.

Mr. ALLEN. I understand.

Mr. ROBERT C. BYRD. But our time is running short, and I thought that some Senators might be disposed to talk at length; I do not know. But I will take the Senator's word for it.

Mr. ALLEN. It is not necessary to take the Senator's word because once it becomes the pending business the Senator can file it any time he wants.

Mr. ROBERT C. BYRD. I understand. I understand. If I can get the floor again.

Mr. ALLEN. The Senator will not need the floor to file a cloture motion if it is the pending business.

Mr. ROBERT C. BYRD. The Senator is right. I misspoke myself.

MAGNUSON-MOSS WARRANTY—FEDERAL TRADE COMMISSION IMPROVEMENT ACT—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 356, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HOLLINGS). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 356) to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of December 16, 1974, at p. 40238.)

Mr. JAVITS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. I do not think there is any opposition to the public service job matter; probably it could be a voice vote, would it not, which will finish that?

Mr. ROBERT C. BYRD. Will the Senator let me finish with another problem?

Mr. JAVITS. Except it is up.

Mr. ROBERT C. BYRD. I understand.

Mr. ALLEN. Could I ask a question of the distinguished Senator from Utah?

I understand there was a concurrent resolution that was to be passed along with this bill straightening out a so-called technical error in the bill, is that correct?

Mr. MOSS. That is correct. If the conference report is adopted, there will be a concurrent resolution offered, which has been cleared already with the House.

Mr. ALLEN. I thank the Senator.

Mr. TAFT. Mr. President——

Mr. MOSS. Mr. President, I am pleased to bring to the floor today one of the most important pieces of consumer protection legislation considered by the Congress since the Federal Trade Commission Act itself was passed in 1914.

This important new legislation is comprised of two titles. Title I effects a comprehensive reform of warranties on all consumer products, and title II will implement a number of badly needed changes in the Federal Trade Commission Act that are designed to improve the Commission's consumer protection abilities. By making warranties of consumer products clear and understandable through creating a uniform terminology of warranty coverage, consumers will for the first time have a clear and concise understanding of the terms of warranties of products they are considering purchasing. Not only will the consumer understand his warranty rights, but for the first time he will have assurance that those rights may be meaningfully enforced. This legislation spells out with specificity precisely what rights and duties will flow from warranties and it provides a number of public and private means of consumer redress for breach of warranty obligations.

Title II of this legislation codifies the Commission's power to issue trade regulation rules prohibiting conduct which is unfair or deceptive and gives an important new direction to the Commission in order to prohibit unfair or deceptive acts or practices. The procedures to be used in promulgating trade regulation rules are set forth in detail, and this is a major feature of this important new legislation. Because some fear has been raised that these new procedures may hamstring the Commission in its efforts to make rules, I believe that it is important to understand that the legislation has been carefully designed to avoid this possibility.

While there is a requirement that the Commission hold hearings at which interested parties may comment orally, the Commission has expressly been given authority and direction to prescribe rules to avoid unnecessary costs or delay in those hearings. Under certain circumstances, the Commission may implement cross-examination on the certain issues of material fact, or it may conduct such cross-examination itself. But this right of cross-examination is limited to issues of fact as designated by the Commission as necessary to resolve, and as the conference report makes clear, these are issues of specific fact—as opposed to legislative fact. The procedure of allowing the Commission to conduct cross-examination is patterned on the successful voire dire procedure for examination of prespective jurors in the Federal courts. Furthermore, this procedure has also been used with great success in the administrative context. For instance, the courts have approved the use of similar procedures with the Environmental Protection Agency in *International Harvester Co.* v. *Ruckelshaus*, 478 F 2d 615 (D.C. Circuit, 1973). Finally, the substantial evidence test or review that a court will apply when looking at rules the Commission promulgates is limited to matters designated by the Commission and relied on in promulgating the rule, which will be matters of specific—and not legislative—fact. These procedures will assure that rulemaking conducted by the Commission will be a far cry from the formal trial-type procedures under sections 554 and 556 of the Administrative Procedure Act which have hamstrung other agencies, and which have been the target of intense criticism by commentators and the Administrative Conference of the United States. The procedures should permit a fair airing of the views of all interested parties without unduly inhibiting the Commission's rulemaking authority. The statute specifically calls a study of the procedures by the Commission and the Administrative Conference, and if any aspects of the legislation appear to be unduly burdensome, the Subcommittee on Cnosumers of the Senate Commerce Committee will probably consider remedial legislation.

Mr. President, I should clarify one possible ambiguity in title I, which deals with warranties.

As explained in the statement of managers accompanying the conference report, the bill defines a "warrant or" as "any supplier or other person who gives or offers to give a written warranty or who is or may be obligated under an implied warranty." In this context third party warrantors are subject to the provisions of the bill. In the definition of written warranty, however, only written affirmations, promises, or undertakings that are a part of the basis of the bargain between a supplier and a buyer give rise to a written warranty. Therefore, any third party "warrantor" who is not a part of the basis of the bargain between a supplier and a buyer would be treated as a service contractor under the bill and subject to the general rulemaking authority of the Federal Trade Commission as set forth in section 109 of the bill.

Mr. President, this legislation breaks important new grounds in the area of consumer redress by providing for both class actions in certain situations and a Federal right of action in State courts, along with payment of reasonable attorney's fees. In order to take advantage

of these provisions, which are contained in section 110, the consumer would be required to utilize any informal dispute settlement resolution mechanism which had been set up in compliance with rules of the Federal Trade Commission. These rules must require that any such mechanism created is fair and effective so that it does not just represent another hurdle that the consumer is forced to surmount before being afforded a meaningful avenue of redress. For instance, any mechanism must be independent and must have consumer of Government participation, and it must not only look good on paper, but function effectively and fairly in practice. In order to assure that they do, both the FTC and the courts may review their performance at any time on the motion of a consumer. The FTC may also do so on its own motion. Court review would occur when a consumer either uses a procedure and feels it to be unfair, or when he goes directly to court under section 110 and alleges unfairness. If the court finds that the procedures do not comply, then no use of them would be required.

Of course, the burden of demonstrating fairness and compliance with the rules of the FTC would be on the party attempting to require their use. Of course, if a consumer does not elect to use the procedures created in section 110, he may enforce his rights through any other existing mechanism, such as a small claims court. Obviously, exhaustion would not then be required by section 110, even if a warrantor had an informal dispute settlement mechanism that was fair and complied, unless a court found that exhaustion of the procedure was required by State law or some other law other than this act.

Another important aspect of this legislation is that it sets a precedent for congressional authorization of class actions. This is a subject which I expect that the Congress will legislate comprehensively on next year, but this bill does create a limited class action procedure for warranty claims. Generally speaking, with specific exceptions set forth in the bill, the procedures are to utilize rule 23 of the Federal Rules of Civil Procedure. For instance, in negotiating the use of any complying informal dispute settlement procedure or any other settlement procedure, the representative party would negotiate on behalf of the 100 named plaintiffs and any other class members.

This legislation also gives important new authority to the Commission to enforce the various provisions of the Federal Trade Commission Act. For instance, a violation of the rule promulgated by the Commission may result in civil penalties and an obligation by the wrongdoer to redress injury cost to consumers. Knowing violations of outstanding Commission cease and desist orders may also result in civil penalty, and in the case of a person against whom such orders are issued, the order may trigger an obligation to redress consumer injury.

This legislation also clarifies the current situation with respect to the Commission's ability to represent itself in court proceedings. While at the moment the Alaska Pipeline Act appears to grant the Commission unbridled authority to represent itself after giving 10 days notice to the Attorney General in all matters, including those matters before the Supreme Court, this legislation will somewhat restrict those powers and clarify the Commission's self-representation authority.

It gives the Commission the right to represent itself exclusively in situations where speed is important—such as injunctions and subpena enforcement proceedings. In other fairly routine circumstances, it gives the Attorney General the right to represent the Commission if he acts within a reasonable period of time. And, in those circumstances which are routine but where the Commission's vital interests are at stake—as for example in many appellant proceedings and in Supreme Court proceedings—it gives the Commission the right to control its own destiny.

While some concern has been expressed over the provisions of the bill permitting the Commission to represent itself in the Supreme Court when the Solicitor General refuses to do so, this situation is a step backward from the authority contained in the amendments to the Alaska Pipeline Act. That act gives the Commission the authority to represent itself in all proceedings if it simply gives the Attorney General 10 days notice. This bill returns to the Attorney General the right to represent the Commission in certain routine cases, and also provides substantially longer notification, in those cases in which the Commission may want to represent itself. In other words, this legislation represents a net gain for the Attorney General in terms of his litigating abilities.

Some clarification with respect to a sentence in the joint statement of managers accompanying the conference report is necessary. The statement says:

If the Commission determines (1) that there are disputed issues of material fact, and (2) that it is necessary to resolve such issues, interested persons would be entitled to present such rebuttal submissions and to conduct (or have conducted by the Commission) such cross-examination of persons *commenting orally* as the Commission determines with respect to such issues. (Emphasis added)

The words "commenting orally" were intended to be descriptive and not limiting. In other words, the Commission could authorize cross-examination of written submissions if it determined that it was appropriate and required. But normally cross-examination would be appropriate and required only in the "oral comment" context.

Mr. President, I believe this legislation represents a very important further gain for the consumer and is probably the most significant piece of legislation to be enacted by the 93d Congress. The Senate Commerce Committee has been working on this bill for 5 years, and it is especially satisfying to me to finally see our efforts come to fruition.

Mr. MAGNUSON. Mr. President, I feel I am about to come to the end of a long journey. My colleagues and I on the Senate Commerce Committee have been working to secure enactment of a comprehensive Warranty and Federal Trade Commission Improvement Act since 1969. In the last 5 years the Senate has passed three such bills. I am most gratified that in the closing hours of the 93d Congress it appears that the Congress of the United States will present the American people with a legislative Christmas present designed to improve product reliability and assure fairness in the marketplace.

Permit me to highlight several of the important features in this bill. In the first place the bill will require warranties to say what they mean and mean what they say. The bill will also require warrantors to designate whether they are offering limited warranties or full warranties. If they are offering full warranties, they will have to comply with minimum standards of warranty which include the free repair or replacement within a reasonable time of any product which is defective or malfunctions during the warranty period.

It is my belief that competition in the marketplace will cause more and more suppliers of consumer products to offer full warranties. If this happens, more and more suppliers will have a significant economic stake in building reliable products. The reason for this is that the fewer the products that break down during the warranty period, the less the cost of repair or replacement of those products, and the greater the profits for the company.

The bill also provides consumers with several practical methods of remedying any breach of warranty or service contract obligation by affording a consumer reasonable attorney fees if he is successful in litigation and by encouraging the development of fair and impartial informal disputes settlement mechanisms designed to insure that consumer complaints no longer fall upon deaf ears.

Of particular significance is the basic floor of warranty protection which the bill assures by prohibiting the disclaimer of implied warranties when consumer products are sold. By operation of law, the buyer, when selling goods warrants that the product is merchantable and will perform. Under present practice the seller can disclaim these so-called implied warranties, thereby selling unmerchantable products without suffering adverse consequences. The bill no longer permits the disclaimer of implied warranties except in the "as is" or "with all faults" sales context.

The Federal Trade Commission improvements specified in the bill will afford, in my opinion, long-term improvement in the fairness of the American marketplace. No longer will the Federal Trade Commission be confined to slapping the wrists of persons who engage in unfair or deceptive practices and telling them not to do it again. The bill authorizes the Federal Trade Commission to not only bring a halt to unfair or deceptive acts or practices but also to go into court and ask a judge to order consumer redress for those people who have been injured by such acts or practices. The consumer redress provision in the bill is

of great significance and demonstrates a firm commitment on the part of the Congress to make Federal regulatory agencies directly responsive to the needs of the American consumer.

To help assure the independence of the Federal Trade Commission, the bill authorizes the Commission to represent itself in court. When pursuing consumer redress, seeking injunctions, or participating in judicial review or subpena and report requirement enforcement actions the Commission can appear in its own name without concurrence of the Attorney General. In other litigation situations the Commission is required to notify the Attorney General who has 45 days to decide whether he—the Attorney General—will pursue the case. If he decides not to pursue the case, the Commission is free to represent itself in court in those other situations.

In addition to the consumer redress and self-representation improvements, the Federal Trade Commission is authorized to seek civil penalties for knowing violations of the Federal Trade Commission Act.

The final provision in the bill relating to the Federal Trade Commission improvements concerns the rulemaking power of the Federal Trade Commission. The basic issue concerning the rulemaking authority of the Federal Trade Commission concerns the need to afford persons affected by the rule adequate opportunity to participate in the rulemaking process so as to assure the establishment of fair rules without allowing that participation to effectively tie the hands of the Commission and prevent it from accomplishing its consumer protection mission. There is a fine and delicate line between the providing of due process and the providing of a process which can be abused. I believe that this bill walks that delicate line by affording interested parties an opportunity to participate fully in a rulemaking process and conduct limited cross-examination controlled by the Commission. I believe that the process will not inhibit the overall function of the Federal Trade Commission. But the bill requires a report both from the Federal Trade Commission and from the administrative conference concerning the functioning of the rulemaking procedures described in the bill. I can assure my colleagues that if any abuse of process is discovered, I will immediately press to reinstitute the completely informal rulemaking procedure under which the Commission is presently authorized to operate.

To my mind the conference report before the Senate today represents one of the most significant pieces of consumer legislation that has ever been acted upon by Congress. While it has not generated the controversy that the Consumer Protection Agency has generated, its benefits to the American consumer are certainly as large, and perhaps even larger than the benefits to be gained by this Consumer Protection Agency. In making this observation, I do not mean to detract from the need for an independent Consumer Protection Agency but only to illustrate the profound affect which I believe the Magnuson-Moss Consumer Product Warranty and Federal Trade Commission Act will have in producing more reliable products in the American marketplace and discouraging unfair and deceptive acts and practices in that marketplace.

I urge my colleagues to support adoption of the conference report.

Mr. HART. Mr. President, the conference report under consideration truly can be said to represent a giant step forward in protecting and enhancing the position of the consumer. Important provisions respecting consumer warranties, unfair or deceptive acts or practices, rulemaking procedures, unfair or deceptive acts or practices by banks, compensation for attorneys and expert witnesses fees in section 5 rulemaking proceedings, FTC self-representation, expanded civil penalties, and consumer redress are contained in the bill. The distinguished chairman of the Commerce Committee (Mr. MAGNUSON) and the able Senator from the State of Utah (Mr. Moss) should be commended for their efforts and results.

In *National Petroleum Association* v. *FTC*, 452 F. 2d 672 (D.C. Cir. 1973), Judge Wright wrote:

> This case presents an important question concerning the powers and procedures of the Federal Trade Commission. We are asked to determine whether the Commission, under its governing statute, the Trade Commission Act, 15 U.S.C. § 41 *et seq.* (1970), and specifically 15 U.S.C. § 46(g), is empowered to promulgate substantive rules of business conduct or, as it terms them, "Trade Regulation Rules." The effect of these rules would be to give greater specificity and clarity to the broad standard of illegality—"unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce"—which the agency is empowered to prevent. 15 U.S.C. § 45(a).

He concluded:

> We hold that under the terms of its governing statute, 15 U.S.C. § 41 *et seq.*, and under Section 6(g), 15 U.S.C. § 46(g), in particular, the Federal Trade Commission is authorized to promulgate rules defining the meaning of the statutory standards of the illegality the Commission is empowered to prevent.

Because S. 356 primarily concerns consumer protection matters, the procedural requirements in title 2 respecting FTC rulemaking are limited to unfair or deceptive acts or practices rules. These provisions and limitations are not intended to affect the Commission's authority to prescribe and enforce rules respecting unfair methods of competition. Rules respecting unfair methods of competition should continue to be prescribed in accordance with the informal rulemaking procedures of section 553, title 5, United States Code. This dual approach by the Commission in prescribing rules will afford the Congress the unique opportunity to assess and compare actual experience and results under somewhat different approaches to the rulemaking process, and it is expected that FTC will promptly commence rulemaking proceedings under both procedures. An assessment and comparison in the 18-month study of the experiences and results of this dual approach to FTC rulemaking will facilitate future congressional determination of what, if any, changes should be made in title 2 of this bill.

The self-representation provisions of section 204 further carry out the intent underlying the self-representation and other provisions designed to strengthen the independence of regulatory agencies contained in the Alaskan Pipeline Act. In that act, the Office of Management and Budget's veto power over agency questionnaires was eliminated, and carefully circumscribed review authority over certain questionnaires—but not subpenas—was vested in the General Accounting Office. Court enforcement of subpenas by FTC was authorized upon a 10-day notification to the Attorney General. Under section 204, FTC's self-representation authority is clarified and expanded in accordance with the intent underlying the Pipeline Act provisions.

Mr. President, I urge my colleagues to support the conference support.

Mr. HARTKE. Mr. President, while I was not a conferee on the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act, I was sponsor of title IV of the bill, dealing with used car warranties, as it passed the Senate, and I followed its progress closely. The Senate conferees have kept me informed of the progress of this legislation as it proceeded through conference, and I am satisfied with the way in which title IV was handled. While title IV was deleted in conference, section 109 of this legislation directs the Federal Trade Commission to initiate within 1 year of enactment a rulemaking proceeding dealing with warranty practices in connection with the sale of used cars, to the extent this is necessary to supplement the consumer protection provisions of title I. Section 109 states that the Commission may exercise its rulemaking authority in prescribing any rules that are needed and may require appropriate disclosure when a used vehicle is sold without a warranty, including specific disclosure of information necessary to inform a consumer of exactly what his obligations are in connection with repair of a used automobile. Because title I of this bill applies to both the sale of new and used consumer products, for the most part provisions of title IV were unnecessary. The Commission may find it necessary, however, to promulgate a rulemaking clear to purchasers of used cars without warranties that all repairs will be their responsibility.

While title I of this bill does not require that a used car be sold with a warranty, it will require that any warranty offered be simple and easy to understand, and that all warranty obligations be readily enforceable through both Commission action and redress mechanism activated by the consumer. I am fully satisfied that this bill will go a long way toward reforming warranty abuse in connection with the sale of used automobiles, and I am pleased with the way in which the conferees have resolved this important issue. I fully support the bill and commend it highly to my colleagues.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

Mr. GRIFFIN. Mr. President, Mr. President——

Mr. MOSS. Mr. President, I ask permission to file——

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum, the Senator from Ohio was on his feet asking for recognition before the vote.

Mr. ROBERT C. BYRD. Mr. President, the Senator is right; he is correct.

I ask unanimous consent for consideration of the Senator from Ohio.

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

Mr. TAFT. Mr. President, do I have the floor?

The PRESIDING OFFICER. Yes, the Senator from Ohio has the floor.

Mr. ROBERT C. BYRD. Will the Senator yield to me?

Mr. TAFT. I am happy to yield without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, a conference report is before the Senate.

The PRESIDING OFFICER. Correct, that is the pending question.

The Senator from Ohio.

Mr. TAFT. Mr. President, I want to discuss this matter at some little length.

Mr. ROBERT C. BYRD. Mr. President——

Mr. MOSS. I want to offer a concurrent resolution. The Senator may offer that if he likes.

Mr. ROBERT C. BYRD. I will wait.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. TAFT. Mr. President, this measure is one which I think the Senate ought to understand and understand rather fully.

The matter came to my attention only within the last day or so and I have been probably responsible for keeping the measure from coming to the floor during the course of the afternoon in order to study the measure somewhat more fully.

It is an extremely technical matter——

Mr. JAVITS. Mr. President, I ask unanimous consent——

Mr. TAFT. Mr. President——

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. TAFT. Mr. President, I will yield to the distinguished Senator from New York without my losing my right to the floor.

The PRESIDING OFFICER. Without objection, the Senator from New York is recognized.

Mr. JAVITS. I yield to the Sentor from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of the conference report on public service employment.

It is my understanding Senators are ready for a vote on that and that it could be a voice vote, and without prejudicing the rights of the Senator from Ohio.

Mr. JAVITS. And also if it is a rollcall, if anybody wants it, that it go over until——

Mr. ROBERT C. BYRD. It would not have to go over because the Senators are all here now.

Mr. McCLURE, Mr. President, before the vote on that, I would like to have about 2 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, without the rights of the Senator from Ohio being prejudiced, that Senator McCLURE be permitted to proceed for 2 minutes.

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

SPECIAL EMPLOYMENT ASSISTANCE ACT OF 1974—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 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.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report on public service.

Mr. McCLURE. Mr. President, I am glad that the conference report on H.R. 16596, the Emergency Jobs and Unemployment Assistance Act, includes as title III, the jobs opportunities program which I offered, and which the Senate adopted as an amendment to S. 4079, the public service jobs bill.

I believe the program authorized in the new title III is an important and necessary addition to the public service jobs approach in meeting the employment needs facing the country. I want to note particularly the strong and effective efforts of the chairman of the Public Works Committee (Mr. RANDALPH) who is also a member of the Labor and Public Welfare Committee and who exercised such leadership in the conference—to have this title adopted.

This legislation arises in large part also from our work earlier this year in the Economic Development Subcommittee under the chairmanship of Senator MONTOYA. And I acknowledge too the support of Senator NELSON, chairman of the Employment Subcommittee and Senator JAVITS, ranking Republican of the Labor and Public Welfare Committee.

While changes were made in title III by the conference committee, the program is essentially that adopted by the Senate on December 12. The managers of the bill have explained the changes in some detail, so I will limit my comment at this time to four of the amendments.

The bill passed by the Senate authorized $1 billion for 1975 for this program. The conferees reduced the authorization to $500,000,000 for the same period. As public service jobs program was reduced by the conferees from the $4 billion authorized by the Senate to $2.5 billion, I do not consider the reduction in title II inappropriate.

The conferees also added a section relating to the availability of funding under the program. The new provision—section 1005—stipulates that of one-half of the funds appropriated under this title only 25 percent may be used for nonlabor costs. While I can understand the concern which may have prompted the conferees to impose this restriction, I believe it unnecessary and hope that it will not be used to limit the effectiveness of the program.

The idea behind our approach is to use the taxpayers' dollars most efficiently in creating new job opportunities in high unemployment areas. Efforts should be made to promote jobs in the private sector and to create permanent jobs, which will serve the individual long after the program ends.

Third, the conference report provides that the program review will be carried out jointly by the Secretary of Commerce and the Secretary of Labor. The Secretary of Commerce is charged with the administration of the program, and I am concerned that the addition of another ranking Cabinet member to this review function could create delay and possible confusion.

The title provides that all programs and projects assisted under this title must be measured against certain criteria relating to the appropriateness of the proposed program, to local unemployment needs, to the speed with which the project can be initiated, and its ability to substantially lessen the unemployment of the area. The conferees added another criteria which underscores the Senate intent that the programs and projects given priority under this title are those which most effectively and efficiently create jobs in these areas.

Many have considered this proposal to be a renewal of the old accelerated public works which was not an effective creator of immediate jobs for many reasons—the long leadtime and construction time associated with large public works projects, the creation of few jobs for the dollars spent, and the fact that selected projects did not always address the local unemployment needs. This program is not an accelerated public works bill but cuts across Federal, State, and local programs of all types to select those which will most effectively create jobs in the target areas. The program can and will create needed jobs promptly.

The significant feature of title III is the program review which calls for all Federal agencies to evaluate their ongoing programs, to determine which ones have the most direct and immediate effect upon the creation of job opportunities for the unemployed. These are existing programs, funded from amounts already encompassed in the budget which can be directed toward the creation of jobs.

Funds would be available under this title to supplement those efforts, where necessary to effect or to expand the job opportunities.

I wish to make clear that this is an emergency program. It is authorized for only 1 year. It does not replace the long-term development goals or programs of the EDA and other Federal agencies in areas of chronic unemployment.

Mr. President, I want to acknowledge the close cooperation and support we have received from our colleagues on the House Public Works Committee on this program.

When I introduced this proposal on December 12, I submitted a statement which I would like to make reference to for a further explanation of the details and purposes of the program. I ask unanimous consent that a copy of that statement be included in the RECORD at the close of my remarks.

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

STATEMENT OF SENATOR MCCLURE

Mr. MCCLURE. Mr. President. I introduce for myself, Senator DOMINICI, Senator BAKER and Senator RANDOLPH a bill to provide emergency financial assistance to create job opportunities in areas, both urban and rural, which are burdened by unusually high levels of unemployment.

We are introducing this emergency proposal in response to the deepening national unemployment and lagging economic activity in many areas of the country and sectors of the economy. We believe this is a constructive proposal which will provide additional and flexible assistance to meet the employment needs in the most efficient and effective way in these areas of high unemployment.

Under our proposal the Economic Development Administration, in the Department of Commerce, would be directed to consult with other Federal agencies to review their proposed expenditures over the next calendar year for job effectiveness. This review will identify those Federal programs and projects which have the potential to stimulate job opportunities in areas of high unemployment. I anticipate that this review would begin immediately upon enactment of this legislation, and should be completed within a very short time, possibly a few weeks.

The Federal agencies included in the review process handle several billions of dollars each year. Some programs have a positive, direct impact on the economy and jobs; others have a less direct or possibly no impact at all. The review process will allow an across-the-board examination of these proposed expenditures to evaluate their effects. In this time of discouraging economic news, some new directions and priorities may need to be pursued. Some types of activities must be chosen over others. Using the broad range of Federal programs activity and the large Federal budget, we must augment our efforts to provide jobs and stimulate the economy. Under this program a special, 1-year appropriation of $1 billion would be made to EDA to create, maintain or expand jobs in areas where unemployment is particularly high. These funds should often supplement programs identified in the review process that I have already discussed, expanding or accelerating their impact to create jobs.

In addition, these special funds could provide the initial loan or grant funds for activities that create jobs in target areas, when that is essential to implement the purposes of this bill.

The criteria to be used to select an activity must be its potential in stimulating jobs. While funds could be available to provide salaries and payrolls, they will also be available for loans, for the purchase of equipment, or to further similar activities that in turn would provide jobs.

Funds could be used to accelerate job creating activities. This might mean, for example, hiring staff to expedite the preparation and filing of an environmental impact statement. Completion of the statement expeditiously might then move job creating programs forward by several months. Funds might be used to get a program under way this year rather than in fiscal year 1976, when the agency budget had scheduled the initiation.

The whole idea is to use the taxpayers' dollars most efficiently in creating new job opportunities. Efforts should be made to promote jobs in the private sector—with under-utilized resources—and to create permanent jobs, which would serve the individual, his family, and his community long after this program ends. Where this is not possible, the program allows for direct Federal hiring.

In our bill, we propose only a 1-year measure, an approach to meet an emergency. When we reach the close of next year, the Senate may have to reconsider—possibly renewing or modifying the program. If economic circumstances warrant. We will have to see if areas that continue with high unemployment will suffer chronically, or if they are vestiges of the national unemployment picture and need continued assistance under the special program. This Emergency program does not replace the existing Federal efforts to aid the chronically depressed communities under long term programs carried out by EDA and other agencies.

Our proposal is limited for two reasons. First, because we hope and expect that the economy will move forward next year, we did not want to install a permanent program. Second, we want the Congress to examine this program with care next year to see if it is being implemented properly, and producing the desired results. This can be done within the time provided in the bill.

Employment requirements and needs vary from place to place. Each activity supported under this program should be geared to the specific needs of an area. The community should be given flexibility to tailor its job program to those needs.

The jobs program recommended by the President was limited to individuals who have exhausted all their unemployment benefits. While our program does not place such a restriction on the granting of aid, I do believe that special attention must be given individuals who have exhausted their governmental and nongovernmental unemployment benefits. These individuals and their families are most in need of financial aid to continue to feed, clothe, and educate themselves.

Mr. BAKER. Mr. President, I commend the Senate-House conferees for their expeditious action on this most important and timely legislation to provide jobs and benefits to the unemployed. I am pleased that the conference report includes as title III the jobs opportunities program that I cosponsored with Senators MCCLURE, RANDOLPH, DOMENICI, and ROBERT C. BYRD and that was adopted by the Senate last Thursday. I want to pay particular tribute to the chairman of the Public Works Committee, Mr. RANDOLPH, for his diligent effort to secure the conference agreement on this program. Also I want to acknowledge the cooperation and support of Senator NELSON, Chairman of the Employment Subcommittee of the Labor and Public Welfare Committee, and Senator JAVITS, the Ranking Republican on the committee. In addition, Senator MONTOYA, chairman of the Economic Development Subcommittee, who has led the subcommittee over the years in its constructive work, is to be commended.

There were changes made to title III in conference. I am not in complete agreement with all these changes. But I believe the program is essentially the one we included in the Senate bill.

It was our intent when introducing the bill to build on the ongoing Federal activities and programs, using existing structures, so the program could be undertaken quickly. By adding another Secretary—the Secretary of Labor—to the review process, I hope we are not creating delays in the program. Of course, the Secretary of Commerce has primary responsibility for administration of this program.

Mr. President, I want to emphasize that title III of the act is not a spur-of-the-moment undertaking. It is a program that was well thought out and has been thoroughly explored, not only by the members of the Public Works Subcommittee on Economic Development, but also—over a span of years—by the full committee. I believe the committee will closely monitor the implementation of the program in the coming year.

Mr. President, I support the conference report. I am hopeful that the entire package will be signed into law, and I urge the administration to begin implementing this program quickly so that its beneficial effects can soon be realized.

Mr. WILLIAMS. Mr. President, the Senate has before it today H.R. 16596, the Emergency Jobs and Unemployment Assistance Act of 1974, a bill which I consider to be one of the most important that we will have an opportunity to consider this year. I certainly hope, and I strongly urge, that the Senate adopt this legislation unanimously, to reflect not only the importance that this legislation has, but to also reflect our concern for this Nation's workers and their plight.

It is this bill, Mr. President, which provides for specific additional moneys to be made available for a significant number of public service jobs, and to extend additional unemployment insurance benefits to alleviate the economic plight of large numbers of our workforce. This legislation, which I have strongly supported from its inception, will provide $5.5 billion in direct assistance to those areas of the country which currently are burdened by widespread and rising unemployment.

We have already expressed our intent on this vital matter. On December 12, we adopted, by a 79 to 13 margin, S. 4079, The Special Assistance Employment Act of 1974. This bill, on which I have already spoken, similarly authorized the allocation of significant sums of money to provide for a substantial number of public service jobs. It also extended unemployment insurance benefits to those workers who are currently unemployed and who have already exhausted their existing unemployment benefits because of the depressed state of our economy and the commensurate inability of the labor market to sustain the full complement of workers, and established unemployment insurance benefits to workers who are currently not covered by Federal or State unemployment laws.

When we adopted that legislation, as reflected in the statements of those many Members of this body who supported this legislation, we recognized that there is a need for quick and decisive action by the Congress to provide the kind of tem-

porary assistance to the workers in the country which could sustain their families and themselves until we can establish some method which will counteract the spiraling inflation and unemployment and deepening despair among the country's wage earners. I can not believe that there is one of us in this body today which is not directly affected by the effects of our faltering economy. There is not a State represented in this body which is not touched by the spreading cancer of high prices, high unemployment, and collapsing job opportunities. I know my State is hard hit by this economic dislocation, and I know of others equally affected. It is our responsibility, therefore, to provide for the needed legislative incentives to reverse this trend and to again re-establish the stability and economic growth so necessary to the perpetuation of our way of life.

H.R. 16596, which is before us today, is very similar to S. 4079 to which I have already referred. This bill was reported out of the joint House-Senate Conference Committee yesterday, after one and a half days of intensive and continuous discussions, analyses, and assessments. While I am on the subject of the Conference Committee, Mr. President, please let me merely note that I have rarely seen the kind of dedication and concern that I saw during the work of the committee. Under the able chairmanship of Senator NELSON, the members worked late into the night, and picked up early again the following morning to quickly complete their deliberations and to put before us today this document. I think that the members are to be commended for their dedication, persistence, and their concern to produce this bill which goes a long way toward establishing the kind of temporary relief so needed to regain the confidence of our workers in this country's economic system.

H.R. 16596 is very similar in major part to S. 4079 which we adopted on December 12. It contains the best parts of that bill and the House-passed version of the emergency employment bill, and represents what I believe to be an excellent and comprehensive piece of legislation to alleviate many of the short-range economic difficulties faced by so many of our States.

H.R. 16596 is comprised of three major portions: Title I, which provides for the allocation of $2.5 billion for public service employment; title II, which establishes approximately $2.5 billion for a program of extended unemployment insurance benefits under a special unemployment assistance program; and title III, which provides for $500 million for public works and economic development under a job opportunities program.

Title I of H.R. 16596 proposes a program of public service jobs designed to provide temporary employment to our Nation's unemployed. This program is established through the addition of a new Title VI to the Comprehensive Employment and Training Act of 1973 (CETA). To implement the emergency job program established under Title VI, the bill authorizes the appropriation of $2.5 billion for fiscal year 1975. By this addition of a new title to CETA and its commensurate authorization of additional funds, it is the intention of the conferees not to affect any of the funding already established under title II of CETA; it is the design of this legislation to provide for specific emergency funding for public service jobs created under its provisions and to provide temporary economic relief to workers affected by our current economic conditions.

The bill also contains a provision in section 602(d) which is specifically designed to focus attention on those employees who have been out of jobs for extended periods. This section provides that "preferred consideration" under this title be accorded to employees who have been out of work for 15 weeks or more or who have exhausted their unemployment insurance benefits or are not eligible for such benefits. While this section is not in any way designed to require an absolute preference in hiring, it is designed to draw attention to the seriously disadvantaged in an area, those who have been relegated to that status either by the chronically high unemployment in their particular area or to an overabundance of workers in their particular skills market, brought on by a contraction of that market or demand for the production of their skills.

The distribution of funds under H.R. 16596 is designed to provide the maximum amount of funds to those areas with the highest unemployment and therefore most in need of these funds. The distribution of funds is to take place according to the provision of title II of CETA, and is to be made to prime sponsors qualified under title I of that act. Of the total amount of money to be appropriated, the bill established that 90 percent of the total amount of funds allocated shall be distributed, allowing that the remaining 10 percent be retained by the Secretary of Labor to be distributed at his discretion, taking into account changes that may occur in the rates of unemployment in specific areas. Of the basic 90 percent of funds made available under this bill, a specific allocation formula is established to allow for the most beneficial distribution of these funds and to provide for the maximum amount of benefits to those areas most in need of them. Half of the total amount of funds shall be distributed nationwide in a ratio determined by the relationship that the number of unemployed persons has in an applicant's area to the total number of unemployed in all areas of eligible applicants. Of the remaining 50 percent, 25 percent shall be distributed in the ratio that the number of unemployed persons in excess of 4½ percent of the labor force in the area of the applicant bears to the total of such unemployed in the areas of all applicants. The other 25 percent shall be distributed to areas qualifying under title II of CETA in the ratio that the number of unemployed in the applicant's area bears to the total of unemployed in all areas.

The distribution of funds and the incentives for providing job opportunities under the title I of H.R. 16596, the bill before us today, entails several waivers of waiting time requirements currently in title II of CETA. It also broadens the coverage of programs and areas eligible for funds under the bill. The conferees felt that these types of broadening and expediting provisions are necessary in order to move the funds made available under this act to the areas in need of the funds as quickly as possible. Given the emergency nature of this legislation, I must urge that it is absolutely necessary that the funds made available pursuant to this legislation reach the affected areas as quickly as possible and that we not encourage administrative delays in their distribution. Too many times, I have seen legislation which is conceived with a great deal of urgency in response to a particular need, slow down to an agonizing crawl after it leaves these Chambers, often due to the amount of administrative and technical requirements that are imposed. While we all recognize the need for some safeguards when sums of money of this magnitude are involved, there is also the countervailing need to quickly stimulate local job programs and re-establish workers in paying jobs, so that they can regain their sense of pride and meaning.

Notwithstanding this avowed need for special emergency action and for quick and effective programs to stimulate local employment, the bill still retains certain necessary safeguards which would insure that the most effective use is made of the funds and that local programs not be supplanted by Federal action. For example, while the bill provides for the waiver of certain time requirements for the application of funds to capital improvement projects, these projects are limited to those which would not otherwise be carried out. I want to emphasize, as one of the conferees on this bill, that it is our intention that "paper lay-offs" pursuant to an artificial reduction in force procedure which may be initiated to maximize the allocation of Federal funds not take place, and that the reduction of time for the waiting period that ordinarily is required under title II of CETA is merely designed to provide funds more quickly to long term unemployed persons in the area. The rehiring of employees who lost their jobs due to a bona fide layoff is, of course, permitted and encouraged. Here I might add that many Government employees laid off pursuant to a bona fide layoff plan may be in a preferred category for rehiring, since they may not otherwise be eligible for unemployment insurance benefits available to other employees.

Similarly, the bill makes clear, as is noted in the conference report, that the limitation on capital improvement projects to those that otherwise would not be carried out is designed to insure that public employees hired under this title shall not be used to perform work that would otherwise have been performed or contracted out to private employers.

In S. 4079, the Senate had originally adopted a requirement that the Secretary be authorized to insure that the average wage under the provisions of this program be maintained at $7,500 per year. The conferees agreed that this provision should be modified to raise the

national average to $7,800 per year, and that the requirements of section 208(a)(3) of CETA would apply limiting any one person to a maximum salary of $10,000 per year. It was felt that this type of provision was necessary in order to allow flexibility in setting salaries within prime sponsor areas and that any effective plan to stimulate local employment must be so designed to establish meaningful jobs under this program, taking into account local wages and working conditions.

The bill also contains several specific provisions designed to insure both a maximum and fair utilization of all unemployed workers, and that employers not limit unnecessarily the categories which they might establish for public employment. In this regard, for example, the bill specifically provides that child care and outstationing of public service employees will be permitted under the public service employment provisions of this bill and that part-time work in certain specified categories will also be permitted. Similarly, the bill provides that specific attention be given to programs designed to employ veterans who currently have a much higher unemployment rate than the national averages.

Title II of H.R. 16956 establishes a special program for extending unemployment assistance benefits to those millions of workers who are ineligible for compensation under the present unemployment insurance system. These include farmworkers, domestic workers, and State and local government employees. The current system establishes a basic measure of income replacement payments for approximately 86 percent of the work force, typically for a period of up to 26 weeks. Additional coverage is also available under the Extended Unemployment Compensation Act of 1970, which provides for an additional period of benefits for up to 13 weeks when certain "on" indicators relating to the unemployment rate are met.

While these programs have been by and large effective, the current economic situation mandates that additional action be taken. One of the characteristics of the present economic picture is that unemployment patterns tend to vary greatly from one area of the country to another, and frequently within States. I know that in my State of New Jersey, for example, we have some pockets of very high unemployment while other areas show a much lower rate.

H.R. 16956 includes specific provisions to remedy this problem and establishes an approach designed to accommodate these variations. The provisions for distribution under H.R. 16956 establishes a basis of allocating additional benefits on the basis of specific need in CETA prime sponsor areas. Section 204(c) of the bill makes additional unemployment insurance benefits available on a nationwide basis whenever the national unemployment rate averages at least 6 percent for 3 consecutive months, or, when the local area unemployment rate averages 6.5 percent or more for 3 consecutive months unemployed workers in these areas would be entitled to receive benefits. Benefits under the program are payable from the date of enactment until March 31, 1976.

H.R. 16956 also contains a separate title III which amends provisions of the Public Works and Economic Development Act of 1965. It is the purpose of this section to establish a 1-year program of emergency financial assistance to stimulate, maintain, or expand job-creating projects in areas having high unemployment. Title III authorizes the appropriation of $500 million for this purpose.

This portion of the bill provides that the Secretary of Commerce and the Secretary of Labor shall jointly determine where such funds are to be made available on the basis of several criteria. In allocating these funds, the Secretary of Commerce and the Secretary of Labor are directed to make such funds available only to projects which: First, will contribute significantly to the reduction of unemployment in the project area; second, can be initiated or strengthened promptly; and third, a substantial portion of which can be completed within 12 months after such an allocation is made. Any such projects must also be consistent with locally approved comprehensive plans for the area affected. In order to insure that the programs which will receive funding under this section have a maximum effect on unemployment within a designated area, the conferees also provided that any such projects must be deemed to be the most labor intensive for the area under consideration. This requirement is further strengthened with the requirement that of the funds appropriated under this title, one-half must be for projects where no more than 25 percent of the allocation is used for nonlabor costs.

With regard to the portion of the authorization relating to the purchase of necessary nonlabor materials and supplies, I would like to note that this provision is intended to be the basis for furnishing the materials necessary to the project and is not to be used for the purchase of the equipment beyond the most necessary requirements.

Moreover, the concern expressed in the statement of the managers with regard to capital improvement sections in title I are equally applicable here. Specifically, I am referring to the provision in the conference report which makes clear that employees hired under these programs will not be used to perform work that would otherwise have been contracted out to private employers.

This public works title in the bill should have a particularly special impact where much needed construction projects have been halted or delayed because of insufficient or impounded funds. That this title is included in the conference report is in no small measure due to the diligence and dedication of the ranking majority member of this committee and the chairman of the Public Works Committee, Senator RANDOLPH.

Finally, I wish to again commend the members of this conference and also to note the excellent staff work performed by Messrs. Richard Johnson and Larry Gage for Senator NELSON, and John Scales and Don Zimmerman for Senator JAVITS.

Mr. President, we have had this issue before us already once before within the last week, and I feel that I need not again emphasize the strong need for quick action here. The House of Representatives passed this report earlier this afternoon, in a strong endorsement of this measure. I urge again every Member of this body to fulfill their personal obligations to the workers in their respective States and give support to this legislation this afternoon. The sooner that we can deliver this bill to the President for his signature, the sooner the workers of this country will be able to regain some measure of security and self-confidence in their progress, and their faith in those of their representatives who are in the Congress that their problems are not overlooked.

Mr. CRANSTON. Mr. President, I rise in support of the pending measure, The Emergency Jobs and Unemployment Assistance Act of 1974.

At the outset, I wish to congratulate the chairman of the Subcommittee on Employment, Poverty, and Migratory Labor (Mr. NELSON) for his vigorous efforts in moving this bill so quickly, and all my colleagues on the Labor and Public Welfare Committee for their prompt and decisive action with regard to this most important legislation. My colleagues will recall that we passed this bill in the Senate just last Thursday, December 12, and the bill was ordered reported from the committee on conference on Tuesday, December 17, 1974.

I also wish to pay tribute to the chairman of the full committee, the Senator from New Jersey (Mr. WILLIAMS), the ranking minority member of the committee, the Senator from New York (Mr. JAVITS), and the Senator from Massachusetts (Mr. KENNEDY) for their hard work on this legislation.

Mr. President, I think it is clear that the Congress has acted swiftly and responsibly within a very short period of time to meet the pressing unemployment crisis in this country. Although compromises had to be made in the bill, as reported from conference, I am confident that this measure will result in much-needed relief for many Americans who are currently out of work.

Mr. President, not only have we acted with the necessary speed in bringing this matter to the Senate floor, through conference, and back to the Senate for the second time, all in less than 1 week, but I also believe we have acted in a very responsible manner. This measure is clearly a symbol of compromise between the House and the Senate, as well as the administration. We have attempted to evaluate carefully the administration's proposals and to go along where that was possible, to compromise when we could do so without conceding on matters of substantial principle, and to differ honorably where we felt that the administration's approach was the wrong one.

TITLE I: QUALITY OF JOBS

Thus, title I of the bill reported from conference attempts to strike a careful balance between the need for emergency public service employment jobs across the Nation and the Senate committee's

conviction—which I share most strongly—that the jobs created must be meaningful, not "leak-raking" jobs, in the words of a former President and, most significantly, should be jobs, which will be designed to provide needed services to communities across the country.

In this time of recession/inflation, with productivity dropping for the last three quarters, I believe it is counterproductive to establish short-term, unattractive, dead end jobs which do not contribute at all to meeting important community needs and developing individual skills and potentials. That is why the Senate bill did not provide waivers for the various provisions in title II of CETA which deal with the quality of the jobs created and which, as a matter of fact, all are in the nature of generally applicable principles providing for variation for exceptional circumstances.

The conference agreement thus permits fewer waivers than did the House bill—deleting the provision for waivers of sections 207 (a) and (b) of CETA, regarding periodic reviews of individual employee progress and opportunities for advancement or suitable continued employment, provisions I authored with Senator JAVITS originally—but also the waivers are far more tightly worded. First, the House bill provision was deleted which automatically granted as a matter of law, all permitted waivers of title II requirements to all areas with 7½ percent or more unemployment rates. Rather, these areas, along with title-II-of-CETA recipients, rural CEP's, and combinations of smaller governmental units, can waive the permissible provisions—even under the tightened waiver provisions in the conference agreement—only upon certification to the Secretary of Labor that each of these waivers must be applied "in order to provide sufficient job opportunities" and public notice of each such certification. This tightening was a provision I was able to work out with the House conferees.

Second, the waivers for wage rates are permissible only for work which would not otherwise be carried out and only in communities of 10,000 population or less which are outside SMSA boundaries.

Third, the layoff/hiring time period is 15 days, not 7 as proposed by the House, and this 15-day waiver provision itself can only be applied in individual cases where the sponsor certifies that the hiring of an individual will not violate CETA section 205(c)(8) requiring that no person be hired to fill a vacancy created by layoff or termination of a regular employee in anticipation of filling such vacancy with an employee supported with funds under this new public employment program.

We have also in the conference agreement provided for a recommended nationwide average cost per job of $7,800 which will help to insure that the general nature of jobs supported under the Emergency Employment Act of 1971 and presently covered under title II of CETA will be maintained.

AMENDING CETA

Further, we have insisted, in the conference agreement, that this legislation be made a part of the Comprehensive Employment and Training Act of 1973—a new title VI, despite the administration's proposal to create an entirely new and separate piece of legislation. I must confess that I was never able to understand the administration's basis for proposing such separate legislation, especially in view of the fact that the administration itself had pushed so long and so hard to obtain a single, comprehensive, unified approach to manpower training and employment legislation in 1971, 1972, and 1973, resulting in the enactment of CETA.

ELIGIBILITY FOR NEW JOBS

Another area where we believed that the administration's position was not correct was its proposal that public service jobs should be available only to those who had exhausted their unemployment insurance benefits. Coupled with the proposal being acted upon separately in both Houses at this time, to provide for an additional 13 weeks of unemployment insurance benefits, in many States this administration proposal to limit these new jobs to "exhaustees" would have the effect of requiring an individual to be unemployed for a full 52 weeks before becoming eligible for this kind of a job.

One surely disastrous effect of this kind of a prerequisite would be to rule out many returning and returned veterans from consideration for these jobs, let alone from the sort of priority treatment which the law requires—particularly with the amendments which I proposed and which the Senate committee adopted to this bill—under title II of CETA and which the conference retained in substantial part.

I believe it is fair to say, Mr. President, that the "preferential consideration" which the conference report calls for ex-trustees for those unemployed for 15 or more weeks, and for those—except new entrants—with no unemployment insurance eligibility, was not intended to diminish the statutory emphasis on providing public service jobs for young veterans.

ALLOCATION FORMULA

Finally, Mr. President, we were also unable to agree with the administration bill with respect to the allocation formula and the question of whether there would be a nationwide program or a program which would focus funds and jobs only in areas of the most substantial unemployment. This is a matter about which I have long felt very strongly, Mr. President. I have sponsored legislation for more than 2 years now to create an ongoing nationwide public service employment program that would not be triggered on and off by rising and falling unemployment rates. This is because I believe, first, that there is a level of basic unemployment—whether it be 3½ or 4 percent—which we will never be able to resolve with standard manpower training programs and fiscal and monetary measures; and second, because I believe that the demand for public services across the Nation cannot be met either through local tax bases—already so severely overburdened—or through the present level of revenue-sharing support.

I also believe, Mr. President, that there is a direct correlation between the value of the public service jobs produced—both in terms of their contribution to meeting otherwise unmeetable community needs and in terms of their contribution to the self-esteem and subsequent employability of the person performing the work—and the number of jobs which each community is called upon to create and fill in a relatively short period of time. Thus, a nationwide program contributes to realization of meaningful jobs and not jobs deliberately made as unattractive as possible, as the administration has proposed with respect to this new program.

At the same time, Mr. President, I do believe that there is a need for continuing to focus some proportion of funding in those areas most severely hit by unemployment. Thus, I have supported the special section 6 program in the Emergency Employment Act of 1971, under which 20 to 25 percent of the EEA funds were channeled into areas with 6 percent or more unemployment rates, and in 1973 the title II CETA program distributing funds into areas of substantial unemployment, this time measured at 6.5 percent.

My State of California is particularly beseiged with unemployment problems at present and has been for the last several years. Our unemployment rate statewide is now an astronomical and tragic 8.7 percent. Thus, special targeting of funds to areas of substantial employment is of particular benefit to numerous communities and governmental units in California.

In order to strike a reasonable accommodation between the need for a nationwide approach and a certain amount of targeted public service job funding, I offered an amendment, cosponsored by the distinguished chairman of the Labor and Public Welfare Committee (Mr. WILLIAMS) and the distinguished Senator from Massachusetts (Mr. KENNEDY), which was adopted during Senate committee consideration of this measure. The formula I proposed provided for 25 percent of the amounts appropriated to be allocated to areas of substantial unemployment as defined in section 204(c) of CETA, while the remainder of the funds—75 percent—would be distributed nationwide in accordance with overall unemployment.

I had hoped that this distribution would preserve the essentially nationwide nature of the formula in the bill as introduced, with concentrated unemployment given approximately the same proportion of special attention that it received under the Emergency Employment Act of 1971.

I am, therefore delighted that the conference agreement retained the 25-percent title II allocation as part of the following allotment formula: 50 percent shall be distributed in the ratio that the number of unemployed persons in an eligible applicant's area bears to the total number of unemployed persons in the areas of all eligible applicants; 25 percent shall be distributed in the ratio that the number of unemployed persons in excess of a 4½-percent rate in the area of the applicant bears to the total of such excess unemployed in the areas

of all applicants; and the remaining 25 percent shall be distributed to areas qualifying under title II in the ratio that the number of unemployed in one such area bears to the total of unemployed in all such areas.

With unemployment projected to reach 7 percent shortly and 8 percent next year, some reasonable proportion of the funds should be concentrated in areas most severely hit. Since $770 million have recently been made available for allocation to areas of 6.5 percent or more unemployment under title II of CETA—$370 million in the Second Supplemental Appropriations Act of fiscal year 1974 and $400 million in the Labor-HEW Appropriations Act for fiscal year 1975—the 25-percent allocation adopted by the conference for 6.5 percent areas in the proposed amendment would provide some funds to carry on this level of funding for the duration of this new emergency program.

Further, Mr. President, the 25-percent excess of 4½-percent factor will be of substantial aid to areas and States—such as California—with unemployment rates well in excess of 6½ percent.

VETERAN'S PROVISIONS

Mr. President, the nationwide unemployment situation becomes an even greater tragedy when it hits those persons who are already most disadvantaged. Our Nation's young Vietnam-era veterans are one such segment of our unemployed population. During Senate committee consideration of this measure, I offered an amendment which was designed to provide substantial assistance to service-connected disabled veterans and Vietnam-era veterans through the provision of public service jobs under this new program, as well as under title II of CETA. Before describing in detail the amendments which I offered, and the agreement we reached in conference on these provisions, I would like to outline for my colleagues the gravity of the veterans unemployment situation in the Nation today.

VETERANS' UNEMPLOYMENT PLIGHT

Mr. President, there are presently 346,000 Vietnam-era veterans unemployed, of whom 145,000 are age 20 to 24 and 155,000 are age 25 to 29. The unemployment rate for 20- to 24-year-old veterans is now 12.4 percent. Among minority group 20- to 24-year-old veterans, the rate is 23.2 percent. Among all Vietnam-era minority veterans it is 10.8 percent.

The plan submitted by the Labor Department to the Congress in October to cover fiscal 1975 for helping unemployed veterans offers very little hope for resolving this problem. The plan admits this in so many words. In the middle of the review of past efforts, in a one page discussion of the "Impact of the JFV—Jobs for Veterans—Plan on Veterans' Unemployment Outlook," it is stated:

If the national average unemployment rate should rise to 6.0 percent by the end of FY 1975, average employment of VEV's (Vietnam era Veterans) should be about 300,000 above the present totals (290,000). At this level, it is unlikely that the VEV jobless rate can be kept below the 6 percent mark for that period by presently programmed activities in the JFV Plan of Action. This could result in a rise in VEV jobless totals to 375,000 by the end of FY 1975 (from the present level of about 290,000). Since younger, minority and disabled vets are among the last group hired in many areas and industries, jobless rates for such groups will probably significantly exceed the 10 percent levels now reported.

Mr. President, with an overall national unemployment average of 6.5 percent and 6 million Americans out of work, the burden of continued increases in unemployment, as the Labor Department suggests, will fall heavily on three groups of veterans who already have high unemployment rates: Young veterans in the 20- to 24-age bracket; minority-group veterans; and disabled veterans.

When the Department's plan was prepared, unemployment was much lower than at present. In the second quarter of this year unemployment for 20- to 24-year-old veterans was about 10 percent. Third quarter figures show that unemployment in this group is up to 12.4 percent. The jobless rate for minority-group veterans—always double that for whites—is particularly acute in the youngest age bracket. In the 20-to-24 age bracket, second quarter figures from the Bureau of Labor Statistics indicate an unemployment rate of 19.5 percent. Third quarter figures show that that rate had risen to over 23 percent.

There are over 350,000 disabled Vietnam-era veterans. Comprehensive unemployment figures for disabled veterans have not been readily available. A study by the Human Resources Organization—HUMRRO—commissioned by the Manpower Administration of the U.S. Labor Department, found an 11-percent unemployment rate among disabled veterans in the first quarter of 1974. That same study found that, whereas during fiscal 1974, 112,000 disabled veterans registered at employment service offices throughout the country, only 25,000 were placed in jobs. The HUMRRO study also pinpointed breakdowns in the supportive services necessary to put teeth in the official Labor Department policy of giving disabled veterans priority over all other applicants to the employment service. These include improper identification of disabled veterans; little followup to determine the length of stay on job by disabled veterans; the depth of feeling among employers against hiring disabled individuals; and very little cooperation in many cities between the Veteran's Administration and the employment service. The Disabled American Veterans have felt that unemployment among disabled veterans is very likely higher than 15 percent.

Moreover, Mr. President, the HUMRRO study points out, unemployment rates among the more severely disabled young veterans increases sharply with the severity of disability for high school dropout veterans. Among high school dropout veterans under age 30, the unemployment rate is 18 percent for those with slight disabilities; and it increases to 31 percent for those with severe disabilities. Of every three young disabled veterans interviewed by HUMRRO who reported seeking help from State employment service offices, only one reported getting a job offer based on the employment service referral. Half or all those veterans seeking local employment service help felt they received inadequate information and advice according to HUMRRO.

These three groups—those 20 to 24, minority-group veterans, and disabled veterans—are very likely going to face even more severe unemployment in the months ahead. Moreover, official unemployment rates do not reflect the severe hidden unemployment—those who have given up looking—that many analysts, even inside Government, concede exists. In other words, the rates of unemployment I have mentioned are very likely modest estimates.

The Labor Department's fiscal year 1975 plan suggests that programs that have had the most impact in the past on reducing veterans' unemployment will continue to have that ameliorative effect. But the Labor Department fails to mention that three of the five programs it lists no longer exist: The public employment program; institutional training under the old Manpower Development and Training Act; and the concentrated employment program—CEP. The two other programs—the job opportunity in the private sector and the OJT-national contracts program—have been curtailed due to the economic downturn or the adoption of CETA.

Since CETA gives much control over manpower programs to local officials, the Federal Government can really only suggest that veterans get preference. In fact, at my urging the Labor Department finally included in its title I manpower program regulations that prime sponsors of manpower programs should give veterans a preference. But compliance with this veterans' preference will be left very much to local officials, and it, therefore, seems overly optimistic to expect equivalent participation rates by veterans in these programs, as the Labor Department's plan suggests is likely to be the case—"At least equivalent participation rates are expected under this JFV Plan."

More specifically, the Labor Department jobs for veterans' action plan singles out two programs as most successful in cutting into veteran unemployment. It says:

A special study of Vietnam era veterans unemployment problems and programs recently completed by the Manpower Administration, U.S. Department of Labor ("The President's Veterans Program: Assessment and Proposed Program Directions for FY 1975") indicated that certain types of manpower and employment assistance programs—such as the on-the-job training or public service employment programs—generally produced more significant results in terms of continuing employment opportunities for veterans than did programs such as job training in schools and similar institutions. The focus of program efforts under the new Jobs for Veterans design will be to emphasize these high impact programs.

Although we welcome these hopes, the Senate committee, in accepting our amendment, found that the degree of progress necessary to meet the severe and mounting rate of young and disabled veteran unemployment can be

achieved only through tough, specific Federal guidelines.

As I will discuss, the primary reason the public service employment program under the Emergency Employment Act of 1971—EEA—was successful in cutting into veterans' unemployment was because the Federal Government insisted that 30 to 33 percent of all hires be young veterans. In the absence of that kind of authority attached to any public service employment bill, it is highly unlikely that veterans will get the special consideration which I believe and the committee found they deserve.

Under the EEA, through fiscal year 1974, Mr. President, Vietnam-era veterans comprised 28.3 percent of all hires. The Labor Department regulations, pursuant to section 7(c)(4) of the EEA—requiring special consideration for special veterans—provided for the Secretary to establish employment goals for veterans, and, as I have already indicated, the Secretary generally required prime sponsors and program agents to make Vietnam-era veterans 30 percent of EEA hires.

The new CETA title II regulations do not, in fact, provide for any such setting of goals by the Secretary for the employment of Vietnam-era veterans. Rather, the "special consideration" required by section 205(c)(5) of CETA is implemented by a regulation providing only that local government sponsors shall hire a proportion of unemployed veterans no less than the proportion that veterans comprise of eligible unemployed persons in the sponsorship area. That may be equitable consideration—which is required for all significant segments of the unemployed population by section 205(c)(2) of CETA—but the committee did not believe it is the "special consideration" which the provisions of title II (section 205(c)(7)) of CETA were designed to achieve.

Mr. President, I have had a continuing dialog with the Labor Department with respect to the appropriateness of its CETA title II regulations on veterans employment, and, on the basis of that correspondence and the difference of opinion between us, I concluded that the only really effective way to bring about any significant improvement in those regulations and in the resultant assistance which would be provided to veterans pursuant to those regulations, was to amend the law, as we have done.

Mr. President, I note that I inserted into the RECORD last Thursday, December 12, during Senate consideration of our committee bill my July 22, 1974, letter to Assistant Secretary of Labor William H. Kolberg and Mr. Kolberg's September 3, 1974 response to me on this subject.

SUMMARY OF PROVISIONS OF VETERANS AMENDMENTS

Mr. President, to provide some relief to those veterans suffering from the soaring rate of joblessness, I offered along with Senators RANDOLPH, KENNEDY, and STAFFORD, and the Senate committee adopted, a two-part veterans amendment. The provisions of the bill as passed in the Senate provided for: First, an affirmative action program, to be carried out by CETA prime sponsors, to employ Vietnam-era veterans—those discharged with other than dishonorable discharges since August 4, 1964—and veterans with service-connected disabilities; second, the upgrading of the Director of the Veterans Employment Service to be a Deputy Assistant Secretary of Labor; third, part-time employment for veterans under the public service jobs program; and, fourth, cooperation between the Secretary of Labor, the Administrator of the VA, and the Secretary of HEW to carry out a veterans outreach and public information program.

Although I regret that these provisions were not retained in their entirety in the conference report, I am gratified that the conference agreement contains the bulk of them.

OUTREACH AND PUBLIC INFORMATION EFFORT: REPORT TO CONGRESS

The conference report provides that the Secretary of Labor shall, in consultation and cooperation with the Administrator of the VA and the Secretary of HEW provide for an outreach and public information program utilizing, to the maximum extent, the facilities of the Departments of Labor, HEW, and the VA in order to exercise maximum efforts to produce jobs and job training opportunities for persons who served in the Armed Forces and were discharged within 4 years prior to their application for employment and training—regardless of the nature of their discharges—under CETA, as amended by this act, as provided for under title 38, and under any other provision of law. This provision further requires the Secretary to inform all eligible veterans about employment, job training, on-the-job training, and educational opportunities under these laws and to inform eligible applicants under CETA, Federal contractors and subcontractors, all Federal departments and agencies, educational institutions, labor unions, and other employers, of their new responsibilities under this provision and those under all such laws, and to provide them technical assistance in carrying out all of those responsibilities.

Mr. President, I am hopeful that the conference report provision that maximum efforts be taken to produce job and job-training opportunities for veterans discharged within 4 years of their application for assistance will result in a continuation of the successful EEA hiring record for young veterans. At the same time, it is certainly disappointing that the conferees could not be persuaded to extend this new requirement to benefit veterans disabled in service.

SPLIT JOBS

The conference report expands the definition of "public service" to include part-time work for those who are handicapped or older, in addition to GI bill trainees, who because of their status are unable to engage in full-time work, and specifically provides for one activity these part-time employee GI bill trainees can carry out to be veterans' outreach work as provided for in chapter 3 of title 38.

The Senate committee pointed out in the report, Mr. President, as it did in 1971 and 1973, that one way to stretch Federal public job slots is to combine part-time public employment with GI bill education and training benefits for unemployed veterans. Married veterans with children have found it particularly difficult to utilize fully the GI bill benefits which can enable them to gain the skills to become more competitive in the job market. By having two veterans share the work and pay that would otherwise cover only one, both employers and veterans gain. More people can be helped and the goals of transitional employment will be met by making it possible for veterans to achieve academically and receive needed job experience and training.

In order to make such a part-time job program and other efforts effective on a major scale, the responsibilities set forth above are assigned by the amendment to the Department of Labor, the Veterans' Administration, and HEW. They are intended to work with State and local governments and the educational community to develop public job and GI bill education and training packages, building on the experiences of communities that have successfully used the concept under the EEA, such as San Francisco, Baltimore, Milwaukee, Grand Rapids, and Orange County, Calif. It is also anticipated that the extra costs entailed in the hiring of two or more persons for one slot should be recognized as legitimate costs to be counted in the 90-percent requirement—that is, included in the sums for wages and employment benefits.

We view the combined use of public jobs and GI bill benefits as a high priority and thus the Senate committee report directed, as part of the new outreach and outreach program the Secretary of Labor to notify all program agents of these possibilities in any mailings, fund distributions, guidelines, instructions, and regulations. Plans for promoting the split-job concept, not only for veterans, but, by virtue of an amendment which I offered for Senator RANDOLPH and myself, to section 601(a)(7)—701(a)(7) as renumbered by the conference report—for older and handicapped persons, are to be included in the 90-day report to the congressional committees. Moreover, the unemployment compensation program personnel, as well as the U.S. Employment Service, are expected to join with the Veterans' Administration in informing veterans of their GI bill opportunities so that no matter which office a veteran goes to for assistance, the services and information received will be complementary and reinforced.

Mr. President, here are more detailed examples of successful split-job programs:

First. San Francisco—Begun in 1971 with a subcontract from the city of San Francisco to the Community College District of San Francisco, this program created 220 20-hour jobs. It enables veterans who would otherwise have to forego their education, who were unemployed at the time of the program entrance to use their GI bill and get an education. The veterans hired by the

college district to administer the program were able to tackle a number of other veterans' problems; 400 persons were on the waiting list in March 1974.

Second. Orange County, Calif.—Under a September 1972 demonstration grant, $2 million was used to fund a split-job-voucher program. Close to 500 veterans were given vouchers good for 20-hour jobs at agencies they could persuade to hire them. They were required to be using the GI bill. The success of the program led the city of Santa Anna to make available in October 1974, 53 20-hour jobs under CETA.

Third. Grand Rapids—In January 1973, Grand Rapids began a split-job program, which included the summer time expansion of part-time jobs into full time jobs; 112 veterans used the program with more than 80 percent of the participants either graduating or going on with their training.

Fourth. Baltimore—Split-jobs in Baltimore began in 1972 in a project described by a National League of Cities/U.S. Conference of Mayors' Evaluation of the Emergency Employment Act. Many of the veterans who were hired on EEA had little awareness of their eligibility for GI bill benefits. The report showed that, contrary to the expectations of the Baltimore Veterans' Administration regional office, many wanted to use their GI Bill benefits.

Fifth. Milwaukee—This city set aside 106 split-jobs for student-veterans. An interim assessment of the EEA done for the Senate Committee on Labor and Public Welfare in May 1972, said "Project Early Hire"—the Vets' EEA split-job project—stands as Milwaukee's most important EEA program innovation and provides CSC with not otherwise available flexibility.

TITLE II: SPECIAL UNEMPLOYMENT ASSISTANCE PROGRAM

Mr. President, title II of the conference report will provide a program of temporary special unemployment compensation benefits to jobless workers who are not covered by any State and Federal unemployment compensation law.

The major groups of workers who will be covered by unemployment insurance for the duration of the emergency period are farmworkers, domestic workers, and State and local government workers. An estimated 1 million, and more, workers in California, not presently covered by unemployment insurance, will be protected against loss of job income under this bill.

Benefits will be payable to eligible workers, who must qualify under State law, for 26 weeks during periods when the national unemployment rate is 6 percent or more or, if the national rate drops below 6 percent, if they work in a CETA prime sponsorship area having an unemployment rate averaging 6.5 percent for 3 months.

The special unemployment assistance program will be supplementary to three other major unemployment compensation programs, which constitute Congress' overall response to the present crisis: The regular 26 weeks program of unemployment insurance; extended Federal-State benefits, which covers the 26th through 39th week of unemployment; and the proposed supplemental benefits program—now pending immediate consideration in both Houses—which would pay benefits from the 39th week through the 52d week of unemployment.

UPGRADING DIRECTOR OF THE VETERANS' EMPLOYMENT SERVICE

Mr. President, while the conferees did not accept the Senate provision I authored upgrading the title of the Director of the Veterans' Employment Service the conferees did agree in full to the substantive new responsibilities assigned to that official by the Senate amendment.

The conference agreement provides that the Director of the Veterans' Employment Service, together with the Secretary, Under Secretary, and appropriate Assistant Secretaries of Labor, shall be responsible for formulating and monitoring the implementation of all Labor Department policies and programs as they affect veterans. These include: title I of CETA; title II of CETA; unemployment compensation for ex-servicemen (UCX); veterans' reemployment rights; the title 38, section 2012, affirmative action program.

Presently, the Director of the Veterans' Employment Service has little visibility and no opportunity for input into departmental policy decisions for other employment and manpower programs. His staff is small and his mission is accorded a low priority within the Department.

Given the present extremely high level of veterans' unemployment and the thus far inadequate response by the Labor Department to this problem, these new responsibilities should help concentrate departmental attention on the employment needs of veterans, especially Vietnam-era veterans and those who have service-connected disabilities.

The American Legion, the Veterans of Foreign Wars, and the Disabled American Veterans have all this past summer adopted national convention mandates proposing the establishment of a full Assistant Secretary of Labor for Veterans Affairs. The committee did not agree to this proposal because establishment of such a position would be inconsistent with overall Labor Department organization and does not seem necessary to achieve the purposes sought. The new responsibilities are designed, however, to respond to the clear need for much greater departmental emphasis on establishing programs and coordinating and implementing provisions of law designed to provide training and employment opportunities for veterans.

JOB OPPORTUNITIES PROGRAM

Mr. President, title III of the bill provides emergency financial assistance to stimulate, maintain, or expand job-creating activities in areas of the country, both urban and rural, which are suffering from unusually high levels of unemployment. The conference agreement provides $500 million for this job opportunities program, which amends the Public Works and Economic Development Act of 1965.

Funds under this title will be available to supplement programs identified through the review process in section 1004 so as to expand or accelerate their job-creating impact.

All but four counties in California will be eligible to apply for these funds, and California is expected to receive approximately 10 percent of the total amount allocated.

CONCLUSION

Mr. President, in sum this is the right bill at the time, and I urge overwhelming adoption of the conference report.

Mr. TAFT. Mr. President, yesterday in the spirit of cooperation and compromise, the Senate conferees of which I am a member, and the House conferees, resolved their differences between H.R. 16596 and S. 4079, bills to provide additional jobs for unemployed persons through programs of public service employment and unemployment compensation payments to previously uncovered workers. Because of the urgent need for this legislation and the shortness of time remaining in this session of Congress, the conferees worked extremely diligent to secure agreement. For the most part, I can happily report that the conferees' agreements embodied the best provisions of both bills. I believe this compromise product is a real tribute to the institutions of Congress and demonstrates that we can timely respond to urgent problems and that we are responsive to the call of our people and the President.

I want to commend the managers of the bills and all of the conferees for their devotion to resolving this crucial problem. Undoubtedly, their efforts have been in the best traditions of the Congress.

Mr. President, this bill is a necessary supplement to what Congress has already done this year in appropriating $1.2 billion under the Comprehensive Employment Training Act to provide approximately 160,000 public jobs. The agreement of the conferees was to increase the amount available for public service employment under this bill from the $2 billion figure that the House had arrived at, to a figure of $2.5 billion. Although I cosponsored S. 4079, which called for a $4 billion authorization, I was troubled that this figure was too high when considered originally in the context of the House bill and the administration commitment. As a practical matter, it is extremely doubtful whether prime sponsors under CETA could receive and absorb those amounts of funds authorized by the Senate bill in a period of 1 year, the life of the act. Therefore, when agreement was reached on $2.5 billion, I felt that this figure was more realistic and took into consideration the budgetary effects with which all Members ought to be concerned. I know that many of the reservations expressed by other Senators over the $4 billion figure are now resolved and that this potential impediment has been removed.

Mr. President the additional money provided for under this bill, in conjunction with the $1 billion already made available under CETA enables State and local governments and other prime sponsors to hire unemployed persons to perform jobs that are necessary but are not now funded through State and local rev-

enues because of budgetary restraints. With regard to allocation of funds, the conference agreement provides that 50 percent shall be distributed in proportion to the total number of unemployed persons residing in an eligible applicant's area; 25 percent shall be distributed according to the number of unemployed persons in excess of 4½ percent of the labor force in the area of the applicant in relation to total unemployment, and the other 25 percent is distributed to areas qualified under CETA title II in the ratio that the number of unemployed in the area bears to total unemployed in all such areas.

Mr. President, the distribution formula was an extremely difficult issue. I submit that it is truly an equitable formula and it is designed to benefit all States by recognizing the seriousness of total overall unemployment and yet it focuses half the funds into those areas that have concentrated unemployment. In my own State for example, $85 million is projected to be available this fiscal year in resolving the devastating effects of unemployment. This amount of money obviously is going to go a long way to providing families with sufficient income maintenance so as to secure adequate food, clothing, and shelter to overcome the effects of this temporary period with a minimum of hardship.

Another difficult proposition presented for the conferees was the subject of House waiver provisions. The House had a number of CETA waivers where the Senate had none. In the spirit of conciliation, the conferees agreed to permit prime sponsors to reemploy laid off employees after 15 days of unemployment providing they, the sponsors, certify that the hiring was not in violation of section 205(c)(8) of CETA. In modifying the House's 7-day waiver, the conferees wanted to emphasize that this provision in no way condones the substitution of Federal for State and local funds, and that the prohibition in the act against so-called paper layoffs is still in effect. The purpose of the reduction in the waiting period from 30 to 15 days is only to buffer the hardships on unemployed persons who have lost their jobs because of a bona fide layoff. Hopefully, the certification procedures should prevent the temptation to engage in paper layoffs. The Department of Labor is charged with the function of insuring that section 205(c)(8) is fully complied with in all respects.

Title II of the bill will provide unemployment compensation for those individuals who have not previously been covered by any State or Federal unemployment compensation laws. The bill would provide an immediate 26 weeks of unemployment insurance to those employees who comprise more than 10 percent of the work force, including millions of State, local workers, farmers, and domestic workers. It is estimated that 12 million workers would be covered under this provision.

These 26 weeks of unemployment coverage would go into effect when the national unemployment rate average, 6 percent or more over 3 consecutive months or when unemployment in a prime sponsorship area averages 6.5 percent for the same time period. Inasmuch as the November rate of 6.5 percent has nationally set off the "On" trigger, many millions of workers would immediately be covered and would qualify for unemployment payments. Assuming sufficient appropriations, funds can be transmitted immediately to those who most urgently need help. This bill in tandem with the bill we recently passed to provide extended unemployment compensation coverage to covered workers are necessary steps toward whipping inflation now.

Mr. President, the President has asked us to do something to reduce this serious problem and to do it now. The public expects us to do the same and it is our sole responsibility. Our country has become strong because of our working men and women and because of their faith in our American way of life. Today it is our turn to help these people by passing what I feel to be an extremely effective measure to secure the foundation for our economic recovery. I recommend to my colleagues that they unanimously adopt the conference report.

Mr. MONTOYA. Mr. President, I support S. 4079. I wish to endorse the conference report.

Title III of the bill to provide public employment contains an amendment to the Public Works and Economic Development Act of 1965, as amended. Jurisdiction over that legislation and the Economic Development Administration and the seven regional commissions authorized by title V reposes in the Subcommittee on Economic Development of the Committee on Public Works.

The amendment was advanced by members of the Public Works Committee and ably supported on the floor and in the conference by the chairman of the committee, Senator RANDOLPH. I commend him for his good work

Title III of the bill before us is properly called "job opportunities program." It becomes title X of the Public Works and Economic Development Act. As chairman of the Economic Development Subcommittee, I expect to monitor closely the progress and performance of the Department of Commerce and EDA as they carry out these new responsibilities, along with other new programs authorized this year.

Basically this new program is designed to use the present organizations, experience, regulations, and facilities of our many Federal programs that deal with welfare of communities. It need not create new bureaucracies. Present programs may be simply expanded where feasible in the creation of new jobs.

I am disappointed that the conferees have required that the program review of programs and projects that can stimulate the creation of jobs as submitted by the various agencies must be jointly conducted by the Secretary of Commerce and the Secretary of Labor. This is an unnecessary burden for the Secretary of Labor. The various programs to be involved are not manpower programs. I do think it unfortunate that this legislation requires two giant departments of Government to share this authority. The sharing of such administrative authority sometimes leads to unnecessary delays, sometimes a debilitating competition between agencies. I would have preferred that the Secretary of Commerce at most would be required to "consult" with the Secretary of Labor during the program review stage.

Be that as it may, I understand that the Secretary of Commerce is, so to speak, first among equals in the administration of this title. After review with the Secretary of Labor of the plans and projects submitted by the various agencies it is he who will make the allocations to the agencies after a determination of their appropriateness has been made by him and the Secretary of Labor. It is he who will monitor the progress of the agencies in the administration of this title. It is he who we should look to for a report to the Congress at the end of the program.

I am disappointed that the President did not in his urgent request for a public employment appropriation before this Congress adjourns also request money for this innovative new title. I understand the House acted only on the President's request. The unemployment levels are rising everyday. I hope the Congress will provide the funds to get this new program off the ground before we go home for Christmas despite the administration's reluctance.

Mr. McCLURE. Mr. President, just two points I think need to be made in addition.

One is that although we are acting on the conference report now, we have no knowledge whether or not the President has decided to sign this legislation. I think the action taken by the Senate and the House in conference, and again being confirmed here, ought to be taken as a firm commitment on the part of the Congress to this program.

I urge that the President quickly sign this bill so we can get on with the question of the appropriation of funds for these important programs before Congress adjourns.

I hope further that not only will the President sign the bill, but that the appropriations will also be made available and that the program can then begin to be implemented without having to await the return of the Congress in January to begin moving forward on the matter that has such a great urgency and is of such extreme importance to so many of our citizens.

Mr. JAVITS. If the Senator will yield, may I join in that because this is the first thing the President himself asked for and I believe that the Senator's next question is correct and the Appropriations Committee shows every intention of backing us up.

Mr. McCLURE. I thank the Senator from New York for those statements.

I testified before the Senate Appropriations Subcommittee, and I have talked to the members of the Appropriations Committee in regard to the funding of the various titles of the bill. I understand that the full Appropriations Committee this afternoon approved $250,000,000 to implement the title III program.

I want to make special reference to

title III of the bill and to thank not only the Senator from New York (Mr. JAVITS), the Senator from Wisconsin (Mr. NELSON), the Senator from West Virginia (Mr. RANDOLPH), but to give particular tribute to the Senator from New Mexico (Mr. DOMENICI) who really, along with the other Senator from New Mexico (Mr. MONTOYA), focused on this approach to the subject of bringing job availability to the unemployed people of our country.

But I want to concentrate on one point because I think the message has been lost in this body and is being lost downtown, and that is that this is not simply an accelerated public works project concept.

It is much broader. It is much more refined in its accent and its focus on the immediate—and I use that term advisedly—immediate creation of jobs through the use of State and Federal and local programs that are being funded from amounts already in the pipeline in most instances.

I thank the Senator from West Virginia (Mr. BYRD) and the Senator from Ohio (Mr. TAFT) for giving me time to make these remarks because I think they must be made if we are to be understood as to what we are attempting to accomplish.

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. With the concurrence of the Senator from Ohio, who has been very gracious about the matter, I would like to ask the majority leader if he would allow us, because of the very point Senator MCCLURE made, to have a rollcall and limit it to 10 minutes?

Mr. ROBERT C. BYRD. I would not want to limit it to 10 minutes because some Senators may have strayed from the floor. I thought this was going to be a voice vote.

Mr. JAVITS. I thought so, also.

Mr. ROBERT C. BYRD. If the Senator wants a rollcall——

Mr. JAVITS. Senator PERCY, I gather, just left and he wanted a rollcall tomorrow. If there is to be one, he wants it tomorrow.

Mr. ROBERT C. BYRD. On that basis, perhaps the Senator would like to proceed with a voice vote.

Mr. JAVITS. All right.

The PRESIDING OFFICER. The question is on agreeing to the conference report on H.R. 16596.

The conference report was agreed to.

MAGNUSON-MOSS WARRANTY—FEDERAL TRADE COMMISSION IMPROVEMENT ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the Magnuson-Moss warranty—Federal Trade Commission Improvement Act (S. 356), to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities, and for other purposes.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. ROBERT C. BYRD. Would the Senator yield for a question?

Mr. TAFT. I am glad to yield to the Senator.

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators, I ask this question, would the distinguished Senator from Ohio indicate how long he will be talking this evening?

Mr. TAFT. Well, the indication is that I will be talking perhaps 15 or 20 minutes and probably there will be some questions raised as a result of that discussion, it may lead to, perhaps, an amount of time in my case——

Mr. ROBERT C. BYRD. The Senator has been very frank and courteous in answering the question.

May I ask this further question, is it the intention of Senators to ask for the yeas and nays on this conference report, so that other Senators will be informed?

Mr. TAFT. It is hardly necessary. It is not my intention to ask for the yeas and nays.

Mr. ALLEN. Let us have the yeas and nays.

Mr. ROBERT C. BYRD. There are indications they will be asked for, shall we go ahead now?

Mr. TAFT. I will 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.

Mr. ROBERT C. BYRD. The Senators should be notified that there will be a rollcall vote on the passage of this conference report tonight.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. TAFT. Mr. President, as I was saying, this matter came to my attention only in the last day or so. There are a number of matters that I believe ought to be discussed and considered by the Senate with regard to this matter. That is particularly true because the failure of the provisions of the conference report that give me concern are provisions that have never had hearings in the Senate committees, so far as I know. They relate to the areas that were added on the House side.

Mr. ROBERT C. BYRD. May we have order, Mr. President, so the Senator can be heard?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Ohio.

Mr. TAFT. They are matters relating to the rulemaking power of the Federal Trade Commission. This arises, of course, out of the fact that the Supreme Court in a recent ruling has recently given to the Federal Trade Commission very broad rulemaking power, subject only, of course, to the due process requirement.

I share in the general feeling that some codification of the rulemaking power and the procedures to be followed in relation to it should be undertaken by Congress. Nevertheless, as I say, the warranty bill, with title 2 in it, which went into some procedural matters for other agencies, did go over from the Senate to the House of Representatives.

Title 2 contained no provision, however, relating to the rulemaking power of the Federal Trade Commission. It was on the House side that the rulemaking power was worked out with considerable procedural safeguards, and ones that I think are considerably preferable to those that are included in the conference report.

When the matter came to the conference, the conference apparently took it upon itself to reconsider all of the House provisions relating to procedures on rulemaking power and certain other powers in relation to offenses involved under the Federal Trade Commission's various statutes, and substituted entirely new provisions.

These new provisions came to us and were set out in the Record of December 16 on pages H12052 and succeeding pages.

I have had a chance to study those provisions only in the form in which they are printed in the RECORD. I might say that I think it is too bad that is the case, that there is no printed copy of the conference report available. The fact that this occurred, and that the report was able to be printed apparently on Monday, would seem to raise the question whether rule XXIX, requiring the printing of committee reports of this type except in cases for the dispatch of Senate business, was actually followed in this case.

I say that particularly because the printing of the material in the RECORD, being very technical material and rather difficult to deal with, is, I believe, certainly a great inconvenience to the Senators. In my case, at least, I am sure it resulted in considerable delay and lack of clarity in trying to come to an understanding of what the measure is all about.

So much for the procedural approach to this problem.

Going back from that, let me just review these procedural provisions as they now stand, and as they have been added.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Senators, let us have order so we can hear the Senator from Ohio.

Mr. TAFT. I would call the attention of the Senate to page H12055 and particularly to section 202, entitled "Rule Making of the Proposal Made by the Conference Report."

I would particularly like to point out that the provisions relating to rulemaking power are very broad. When we are dealing with the FTC, its authorizations, and areas of procedure we are not dealing with what we usually consider to be a rulemaking power of a Government agency.

We are dealing with an agency where, under the antitrust laws, rules are often made that relate to very specific cases, particularly specific industries, and prescribe certain requirements relating to those industries. They perhaps even limit the type of material that can be produced, the type of material that can be sold and how it can be sold.

In other words, the actual rights of individuals and business concerns are involved here.

So we are really dealing not merely

with the rulemaking proceedings, but in many cases, for all practical purposes, with an adversary proceeding.

Going on from that, we find that the powers that are given to the Commission are quite broad. I would just like to read subsection (c) of this section as follows:

The Commission shall conduct informal hearings required by the subsection.

And then it goes on to describe specifically the rights of cross-examination and the rights of presenting rebuttal evidence.

It is with regard to these rights that I am particularly concerned.

In reviewing the language as I see it, the right to cross-examine is severely limited. It is entirely up to the Commission, for all practical purposes. They do not have to grant the right of cross-examination at all. They may indeed take over and require that there be a submission to them of any of the material that anyone desires, any affected party desires, to present by way of cross-examination, and then have that cross-examination presented by the Commission.

I think those of us who have tried a few lawsuits, who have been in a few administrative proceedings, would find that to be little or no real right of cross-examination. So while lip service is given to the concept that there is a right of cross-examination, actually, in practical effect, it probably does not occur.

I should go on to say that there is a safeguard in a provision for judicial review in this respect. The bill as it was proposed by the conference committee originally, provided that, in that regard, the court could set aside the rule if it held that the Commission's findings and conclusions with regard to disputed issues of material fact on which the rule is based are not supported by substantial evidence in the rulemaking record taken as a whole. But that would apply only to findings and conclusions. It would not apply to procedures.

It would not apply, for instance, to the exercise of this right to grant cross-examination, or to the matter of permitting the introduction of rebuttal evidence.

As I understand it, and as the Senator from Utah has already indicated, there will be, as I understand it, a concurrent resolution offered which will have the effect of amending that provision to read that the clerk finds that the Commission action is not supported by substantial evidence in the rulemaking record taken as a whole, and so forth.

This, I think, does substantially correct the problems that are involved.

I feel there still are serious questions involved here, though, and I am rather concerned with regard to the application of this particular rule.

The House provision, as it was submitted to the conference report, gave a broad power of cross-examination and a broad power to submit rebuttal evidence without these limitations on it that, in effect, take away these powers if it is the decision of the Commission to take them away. I am concerned with this.

I think the Senate ought to know what it is passing in this regard.

One other provision I would like to mention and on which I would like to ask for a comment from the managers of the bill relates to the penalty provisions. These penalty provisions are to be found on page 40244 of the RECORD in section 205.

I apologize to the Senate for the delay, but I think I am illustrating the difficulty of trying to read this material which I have—and a difficulty which I imagine some other Senators have, too—in a sufficient degree to debate from it in the form in which it is presented to us.

As I understand it, there is a provision in section 205 of the bill—there is an indication of a $10,000 penalty for each violation of the act; and in subsection (c) under that, there is a further provision that each day constitutes a separate violation and shall be treated as a separate violation.

The difficulty here, that I see, is that you can have a rule made and violated, or claim it has been violated, by the FTC, and the proceedings in determining whether or not there actually was a violation could go on for as long as a year or more. Meanwhile, under the provisions as I read them, the penalty of $10,000 a day could continue to pile up. This would appear to amount to almost a blackmail provision against contesting the order or the violation claimed by the FTC.

I find this to be a rather alarming provision, and I wonder whether the manager of the bill has any comment that might be explanatory of that. I would be glad to yield to him for a comment or a question on that point.

Mr. MOSS. I am glad to respond to the question raised by the Senator from Ohio.

The provision regarding how continuing violations of the Federal Trade Commission Act are treated are identical with those in existing law. Today, when a defendant violates a cease and desist order of the FTC, he may be fined $5,000 per day for each day of the violation. The measure before the Senate today merely changes the allowable maximum; it does change $5,000 to $10,000. But as to it going for each day, it is exactly as it exists today.

There are two safeguards for a defendant in this situation. First, only a court can order any such penalty and can stay its imposition or mitigate it to avoid harshness.

Second, section 705 of the Administrative Procedure Act allows any administrative agency to stay the effective date of action taken by it, by the agency.

In view of the fact that this language is identical to existing section (1) of the FTC Act, which has caused no problems or injustices that I am aware of, I am not in any way concerned about its inclusion in the bill.

Mr. TAFT. I thank the Senator.

Can the Senator elucidate further as to whether or not the protection for section 705 of the Administrative Procedure Act in his opinion, would apply to the imposition of a penalty under this particular section?

Mr. MOSS. Yes, that would apply.

Mr. TAFT. So that if the agency, itself—if the Federal Trade Commission, itself—or a court should desire, during the pendency of a proceeding, to test the legality of a particular action or a particular rule, should desire to suspend the penalty or make the penalty not applicable, it could do so under that provision?

Mr. MOSS. It could do so, and usually does so if there is a testing of it during a period the debt is carried forward. Usually, it is suspended.

Mr. TAFT. I wonder whether the Senator could comment on the observations I have made, as to whether or not my understanding is correct with regard to the right of cross-examination and the presenting of rebuttal evidence.

My understanding is that this is severely limited by the version the conference committee has reported and that, in effect, it is discretionary, for all practical purposes, with the Commission as to whether or not they care to permit cross-examination or offer questions themselves that are submitted to them by interested parties for cross-examination, and the same with regard to rebuttal evidence.

Mr. MOSS. As to questions on cross-examination, of course those are reviewable by a court in case there is dissatisfaction with the ruling of the Commission. The court must decide whether or not it was proper.

Mr. TAFT. Under those circumstances, what would be the obligation of the party who is aggrieved, or claims to be aggrieved? What would he have to show? What would his burden be to show that there has been a reversible error in the action of the Commission?

Mr. MOSS. This is in a rulemaking proceeding, and he would have to allege that the FTC denied him a right that was of substantive importance in failing to accord cross-examination. It has to be on a material fact.

Mr. TAFT. He would have the burden, then, of proving the fact that he was not able, himself, to do the cross-examining?

Mr. MOSS. Yes, he would. If he took the matter up, he would have the burden of showing that on a material fact he had been damaged thereby, and would have to seek to have the court overrule it. This is like the procedure we now have under section 555.

Mr. TAFT. Of what bill?

Mr. MOSS. This is the challenging rule. He has always had the burden in challenging the rule.

Mr. TAFT. He did not have the burden of showing that the questions which he never got to ask, if they had been asked, would have elucidated answers which then would have been substantial evidence. I find that a burden that is unique, a burden that I think would be difficult to sustain.

Mr. MOSS. It is not unique at all. It is like making an offer of proof. The court rules on it. If an appeal is taken, the appellate court determines whether the offer of proof would have been substantial in that matter and determines whether or not the rights have been denied by reason of not accepting the offer of proof.

I have great concern for the proced-

ures which apparently were arrived at—and arrived at, so far as I know, without any real committee hearings. The House committee came out with different rules of procedure and different practices, after hearings. I think we have a duty to review carefully how these apply, and I certainly am going to continue to do so.

Mr. President, if the Senator will yield, the Senate did not hold hearings on this matter this year, but we passed the identical language in the last session of Congress and sent it to the House. This is, in fact, the third time it has been before this body. The Senator from Ohio voted for it in the session before, when we sent it to the House.

Mr. TAFT. I understand the position, but I disagree with it. I feel, as I have indicated, that probably it is wise to go ahead with this legislation at this time because of a total absence of legislation or standards now existing, except for the new process standards under the Supreme Court's ruling.

I certainly would feel constrained to continue to monitor the actions of the agency with regard to permitting cross-examination in these proceedings, if this bill becomes law, because they are ordinary rulemaking proceedings. The proceedings we are talking about—at least, some of the proceedings we are talking about here—as being authorized by the Federal Trade Commission are those in an adversary way between the various industries against which complaints have been made by the Federal Trade Commission, itself.

If the Senator from Ohio voted for it without having made the study he has now made. I do not believe the language was the same. I do not deny that there was some bill that had some provision to the general effect of specifying the condition of the rulemaking power, but I do not believe it was the same language as contained in the conference report.

Mr. MOSS. I point out to the Senator from Ohio that we have mandated that the FTC conduct a monitoring study of the action of this bill, together with the Administrative Conference of the United States, and in 18 months make a report to us on its operation.

So, if indeed, there is any deficiency, we expect to have a full report on it in 18 months.

Mr. TAFT. I thank the Senator for his comments.

I have no further questions or comments on the measure at this time, Mr. President. I shall be very happy to have the clerk call the roll.

Mr. MOSS. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

On this question, the yeas and nays have been ordered. 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 Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Wyoming (Mr. MCGEE) 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 a death in the family.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Colorado (Mr. DOMINICK), the Senator from Florida (Mr. GURNEY), the Senator from Maryland (Mr. MATHIAS), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 70, nays 5, as follows:

[No. 572 Leg.]

YEAS—70

Abourezk	Hansen	Nelson
Bartlett	Hart	Nunn
Bayh	Hartke	Packwood
Bellmon	Haskell	Pastore
Biden	Hatfield	Pell
Brooke	Hollings	Proxmire
Burdick	Hruska	Randolph
Byrd, Harry F., Jr.	Huddleston	Ribicoff
Byrd, Robert C.	Humphrey	Roth
Cannon	Inouye	Schweiker
Case	Jackson	Scott, Hugh
Chiles	Javits	Sparkman
Church	Kennedy	Stafford
Cook	Laxalt	Stevens
Cotton	Magnuson	Stevenson
Cranston	McClure	Symington
Dole	McGovern	Taft
Domenici	McIntyre	Talmadge
Fannin	Metcalf	Thurmond
Fong	Metzenbaum	Tower
Goldwater	Mondale	Tunney
Gravel	Montoya	Weicker
Griffin	Moss	Williams
	Muskie	

NAYS—5

Allen	Scott, William L.
Ervin	Stennis
Helms	

NOT VOTING—25

Aiken	Dominick	Mansfield
Baker	Eagleton	Mathias
Beall	Eastland	McClellan
Bennett	Fulbright	McGee
Bentsen	Gurney	Pearson
Brock	Hathaway	Percy
Buckley	Hughes	Young
Clark	Johnston	
Curtis	Long	

So the conference report was agreed to.

SENATE CONCURRENT RESOLUTION 126—AUTHORIZING A TECHNICAL CORRECTION IN THE ENROLLMENT OF S. 356

Mr. MOSS. Mr. President, I send to the desk a concurrent resolution, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. NUNN). The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

Concurrent resolution authorizing a technical correction in the enrollment of S. 536.

The concurrent resolution is as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate is authorized and directed, in the enrollment of S. 356, An Act to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities, and for other purposes, to make the following technical correction:

Section 18(e)(3)(A), as inserted by section 202(a) of the Conference Report on such bill, is amended to read as follows:

"'(A) the court finds that the Commission's action is not supported by substantial evidence in the rulemaking record (as defined in paragraph (1)(B) of this subsection) taken as a whole, or".

Mr. MOSS. The concurrent resolution corrects a technical deficiency in the conference report whereby the words "with regard to disputed issues of material fact on which the rule was based" modified both the words "findings" and "conclusions" whereas they pertained only to findings. In order to clarify the situation, the word "action" was chosen to indicate the intention to have factual determinations reviewed on the basis of substantial evidence. Conclusions arising from those factual determinations would be reviewed as is normal: Do the facts supported by substantial evidence support the conclusions on the basis of logic. In other words, the conclusion does not have to be the best one but only one logically supportable. In effect, the "substantial evidence "test does not have relevance to conclusions. The concurrent resolution makes the above discussed points clear.

Mr. President, this concurrent resolution has been worked out with the conferees in the House. It is a technical correction and is acceptable to the House but it should go with the conference report to the House.

I ask for an immediate vote on the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Republican leader.

ORDER OF BUSINESS

Mr. HUGH SCOTT. Mr. President, I rise to a matter of some slight interest, namely, what is going to happen next, and I therefore ask the distinguished majority leader what is likely to occur

tonight, and what plans are to be announced for tomorrow so that those Members who are here, Senators who are here, may make their plans, especially those already decked out in the formal peacock garb of the evening.

Mr. ROBERT C. BYRD. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate will be in order and the Senators will please take their seats.

Mr. ROBERT C. BYRD. Mr. President, first, let me thank the Senator from Alabama (Mr. ALLEN) and the Senator from Ohio (Mr. TAFT), and other Senators for assistance in the matter which had provided a bit of a roadblock which now has been removed.

LEGISLATIVE PROGRAM FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if I might lay out the following proposal, I would thereby answer the distinguished Republican leader. Senators may wish to object if they so desire.

There have been 10 Senators who have approached me asking for 15-minute orders for in the morning. I wonder if I might be allowed in this one instance to suggest that we not have those 15-minute orders in the morning, with the exception of the distinguished Republican leader who wants to make his annual statement, and I will make one on behalf of Mr. MANSFIELD.

I will do whatever I can do tomorrow, as time goes on and if we have opportunity—if we do have—to see that those Senators have a chance to make remarks. This is not according to the way we usually do things here, but a good many of these statements can be placed in the RECORD because they are complimentary statements concerning other Senators, and so on.

Mr. HUGH SCOTT. An individual survey would indicate that Senators would be anxious to have certain things said, particularly of a favorable nature about their colleagues, a situation much to be desired, and I do not know if they could insert them in the interstices of debate or between debate.

Mr. ROBERT C. BYRD. The Senators may dislike me for it, but in this instance I will not proceed to get the orders for the morning because, otherwise, they will consume 2 precious hours.

Mr. HUGH SCOTT. I would think, in view of what we have tomorrow, that a motion to vacate might well be made, and then we will see what happens.

Mr. DOMENICI. Mr. President, will the Senator yield? Is one of the requests made by Senator HANSEN on behalf of himself and others?

Mr. ROBERT C. BYRD. Yes.

Mr. DOMENICI. Was that for 15 minutes?

Mr. ROBERT C. BYRD. Yes.

Mr. DOMENICI. The Senator is not here, but we had a specific purpose in mind to share that 15 minutes by, I believe, at least five Senators.

Mr. ROBERT C. BYRD. We are coming in at 8 o'clock in the morning, and I wonder if the Senator would not——

Mr. DOMENICI. I did not imply that I was willing to lead off. [Laughter.]

If I could state, I imagine Senator HANSEN is No. 4 or 5?

Mr. ROBERT C. BYRD. Mr. President, I will proceed to get the orders for the Senators. We will come in at 7 o'clock.

Mr. HUGH SCOTT. There are people here in the Senate, people who are known as night persons, and there are others who are known as day persons, and in view of that situation, and because we want the Senators to be of good cheer and good temper tomorrow, and because it is the spirit of Christmas, I again suggest that the orders be vacated except for the request of the Senator from Wyoming (Mr. HANSEN), and that we then revert to the interstices of the Scott proposal as to the remainder, and come in at 8 o'clock which, of course, is the kicker in my proposal.

Mr. ROBERT C. BYRD. Mr. President, may I lay out my whole proposal before Senators have further questions?

TIME LIMITATION OF 40 MINUTES ON SUPPLEMENTAL APPROPRIATION BILL

Mr. President, after the orders for the recognition of Senators tomorrow, I would hope that by 9 o'clock the Senate could proceed to take up the urgent supplemental appropriation bill, which has been reported today out of the Appropriations Committee.

I ask unanimous consent that there be a time limitation on the bill of 40 minutes to be equally divided between the chairman of the committee and the ranking minority member of the Appropriations Committee.

CONTINUING RESOLUTION

TIME LIMITATION OF 1 HOUR ON RESOLUTION AND 3 HOURS ON HOLLINGS AMENDMENT AND OTHER AMENDMENTS OF 30 MINUTES

That immediately after that time has expired, and without a vote being taken, the Senate proceed to the consideration of the continuing resolution, with a time for debate on that resolution of one hour to be divided between Mr. INOUYE and Mr. YOUNG, with a time limitation on an amendment by Mr. HOLLINGS of 3 hours, with a time limitation on any other amendment thereto of 30 minutes, and on any debatable motion or appeal of 10 minutes, and the agreement in the usual form.

NO VOTES TO OCCUR PRIOR TO 12:30 P.M.

Provided further, that no votes occur prior to the hour of 12:30 p.m.

CONFERENCE REPORT ON THE EXPORT-IMPORT BANK AMENDMENT

That immediately following the disposition of the continuing resolution, the Senate take up the conference report on the Export-Import Bank Amendment with a time limitation thereon of 40 minutes to be equally divided between Mr. PACKWOOD and Mr. STEVENSON.

Mr. SCHWEIKER. Mr. President, since I am in opposition to the conference report and Mr. PACKWOOD is not——

Mr. ROBERT C. BYRD. Well, Mr. President, Mr. STEVENSON and Mr. SCHWEIKER.

Mr. PACKWOOD. I object. I object to that division of time.

Mr. ROBERT C. BYRD. Does the Senator have——

Mr. PACKWOOD. Between Senator STEVENSON and Senator SCHWEIKER.

Mr. HUGH SCOTT. How about 20 minutes extra for Mr. PACKWOOD.

I do not really see why we need 3 hours unless we are going to be affected by glossolalia.

Mr. ROBERT C. BYRD. I hope that some Senators will yield back some of the 3 hours on the Hollings amendment, but that was the best I could do on that. I got that down originally from 5 hours to 3 hours.

Mr. TOWER. Mr. President, will the Senator yield? I think this is a fair arrangement when the time is equally divided between the Democrat manager of the bill and the Republican manager of the bill. It seems to me that the people on either side can get the time they require from their respective Senators.

Mr. PASTORE. Mr. President, will the Senator yield? With the condition that no less than 20 minutes be allotted to Mr. SCHWEIKER out of the 3 hours.

Mr. ROBERT C. BYRD. This is something else. The 3 hours is on another matter.

Mr. TOWER. We are talking about 20 minutes to a side.

Mr. ROBERT C. BYRD. May I address the Senator from Oregon (Mr. PACKWOOD). What is his problem in regard to the division of time? Maybe we can accommodate him. What is his problem?

Mr. TOWER. If I may respond to the distinguished acting majority leader, it seems to me altogether fair that the majority manager of the bill and the minority manager of the bill share in the time, and that people can seek time from either side, depending on their disposition. The Senator from Pennsylvania, if he requires additional time, I would say, let us get consent that he will have time in addition to that allotted to the two managers.

Mr. ROBERT C. BYRD. Would the Senators allow the time to be under the charge of the acting majority leader and the Republican leader or their designees, and we will be fair with everybody?

Mr. JACKSON. Senator SCHWEIKER has agreed to that.

Mr. SPARKMAN. Mr. President, we really have three divisions over this, and I think that Senator PACKWOOD was, I may say, more or less in charge of the conference for the minority.

Mr. TOWER. That is correct.

Mr. SPARKMAN. And Senator STEVENSON, chairman of the subcommittee, was in charge of the majority.

Now we have all recognized all along that Mr. SCHWEIKER had an interest in this.

It seems to me that instead of saying 20 minutes to the side, there ought to be 20 minutes to this side, 20 minutes to this side, and an allowance of time for Mr. SCHWEIKER, and that we know now what it is going to be—perhaps 20 minutes.

Mr. SCHWEIKER. Fifteen minutes are adequate.

Mr. SPARKMAN. Fifteen.

Mr. PACKWOOD. All right.

Mr. SPARKMAN. I suggest that he have 15 minutes.

Mr. ROBERT C. BYRD. Mr. President,

I modify my request to accommodate Mr. STEVENSON with 15 minutes, Mr. SCHWEIKER with 15 minutes, and Mr. PACKWOOD with 15 minutes.

Mr. JAVITS. Mr. President, reserving the right to object, it does not relate to this matter at all, but I did not hear the Senator say when he expected a vote on the supplemental appropriation bill.

Mr. ROBERT C. BYRD. Not before 12:30 p.m.

Mr. JAVITS. Will the Senator then follow the vote on the continuing resolution or whatever else there is at 12:30 with the vote on the supplemental?

ORDER FOR ROLLCALL VOTES TO OCCUR BEGINNING AT 12:30 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I would ask unanimous consent that any rollcall votes ordered prior to the hour of 12:30 p.m. tomorrow occur beginning at 12:30 p.m. and that they then occur in sequence as they are ordered, back to back, with the rollcall on each vote following the initial vote limited to 10 minutes.

Mr. HUMPHREY. Starting at 12:30.

The PRESIDING OFFICER. In all of these requests, is there objection? The Chair hears none.

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators.

There will be no more rollcall votes tonight.

Mr. GOLDWATER. Mr. President——

The PRESIDING OFFICER. The Senator from Arizona.

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

Mr. GOLDWATER. I will yield to that request.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. ROBERT C. BYRD. Mr. President, would the Senator from Arizona ask for a quorum with the understanding he retain his right to the floor so we can get some quiet here?

Mr. GOLDWATER. I think it is fairly quiet right now.

Mr. ROBERT C. BYRD. Would the Senator ask for a quorum?

Mr. GOLDWATER. 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. 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, may we have order in the Senate?

The PRESIDING OFFICER. The Senators will clear the well.

Mr. ROBERT C. BYRD. If the Senators will just be patient, we will complete our work in an orderly way.

The PRESIDING OFFICER. Will the Senators in the Chamber please take their seats? Will the Senators please clear the well?

Mr. GOLDWATER. Mr. President, I ask——

The PRESIDING OFFICER. Would the Senator suspend until the Senate is in order?

The Senate is not in order.

The Senator from Arizona.

GRAND CANYON NATIONAL PARK, ARIZ.—CONFERENCE REPORT

Mr. GOLDWATER. Mr. President, I submit a report of the committee of conference on S. 1296, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. NUNN). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1296) to further protect the outstanding scenic, natural, and scientific values of the Grand Canyon by enlarging the Grand Canyon National Park in the State of Arizona, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of today.)

Mr. ROBERT C. BYRD. Mr. President, just for the record, I ask the distinguished Senator whether or not this matter has been cleared with appropriate Senators on this side of the aisle?

Mr. GOLDWATER. I will say to the leader that it has been cleared with the chairman of the full committee, with all the conferees, in fact I believe with every members of the Interior Committee.

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

Mr. GOLDWATER. I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Now, Mr. President, the Senator from Indiana has been waiting patiently and he called up the matter earlier today.

I understand that now he has cleared it with Senators on the other side of the aisle and I would ask unanimous consent he be permitted to proceed for 2 minutes.

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

AMENDMENT OF FEDERAL LAW RELATING TO EXPLOSIVES

Mr. BAYH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1083.

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate the amendment of the House of Representatives to the bill (S. 1083) to amend certain provisions of Federal law relating to explosives, as follows:

Page 1, line 10, after "powder" insert: "in quantities not to exceed fifty pounds."

Mr. BAYH. Mr. President, the bill under consideration today, S. 1083—known as the "black powder bill"—is designed to eliminate serious hardships for the many thousands of Americans who use commercially produced black powder for recreational, cultural, and sporting purposes. When I introduced S. 1083 on March 1, 1973, I was pleased to be joined by the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Kentucky (Mr. HUDDLESTON). After chairing full Judiciary Committee hearings on behalf of Chairman EASTLAND, the committee unanimously reported my bill to the Senate. As the floor manager of the measure, I was pleased to add the senior Senator from Alaska (Mr. STEVENS), the junior Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. COOK), and the Senator from Texas (Mr. TOWER) as cosponsors of the bill and especially proud of the successful 78 to 8 vote for passage of S. 1083 on July 13, 1973.

Mr. President, a detailed discussion of this measure is contained in my recent statement before the House Judiciary Committee, Subcommittee on Crime on November 26, 1974, and I ask unanimous consent that it appear in the RECORD at this point.

The PRESIDING OFFICER. Without objection it is so ordered.

STATEMENT OF SENATOR BIRCH BAYH

I want to thank the distinguished Chairman of this Subcommittee, Congressman Conyers, for giving me the opportunity to talk with you about S. 1083 which I introduced to eliminate serious hardships for the many thousands of Americans who use commercially produced black power for recreational, cultural and sporting purposes.

I am pleased that on July 13, 1973, my colleagues in the Senate by a vote of 78–8 sent this measure to this House. Likewise, I have been gratified by the interest and support for this measure by members of this body, particularly Congressman Lee Hamilton of Indiana, who introduced one of the first of more than a dozen bills to accomplish similar purposes.

Under present Federal law, the purchase, possession, storage and transportation of commercially produced black powder in amounts larger than 5 pounds as well as certain igniters are subject to extensive regulations. My bill exempts these items from federal regulations for recreational, cultural and sporting purposes. In removing these burdens, however, the bill does not alter in any way the strict criminal penalties for the misuse of explosives, including black powder and igniters. These penalties, adopted by the Congress in 1970, are designed to prevent unlawful damage of property, intimidation, personal injury, and loss of life through the use of explosives. I believe that these terrible crimes must be punished swiftly and severely, as provided by present law.

I believe it is also important to know that existing Department of Transportation and Occupational Safety and Health Administration regulations restricting black powder; title II of the National Firearms Act which prohibits possession of unregistered bombs; and State laws regulating the possession, purchase, storage and use of black powder will be unaffected by S. 1083.

The issue we are considering today, the regulation of black powder, is not a new one.

In the 91st Congress, Senators McClellan and Hruska introduced a bill, S. 3650, to strengthen the Federal laws concerning the illegal use, transportation, and possession of explosives. During consideration of this measure, the Committee recognized the overly-broad scope of its provisions with regard to ammunition and materials used for sporting purposes. The Committee Report on S. 3650 notes that:

"The broad scope of the bill as originally introduced would have resulted in needlessly penalizing law abiding sportsmen who, because of the expense involved in purchasing ammunition and as a hobby, hand load their own shells to be used for legitimate sporting purposes. In addition, over 10,000 of our citizens legitimately use black powder, smokeless powder, primers and percussion caps in connection with sporting activities involving muzzle loaded rifles and other guns. To meet this problem, Senator Schweiker (cosponsored by 27 other Senators) introduced amendment No. 728 to S. 3650 (See 116 Cong. Rec. S. 9559 (daily ed. June 23, 1970)), and others contacted the subcommittee. Consequently, language has been added to the bill that would exempt from its coverage these kinds of legitimate sporting activities." (Senate Report 91–1215, 91st Cong., 2d Sess., pp. 8–9 (1970)).

While Senator Schweiker's amendment (No. 728) referred to in the Committee report provided an exemption for black powder in amounts not to exceed six pounds for use for lawful sporting purposes, the bill as reported by the Committee contained a complete exemption for black powder by excluding small arms ammunition and components intended for use therein from the definition of explosive.

The Senate accepted without debate the Committee amendments and adopted the bill by a vote of 68–0 on October 8, 1970. However, both Houses passed separate bills, with the Senate finally adopting the House version which did not give adequate recognition to the use of black powder for sporting purposes. Thus, despite the language of the explosives law as finally enacted, the legislative history of this important measure clearly indicates that the Senate thoroughly considered the issue of exempting black powder for sporting purposes and acted favorably upon such an exemption.

Title XI of the Organized Crime Control Act was enacted three years ago to meet an immediate, critical need to strengthen the Federal laws applicable to bomb explosions and bombing threats. The dangers posed by potential loss of life, destruction of property, intimidation, and the disruption of the daily activities of our people demanded strong, effective Congressional action to curtail these bombings. However, I am sure that these efforts to deter criminals from misusing explosives were not intended to penalize our law-abiding sportsmen.

Furthermore, experience has shown that the restrictions on black powder are not effective in curtailing bomb threats and bombing incidents. Studies conducted by the National Bomb Data Center have found that black powder is used in an insignificant number of bombings. During the period July 1970 through June 1971, 2,352 bombings were recorded by the Center, of which only 96 contained black powder. Even more significant is the fact that a comparison of bombing reports for the eight-month period preceding the effective date of Title XI (July 1970–February 1971 inclusive) and the eight-month period following that date (March 1971–October 1971 inclusive) reveals that the number of black powder bombs actually increased, as did the total number of bombs. However, the number of black powder bombs as a percentage of total bombs remained constant at about 3.7 percent. Thus, the restrictions placed on commercially manufactured black powder propellant have not had any demonstrable effect in reducing the incidence of black powder use for illegal purposes.

The Center study on bombing, conducted by the International Association of Chiefs of Police, was based on newspaper reports and field reports from law enforcement agencies. Although no information was obtained on the type of black powder used in the small number of reported bombings, it is probably that a large percentage of the black powder incidents involved homemade black powder. Commercially manufactured black powder has been extremely difficult to obtain, even for legitimate purposes, since the effective date of Title XI. As any school boy knows, black powder can easily be made from sulfur, saltpeter, and charcoal. However, as antique shooting sports enthusiasts know all too well, only the highest grade of propellant is suitable for muzzle-loading rifles and antique cannons.

The use of antique firearms and replicas of antique rifles and cannons is an integral part of the sporting, cultural, and recreational life of this country. Muzzle-loading rifles are used at meets throughout the nation by organizations such as the National Muzzle Loading Rifle Association and the North-South Skirmish Association. These include both team and individual competitions using various types of Civil War weapons and other antique firearms. Antique or replica muzzle-loading cannons are also used nationwide by various civic, Boy Scouts, and veterans groups in a variety of ceremonies, including flag-raising, centennial, sesquicentennial, and Fourth of July celebrations. Some 500,000 people are involved with the increasingly popular sport of muzzle-loading, collecting and shooting antique and replica firearms. Moreover, they are used by symphony orchestras in the performance of classical music, such as Tchaikovsky's *1812 Overture*. In addition, replicas are manufactured for historical groups and associations for use on historical restorative projects throughout the country. Thousands gather at numerous competitive target shooting events all over the country. In my own State of Indiana, organized competitions using antique muzzle-loading weapons are an important part of our recreational and sporting tradition. In fact, Friendship, Indiana attracts over 15,000 participants and spectators each year at muzzle-loading events.

I have never shot an antique cannon in my life, but I am not about to say that there is not a place for antique cannons, particularly as we approach our 200th birthday. If someone is firing antique cannons, are we going to say he is not performing a useful, recreational or cultural purpose? I am not about to say that.

Mr. Chairman, the purpose of S. 1083 is relatively simple. First, it is designed to remove the rather significant burden which has been imposed on those sportsmen, on those symphony directors, on those community directors who are today utilizing black powder for wholesome recreational and cultural purposes. The second point I want to emphasize is that this bill is in no way designed to jeopardize law enforcement efforts to prevent illegal activity using any kind of explosive, and it is not designed to prevent punishing those terrible deeds which bring destruction, pain, suffering, and loss of life.

I respectfully urge the members of the House Judiciary Committee to expeditiously approve S. 1083 in order to allow the House of Representatives to consider this important measure in the 93d Congress.

Mr. BAYH. The House version, which passed yesterday by a voice vote, is identical in purpose, but its provisions are slightly altered. Under present Federal law, the purchase, possession, storage, and transportation of black powder in amounts larger than 5 pounds as well as certain igniters are subject to extensive regulation. My bill would have removed these burdens for those engaging in the use of these materials for recreational, cultural, and sporting purposes without affecting in any way the strict criminal penalties for the misuse of explosives, including black powder and igniters. S. 1083, as amended by the House, however, limits access for such purposes to 50 pounds. (See H. Rept. No. 93–1570.)

I understand that most, in fact nearly all, who desire to use these materials for recreational, cultural, and sporting purposes will be greatly assisted by the passage of this version. In view of the rather considerable length of time that elapsed before the House of Representatives took this measure under consideration and since we are in the final hours of the 93d Congress, there is little doubt that this bill is the most that could be achieved during this Congress.

I would like to express special appreciation to Mr. John Rector, chief counsel of my Subcommittee to Investigate Juvenile Delinquency and its staff which had a significant part in the preparation and guidance of the bill and to Mr. Harry Weger of Terre Haute, Ind., Mr. Al Cors and Mr. Gary Butler of Lawrenceburg, Ind., who have provided invaluable assistance to me throughout the development and passage of this legislation.

The purpose of S. 1083 is relatively simple. First, it is designed to remove the rather significant burden which has been imposed on those sportsmen, on those symphony directors, on those community directors who are today utilizing black powder for wholesome recreational and cultural purposes. The second point I want to emphasize is that this bill is in no way designed to jeopardize law enforcement efforts to prevent illegal activity using any kind of explosive, and it is not designed to prevent punishing those terrible deeds which bring destruction, pain, suffering, and loss of life.

Mr. President, I have checked this out with Members of both sides of the aisle and find no disagreement, and heartly approve in the action that the House has taken, or at least I feel the Senate should concur in the House amendments, that that is better than the position we find ourselves in now, not as good as a Senate bill, but in the spirit of compromise, Mr. President, I move the Senate to concur in the House amendment.

Mr. JAVITS. Mr. President, may I have the attention of the Senator from Indiana?

Mr. BAYH. Yes.

Mr. JAVITS. Is this not a bill that relates to some problems we had, can the Senator state for the record how it has been treated?

Mr. BAYH. Yes. As the Senator will recall, the matter when it passed the Senate, the Senate concurred and adopted the bill which had been sponsored by the Senator from Indiana, the Senator from Alaska, the Senator from Kentucky, and several others, which would remove the 5-pound limit and would impose no limit.

The Senator from New York at that time, as I recall, was concerned about that.

I think he would probably approve of the House action which they imposed, a 50-pound limit, and that is what is in the bill and I move that the Senate adopt the amendment of the House.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Indiana (Mr. BAYH).

The motion was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, in fairness to the other side of the aisle, I would ask that the Senator from Oklahoma be permitted to proceed for not to exceed 3 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma.

CONVEYANCE OF CERTAIN LAND TO INTER-TRIBAL COUNCIL, INC., MIAMI, OKLA.

Mr. BARTLETT. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2888.

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate the amendment of the House of Representatives to the bill (S. 2888) to convey certain land of the United States to the Inter-Tribal Council, Inc., Miami, Okla., as follows:

Strike out all after the enacting clause, and insert: That (a) all right, title, and interest of the United States in and to the land more particularly described in subsection (b) of this section are hereby declared to be held in trust by the United States for the Indian tribes described in and subject to section 2 of this Act.

(b) The land referred to in subsection (a) is more particularly described as follows: south half of the northwest quarter and that part of the north half of the southwest quarter of section 21, township 27 north, range 24 east, lying north of the centerline of Highway Numbered 60, I.B.M., containing one hundred and fourteen acres, more or less, in Ottawa County, Oklahoma.

SEC. 2. The land referred to in section 1 shall be held in trust by the United States jointly for the Seneca-Cayuga Tribe of Oklahoma, Quapaw Tribe of Oklahoma, Eastern Shawnee Tribe of Oklahoma, Miami Tribe of Oklahoma, Peoria Tribe of Indians of Oklahoma, Ottawa Tribe of Oklahoma, Wyandotte Tribe of Oklahoma, and Modoc Tribe of Oklahoma: *Provided*, That the following tribes shall have no right or interest in such land (a) so long as they are subject to the provisions of law cited below and (b) if they are still subject to such provisions five years after enactment of this Act:

(1) Peoria Tribe of Indians—sections 3 and 4 of the Act of August 2, 1956 (70 Stat. 937; 25 U.S.C. 823 and 824);

(2) Ottawa Tribe of Oklahoma—sections 8 and 9 of the Act of August 3, 1956 (70 Stat. 963, 964; 25 U.S.C. 848 and 849); and

(3) Wyandotte Tribe of Oklahoma—sections 13 and 14 of the Act of August 1, 1956 (70 Stat. 893, 896, 25 U.S.C. 803 and 804): *Provided further*, That the Modoc Tribe of Oklahoma shall have no right or interest in such lands (a) so long as the Modoc Indians in Oklahoma are subject to sections 18 and 19 of the Act of August 13, 1954 (68 Stat. 718, 722, 25 U.S.C. 564q and 564r), (b) until a Modoc Tribe of Oklahoma is organized and federally recognized, and (c) if five years after enactment of this Act, such Indians are still subject to such section and such tribe has not been so organized and recognized.

Mr. BARTLETT. Mr. President, while the House has amended S. 2888, the change is technical in nature and does not detract from the version of the bill as passed by the Senate. The amendment is acceptable to both the majority and minority sides of the aisle.

Therefore, Mr. President, I move that the Senate concur in the amendment of the House to S. 2888.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma (Mr. BARTLETT).

The motion was agreed to.

CONVEYANCE OF CERTAIN LANDS FOR THE ABSENTEE SHAWNEE TRIBE OF INDIANS

Mr. BARTLETT. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3358.

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate the amendment of the House of Representatives to the bill (S. 3358) to authorize the conveyance of certain lands to the United States in trust for the Absentee Shawnee Tribe of Indians of Oklahoma as follows:

Strike out all after the enacting clause and insert: That the duly authorized tribal officials of the Absentee Shawnee Tribe of Indians of Oklahoma are hereby authorized to convey to the United States in trust for the Absentee Shawnee Tribe of Indians of Oklahoma the following described land and the improvements thereon, subject to all valid existing rights, and the United States will accept such conveyance when approved by the Secretary of the Interior:

All that part of the northeast quarter southwest quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described as: Beginning at a point 1,320 feet south and 726 feet west of the northeast corner of said northeast quarter southwest quarter; thence north 220.44 feet; thence west 594 feet to the point of intersection with the west line of said northeast quarter southwest quarter; thence north along the west line a distance of 439.56 feet to the midpoint of the west line of said northeast quarter southwest quarter; thence east a distance of 17 feet to the intersection of the west right-of-way line of Oklahoma State Highway Numbered 18; thence northeasterly along said west right-of-way line a distance of 493 feet; thence east 1,485 feet to the west right-of-way line of the Atchison, Topeka, and Santa Fe Railroad right-of-way; thence southwesterly along said west right-of-way line a distance of 1,223 feet to a point in the south line of said northeast quarter southwest quarter, said point being 129 feet west of the southeast corner of said northeast quarter southwest quarter; thence west along the south line of said northeast quarter southwest quarter a distance of 597 feet to the point of beginning; containing 33.23 acres, more or less.

Mr. BARTLETT. Mr. President, while the House has amended the title to S. 3358, the change does not detract the version of the bill as passed by the Senate. The amendment is acceptable to both the majority and minority sides of the aisle.

Therefore, Mr. President, I move that the Senate concur in the amendment of the House to S. 3358.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma (Mr. BARTLETT).

The motion was agreed to.

CERTAIN LAND IN TRUST FOR CHEYENNE-ARAPAHO TRIBES OF OKLAHOMA

Mr. BARTLETT. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 521.

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate the amendment of the House of Representatives to the bill (S. 521) to declare that certain land of the United States is held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma as follows:

Strike out all after the enacting clause and insert: That all right, title, and interest of the United States in and to the following described land, and improvements thereon, are hereby declared to be held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma:

Beginning at the southwest corner of lot 2 in the northwest quarter of section 7, township 19 north, range 14 west of the Indian meridian, Dewey County, State of Oklahoma, thence east 20 rods, thence north 40 rods, thence west 20 rods to the west line of said lot 2, thence south 40 rods to the place of beginning, containing 5 acres, more or less.

SEC. 2. This conveyance is subject to existing rights-of-way for waterlines, electric transmission lines, roads, and railroads.

Mr. BARTLETT. Mr. President, while the House has amended S. 521, the change does not detract from the version of the bill as passed by the Senate. The amendment is acceptable to both the majority and minority sides of the aisle.

Therefore, Mr. President, I move that the Senate concur in the amendment of the House to S. 521.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma (Mr. BARTLETT).

The motion was agreed to.

CONVEYANCE OF CERTAIN LANDS FOR THE CITIZEN BAND OF POTAWATOMI INDIANS OF OKLAHOMA

Mr. BARTLETT. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3359.

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate the amendments of the House of Representatives to the bill (S. 3359) to authorize the conveyance of certain lands to the United States in trust for the Citizen Band of Potawatomi Indians of Oklahoma as follows:

Strike out all after the enacting clause, and insert: That the duly elected officials of the Citizen Band of Potawatomi Indians of Oklahoma are hereby authorized to convey to the United States in trust for the Citizen Band of Potawatomi Indians of Oklahoma the following described lands and improvements thereon, subject to all valid existing rights, and the United States will accept such conveyance when approved by the Secretary of the Interior:

TRACT NUMBERED 1

The northeast quarter northeast quarter, southeast quarter northeast quarter, south-

west quarter northeast quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, containing 120.00 acres more or less.

TRACT NUMBERED 2

That part of the northwest quarter southeast quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described as: Beginning at the southwest corner of said northwest quarter southeast quarter; thence east 1,320 feet; thence north 1,320 feet; thence west 1,320 feet to the center of said section; thence south 167 feet; thence east 183 feet to the intersection with the west line of the Atchison, Topeka, and Santa Fe Railroad right-of-way; thence southwesterly along the west right-of-way line a distance of 856 feet to the intersection with a point in the west line of the northwest quarter southeast quarter, said point being 983 feet south of the center of section 31; thence south along the west line of the northwest quarter southeast quarter, a distance of 337 feet, to the point of beginning, containing 38.29 acres, more or less.

TRACT NUMBERED 3

That part of the southeast quarter northwest quarter section 31, township 10 north, range 4 east, Indian meridian Pottawatomie County, Oklahoma, described as: Beginning at the northeast corner of said southeast quarter northwest quarter; thence south 1,320 feet to the center of said section 31; thence west along the south line of said southeast quarter northwest quarter, a distance of 1,255.4 feet to the intersection with the centerline of Oklahoma State Highway Numbered 18; thence northwesterly along the centerline of the highway a distance of 660.58 feet to a point on the south line of the northwest quarter southeast quarter northwest quarter; thence east 38 feet to the intersection with the east right-of-way line of Oklahoma State Highway Numbered 18; thence northwesterly along the east right-of-way line to a point in the north line of said southeast quarter northwest quarter, said point being 58 feet east of the northwest corner of said southeast quarter northwest quarter; thence east a distance of 1,262 feet to the point of beginning; containing 38.63 acres, more or less.

TRACT NUMBERED 4

That part of the northeast quarter southeast quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described as: Beginning at the northeast corner of said northeast quarter southwest quarter, said point being the center of section 31; thence south 167 feet; thence west 1,302 feet to the intersection with the west line of the right-of-way of Oklahoma State Highway Numbered 18; thence northeasterly along the west right-of-way line a distance of 167 feet to the north line of said northeast quarter southwest quarter; thence east along said north line a distance 1,297.4 feet to the point of beginning; containing 4.678 acres, more or less.

TRACT NUMBERED 5

That part of the northeast quarter southwest quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described, as: Beginning at the southeast corner of said northeast quarter southwest quarter; thence north along the east line of said northeast quarter southwest quarter a distance of 337 feet to the intersection with the west right-of-way line of the Atchison, Topeka, and Santa Fe Railroad right-of-way; thence southwesterly along said west right-of-way line a distance of 367 feet to the intersection with the south line of said northeast quarter southwest quarter; thence east along the south line a distance of 129 feet to the point of beginning; containing .498 acre, more or less.

TRACT NUMBERED 6

The reserved mineral deposits, including the right to prospect for and remove the same, in and under lands described as the south half of lot 2 (southwest quarter northwest quarter), and that part of the southwest quarter southeast quarter northwest quarter lying west of the centerline of Oklahoma State Highway Numbered 18 and adjacent to the south half of said lot 2, all in section 31; township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, containing 19.87 acres, more or less, which lands were previously conveyed to Pottawatomie County, Oklahoma, by quitclaim deed dated December 17, 1959, pursuant to the Act of June 4, 1953 (67 Stat. 71; 25 U.S.C. 293a), said deed appearing of record in Pottawatomie County, Oklahoma, in deed book 174 at page 367 of the land records of said county.

TRACT NUMBERED 7

That part of lot 1 (northwest quarter of northwest quarter) and north half of lot 2 (north half of southwest quarter of northwest quarter) and the part of the north half of the southeast quarter of the northwest quarter lying west of the east right-of-way line of Oklahoma State Highway Numbered 18, all in section 31, township 10 north, range 4 east of the Indian meridian, Pottawatomie County, Oklahoma, containing 57.99 acres, more or less, subject to the right of the Absentee Shawnee Tribe of Indians of Oklahoma, the Sac and Fox Tribe of Indians of Oklahoma, the Kickapoo Tribe of Indians of Oklahoma, and the Iowa Tribe of Indians of Oklahoma to use the Potawatomi community house that may be constructed and maintained thereon.

Amend the title so as to read: "An Act to authorize the conveyance of certain lands to the United States in trust for the Citizen Band of Potawatomi Indians."

Mr. BARTLETT. Mr. President, while the House has amended S. 3359, the change is technical in nature and does not detract from the version of the bill as passed by the Senate. The amendment is acceptable to both the majority and minority sides of the aisle.

Therefore, Mr. President, I move that the Senate concur in the amendment of the House to S. 3359.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma (Mr. BARTLETT).

The motion was agreed to.

Mr. BARTLETT. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator from Minnesota would allow me, I would like to suggest that the distinguished Senator from North Carolina be recognized at this time.

FEDERAL PRIVACY ACT

Mr. ERVIN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3418.

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate the amendments of the House of Representatives to the amendments of the Senate to the amendments of the House to the bill (S. 3418) to establish a Privacy Protection Commission, to provide management systems in Federal agencies and certain other organizations with respect to the gathering and disclosure of information concerning individuals, and for other purposes as follows:

(1) Page 16, strike out lines 1 through 10, inclusive, and insert:

"(6) prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

"(7) maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(2) Page 24, strike out all after line 10 over to and including line 24 on page 25, and insert:

"(j) GENERAL EXEMPTIONS.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) if the system of records is—

"(1) maintained by the Central Intelligence Agency; or

"(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compelled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section."

(3) Page 42, strike out lines 11 through 21, and insert:

"(h)(1) Any member, officer, or employee of the Commission, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

"(2) Any person who knowingly and willfully requests or obtains any record concerning an individual from the Commission under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000."

Mr. ERVIN. Mr. President, the House amendments to the Senate amendments to the House amendments are merely technical in nature and there is no opposition to them, so far as I can find.

I would therefore move that the Senate concur in the House amendments to the Senate amendments to the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina (Mr. ERVIN).

The motion was agreed to.

ALLEVIATION OF SUFFERING FROM HUNGER AND MALNUTRITION—S. 2792

Mr. HUMPHREY. Mr. President, there is at the desk a report from the Committee on Agriculture and Forestry relating to the modification of Public Law 480, a bill that was unanimously reported by the Committee on Agriculture and Forestry, which has the support of the President and the Office of Management and Budget.

I ask unanimous consent for the immediate consideration of the bill.

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

There being no objection, the Senate proceeded to consider the bill (S. 2792) to amend the Agricultural Trade Development and Assistance Act of 1954 to provide the United States with the flexibility with which to participate in efforts to alleviate the suffering and human misery of hunger and malnutrition which had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

PUBLIC LAW 480

SECTION 1. The last sentence of section 401 of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended by striking out the period and inserting in lieu thereof a comma and the following: "unless the Secretary determines that some part of the exportable supply should be used to carry out the national interest and humanitarian objectives of this Act: *Provided*, That no commodity may be made available for disposition under this Act to any country in any fiscal year unless the Secretary determines, and certifies such determination to the Congress, that all domestic feeding programs, including, but not limited to, the programs provided for under the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, will be provided in such fiscal year with the same types and kinds of agricultural commodities and in the same or greater quantities at which each such type and kind of commodity was provided for such programs during the fiscal year ending June 30, 1974, and in determining the types, kinds, and quantities of commodities made available for any such program during the fiscal year ending June 30, 1974, the Secretary shall include commodities made available from every source, including, but not limited to, those made available under section 416 of the Agricultural Act of 1949, those made available with funds from section 32 of the Act of August 24, 1935, and those made available with funds of the Commodity Credit Corporation as authorized by section 709 of the Food and Agriculture Act of 1965."

FOOD STAMP ACT

SEC. 2. Section 4(a) of the Food Stamp Act of 1964, as amended, is amended by striking out the period at the end thereof and adding the following: "*Provided*, That effective March 1, 1975, no less than 20 per centum of the total value of coupons issued to an eligible household during each month or other time period shall be so coded as to be usable only for the purchase of beef, pork, poultry or dairy products unless the State agency finds that such coding is impractical with regard to a specific household.".

Amend the title so as to read: "A bill to amend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes."

The amendments was agreed to.

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

The title was amended so as to read: "A bill to amend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes."

Mr. HUMPHREY. Mr. President, I ask unanimous consent that an excerpt from the report of the committee (No. 99–1183) be printed in the RECORD, which will save us some time and will help explain the purposes.

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

SHORT EXPLANATION

This bill would—

(1) permit the Secretary of Agriculture to waive the availability criteria for commodities which may be disposed of under the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480) if he determines that some part of the exportable supply should be used to carry out the national interest and humanitarian objectives of the Act;

(2) require the Secretary of Agriculture to determine and certify that all domestic feeding programs will be provided with the same types and kinds of agricultural commodities at not less than the levels provided in fiscal year 1974 before being made available under P. L. 480; and

(3) amend the Food Stamp Act to require that effective March 1, 1975, not less than 20 percent of the total value of coupons issued to eligible households be usable only for beef, pork, poultry, or dairy product purchases.

COMMITTEE AMENDMENT

The Committee amended S. 2792 in two major respects. First, it would require the Secretary of Agriculture to determine and certify that all domestic feeding programs will be provided with the same types and kinds of agricultural commodities at not less than the levels provided in fiscal year 1974 before being made available under P. L. 480; and second, it amended the Food Stamp Act to require that effective March 1, 1975, not less than 20 percent of the total value of coupons issued to eligible households be usable only for beef, pork, poultry, or dairy product purchases.

BACKGROUND

The last sentence of section 401 of Public Law 480 provides that "no commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary of Agriculture at the time of exportation of such commodity."

The bill would add to the last sentence of section 401 the words "unless the Secretary determines that some part of the exportable supply should be used to carry out the national interest and humanitarian objectives of this Act," with the proviso that no agricultural commodity may be made available for disposition under this Act to any foreign country in any fiscal year unless the Secretary determines, and certifies such determination to the Congress, that all domestic feeding programs, including, but not limited to, the programs provided for under the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, will be provided in such fiscal year with the same types and kinds of agricultural commodities and in the same or greater quantities at which each such type and kind of commodity was provided for such programs during the fiscal year ending June 30, 1974.

The Committee is extremely concerned about the hardship that will be imposed on food stamp recipients as a result of the new food stamp regulations issued on December 6, 1974. These regulations, which will require that all food stamp recipients pay 30 percent of their adjusted net monthly income for food stamps, will substantially increase the amount of money that many poverty level families will have to pay for the food stamps. In some cases, especially in the case of single individuals receiving social security payments, the monthly purchase requirement will be increased so much that the food stamp bonus will not be worthwhile. The poverty level families who are currently receiving food stamps have been most cruelly affected by the current inflationary spiral. The added burden of the increased purchase requirement for food stamps is unthinkable. Therefore, the Committee hopes that the administration will forego the implementation of these regulations until Congress has an opportunity to consider legislation on this subject next year.

The Committee also noted that while vegetable protein supplies are currently at below normal levels in relation to demand, there is a surplus of animal protein in the United States. Consequently, the Committee urges the President and his advisers to explore all possible avenues with regard to the use of meat, poultry, and dairy products under Public Law 480 and other United States Government food aid programs.

In addition, the Committee adopted an amendment to S. 2792 with regard to the Food Stamp Act of 1964. This amendment provides that no less than 20 percent of the total value of food stamps issued after March 1, 1975 to eligible households be coded so as to be usable only for the purchase of beef, pork, poultry, or dairy products. The amendment authorizes the administering State agency to make exceptions to this requirement in cases where it is impractical with regard to a specific household.

The Food Stamp Act provides that coupons shall be issued in such amount as the Secretary of Agriculture determines to be the cost of a nutritionally adequate diet. It has been determined that about 15 percent of the value of a nutritionally adequate diet involves the cost of beef, pork, or poultry. The Committee strongly believes in the nutritional value of dairy products also, and, therefore, included these products in the requirement.

In a letter to the President pro tempore of the Senate dated November 18, 1974, the Administration urged the enactment of legislation almost identical to S. 2792. Under the Administration's proposal, the last sentence of section 401 of Public Law 480 would be amended by adding the words "unless the Secretary determines that some part of the exportable supply should be used to carry out the national interest or humanitarian objectives of this Act."

TRANSACTION OF ROUTINE MORNING BUSINESS

(By unanimous consent the Senate transacted the following routine morning business today.)

MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT OF THE SENATE

Under authority of the order of December 17, 1974, a message from the President of the United States was received on December 17, 1974, during the adjournment of the Senate.

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 10:02 a.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 425. An act to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.

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

S. 2343. An act to authorize the Secretary of the Interior to convey, by quitclaim 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. An act 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.

S. 4013. An act to amend the act incorporating the American Legion so as to redefine eligibility for membership therein.

H.R. 7978. An act 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.

H.R. 8193. An act to regulate commerce and strengthen national security by requiring that a percentage of the oil imported into the United States be transported on United States-flag vessels.

H.R. 8864. An act to amend the Act to incorporate Little League Baseball to provide that the league shall be open to girls as well as to boys.

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".

S.J. Res. 260. A joint resolution relative to the convening of the first session of the Ninety-fourth Congress.

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

At 12:45 p.m., a message from the House by Mr. Hackney, one of its reading clerks, announced that the House insists upon its amendment 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 Saint Croix River Act of 1972 (86 Stat. 1174), and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. TAYLOR of North Carolina, Mr. JOHNSON of California, Mr. RONCALIO of Wyoming, Mr. SKUBITZ, and Mr. STEIGER of Arizona were appointed managers of the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 1728) to increase benefits provided to American civilian internees in Southeast Asia, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. MOSS, Mr. STUCKEY, Mr. ECKHARDT, Mr. BROYHILL of North Carolina, Mr. WARE, and Mr. MCCOLLISTER were appointed managers of the conference on the part of the House.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10701) to amend the act of October 27, 1965, relating to public works on rivers and harbors to provide for construction and operation of certain port facilities.

The message also announced that the House has passed the bill (S. 521) to declare that certain land of the United States is held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 1083) to amend certain provisions of Federal law relating to explosives, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 16609) to amend Public Law 93–276 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 5773) to establish the Canaveral National Seashore in the State of Florida, and for other purposes.

The message further announced that the Speaker has appointed as a member of the District of Columbia Law Revision Commission Mrs. Patricia Roberts Harris, from Washington, D.C., pursuant to the provisions of section 2(a), Public Law 93–379.

The message also announced that the minority leader, pursuant to the provisions of section 2(a), Public Law 93–379, has appointed as a member of the District of Columbia Law Revision Commission, the Honorable HENRY P. SMITH.

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

H.R. 11607. An act for the relief of Tri-State Motor Transit Co.; and

H.R. 13869. An act for the relief of Carl C. Strauss and Mary Ann Strauss.

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

S. 2888. An act to convey certain land of the United States to the Inter-Tribal Council, Incorporated, Miami, Okla.;

S. 3358. An act to authorize the conveyance of certain lands to the United States in trust for the Absentee Shawnee Tribe of Indians of Oklahoma;

S. 251. An act for the relief of Frank P. Muto, Alphonso A. Muto, Arthur E. Scott, and F. Clyde Wilkinson;

S. 663. An act to improve judicial machinery by amending title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission and for other purposes; and

S. 3548. An act to establish the Harry S. Truman memorial scholarship, and for other purposes.

The message further announced that the House insists upon its amendment 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, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. DEVINE, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, and Mr. HUDNUT were appointed managers of the conference on the part of the House.

At 3:38 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 15173) to extend for 1½ years the authority of the National Commission for the Review of Federal and State Laws on Wiretapping and Electronic Surveillance, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3394) to amend the Foreign Assistance Act of 1961, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to 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 message also announced that the House has passed the joint resolution (H.J. Res. 1178) making further continuing appropriations for the fiscal year 1975, and for other purposes, in which it requests the concurrence of the Senate.

The message further announced that the House disagrees to the amendment of the Senate 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; 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.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 421) 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; 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, Mr. ROSTENKOWSKI, Mr. LANDRUM, Mr. SCHNEEBELI, Mr. BROYHILL of Virginia, and Mr. CONABLE were appointed managers of the conference on the part of the House.

At 4:53 p.m., a message from the House of Representatives by Mr. Berry announced that the House has passed the bill (H.R. 17655) 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.

The message also announced that the House agrees to the amendments of the Senate to the amendments of the House to the resolution (S.J. Res. 133) to provide for the establishment of the American Indian Policy Review Commission.

At 5:35 p.m., a message from the House of Representatives by Mr. Hackney announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 3418) to establish a Privacy Protection Commission, to provide management systems in Federal agencies and certain other organizations with respect to the gathering and disclosure of information concerning individuals, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 12113) to revise and restate certain functions and duties of the Comptroller General of the United States and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 14718) to discontinue or modify certain reporting requirements of law.

The message also announced that the House has passed the bill (S. 3359) to authorize the conveyance of certain lands to the United States in trust for the Citizen Band of Potawatomi Indians of Oklahoma with amendments in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1296) to further protect the outstanding scenic, natural, and scientific values of the Grand Canyon by enlarging the Grand Canyon National Park in the State of Arizona, and for other purposes.

The message also announced that the House has passed the joint resolution (H.J. Res. 1180) making urgent supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the 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.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 12884) to designate certain lands as wilderness, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

S. 184. An act to authorize and direct the Secretary of the Interior to sell interests of the United States in certain lands located in the State of Alaska to the Gospel Missionary Union.

S. 194. An act to authorize the Secretary of the Interior to convey to the city of Anchorage, Alaska, interests of the United States in certain lands.

S. 1357. An act for the relief of Mary Red Head.

S. 2125. An act to amend the Act of June 9, 1906, entitled "An Act granting land to the city of Albuquerque for public purposes" (34 Stat. 227), as amended.

S. 2594. An act for the relief of Jan Sejna.

S. 2838. An act for the relief of Michael D. Manemann.

S. 3341. An act to revise certain provisions of title 5, United States Code, relating to per diem and mileage expenses of employees and other individuals traveling on official business, and for other purposes.

S. 3397. An act for the relief of Jose Ismarnado Reyes-Morelos.

S. 3489. An act to authorize exchange of lands adjacent to the Teton National Forest in Wyoming, and for other purposes.

S. 3518. An act to remove the cloud on title with respect to certain lands in the State of Nevada.

S. 3574. An act to relinquish and disclaim any title to certain lands and to authorize the Secretary of the Interior to convey certain lands situated in Yuma County, Arizona.

S. 3578. An act for the relief of Anita Tomasi.

S. 3615. An act to authorize the Secretary of the Interior to transfer certain lands in the State of Colorado to the Secretary of Agriculture for inclusion in the boundaries of the Arapaho National Forest, Colorado.

S.J. Res. 234. A joint resolution transferring to the State of Alaska certain archives and records in the custody of the National Archives of the United States.

The ACTING PRESIDENT pro tempore (Mr. JOHNSTON) subsequently signed the enrolled bills and joint resolution.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to exempt certain youth organizations, fraternities, and sororities from the operation of title IX of the Education Amendments of 1972, and for other purposes (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

REPORT OF VIOLATIONS OF ANTI-DEFICIENCY ACT

A letter from the Secretary of Defense transmitting, pursuant to law, a report of violation of Anti-Deficiency Act and of Department of Defense Directive 7200.1 (with an accompanying report). Referred to the Committee on Appropriations.

REPORT OF THE ATTORNEY GENERAL

A letter from the Attorney General transmitting, pursuant to law, a report on identical bidding in advertised public procurement (with an accompanying report). Referred to the Committee on the Judiciary.

OPINION OF THE U.S. COURT OF CLAIMS

A letter from the Chief Commissioner of the U.S. Court of Claims transmitting a copy of the opinion and findings of fact in the case of Concrete Industries (Monier) Limited v. United States (with accompanying papers. Referred to the Committee on the Judiciary.

REPORT OF THE COMMISSION OF CIVIL RIGHTS

A letter from the Civil Rights Commission transmitting, pursuant to law, a report of the Commission entitled "The Federal Civil Rights Enforcement Effort—1974)" (with an accompanying report). Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. Res. 466. An original resolution to pay a gratuity to Reginald C. Vines.

By Mr. TALMADGE, from the Committee on Agriculture and Forestry, without amendment:

H. R. 510. A bill to authorize and direct the Secretary of Agriculture to convey any interest held by the United States in certain property in Jasper County, Georgia, to the Jasper County Board of Education (Rept. No. 93–1403).

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

S. 544. A bill to amend title 18 of the United States Code to permit the transportation, mailing, and broadcasting of advertising, information, and materials concerning lotteries authorized by law and conducted by a State, and for other purposes (Rept. No. 93–1404).

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

H. J. Res. 1178. A joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes (Rept. No. 93–1405).

By Mr. McCLELLAN, from the Committee on Appropriations, with an amendment:

H. J. Res. 1180. A joint resolution making urgent supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes (Rept. No. 93–1406).

By Mr. ALLEN, from the Committee on Agriculture and Forestry, without amendment:

S. Res. 467. A resolution relating to agricultural credit and the current liquidity problem facing agricultural borrowers that threatens the viability of agriculture, rural communities, and the national economy. (Rept. No. 93-1407).

By Mr. NUNN, from the Committee on Armed Services, without amendment:

H.R. 11144. An act to amend title 10, United States Code, to enable the Naval Sea Cadet Corps and the Young Marines of the Marine Corps League to obtain, to the same extent as the Boy Scouts of America, obsolete and surplus naval material (Rept. No. 93-1410).

By Mr. HUMPHREY, from the Committee on Agriculture and Forestry, with amendments:

S. 4206. A bill to provide price support for milk at not less than 90 per centum of the parity price thereof, and for other purposes (Rept. No. 93-1411).

By Mr. HUMPHREY, from the Committee on Agriculture and Forestry, with amendments:

S. 2792. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 to provide the United States with the flexibility with which to participate in efforts to alleviate the suffering and human misery of hunger and malnutrition (Rept. No. 93-1412).

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES—SENATE JOINT RESOLUTION 40—CONFERENCE REPORT (REPT. NO. 93-1409)

Mr. PELL submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the joint resolution (S.J. Res. 40) to authorize and request the President to call a White House Conference on Library and Information Services in 1976, which was ordered to be printed.

CONSUMER PRODUCT WARRANTY AND FEDERAL TRADE COMMISSION IMPROVEMENT ACT CONFERENCE REPORT (REPT. NO. 93-1408)—S. 356

Mr. MAGNUSON submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 356) to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

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

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

Wilson K. Talley, of California, to be an Assistant Administrator of the Environmental Protection Agency.

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

By Mr. PASTORE, from the Joint Committee on Atomic Energy:

Marcus A. Rowden, of Maryland;
Edward A. Mason, of Massachusetts;
Victor Gilinsky, of California; and
Richard T. Kennedy, of the District of Columbia, to be members of the Nuclear Regulatory Commission.

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

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

Edward S. King, of New York, to be U.S. marshal for the western district of New York.

Ronald C. Romans, of Nebraska, to be U.S. marshal for the district of Nebraska.

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

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

William S. Sessions, of Texas, to be U.S. district judge for the western district of Texas.

J. Calvitt Clarke, Jr., of Virginia, to be U.S. district judge for the eastern district of Virginia.

William J. Bauer, of Illinois, to be U.S. circuit judge for the seventh circuit.

Alfred Y. Kirkland, of Illinois, to be U.S. district judge for the northern district of Illinois.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 392

At the request of Mr. TAFT, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of Senate Resolution 392, concerning the safety and freedom of Valentyn Moroz, Ukrainian historian.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 1178) making further continuing appropriations for the fiscal year 1975, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

The joint resolution (H.J. Res. 1180) making urgent supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that today, December 18, 1974, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 425. An act to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.

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

S. 2343. An act to authorizes the Secretary of the Interior to convey, by quitclaim 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. An act 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.

S. 4013. An act to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MOSS:

S. 4246. A bill to regulate commerce and to prohibit unfair or deceptive acts or practices in commerce, and for other purposes. Referred to the Committee on Commerce.

By Mr. PERCY:

S. 4247. A bill to amend the Internal Revenue Code of 1954 to increase the Federal excise tax on gasoline, to make such tax, as increased, a permanent tax, to provide that revenues derived from the increase in, and extension of, such tax are appropriated to the general fund rather than to the Highway Trust Fund, and to provide a credit for the increased tax paid with respect to not more than 500 gallons of gasoline purchased each year by a taxpayer;

S. 4248. A bill to repeal deduction for gasoline taxes;

S. 4249. A bill to terminate the Highway Trust Fund;

S. 4250. A bill to establish an automobile efficiency tax incentive program, and for other purposes; to the Committee on Finance.

S. 4251. A bill to amend title 23 of the United States Code in order to provide for standards for the enforcement of any maximum speed limit on any public highway required pursuant to Federal law. Referred to the Committee on Public Works.

By Mr. ERVIN (for himself, Mr. MATHIAS, Mr. KENNEDY, Mr. BAYH, and Mr. TUNNEY):

S. 4252. A bill to protect the constitutional rights and privacy of individuals upon whom criminal justice information and criminal justice intelligence information have been collected and to control the collection and dissemination of criminal justice information and criminal justice intelligence information, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. JAVITS:

S. 4253. A bill to amend the Council on Wage and Price Stability Act to provide the Council the authority to issue subpenas and to delay inflationary wage or price increases. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ERVIN (for himself, Mr. MATHIAS, Mr. KENNEDY, Mr. BAYH, and Mr. TUNNEY):

S. 4252. A bill to protect the constitutional rights and privacy of individuals upon whom criminal justice information and criminal justice intelligence information have been collected and to control the collection and dissemination of criminal justice information and criminal justice intelligence information, and for other purposes. Referred to the Committee on the Judiciary.

CRIMINAL JUSTICE DATA BANKS LEGISLATION

Mr. ERVIN. Mr. President, one of my great disappointments in leaving the Senate and the chairmanship of the Subcommittee on Constitutional Rights is that the subcommittee never finished its work on criminal justice data banks legislation. In February of this year my friend and colleague, the senior Senator from Nebraska and I introduced two bills, S. 2963 and S. 2964, legislation prepared by our staffs and the Department of Justice to regulate the collection and exchange of criminal justice records, investigative and intelligence files. We held hearings on that legislation a month later in which we heard from over 30 witnesses.

In the course of those hearings it became clear that there were at least three basic interests which must be protected by this legislation. The first interest is the right of an individual who has a file or record maintained by a law enforcement agency not to have his reputation sullied by improper dissemination of inaccurate or incomplete information. Second, there is the interest of law enforcement agencies to assure that this legislation not interfere unnecessarily with the administration of their departments. Third, members of the press and the public have a right to have access to certain records maintained by law enforcement agencies which are public in nature.

Senator HRUSKA, I, and the rest of the subcommittee have struggled with balancing these basic interests for the past 10 months. I regret to announce that despite the preparation of at least four different working drafts by the subcommittee staff we have not reached agreement on a bill. However, the most recent drafts of the legislation have been circulated to representatives of the news media and law enforcement and based on preliminary responses by some media and law enforcement groups, Senator HRUSKA, and the Department of Justice, I am confident that this latest draft could serve as the basis for a consensus on this legislation. The legislation I introduce today reflects the latest draft upon which we were working as the session ends.

An example of the growing consensus on this legislation is the fact that Project SEARCH, a national criminal justice organization composed of one gubernatorial representative from each State has endorsed the provisions of this bill. Project SEARCH's endorsement of this legislation is particularly significant because it was instrumental in developing the original prototype for a national criminal justice data bank. Indeed, SEARCH probably has more criminal justice expertise on the subject matter of this legislation than any other group of its kind.

I ask unanimous consent that a resolution of SEARCH endorsing this legislation be inserted at this point in the RECORD.

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

SUGGESTIONS AND RECOMMENDATIONS OF SEARCH GROUP TO COMMITTEE PRINT NO. 3 OF SENATE BILL 2963

The members of SEARCH Group appreciate the recognition given by the Senate Judiciary Committee's Subcommittee on Constitutional Rights to the extensive studies and efforts conducted by SEARCH over the last five years on the subject of security and privacy in criminal justice information systems. The careful consideration given by the Committee to the policy recommendations of SEARCH as set forth in the testimony of its Chairman and in various SEARCH documents is rewarding. SEARCH is pleased to note that many of these recommendations have been incorporated in the language of S. 2963 as revised since the hearings.

The SEARCH Membership Group has reviewed Committee Print No. 3, dated September 20, 1974, from the perspective of state and local criminal justice agencies. The Group wishes to reemphasize its conviction that federal legislation on this subject is vitally needed. As the Committee Chairman and others have pointed out, confusion and inconsistency in the implementation and operation of criminal justice information systems will continue until the Congress has adopted national standards.

Based on its review, SEARCH finds the bill to be generally in the best interest of the criminal justice community and endorses it with the following strong suggestions and recommendations concerning the major provisions of the bill:*

1. *Law Enforcement Uses of Arrest Records.* (*Section 201.*)

SEARCH Group finds that the circumstances enumerated for the use of arrest records are sufficient. Consequently, SEARCH Group endorses the provisions of subsection (b)(2) of section 201.

2. *Use of Criminal Justice Records for Non-Law Enforcement Purposes.* (*Section 203.*)

SEARCH Group recommends deletion of the provision that a federal executive order is sufficient to authorize access to criminal justice information for non-law enforcement purposes. SEARCH Group suggests that federal and state statutes be the only proper basis for providing all such access.

3. *Access to Arrest Records.* (*Section 206.*) *Section 206(a).*

SEARCH Group recommends against the requirement for positive (fingerprint-based) identification as the basis for inquiry of automated systems. Were this the case, it would severely limit the usefulness of the system for investigative purposes and for the uses described in Section 201. Preferable language would permit pre-arrest inquiry based on individual identifiers even though a positive identification may not be possible. However, post-arrest decisions concerning the individual that rely on criminal justice information should be based on information obtained only on the basis of fingerprints or other positive identification. *Section 206(b).*

SEARCH Group recommends against the requirement that class access to arrest records be authorized by a court-issued access warrant. Given the other provisions of the bill governing the retention and use of arrest records, the procedures for class access to arrest records should be the same as for conviction records.

4. *Accuracy of Criminal Justice Information.* (*Section 207(b).*)

SEARCH Group recommends against the requirement that automated information systems must, before disseminating an arrest record, check first with the law enforcement agency which contributed the arrest record to determine whether a disposition is available. Automatically checking with the arresting agency for dispositions is contrary to the more logical approach of placing primary responsibility for supplying disposition data on courts and other agencies. This is particularly true in view of the Act's requirement to withhold arrest data where dispositions are not submitted and on the time limits in the Act beyond which such data cannot be disseminated. This recommendation is especially valid if the following recommendations on sealing is adopted.

5. *Sealing and Purging.* (*Section 208.*)

SEARCH Group endorses the sealing provision of S. 2963, provided that the 5-year period for sealing arrest records that are not prosecuted or where no conviction occurs be changed to 2 years.

6. *Access for Challenge.* (*Section 209.*)

SEARCH Group assumes that regulations will be issued under section 207(c)(1) of the Act that specify time periods for retention of dissemination records covered by the Act rather than requiring such records to be maintained indefinitely. Under this assumption, SEARCH Group endorses this section with the following changes:

(a) The agency to which the challenge is made shall give notice of the challenge to all persons or agencies to whom it disseminates the record after the challenge is made;

(b) If an individual prevails in his challenge, he may, upon request, obtain a list of the names of individuals and/or agencies to whom the incomplete or inaccurate records have been disseminated during the period for which such records must be maintained under other provisions of the Act;

(c) If the challenge prevails, the agency to which it was made shall be required to give notice of the correction to all persons or agencies to whom it disseminated the record during the period the Act requires such records to be maintained, and to request that those persons and agencies correct the record and notify others to whom they have disseminated the record to do likewise.

7. *Intelligence Information.* (*Section 210.*)

SEARCH Group recommends a modification of subsection (f) which prohibits direct remote terminal access to automated intelligence files on an inter-agency basis unless subsequently authorized by law. Although allegations and uncorroborated data should not be directly accessible by automated means to agencies outside of the collecting agency, there is a strong need to permit computer-based sharing of information already in the public domain and to enable investigators to determine the identity of other agencies which might hold additional information that might be obtained by personal contact. Such an index or "pointer" system would be very helpful in coordinating the investigation and prosecution or organized crime members whose mobility is well-known. Therefore, SEARCH Group recommends that a limited capability for the automated interstate exchange of identification and specified public record data be authorized by the Act.

*The SEARCH Membership Group adopted this position on a vote of 31 for, 5 against, and one abstention.

8. *Criminal Justice Information Systems Board. (Section 310.)*

SEARCH Group endorses the concept of a governing board composed of federal and state representatives with administrative and enforcement responsibility for implementation of the Act, provided that—

(a) A majority of the members be officials of state and local criminal justice agencies representative of a full spectrum of the criminal justice system;

(b) The membership of the Board include private citizens; and

(c) The Board have authority to issue and enforce regulations governing state, local and interstate systems and records to the extent of federal participation in federal-state systems such as the national interstate system created by section 307.

In addition, some mechanism should be developed to clarify the apparent intent of the Act that the Board focus its efforts on state, local and interstate information systems. Regulations dealing with exclusively federal systems should be developed through some alternative means, such as by order of the President or by a separate Federal CJIS Board.

9. *CJIS Advisory Committee. (Section 302.)*

SEARCH Group advises against the statutory creation of a new national committee, since its authority would be merely hortatory and its staff functions would be largely duplicative of the activities of the Board. Instead, it is recommended that the advisory role be handled by a statutory requirement that the Board consult with SEARCH Group before issuing regulations, interpretations, procedures and the like that impact on state, local or interstate systems.

Since SEARCH Group consists of members appointed by the governors of all 50 states and the several territories and has for several years provided broad representation for the views of all segments of the criminal justice system, it already has considerable expertise in acting as exactly the sort of forum for the presentation of state and local views to the Congress and federal agencies as was envisioned by the drafters of section 302.

10. *Wanted Persons Information. (Section 304.)*

SEARCH Group recommends appropriate modification of the provisions of section 304 and a related provision in section 301(d)(2) to permit the dissemination of wanted persons information to criminal justice agencies located in states that have failed to satisfy the requirements of section 304. These modifications should make it clear that the CJIS Board may not prohibit such disseminations solely on the basis of failure to comply with section 304.

11. *National Criminal Justice Information System. (Section 307.)*

SEARCH Group agrees with the concept of maintaining only an index of state records at the federal level. However, the practicalities of operating state systems have demonstrated that it is more economical to allow the federal system to maintain records of offenders active in more than one state in addition to records of federal offenders. Consequently, SEARCH Group recommends that section 307 be amended to permit the national index to maintain records of individuals with violations in two or more states.

Mr. ERVIN. Incidentally, the SEARCH resolution refers to committee print 3 of S. 2963 and also suggests a number of changes in that bill as a condition of its support. The bill I introduce today contains all of the provisions of committee print 3 plus all of the changes requested by SEARCH.

I understand that SEARCH is not the only law enforcement organization considering endorsement of this legislation. The National Conference of Criminal Justice Administrators, composed of the LEAA State Planning Administrators from each State, are considering endorsement of this legislation.

There is also support beginning to emerge among press organizations. For example, the staff of the subcommittee has been working very closely with the American Society of Newspaper Editors and the American Newspaper Publishers Association. Although neither group has endorsed the bill it is my understanding that they would not oppose a bill containing the provisions of the bill I have introduced today.

In conclusion, it was clear from the hearings we held in March that there is a consensus within law enforcement, within the administration including the Justice Department and the FBI, as well as among the members of the subcommittee, that legislation in this field is absolutely essential. From a law enforcement point of view progress on the development of a system of nationwide exchange of records is impossible without the development of a uniform body of law on the subject. From the point of view of the individual data subject only Federal legislation can provide a comprehensive legal protection of his right to privacy and protection of his reputation. Finally, there is emerging a consensus among interested parties on this legislation. Therefore, I hope that the members of the subcommittee, its new chairman, and the rest of my colleagues in the Senate will seriously consider reintroducing this bill next Congress and acting on it or a variation thereon.

I ask unanimous consent that the bill and a section-by-section analysis be inserted at this point in the RECORD.

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

S. 4252

A bill to protect the constitutional rights and privacy of individuals upon whom criminal justice information and criminal justice intelligence information have been collected and to control the collection and dissemination of criminal justice information and criminal justice intelligence information, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Criminal Justice Information Control and Protection of Privacy Act of 1974".

TITLE I—FINDINGS AND DECLARATION OF POLICY; DEFINITIONS; APPLICABILITY

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 101. The Congress finds and declares that the several States and the United States have established criminal justice information systems, criminal justice investigative information systems, and criminal justice intelligence information systems which have the capability of transmitting and exchanging criminal justice information, criminal justice investigative information, and criminal justice intelligence information between or among each of the several States and the United States; that the exchange of this information by Federal agencies is not clearly authorized by existing law; that the exchange of this information has great potential for increasing the capability of criminal justice agencies to prevent and control crime; that the exchange of inaccurate or incomplete records of such information can do irreparable injury to the American citizens who are the subjects of the records of the information; that the increasing use of computers and sophisticated information technology has greatly magnified the harm that can occur from misuse of these systems; that citizens' opportunities to secure employment and credit and their right to due process, privacy, and other legal protections are endangered by misuse of these systems; that in order to secure the constitutional rights guaranteed by the first amendment, fourth amendment, fifth amendment, sixth amendment, ninth amendment, and fourteenth amendment, uniform Federal legislation is necessary to govern these systems; that these systems are federally funded, that they contain information obtained from Federal sources or by means of Federal funds, or are otherwise supported by the Federal Government; that they utilize interstate facilities of communication and otherwise affect commerce between the States; that the great diversity of statutes, rules, and regulations among the State and Federal systems require uniform Federal legislation; and that in order to insure the security of criminal justice information systems, criminal justice investigative information systems, and criminal justice intelligence information systems, and to protect the privacy of individuals named in such systems, it is necessary and proper for the Congress to regulate the exchange of such information.

DEFINITIONS

SEC. 102. For the purposes of this Act—

(1) "Information system" means a system, whether automated or manual, operated or leased by Federal, regional, State, or local government or governments, including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of information.

(2) "Criminal justice information system" means an information system which contains only criminal justice information.

(3) "Criminal justice investigative information system" means an information system which contains criminal justice investigative information.

(4) "Criminal justice intelligence information system" means an information system which contains criminal justice intelligence information.

(5) "Automated system" means an information system that utilizes electronic computers, central information storage facilities, telecommunications lines, or other automatic data processing equipment used wholly or in part for data dissemination, collection, analysis, or display as distinguished from a system in which such activities are performed manually.

(6) "Dissemination" means the transmission of information, whether orally, in writing, or by electronic means.

(7) "The administration of criminal justice" means any activity by a criminal justice agency directly involving the apprehension, detention, pretrial release, posttrial release, prosecution, defense, adjudication, or rehabilitation of accused persons or criminal offenders or the collection, storage, dissemination, or usage of criminal justice information.

(8) "Criminal justice agency" means a court and any other governmental agency created by statute or any subunit thereof created pursuant to statute, or State or Federal constitution which performs as its principal function, as authorized pursuant to statute, the administration of criminal justice, and any other agency or subunit thereof which performs a function which is the administration of criminal justice but only to the extent that it performs that function. A criminal justice agency also includes an organization which by contract with a criminal justice agency per-

forms a function which is the administration of criminal justice but only to the extent that it performs that function. Any provision of this Act which relates to the activities of a criminal justice agency also relates to any information system under its management control or any such system which disseminates information to or collects information from that agency.

(9) "Criminal justice information" means identification record information, wanted persons record information, arrest record information, nonconviction record information, conviction record information criminal history record information, and correctional and release information. The term does not include—

(A) statistical or analytical records or reports in which individuals are not identified and from which their identities are not ascertainable,

(B) criminal justice investigative information,

(C) criminal justice intelligence information, or

(D) records of traffic offenses maintained by departments of transportation, motor vehicles, or the equivalent, for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' licenses.

(10) "Identification record information" means fingerprint classifications, voice prints, photographs, and other physical descriptive data concerning an individual which does not include any indication or suggestion that the individual has at any time been suspected of or charged with a criminal offense.

(11) "Wanted persons record information" means identification record information on an individual against whom there is an outstanding arrest warrant including the charge for which the warrant was issued and information relevant to the individual's danger to the community and such other information that would facilitate the regaining of the custody of the individual.

(12) "Arrest record information" means notations of arrest, detention, indictment, filing of information, or other formal criminal charge on an individual which does not include the disposition arising out of that arrest, detention, indictment, information, or charge. The term shall not include an original book of entry or police blotter whether automated or manual maintained by a law enforcement agency at the place of original arrest or detention, not indexed or accessible by name and required to be made public nor shall it include court records of public criminal proceedings or any index thereto indexed or accessible by date or by docket or file number or indexed or accessible by name so long as such index contains no other information than a cross-reference to the original court records by docket or file number.

(13) "Nonconviction record information" means criminal history record information which is not conviction record information.

(14) "Conviction record information" means criminal history record information disclosing that a person has pleaded guilty or nolo contendere to or was convicted of any criminal offense in a court of justice, sentencing information, and whether such plea or judgment has been modified or reversed.

(15) "Criminal history record information" means information on an individual consisting of notations of arrests, detentions, indictments, informations, or other formal criminal charges and any disposition arising from those arrests, detentions, indictments, informations, or charges. The term shall not include an original book of entry or police blotter whether automated or manual maintained by a law enforcement agency at the place of original arrest or place of detention, not indexed or accessible by name and required to be made public nor shall it include court records of public criminal proceedings or official records of pardons or paroles or any index thereto indexed or accessible by date or by docket or file number or indexed or accessible by name so long as such index contains no other information than a cross-reference to the original court pardon or parole records by docket or file number.

(16) "Disposition" means information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings and also disclosing the nature of the termination in the proceedings; or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Dispositions shall include, but not be limited to, acquittal, acquittal by reason of insanity, acquittal by reason of mental incompetence, case continued without finding, charge dismissed, charge dismissed due to insanity, charge dismissed due to mental incompetency, charge still pending due to insanity, charge still pending due to mental incompetence, guilty plea, nolle prosequi, no paper, nolo contendere plea, convicted, deceased, deferred disposition, dismissed-civil action, extradited, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial-defendant discharged, or executive clemency.

(17) "Correctional and release information" means information on an individual compiled by a criminal justice or noncriminal justice agency in connection with bail, pretrial or posttrial release proceedings, reports on the physical or mental condition of an alleged offender, reports on presentence investigations, reports on inmates in correctional institutions or participants in rehabilitation programs, and probation and parole reports.

(18) "Criminal justice investigative information" means information associated with an identifiable individual compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific criminal act including information pertaining to that criminal act derived from reports of informants and investigators, or from any type of surveillance. The term does not include criminal justice information nor does it include initial reports filed by a law enforcement agency describing a specific incident, not indexed or accessible by name and expressly required by State or Federal statute to be made public.

(19) "Criminal justice intelligence information" means information associated with an identifiable individual compiled by a criminal justice agency in the course of conducting an investigation of an individual relating to possible future criminal activity of an individual or relating to the reliability of such information including information derived from reports of informants, investigators, or from any type of surveillance. The term does not include criminal justice information nor does it include initial reports filed by a law enforcement agency describing a specific incident, not indexed or accessible by name and expressly required by State or Federal statute to be made public.

(20) "Law enforcement agency" means a criminal justice agency which is empowered by State or Federal law to make arrests for violations of State or Federal law.

(21) "Seal" means to close a record possessed by a criminal justice agency so that the information contained in the record is available only in the circumstances set out in section 208(b)(5).

(22) "Judge of competent jurisdiction" means (a) a judge of a United States district court or a United States court of appeals; (b) a justice of the Supreme Court of the United States; (c) a judge of any court of general criminal jurisdiction in a State; or (d) any other official in a State who is authorized by a statute of that State to enter orders authorizing access to criminal justice information.

(23) "Attorney General" means the Attorney General of the United States.

(24) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

APPLICABILITY

SEC. 103. (a) This Act applies to criminal justice information, criminal justice investigative information, or criminal justice intelligence information maintained in information systems which are—

(1) operated by the Federal Government,

(2) operated by a State or local government and funded in whole or in part by the Federal Government,

(3) operated as interstate systems,

(4) operated by a State or local government and engaged in the exchange of information with a system covered by paragraph (1), (2), or (3) but only to the extent such information is available for exchange or dissemination with a system covered by paragraph (1), (2), or (3).

(b) The provisions of this Act do not apply to—

(1) origial books of entry or police blotters, whether automated or manual, maintained by a law enforcement agency at the place of original arrest or place of detention, not indexed or accessible by name and required to be made public;

(2) court records of public criminal proceedings or official records of pardons or paroles or any index thereto indexed or accessible by date or by docket or file number or indexed or accessible by name so long as such index contains no other information than a cross reference to the original pardon or parole records by docket or file number;

(3) public criminal proceedings and court opinions, including published compilations thereof;

(4) records of traffic offenses maintained by departments of transportation, motor vehicles, or the equivalent, for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' licenses;

(5) records relating to violations of the Uniform Code of Military Justice but only so long as those records are maintained solely with the Department of Defense; or

(6) statistical or analytical records or reports in which individuals are not identified and from which their identities are not ascertainable.

TITLE II—COLLECTION AND DISSEMINATION OF CRIMINAL JUSTICE INFORMATION, CRIMINAL JUSTICE INVESTIGATIVE INFORMATION AND CRIMINAL JUSTICE INTELLIGENCE INFORMATION

DISSEMINATION, ACCESS AND USE OF CRIMINAL JUSTICE INFORMATION—CRIMINAL JUSTICE AGENCIES

SEC. 201. (a) With limited exceptions hereafter described, direct access to criminal justice information should be limited to authorized officers or employees of criminal justice agencies, established pursuant to Federal or State statute, and the use of such information should be limited to purposes of the administration of criminal justice.

(b) Consistent with regulations adopted by the Criminal Justice Information Systems Board, each criminal justice information system shall adopt procedures reasonably designed to insure—

(1) Conviction Record Information.—That routine exchanges between criminal justice agencies are limited to conviction record information;

(2) Arrest Record Information.—That exchanges of arrest record information on nonconviction record information between criminal justice agencies are carefully restricted to the following purposes—

(A) The screening of an employment application or review of employment by the criminal justice agency requesting the exchange with respect to its own employees or applicants,

(B) The commencement of prosecution, determination of pretrial or posttrial release or detention, the adjudication of criminal proceedings, or the preparation of a presentence report,

(C) The supervision by a criminal justice agency of an individual who had been committed to the custody of that agency prior to the time on which the arrest occurred or the charge was filed,

(D) The investigation by a law enforcement agency of an individual when that individual has already been arrested or detained,

(E) The development of investigative leads by a law enforcement agency concerning an individual who has not been arrested, when the law enforcement agency requesting the information assures that there are specific and articulable facts which taken together with rational inferences from those facts warrant the conclusion that the individual has committed or is about to commit a criminal act and the information requested may be relevant to that act,

(F) The alerting of a law enforcement officer in the requesting agency that a particular individual may present a danger to his safety, or

(G) Similar essential purposes to which the information is relevant as defined in the procedures prescribed by the criminal justice agency;

(3) Correctional and Release Information.—That correctional and release information is disseminated only to criminal justice agencies or to the individual to whom the information pertains, or his attorney, where authorized by Federal or State statute, court rule, or court order.

DISSEMINATION OF IDENTIFICATION RECORD INFORMATION AND WANTED PERSONS RECORD INFORMATION

SEC. 202. Identification record information may be used or disseminated for any authorized purpose. Wanted person information may be used or disseminated for any authorized purpose relating to the administration of criminal justice.

DISSEMINATION, ACCESS AND USE OF CRIMINAL JUSTICE INFORMATION—NONCRIMINAL JUSTICE AGENCIES

SEC. 203. (a) Except as otherwise provided by this Act, conviction record information may be made available for purposes other than the administration of criminal justice only if expressly authorized by applicable Federal statute or State statute or if the information is to be made available to a Federal agency for such purpose if expressly authorized by Federal Executive order: *Provided, however,* That conviction record information may not be used for such purpose where prohibited by a State statute in the State where the conviction occurred.

(b) (1) Arrest record information indicating that an indictment, information, or formal charge has been made against an individual, has been made within twelve months of the date of the request for information, and is still pending, may be made available for a purpose other than the administration of criminal justice if the Criminal Justice Informaton Systems Board determines that access to that information is expressly and specifically authorized by a Federal statute or State statute or if the information is to be made available to a Federal agency for such purpose if expressly authorized by Federal Executive order: *Provided, however,* That conviction record information may not be used for such purpose where prohibited by a State statute in the State where the arrest occurred.

(2) Arrest record information furnished pursuant to this subsection may be used only for the purpose for which it was sought and may not be retained or copied by the requesting agency beyond the time necessary to accomplish the statutory purpose for which it was sought in the particular instance.

(c) When conviction record information or arrest record information is requested pursuant to this subsection, the requesting agency has the obligation to put the individual on notice that such information about him will be requested and that he has the right to seek review of his record for the purpose of challenge or correction.

(d) Criminal justice information may be made available to qualified persons for research related to the administration of criminal justice under regulations issued by the Criminal Justice Information Systems Board. Such regulations shall require that the researcher preserve the anonymity of the individuals to whom such information relates, that nondisclosure agreements by all participants in the research program be completed, and that such additional requirements and conditions are met as the Board finds necessary to assure the protection of privacy and the security of the information. In formulating regulations pursuant to this section, the Board shall develop procedures designed to prevent this section from being used by criminal justice agencies to deny arbitrarily access to criminal justice information to qualified persons for research purposes where they have otherwise expressed a willingness to comply with regulations issued pursuant to this section.

(e) Where an organization is a criminal justice agency only by virtue of the fact that it has a contractual relationship with a Government agency to perform a function which is the administration of justice, or where a subunit of an agency is a criminal justice agency only by virtue of the fact that it performs a function which is the administration of criminal justice, such organization or subunit shall be treated as a qualified person for research purposes pursuant to subsection (d) of this section. Such organization or subunit shall be required to complete nondisclosure agreements, shall comply with such requirements imposed upon it by this Act by virtue of its being a criminal justice agency, and such additional requirements and conditions as the Board finds necessary to assure protection of privacy and the security of information.

(f) No provision of this Act shall prohibit an employee of a criminal justice agency from confirming to members of the news media or any other citizen that an individual is being detained, or incarcerated and the location of his detention or incarceration, or that an individual was arrested, detained, indicted, or that an information or other formal criminal charge was filed against the individual on a particular date at a particular place based on the employee's personal recollection or by reference to an original book of entry or police blotter maintained by a law enforcement agency at the place of original arrest or detention, not indexed or accessible by name and required to be made public, or by reference to court records of public criminal proceedings or official records of pardons or paroles indexed or accessible by date or indexed by name so long as such index only contains docket or file numbers of original court records. Where a court or criminal justice agency which maintains a record of pardons or paroles, also maintains a name index to original court, pardon or parole records containing criminal justice information in addition to docket or file numbers then unless prohibited by Federal or State statute the court or criminal justice agency must either maintain a separate name index which contains only cross-references to the docket or file numbers to the original records, or it must provide upon request the docket number or numbers corresponding to any name in their index file.

(g) This Act applies to criminal justice information obtained from a foreign government or an international agency to the extent such information is contained in an information system subject to this Act. The Criminal Justice Information Systems Board shall take steps to assure that to the maximum extent feasible whenever any criminal justice information contained in information systems subject to this Act is provided to a foreign government or an international agency, that such information is used in a manner consistent with the provisions of this section.

DISSEMINATION, ACCESS, AND USE OF CRIMINAL JUSTICE INFORMATION—APPOINTMENTS AND EMPLOYMENT INVESTIGATIONS

SEC. 204. (a) A criminal justice agency may disseminate criminal justice information, whether or not sealed pursuant to section 208, criminal justice intelligence information, and criminal justice investigative information to a Federal, State, or local government official who is authorized by law to appoint or to nominate executive officers of law enforcement agencies, members of the Criminal Justice Information Systems Board, or any board or agency created or designated pursuant to section 304, and to any legislative body authorized to approve such appointments. The criminal justice agency shall only disseminate such information concerning an individual upon notification from such official that he is considering that individual for such an office or from the legislative body that the individual has been nominated for the office and that the individual has been notified of the request for such information and has given his written consent to the release of the information.

(b) A criminal justice agency may disseminate arrest record information and criminal history information, whether or not sealed pursuant to section 208, to a Federal, State, or local government official who is not a criminal justice agency but who is authorized by law to appoint or nominate judges or executive officers of criminal justice agencies and to any legislative body authorized to approve such nominations. The criminal justice agency shall only disseminate such information concerning an individual upon notification from such official that he is considering that individual for such an office or from the legislative body that the individual has been nominated for the office and that the individual has been notified of the request for such information and has given his written consent to the release of the information.

(c) A criminal justice agency may disseminate arrest record information, criminal history record information, whether or not sealed pursuant to section 208, to an agency of the Federal Government for the purpose of an employment application investigation, an employment retention investigation, or the approval of a security clearance for access to classified information, when the Federal agency requests such information as a part of a comprehensive investigation of the history and background of an individual, pursuant to an obligation to conduct such an investigation imposed by Federal statute or Federal Executive order, and pursuant to agency regulations setting forth the nature and scope of such an investigation. At the time he files his application, seeks a change of employment status, applies for a security

clearance, or otherwise causes the initiation of the investigation, the individual shall be put on notice that such an investigation will be conducted and that access to this type of information will be sought.

(d) A criminal justice agency may disseminate criminal justice investigative information and criminal justice intelligence information to an agency of the Federal Government for the purpose of determining eligibility for security clearances allowing access to information classified as top secret when the Federal agency requests the criminal justice investigative or criminal justice intelligence information as a part of a comprehensive investigation of the history and background of an individual, pursuant to an obligation to conduct such an investigation imposed by Federal statute or Federal Executive order, and pursuant to agency regulations setting forth the nature and scope of such an investigation. At the time he applies for a security clearance, the individual shall be put on notice that such an investigation will be conducted and that access to this type of information will be sought.

(e) Arrest record information, criminal history record information, criminal justice investigative information, and criminal justice intelligence information furnished pursuant to this section to an agency, official, or legislative body, may be used only for the purpose for which it is sought and may not be redisseminated, retained, or copied by the requestor beyond the time necessary to accomplish the statutory purpose for which it was sought in the particular instance.

SECONDARY USE OF CRIMINAL JUSTICE INFORMATION

SEC. 205. Any agency having access to, or receiving criminal justice information is prohibited, directly or through any intermediary, from disseminating such information to any individual or agency not authorized to have such information or from using such information for a purpose not authorized by this Act: *Provided, however,* That rehabilitation officials of criminal justice agencies with the consent of an individual under their supervision to whom the information refers may orally represent the substance of the individual's criminal history record information to prospective employers or other individuals if such representation is, in the judgment of such officials and the individual or his attorney, if represented by counsel, helpful to obtaining employment or rehabilitation for the individual. In no event shall such correctional officials disseminate records or copies of records of criminal history record information to any unauthorized individual or agency. A court may disclose criminal justice information, criminal justice investigative information or criminal justice intelligence information on an individual in a published opinion or in a public criminal proceeding.

METHOD OF ACCESS AND ACCESS WARRANTS FOR CRIMINAL JUSTICE INFORMATION

SEC. 206. (a) Except as provided in section 203(d) or in subsection (b) of this section, an automated criminal justice information system may disseminate arrest record information, criminal history record information or conviction record information on an individual only if the inquiry is based upon identification of the individual by means of name or other identification record information. The Criminal Justice Information Systems Board shall issue regulations to prevent dissemination of such information, except in the above situations, where inquiries are based upon categories of offense or data elements other than name and identification record information and to require that, after the arrest of an individual, such information concerning him shall be available only on the basis of positive identification of him by means of fingerprints or other reliable identification record information.

(b) Notwithstanding the provisions of subsection (a) an automated criminal justice information system may disseminate arrest record information and conviction record information to law enforcement agencies where inquiries are based upon categories of offense or data elements other than identification record information if the information system has adopted procedures reasonably designed to insure that such information is used only for the purpose of developing investigative leads for a particular criminal offense and that the individuals to which such information is disseminated have a need to know and a right to know such information. Access to nonconviction record information contained in automated criminal justice information systems on the basis of data elements other than identification record information shall be permissible for the purpose of developing investigative leads for a particular criminal offense if the law enforcement agency seeking such access has first obtained a class access warrant from a United States Magistrate or a judge of competent jurisdiction. Such warrants may be issued as a matter of discretion by the judge in cases in which probable cause has been shown that (1) such access is imperative for purposes of the law enforcement agency's responsibilities in the administration of criminal justice, and (2) the information sought to be obtained is not reasonably available from any other source or through any other method. A summary of each request for such a warrant, together with a statement of its disposition, shall within ninety days of disposition be furnished to the Criminal Justice Information Systems Board by the law enforcement agency.

SECURITY, ACCURACY, AND UPDATING OF CRIMINAL JUSTICE INFORMATION

SEC. 207. Consistent with regulations adopted by the Criminal Justice Information Systems Board, each criminal justice information system shall adopt procedures reasonably designed at a minimum—

(a) To insure the physical security of the system, to prevent the unauthorized disclosure of the information contained in the system, and to insure that the criminal justice information in the system is currently and accurately revised to include subsequently received information. The procedures shall also insure that all agencies to which such records are disseminated or from which they are collected are currently and accurately informed of any correction, deletion, or revision of the records. Such procedures adopted by automated systems shall provide that any other information system or agency which has direct access to criminal justice information contained in the automated system be informed as soon as feasible of any disposition relating to arrest record information on an individual or any other change in criminal justice information in the automated system's possession.

(b) To insure that criminal justice agency personnel responsible for making or recording decisions relating to dispositions shall as soon as feasible report such dispositions to an appropriate agency or individual for entry into criminal justice information systems that contain arrest record information to which such dispositions relate.

(c) To insure that records are maintained with regard to—

(1) requests from any other agency or person for criminal justice information. Such records shall include the identity and authority of the requestor, the nature of the information provided, the nature, purpose, and disposition of the request, and pertinent dates;

(2) the source of arrest record information and criminal history information.

(d) To insure that information may not be submitted, modified, updated, or removed from any criminal justice information system without verification of the identity of the individual to whom the information refers and an indication of the person or agency submitting, modifying, updating, or removing the information.

(e) If the Criminal Justice Information Systems Board finds that the additional cost of implementation of this section outweigh the interests of privacy which would be served by the implementation it may exempt the provisions of this section from application to information entered into a criminal justice information system prior to the effective date of this Act. The Criminal Justice Information Systems Board shall determine (by applying the same standard) the extent to which information entered into a criminal justice information system prior to the effective date of this Act should be exempted from other provisions of or requirements of this Act.

SEALING AND PURGING OF CRIMINAL JUSTICE INFORMATION

SEC. 208. (a) DISCRETIONARY SEALING OR PURGING—GENERALLY.—Consistent with regulations adopted by the Criminal Justice Information Systems Board, each criminal justice information system shall adopt procedures reasonably designed to insure that criminal justice information is purged or sealed when required by State or Federal statute, State or Federal regulations, or court order.

(b) MANDATORY SEALING.—Consistent with regulations adopted by the Criminal Justice Information Systems Board each criminal justice information system shall adopt procedures reasonably designed to insure that criminal justice information is sealed when, based on considerations of age, nature of the record, or the interval following the last entry of information indicating that the individual is under the jurisdiction of a criminal justice agency, the information is unlikely to provide a reliable guide to the behavior of the individual. Procedures adopted pursuant to this subsection shall at a minimum provide—

(1) CONVICTION, NONCONVICTION, OR ARREST RECORDS.—For the prompt sealing or purging of criminal justice information relating to an individual who has been free from the jurisdiction or supervision of any criminal justice agency for—

(A) FELONY RECORDS.—A period of seven years, if the individual has previously been convicted of an offense for which imprisonment in excess of one year is permitted under the laws of the jurisdiction where the conviction occurred and such offense has not been specifically exempted from sealing by a Federal or State statute,

(B) NONFELONY RECORDS.—A period of five years, if the individual has previously been convicted of an offense for which the maximum penalty is not greater than imprisonment for one year under the laws of the jurisdiction where the conviction occurred, or

(C) NONCONVICTION OR ARREST RECORDS.—A period of two years following an arrest, detention, or formal charge, whichever comes first, if no conviction of the individual occurred during that period, no prosecution is pending at the end of the period, and the individual is not a fugitive; and

(2) NO PROSECUTION NONCONVICTION RECORDS.—For the prompt sealing of criminal history record information in any case in which a law enforcement agency has elected not to refer the case to the prosecutor or in which the prosecutor has elected not to file an information, seek an indictment or other formal criminal charge.

(3) PROMPTNESS OF SEALING.—That information eligible for sealing, contained in auto-

mated criminal justice information systems shall be sealed as soon as feasible. The Board may, in its discretion, permit a criminal justice information system which is not completely automated to determine the eligibility of information for sealing and to seal information at the time that access to that information is requested.

(4) INDEX OF SEALED RECORDS.—That an index of sealed records, consisting of identification record information on the individual whose record is sealed, is maintained in the jurisdiction where the arrest or detention occurred or where the individual was prosecuted or at a central repository of records. Information on such an index shall only be disseminated to a criminal justice agency for the purpose of identifying an individual or determining whether a sealed record exists on an individual when the latter agency is able to point to specific and articulable facts which taken together with rational inferences from those facts warrant the conclusion that the individual has committed or is about to commit a criminal act and that the information may be relevant to that act. Within a criminal justice agency, access to and dissemination of information on such an index shall be on a need-to-know, right-to-know basis.

(5) ACCESS TO SEALED RECORDS.—That notwithstanding subparagraph (b)(1) or (b)(2) of this section, a record shall not be considered sealed—

(A) in connection with research pursuant to subsection 203(d),

(B) in connection with a review pursuant to section 209 by the individual or his attorney,

(C) in connection with an audit conducted pursuant to section 306 or 311,

(D) where a record has been sealed pursuant to subparagraph (b)(1)(A) or (b)(1)(B) and the individual is subsequently arrested for an offense which is subject to imposition of a higher sentence under a Federal or State statute providing for additional penalties for repeat or habitual offenders,

(E) where the criminal justice agency seeking such access has obtained an access warrant from a State judge of competent jurisdiction if the information sought is in the possession of a State or local agency or information system, or from a Federal judge of competent jurisdiction, if the information sought is in the possession of a Federal agency or information system. Such warrants may be issued as a matter of discretion by the judge in cases in which probable cause has been shown that (1) such access is imperative for purposes of the criminal justice agency's responsibilities in the administration of criminal justice, and (2) the information sought to be obtained is not reasonably available from any other source or through any other method,

(F) where pursuant to section 204 an official, agency, or legislative body is permitted access to conviction record information for the purpose of screening an individual to be a judge, or an executive in a criminal justice agency or where an official or agency is permitted access to such information for the purpose of determining eligibility for a security clearance, or

(G) where an indictment, information, or other formal criminal charge is subsequently filed against the individual.

ACCESS BY INDIVIDUALS TO CRIMINAL JUSTICE INFORMATION FOR PURPOSES OF CHALLENGE

SEC. 209. (a) Any individual who believes that a criminal justice agency maintains arrest record information, criminal history information or wanted persons information concerning him, shall upon satisfactory verification of his identity, be entitled to review such information in person or through counsel in a method convenient to the individual; and to obtain a copy of it if needed for the purpose of challenge, correction, or the addition of explanatory material, or other specific purpose; and in accordance with rules adopted pursuant to this section, to challenge, purge, seal, delete, correct, and append explanatory material.

(b) Each criminal justice agency shall adopt and publish regulations to implement this section which shall, as a minimum, provide—

(1) the time, place, fees to the extent authorized by statute, and procedure to be followed by an individual or his counsel in gaining access to criminal justice information;

(2) that if on the basis of the review of such information, the individual believes such information to be inaccurate, incomplete, or maintained in violation of this Act, that he shall have a right to challenge such information in writing, and if there is no factual controversy concerning the allegations in the individual's challenge, that the criminal justice agency maintaining the record shall expeditiously purge, seal, modify, or supplement the information. A failure to do so shall constitute a final action for the purpose of subsection 209(b)(7);

(3) that if there is a factual controversy concerning the allegations in the challenge, the agency shall request the agency responsible for original entry of the information to determine expeditiously the validity of the allegations; and that if the latter agency finds that there is a factual controversy, the agency shall upon written request of that individual convene a hearing on the challenge before an official of the agency authorized to purge, seal, modify, or supplement the information at which time the individual may appear with counsel, present evidence, and examine and cross-examine witnesses;

(4) any record found after such a hearing to be inaccurate, incomplete, or improperly maintained shall expeditiously be appropriately modified, supplemented, purged, or sealed;

(5) each criminal justice agency shall keep, and upon such a finding and upon request by the individual, disclose to such individual the name and authority of all persons, or organizations, to which and the date upon which such incomplete, inaccurate, or improperly maintained criminal justice information was disseminated during the period that the agency is required under section 207(c)(1), and regulations implementing that section, to retain such records of dissemination;

(6)(A) the criminal justice agency to which the challenge is made shall give notice of the challenge each time it disseminates the challenged information and any agency or individual receiving such notice shall give similar notice each time it further disseminates the challenged information until such time as the challenge is finally resolved; and

(B) if any corrective action is taken as a result of a review or challenge filed pursuant to this section, the correcting agency shall give notice of such correction to each agency or individual to which it has disseminated the uncorrected information during the period that the agency is required to retain records of such disseminations, and shall instruct each such recipient to correct the information and to give similar notice to all agencies or individuals to which it has disseminated the uncorrected information during such record retention period; and

(7) the final action of a criminal justice agency on a request to review and challenge criminal justice information in its possession as provided by this section shall be reviewable pursuant to a civil action under section 309. The failure to act expeditiously as defined by regulations issued pursuant to section 303 shall be deemed a final action under this section.

(c) No individual who, in accord with this section, obtains information regarding himself may be required or requested to show or transfer records of that information to any other person or any other public or private agency or organization.

CRIMINAL JUSTICE INTELLIGENCE INFORMATION

SEC. 210. (a) Criminal justice intelligence information may be collected by a criminal justice agency only for official law enforcement purposes. It shall be maintained in a physically secure environment and shall not be entered in a criminal justice information system.

(b) Within the criminal justice agency maintaining the information, direct access to criminal justice intelligence information shall be limited to those officers or employees who have both a need to know and a right to know such information.

(c) Criminal justice intelligence information regarding an individual may be entered into a criminal justice intelligence information system only if grounds exist connecting such individual with known or suspected criminal activity and if the information is pertinent to such criminal activity. Criminal justice intelligence information shall be reviewed at regular intervals but at a minimum at the time such information is disseminated to determine whether such grounds exist, and if grounds do not exist such information shall likewise be purged.

(d)(1) Criminal justice intelligence investigative information may be disseminated from the criminal justice agency which collected such information only to a criminal justice agency or to a Federal agency authorized to receive the information pursuant to section 204 which has a need to know and a right to know such information and to individuals within the latter agency who have a need to know and a right to know such information.

(2) Criminal justice intelligence information on an individual may be disseminated from the criminal justice agency which collected such information only to a criminal justice agency—

(A) which needs the information to confirm the reliability of information supplied to the latter agency; or

(B) which is able to point to specific and articulable facts which taken together with rational inferences from those facts warrant the conclusion that the individual has committed or is about to commit a criminal act and that the information may be relevant to that act.

(e) When access to a criminal justice intelligence file is permitted under subsection (b) or information is disseminated pursuant to subsection (d) a record shall be kept of the identity of the person having access or the agency to which information was disseminated, the date of access or dissemination, and the purpose for which access was sought or information disseminated.

(f) Direct remote terminal access to automated criminal justice intelligence information shall not be permitted outside the agency which collected and automated such information except where authorized by Federal statute or State statute: *Provided, however,* That remote terminal access shall be permitted to public record information maintained in intelligence files and to identification record information sufficient to provide an index of individuals included in the automated system and the names and locations of criminal justice agencies possessing additional information concerning such individuals and automatically referring the requesting agency's request to the agency maintaining more complete information.

(g) An assessment of criminal justice intelligence information may be provided to a governmental official or to any other individual when necessary to avoid imminent danger to life or property.

(h) The dissemination of criminal justice intelligence information to any government agency or employee of an agency by a criminal justice agency, or the use of such information by any government agency or employee of an agency, to influence a political campaign, discredit a candidate for office, or otherwise intimidate an individual in the exercise of rights guaranteed by the first amendment to the United States Constitution, shall constitute a violation of section 310.

(i) The Criminal Justice Information Systems Board shall conduct a study of the policies of criminal justice agencies concerning the collection of criminal justice intelligence information, and criminal justice investigative information, and the practices followed in the collection and dissemination of such information and shall issue guidelines setting forth the policies and practices necessary to insure protection of the privacy of individuals and the security of such information. It shall recommend to the Congress such additional measures as it deems necessary to insure the proper collection and use of criminal justice intelligence information and criminal justice investigative information.

(j) This Act applies to criminal justice intelligence obtained from a foreign government or an international agency to the extent such information is contained in an information system subject to this Act. The Criminal Justice Information Systems Board shall take steps to assure that to the maximum extent feasible whenever any criminal justice intelligence information contained in information systems subject to this Act is provided to a foreign government or an international agency, that such information is used in a manner consistent with the provisions of this section.

CRIMINAL JUSTICE INVESTIGATIVE INFORMATION

SEC. 211. (a) Criminal justice investigative information may be disclosed pursuant to subsection 552(b)(7) of title 5 of the United States Code or any similar State statute, or pursuant to any Federal or State statute, court rule, or court order permitting access to such information in the course of court proceedings to which such information relates.

(b) Except when such information is available pursuant to subsection (a), direct access to it shall be limited to those officers or employees of the criminal justice agency which maintains the information who have a need to know and a right to know such information and it shall be disseminated only to other governmental officers or employees who have a need to know and a right to know such information in connection with their civil or criminal law enforcement responsibilities. Records shall be kept of the identity of persons having access to files containing criminal justice investigative information or to whom such files are disseminated, the date of access or dissemination, and the purpose for which access is sought or files disseminated.

(c) Direct remote terminal access to automated criminal justice investigative files shall not be permitted outside the agency which collected and automated such information except where authorized by Federal statute or State statute.

(d) Criminal justice investigative information shall not be entered in a criminal justice information system.

(e) Criminal justice investigative information may be made available to officers and employees of government agencies for the purposes set forth in section 204.

(f) The dissemination of criminal justice investigative information to any government agency or employee of an agency by a criminal justice agency, or the use of such information by any government agency or employee of an agency, to influence a political campaign, discredit a candidate for office, or otherwise intimidate an individual in the exercise of rights guaranteed by the first amendment to the United States Constitution, shall constitute a violation of section 310.

(g) This Act applies to criminal justice investigative information obtained from a foreign government or an international agency to the extent such information is contained in an information system subject to this Act. The Criminal Justice Information Systems Board shall take steps to assure that to the maximum extent feasible whenever any criminal justice investigative information contained in information systems subject to this Act is provided to a foreign government or an international agency, that such information is used in a manner consistent with the provisions of this section.

TITLE III — ADMINISTRATIVE PROVISIONS; REGULATIONS; CIVIL REMEDIES; CRIMINAL PENALTIES

CRIMINAL JUSTICE INFORMATION SYSTEMS BOARD

SEC. 301. (a) CREATION AND MEMBERSHIP.—There is hereby created a Criminal Justice Information Systems Board (hereinafter the "Board") which shall have overall responsibility for the administration and enforcement of this Act. The Board shall be composed of thirteen members. One of the members shall be the Attorney General and two of the members shall be designated by the President as representatives of other Federal agencies outside of the Department of Justice. One of the members shall be designated by the Judicial Conference of the United States. The nine remaining members shall be appointed by the President with the advice and consent of the Senate. Of the nine members appointed by the President, seven shall be officials of criminal justice agencies from seven different States at the time of their nomination, representing to the extent possible all segments of the criminal justice system. The two remaining Presidential appointees shall be private citizens well versed in the law of privacy, constitutional law, and information systems technology. The President shall designate one of the seven criminal justice agency officials as Chairman and such designation shall also be confirmed by the advice and consent of the Senate. Not more than seven members of the Board shall be of the same political party.

(b) TERMS OF OFFICE AND VACANCIES.—The two members of the Board designated by the President as representatives of other Federal agencies outside of the Department of Justice shall serve at the pleasure of the President. The member designated by the United States Judicial Conference shall serve at the pleasure of the Conference. Four of the Presidential appointees first appointed pursuant to this Act shall continue in office for terms of six years. The remaining Presidential appointees first appointed pursuant to this Act shall continue in office for the terms of one, two, three, four, and five years, respectively, from the date of the effective date of this Act, the term of each to be designated by the President: *Provided, however,* That their successors shall be appointed for terms of six years and until their successors are appointed and have qualified, except that they shall not continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office. Any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Board member whom he succeeds. No vacancy in the Board shall impair the right of the remaining members to exercise all the powers of the Board. Seven members shall constitute a quorum for the transaction of business.

(c) COMPENSATION OF MEMBERS.—

(1) Each member of the Board who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of title 5, prorated on a daily basis for each day spent in the work of the Board, and shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5 of the Administrative Expenses Act of 1946, as amended.

(2) Each member of the Board who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Board shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of the Travel Expenses Act of 1949, as amended.

(3) Members of the Board shall be considered "special Government employees" within the meaning of section 202(a) of title 18.

(d) AUTHORITY.—For the purpose of carrying out its responsibilities under the Act, the Board shall have authority,

(1) after notice and hearings to issue regulations as required by section 303;

(2) to issue an order prohibiting the exchange of criminal justice information (except wanted persons information), criminal justice investigative information, or criminal justice intelligence information with a criminal justice agency which has not satisfied the requirements of section 304;

(3) to exercise the powers set out in section 308;

(4) to bring actions under section 309 for declaratory and injunctive relief;

(5) to supervise the operation of an automated information system for the exchange of criminal justice information among the States and with the Federal Government pursuant to section 307;

(6) to supervise the installation and operation of any criminal justice information system, criminal justice investigative information system or criminal justice intelligence information system operated by the Federal Government;

(7) to issue an order prohibiting the establishment of any new information system covered by this Act and operated by the Federal Government or prohibiting the expansion of any such existing system where the Board finds such establishment or expansion to be either inconsistent with this Act or without adequate statutory authority;

(8) to conduct an ongoing study of the policies of various agencies of the Federal Government in the operation of information systems;

(9) to require any department or agency of the Federal Government or any criminal justice agency to submit to the Board such information and reports with respect to its policy and operation of information systems or with respect to its collection and dissemination of criminal justice information, criminal justice investigative information, or criminal justice intelligence information and such department or agency shall submit to the Board such information and reports as the Board may reasonably require;

(10) to conduct audits as required by section 306; and

(11) to create such advisory committees as it deems necessary.

(e) OFFICERS AND EMPLOYEES.—There shall be a full-time staff director for the Board who shall be appointed by the Board and who shall receive compensation at the rate provided for level V of the Federal Executive Salary Schedule, pursuant to section 5316 of

title 5. Within the limitation of appropriations, the Board may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 3109 of title 5, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS–15 of the General Schedule under section 5332 of title 5.

(f) REPORT TO CONGRESS AND TO THE PRESIDENT.—The Board shall issue an annual report to the Congress and to the President. Such report shall at a minimum contain—

(1) the results of audits conducted pursuant to section 306;

(2) a summary of orders issued pursuant to subsections (d)(2), (d)(3), and (d)(7) and actions brought pursuant to subsection (d)(4) of this section;

(3) a summary of public notices filed by criminal justice information systems, criminal justice investigative information systems, criminal justice intelligence information systems, and criminal justice agencies pursuant to section 305; and

(4) any recommendations the Board might have for new legislation on the operation or control of information systems or on the collection and control of criminal justice information, criminal justice investigative information or criminal justice intelligence information.

HEARINGS AND WITNESSES

SEC. 302. (a) The Board, or on authorization of the Board, any subcommittee or three or more members may hold such hearings and act at such times and places as necessary to carry out the provisions of this Act. Hearings shall be public except to the extent that the hearings or portions thereof are closed by the Board in order to protect the privacy of individuals or the security of information protected by this Act.

(b) Each member of the Board shall have the power and authority to administer oaths or take statements from witnesses under affirmation.

(c) A witness attending any session of the Board shall be paid the same fees and mileage paid witnesses in the courts of the United States. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

(d) Subpenas for the attendance and testimony of witnesses or the production of written or other matter, required by the Board for the performance of its duties under this Act, may be issued in accordance with rules or procedure established by the Board and may be served by any person designated by the Board.

(e) In case of contumacy or refusal to obey a subpena any district court of the United States or the United States court of any territory or possession, within the jurisdiction of which the person subpenaed resides or is domiciled or transacts business, or has appointed an agent for the receipt of service of process, upon application of the Board, shall have jurisdiction to issue to such person an order requiring such person to appear before the Board or a subcommittee thereof, there to produce pertinent, relevant, and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished as contempt.

(f) Nothing in this Act prohibits a criminal justice agency from furnishing the Board information required by it in the performance of its duties under this Act.

FEDERAL REGULATIONS

SEC. 303. (a) Except as provided in subsection (b) of this section, the Board shall, after consultation with representatives of State and local criminal justice agencies participating in information systems covered by this Act and other interested parties, and after notice and hearings, promulgate such interpretations, rules, regulations, and procedures as it may deem necessary to effectuate the provisions of this Act. The Board shall follow the provisions of the Administrative Procedures Act with respect to the issuance of such rules. At least sixty days prior to their promulgation, the Board shall refer any interpretations, rules, regulations, or procedures which will affect the collection and dissemination of information maintained by State or local criminal justice agencies to the Governor of each State, any agency created or designated pursuant to section 304, any other organizations or individuals in a State designated by the Governor and any other organizations or individuals requesting to be so notified. At least sixty days prior to their promulgation, the Board shall also refer any interpretations, rules, regulations, or procedure which will affect the collection and dissemination of information maintained by Federal criminal justice agencies to the Department of Justice, each such Federal criminal justice agency and the United States Judicial Conference for their review. The Board may in its discretion refer any interpretations, regulations, or procedures prior to promulgation to any other advisory committee it may create. All regulations issued by the Board or any criminal justice agency pursuant to this Act shall be published and easily accessible to the public.

(b) The Board shall not have authority to issue regulations involving criminal justice information on an arrest or indictment for a Federal offense; or criminal justice intelligence information or criminal justice investigative information resulting from the investigative activities of a Federal criminal justice agency: *Provided, however,* That the Board shall have authority to issue regulations involving criminal justice information on an arrest or indictment for a Federal offense if such information is maintained in an information system operated pursuant to section 307. Regulations concerning information exempted from the Board's jurisdiction pursuant to this subsection shall be issued by Executive order of the President upon recommendation of the Attorney General, the two members of the Board designated by the President and the member designated by the Judicial Conference of the United States.

STATE REGULATIONS AND CREATION OF STATE INFORMATION SYSTEMS BOARDS

SEC. 304. No criminal justice agency shall disseminate criminal justice information (except wanted persons information), criminal justice intelligence information, or criminal justice investigative information to a criminal justice agency—

(a) which has not adopted all of the operating procedures required by title II of the Act; or

(b) which is located in another State which has failed to either create an agency or designate an existing agency which has statewide authority and responsibility for:

(1) the enforcement of the provisions of this Act and any State statute which serves the same goals;

(2) the issuance of regulations, not inconsistent with this Act, regulating the exchange of criminal justice information, criminal justice investigative information, and criminal justice intelligence information and the operation of criminal justice information systems, criminal justice intelligence information systems, and criminal justice investigative information systems; and

(3) the supervision of the installation of criminal justice information systems, criminal justice investigative information systems and criminal justice intelligence information systems, the exchange of information by such systems within that State and with similar systems and criminal justice agencies in other States and in the Federal Government.

PUBLIC NOTICE REQUIREMENT

SEC. 305. (a) Any criminal justice agency maintaining an automated criminal justice information system, an automated criminal justice investigative information system, or an automated criminal justice intelligence information system; any Federal criminal justice agency maintaining any such information system, whether or not automated, and any criminal justice agency maintaining a statewide or regional criminal justice information system, whether or not automated, or any such agency maintaining a criminal justice information system containing criminal justice information on more than 10,000 individuals shall give public notice of the existence and character of its system once each year. Any such agency maintaining more than one system shall publish such annual notices for all its systems simultaneously. Any such agency proposing to establish a new system, or to enlarge an existing system, shall give public notice long enough in advance of the initiation or enlargement of the system to assure individuals who may be affected by its operation a reasonable opportunity to comment. The public notice shall be transmitted to the Board and shall specify—

(1) the name of the system;

(2) the nature and purposes of the system;

(3) the categories and number of persons on whom data are maintained;

(4) the categories of data maintained, indicating which categories are stored in computer-accessible files;

(5) the agency's operating rules and regulations issued pursuant to title II of the Act, the agency's policies and practices regarding data information storage, duration of retention of information, and disposal thereof;

(6) the categories of information sources;

(7) a description of all types of use made of information, indicating those involving computer-accessible files, and including all classes of users and the organizational relationships among them;

(8) the title, name, and address of the person immediately responsible for the operation of the system; and

(9) in the case of an agency proposing to establish a new system or to enlarge an existing system, a privacy impact statement describing the consequences to the individual, including his rights, privileges, benefits, detriments, and burdens, of the proposed new system or the proposed expansion of an existing system.

(b) Any criminal justice agency, criminal justice information system, criminal justice investigative information system, or criminal justice intelligence information system operated by the Federal Government shall satisfy the public notice requirement set out in subsection (a) of this section by publishing the information required by that subsection in the Federal Register.

ANNUAL AUDIT

SEC. 306. (a) At least once annually the Board shall conduct a random audit of the practices and procedures of the Federal agencies which collect and disseminate information pursuant to this Act to insure compliance with its requirements and restrictions. The Board shall also conduct such an audit of at least ten statewide criminal justice information systems each year and of every statewide and multistate system at least once every five years. The Board may at any time conduct such an audit of any criminal justice agency or information system covered by this Act when the Board has reason to believe the agency or information system is maintaining, dis-

seminating, or using information in violation of this Act.

(b) Each criminal justice information system shall conduct a similar audit of its own practices and procedures once annually. Each State agency created pursuant to subsection 304(b) shall conduct an audit on each criminal justice information system, each criminal justice investigative information system, and each criminal justice intelligence information system operating in that State on a random basis, at least once every five years.

(c) The results of such audits shall be made available to the Board which shall report the results of such audits once annually to the Congress by May 1 of each year beginning on May 1 following the expiration of the first twelve-calendar-month period after the effective date of the Act.

(d) Notwithstanding any provision contained in title II of this Act, members and staff of the Board or any State agency designated or created pursuant to section 304 shall have access to such information covered by this Act as is necessary to conduct audits pursuant to this section.

A NATIONAL CRIMINAL JUSTICE INFORMATION SYSTEM

SEC. 307. (a) Subject to the limitations of subsections (b) and (c) of this section, the Board may authorize a Federal criminal justice agency or federally chartered corporation to operate an interstate criminal justice information system, either manual or automated or both. The Board shall have authority to determine the extent to which the Federal criminal justice agency or Federal corporation may maintain its own telecommunications system.

(b) Any information system operated by the agency or Federal corporation may include criminal history record information on an individual relating to a violation of the criminal laws of the United States, a violation of the laws of another nation or violations of the laws of two or more States. As to all other individuals criminal justice information included in the agency's information system shall consist only of information sufficient to establish the identity of the individuals, and the identities and locations of criminal justice agencies possessing other types of criminal justice information concerning such individuals.

(c) Notwithstanding the provisions of subsection (b), the agency or Federal corporation may maintain criminal history record information submitted by a State which otherwise would be unable to participate fully in an interstate criminal history record information system because of the lack of facilities or procedures but only until such time as such State is able to provide the facilities and procedures to maintain the records in the State, and in no case beyond the fifth twelve-calendar-month period after the date of enactment. Criminal history record information maintained in Federal facilities pursuant to this subsection shall be limited to information on offenses for which imprisonment in excess of one year is permitted under the laws of the jurisdiction where the offense occurred.

ADMINISTRATIVE PENALTIES

SEC. 308. If the Board finds that any criminal justice agency has violated any provision of this Act, after notice and hearings it may (1) issue orders or bring actions as authorized by section 301, (2) interrupt or terminate the exchange of information authorized to be exchanged by this act, or (3) interrupt or terminate the use of Federal funds for the operation of such a system or agency, or (4) require the system or agency to return Federal funds distributed in the past, or (5) require the system or agency to discipline any employee responsible for such violation or (6) take any combination of such actions.

CIVIL REMEDIES

SEC. 309. (a) Any person aggrieved by a violation of this Act or regulations promulgated thereunder shall have a civil action for damages or any other appropriate remedy against any person, system, or agency responsible for such violation. An action alleging a violation of section 209 shall be available only after he has exhausted the administrative remedies provided by that section.

(b) The Board shall have a civil action for declaratory judgments, cease and desist orders, and such other injunctive relief as may be appropriate against any criminal justice agency, criminal justice information system, criminal justice intelligence information system, or criminal justice investigative information system.

(c) If a defendant in an action brought under this section is an officer or employee or agency of the United States the action shall be brought in an appropriate United States district court. If the defendant or defendants in an action brought under this section are private persons or officers or employees or agencies of a State or local government, the action may be brought in an appropriate United States district court or in any other court of competent jurisdiction. The district courts of the United States shall have jurisdiction over actions described in this section without regard to the amount in controversy.

(d) In any action brought pursuant to this Act, the court may in its discretion issue an order enjoining maintenance or dissemination of information in violation of this Act, or correcting records of such information or any other appropriate remedy except that in an action brought pursuant to subsection (b) the court may order only declaratory or injunctive relief.

(e) In an action brought pursuant to subsection (a), any person aggrieved by a violation of this Act shall be entitled to actual and general damages but not less than liquidated damages of a $100 recovery for each violation and reasonable attorneys' fees and other litigation costs reasonably incurred. Exemplary and punitive damages may be granted by the court in appropriate cases brought pursuant to subsection (a). Any person, system, or agency responsible for violations of this Act shall be jointly and severally liable to the person aggrieved for damages granted pursuant to this subsection: *Provided, however,* That good faith reliance by an agency or information system, or employee of such agency or system upon the assurance of another agency, information system or employee that information provided the former agency, information system, or employee is maintained or disseminated in compliance with the provisions of this Act or any regulations issued thereunder shall constitute a complete defense for the former agency, system, or employee to a civil damage action brought under this section but shall not constitute a defense with respect to equitable relief.

(f) For the purposes of this Act the United States shall be deemed to have consented to suit and any agency or system operated by the United States found responsible for a violation shall be liable for damages, reasonable attorney's fees, and litigation costs as provided in subsection (e) notwithstanding any provisions of the Federal Tort Claims Act.

(g) A determination by a court of a violation of internal operating procedures adopted pursuant to this Act should not be a basis for excluding evidence in a criminal case unless the violation is of constitutional dimension or is otherwise so serious as to call for the exercise of the supervisory authority of the court.

CRIMINAL PENALTIES

SEC. 310. Any government employee who willfully disseminates, maintains, or uses information knowing such dissemination, maintenance, or use to be in violation of this Act shall be fined not more than $5,000 or imprisoned for not more than five years, or both.

AUDIT AND ACCESS TO RECORDS BY THE GENERAL ACCOUNTING OFFICE

SEC. 311. (a) The Comptroller General of the United States shall from time to time, at his own initiative or at the request of either House or any committee of the House of Representatives or the Senate or any joint committee of the two Houses, conduct audits and reviews of the activities of the Board under this Act. For such purpose, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine all books, accounts, records, reports, files, and all other papers, things, and property of—

(1) the Board,

(2) any Federal agencies audited by the Board pursuant to section 306(a) of this Act, and

(3) any statewide and multistate information systems, including organizations and agencies thereof, audited by the Board pursuant to section 306(a) of this Act,

which, in the opinion of the Comptroller General, may be related or pertinent to his audits and reviews of the activities of the Board. In the case of agencies and systems referred to in paragraphs (2) and (3), the Comptroller General's right of access shall apply during the period of audit by the Board and for three years thereafter.

(b) Notwithstanding any other provision of this Act, the Comptroller General's right of access to books, accounts, records, reports, and files pursuant to and for the purposes specified in subsection (a) shall include any information covered by this Act. However, no official or employee of the General Accounting Office shall disclose to any person or source outside of the General Accounting Office any such information in a manner or form which identifies directly or indirectly any individual who is the subject of such information.

PRECEDENCE OF STATE LAWS

SEC. 312. (a) Any State law or regulation which places greater restrictions upon the dissemination of criminal justice information, criminal justice intelligence information, criminal justice investigative information or the operation of criminal justice information systems, criminal justice intelligence information systems, criminal justice investigative information systems or which affords to any individuals, whether juveniles or adults, rights of privacy or protections greater than those set forth in this Act shall take precedence over this Act or regulations issued pursuant to this Act.

(b) Except with respect to information maintained by an information system created pursuant to section 307, any State law or regulation which places greater restrictions upon the dissemination of criminal justice information, criminal justice intelligence information or criminal justice investigative information or the operation of criminal justice information systems, criminal justice intelligence information systems or criminal justice investigative information systems or which affords to any individuals, whether juveniles or adults, rights of privacy or protections greater than those set forth in the State law or regulations of another State shall take precedence over the law or regulations of the latter State where such information is disseminated from an agency or information system in the former State to an agency,

information system, or individual in the latter State. Subject to court review pursuant to section 309, the Board shall be the final authority to determine whether a State statute or regulation shall take precedence under this section and shall as a general matter have final authority to determine whether any regulations issued by a State agency, a criminal justice agency, or information system violate this Act and are therefore null and void.

(c) The Board may in its discretion suspend the application of this section for criminal justice information maintained by a Federal corporation or Federal criminal justice agency pursuant to section 307(c). The Board may not suspend the application of this section beyond the date of expiration of the fifth twelve-calendar-month period following the date of enactment of this Act.

APPROPRIATIONS AUTHORIZED

SEC. 313. For the purpose of carrying out the provisions of this Act, there are authorized to be appropriated such sums as the Congress deems necessary.

SEVERABILITY

SEC. 314. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

REPEALERS

SEC. 315. The second paragraph under the headings entitled "Federal Bureau of Investigation; Salaries and Expenses" contained in the "Department of Justice Appropriations Act, 1973" is hereby repealed.

EFFECTIVE DATE

SEC. 316. The provisions of this Act shall take effect upon the date of expiration of the second twelve-calendar-month period following the date of the enactment of this Act: *Provided, however,* That section 313 of this Act shall take effect upon the date of enactment of this Act and that members, officers, and employees of the Board may be appointed and take office at any time after the date of enactment. The Board may delay the effective date of any provision of this Act: *Provided, however,* That the effective date of no provision of this Act shall be delayed beyond the third twelve-calendar-month period following the date of enactment of this Act.

Amend the title so as to read: "A bill to protect the constitutional rights and privacy of individuals upon whom criminal justice information, criminal justice investigative information, and criminal justice intelligence information have been collected and to control the collection and dissemination of criminal justice information, criminal justice investigative information, and criminal justice intelligence information, and for other purposes."

SECTION-BY-SECTION ANALYSIS

TITLE I. *FINDINGS* AND DECLARATION OF POLICY; DEFINITIONS

Section 101 summarizes the constitutional, legal and practical reasons Congress is taking action to regulate the exchange of criminal justice information. It also states the constitutional authority to legislate the Commerce clause and the Federal participation in state and interstate information systems.

Section 102 lists definitions of terms used in the proposed legislation, and Section 103 sets out the types of information systems covered by the Act. The definitions are important because they along with section 103 establish the scope of coverage of the legislation. For example "criminal justice agency" is defined so that the restrictions on data collection and dissemination contained in the bill cover any state, local or Federal governmental agency maintaining such data. Also any interstate information system or any information system receiving Federal funds is covered by the Act as well as any agency which exchanges records with the above systems.

"Criminal justice information" is defined so that limited exchange of routine information reflecting the status of a criminal case and its history, or reports compiled for bail or probation between governmental agencies is not impaired. The definition of "criminal history" and "arrest record information" is drafted so that they only cover filing systems indexed by name but not public records indexed by date, such as police blotters, incident reports or court records. The public, for example members of the press, would still have access to such records.

The bill also defines "criminal justice investigative" and "criminal justice intelligence information." The former encompasses confidential reports compiled by an arresting officer or by a detective on a particular investigation into a particular crime. Intelligence information may be collected on an individual only in anticipation of his involvement in criminal activity.

TITLE II. COLLECTION AND DISSEMINATION OF CRIMINAL JUSTICE INFORMATION, CRIMINAL JUSTICE INVESTIGATIVE INFORMATION AND CRIMINAL JUSTICE INTELLIGENCE INFORMATION

Sections 210 and 202 set the general restrictions on the use of criminal justice information within the criminal justice community. The general rule is that criminal justice information is to be used for the most part within the criminal justice community. Subsection 201(b) deals with the exchange of criminal justice information among criminal justice agencies. It is written in terms of minimum operating procedures. Therefore the restrictions set out in the provisions are what each criminal justice agency must adopt at a minimum. The provision is drawn in general language so that the Criminal Justice Information Systems Board, created pursuant to Title III and heavily weighted with persons representing criminal justice would have latitude in interpreting these provisions. Furthermore it is assumed that these provisions will be enforced, not so much by the civil remedies provision of section 309 but by the audit and fund or information cut off sanctions embodied in sections 306 and 308. A civil remedy would lie only when the agency fails to adopt and publish procedures pursuant to this section or where it refuses to comply with its own procedures.

Generally, conviction records may be exchanged freely within the criminal justice community: corrections and release information can only be disseminated to other criminal justice agencies and to the subject if permitted by statute or court rule; fingerprint and other identifying information may be freely disseminated so long as no stigma is attached: wanted persons information, that is, identifying information on a fugitive, may be disseminated liberally for the purpose of apprehending the fugitive.

Raw arrest records and criminal history records which terminated in the defendant's favor may be routinely disseminated to another criminal justice agency only where the individual has applied for a job at that agency, a case has been referred to that agency for adjudication or the individual for supervision. Such records could also be made available on a relatively routine basis to law enforcement agencies once the agency had already arrested the individual in question.

These records should be made available only on a very limited basis to law enforcement agencies prior to arrest when the information will be used to develop investigative leads and the officer can point to "specific and articulable facts which taken together with rational inferences from those facts warrant the conclusion that the individual has committed or is about to commit a criminal act and that the information should be relevant to that act." The information should only be available on a "need-to-know", "right-to-know" basis. This means that the agency receiving the information has established procedures designed to assure that the person receiving the information has demonstrated that he is a detective or patrolman performing detective functions and that he needs the information for a particular case.

The "specific and articulable facts" standard derives from the Supreme Court opinion in the case of *Terry* v. *Ohio* 392 U.S. 1 (1968) in which the court permitted stop and frisk on such grounds. Based on the *Terry* language in evaluating the reasonableness of a request for records for investigative purposes ". . . due weight must be given, not to (the officer's) inchoate and unparticularized suspicion or 'hunch' but to the specific reasonable inference which he is entitled to draw from the facts in light of his experience." 392 U.S. 27. Although this standard is obviously less than probable cause, the court still requires in stop and frisk that the officer "be able to point to specific and articulable facts which taken together with rational inferences from those facts, reasonably warrant that intrusion (into fourth amendment protected rights)," 392 U.S. 21. In using the identical language it is intended that an officer should be able to justify requests for information with similar specificity.

The section also permits criminal justice agencies to allow information to be used for other "essential purposes" and to permit information of any kind to be made available to an officer where that information might alert him of a danger to his life. It is intended that where information is used for these last two functions that its utility clearly outweighs any risk to the rights of the subject of the information such circumstances will be set out in regulations issued by the Board.

Section 203 sets the general policy on the collection and dissemination of criminal justice information outside the criminal justice community. Criminal justice information can only be used for criminal justice purposes unless a state or Federal statute specifically authorizes dissemination of conviction records to non-criminal justice agencies. Arrest record information on an individual, that is the record of an arrest without a disposition, may also be available to the public, if specifically authorized by a state or Federal statute, the arrest is less than a year old and the charge arising from that arrest is still actively pending.

The information can only be released where its use is relevant to the purpose for which it is sought and the statute sets out in detail precisely how the information may be used by the non-criminal justice user. The subject of information must be informed of each instance in which it is used for a non-criminal justice purpose. The section permits qualified researchers access to the information only if the privacy of the subjects of the information is protected. A limited amount of discretion is provided the criminal justice agency in determining whether the individual seeking access does so with the good faith intent of using the information for research purposes. It is my intent that the types of individuals permitted access be rather liberally construed as long as the applicant intends to seek statistical rather than individually identifiable information. As long as the individual has a research plan which relies upon such statistical information it is not the responsibility of the criminal justice agency to pass upon the qualifications of the individual to do the research or validity of the research design. It is

assumed that this provision will be invoked mostly by scholars and students of the criminal justice system including investigative reporters from both the print and electronic media. It is not the intent of this provision that the criminal justice agency use the privacy safeguards set out in this act to shroud its activities in secrecy and indeed this very section and section 309 provide that an individual who has expressed a willingness to comply with the privacy safeguards and sign nondisclosure agreements but is denied access might seek injunctive relief in the Federal courts.

This section and the definition of "criminal justice agency" provide that any governmental or private organization which performs a criminal justice function via contract with a governmental agency will be treated as a criminal justice agency in the performance of that function. Also any subunit of a non-criminal justice agency which performs a criminal justice function is treated as a criminal justice agency to the extent that it performs that function. The organization or subunit must sign special nondisclosure agreements and be subject to the specialized regulation applying to research organizations.

Section 203 also makes explicit the intent of the drafters of S. 4252 that the act not be used to deny members of the press confirmation via police officers of the fact that an individual was arrested on a particular date at a particular precinct where that practice is permitted under existing law. The legislation also permits reporters direct access to police blotters or court records where such access is permitted by existing law. The legislation is only designed to prohibit private citizens, whether members of the press or private employers, from asking police officials for a general search of their records or reference to a criminal history file for the criminal background of a person.

Therefore members of the press will be able to check a police blotter or to ask a police officer—"Was John Smith arrested and booked on June 18, 1974 at the second precinct office, Washington, D.C.?" An officer at that precinct or the reporter himself could answer that question by reference to the police blotter at that precinct station. However, the police officer could not respond to a request phrased as follows—"What's John Smith's criminal record?"

The approved bill would also not affect access to an index to court records which lists parties to litigation, e.g., United States v. Jones plus a docket number or citation. Such an index could be used by members of the press and the general public as an index to the docket number and ultimately to the actual court records, but it could not contain criminal history information itself.

Finally, the section provides that the act applies to information obtained from foreign governments or organizations. Information contained in systems covered by this act can only be disseminated to foreign governments or organizations if assurances have been made that the information will be treated in a manner consistent with this Act when it leaves this country.

Section 204 permits the disclosure of some criminal justice information intelligence and investigative information to non-criminal justice agencies for the purpose of screening individuals for appointment to criminal justice agencies and for access to top secret information. As a general matter access to such information for appointments or security clearances is only permitted after the individual to whom the information applies has given his written consent. Where access is permitted by this section to conviction record information, any such information which has become sealed is automatically unsealed.

One exception to the consent requirement involves background investigations by the federal government. Subsection 204(c). Federal investigators who are conducting the most comprehensive "background investigations" for high level federal appointments can use raw arrest records for the development of investigative leads. Since this section permits access to raw arrests for "background investigation" without the subject's consent, it is intended that it be narrowly construed so that such information would be available only for "full field background investigations" similar to those conducted pursuant to section 3(b) of Executive Order 10450 on "Security Requirements for Government Employment" and described in greater detail in Chapter 736. Subchapter 2, Section 2-5 of the Federal Personnel Manual.

Section 205 prohibits agencies or persons who lawfully gain access to information from using the information for a purpose or from disseminating the information in a manner not permitted by the legislation.

Section 206 is based on a provision contained in Project SEARCH's model state statute and the Massachusetts arrest records statute. It places limitations on access to criminal justice information via categories other than name. It would require investigators to get a court order before gaining access to a criminal justice data bank by offense—i.e., a print-out on all persons charged with first degree burglary with certain physical descriptions or with a certain *modus operandi* and from a certain geographical area. Although few criminal justice data banks have this capability, grave risks are seen to the rights of data subjects if the computer were used routinely as a substitute for the experienced and cautious detective. Obviously, permitting unbridled access to computer printouts of names of individuals based on racial characteristics, geographical area or crime (e.g., persons arrested for engaging in unlawful demonstrations) would present grave policy and constitutional questions.

Section 206 provides for unlimited class access to a data bank containing cases which resulted in convictions or where charges are still pending but where the charges result in a disposition in the defendant's favor, a special judicial access warrant must be obtained. According to the commentary on the SEARCH model statute: "(the provision) is modeled on the provisions which now govern wiretapping and electronic eavesdropping. It is intended to interpose the judgment of an impartial magistrate to control the usage of an investigative method that may, if misused, create important hazards for individual privacy."

Section 207 requires every agency or information system covered by the act to promulgate regulations on security, accuracy and updating and sets out in general terms what those regulations must provide. The regulations must provide a method for informing users of changes in disseminated information, including an audit trail of individuals using information.

A new subsection (e) has been added to this section authorizing the Board to suspend application of the provisions of this section or any other section of the Act with regard to information collected on or before the effective date of this Act. The Board is authorized to suspend provisions only after it finds that "the cost of implementation of this section outweighs the interests of privacy which would be served by the implementation". It is intended that the Board explore all other alternatives before actually suspending a provision for old records. Therefore, it is intended that the provisions of this section might be more loosely construed with regard to old records rather than actually suspending application. For example, subsection (c) requires an audit trail of records including the name of every requestor of a record and the "nature and purpose" of the request. It might be argued to the Board that it would be too burdensome to require the Identification Division of the FBI to go back and actually add the "nature and purpose" to audit trails of old records where the identity of the requestor might be sufficient to tell the agency by implication the "nature and purpose" of the request. Obviously some state licensing agencies could only request a rap sheet for one purpose and if the agency's name appears on the audit trail the FBI could assume the request for that purpose. Rather than actually suspend the application of this subsection to old rap sheets it would be preferable for the Board to permit such flexibility in its application to old files.

Section 208 requires every agency or information system covered by the act to promulgate regulations on sealing or purging of information. Such regulations or procedures must provide for sealing or purging of information where required by a federal or a state statute other than this Act or by federal or state court order. Furthermore, the section requires that each agency promptly seal certain old conviction records unless a class of offenses are exempted by state or federal law. It is intended that sealing a record might be accomplished by moving a record from a routinely available status to a status requiring a special procedure to gain access. In manual systems this might mean moving a record from open filing drawers to microfilm while in automated systems a record might be considered sealed by moving the information from on-line to off-line. An index of sealed records may be maintained but access to the index would be limited to law enforcement employees. Records can be unsealed by court order or automatically in certain circumstances, such as where the individual requests review pursuant to section 209 or where special access is permitted pursuant to section 204 in screening security clearances.

Section 209 requires every agency or information system covered by the act to establish a process for access and challenge of incorrect or inaccurate information. The section sets out what those regulations must provide. This section should be read along with Section 309 which provides court review procedures where the agency fails to comply with Section 209 or any other provision of the Act.

Sections 210 and 211 place limitations on the dissemination of criminal justice intelligence information (Section 210) and criminal justice investigative information (Section 211). As a general rule such information would be exchanged between criminal justice agencies only where a "need to know" and "right to know" had been demonstrated by the requesting agency and by officers and employees within the agency. (See subsection 210(b) and 211(b).) "Need to know" and "right to know" means that the agency making the request must establish that it is conducting an investigation as part of its responsibilities in the administration of criminal justice and that it has good reason for needing the information for the investigation. Within the agency only those employees conducting the investigation or their superiors would have access to the incoming intelligence or investigative information.

Section 210 also provides that intelligence information should be collected on individuals only if there are grounds existing connecting that person with known or suspected criminal activity. It also provides for routine review of files to determine whether such "grounds" continue to exist (Subsection 210(c)). The same section also provides that intelligence information on an individual may be disseminated to a second agency only if that agency is able to "point to specific

and articulable facts which, taken together with rational inferences from those facts, warrant the conclusion that the individual has committed or is about to commit a criminal act and that the information may be relevant to that act." (Subsection 210(d)). This language, similar to that contained in section 201, is based on the *Terry* case and it is intended that it be interpreted in the same manner.

The section prohibits the entry of criminal justice investigative or intelligence information in an information system whch maintains criminal history information. Although investigative and intelligence information may be automated, remote access to such automated systems is generally prohibited.

However the bill would permit the maintenance of an index to intelligence files which could be accessed by remote terminal from outside the agency. The index might maintain the name, identification record information, criminal history record information and other public record information on individuals upon whom more complete intelligence files exist. The requesting agency's request could be referred automatically via the index to another criminal justice agency possessing more complete information on the individual in question. The committee intends that this index be operated in such a manner that it not undermine subsections (b), (c) and (d) of section 210 which provide the maintaining agency with a right to review all requests for access to its intelligence files. Therefore, such an index must be designed so that a requesting agency is not automatically informed of the existence of a file or the name of the maintaining agency but that the maintaining agency might be immediately and automatically informed of the request so that it can in its discretion respond to the requesting agency if it determines that the requirements of subsections (b), (c) and (d) have been met.

Section 211 also contains a provision permitting an individual to see his own investigative file where such disclosure is permitted under the Freedom of Information Act and other statutes or court rules. This provision would continue the practice of discovery in criminal cases in both the federal and state courts. For example section 3500 of title 18 of the United States Code, the so-called "Jencks Act" permits disclosure to a defendant of prior statements by witnesses to the police. Section 209 would not affect that type of disclosure.

Although intelligence and investigative information is generally restricted to criminal justice agencies, a limited exception is permitted for intelligence assessments. The committee understands that an intelligence assessment is an assessment provided to a government official about the impact which certain intelligence information will have upon the operations of the official's agency or as an aid to making official decisions within his authority. Intelligence files are not made available in the course of such an assessment but only a summary of the contents of such file. The exceptions to the general prohibitions embodied in the "assessment" role are to be narrowly construed. Information should be made available to private persons only where there is imminent danger to their life or property. Also intelligence and investigative information would be available to noncriminal justice agencies pursuant to Section 204.

TITLE III. ADMINISTRATIVE PROVISIONS; REGULATIONS; CIVIL REMEDIES; CRIMINAL PENALTIES

Title III creates a cooperative Federal-State administrative structure for enforcement of the Act. *Section 301* establishes a Criminal Justice Information Systems Board, an independent agency with general responsibility for administration and enforcement of the Act. The Board would be composed of representatives of the Department of Justice and two other Federal agencies with law enforcement responsibilities, plus nine other members nominated by the President, with the advice and consent of the Senate. Of the later nine members, seven must be representatives of state or local criminal justice agencies, and two private citizens well versed in constitutional law and computer technology. The President would also designate a chairman from the latter nine members. The latter nine would serve staggered six-year terms. The first three, the Attorney General plus the members designated by the President, would serve at the pleasure of the President.

A thirteenth member is allocated to the judiciary since these criminal justice information systems are also of great importance to the judicial function. However, bebecause of the traditional reluctance of members of the Judiciary to participate in such arrangements, perhaps because of separation of powers concerns, the appointment of the thirteenth member is made discretionary with the Judicial Conference. The representative of the United States Judicial Conference would serve at the pleasure of the Conference.

The Board would have the authority to issue general regulations applying the Act's policies. It could bring actions pursuant to Section 309 and issue cease and desist orders and impose administrative penalties as provided in Section 308. It would supervise the operation of the interstate information system authorized by Section 307. It would conduct audits pursuant to Section 306, and would have other necessary enumerated powers, as well as authority to conduct general studies of information systems and make recommendations to the Congress for additional legislation.

Section 302 authorizes the Board to conduct hearings and compel the attendance of witnesses. The Board would have the power to enforce its subpena in Federal Court.

Section 303 requires the Federal Information Systems Board to issue regulations which implement this Act. At least 60 days prior to their promulgation, the Board must refer proposed regulations to the Department of Justice and to other Federal criminal justice agencies for comment.

It is intended that the notification provisions of this section be followed religiously and that dissemination of proposed rules be widespread. The provision requires advance notification to the governor of each state, any individual or agency in each state designated by the governor and by any organization or individual requesting the Board to be so notified. It is felt that there is a special obligation upon the Board to notify and consult with organizations which are representative of state and local criminal justice agencies and information systems such as the Project SEARCH group, the National Law Enforcement Telecommunications Systems, and the National Conference of State Criminal Justice Administrators.

The Board's authority to issue regulations is limited to State-created records. In the case of federal offender records and federally created intelligence and investigative records, regulations would be issued by the President upon recommendation of the federal members of the Board (the Attorney General, the two Presidential designees and the representative of the Judicial Conference).

Section 304 requires each state to establish a central administrative agency, or designate an existing agency, with broad authority to oversee and regulate the operation of criminal justice data banks in that state. This section is based upon the concept embodied in the Project SEARCH model statute and the Massachusetts statute. Beginning two years after enactment no information system or agency could exchange information with a system or agency in a state which has not created such an agency. The system or agency must by that time have adopted all the regulations required by the title II or elsewhere in the Act.

Section 305 is based upon a suggestion contained in the Report of the Secretary's Advisory Committee on Automated Personal Data Systems of the Department of Health, Education, and Welfare. It requires every automated information system covered by the Act to give public notice, once annually, of the type of information it collects and disseminates, its sources, purpose, function, administrative director or other pertinent information. It also requires every new system or expanded system to give public notice before it becomes operational so that interested parties will have an opportunity to comment. Section 305 also contains a provision, based on a suggestion made by then Vice President Ford, that a privacy impact statement be filed with each new expansion. The privacy impact statement would require the agency proposing creation or expansion of its data bank to anticipate the impact of that expansion on privacy and security considerations.

Section 306 requires audits of systems and agencies which collect and disseminate information. The audits are to be conducted by the Criminal Justice Information Systems Board, by a state agency created or designated pursuant to Section 304 and by each criminal justice agency. The GAO would have overall responsibility for auditing, as well, under Section 311.

Section 307 is a general grant of authority permitting the Federal Government to operate an interstate criminal justice information system under the policy control of the Federal-state board. However, the Federal role is carefully circumscribed. Information contained in such a Federal system is limited to a simple index containing the subject's name and the name of the state or local agency which possesses a more complete file. The Criminal Justice Information Systems Board could maintain more complete files on violations of a criminal law of the United States, of two or more States or violations of the laws of another nation. Only persons charged with felonies could be listed in the data banks. If a given State lacks the facilities to operate an automated information system, the Criminal Justice Information Systems Board could provide the facilities for a period of five years.

The Board would have the authority to designate an existing federal criminal justice agency such as the FBI to perform these functions or it could recommend to the Congress the chartering of a special corporation or organization similar to the Tennessee Valley Authority to operate the national criminal justice information system. This latter course has been suggested by a number of state criminal justice officials as the best means to accommodate the state interests. Such a corporation could be composed of members from each of the 50 states. Of course, whichever course is followed, either the existing federal agency or the corporation would have to be under the policy control of the Board.

The Board would also have authority to determine the extent to which the national criminal justice information system could operate its own telecommunications system or rely upon existing systems such as the National Law Enforcement Telecommunications System (NLETS). Concern has been shown about recent suggestions that the Justice Department has authorized the Federal Bureau of Investigation to establish its own telecommunications system within the

National Crime Information System. It would be preferred that existing state-based organizations such as NLETS be relied upon in the operation of a national criminal justice information system because an over-concentration of powers and responsibility in the federal government for telecommunications would be unhealthy and might be an inappropriate encroachment upon state and local law enforcement. In respect to the concept of a federally chartered corporation and Board control of the telecommunications system I share the view of Richard Velde of LEAA:

". . . with respect to NLETS and any future developments that might occur, as far as an expanded telecommunications network for State and local criminal justice, as I indicated in my prepared testimony, we believe that the Project SEARCH model, of a policy board with an executive committee, much the same as is suggested in the chairman's bill, would be a very appropriate vehicle for policy determination and regulation of this kind of system.

"There is a danger, when any single agency, be it Federal, State, or local, has policy control over a network of this kind. We think the responsibility should be shared."

All of Title III is viewed, in particular the creation of the Board and its authority over a national criminal justice information system and the telecommunications question, as a mechanism for sharing decisionmaking on these issues among local, state and federal agencies.

This provision would supply the missing but necessary statutory foundation for the Identification Division's Rap Sheet Files and the National Crime Information Center or their successors. Section 307 would not apply to these two information systems or any information system until the Act becomes fully effective 2 years after enactment.

Section 308 lists certain administrative actions that may be taken by the Criminal Justice Information Systems Board in the event that a criminal justice information system is found to have violated any provision of the Act.

Section 309 provides the judicial machinery for the exercise of the rights granted in Section 208 and elsewhere in the Act. The aggrieved individual may obtain both injunctive relief and damages, $100 recovery for each violation, actual and general damages, attorney's fees, and other litigation costs whether violations were willful or negligent. An "aggrieved individual" covers an individual upon whom information is maintained, or used in violation of this Act or who is denied access to information to which he is entitled pursuant to subsection 203(d) or 203(g) or any other section of this Act. An "aggrieved individual" might also be a person requesting information in violation of subsection 209(c). It does not require that the individual have suffered some further harm from the violation, such as loss of job or benefit, in order to have a cause of action. It is intended that the Board may in its discretion intervene in any case in which it is not already a party and use in such litigation the results of any audit it might have conducted pursuant to Section 306.

New provisions have been added to the civil remedies section which would limit unnecessary interference by litigants with legitimate law enforcement activities. First, the section now provides an employee of a criminal justice agency or information system or the agency or information system with a complete defense to a damage action when he relies in good faith upon the representation of another agency or employee that information it disseminates is being handled in compliance with the Act. This provision would avoid the imposition of liability in circumstances where it would be impossible for an agency to recognize that information it receives or maintains is not in conformity with the Act. For example, it would exculpate a telecommunications system such as the National Law Enforcement Telecommunications System from liability for information it transmits in violation of the Act. Liability in that circumstance should fall on the agency which enters the information in the telecommunications system.

Second, the section would provide that a mere violation of this section could not be the basis for motion to suppress evidence in a criminal proceeding. Of course, the provision does not limit the court's general supervisory authority to suppress evidence in circumstances of gross violation or in circumstances where the violation is of constitutional dimensions.

Section 310 provides criminal penalties for willful violations of the Act.

Section 311 provides authority for the Comptroller General to conduct certain audits and studies of the operations of the Board on behalf of the Congress. In a letter to the Subcommittee requesting inclusion of this provision the Comptroller General stated that although he thought the General Accounting Office's general statutory authority might be sufficient, that explicit authority should be included in this legislation "because of the sensitive nature of the data involved." The Comptroller General also stated:

"While we fully support the intention of both bills that the administering executive agencies should be primarily responsible for properly managing the provisions of the bills, we also believe it is important that a specific provision be included in the bill providing the means for an independent congressional assessment of executive agencies' actions. In this way the Congress can have better assurance that the detailed audits by the executive agencies are adequate."

I concur and I have included a provision almost identical to that proposed by the surance that the detailed audits by the executive agencies are adequate."

Section 312 provides that any state statute, state regulation or Federal regulation which imposes stricter privacy requirements on the operation of criminal justice data banks or upon the exchange of information covered by this Act takes precedence over this Act or any regulations issued pursuant to Section 303. The Board would make the administrative decision as to which statute or regulation governs, and whether a regulation comports with this Act.

A new subsection has been added to this section authorizing the Board to suspend the application of this provision with regard to state records maintained at a federal agency pursuant to section 307. However, the Board could not authorize such suspension beyond the 5-year period during which the federal agency may maintain state files pursuant to section 307(c). Furthermore, this provision like any provision can be suspended with regard to records collected on or before the effective date, pursuant to subsection 207(e).

Section 313 authorizes the appropriation of such funds as the Congress deems necessary for the purposes of the Act.

Section 314 is a standard severability provision.

Section 315 repeals a temporary authority for the Federal Bureau of Investigation to disseminate Rap sheets to non-criminal justice agencies.

Section 316 makes this Act effective two years after its enactment, except that the Board can suspend the application of any provisions of the Act for up to one additional year.

By Mr. JAVITS:

S. 4253. A bill to amend the Council on Wage and Price Stability Act to provide the Council the authority to issue subpenas and to delay inflationary wage or price increases. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. JAVITS. Mr. President, today I am introducing a bill which will grant two additional and extremely important powers to the Council on Wage and Price Stability: subpena power and the power to order a cooling-off period of up to 60 days on seriously inflationary wage and price increases. The latest price increases announced by United States Steel, up to 11.6 percent on about two-thirds of its product line, are avid demonstration of the need for these powers. At a time when President Ford has asked the Wage and Price Board to look into the United States Steel price increases, which permeate every sector of the economy, we find that the Board really has no powers. New price increases in construction and automobiles may well result, to mention two industries hardest hit by the current recession, and those two industries will attempt to justify their price increases by blaming it on steel.

The President is correct in demanding a justification for the steel price increases. However, the President has his hands tied by the lack of power I call for today.

The President can only jawbone, but it has no teeth. Mr. Rees, the Director of the Council, gives it all away when he says:

If the U.S. Steel executives don't respond pretty soon, I'll get on the phone.

We cannot stand a new round of big price increases in basic steel, which will feed a new burst of inflation and create new wage demands. We need to review it now in this Congress, and we can do it with the amendments I have offered. To wait until the 94th Congress may let the situation run out of control.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 4196

At the request of Mr. KENNEDY, the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Mr. HART), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 4196, a bill to provide public financing for primary and general elections for Senate and House of Representatives.

S. 4203

At the request of Mr. BROOKE, the Senator from Maine (Mr. HATHAWAY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. Moss), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 4203, a bill to repeal exemptions in the antitrust laws relating to fair trade laws.

S. 4209

At the request of Mr. MUSKIE, the Senator from Indiana (Mr. BAYH) and the Senator from South Dakota (Mr. ABOUREZK) were added as cosponsors of S. 4209, a bill to strengthen the intergovernmental response to the current energy emergency.

S. 4216

At the request of Mr. TALMADGE, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 4216, a bill to provide a priority system for certain agricultural uses of natural gas.

S. 4225

At the request of Mr. BROCK, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 4225, a bill to amend the Consumer Credit Protection Act to prohibit discrimination of credit.

SENATE RESOLUTION 466—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following resolution:

S. RES. 466

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Reginald C. Vines, Administrator of the estate of John H. Vines, an employee of the Senate at the time of his death, a sum equal to ten months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 467—ORIGINAL RESOLUTION REPORTED RELATING TO AGRICULTURAL CREDIT

(Placed on the Calendar.)

Mr. ALLEN, from the Committee on Agriculture and Forestry, reported the following resolution:

S. RES. 467

Whereas a strong and viable agriculture is essential to the well-being of the Nation's economy; and

Whereas agriculture is the economic base of most rural communities; and

Whereas farmers and ranchers have sharply expanded their use of credit in response to domestic and world demand for food and fiber; and

Whereas skyrocketing production costs and plummeting farm prices have forced agricultural producers into a position of limited liquidity; and

Whereas inclement weather has further limited cash flows of farmers and ranchers this year; and

Whereas this situation of limited liquidity at a time of record indebtedness and high rates of interest threatens the welfare of producers and consumers as well as the long run economic well-being of this Nation; and

Whereas the problem is immediate and proposed major legislative efforts will be too late unless all agricultural lenders immediately respond to the needs of agriculture: Now therefore, be it

Resolved, That it is the sense of the Senate that all agricultural lenders, including commercial banks, insurance companies, Production Credit Associations, Federal Land Banks Associations, and merchants and dealers, during this period of economic distress, use every means possible to assure agricultural solvency and, therefore, long-term agricultural production; and, therefore be it further

Resolved, That it is hereby declared to be the sense of the Senate, that—

(1) The Farmers Home Administration facilitate and fully implement all lending authority in law including the Emergency Livestock Credit Act of 1974 and other disaster loan programs; and

(2) The Farm Credit Administration use its good offices to the fullest extent possible to support and continue agricultural producers with necessary financial support including necessary refinancing; and

(3) The Federal Reserve Board fully support those commercial banks which represent the largest source of agricultural production credit, in their efforts to maintain their agricultural borrowers.

AMENDMENTS SUBMITTED FOR PRINTING

DUTY-FREE ENTRY OF A TELESCOPE AT MAUNA KEA, HAWAII—H.R. 11796

AMENDMENT NO. 2093

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

Mr. BEALL (for himself and Mr. MATHIAS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 11796) to provide for the duty-free entry of a 3.60-meter telescope and associated articles for the use of the Canada-France-Hawaii telescope project at Mauna Kea, Hawaii.

AMENDMENT NO. 2094

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

Mr. BEALL submitted an amendment intended to be proposed by him to the bill (H.R. 11796), supra.

FURTHER CONTINUING APPROPRIATIONS, 1975—HOUSE JOINT RESOLUTION 1178

AMENDMENT NO. 2095

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

Mr. HOLLINGS (for himself, Mr. CHILES, Mr. NUNN, Mr. BARTLETT, Mr. COOK, Mr. DOMENICI, Mr. PROXMIRE, Mr. EAGLETON, Mr. ROTH, Mr. BROCK, Mr. BELLMON, and Mr. DOMINICK) submitted an amendment intended to be proposed by them jointly to the joint resolution (H.J. Res. 1178) making further continuing appropriations for the fiscal year 1975, and for other purposes.

ADDITIONAL STATEMENTS

S. 3267, STANDBY ENERGY AUTHORITIES ACT

Mr. JACKSON. Mr. President, last Thursday I reported to the Senate on the status of negotiations with the administration on S. 3267, the Standby Energy Emergency Authorities Act.

The purpose of this bill is to provide the President with a statutory basis for the implementation of urgently needed measures for rationing and mandatory conservation, for limiting petroleum imports, and for establishing a system of strategic energy reserves. Passage of this measure by this Congress would provide the Nation with the appropriate standby authority to deal fairly, equitably, and in an orderly manner with the growing economic consequences of world oil prices and the possibility of another embargo by the OPEC cartel.

Title I of the bill provides standby legislative authority to deal with shortage conditions. These include:

End-use rationing of gasoline and other petroleum products;

Mandatory energy conservation authorities;

A statutory basis for allocation of materials in scarce supply which are essential to energy production;

Authority to increase oil production during periods of shortage;

Export limitations on all forms of energy and equipment vital to energy production such as pipe and drilling rigs;

Grant-in-aid for State and local government; and

Delegation of conservation authority to State government.

Title II establishes a policy of reducing high priced oil imports from insecure foreign oil sources. The title:

Sets forth a congressional policy of reducing oil imports;

Directs a study of various alternatives for reducing oil imports; and

Requires a report to the Congress within 60 days together with legislative recommendations.

Title III establishes a policy to commit the Nation to the development of a system of strategic energy reserves. This title:

Creates an Office of Strategic Energy Reserves in FEA;

Mandates prototype salt-dome oil storage demonstration projects;

Requires studies and reports on the establishment of industry storage reserves, electrical utility storage reserves, national strategic energy reserves; and

Requires a report and recommendations on the naval petroleum reserves and their potential for use as an active, "ready to use" oil reserve, for national defense purposes.

Mr. President, there is no dispute as to the need for these authorities.

Every knowledgeable observer who has reviewed the Nation's current energy situation has concluded that the provisions of the pending bill constitute the authority needed for a minimum policy to deal with our short-term energy problems.

Spokesmen for the administration have in recent months repeatedly endorsed in principle and stated the urgent need for the authorities contained in this bill.

The Committee for Economic Development, the Ford Foundation's energy policy project, and other recent studies of national energy policy have all concluded that adoption of authorities like those contained in S. 3267 are essential and of urgent importance.

Mr. President, the administration's own blueprint for Project Independence concludes that these authorities are needed options which should be rapidly developed into legislative programs and set in place at an early date.

The "Comprehensive Energy Plan" submitted to the Congress by the Federal Energy Administration in response to section 22 of the Federal Energy Administration Act of 1974 calls for a 1-million-barrel per day reduction in imports in 1975. The plan states that such a reduction—

. . . would put pressure on the international oil-producing cartel to lower crude oil prices

or to further decrease production. The latter could well result in loss of revenues to the oil producers. Achievement of the goal would have international significance through a demonstration to the cartel that the U.S. can control consumption levels.

The international energy program which the United States has now signed together with 15 other nations requires that the United States adopt the authorities contained in the amendment as a means of carrying out the duties and obligations incurred under this agreement.

Other signatory nations have already taken action under the agreement. Germany has reduced its energy consumption by 10 percent. France has mandated a reduction in petroleum imports. The British have initiated a mandatory program for energy conservation.

The United States, however, has yet to take any meaningful action. Instead, administration representatives "view with alarm," pursue "voluntary" programs, and engage in meaningless rhetoric.

Meanwhile, during the last 3 weeks for which data is available, U.S. petroleum consumption has continued to grow and now exceeds 18 million barrels per day. During those same weeks our dependency on imported oil grows larger and now exceeds 7 million barrels per day.

As a result, our credibility and determination to deal with economic and energy problems is seriously questioned.

It is my strong belief that the national interest is best served by expeditiously moving this critically needed legislation on a bipartisan basis. To that end, I wrote to President Ford first on September 27, and again on December 5, offering to work with the administration to resolve any policy or technical problems which the administration may have with the bill.

Last week and over the weekend the staff of the Interior and Commerce Committees met with representatives of the White House, the Office of Management and Budget, the Federal Energy Administration, and the Department of State to ascertain whether the administration would support the bill and join in opposing controversial amendments. These representatives of the executive branch proposed a number of suggestions for perfecting amendments. As I stated last Thursday, in the interest of giving the President this vitally needed authority, I am prepared to accept almost all of the suggestions made by the administration.

Mr. President, one of the ground rules that governed our negotiations on this emergency bill was to confine it to relatively noncontroversial items that are vital in the next few months. With that understanding I was prepared to exclude and to oppose all controversial and nongermane amendments. I deleted a rollback of oil prices to reasonable levels. In the interest of enacting needed authority with a minimum of debate I was prepared to oppose the addition of other amendments such as oil industry tax reform and other measures which I believe to be in the public interest.

In these circumstances I was extremely disappointed to learn that the administration's position is apparently that they will support a natural gas deregulation amendment to this bill even though they recognize that this will mean the death of the bill in this Congress. I have stated that I will oppose any such effort. It has been my earnest hope that Members who favor other such measures, will not undertake an effort which will be divisive and which will kill this bill.

I regret, Mr. President, that despite the extensive negotiations we have had and despite the ability of the administration and the Interior and Commerce Committees to agree on the text of the standby bill, we are unable to agree that all controversial and nongermane amendments will be opposed.

As the author of S. 2589, the National Energy Emergency Act, which President Nixon vetoed on March 6, and as chairman of the Committee on Interior and Insular Affairs, I have made every reasonable effort since October 24, 1973, to work with the administration to develop a national policy for mandatory energy conservation and contingency planning policy which both the Congress and the administration could support. I have repeatedly made major concessions on policy issues of the utmost importance—oil price rollback, unemployment compensation, assistance to low-income families, and many other matters. These concessions were made with the sincere hope that a reasonable compromise could be struck which would provide the executive branch the legislative authority and the tools to deal with the increasingly dangerous financial and national security crises presented by our growing reliance on high-priced oil imports.

On September 27, in a letter to the President, I stated that:

> The separation of the Branches of government, partisan rivalries and the jealousies among executive agencies and among Committees of Congress, would in ordinary times make a proposal such as I have set out here unrealistic. These are, however, extraordinary times. Our security, our economic system and our way of life are at stake.

On December 5, I again wrote to the President. After describing the provisions of the amendment in the nature of a substitute to S. 3267, I stated that:

> It is my earnest hope that your Administration will be able to support this measure. I fully recognize that the Administration and the Congress have different views on many specific energy policy issues. There is, however, broad consensus on goals and essential major programs which are necessary to the maintenance of our national security and to the vitality of our economic system.

Mr. President, the administration's latest response indicates that the Congress will have to continue to act unilaterally and without the support or cooperation of the administration in developing a legislative response to the ravaging impact of world oil prices and the threat of political embargoes.

The administration's inaction and irresponsibility in this area over the past year have contributed to the deterioration of the national economy and the international financial system. Continued indecision threatens to push the Nation from the serious recession we are now experiencing into a catastrophic depression unparalleled since the 1930's.

Last Friday, at their meeting in Vienna, the OPEC oil ministers announced that the price set by OPEC last October will be again increased by 4 percent on January 1, 1975. Secretary of the Interior Rogers Morton has stated that as a result of the OPEC price increase, oil consuming nations "will pay an additional $4 billion a year for imported oil and further depress their economic activity."

Mr. President, our only possible deterrent to a continuing series of exorbitant price increases lies in our demonstration of the will and the ability to reduce our vulnerability to the pricing decisions of the cartel by reducing our dependency on oil imports.

The prices set by this latest increase will remain in effect until October. We, thus, have 9 months in which to prevent further oil price escalation. Therefore, the administration's decision to again prevent the enactment of a statutory basis for meaningful action is particularly grave, because it effectively precludes the achievement of such results in the necessary time frame.

There lies before us a long and difficult road to economic recovery. And that road is strewn with dangers of blackmail in the form of oil embargoes. One would expect the administration to lead us forward on that road. That failing, one would hope that the administration would follow. However, the undisputed record to date is one of inability to lead and unwillingness to follow. Instead, the administration remains squarely planted, immobile and obstinate, blocking all needed efforts to protect the well-being of the Nation.

Mr. President, the American people have had enough delay, enough studies, and enough of official appeals for voluntarism. What they want now is action. This measure, if supported by the administration could be adopted by the Congress before adjournment. It would equip the President with the necessary authority to take the actions which are needed to meet the problems we face in an increasingly uncertain future.

Unfortunately, Mr. President, as a result of the refusal of the administration to cooperate in our effort to keep the bill clean of all controversial amendments, the American people will not get action until the next session of the Congress. The administration seems more interested in profits for the oil and gas industry than in enacting the authority necessary to conserve energy.

I do not intend to ask the Senate to engage in a futile and divisive effort on this bill when there is no hope of purposeful achievement. The Senate and the Congress have other items of important public business which require decision.

I do, however, intend to make clear that the administration must accept full responsibility for the Nation's vulnerability and lack of preparedness to deal with world oil prices and embargoes. The administration must assume the responsibility for the failure to have standby rationing and mandatory energy conservation authority.

Finally, Mr. President, the public should also understand that failure to do that which is possible in this Congress means a delay not of weeks, but rather of many months. It means that no action will now be taken until: First, Congress organizes and adopts rules, and makes committee assignments in the new Congress; second, the President submits his recommendations for an energy program; third, hearings are held on the new bills; fourth, action is taken on those bills by both Houses of Congress; and *fifth*, conference committees meet and agree on the measures.

Mr. President, I do not believe this course of action is in the national interest. I see, however, no way in which purposeful and constructive action can be taken in view of the administration's decision to support an amendment to the bill to deregulate the price of natural gas.

ADMINISTRATION DEREGULATION BID BLOCKS PASSAGE OF ENERGY BILL

Mr. STEVENSON. Mr. President, last weekend two members of the President's Cabinet, his new energy Administrator, the Chairman of his Council of Economic Advisers, and others went to Camp David to formulate a national energy policy.

After the first day, one of the participants was asked what kind of program would emerge, and was quoted as saying:

> I won't bet exactly how it's going to come out, but what I will bet is that it's too little, too late.

That frustration is shared by the Congress and the public.

The administration still has no energy program. The pronouncements of its energy czars, one after another, even the czars themselves, are repeatedly rendered inoperative. This administration has only one consistency in its approach on energy policy. It moves in lockstep with the major oil companies.

The major oil companies do not want standby emergency legislation that could conserve energy, reduce consumption and profits and force them to choose between the United States and the Arabs in the event of another flare-up in the Middle East.

When the Congress passed emergency legislation during the Arab embargo early this year, it was vetoed because the administration and the major oil companies objected to ceilings on domestic oil prices.

Another effort to enact emergency legislation was undertaken last spring, but it, too, came up against the opposition of the administration and the oil industry.

Emphasizing the need to prepare for another embargo, Senator JACKSON urged the President in September and again in early December to support the development of bipartisan standby legislation. In an effort to remove obstacles to its enactment, Senator JACKSON, I and other Members proposed to deal separately with such controversial questions as price ceilings and tax reform.

With time running out, it became clear that the Congress would have to move without the support of the administration. I joined Senator JACKSON and several of our colleagues earlier this month to draft new legislation providing standby authorities for use in the event of another emergency.

Last week, on the very day we introduced that bill, we finally heard from the administration. After months, more literally years, of foot-dragging, the administration asked us to delay Senate consideration of our bill and negotiate mutually acceptable legislation.

Those negotiations have been going on for the past week. We have sought to concentrate on objectives upon which we could all agree—mandatory conservation authority, steps to limit oil imports and establishment of strategic reserves. To assure passage of these standby provisions, we agreed to forego consideration at this time of such additional steps as a rollback of domestic oil prices.

Now, Mr. President, after reaching substantial agreement on minimal emergency energy legislation, the administration informed us that it was unwilling to forego deregulation of the wellhead price of natural gas.

The administration's efforts to tie natural gas deregulation to this emergency bill now will deprive the American people of the protection which would be assured by passage of this legislation. There is no time left in this session of Congress to debate an issue as controversial as deregulation and little disposition on the part of the Congress to increase the oil industry's windfall profits at the further expense of the economy. The administration's position insures that the interests of the Nation's major oil companies will once again be served at the expense of the public interest.

Natural gas supplies about one-third of the Nation's energy requirements. Deregulation would further inflate the already obscene profits of the major oil companies at the expense of virtually every home, every firm, and every industry in the Nation. It would cost the American consumer an estimated $11 billion during the first year alone, with no assurance of increased natural gas supplies. The impact would be felt not only by household consumers but in the cost of innumerable products whose manufacture requires natural gas, including fertilizer and chemicals. The costs of alternative sources of energy, such as coal, would tend to rise to the higher price levels of deregulated natural gas.

Clearly, legislation is needed to help assure adequate supplies of natural gas. At the present time, large quantities of natural gas are being withheld from the market by the oil industry in anticipation of the Government's capitulation to its demands for still higher prices. In just 168 leases in the Gulf of Mexico studied by the Federal Power Commission, producible, commercial wells with estimated recoverable gas reserves of almost 5 trillion cubic feet were found to be shut in. These wells are located on public property, but the Department of Interior steadfastly refuses to compel their production or forfeiture.

The major oil companies' primary interest is making money—not making oil and gas. If, like the OPEC nations they can produce more money by producing less oil and gas, that is what they will do. It is the Government's job to protect its citizens from that kind of economic blackmail. But instead, this administration persists in acting as big oil's agent.

The administration's own Project Independence blueprint forecasts no appreciable increase in natural gas supplies through 1985 for prices in excess of 60 cents per MCF. Yet the administration chooses to ignore its own findings and advocate a policy that will raise the price of natural gas as high as $2 per MCF. The difference between 60 cents and $2 will not assure added supplies of natural gas; it will simply mean more windfall profits for the oil industry and more inflation for consumers.

There are 3 legislative days remaining in this session of Congress. After stalling all year, the administration is now holding a needed energy emergency bill—upon which we can agree—hostage to an oil industry sponsored ripoff.

I am well aware of the need for reforming the regulation of natural gas and compelling the production of withheld supplies. After chairing hearings during which I heard more than 150 witnesses on the question of natural gas regulation, Senator PEARSON and I sought the collaboration of the administration last June in an effort to develop legislation that would protect the interests of natural gas producers and consumers. In July and August, we met and talked with John Sawhill and his staff seven times as we worked toward the introduction of a bipartisan compromise that would increase production incentives without allowing gas prices to rise to the oil price levels established by the Organization of Petroleum Exporting Countries (OPEC). We made substantial progress in those negotiations. By early August we were confident we had reached an agreement.

But the oil companies did not agree. Increased prices were not enough for them; they wanted total deregulation. And in this administration, it appears that what the major oil companies want, they get. So both the agreement we thought we had in August, and John Sawhill, are now gone.

If the administration had been willing to strike a reasonable balance between the interest of the oil industry and the public interest, the natural gas question would have been resolved months ago. As it is, the compromise bill we drafted in August has been further improved by the Commerce Committee and is now ready for markup. As Chairman MAGNUSON has stated, we expect to bring this legislation to the floor of the Senate early in the next session.

The bill now before the committee would reform the regulatory process, establish higher ceiling prices for newly discovered natural gas, freeze the price of old gas and allocate it to residential and commercial uses, forbid the waste of premium fuel under boilers, compel the production of commercially producible wells in the public domain, and exempt from regulation the independent producers who run most of the risks in exploration of new supplies of gas. That legislation is reasonable. It does

not forfeit responsibility for the regulation of domestic energy prices to foreign governments. It provides new incentives for the industry without sacrificing the public's interest. The Senate will have an opportunity to consider this legislation early in the next session.

The administration's insistence on deregulation of natural gas in the final days of this session underscores the bankruptcy of an energy policy written in the board rooms of the major oil companies.

By the administration's own admission, if we deregulated the price of natural gas this afternoon, it would have no effect on natural gas supplies this winter. But if we fail to pass the standby authorities bill and there is another embargo in the next several months, we will have gambled with the Nation's future.

By insisting that natural gas deregulation be tied to emergency legislation, the administration must accept the responsibility for the lack of any emergency authority over the next several months.

By signing the International Energy Agreement in Brussels last month, the administration made a solemn commitment to develop mandatory conservation plans, limit imports of high priced foreign crude and develop standby emergency energy reserves. Germany, France, Britain, and now Japan have all either undertaken or announced mandatory conservation programs aimed at lessening their dependence on high priced foreign oil.

The United States is the only major industrialized nation which has not yet established any program or enacted any of the standby authorities necessary to fulfill its commitments under the Brussels agreement.

The fact is that we have been long on rhetoric, and short on action. On September 23 in Detroit, the President finally acknowledged the relationship between high energy costs and looming worldwide depression. In diplomatic terms, he came close to threatening war against the foreign oil producers for establishing extortionate energy prices.

Yet, when the threat of economic disaster demanded decisive action at home, the President joined with the major oil companies to advocate the same high foreign prices for domestic energy he had condemned—and at the expense of killing the only legislation that could have given the administration in this session the authority it needs to initiate energy conservation and stockpiling programs.

While the administration continues its attempts to formulate some kind of energy policy, domestic energy consumption is soaring. The Nation is no better prepared to face an Arab oil embargo today than it was when the first one began a year ago.

The lack of leadership from the White House on energy policy is one of the most serious threats the Nation faces today.

Over the course of the last year, Senator JACKSON has made a relentless effort to see to it that the Congress passed a responsible energy emergency bill. Those of us who have worked with him know first-hand that it has not been easy. The truth is that it has not been possible to overcome the combined power of the oil industry and the administration.

We have been vetoed, stalled, and pressured by an administration and an industry which speak with one voice; proposing more inflation, more recession, more windfall profits, and more shattered public confidence in the wisdom and fairness of Government. We have been frustrated by an administration that would leave us vulnerable to another embargo for the sake of helping the oil industry satisfy its insatiable appetite for profit.

We will not be threatened into supporting deregulation of natural gas. So, we will not be able to pass an emergency bill in this session.

If this administration does not end its alliance with the oil industry, the 94th Congress will enact a mandatory energy program without it. And in this session we must also move rapidly to reform the regulation of natural gas, striking a fair balance between the needs of producers and the economy.

EMERGENCY ENERGY LEGISLATION

Mr. MAGNUSON. Mr. President, it is with deep regret that I must report that the administration is not willing to cooperate in enacting emergency energy legislation in this session.

The Senate committees with responsibility in this area, are organized as a team under the leadership of Senator JACKSON. We have prepared a clean amendment to provide standby emergency authority to assure that essential energy needs of the Nation are met. Our representatives have engaged in good-faith negotiations with the administration and we have accepted most of their suggestions. The remaining differences on the emergency bill are minor, but negotiations over the weekend and into this week were to no avail.

Mr. President, it is painfully evident that the administration is not really interested in obtaining the standby emergency authority. The minor differences that remain could be quickly resolved if there were any spirit of cooperation.

A basic ground rule for enacting emergency legislation at this late hour is that the bill must be limited to noncontroversial measures which are truly urgent to meet an emergency—such as another embargo—that could take place before the Senate could act next year. Our bill provides such items as standby rationing and energy conservation plans for such an emergency.

In an effort to pass such an emergency bill in this session, Senator JACKSON removed his oil price rollback provision and other controversial items from the bill. Despite these concessions, the administration in the past few days has injected its proposal to decontrol natural gas prices as a part of the energy emergency legislation. Changes in natural gas pricing are important, but are completely separate from the measures needed in an emergency. Secretary Morton conceded before the Senate Commerce Committee on December 4 that nothing the Congress could do on natural gas pricing would have any appreciable supply impact this year, or for that matter, until nearly 1980.

Mr. President, the Senate Commerce Committee is committed to bringing natural gas reform legislation to the Senate floor at the earliest possible date in the new Congress. The committee this session held the most intensive review ever conducted of the Natural Gas Act. We recognize that the current regulatory system is deficient because of lengthy delays and great uncertainty. Producers need an adequate price, but that price must also be fair to consumers. Deregulation does not meet that essential test of fairness, nor does it deal with the many other issues that must be addressed, such as curtailment priorities. I might add that we have made progress in these matters despite the obstinate refusal of the administration and the industry to cooperate in working out a reasonable compromise. But even the administration must realize that nothing could be accomplished by considering this highly controversial matter on the floor of the Senate in the dying days of this session.

The administration insistence on hooking natural gas decontrol onto the emergency bill forces me to conclude that the President does not want the authority contained in the emergency bill to cope with an energy emergency. It would appear that his support for the oil industry's efforts to remove the consumers' protection against higher natural gas prices is stronger than his desire to pass this emergency legislation. We were promised communication, compromise, cooperation, and conciliation. But in energy policy, that particular approach has not yet become administration policy. For the good of the country, I hope in the new year the administration will begin to practice what it preaches in a cooperative relationship with the Congress.

EMERGENCY ENERGY PROVISIONS

Mr. TALMADGE. Mr. President, I not only wish to join the distinguished chairman of the Senate Interior Committee, Mr. JACKSON, and the distinguished chairman of the Senate Commerce Committee, Mr. MAGNUSON, in expressing consternation over the failure of the Ford administration to come to terms regarding the provisions of the Energy Emergency Authorities Act, but also with respect to an amendment to this this bill which I offered last Saturday, which I understand, also has been rejected by the President and his advisors.

Senators JACKSON and MAGNUSON, on the other hand, have indicated their willingness to accept my amendment, for which I wish to express my appreciation and thanks.

My amendment would have provided a 6-month natural gas priority to fertilizer and farm chemical manufacturers to maintain capacity production of these essential farm inputs for use by farmers to achieve maximum production of 1975 crops.

U.S. fertilizer producers are now try-

ing to build inventories of fertilizers to meet peak demand during the spring planting period next spring. And to the extent that such manufacturers are denied needed natural gas supplies, the availability and price of fertilizers next year will be affected accordingly, namely, fertilizer supplies will be sharply reduced and prices will be sharply increased.

Current estimates of natural gas curtailments affecting nitrogen fertilizer production may result in the loss of 1.5 million tons of nitrogen fertilizer. If this is permitted to happen—which apparently the Ford Administration and the Federal Power Commission are now willing to let happen—our Nation could lose between 500 and 600 million bushels of food and feed grain production in 1975.

Mr. President, last year, with the help of the Federal Power Commission, fertilizer producers were granted emergency natural gas relief to maintain maximum production capacity. Due to the granting of such relief last year, plus the availability of some fertilizer inventory buildup going into the 1974 crop year, farmers were able to just "get by" in 1974 in meeting their fertilizer requirements. However, going into the 1975 crop year, fertilizer inventories were much lower than they were a year earlier, thus putting even greater pressure and importance on U.S. fertilizer manufacturers producing at maximum levels throughout this 1975 crop and fertilizer year.

In view of the Ford administration's and the Federal Power Commission's refusal to cooperate in avoiding this fertilizer-food crisis, I hereby wish to provide every fertilizer dealer and farmer in this Nation with the addresses and telephone numbers of the White House and the Federal Power Commission, so all complaints registered next year regarding either the supply or price of fertilizer can be directed to their offices. The same applies to complaints received from consumers next year regarding continued shortages of food caused by lost farm production due to fertilizer shortages.

The telephone numbers and addresses of their offices are as follows:

The President of the United States, the White House, Washington, D.C., area code 202–456–1414.

The Honorable John N. Nassikas, Chairman, Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, area code 202–386–4513.

Those of us on the Senate Committee on Agriculture and Forestry have done everything within our power this past year to get fertilizer supplies up and prices paid for them down. We have held numerous hearings, passed two Senate resolutions, and have proposed a mandated natural gas priority relief system to maximize the production of these essential farm products.

Prices paid by farmers for fertilizer supplies since October 1973, have risen sharply—over 100 percent for nitrogen, in particular. USDA is now predicting that further price increases of between 10 and 15 percent can be expected during 1975—and that assumes near maximum production of these materials. However, natural gas curtailments of these plants will now push prices for these essential farm input supplies even higher due to further shortages caused by such curtailments. World demand for nitrogen fertilizer during this 1975 crop year is expected to increase by as much as 50 percent, adding further to price and supply problems regarding this material. The United States is now a net importer of nitrogen fertilizer due to our Nation's failure to expand production capacity to meet domestic requirements.

Any loss in existing production capacity now, will mean farmers will have less than needed fertilizer supplies next spring when they plant their 1975 crops. For every pound of lost fertilizer production now, we can expect a loss of from 7 to 10 pounds of food in 1975. That is the essence of what we as a Nation are now faced with concerning this situation. In my book, that is a bad tradeoff, especially when one considers the dangerously short supply situation we and the rest of the world are now faced with concerning food reserves.

Pork supplies available to the American public during 1975 are now forecast to be the lowest in 47 years. Poultry supplies are expected to be down over 10 percent in 1975 from what they were in 1974. Dairy farmers are now going out of business by the thousands due to increased operating costs, much of which is related to shortages of feed and the higher costs which accompany such shortages.

Carryover supplies of wheat next summer are again expected to remain at all time lows. Grain fed beef supplies are expected to be down by as much as 30 percent next year.

American consumers during 1974 are expected to pay almost $20 billion more for food than they paid in 1973. And unless we get substantial increases in 1975 harvests of wheat, soybeans, corn and other farm commodities, U.S. consumers may be faced with even further increases in their food expenditures during 1975 over that which they are paying this year, maybe by as much as another $20 billion or more.

The Ford administration, in cooperation with Congress, has within its power the means to help minimize such inflationary pressures. It can start, by insuring American farmers that U.S. fertilizer and farm chemical manufacturers will be able to produce at maximum production levels during at least the next 6 months.

Assuming near normal weather conditions next year, and assuming maximum production of fertilizer and farm chemical supplies, we could have expected bountiful crop harvests next summer and fall.

Unfortunately, this now appears unlikely due to the Ford administration and Federal Power Commission's refusal to cooperate regarding this vitally important national matter.

Therefore, they—and not this Congress—will have to answer for the food crisis that will now likely develop next year as a result of their decisions.

FAILURE TO CONSIDER S. 3267

Mr. MUSKIE. Mr. President, I am very disappointed that the Senate will not consider S. 3267, the Standby Energy Authorities Act, during this session. I am particularly distressed because the administration's intransigence has prevented a compromise on this bill.

I had planned to offer an amendment to S. 3267 which provides needed emergency financial assistance to families unable to afford the high price of fuel this winter. The amendment would have been identical in thrust to S. 4209, a bill I introduced earlier this month which has been cosponsored by 17 Senators.

Mr. President, the high cost of home heating fuel is a very real problem for low- and moderate-income families. Winter has already struck in many parts of the country. And people in many States are already struggling to keep warm.

Officials in my State have already reported that nearly 300 families have called them in the past 3 weeks in need of money to pay for fuel.

Mr. President, the inability to pay for heating fuel is a very human problem.

It is a retired woman in Portland, Maine, who recently wrote to tell me how difficult it was for her to afford to heat two rooms in her home and buy enough to eat on her monthly income of $132 from social security.

It is a pregnant mother in Maine with two children who seeks help from the State energy office because her $2,600 a year income does not allow enough to pay for fuel.

It is an unemployed worker in my State who needs heating oil now but cannot afford it—and does not qualify for any public assistance at all.

It is a disabled husband with a wife and four children who has no money at all to pay for heat.

These examples are not fantasies. They are actual cases handled by the energy office in Maine.

The problem of high fuel costs, however, is not restricted to one State or one region. Recently, my Subcommittee on Intergovernmental Relations surveyed the directors of State energy offices throughout the Nation.

While the results of that survey are not yet complete, one thing is clear—that most State energy officials believe the high price of fuel to be the most serious problem their States will face this winter.

Under the provisions of the amendment I had hoped to offer, the Federal Government would have assisted States that developed programs to provide heating assistance to families whose annual incomes are $8,000 or less. Funds would have been apportioned among the States according to the number of families in each State earning $8,000 or less and the State's relative temperature.

Mr. President, I am distressed that the administration's intransigence on the standby authorities bill has ended all hope that my proposal will be enacted in this session. I intend to reintroduce it when Congress returns next month.

OCCUPATION OF VACANT SUITES

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON, I ask unanimous consent that there be printed in the RECORD a letter dated December

18, 1974, written to all Senators by Mr. CANNON, calling attention to the need for quick decisions by Senators with respect to the occupation of vacant suites.

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

U.S. SENATE,
Washington, D.C., December 18, 1974.

Attention: Administrative Assistant.

DEAR ———: Since I wrote you on December 2 about the urgent need for quick decisions by Senators when their names are reached on the seniority list regarding whether they wish to move into the vacant suites, the Rules Committee staff has (as of yesterday) obtained decisions from 37 Senators, three of whom chose to move.

This represents excellent cooperation by the Senators concerned, but it is imperative that the process continue during the impending recess, even though Senators will be away from their offices.

I hope every Senator will direct his Administrative Assistant or other senior staff member present in the office to call the Senator by telephone to settle the question regarding a possible move when his name is reached on the seniority list.

The Rules Committee staff will notify each Senator's office at least a day or so before his name will probably be reached so that the Senator's staff can look over the then-existing vacancies to eliminate the ones least desirable to the Senator, thus making it easier for a quick decision to be made when the Senator's name comes up.

As I said in my earlier letter, eleven new Senators must be given temporary suites (effective January 3 in all cases except for those who are sworn in earlier because of resignation by incumbents). All eleven will work under difficult circumstances until the permanent assignment of suites can be completed.

We are making a strenuous effort to complete this process much earlier than has been the case in past years and if we are to succeed, the fullest cooperation by all Senators will be necessary. I earnestly hope that most Senators will find it possible to make the decision in an hour or so rather than taking the maximum twenty-four hours allotted for such decisions.

I suggest that before you leave for the recess you designate the staff member authorized to act for you, or to telephone you for your own decision, and ask him or her to telephone the Rules Committee staff at 224-6352 *NOW* to leave his or her name and office and home telephone numbers.

With all best wishes,
Sincerely,

HOWARD W. CANNON,
Chairman.

ADDITIONAL STATEMENTS

THE DEMOCRATIC PARTY CHARTER CONFERENCE

Mr. MONDALE. Mr. President, much has been written in recent days about the historic charter conference held by the Democratic Party recently in Kansas City. For the first time in American history, a major political party has adopted a set of rules and procedures to govern its affairs and thus pledged itself to abide by a rule of law.

This is a great achievement, in my judgment, and the entire Democratic Party is indebted to those who made it possible. That list includes Robert Strauss, the party's able national chairman, and it includes the two leading officers of the charter commission which debated, drafted, and finally proposed the final document, former Gov. Terry Sanford of North Carolina and Congresswoman YVONNE BRATHWAITE BURKE, of California.

There is one individual more responsible for the charter than anyone else, however, and I am very proud that he is my friend and colleague from Minnesota, Congressman DONALD M. FRASER.

For many years Congressman FRASER has devoted himself to the rule of law in the Democratic Party and he has worked tirelessly to bring it about.

At the 1972 Democratic National Convention in Miami Beach it was DON FRASER who introduced and saw enacted the resolution mandating the charter conference. For several years before that and ever since, it was DON FRASER who forced the Democratic Party to focus on its own structural weaknesses and the need to formalize its own rules and procedures. He encountered countless obstacles and substantial opposition throughout, but he never gave up his vision of a national Democratic Party in fact as well as in name. It was his persistence, his ability to persuade and when necessary to compromise, his long hours of tireless effort, and most of all his deeply rooted belief that the party should have established rules to guide it, that made the charter possible. Many people contributed to the effort, but without DON FRASER it never would have happened.

DON FRASER'S friends in Minnesota have come to expect this kind of thing of him and he is being increasingly recognized nationally in a similar way. To help further that recognition, I want to share with my colleagues a recent article on Congressman FRASER by Al Eisele of the St. Paul Pioneer Press which focuses on his activities on behalf of the Democratic charter. I ask unanimous consent, Mr. President, that the article be printed in the RECORD.

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

FRASER UNSUNG HERO BEHIND REFORM

(By Al Eisele)

WASHINGTON.—Early on the morning of July 13, 1972, as the rays of the rising sun reflected off the Atlantic Ocean, a bleary-eyed Rep. Donald Fraser emerged from his room at the Fountainebleau Hotel in Miami Beach clutching a sheaf of papers.

The papers were the result of an all-night literary effort by the soft spoken Minnesota Democrat, who had been directed by the Rules Committee of the 1972 Democratic National Convention to draft a compromise resolution calling for further study of a proposal to remodel the party's structure.

Fraser's resolution called for changing the composition of the Democratic National Committee, creating a special commission to draft a new party charter and convening a 1974 conference to adopt that charter.

The resolution was adopted by the convention that night, setting the stage for last weekend's historic charter conference at Kansas City at which the party finally adopted its first charter.

The fact that it did so, and that it did it in a spirit of relative harmony despite the bitter controversy that surrounded portions of the charter, was due as much to Fraser as any other individual.

For most of his 12 years in Congress, and particularly since Jan. 7, 1971, when he succeeded Sen. George McGovern, D-S.D., as chairman of the Democratic Commission on Party Structure and Delegate Selection, the 50-year-old Minneapolis congressman has tried to encourage institutional stability in the affairs of government.

Fraser's contributions to party reform were recognized last week by the Kansas City Star, which called him one of the strongest intellectuals in the House and "the major spokesman for the reform element" in the party.

Fraser himself traces his interest in reforming the processes of government to the progressive traditions of the Minnesota Democratic-Farmer Labor party—which he considers a model for the national Democratic party—and to his work on the House Foreign Affairs committee.

"One of the subjects that has been my principal interest in the last 10 or 12 years is that of political development of countries," Fraser said.

"I've been particularly interested in the way in which countries gain, over a period of time, the capacity to achieve self-government and to develop stable institutions, both in regard to their political parties and the institutions that make a country governable," he added.

In fact, Fraser was among the architects of the foreign aid bill passed by the House last week which, among other things, penalizes Turkey for its conduct in Cyprus and South Korea for its repressive human rights policies by withholding military and economic aid.

Like much of Fraser's work in the House, his involvement in foreign aid issues is not highly visible, nor politically profitable. But he considers it one of the burning moral issues of our time, with deep significance to the U.S. and the rest of the world.

By continuing to give military and economic assistance to dictatorships and repressive regimes, Fraser contends that the U.S. is giving the lie to its own foreign policy.

As he explained several years ago while urging the House to vote against supporting the military dictatorship then in power in Greece. "We claim we're fighting in South Vietnam for self-determination, and in Greece we continue to give aid to a regime that has destroyed democracy in its birthplace and denied self-determination to its people."

His belief in the concepts of democracy and self-determination are precisely why Fraser has pushed so hard for reforming the structure of his own party.

The Democratic party's new charter is important, Fraser feels, because for the first time "it puts down on paper the basic framework for a national party so that people reading it can understand what it is, what it stands for, and how to participate in its affairs."

Even more important, he believes, is the fact that the charter "carries forward and gives a definable legal status to the basic reforms we've made in the last six years so that we don't have to reenact them every four years."

Fraser was pleased that the Kansas City conference saw fit to endorse two of his specific ideas in the new charter, including creation of a judicial council to review state party plans for selecting delegates to national conventions, and the creation of a national education and training council for the party.

In fact, he makes it clear he would be more than willing to serve as chairman of one of the eight members of the council, which is charged with developing education and training programs to further the party's objectives.

Even though the charter conference refused to make the mid-term conferences mandatory in the future, Fraser believes the narrow vote by which the issue was decided "shows enough support for the idea so that the question is not whether we will hold them again but what kind they will be."

It was not entirely coincidential that the far-reaching reforms ordered by the Democratic party last week came at almost the same time that the House instituted major changes in its power structure through a weakening of the seniority-controlled committee assignment system.

As chairman of the liberal-oriented Democratic study group, a coalition of reform-minded House members, from 1969–1971, Fraser was credited with providing much of the brainpower and organizational skills.

Fraser, whose past achievements and ability to balance his liberal ideology with political savvy have caused some people to suggest that he and not Rep. Morris Udall, D-Ariz., should be running for the 1976 Democratic presidential nomination, is normally the last person to blow his own horn.

But last week, as he savored the sweet taste of success from Kansas City, he allowed himself a rare bit of self-congratulation.

"I feel good about the way things worked out at Kansas City," he said in response to a question, "because I think that if I hadn't pushed for the charter as hard as I did, it wouldn't have happened."

LAWS AND THE ECONOMY

Mr. FANNIN. Mr. President, our country is facing severe economic problems and the future is very cloudy. The tragedy is that a good part of our economic woes are a result of unwise actions taken by Congress in recent years. It is even more tragic that laws and policies dictated by Congress stand in the way of curing our economic ills and providing a bright future.

One of the causes of our economic problems and perhaps the largest single blockade to rescue is the web of the environmental bureaucracy created by Congress.

Environmental protection is a noble cause, and one which should be pursued, but not at the cost of impoverishing or retarding our society.

Last Friday the Phoenix Gazette ran an editorial which declared that the time has come "to get the environmentalists off the back of America's staggering economy." The Wall Street Journal yesterday carried an article by Irving Kristol pointing out that environmental fanaticism is rampant. Mr. Kristol suggests the environmental movement will self-destruct, but I fear that it will destroy freedom and perhaps the United States in the process.

Mr. President, the strip mining bill passed by the Senate this week is another example of unrealistic legislation which will put a major crimp in our already inadequate energy supply system. It is not practical; it is the kind of ideological fanaticism that Mr. Kristol warns about.

Congress must start to worry about economic impact as well as environmental impact. It is time to begin giving consideration to the needs of people in today's world.

Mr. President, I ask unanimous consent that the excellent editorial from the Phoenix Gazette and the article from the Wall Streeet Journal be printed in the RECORD for the benefit of my colleagues who are concerned about the future of our country.

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

[From the Phoenix Gazette, Dec. 13, 1974]

LET'S BE PRACTICAL

It is high time to get the environmentalists off the back of America's staggering economy.

A significant part of the nation's recession woes can be traced to the ecology movement in the last several years. A proper concern with pollution has gone to extremes, fastening unreasonable deadlines and unrealistic costs on industry—snarling production in red tape, destroying jobs and driving up prices beyond the reach of consumers. The depressed auto industry provides the classic example.

In Arizona, the dire consequences of devoting all concern to environmental impact and none to economic impact is cropping up in one of our backbone industries, copper.

In the last seven years, copper industries in this state have spent or committed themselves to spend some $461 million to clean up the emissions from their smelters. Under pressure from the environmentalists, they have been compelled to act before the technology and the equipment for capturing air pollutants have become available. As a resula, a lot of this money has been wasted, and the economic viability of this vital enterprise has been jeopardized.

No relief is in sight. On the contrary, the copper industry in Arizona faces added troubles from the ecology forces. The Environmental Protection Agency has turned down Arizona's own air cleanup program and is in the process of writing its own regulations for the state. They are to be published within the next month.

Meanwhile, the copper industry is endeavoring to comply with the state air cleanup program. Phelps Dodge Corp., for example, is under orders from the State Air Pollution Control Board to cut back production at its Douglas smelter 42 per cent by Aug. 31. Obviously, any such cutback would have a devastating effect that would be felt throughout the entire economy of the state. Phelps-Dodge officials hope to be able to make production adjustments so that it can meet ambient air standards without such a drastic cutback. These hopes may be dashed by the new EPA regulations.

All this is not meant to suggest that environmental cleanup is not a worthy objective. Quite the contrary, it is a matter for real concern and practical action.

But the accent needs to be put on "practical." This means a better balancing of environmental considerations with economic considerations. It makes no sense to try to clean up the air and water at the price of bankruptcy—which is what the environmental extremists are threatening to do.

The new Congress should move forthwith to see that this balancing of considerations is brought about.

[From the Wall Street Journal, Dec. 16, 1974]

THE ENVIRONMENTALIST CRUSADE

(By Irving Kristol)

There is in the United States a tradition of evangelical reform that has no exact counterpart in any other nation. It emerges, one assumes, from our Protestant origins, with its conception of this new nation as being "a city upon a hill," "a light unto the nations"—in short, as properly striving for and being able to achieve a degree of perfection that is beyond the reach of less blessed peoples elsewhere. All of us, for the most part without even realizing it, subscribe to this American dogma—which is why we constantly find ourselves being enlisted into movements of enthusiastic reformation.

In some respects, this reform impulse is one of our glories. It gives American politics a permanent moral dimension and moral thrust that is entirely proper to a democratic republic, one of whose major functions must be to ennoble the common men and women we all most certainly are. But it has its dangers, too. It is so easy to move from the moral to the moralistic, from a concern for what is right to a passionate self-righteousness, from a desire to improve our social reality to a blind and mindless assault against the real world which so stubbornly fails to conform to our ideological preconceptions. In short, the great temptation which all American reform movements experience is to become a crusade. It is a temptation, alas, that the reform impulse will frequently succumb to, with all the disagreeable results that have always attended upon crusades.

The antislavery movement before the Civil War and the temperance movement before World War I are two examples of reform movements which degenerated into crusades. Both addressed themselves, with commendable fervor, to very real evils: slavery (about which nothing need be said) and working-class alcoholism (whose ravages, we forget, were far more devastating than those of drugs today). Both, in time, permitted their moralistic enthusiasm to overwhelm all prudential judgment, so that both the abolitionist crusade and the prohibitionist crusade ended up by alienating public opinion, despite all sorts of legalistic victories they could proudly point to. And it can be said that their "final solutions"—the Civil War perhaps, the 18th Amendment most certainly—created at least as many problems as they solved.

A SERIOUS DANGER

Is the environmentalist movement now in danger of being transformed into such an immoderate and ultimately self-defeating crusade? It certainly is a reform movement which began with a massive reservoir of public sympathy, since there is no doubt that a competitive economic system does create noxious "externalities"—general effects on our lives that are beyond the purview or control of any single enterprise, since an effort by any single enterprise to take them into account would put it at an immense competitive disadvantage. The only way to cope with such "externalities" is by legislation and regulation, and there can be little question that the public has been, and to a goodly extent still is, supportive of such efforts. But there is now considerable evidence that the environmentalist movement has lost its self-control—or, to put it bluntly, is becoming an exercise in ideological fanaticism. It is mindlessly trying to impose its will—sometimes in utterly absurd and self-contradictory ways, and very often in unreasonable ways—on a reality that is always recalcitrant to any such imposition, by anyone. And it is not too hard to predict that, as this becomes more widely perceived, public opinion will become rapidly less amiable.

Nothing, I think, illustrates so nicely the kind of historical blind alley that environmental extremism seems headed for than the way in which the Environmental Protection Agency has involved itself in urban planning. Because urban sprawl involves extensive use of the automobile, and because air pollution can then become a serious problem (as in Southern California), the EPA is trying to discourage extensive, low-density suburban and exurban development. Well, that's reasonable enough—though even here there are difficulties.

The difficulties arise because EPA does not concern itself merely with those areas of the nation where the air is polluted, or on the verge of being polluted, or in striking distance of being polluted, but also with those areas where air pollution is, in the judgment of the average citizen, or even of EPA's own scientists, still far below acceptable levels. In these other areas, the EPA proceeds as if its mission were, not to protect Americans from dirty air, but to protect clean air from

Americans. Most of us, not being air-worshippers, are bound to regard this order of priorities as more than a little odd. We all like the air to be cleaner rather than dirtier, but very few of us really want to define our individual lives or our national purpose in terms of achieving the greatest possible air purity, regardless of cost or consequence. Such an idea does seem to verge on the fanatical.

Still, in view of the air-pollution problems that do exist, and of our hitherto neglectful attitude toward them, one might put a benign interpretation on EPA's single-minded enthusiasm. After all, sometimes one does initially need such enthusiasm to get things moving at all. But any such benign interpretation is soon put to the test by the fact that EPA seems not only to be opposed to urban sprawl—it appears also to be opposed to urban concentration as well! For urban concentration, though it may minimize the individual's use of his particular automobile, does produce a large concentration of automobiles and trucks, which in sum do create some degree of air pollution. So EPA is now insisting that it have the right of approval and disapproval over the construction of inner-city convention centers, cultural centers, shopping centers, department stores, parking lots, amusement parks, housing projects, industrial parks, etc. And it is being very grudging in its approvals, highly peremptory in its disapprovals.

Now, this is really bizarre. It is bizarre, to begin with, in that Congress, when it established the EPA, and public opinion when it supported this reform, certainly never intended to give a handful of bureaucrats such immense powers. If the EPA's conception of its mission is permitted to stand, it will be the single most powerful branch of government, having far greater direct control over our individual lives than Congress, or the Executive, or state and local government. No one ever contemplated such a situation, nor are the American people likely to permit it to endure. Clean air is a good thing—but so is liberty, and so is democracy, and so are many other things.

What makes the situation even more bizarre is that this bureaucratic usurpation of power is wedded to an utterly irresponsible use of such power. Here, in New York City, a low-income housing project was delayed for months—and finally had to be expensively redesignated—because the EPA perceived a threat of "noise pollution." Noise pollution in a New York slum! People are being mugged right and left, children are being bitten by rats, junkies are ripping out the plumbing of decaying tenements—and the EPA is worried about noise pollution! These same EPA officials, of course, go home at night and tranquilly observe their children doing their homework to the accompaniment of thumping, blaring rock-and-roll music. And if the neighbors should complain, they get very testy.

A MAJOR OBSTACLE

The EPA has now become a major obstacle to the redevelopment of the inner city. It has become a major obstacle to the development of new suburban communities. Indeed, it seems to be spending much of its time and energy figuring out how to be an obstacle to practically anything that Americans want to do. What was in its origins a movement for environmental temperance has become a crusade for environmental prohibition. It should take some time before Congress and the American people decide to call an end to this crusade—just as it took some time to repeal the 18th Amendment. Nevertheless, it is only a matter of time.

But the area of urban and suburban planning is only one instance of environmentalist crusaders rushing in where more reasonable men would tread more warily. In just about every aspect of American life, the environmentalists are imposing their regulations with all the indiscriminate enthusiasm of Carrie Nation swinging a baseball bat in a saloon. Common sense seems to have gone by the board, as has any notion that it is the responsibility of regulators and reformers to estimate the costs and benefits of their action.

Thus, we all agree that the United States needs desperately to increase its domestic oil production. Geologists tell us that offshore drilling along the Atlantic seaboard offers us the best—perhaps the only—opportunity to achieve this aim. The enviromentalists promptly declare themselves as adamantly opposed to any such enterprise. Why? Well, there is always the possibility that one of these offshore wells will malfunction, the oil will mix with the waters of the Atlantic Ocean, and many fish will then come to an untimely end. With all due respect to the natural rights of our fellow creatures of the deep, this verges on madness. After all, the high cost of oil is resulting in millions of Americans losing their jobs. Is such "unemployment pollution"—already a fact, not a mere prospect—really more tolerable than the risk of increasing the mortality rate among the fish of the Atlantic Ocean? It is interesting to note that such nations as Britain and Norway, which do not have our tradition of evangelical reform, have no compunctions about offshore drilling. Precautions against environmental dangers are taken; but the drilling gets done. Do we really think that Britain and Norway are more barbarous than we are? Or are they merely being more sensible?

Or take the case of the strip-mining of coal. We have enormous reserves of coal which can substitute for oil, and which can be strip-mined easily, cheaply, and safely. That last feature of strip-mining—the fact that far fewer miners get injured or killed in the process—might seem to be a mighty argument in its favor. We are so concerned about miners' safety that we have just enacted complicated (and expensive) rules and regulations governing deep-pit mining. Good—so strip-mining should be the preferred alternative. But no: our environmentalists want to prohibit strip-mining altogether. Why? Because it defaces the landscape, at least temporarily. The question then naturally arises: what price do we wish to pay to avoid a temporary disfigurement of the landscape? But it is forbidden to raise this question and the environmentalists will not even discuss it. Indeed, anyone who does raise it will quickly find himself being excoriated and slandered as an unprincipled enemy of the true, the good, the beautiful.

RECALLING AUDEN

In one of his last poems, the late W. H. Auden wrote:

"Nothing can be loved too much,
but all things can be loved
in the wrong way."

One wishes our more rabid environmentalists would take these lines to heart. They might then reconsider their crusade, which has by now gone beyond the limits of even the purest reason. Making the world safe for the environment is not the same thing as making the environment safe for our world.

SUPPORT FOR S. 3377, UNIFORM TEST PROTOCOLS FOR CONSUMER PRODUCTS

Mr. MOSS. Mr. President on April 24, 1974, my colleague from Washington (Mr. MAGNUSON) and I proposed S. 3377, a bill to regulate commerce by establishing uniform test protocols for consumer products. This legislation would provide consumers with a simple, but meaningful source of information which would objectively compare competing products.

Under the scheme outlined in this bill, the Federal Trade Commission, utilizing the resources of the National Bureau of Standards, would develop, propose, and promulgate objective product testing protocols for classes of consumer products. The testing protocols would be designed to measure the performance characteristics of the product and translate that performance into easily comparable terms.

In an address before the annual meeting of the antitrust law section of the American Bar Association, Chairman Lewis A. Engman of the Federal Trade Commission spoke of this legislation. He stated:

Just as there was a need for weights and measures laws to provide consumers a common reference point, there is a need in the current marketplace of more sophisticated products for standardized reference terms to describe what advertising copy sometimes obscures. This, for example, is what the Commission's rule on the power output of hi-fi amplifiers is all about.

Chairman Engman proceeds to endorse the purposes of S. 3377 and indicates that he believes it would provide a helpful spur to the forces of healthy competition. Needless to say, the anti-inflationary impact of such a program is clear.

Mr. President, I ask unanimous consent that the address of Mr. Engman be printed in the RECORD.

ADDRESS

(By Lewis A. Engman, Chairman, Federal Trade Commission)

For years, economists and antitrust lawyers have debated the effect of advertising on competition.

It has not been an idle discussion.

Last year, American business spent $25 billion on advertising. That's a lot of copy, a lot of air time, a lot of information and a good deal of persuading—enough, I submit, to warrant careful examination of its consequences.

Those who have examined the matter tend to divide into two schools of thought. One holds that advertising is anti-competitive; that it builds durable brand preferences which act as barriers to potential new entrants; and that, by differentiating otherwise homogeneous products, it creates self-perpetuating market power which confers the ability to raise prices.

Proponents of the opposing view argue that advertising is the agent through which new brands become known; that it is, therefore, an avenue of access for new entries, and that it provides the marketplace with information the consumer must have to make a rational choice among competing products. In other words, that advertising is a battering ram rather than a barrier.

There are some impressive studies that support the latter view.

One study compared prices of eyeglasses in states which permit advertising to prices in states where advertising is forbidden. You will not be astounded to learn that eyeglasses were 25% to 100% more expensive in states where sellers were not permitted to advertise.

Another study examined the effect of television advertising on the price of toys. Prior to the use of television advertising, the average toy with a list price of $5 tended to retail for pennies under that amount. After manufacturers began to advertise on television, the actual sales price of the $5 list price toy fell

to an average of $3.49. Most telling was the fact that in those cities where there was no television advertising, prices did not fall at all.

In these two instances, price advertising clearly had procompetitive consequences. But it is a giant, economy-size jump from those findings to the general conclusion that all advertising aids competition.

Advertising—and I am using the term "advertising" in its broadest sense to include labeling and other point of sale information—conveys many kinds of information, of which price information is only on. Other information deals with quality, durability, utility and style and stretches across a wide spectrum of subjectivity and substantiability. Some advertising appears to have little or no informational content other than that the manufacturer exists and that its product, the desirability of which is suggested, is available.

Since advertising's competitive consequences flow from its provision of information and the character of that information varies so greatly, the relevant question may not be whether advertising is pro-competitive or anti-competitive, but what kinds of advertising are pro-competitive and what kinds are not.

We can begin by establishing that opposite effects exist at the extremes.

One extreme is the "perfect" market situation in which products are fungible—or nearly so—and all consumers have equal access to all producers. Under these circumstances, accurate information regarding quantity and price unquestionably will be pro-competitive.

At the opposite extreme is false advertising superimposed upon all the inertial characteristics of an imperfect market. In this situation, the effect of misleading information conveyed by advertising probably would be anti-competitive.

But what of the area in between—the real world. There, things are not so clear.

To determine advertising's consequences in this area, I think it is useful to back off from the antitrust lawyer's traditional preoccupation with competition and to look for a moment at why we are concerned with whether advertising contributes to it or detracts from it. Why—in other words—is competition desirable?

We care about competition because we expect it to produce a higher level of consumer satisfaction than any other state of affairs. Through competition we expect to achieve quality responsive to consumer wants at minimum prices along with a sustained high level of economic activity.

But because economic theory binds the means (competition) and the end (low prices, high quality and a high level of economic activity) so tightly in a causal relationship, we tend to measure only the causal factor—in other words, to focus on the means rather than the desired end.

In a perfect market, this tendency would be reasonable. But the perfect market is a fiction, an academic tool—it exists rarely, if ever, in the real world. We must ask ourselves, therefore, not just the abstract question whether advertising promotes competition, but whether it furthers our ultimate social and economic goals.

I submit that some does, and some does not.

This is because advertising does not always provide all relevant information useful to an intelligent consumer in order to make a rational choice.

There are those who take issue with that statement. They argue that the content of ads accurately reflects the consumer's own priorities.

They argue that the consumer gets what he wants and, presumably, what he deserves. This is a nice theory—but, as with most theories, it is also a nice oversimplification.

There is, of course, good reason to believe that—as a general rule—market forces themselves produce roughly the right kind and right amount of information. Indeed, information itself may be seen as an economic good that will respond to forces of supply and demand and that involves costs to produce. But it does not follow that market forces alone produce optional information. The general rule has its exceptions.

Sometimes the consumer is provided not with the information he wants but only with the information the seller wants him to have.

Sellers, for instance, are not inclined to advertise negative aspects of their products even though those aspects may be of primary concern to the consumer, particularly if they involve considerations of health or safety.

You might sell seven lean years to a pharaoh if you never mention hunger.

That should be fairly obvious.

What is not so obvious is that there are other circumstances under which sellers do not always provide consumers with relevant information.

One is that in which the "free rider" principle is operative—that is, where some significant portion of the resultant sales would accrue to competitors. A manufacturer with backlogged orders will not be interested in spending money to advertise if he knows that most of the demand he creates may be filled by competitors who have idle capacity.

Information shortfall also occurs where laws or agreements limit the amounts or kinds of information in the market.

For example, doctors, lawyers, pharmacists and funeral directors for many years have maintained conspiracies of silence about fees. In some cases, the assistance of the state has been obtained to suppress this information. When a consumer is sick, in trouble with the law or disposing of a relative's remains, he is in no frame of mind to shop around. And yet, that is what he currently is required to do if he wants to compare prices.

Finally, there are situations where information may be available, but it gets lost in translation where different words are used to describe the same characteristic and the terms employed have no fixed meaning. The lack of usable information regarding price and quality reduces the likelihood for informed consumer choices among available alternatives.

I see little or no justification for withholding accurate price and quality information from the marketplace.

We have many laws to protect the consumer from errors of fact in advertising. But we have few laws to protect him from errors of omission, from what he isn't told at all.

What then are the consequences of the fact that advertising provides the market with only selective information?

The result is that the ability of the consumer to elicit higher quality and lower prices through the exercise of his purchasing discretion is diminished.

Now this may not be anti-competitive behavior in the narrow sense that we antitrust lawyers use the words. But certainly its consequences are not much different.

The distinction between higher prices and lower quality resulting from competitive abuses and higher prices and lower quality resulting from inadequate market information is, I submit, a distinction between means rather than ends and probably of little interest to anyone but lawyers.

Assuming an imperfect market producing imperfect results, what can—and should—the government do to insure that advertising does contain the kind of information that will produce the social and economic benefits attributed to competition by economic theory?

It is a very complex problem. There are so many possible combinations of products, industries and advertising techniques that it may be impossible to develop regulatory rules of thumb which address themselves to all cases without working grave injustices on the exceptions.

But there are some approaches which I believe ought to be considered. Some in fact have already been implemented on a modest scale.

These approaches are consistent with the view that advertsing is pro-competitive when it provides the consumer with useful information. They are consistent with the limited competence of government to act in this area. And they are consistent with my personal philosophy that there is no more efficient and beneficial allocator of resources than an unencumbered market fueled by the free flow of information.

The direct approach is for the government to elicit information from advertisers, at least in those situations where the market has not produced full information on its own.

This can be done in any of several ways, depending on the particular informational deficiency that is identified.

The government, for example, can act as a pump primer by developing and disseminating information that market forces seem unlikely to produce. This, as you will recognize, is not an entirely new concept. The government already provides some information on gas mileage of automobiles and on the tar and nicotine content of cigarettes. Non-governmental interest groups have also provided information on other features such as the nutritional value of foods.

I emphasize that the market itself provides a check on the validity of this form of government activity.

If there is public demand for the information provided by the government, producers will feel pressured to provide it themselves as soon as the public comes to expect it. That is the pattern we have already seen. The government's role need not be lingering in any single industry. It could move in where problems appear, prime the information pump, and move on.

Information could also be made available by requiring manufacturers to provide information about their products or services which the government would then publish.

Another alternative, which I have mentioned on other occasions and which I tend to favor, is to compel companies to disclose key information to the public directly. This has been the approach in connection with the Commission's trade regulation rule on posting octane numbers and with its proposed rule on vocational schools, announced last week. It is the approach of the Truth in Lending Act, and it is the approach to be found in many Commission cease and desist orders.

As I noted earlier, however, none of this information will be of full benefit to the consumer unless it is in a form which permits him to make direct product-to-product comparisons.

There is also a need, therefore, to make available standardized terms describing performance characteristics. This is the second basic approach available to government to cure the problem of imperfect information in advertising.

Assuring standardized terms of reference in the marketplace has been a proper and important function of government at least since the Middle Ages.

Prior to the passage of the Fair Packaging and Labeling Act, for example, we had giant, economy-size quarts in the corner grocery store. And prior to comprehensive state weights and measures legislation, we had large-scale confusion regarding basic measurement units.

Just as there was a need for weights and measures laws to provide consumers a common reference point, there is a need in the current marketplace of more sophisticated products for standardized reference terms to describe what advertising copy sometimes obscures. This, for example, is what the Com-

mission's rule on the power output of hi-fi amplifiers is all about.

In this regard, I am personally intrigued with and very sympathetic to the best protocol approach taken by Senator Magnuson in S. 3377, the recently introduced "Consumer Protection Product Testing Uniformity" bill. I suggest that this kind of approach could provide a helpful spur to the forces of healthy competition.

I recognize that these suggestions are not problem free.

If the government is to supply or elicit information, it must confront the problem of isolating the qualities to be measured.

There will also be the problem of establishing fair testing procedures.

But the question is not whether there would be problems, but whether the problems would be greater than those presented by the alternatives.

Before I sit down, let me just take a moment to meet the anticipated charge that some of my suggestions may constitute just one more instance of the government's meddling with our free enterprise system.

I believe, as I have said earlier, in free markets and in competition.

Too often, however, free market economists make the mistake of assuming free markets and competition to be a natural state of affairs. The corollary of this assumption is that any injection of the government into the marketplace is a move away from free markets and from competition.

I just don't believe that.

As I pointed out earlier, there are instances when market forces do not produce the optimal amount or kind of information. The free rider problem, legal restrictions against price advertising and non-comparable terminology are only a few examples of this.

Government action in these instances could well improve the operation of the market and improve the economic welfare of consumers, which, after all, is the ultimate goal of our competitive system.

It is, in short, a mistake to assume that—in 1974—the untended market always produces the "best" result.

There is a vast difference between the marketplace that exists now and that which exists on the pages of Adam Smith's "The Wealth of Nations." Products are not made locally so that a purchaser cannot rely on his own personal experience with the craftsmen. More effective advertising is shaping the consumer's choice regardless of the intrinsic merit of the product. And today's government policies must cope with those changes if Adam Smith's objectives—that is, an efficient marketplace and low prices—are to be achieved.

The options for a selective and limited governmental role which I have raised would neither reduce competition nor diminish freedom in the marketplace. On the contrary, they would shore them up with an injection of a most vital component—information.

It seems to me an anomaly that in an age which prides itself on the progress it has made in gathering and disseminating information we should find that the impact of this progress in the commercial world has been confined largely with improving the technology of communication and not with improving the value of what is being communicated.

I cannot prove it, but I sense that this continuing contradiction between dazzling technological capability and dismaying substantive communication is one reason for the dissatisfaction with advertising and big business which keeps registering in the public opinion polls.

My instincts tell me that the contradiction is building consumer frustration. People fully realize that national advertisers have at their disposal the most effective communications tools ever created. So why don't they use them to provide useful, straightforward product information?

If you cherish the free enterprise system as much as I do, you ought to ask yourselves the same question. And you should give some thought as to how we can remedy this situation to the benefit of that system and to the people.

SENATOR WILLIAM L. SCOTT REPORTS

Mr. WILLIAM L. SCOTT. Mr. President, I have just completed a newsletter reporting to citizens of Virginia on Senate activities. This is the last report to constituents from our office for this year, and I ask unanimous consent that it be printed in the RECORD for the information of my colleagues.

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

BILL SCOTT REPORTS

LESS REGULATION, MORE PRODUCTIVITY

Your views are being requested in the questionnaire on page 3 regarding government spending, energy, international relations and health care. These of course are related to another major concern, the economy, and your comments of course are welcome on this or any other matter.

International conferences appear to be commonplace today and may well contribute to world peace. However, it may be that we are not giving sufficient emphasis to domestic matters. In my opinion, a strong American economy and defense posture will place our government in a much better bargaining position with other nations and should be of primary concern to the Administration and the Congress.

Our staff is searching for ways by which the business sector of the economy can be encouraged to expand its inventories and increase its productivity. This appears to be preferable to more government spending and more government regulation of the economy. In fact some of our laws and regulations relating to the environment, health and safety, as important as these matters are, appear to unreasonably restrict business activity. Government spending may result in competition with business for available funds.

In my opinion it is important that we make every reasonable effort to provide the economic climate necessary for private enterprise to employ more people, produce more, retain our standard of living, and to promote the further economic growth necessary for a health economy.

President Ford, in a recent economic message to the Congress, has suggested a reexamination of the regulatory process and the elimination of government rules and regulations that tend to increase the product cost to the consumer without serving the general public interest. The Senate Government Operations Committee has held hearings on methods of increasing productivity and for reforming the regulatory process. These appear to be highly desirable because if the economy is in a straitjacket, it will not be able to function properly.

SURFACE MINING

Congress recently passed a bill to regulate the surface coal mining. Of course we are concerned about preservation of the environment, prevention of water pollution, surface erosion, siltation of streams, and loss of fish and wildlife. Yet, coal is still our leading source of energy and use of this abundant supply is vital to our economy. The unsettled situation among the oil producing nations of the Middle East makes its use even more critical. I am concerned that this legislation will reduce coal production and result in loss of jobs (several thousand in Virginia alone) at a time when there is a shortage of energy and unemployment is becoming an increasingly serious problem. It seems reasonable to continue surface mining and protect the environment at the same time without severe federal restraints. The President apparently agrees, and it is expected he will veto this bill.

PAPERWORK BURDEN

As you know, concern has been expressed by businessmen and others over the numerous forms and questionnaires that have to be filled out to comply with government laws and regulations. The General Accounting Office recently estimated the cost to the federal government for paperwork to be in excess of $15 billion annually. A report of the Senate Select Committee on Small Business indicates that private business spends another $20–25 billion each year to meet the government's paperwork requirements.

The result is not only a drain on the national budget but a burden on businessmen. While studies over the years have recommended various courses of action to reduce paperwork, little progress appears to have been made. In an effort to be helpful, twenty-five Senators joined me in writing to the President about this matter and urging him to take administrative action to relieve the situation.

As a precedent the letter cited action taken by President Nixon a few years ago which resulted in a saving of approximately $270 million to the government and of course, a vast amount of time to the businessman.

The business community frequently expresses concern about the government paperwork and it seems reasonable that we take action not only to prevent its further increase but to reduce the present burden.

200-MILE FISHING RESTRICTION

After consideration by three committees of the Senate, a bill was approved to extend the jurisdiction of the United States over fishing within a 200-nautical mile zone and over some fish beyond this limit to conserve and protect them from depletion. While substantially all Senators agreed with the purpose of the bill, there were some who wanted to wait further for an international agreement, and some warned of the danger of attempting to unilaterally enforce the 200-mile limit.

However, despite the existence of 22 international fishing agreements and a pending Law of the Sea international agreement pertaining to coastal fishing, the majority believed the need to save the dwindling stocks of haddock, herring, menhaden, flounder and halibut was essential.

It was reported that 131 Russian fishing vessels, some of them "factory" ships, were operating off our Atlantic coast, which resulted in our fishing vessels' share of the total catch declining to less than 50 percent. With management authority exercised out to 200 miles, the Senate felt that the U.S. would be able to maintain healthy and abundant fishery stocks and a viable coastal fishing industry.

SENATE OFFICE FUNDS

Our Senate office is allotted $35,616 for various expenses including transportation, telephone, telegraph, postage stamps, expenses of the state office, and a wide assortment of office materials including stationery, typewriter ribbons, carbon paper, etc.

A report from the Senate Finance Office for the first 11 months of the year indicates we have spent $9,849.08 and have a surplus remaining of $25,766.92. Therefore the unused portion of these funds will be turned back to the treasury at the end of the year.

YOUR OPINION, PLEASE

Each year since coming to the Congress I have requested the opinion of constituents on various issues confronting the country.

Your response to the following multiple choice questions would be helpful in properly representing you. They are necessarily broad in scope but I believe when all answers have been tabulated I will have the general feeling of the people of Virginia. Of course I would like you to continue to share your thoughts with me in any manner you choose, and the questionnaire is not a substitute for personal correspondence. More than one answer to a question may be made if it seems appropriate.

Should the federal government spend more or less or about the same in the following fields?

(NOTE: The answer to the following questions is "more," "less," or "same.")

1. National defense.
2. Space exploration.
3. Energy research and development.
4. Veterans benefits.
5. Foreign economic aid.
6. Foreign military aid.
7. Social and welfare programs.
8. Other: ——.

Which of the following would you prefer in our relations with communist nations?

1. Concentrate on domestic matters and leave the communists alone.
2. Maintain a strong national defense and make no effort to obtain treaties with communist nations.
3. Endeavor to limit military forces by agreement with the communists.
4. Expand our trade with communist nations.
5. Exchange space technology and conduct joint explorations.
6. Help communist nations develop their industrial capacity in such fields as energy resources, modern factories, and computer technology.
7. Help communist nations develop capacity to feed themselves.
8. Endeavor to develop more friendly relations with communist nations.
9. Other: ——.

Which of the following energy policies do you consider best?

1. Unregulated private enterprise.
2. Government assistance and encouragement of development of existing and new sources of energy.
3. Relaxation of anti-pollution standards to encourage development of additional energy.
4. Wiser use of existing energy.
5. Rationing of energy.
6. Nationalization of coal mines, oil wells, and other sources of energy.
7. Other: ——.

Which of the following approaches to health care would you prefer?

1. Present voluntary health protection under private insurance plans.
2. Encourage the training of additional people to become physicians and nurses.
3. Provide government financed catastrophic illness protection.
4. Tax credit plans for medical care with government subsidies to low income people.
5. Government financed medical care for everyone.
6. Other: ——.

Return to Senator William L. Scott, Senate Office Bldg., Washington, D.C. 20510.

ARMS LIMITATION

As you know, President Ford on his recent trip to Russia concluded a preliminary agreement with the Russian Government whereby both parties agree to further negotiate nuclear weapon limitations. Future discussions will be based on the following principles: (1) a limit of 2,400 on the total number of strategic missiles and bombers and (2) a limit of 1,320 on the number of missiles which can be armed with multiple warheads.

There has been some criticism of the proposed agreement, and concern about placing a limit on the number of warheads each missile can carry. Without such a limitation it is said the Russians may have an advantage because of their larger missiles. Critics have also questioned the fact that the proposed agreement goes only to arms limitations rather than an arms reduction and as a result no actual reduction in our defense budget can be expected.

The final agreement still has to be worked out and the Congress will have the opportunity to consider its provisions when submitted for ratification. It is not expected that the complete agreement will be ready for consideration by Congress until the middle of next year.

ROCKEFELLER NOMINATION

In our last newsletter the nomination, under the 25th Amendment, of Nelson Rockefeller to be Vice President was dicussed. It was pointed out that congressional action on this nomination was a substitute for the general electoral process and your views on the nomination were requested. This resulted in a considerable amount of mail, more than three-fourths of which was in opposition to Mr. Rockefeller's confirmation. In conformity with these views, I asked the President to withdraw the Rockefeller nomination and spoke against confirmation when the matter was before the Senate. A copy of these remarks is available upon request.

TRADE REFORM

A trade reform measure has been under consideration by the Congress for about a year and at this writing is in conference, having passed both Houses of the Congress. The bill was considered necessary because of the decline of export trade that has contributed to a deficit in our trade balance.

This measure increases the authority of the President to negotiate trade agreements with foreign nations and to correct discriminatory trade practices against the United States. Of course, the establishment of tariffs is a legislative function but the bill does authorize a variance in rates of import duties within the range established by the Congress. A safeguard against abuse by the executive branch is included by a provision requiring congressional review. It is hoped that the passage of this very complex bill will assist in improving our present economic situation.

PAMPHLETS AVAILABLE

Our office has copies of the following government publications. Let us know if you would like any of them.

Home Heating.
Interior Painting in Homes and Around the Farm.
Fireplaces and Chimneys.
Don't Be Fuelish.
Wise Home Buying.

SOMETHING TO PONDER

Noah didn't wait for his ship to come in; he built his own.

THE NEED FOR AN EXPANDED CLINICAL RESEARCH PROGRAM AT THE NIH

Mr. METZENBAUM. Mr. President, recently I called the attention of this body to the gap between our extraordinary achievements in biomedical research and our much less impressive record in translating research findings into better medical care for the American people. In that statement, I called for improved dissemination of research results and for relicensing procedures for medical personnel. This latter proposal is designed to provide physicians and other health care specialists with incentives to keep up with the latest knowledge and technologies.

Today, I wish to address myself to the need for an expanded clinical biomedical research program at the National Institutes of Health.

In fiscal 1974, NIH committed $576,736,000 to clinical research roughly 37 percent of the $1,506,707,000 total NIH research budget. This represents an improvement over the $375,419,000 allocated to this kind of work in fiscal 1972, but even so, I believe that we need a much greater effort in this critically important area.

Clinical research is particularly important because it is the final test for medical research results. It occurs when medical scientists agree that knowledge has advanced to such a level that it is both safe and necessary to use new treatments and techniques experimentally with human patients under carefully controlled conditions.

Clinical research is, in other words, the last and perhaps the most important link in the long chain from test tube results to animal studies to therapies. Only after the clinical research is completed, can the medical practitioners confidently prescribe for the public. Clinical research is the crucial step in moving new knowledge out of the laboratory into the medical mainstream.

In my view, there is a direct relationship between the quality and scope of our clinical programs and the speed and efficiency with which the American people benefit from advances made by our superb medical researchers. This is so because laboratory findings simply cannot be applied directly to medical practice. New therapies must be tested clinically before they can be generally used.

For this reason, a strong and sophisticated clinical research effort will more than pay our people back for the tax dollars they invest in medical research. With an extensive clinical program, we can translate promising possibilities into improvements in health care delivery relatively quickly. Without such a program, the clinical phase of research will become a bottleneck, a point at which new methods will back up and because of which their impact on the public health will be delayed.

At the moment, the National Institutes of Health conduct much of the best clinical work done in this country, partly as a result of congressional pressure to move in this direction with reference to cancer research. This pressure should continue, combined with positive incentives for NIH to emphasize clinical studies on a broader front.

I am far from satisfied with our current efforts in clinical biomedical research. Once again, we find ourselves in an area in which our efforts are too little, too late.

I believe that Congress must provide the prod to encourage more work in this area. But I also recognize that it is not enough to urge action or to hope that clinical research will expand. Congress can and should take concrete steps to achieve these ends.

Under present circumstances, the NIH is unable to attract enough of the very best people into the clinical research field. In this, as in all other things, quality efforts demand quality people. And quality people can only be obtained by providing adequate compensation.

At NIH, professional salaries for clinical researchers, currently governed by civil service salary scales, are not, in many cases, even remotely competitive with what highly skilled medical personnel could earn in the private sector—$20,000 and greater discrepancies are not uncommon. This problem is particularly acute with regard to top administrators, senior medical researchers and specialists in such highly-paid fields as radiology, anestheisology and pathology.

NIH has had a difficult time retaining highly skilled individuals in these categories as well as in recruiting new personnel due to inadequate compensation scales. Many qualified managers have left the institutes, because they simply cannot afford to remain there for both financial and career reasons.

Without adequate compensation, it is evident that clinical research at NIH will continue to suffer in terms of both quality and quantity. Some specialized work can be contracted out in the absence of adequate inhouse capabilities, but when this route is taken, it seems clear that quality is likely to decline and valuable staff interaction will be lost.

I therefore urge that certain categories of medical researchers and managers be exempted from the civil service pay scale ceilings or, as an alternative, that we raise these scales substantially to make them more realistic.

In addition, I think that we need to expand our present clinical research facilities and personnel. On the Bethesda campus of NIH, for example, there is insufficient space and NIH has not been authorized to build or lease additional facilities.

This, I think, is an example of a penny wise, pound foolish approach. The clinical research being conducted at Bethesda should receive particularly high priority because this research has the direct potential for improving our national health. We cannot afford to have important projects delayed simply because sufficient physical space is not available.

To take only two examples, NIH wishes to build a new home for the National Institutes for Child Health and Development and an ambulatory care center for the clinical center. Neither project has as yet been approved, but I consider both entirely justified. I think that we ought to go ahead with them forthwith.

Finally, I wish to state my strong feeling that clinical research, as valuable as it is, must always be conducted in the context of the most scrupulous concern for the health and welfare of the subjects themselves.

Obviously, human subjects should be used in an experiment only at the point at which science knows enough to make such a step both reasonable and safe.

At the moment, the process for evaluating the purely scientific merit of a proposed clinical research project is the same as for reviewing any other biomedical research. In addition, however, formal procedures for evaluating the ethical implications of clinical projects have been developed in the last decade as a means of protecting human subjects from some of the questionable and even unethical projects initiated on a fairly wide scale in the 1950's.

Although a Commission mandated by Public Law 93–348, passed last summer, is currently at work developing a new set of ethical guidelines for clinical research, two main mechanisms for ethical review are currently in wide use. The first of these, required in federally-sponsored clinical research, involves mandatory review of clinical study plans by an ethical review board, which examines proposed projects and research procedures with reference to propriety, safety, and professional standards. This peer review, conducted before the project can be initiated, is, in most cases, supplemented by a retrospective review after the project has been completed. Increasingly, ongoing ethical evaluations are also being made while the projects are actually underway. This latter trend should be encouraged, if not required. I would also urge that ethical review boards routinely include individuals from outside the medical profession in addition to medical research personnel to provide a community input in the evaluation process.

A second area in which an ethical monitoring of sorts takes place is via the "informed consent" requirement. This means that patients must be fully informed about the experiment and about any potential dangers they may incur by participating as subjects. Every patient must sign a form testifying that he or she has been fully informed and gives his or her permission to go forward.

In conclusion, Mr. President, I wish to reiterate my view that clinical biomedical research can and should play a major role in our national health effort and Congress must do its part. It is important that the community understand and eventually come to support the possibilities inherent in clinical research. I support an expansion of our clinical research effort. I urge that we take steps to make that expansion feasible and I am convinced that we can, with proper care, protect the rights of our people while generating new medical knowledge to improve their health and well-being.

THE JOHNSON-O'MALLEY PROGRAM AND "BAND ANALYSIS"

Mr. FANNIN. Mr. President, on June 27, I reported to the Senate my concerns with the method for allocating funds under the Johnson-O'Malley Act to local educational agencies. This system, known as "Band Analysis," is a method designed to give Indian tribes the opportunity to develop their own budgetary priorities. To be more specific, the Band Analysis System, according to the BIA is:

A method of providing the Indians and their leaders with a formal unified system for identifying their needs in relative degrees of importance on a program by program basis. It is a method of indicating what programs are most important to a given tribe and which are of lesser importance.

Each Agency is given a listing of all Bureau programs that can be included in a Band process. For each of these programs, the tribes are provided with base figures. These figures represent an estimate of the funds, based on the President's budget that the tribes can expect to receive for each program. The total of these figures will represent the base from which the Tribes will then be able to build their proposed programs.

The Tribes are then asked to develop a distribution of three fixed levels of funds among the programs. These levels have been set at 95 percent, 110 percent, and 120 percent of the base total provided. Within these limits the tribe is given the freedom to adjust the figures on a program by program basis to satisfy their needs as they see them.

In other words, the Band system tells a tribe how much it can expect to receive for most of their programs next year. It then asks them to decide which of these programs should be reduced, which should be retained at the same level and which should be expanded next year within the 95 percent, 110 percent, and 120 percent limits.

Because the tribe will be dealing with a fixed total for each of the three levels, it must decide which programs will be expanded at the expense of other programs thereby establishing the relative importance of each program in relation to all the other programs.

Mr. President, while the "band analysis" system may have its place in determining budgetary priorities for programs directly affecting an Indian tribe, it is my conviction that it is wholly inappropriate for the Johnson-O'Malley program, since JOM funds are made available to reservation public schools, thus JOM has little relationship to tribal funding needs under band analysis. Without repeating the rather lengthy discussion contained in my June statement on this issue, let me briefly indicate that under the "band analysis" system, Johnson-O'Malley needs can be distorted with the result that Indian education programs can suffer.

Since my June speech on the subject of "band analysis" I have made it clear to the Bureau of Indian Affairs that it should reconsider its decision to include JOM under the band analysis system, especially in the face of new JOM regulations. Apparently, the Bureau recognized the logic of my position and has just announced that the band analysis system would not be applied to the Johnson-O'Malley program beginning with the fiscal year 1977 budget. This decision by the Bureau represents a victory for commonsense and will restore to the Johnson-O'Malley program some sanity in the method for allocating Johnson-O'Malley funds.

Mr. President, I ask unanimous consent to have printed in the RECORD my June 27 statement and the December 16 letter from Morris Thompson, Commissioner of the Bureau of Indian Affairs.

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

THE INEQUITIES OF THE 1975 JOHNSON-O'MALLEY INDIAN EDUCATION PROGRAM BUDGET

Mr. FANNIN. Mr. President, in comparison to other Federal education programs such as title I of the Elementary and Secondary Education Act, the Johnson-O'Malley Indian education program is less significant, but to a number of States with reservation Indian populations it is of critical importance and even more so to those States having substantial numbers of Indian children. Enacted in 1934, the Johnson-O'Malley program has served to financially assist public schools in the education of Indian children. This assistance was viewed then as it is now, as a necessity since public schools were assuming greater responsibilities in the education of Indian children. What made JOM so important was the fact that many Indian children

resided on tax-exempt lands, thus leaving the public schools without sufficient resources to meet their educational needs. As the number of Indian children attending public schools grew, to an estimated 98,000 students by 1974, the necessity for the Johnson-O'Malley program became firmly established and the affected States have come to rely on it to help meet the costs of educating our Indian citizens. It is no secret then that Arizona, like other Western States, with large reservation Indian populations, has more than just a passing interest in the Johnson-O'Malley program and its budget. Because of its importance to our national effort to deliver sufficient resources for Indian education, I undertook a special review of this year's proposed budget and the basis on which it was justified and what I found disturbs me greatly. This analysis raises serious questions concerning the administration of this program.

The JOM budget is small compared to other programs, but despite its relative size, it is an important program and how its budget is allocated and on what basis it is allocated is the basic concern of my remarks.

1975 BUDGET: JUSTIFICATION AND ALLOCATION

The administration's 1975 budget for the Johnson-O'Malley program is requesting $27,952,000, an increase of $2,600,000 over the 1974 budget of $25,352,000. The official budget justification statement cites the following reasons as the basis for this year's budget increase:

1. An increase of $2,055,000 is requested to provide for an unanticipated enrollment increase of 5,500 students in fiscal year 1974 and for an additional increase of 2,000 students expected in fiscal year 1975. This increase will permit the various public schools to return to fiscal year 1973 levels of support per pupil.

2. An increase of $545,000 will be required to partially offset cost of living increases and to provide for greater tribal and parental involvement to the extent possible.

The emphasis is obviously on meeting the costs of increased student enrollments. In addition, the budget justification cites the basic need of the Johnson-O'Malley program;

Under the Act of April 16, 1934, as amended, commonly called the Johnson-O'Malley Act, the Bureau of Indian Affairs, provides supplementary aid to public school districts which face financial problems due to the presence of tax-exempt, Indian-owned lands within the district boundaries and the enrollment of relatively large numbers of Indian children.

Many of the school districts on Indian reservations have insufficient funds to operate effective school programs even with State aid and general Federal aid to education programs. Such districts have little or no tax base. In these districts, Johnson-O'Malley aids are used to assume operation of a basic school program.

Again, the theme is very clear. The Johnson-O'Malley 1975 budget is justified on the basis that JOM funds are necessary to meet increased student enrollments and to sustain the operation of schools and school programs designed to meet our goals for Indian education.

In regards to the proposed allocation of JOM 1975 funds, the budget justification is silent on how the 1975 budget is to be allocated among the various States and contracting agencies.

1975 BUDGET: AN ILLUSION

The 1975 JOM budget outlines a program to meet increases in student enrollment and to offset cost-of-living increases. To those public schools affected by such enrollments and cost increases the proposed budget increase of $2,600,000 over fiscal year 1974 would represent a significant effort by the Federal Government to meet their needs even though the States affected by JOM collectively requested an appropriation of over $41 million. Yet, on closer analysis the proposed increase is really an illusion.

Instead of an increase of $2,600,000 for JOM program support, only $1,222,000 is scheduled to meet the needs of the States over 1974. The budget justification talks of a $2,600,000 increase but further analysis shows that $1,378,000 is to be used to pay for a Department of Interior audit—$165,000—and administration support—$1,213,000. In reality, then, the actual level of program funding for the Johnson-O'Malley program in 1975 is $26,574,000 which is only $1,222,000 more than what was appropriated in 1974.

This kind of discrepancy is explainable from a budget point of view, I suppose, but it is clearly unexplainable in view of the needs that many school districts face in their efforts to provide a quality educational program to their Indian students. What is needed is not budgetary discrepancies but real, increased levels of support.

THE 1975 JOM BUDGET: THE ALLOCATION OF FUNDS

In addition to the discrepancy in the level of funds available under the 1975 budget for program support, there is a more serious issue involved in the allocation of JOM funds.

The 1975 budget, according to its justification, is based on need; that is, the need for additional funds to meet increased student enrollments and increased costs. Yet, the proposed allocation of funds seriously ignores the needs of many States which are experiencing increased enrollments. This discrepancy is clearly demonstrated in comparing the 1974 budget allocation with the proposed 1975 distribution of JOM funds as initially established by the Bureau of Indian Affairs. The results of this analysis show the following:

First. Two States gain students and will receive additional funds—Minnesota, New Mexico (Albuquerque area).

Second. Ten States gain students, but receive the same level of funding as they did in 1974—South Dakota, Kansas, Montana, Wyoming, Oklahoma, Mississippi, Utah, Washington, California, Florida.

Third. One State gains students, but will receive less funds than in 1974—Arizona.

Fourth. Three States lose students, but receive additional funds over the amount received in 1974—Alaska, Wisconsin, New Mexico (Navajo area).

Fifth. Six States lost students, but will receive the same level of funding as in 1974—Nebraska, North Dakota, Nevada, Idaho, Oregon, and peripheral dorms (New Mexico-Arizona-Utah).

Sixth. Two States lost students and will receive less funds than in 1974—Iowa, Michigan.

Seventh. Unknown: two States—Colorado, New York.

These results were derived from the table which I ask unanimous consent to have printed in the RECORD.

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

COMPARATIVE ANALYSIS OF JOHNSON-O'MALLEY FUNDING ALLOCATIONS: 1974 AND 1975

State	Actual 1974 allocation	Number students 1974	1975 State request	Proposed 1975 allocation	Number students 1975	Difference in 1974-75 Funding	Difference in 1974-75 Students
Nebraska	$670,000	715	$851,000	$670,000	650	NC	−65
North Dakota	740,000	2,208	900,000	740,000	2,000	NC	−208
South Dakota	1,640,000	5,258	2,703,000	1,640,000	5,410	NC	+152
Colorado	287,000	865	366,809	292,000	NA	+5,000	NA
Kansas	102,000	236	172,000	102,000	250	NC	+14
Montana	1,060,000	7,648	2,652,800	1,060,000	7,759	NC	+111
Wyoming	135,000	932	311,000	135,000	1,105	NC	+73
Alaska	4,625,000	8,600	5,300,000	5,684,000	6,800	+1,059,000	−2,200
Minnesota	1,320,000	3,357	2,072,000	1,330,000	3,360	+10,000	+3
Wisconsin	450,000	2,247	770,600	504,000	1,162	+54,000	−1,085
Iowa	150,000	237	210,000	124,000	210	−26,000	−27
Michigan	135,000	691	264,000	111,000	673	−24,000	−18
Oklahoma	2,130,000	12,512	2,452,100	2,130,000	13,000	NC	+488
Mississippi	15,000	83	20,000	15,000	125	NC	+42
Arizona	4,285,000	17,615	10,145,179	4,035,000	22,154	−250,000	+5,461
Nevada	230,000	2,235	500,000	230,000	300	NC	−1,935
Utah	20,000	63	40,000	20,000	300	NC	+237
Idaho	485,000	1,737	660,500	485,000	1,500	NC	−237
Washington	975,000	5,945	1,380,400	975,000	6,100	NC	+155
Oregon	70,000	1,104	163,600	70,000	800	NC	−304
California	350,000	2,913	3,000,000	350,000	8,400	NC	+5,487
Florida	10,000	225	120,000	10,000	230	NC	+5
New York			120,000	0			NA
New Mexico (Albuquerque)	1,478,000	5,032	1,955,000	1,557,000	6,000	+179,000	+68
Navajo	1,970,000	15,704	2,366,000	2,200,000	15,694	+230,000	−10
Peripheral (Arizona-New Mexico)	2,105,000	1,874	2,000,000	2,105,000	1,244	NC	−600

Mr. FANNIN. Mr. President, the inequities which this analysis demonstrates are clear. What is not clear is the reason for such inequities. Perhaps some are explainable, as in the case of Alaska where conditions and exceptional need require additional funds even in the case where the number of students served decreases. But what is not explainable is the decision of the Bureau of Indian Affairs to reduce the allocation to a State like Arizona by $250,000 when Arizona will experience an increase this year of over 5,000 students according to the BIA's own figures. It is going to take a great deal of explanation before I will be satisfied that such an allocation is based on a recognition of need. Ten other States are also experiencing increases in student enrollment but instead of increases in funds they must be content to operate on the same level as the previous year. Yet, there are nine States which lost students but either received additional funds or at least received the same level of funding as in 1974. This proposed

allocation defies justification if it is based on need as the budget documents contend. Since analysis refutes the budget justification, the basis for allocation must lie elsewhere.

I have learned that the allocation of JOM funds for fiscal year 1975 is based on what is known as "Band Analysis." According to the BIA:

The "Band Analysis" approach is a method of providing the Indians and their leaders with a formal unified, system for identifying their needs in relative degrees of importance on a program by program basis. It is a method of indicating what programs are most important to a given tribe and which are of lesser importance.

Each Agency is given a listing of all Bureau programs that can be included in a Band process. For each of these programs, the tribes are provided with base figures. These figures represent an estimate of the funds, based on the President's budget that the tribes can expect to receive for each program. The total of these figures will represent the base from which the Tribes will then be able to build their proposed programs.

The Tribes are then asked to develop a distribution of three fixed levels of funds among the programs. These levels have been set at 95 percent, 110 percent, and 120 percent of the base total provided. Within these limits the tribe is given the freedom to adjust the figures on a program by program basis to satisfy their needs as they see them.

In other words, the Band system tells a tribe how much it can expect to receive for most of their programs next year. It then asks them to decide which of these programs should be reduced, which should be retained at the same level and which should be expanded next year within the 95 percent, 110 percent, and 120 percent limits.

Because the tribe will be dealing with a fixed total for each of the three levels, it must decide which programs will be expanded at the expense of other programs thereby establishing the relative importance of each program in relation to all the other programs.

Under "Band Analysis" the Bureau of Indian Affairs has proposed that JOM funds for 1975 be distributed as follows:

FISCAL YEAR 1975 AID TO PUBLIC SCHOOLS (JOM) PROGRAM

[Distribution based on States' requests compared to BIA proposed distribution based on tribal priorities]

	States' requests	Proposed distribution tribal priorities
Aberdeen area:		
Nebraska	$851,000	$670,000
North Dakota	900,000	740,000
South Dakota	2,703,000	1,640,000
Albuquerque area:		
Colorado	366,800	292,000
New Mexico	1,955,000	1,557,000
Anadarko area: Kansas	172,000	102,000
Billings area:		
Montana	2,652,800	1,060,0000
Wyoming	311,000	135,000
Juneau area: Alaska	5,700,000	5,684,000
Minneapolis area:		
Minnesota	2,072,000	1,330,000
Wisconsin	770,600	540,000
Iowa	210,000	124,000
Michigan	264,000	111,000
Muskogee area: Oklahoma	2,452,100	2,130,000
Navajo area:		
New Mexico	2,366,000	2,200,000
New Mexico-Dorms	2,000,000	2,105,000
Arizona (see Phoenix)		2,985,000
Phoenix area:		
Arizona	10,145,179	1,050,000
Nevada	500,000	230,000
Utah	40,000	20,000
Portland area:		
Idaho	660,500	485,800
Washington	1,380,400	975,000
Oregon	163,600	70,000
Sacramento area: California	3,000,000	350,000
Eastern area:		
Florida	120,000	10,000
Mississippi	20,000	15,000
New York	120,000	0
Total, all States	41,895,979	26,574,000

	States' requests	Proposed distribution tribal priorities
Interior Department audit	165,000	$165,000
Administration support	1,213,000	1,213,000
Total budget	43,273,979	27,952,000

Mr. President, "Band Analysis" may have its place but I am concerned with its application to the Johnson-O'Malley program for the following reasons:

First, because a tribe is told by the Bureau how much it can expect to receive, it then must determine which programs should be reduced, maintained at existing levels, and which should be expanded within a 95-percent, 110-percent, or 120-percent range. These ranges, of course, are related to a funding base which in all likelihood would be the budget level for the previous year. The difficulty with this approach is the fact that if a tribe wants to expand its commitment to the Johnson-O'Malley program, its budgetary options are severely limited by the range of permissible budgetary expansion. In short, "Band Analysis" may operate to lock a tribe into a range of funding which may be insufficient to meet their educational needs.

Second, as I understand it, each tribe is given a list of Bureau programs on which they make their judgments concerning levels of funding. The Johnson-O'Malley program apparently is included on such a list despite the fact that in most cases a local school district is the administering agency. By including Johnson-O'Malley as a program subject to "Band Analysis" a tribe may give more emphasis to programs it administers directly rather than one that affects the tribe indirectly. The result may be a distortion of Johnson-O'Malley needs since given the choice the tribe would quite naturally support programs that affected the tribe directly.

Third, it may be highly inappropriate for a tribal council to determine the needs of a local school district for Johnson-O'Malley funds, under "Band Analysis" if that tribal council did not consult with the local school district and its governing board. In Arizona, I am told that none of the major impact Johnson-O'Malley school districts were consulted by tribal councils in setting a priority for the Johnson-O'Malley program for this year's budget. If there is no link between the tribal council and the local school district over setting a priority for Johnson-O'Malley then one may conclude that the proposed Johnson-O'Malley allocation for fiscal year 1975 does not accurately reflect the need of those affected school districts. On the basis of my own analysis this conclusion would seem to be clearly justified.

Fourth, by consulting only with the tribal council, "Band Analysis" defeats the role of the local JOM parent committee in developing, with the local school board, the annual JOM budget request, an objective which many Indian parents have long sought. The State request, which is a combination of all local school district requests, is by far more accurate in indicating need than "Band Analysis" and more reflective of Indian self-determination.

Fifth, I might add that I am not really sure that a tribal council should be involved at all in setting priorities for Johnson-O'Malley since by doing so it is intervening in the affairs of a local public school district unless, of course, the tribe was holding a JOM contract. It would be even more inappropriate in those cases where the local school board was composed of a majority of Indians. Again in Arizona two-thirds of the major impact school districts are governed by school boards composed of a majority of Indians. If "Band Analysis" in its operations ignores the local Indian school board, as it apparently has in Arizona, Indian self-determination is eroded.

Finally, "Band Analysis" is essentially a mechanism or technique to control expenditures which in its operation may or may not have any relationship to program considerations. Certainly there can be no doubt that in regard to the 1975 JOM budget "Band Analysis" fails to appreciate the basic objectives of the JOM program. Indian education programs like JOM cannot hope to succeed when guided by a budgetary system like "Band Analysis." When a budget system creates a condition that overlooks basic program needs then that program loses its capacity to realize its own objectives; a situation we can hardly tolerate in regard to Indian education.

Mr. President, instead of basing the allocation of JOM funds on meeting the costs of increased student enrollment, the 1975 JOM funds are to be allocated on the basis of the relative priority that tribes assign to the JOM program. This explains the inequities which exist in this year's proposed allocation. It hardly seems fair to local school districts and JOM parental committees to have the allocation of Johnson-O'Malley funds determined on a basis other than need. If unlimited funds were available to meet the needs of the Johnson-O'Malley program then perhaps the problem would not be so great, but when JOM funds are limited, as they are, then it is clearly inequitable to allocate funds on any basis other than educational needs as those directly responsible for educational programs see them. If a budget system like "Band Analysis" distorts need and arranges funding which results in clear inequities, that system should be replaced. But the real loser, of course, is the Indian student. If the Johnson-O'Malley 1975 funds are allocated under the present plan then a number of schools are going to find less funds behind each child to meet their educational programs.

The Phoenix area of Arizona, for example, under the proposed 1975 allocation will lose $250,000 but will experience a student enrollment increase of over 5,000 students. This would mean that Arizona will realize a loss in per pupil support compared to 1973 and 1974. In 1973 Arizona, under JOM, was provided $204 for each Indian student which dropped to $199 in 1974. Under the 1975 allocation it will drop again to $188—a loss of $16 over 1974 and $22 over 1973. Yet the budget justification argues that the so-called increase in funding will "permit the various public schools to return to fiscal 1973 levels of support per pupil." This last discrepancy in the 1975 budget only confirms that the proposed allocation fails to meet its own objectives.

This system makes no sense and I am convinced that the Congress will be making a serious mistake if it approves the allocation of the 1975 JOM budget on the basis of "Band Analysis." In this regard, I have strongly urged the Senate Interior Appropriations Committee to allocate funds on the basis of State need and not "Band Analysis." It is my hope that the Appropriations Committee will review this issue and, if possible, replace the "Band Analysis" allocation system with one which will be fair, equitable, and based on a realistic view of local educational need and not on the apparent distortions created by the "Band Analysis" system.

Finally, Mr. President, I recognize my responsibility to develop a legislative solution to this problem and I intend to pursue that objective since it is unfair to have the Appropriations Committee assume that burden. Certainly, "Band Analysis" as applied to the Johnson-O'Malley program raises serious questions as to whether the allocation of funds under JOM meets Congressional intent. For the BIA to institute, administratively, an allocation system which has never been considered by Congress and which may

be at variance with congressional intentions, is in my mind, a serious error especially in the face of determined congressional efforts to legislate reforms of the entire Johnson-O'Malley program. The discrepancies and inequities which are clearly reflected in the 1975 JOM budget only support the need for review of the JOM program and the need for early reform. In this regard, it makes little sense to establish a new allocation system until Congress has a chance to consider the best approach to this problem. The allocation of JOM funds is the prerogative of Congress and any changes in that system should be determined by Congress and not the Bureau of Indian Affairs.

CONCLUSION

Mr. President, over the past few years we have experienced great momentum in developing quality Indian education programs and in providing increased resources to meet the requirements of those programs. Yet, that momentum could be threatened if the "Band Analysis" budgetary system is allowed to operate the Johnson-O'Malley program. I do not doubt for a minute the sincere motivations of those who urged the use of "Band Analysis" in allocating JOM funds. But obviously it just is not working. If we permit a system like "Band Analysis" to determine levels of support without reference to the actual needs of local educational agencies then the role of Johnson-O'Malley as a major force in Indian education programs will be eroded. This, to me, would be unacceptable, not only to those schools affected by JOM but, more importantly, to our Indian citizens and their dreams for educational attainment. The threat to the educational opportunities for Indian children is real under "Band Analysis" and it is for this reason that I find such a system inequitable and clearly inappropriate in meeting the need of those public schools which are on the front line in providing a quality Indian education program.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C., December 16, 1974.

Hon. PAUL FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: In response to your letter of November 27 concerning Johnson O'Malley programming, this confirms that the Johnson O'Malley program will not be included in the Indian Priority System (Band Analysis) in the development of the FY 1977 program needs. The recently published regulations on the administration of the Johnson O'Malley program now prescribe a formula that is not under the control of local jurisdictions. Therefore, this program is no longer compatible to the band analysis system which provides for local Indian decisions at the field level to make trade-offs among various programs.

Sincerely yours,

MORRIS THOMPSON,
Commissioner of Indian Affairs.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES—CONFERENCE REPORT

Mr. PELL. Mr. President, on behalf of the conference committee on Senate Joint Resolution 40, the White House Conference on Library and Information Sciences, I file the report which was agreed to by the House-Senate conferees last evening. This report will be printed as a separate document which will be considered by the Senate after the House has acted. I ask unanimous consent that a Cordon print, showing changes in the existing law, be printed in the RECORD to provide a better understanding of the agreement made by the conferees and to show what changes were made in existing law.

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

CHANGES IN EXISTING LAW

PROTECTION OF THE RIGHTS AND PRIVACY OF PARENTS AND STUDENTS

SEC. 438. (a) (1) (*A*) No funds shall be made available under any applicable program to any [State or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution] *educational agency or institution* which has a policy of denying, or which effectively prevents, the parents of students [attending any school of such agency, or attending such institution of higher education, community college, school, preschool, or other educational institution,] *who are or have been in attendance at a school of such agency or at such institution, as the case may be* the right to inspect and review [any and all official records, files, and data directly related to their children, including all material that is incorporated into each student's cumulative record folder, and intended for school use or to be available to parties outside the school or school system, and specifically including, but not necessarily limited to, identifying data, academic work completed, level of achievement (grades, standardized achievement test scores,) attendance data, scores on standardized intelligence, aptitude, and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and observations, and verified reports of serious or recurrent behavior patterns.] *the education records of their children.* [Where such records or data include] *If any material or document in the education record of a student includes* information on more than one student, the parents of [any student shall be entitled to receive, or be informed of, that part of such record or data as pertains to their child.] *one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material.* Each [recipient] *educational agency or institution* shall establish appropriate procedures for the granting of a request by parents for access to [their child's school records] *the education record of their children* within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:

(i) financial records of the parents of the student or any information contained therein;

(ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;

(iii) if the student has signed a waiver of the student's right of access under this subsection in accordance with subparagraph (C), confidential recommendations—

(I) respecting admission to any educational agency or institution,

(II) respecting an application for employment,

(III) respecting the receipt of an honor or honorary recognition.

(C) A student or a person applying for admission may waive his right of access to confidential statements described in clause (iii) of subparagraph (B), except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purpose for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

(2) [Parents shall have an opportunity for a hearing to challenge the content of their child's school records.] *No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student's education records, in order* to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein *and to insert into such records a written explanation of the parents respecting the content of such records.*

(3) For the purposes of this section the term "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any applicable program.

(4) (A) For the purposes of this section, the term "education records" means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials which—

(i) contain information directly related to a student; and

(ii) are maintained by an educational agency or institution, or by a person acting for such agency or institution.

(B) The term "education records" does not include—

(i) records of instructional supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) if the personnel of a law enforcement unit do not have access to education records under subsection (b)(1), the records and documents of such law enforcement unit which (I) are kept apart from records described in subparagraph (A), (II) are maintained solely for law enforcement purposes, and (III) are not make available to persons other than law enforcement officials of the same jurisdiction;

(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or para-professional acting in his professional or para-professional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5)(A) For the purposes of this section the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(6) For the purposes of this section, the term "student" includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.

"(b)(1) No funds shall be made available under any applicable program to any [State or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution] *educational agency or institution which has a policy or practice* of permitting the release of [personally identifiable records or files (or personal information contained therein)] *education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a))* of students without the written consent of their parents to any individual, agency, or organization, other than to the following—

(A) other school officials, including teachers within the educational institution or local educational agency [who], *who have been determined by such agency or institution to* have legitimate educational interests;

(B) officials of other schools or school systems in which the student *seeks, or,* intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C) authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, (iii) an administrative head of an education agency (as defined in section [409] 408(c) of this Act), or (iv) State educational authorities, under the conditions set forth in paragraph (3) of this subsection; and

(D) in connection with a student's application for, or receipt of, financial aid;

(E) State and local officials or authorities to which such information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974;

(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) accrediting organizations in order to carry out their accrediting functions;

(H) parents of a dependent student of such parents, as defined in section 152 of the Internal Revenue Code of 1954; and

(I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons.

Nothing in clause (E) of this paragraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder.

(2) No funds shall be made available under any applicable program to any [State or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution] *education agency or institution* which has a policy or practice of [furnishing, in any form, any personally identifiable information contained in personal school records, to any persons other than those listed in subsection (b)(1)] *releasing, or providing access to, any personally identifiable information, in education records other than directory information, or as is permitted under paragraph (1) of this subsection* unless—

(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, (C) an administrative head of an education agency or (D) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally supported education program, or in connection with the enforcement of the Federal legal requirements which relate to such programs: [*Provided*, That, except when collection of personally identifiable data is specifically authorized by Federal law, any data collected by such officials with respect to individual students shall not include information (including social security numbers) which would permit the personal identification of such students or their parents after the data so obtained has been collected].

Provided, That except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.

[(4)(A) With respect to subsections (c)(1) and (c)(2) and (c)(3), all persons, agencies, or organizations desiring access to the records of a student shall be required to sign a written form which shall be kept permanently with the file of the student, but only for inspection by the parents or student, indicating specifically the legitimate educational or other interest that each person, agency, or organization has in seeking this information. Such form shall be available to parents and to the school official responsible for record maintenance as a means of auditing the operation of the system.]

(4)(A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (1)(A) of this subsection), agencies, or organizations which have requested or obtained access to a student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations authorized in, and under the conditions of, clauses (A) and (C) of paragraph (1) as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student.

(c) The Secretary shall adopt appropriate regulations to protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

(d) For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(e) No funds shall be made available under any applicable program [unless the recipient of such funds] to *any educational agency or institution unless such agency or institution* informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.

(f) The Secretary, or an administrative head of an education agency, shall take appropriate actions to enforce provisions of this section and to deal with violations of this section, according to the provisions of this Act, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with the provisions of this section, and he has determinded that compliance cannot be secured by voluntary means.

(g) The Secretary shall establish or designate an office and review board within the Department of Health, Education, and Welfare for the purpose of investigating, processing, reviewing, and adjudicating violations of the provisions of this section and complaints which may be filed concerning alleged violations of this section [according to the procedures contained in sections 434 and 437 of this Act]. *Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.*

OMAHA OPENS THEATER FOR PERFORMING ARTS

Mr. HRUSKA. Mr. President, my home city of Omaha will reopen its Orpheum Theater on January 17 of next year. Built in 1927, the theater contains Renaissance-like statuary, Italian marble columns and staircases. With a seating capacity of 2,900, the Orpheum was very much like the Fox in San Francisco and Loew's Paradise in New York.

Two years ago, the Omaha business community and the city joined together in funding a $2 million restoration of the theater, which has been closed since 1971. When it reopens in January, the Orpheum will be a theater for the performing arts, owned and operated by the city of Omaha.

The project has captured the interest of the community. News coverage of the renovation and new construction has made the reopening a most popular civic effort.

Cooperation among all elements of the Omaha community have made this fine project possible. It will be a splendid forum for the arts. There is to be a wide variety of performances and performers at the Orpheum.

Much hard work has gone into this project and I believe those who participated are to be commended. An article entitled, "Splendor Shining Again at Orpheum," in the November 24 edition of the Omaha World-Herald provides an excellent description of the Orpheum project and its development. So that my colleagues and others interested in the revival of the arts in the Midlands may be aware of the activities in Omaha, I ask unanimous consent that this article be printed in the RECORD.

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

[From the Omaha World-Herald, Nov. 24, 1974]

SPLENDOR SHINING AGAIN AT ORPHEUM

(By James Bresette)

When the first-nighters gather in the Orpheum Theater for its reopening Jan. 17 as a city performing arts center, officials hope to hear a chorus of exclamations similar to the following:

"It looks exactly the way I remember it from the times I was here as a kid!"

From the beginning, the $2 million project, now about 85 per cent complete, has stressed returning the 47-year-old theater to its original splendor.

The restoration will give Omaha a theater the likes of which no city could afford to build from the ground up at today's prices, said Eugene Brailey, an administrative assistant to Mayor Zorinsky.

As an example, Brailey said the large chandelier in the center of the Orpheum ceiling cost about $7,000 when the theater was built. It has been estimated that a similar chandelier, if bought new today, would cost around $140,000.

"The one problem we've got its that most people will not recognize the work we've put into it," said Brailey, who has overseen the project.

REFINISHING

For example, he said, sections of ornate plaster work on the auditorium ceiling had to be replaced by castings made from molds of still-sound ceiling trim. Visitors won't see the hours of work that went into restoring that original appearance.

The original draperies have been cleaned and will be rehung along the side aisle colonnades. New seats have been installed, but the dark green upholstery approximates the original color, Brailey said.

The gold, black and red lobby carpeting stood up well in cleaning. It isn't original 1927 carpeting, but it is what many Omahans will remember, he said. Carpeting in the theater aisles will be new.

Repainting of the interior, renewing the ivory and gold color scheme, is almost complete. Cloth coverings on wall trim panels in the auditorium have been replaced with cloth-texture vinyl, Wood paneling in the lounges has been refinished. Chandeliers and light fixtures have been cleaned.

BEHIND THE SCENES

Revisions in city codes over the years have caused some minor changes, Brailey said. An example is the Orpheum's unusual drinking fountains, the bowls of which are supported by caryatids, columns shaped like women. The fountains originally bubbled water from the center of the bowls, but health department ordinances now prohibit that. So when the fountains were repaired, new water outlets had to be installed on the sides of the bowls.

But some of the biggest changes won't be visible to the public, Brailey said. The heating and air conditioning system has been revamped, with new blowers and ducts, and will be connected to Northern Natural Gas Co.'s energy systems division steam and chilled water ducts later this month.

The building has ben rewired and a new sound system has been installed, Brailey said major elements of the old sound system, which was designed especially for movies, has been retained and will be available if such a program is booked into the theater.

The Orpheum's projectors remain operable and will be used for showing clips of old movies during opening festivities, Brailey said. The theater also still has usable closed-circuit television equipment installed in the early 1960s.

Exterior brick work on the building's east wall is scheduled for completion Dec. 1. The wall was removed to allow a 15-foot eastward extension of the building to make room for a deeper stage.

Much of the Orpheum's old stage rigging will be reused. It will be supplemented by rigging from the City Auditorium Music Hall Stage. The Music Hall is to be converted into a convention center.

PIPE ORGAN

The lift for raising and lowering the orchestra pit also is due Dec. 1, Brailey said.

"And the pipe organ will be back," he said. The Wurlitzer console will be movable so it can ride the pit lift with an orchestra or be moved onto the stage.

An acoustical "eyebrow" to improve sound in the far reaches of the balconies also will be installed above the stage before the opening.

Patrons will notice one change immediately upon entering the theater.

"The concession stand is gone and won't be back," Brailey said. "Concession arrangements for the theater have not yet been worked out," he said.

Comedian Red Skelton, who played the Orpheum years ago when it was a movie and vaudeville house, has been booked to entertain for the opening Jan. 17. City officials have discussed the possibility of a major country-western music program in the theater soon after it opens. And the Omaha Opera Company is scheduled to present Donizetti's "Lucia di Lammermoor" with soprano Beverly Sills in the Orpheum in early February.

VARIETY

The variety of offerings planned for the opening weeks underlines a policy city officials have stressed—that the Orpheum isn't to be just for opera, ballet or symphony, but for all types of performances.

"We hope we've designed such a package that more people will be in the Orpheum than were ever in the Music Hall," Brailey said.

"The building will be paid for by those who use it and not by those who never set foot inside," he said. The project is financed by revenue bonds to be retired by income from the Orpheum and City Auditorium.

CULTURAL AWARENESS PROGRAM IN NEW JERSEY

Mr. HASKELL. Mr. President, one of my constituents who worked in my office recently brought to my attention a cultural awareness program which has been initiated in New Jersey by Henry M. Wood, deputy coordinator of the New Jersey regional medical program.

The program is designed to make the health care workers more aware of the cultural differences between them and the people they serve.

I have congratulated Mr. Wood for his fine efforts and hope that my home State will give thought to adopting a similar type of program.

I ask unanimous consent that my letter to Mr. Wood and an explanation of the cultural awareness program be printed in the RECORD.

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

NOVEMBER 7, 1974.

Mr. HENRY M. WOOD,
Deputy Coordinator,
New Jersey RMP,
East Orange, N.J.

DEAR MR. WOOD: Thank you for your courtesy in allowing me to review your proposal for a Cultural Awareness Program.

I think it reflects an unusual amount of creativity and sensitivity to the needs of the people you serve.

I would hope that one day a similar program might be developed in my own state of Colorado.

Best wishes and good luck with your proposal.

Sincerely,

FLOYD K. HASKELL,
U.S. Senator.

NEW JERSEY REGIONAL MEDICAL PROGRAM, INC., CULTURAL AWARENESS PROGRAM, PROJECT #37

(By Henry M. Wood)

I. PURPOSE

To establish at least fifteen (15) project sites in medically underserved areas throughout the State of New Jersey designed to significantly raise the levels of awareness among health care providers to the cultural differences of their co-workers and the populations they serve. It is believed that these activities will be effective in measurably reducing the barriers of accessibility and acceptability to health care for persons whose cultural orientations complicate effective participation in the health care delivery system. In addition it is expected that through these activities, provider/consumer and provider/provider communications will be improved and a higher quality of health care will be rendered.

II RELATIONSHIP TO NJRMP GOALS OF OBJECTIVES

The Cultural Awareness Program addresses three of NJRMPI goals; namely:

Accessibility

Since 1968, through its Urban Health Component, NJRMP has developed numerous activities that led to improved health care delivery to residents of medically underserved areas throughout the State of New Jersey. Among these activities was the highly successful Community Health Improvement Program (CHIP) which to date has served over 29,000 persons. Although substantial progress has been made in increasing the availability of health care for the residents of these areas, considerable effort is still required in making these services accessible and acceptable to persons who have recently migrated to this country and/or whose cultural back-

grounds continue to mitigate against effective participation in the health system.

The Cultural Awareness Program (CAP) will provide, through a variety of locally-developed activities, structured program experiences designed to expand the providers' understandings of the attitudes, beliefs, language, social dynamics, etc. of their target populations, thereby reducing the negative impact which some cultural factors have on health care, and increasing the ability of providers to utilize other cultural habits in delivering effective care. This activity, therefore, will establish an assortment of models that will yield valuable data on approaches to effective involvement of such populations in the various modes of health care delivery.

Continuing Education

In order to provide optimum treatment it is necessary that the physician and other ancillary personnel be able to understand the patient's beliefs regarding medical care and the cultural setting from which these beliefs are derived. Knowledge of other theories of disease will substantially increase providers' capacities to gain the confidence of patients and enhance their abilities to provide regimens that have the greatest propensity for being adhered to. For example:

"Many Puerto Ricans classify illnesses, medicines, and foods according to an etiological and therapeutic system which derives historically from Hippocratic humoral theories of disease. Adherence to this system influences the way in which patients comply not only with therapeutic regimens for hypertension, arthritis, ulcers, and rheumatic fever but also with instructions on infant feeding, and antepartum and postpartum care. To achieve maximum therapeutic benefit for Puerto Rican patients who adhere to this system, the physician is advised to work within its framework in prescribing medicines and diet." [1]

It is important to note the broader parameters of the "communication process"—that it is not exclusively a problem of the "majority-culture provider" relating to the "minority-culture consumer." Indeed, the consumer, be he "majority-cultured" or "minority-cultured" frequently is confronted by the just-barely English-speaking provider. A common complaint of consumers in the urban setting is the inability to reach "someone in authority" with whom he can communicate. An American Medical Association Study reported:

". . . a relatively large percentage of foreign physicians who came to the U.S. did not return to their country of origin after training was completed. Not only did 83.6 percent of the whole foreign-educated group remain in the U.S. as of 1971, but there was a relatively high retention rate for those nominally coming to this country for temporary training: 73.7 percent of those who were interns and residents in 1963 were located in the U.S. in 1971. The number of foreign medical graduates in office based practice in the study group increased by 6,000 in the eight-year period . . ." [2]

These findings suggest the current and (from what data can be found on the subject) continuing situation of foreign-born physicians supplying a substantial amount of medical care in the health system of the U.S. The participation of large numbers of foreign-born physicians coupled with the substantially large number of foreign-born ancillary medical personnel—especially in our urban areas—complicates the machinery of our system and points to the need for activities to ease interpersonal communication and improve interpersonal comprehension between this group and the providers and consumers with whom they interact. The Cultural Awareness Program, therefore, will provide educational experiences designed to increase the providers' knowledge of the clients they serve and the persons with whom they work thereby broadening the avenues of communication among providers and consumers.

Regionalization

The Cultural Awareness Program has ramifications for regionalization in that those projects that will be funded under this activity will be linked by the activities of the Cultural Awareness staff and the Cultural Awareness Study Group to establish an informational and resource network for the exchange of program outputs and techniques. In addition, the Cultural Awareness Staff will link this overall New Jersey activity to similar programs being encouraged in at least ten (10) other regional medical programs across the nation (see BACKGROUND section). It is planned that the findings of this interface between the New Jersey and national efforts will culminate in the development of a document detailing case study accounts of effective techniques and methodologies which will be useful to medical care providers throughout the nation.

III. OBJECTIVES

1. To demonstrate the effectiveness of cultural awareness programming on improving access to and the acceptability of health care services in selected facilities throughout the State of New Jersey;

2. To demonstrate the impact of cultural awareness programming on the quality of care rendered in selected facilities through improved communication among providers and consumers;

3. To compile the findings of this activity and those of similar projects across the nation into a useful resource for health care facilities in New Jersey and the nation.

IV. BACKGROUND

Almost since its inception, New Jersey Regional Medical Program has been cited for its leadership and innovative programming in the area of urban health. Numerous requests for technical assistance were received by NJRMP to support development and implementation efforts by many RMPs throughout the country. Eventually, NJRMP determined that it would be appropriate if RMPs came together in a conference setting to exchange experiences in programming designed to relieve the problems of the medically underserved. RMPs responded to this suggestion by forming a national group, called the Urban Health Committee.

In 1972, when this planning effort was proceeding, RMPS called upon New Jersey's representative to its National Urban Health Committee to participate in a Cultural Awareness Conference being held at Ghost Ranch in New Mexico—focusing on problems of health care delivery to Mexican-Americans. The conference rather dramatically demonstrated that ignorance of culture into a useful resource for health care delivery.

During that same year, New Jersey had launched its Community Health Improvement Program (CHIP) which focused on improving access to primary care within several disadvantaged urban areas. Monitoring activities conducted by the NJRMP staff soon revealed that the findings of the New Mexico Conference had definite application in New Jersey—moreover, the problem is exacerbated in this State by the presence of large numbers from various cultures; a constant immigration of persons from these cultures, along with the introduction of substantial numbers from new groups.

A cursory review of statistics on Ethnic Characteristics for Areas & Places: 1970 [3] reveals the numbers of persons of Spanish origin and descent in only a few selected areas of New Jersey:

Population of persons of Spanish origin or descent

Area:	
Atlantic City	3,838
Camden	18,253
Elizabeth	14,996
Jersey City	90,745
Long Branch	5,440
Newark	79,481
Paterson-Clifton-Passaic	46,895
Perth Amboy	10,200
Trenton	5,919
Vineland-Millville-Bridgeton	6,932

It should be noted that these are 1970 census figures and that populations indicated have often been found to be actually "population estimates" due to problems associated with getting accurate counts in disadvantaged areas. Figures presented are normally increased 20 percent to 40 percent to allow for errors or omissions during the census process.

Being unable to address these culture-based problems due to changes in the RMP mission, staff continued informal discussions of the need with members of the Urban Health Task Force of NJRMP and maintained liaison with culturally focused program activities in other RMPs.

The period that followed was one of great uncertainty since NJRMP was ordered to prepare for phase-out—causing staff to turn its full attention to activities that would provide for the survival of some projects and the orderly "shut-down" of others. In early 1974, when RMP was extended for another year, the Coordinator directed staff to refocus on the problems of health delivery to the medically underserved.

The Urban Health Task Force of New Jersey was reassembled and a special committee was appointed to begin reshaping the mission of this body. As a result of several meetings, the committee requested staff to follow-up previous efforts in the area of cultural awareness. The Coordinator, seeking to maximize program efforts in this area, sent a member of the NJRMP staff on a fact-finding mission to a number of RMPs and other organizations across the nation to determine interest in a cooperative program effort. His rationale was that if a number of RMPs, in various parts of the nation, cooperatively approached the problems of access that were associated with culture—substantial data could be developed that would be useful to providers nationwide—and this approach would be cost-effective. That is, rather than a large number of RMPs submitting for cultural awareness activities, a selected number would program to improve access among the major minority cultures and share findings and methodologies with other providers.

The response to the NJRMP initiative was very encouraging. As a result of the fact-finding mission, personal and telephone contacts and written communications, interest was expressed in cultural awareness programming by RMPs of:

California
Florida
Illinois
Metropolitan Washington
Mountain States (Idaho, Montana, Nevada, Wyoming)
New Mexico
New York Metropolitan
Northlands (Minnesota)
Oregon
Puerto Rico

[1] "The Hot-Cold Theory of Disease", JAMA (THE JOURNAL of the American Medical Association) (May 17, 1971), pg. 1153.

[2] James N. Haug and Rosemary Stevens, "Foreign Medical Graduates in the U.S. in 1963 and 1971: A Cohort Study", American Medical Association Center for Health Services Research; Reprint from Inquiry, Vol. X, March, 1973.

[3] 1970 Census of Population, General Social and Economic Characteristics, New Jersey, U.S. Department of Commerce, April, 1972.

Rochester
Washington/Alaska

Many of the coordinators of these programs forwarded letters to DRMP to solicit its aid in launching a nationally coordinated program. DRMP responded by pointing out the national program's inability to provide special funding for this activity but encouraged local program efforts.

As staff began exploring how best to programmatically address the issue of cultural awareness locally, it soon became clear that the problem was far more intricate than originally considered. Aside from the obvious problems associated with health care delivery by majority-culture providers to minority-culture consumers, a variety of other types of problem-oriented service encounters were found to be every day occurrences as shown on the following chart.

The Problem Oriented Service Encounter Chart depicts the range of interpersonal encounters that may take place in a health service setting. Solid lines represent problems resulting from interaction between persons of different culture, ethnicity, language, race or any combination thereof; while the broken lines represent problems resulting from interaction between persons of possibly the same culture, religion, race, etc., but whose attitude are molded by factors such as economic status, prejudice, religious views, sex, etc.

(Chart not printed in RECORD.)

The New Jersey Regional Medical Program's Cultural Awareness Program, therefore, is an attempt to implement this important program thrust essentially along the lines suggested by its councils and believed to be most effective by staff. Additionally, the New Jersey effort will retain the most workable features of the planned national program—allowing for close coordination, cooperation and resource sharing between the New Jersey Cultural Awareness Program and those being concurrently developed by other RMPs.

V. GRANTEE CONSIDERATIONS

A. Review Procedure

1. Projects will undergo three levels of review:

a. A *Cultural Awareness Team,* consisting of NJRMPI staff, will execute initial reviews of projects and develop project summaries for review by the Cultural Awareness Study Group, provide ongoing monitoring and technical assistance to the projects, and function as the link between the New Jersey Cultural Awareness Program and related activities nationally.

b. A *Cultural Awareness Study Group* (CASG), composed of members from the former Urban Health Task Force and selected provider/consumer organizations around the State, will be responsible for secondary screening of project applications to determine appropriateness with respect to proposal guidelines. The CASG will also function as an ongoing advisory group to the Cultural Awareness Program.

c. A. *Culutral Awareness Technical Review Panel,* composed of approximately five persons from outside the State who have experience in proposal review and cultural awareness activities, will meet with the persons whose projects have passed secondary screening and make final recommendations on the funding of projects.

2. The personnel required by each project will be determined by the organization developing the applications. Each application will be carefully reviewed to determine the appropriateness of staff and its relationship to project objectives.

B. Eligible Grantees and Activities.

Eligible Applicants

Proposals will be accepted from organizations and groups with demonstrated interest and capabilities in the health care field. These include, but are not limited to: medical/dental schools, freestanding non-profit health centers or clinics, hospitals, health departments, medical societies, medical care foundations, mental health facilities, drug rehabilitation activities, institutions of higher educaton, non-profit community-based organizations, informational centers which link people to appropriate services, etc.

Priority Program Areas

NJRMPI proposes to fund projects for one year. Those activities that will be given consideration for funding will be projects that:

Demonstrate an understanding of the cultural differences of consumers and/or providers;

Demonstrate a concern for those differences;

Present a sound plan for improving the sensitivity of providers to those differences in such a manner that has potential for measurably improving access to, acceptability and quality of care rendered.

In general, projects should address issues which involve improving all or parts of an existing medical care delivery system and *may* include the following:

(a) *Community Approaches:* Proposals will be considered which develop approaches to reduce identified barriers impeding access to care for underserved segments of the population whose cultural orientations pose special problems for sensitive and effective health care delivery. These barriers include, but are not restricted to: language, beliefs, mores, environmental factors, etc.

(b) *Improvements of Delivery Resources:* Proposals will be considered which augment existing health care delivery units. Such projects might propose an increase in the quantity and quality of available resources in terms of making them more sensitive to the cultural differences of their clients. In general, improvement of delivery resources should relate to both consumer and provider concerns of accessibility, availability and appropriateness of services.

(c) *Cooperative Arrangements:* Proposals will be considered which improve reciprocal relationships between health care delivery mechanisms and specialized care resources in order to insure the continuity of care.

(d) *Manpower Approaches:* To begin new manpower training programs is not feasible because activities being considered for funding within this proposal are scheduled for only *one year* of RMP support. Proposals which are intended to upgrade skills or offer new skills to health providers already working in the health care field will be considered.

(e) *Consumer/Provider Involvement:* Projects advocating approaches to improve effective participation of providers/consumers in the management or general overseeing of health care activities must clearly demonstrate a potential for impacting on the quality of such services in a manner consistent with the general interest of this proposal in order to be considered for funding.

C. Funding Limitation

The actual amount of funds available for the Cultural Awareness Program is not certain at this time; however, the budget for each proposal should not exceed $30,000 for the one-year period.

THE PALESTINE LIBERATION ORGANIZATION

Mr. BROCK. Mr. President, last week, 71 Members of this body wrote to the President expressing their concern on the clear and present danger which the Palestine Liberation Organization presents to American foreign policy interests and urging that the administration reaffirm our Nation's long-standing commitment to Israel's security.

The signators of the letter cited recent U.N. actions to give the PLO recognition and the action of the General Assembly to limit Israel's right to reply as a "serious departure from the original principles of the U.N."

The letter also noted that the decision by UNESCO to withhold assistance to Israel is a "shameful example of the transformation of that international humanitarian organization into a political weapon."

The bipartisan group of 71 Senators called upon the administration "to take the lead in organizing our friends and allies to resist political and economic blackmail in the future."

Mr. President, I ask unanimous consent that the letter to the President along with the names of the 71 signatories be printed in the RECORD.

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

DECEMBER 9, 1974.

DEAR MR. PRESIDENT: In writing to you about recent developments in the Middle East, we wish to reaffirm the commitment to the survival and integrity of the State of Israel that has been the bipartisan basis of American policy over 26 years and under five administrations.

We believe that the prominence of the Palestine Liberation Organization at the Rabat conference and at the United Nations General Assembly poses a direct threat to American foreign policy which must be met vigorously and promptly. Mr. Arafat's own statements from the rostrum of the United Nations strip away any illusions about the values and mentality which dominate the PLO. His espousal of terrorism and his repeated calls for the destruction of Israel as a Jewish homeland must be resolutely opposed by the United States in order to make progress toward a genuine peace in the Middle East.

We are deeply disturbed by the United Nations vote to give recognition to the PLO and by the spectacle of western cynicism, apathy and disunity. The action of the General Assembly to limit Israel's right to reply is a serious departure from the original principles of the United Nations. Moreover, the decision by UNESCO to withhold assistance to Israel is a shameful example of the transformation of that international humanitarian organization into a political weapon.

These recent events dramatize the need for the United States to take the lead in organizing our friends and allies to resist political and economic blackmail in the future. We do not believe that a policy of appeasement will be any more successful now than it proved to be in Europe in the 1930's because we confront an appetite which grows on what it is fed.

We therefore urge you to initiate a comprehensive and coordinated diplomatic response that will unite our friends and allies in meeting these new challenges to peace in the Middle East.

We urge that you reiterate our Nation's long-standing commitment to Israel's security by a policy of continued military supplies and diplomatic and economic support. In doing so, you will be acting in the best interests of the United States and with the

support of the Congress and the American people.

Respectfully yours,

The senators signing the letter:

James B. Allen (D-Ala), Howard H. Baker Jr. (R-Tenn), Birch Bayh (D-Ind), Glenn J. Beall (R-Md), Lloyd Bentsen (D-Tex), Joseph R. Biden Jr. (D-Del), Bill Brock (R-Tenn), Edward W. Brooke (R-Mass), James L. Buckley (C-R-NY), Quentin N. Burdick (D-N. Dak).

Robert C. Byrd (D-W. Va.), Howard W. Cannon (D-Nev), Clifford P. Case (R-NJ), Lawton Chiles (D-Fla), Frank Church (D-Idaho), Dick Clark (D-Iowa), Marlow Cook (R-Ky), Norris Cotton (R-NH), Alan Cranston (D-Calif), Robert Dole (D-Kans).

Peter V. Domenici (R-N. Mex), Peter Dominick (R-Colo), Thomas F. Eagleton (D-Mo), Hiram L. Fong (R-Hawaii), Mike Gravel (D-Alaska), Edward J. Gurney (R-Fla), Philip A. Hart (D-Mich), Vance Hartke (D-Ind), Floyd K. Haskell (D-Colo), Roman L. Hruska (R-Nebr).

Walter D. Huddleston (D-Ky), Hubert H. Humphrey (D-Minn), Daniel Inouye (D-Hawaii), Henry M. Jackson (D-Wash), Jacob K. Javits (R-NY), Edward M. Kennedy (D-Mass), Warren G. Magnuson (D-Wash), Charles McC. Mathias (R-Md), Gale W. McGee (D-Wyo), George S. McGovern (D-S. Dak).

Thomas J. McIntyre (D-NH), Lee Metcalf (D-Mont), Howard M. Metzenbaum (D-Ohio), Walter F. Mondale (D-Minn), Joseph M. Montoya (D-N. Mex), Edmund S. Muskie (D-Maine), Gaylord Nelson (D-Wis), Sam Nunn (D-Ga), Bob Packwood (R-Oreg), John O. Pastore (D-RI).

James B. Pearson (R-Kans), Claiborne Pell (D-RI), Charles H. Percy (R-Ill), William Proxmire (D-Wis), Jennings Randolph (D-W. Va), Abraham Ribicoff (D-Conn), William V. Roth (R-Del), Richard S. Schweiker (R-Pa), Hugh Scott (R-Pa), John Sparkman (D-Ala).

Robert T. Stafford (R-Vt), Ted Stevens (R-Alaska), Adlai E. Stevenson III (D-Ill), Stuart Symington (D-Mo), Robert Taft Jr. (R-Ohio), Herman Talmadge (D-Ga), Strom Thurmond (R-S.C.), John Tower (R-Tex), John V. Tunney (D-Calif), Lowell P. Weicker Jr. (R-Conn) and Harrison A. Williams (D-NJ).

MANY INDIANS, NO CHIEFS

Mr. McCLELLAN. Mr. President, today our Nation faces some of the most difficult problems it has ever faced. The combination of recession and inflation, rising unemployment, unprecedented fuel prices, food shortages, and the continuing crisis in the Middle East is deeply perplexing to our citizens. What has made this combination even more troubling is the absence too often of firm and enlightened leadership, in both government and the private sector—effective leadership—to rally our people to acts of sacrifice and determination.

For some time now, I have been concerned that our society is inhospitable to leadership. The call for "participation" decisionmaking, while understandable and in many respects desirable, may contribute to discouraging the emergence of leaders. So, surely, does the abuse and unbridled criticism that seems always to be visited on those who, in President Lyndon Johnson's phrase, "stick their heads up above the grass." The fact is, Mr. President, today—perhaps more than ever—needs wise and strong leadership.

There appeared in the December 8 issue of the Washington Post an interesting article on the subject of leadership, written by Harry McPherson, a Washington lawyer who served at one time as counsel of the Senate Democratic Policy Committee. This article, "Many Indians, No Chiefs," is most informative and thought provoking, and I ask unanimous consent that it be printed in the RECORD.

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

MANY INDIANS, NO CHIEFS

(By Harry McPherson)

We are virtually without leaders. This is true not only of politics and government, but of society as a whole.

There have been other times in which the President provided no clear sense of direction and purpose to the country. There have been times when no one in Congress spoke for a large element of public opinion, or was able to pull the Congress' factions together into something like coherence. But such periods rarely coincided, and if they did—if leadership was missing in both the White House and the Congress—it appeared elsewhere. Our time may be unique in that lack of leadership is now pervasive.

This does not mean, of course, that there are no prominent men and women of our era. There are as many officeholders as before, as many stars in the entertainment galaxy, as many people winning acclaim for other accomplishments. But accomplishers are not necessarily leaders. What is missing are those who, by example, authority, or both, offer guidance to some significant group in society, and whose guidance is accepted by that group and recognized by others. What is missing is leadership of the kind that is persuasive, even determinative, and relatively lasting.

This lack has perhaps been most widely noted in government. President Ford is not yet a leader, and may never be. His experience has consisted chiefly of accommodating the members of his party in the House. Though he was often successful in this, he gave few signs that he had more in mind than keeping the wheels turning. Circumstances may have inhibited him—the manager of a semi-permanent minority has limited opportunities to display genuine leadership—but he did not overcome them. During his first months in the presidency (a weakened institution, but still the preeminent rostrum for a national leader) we've had no reason to think that a more compelling Gerald Ford is primed to emerge.

A PAUCITY OF FOLLOWERS

In Congress, neither Speaker Albert nor Majority Leader Mansfield has regularly attempted to define the policies of his party, much less those of his House. They were elevated to their offices because they held moderate views, were personally respected, and came from politically neutral regions of the country. All these reasons remain true; what is more, neither man has sought to impose his will on other members. In the wake of aggressive and demanding leaders—Sam Rayburn and Lyndon Johnson—their permissive, almost pro forma stewardship is agreeable to most congressmen and senators, who would probably resist being herded into majorities by more determined men. Yet such liberality has a price. "The great leaders of Parliament," Walter Bagehot wrote, "have all had a certain firmness. A great assembly is soon spoiled by over-indulgence."

Both House and Senate have been "democratized." Ordinary members now have the power—whether or not they exercise it—to challenge committee chairmen. The right to participate in decision-making is better established, and more widely shared, then ever before. As a result, the House, in the words of one liberal Democratic congressman, is "a more pleasant place to work in."

"Still," he adds, "not as much gets accomplished as before." The "whales," as Lyndon Johnson called those who dominated the life of Congress in the 1950s, have almost all disappeared. Sometimes arrogant, often oppressive, they nevertheless managed to produce legislation that compromised differences and gave the public an impression of a Congress on the move. In this participatory age, there are still influential members, but there are few or none who singly or in combination with others of their kind are able to contrive majorities on a wide range of public issues.

This is curious. With the proliferation of subcommittees and staff that has occurred during the past few years, a senator may become a chairman relatively soon after coming to Congress, conducting newsworthy hearings and producing a mountain of studies and reports. Vivid congressional personalities have unparalleled opportunities for media exposure today, whatever their seniority. Yet these well-staffed, well-reported men and women do not lead contingents, much less mighty factions, in either House.

Perhaps the problem is a paucity of followers. The chance to participate, to speak up, to be independent, may have become a mandate to do so. Members who in earlier years might have been perfectly content to be foot-soldiers may now feel obliged to wear the tunics of officers. That removes them from the ranks, depriving potential leaders of their services; but it does not give them command.

A BATTALION OF SQUABBLERS

If there are no powerful figures on the Hill, what about downtown? Many people lament the trend toward executive government, but surprisingly that trend has produced few leaders outside of the White House. How many Americans can name three Cabinet secretaries? Dr. Kissinger is a great personality and a brilliant performer; yet it is difficult to imagine what his legacy will be to his successor. Indeed, even his ranking subordinates are uncertain of his policies from day to day. Ad hoc diplomacy can be good spectacle, and by its nature it avoids rigidity; but it leaves us with little guidance for the future. One can be grateful for Dr. Kissinger's skill while wishing that one knew better where it is taking us.

As for the government's economists, they are a battalion of squabblers, none of whom seems to think the others are in touch with reality.

And who waits in the wings, ready to sound the call to a new national effort under his banner? Among Democrats, the possibilities are distinguished, but they have not as yet inspired strong followings. By comparison, the contenders for the Democratic nomination in 1960—Kennedy, Johnson, Humphrey, Symington and Stevenson—were, at a similar point in their careers, better known and more vigorously supported by important interests within the party than are Jackson, Bentsen, Carey, Udall, et al. Perhaps the others will set their smoldering compaigns ablaze in the coming year. One hopes they will; but it is going to require a lot of luck and political sagacity to bring it about.

Among Republicans, the scene is even murkier. President Ford has the obvious advantage, but I think he will have to convert his titular leadership into something more

substantial if he is to discourage potential competitors for the nomination.

To sum it up, the horizon of American politics and government is peculiarly flat. There are few heroes about whom people seem to care intensely.

THE CULTURE VACUUM

If political leadership were the only problem, the landscape might not appear so dismal. But what of the other elements of our society?

What of the culture? These may be leading artists of whom I've never heard, or whose work I simply don't like, but it seems to me that the arts in America are in about the same condition as is American politics. Many capable people are at work, but there is not much leadership to be found among them.

There is no leading novelist, as Hemingway, Faulkner, Fitzgerald and Dreiser once were; no one writing today is, by his artistry or vision, magnetic to other novelists. There is no school whose master is Bellow, Roth, or Heller; and the most admired novel of the past 30 years, Ralph Ellison's "Invisible Man," has no sequel, even from its author's pen. Norman Mailer is a literary Kissinger, a showboat without a wake. Robert Lowell was the leader among poets a decade ago, but his confessional vogue seems to have faded, and none other has succeeded it.

Among contemporary works of serious music, there seems to be a general absence of taste, beauty, and organizing principle. Paraphrasing Churchill about the pudding, today's music has no theme. Copland and Harris, while still active, are not responsible for today's nerve-shattering cacophony. And who has succeeded the Beatles and the Rolling Stones and Bob Dylan?

What of drama? Tennessee Williams and Arthur Miller were the undoubted leaders among playwrights in the 1940s and 1950s. To judge from their recent work, they are past their prime, and no one has replaced them. There are, perhaps, leaders among film directors, though we can't be sure if those of today's generation are the equals of Ford, Hitchcock, and Wyler, or have only been made to seem so by *auteur* criticism. A larger body of work should tell.

I recognize that leadership among artists is different from that among political figures. It is commonly the nature of great artists to step out in advance of public opinion and of politicians to attune themselves to it. But in the course of this century, artists here and abroad have broken new ground with such authoritative power as to affect not only the course of their art, but the sensibilities of nations. Joyce, Eliot, Hemingway, Stravinsky, Picasso, Pollock—all led the way for other practitioners, and led us, their consumers, to a heightened awareness and appreciation. As best I can judge, our arts are without such leaders today.

In the rest of society, the picture is much the same.

In business, no leaders—neither in the buccaneer, 19th and early 20th Century tradition; nor in that of the tinkerers, like Ford, Edison, and Kettering; nor as Bigtime Spokesmen, for Industry, as Benjamin Fairless and Roger Blough once were. Nixon's business friends were for the most part outsiders, entrepreneurs without resonance in the business community. Ford's, according to The New York Times, are the Washington vice presidents of corporations. Very likely the size and complexity of modern business institutions have served to produce anonymity at the top. For most corporate officers, the bad press visited upon business as a whole probably suggests a low public profile as the best means of avoiding trouble.

In the military, the death of Creighton Abrams removed the best of the famous World War II commanders from the active list. Vietnam created none to replace them. It is instructive that the fastest riser in military ranks, Alexander Haig, should be a skillful performer of privy political duties, whose advancement earned him as much animosity as appreciation among his fellow officers.

There are no leaders among black Americans to equal Martin Luther King, Whitney Young and Roy Wilkins in his prime. The waning of the civil rights "cause," and the frustration of simplistic efforts to improve living conditions among poor blacks, have made it difficult for able men like Vernon Jordan to achieve broad and definite positions of authority. Leadership in the women's movement is disparate, as it is among Chicanos. "Youth," after its explosive emergence in the late 1960s, is without a voice. The term "labor leader" is a cliche, but increasingly it lacks point. George Meany continues to preside over a heterogeneous band of union presidents, but it has been some time since either he or they were perceived as being in the vanguard of social change. They are in fact effective in political campaigns and in the passage of legislation, but they do not noticeably stir the emotions and summon up the wills of working-class Americans.

I doubt if a roomful of lawyers could agree on five leaders of the bar. As for that famous "Eastern Establishment" of lawyers and investment bankers—they who, it was often alleged, determined the course of American policy by means of their close association with Presidents, experience in government, and general long-headedness—one can only conclude that if it ever existed, it has been dis-established.

Are there religious leaders? My knowledge of the Catholic hierarchy ended with Cardinals Spellman and Cushing; the names of their successors escape me. Billy Graham can lead 50,000 people in prayer, but, to use an earlier distinction, I regard him as an inspirational performer, not a true leader; I don't see him leaving his mark on a significant religious institution or founding a seminal theology.

There are several effective and articulate university presidents in the country, but few educational leaders. As for science and medicine, I plead ignorance. Doubtless there are leaders within those disciplines whose work defines that of their colleagues. The continuing bestowal of Nobel Prizes would suggest that. But if true leadership requires that persons outside the affected group be aware of a leader's primacy within it, the situation among scientists and physicians may not be very different from that in the "other" culture. We, the outsiders, are unfamiliar with the Einsteins and Flemings of today; and though we seek the help of Drs. Cooley and DeBakey, we've no idea whether or how they "lead" their profession.

THE ANTILEADERS

Doubtless I've overlooked or slighted someone who justly qualifies as a leader of an important group in the America of 1974. I've purposefully left until now any discussion of three men who do qualify as leaders—John Gardner, Ralph Nader and George Wallace—in order to make a point.

Each is, to one degree or another, an antileader. Gardner and Nader have won a following partly, perhaps chiefly, because they have spoken out against those in power, the ostensible leaders of business and government who abuse the public by buying and selling candidates for office or producing faulty seat-belts or whatever. Wallace's attacks on "pointy-headed bureaucrats" and Washington politicians are familiar.

Each man is perceived as attacking the power structure and, it's fair to say, as being more honest than those in high office. None is authoritarian in an organizational sense. Gardner wants the units of Common Cause to think for themselves, Wallace wants local people to decide local issues, Nader has no more divisions than the Pope. Yet each commands the respect and even the devotion of a large body of Americans; where they lead, many will follow. One may surmise that, were they to be entrusted with high public responsibility, each of these very different men would change in much the same way: that as they became the target of anti-leaders themselves, and as they faced the tasks of administration and of reconciling fiercely opposing views, they would become at once more conventional and less attractive to their present constituencies. For the present, they can be leaders by opposing leaders, by articulating the public's anger toward, or suspicion of, those in power.

If the country is for the most part bereft of leaders, two questions arise: How did it happen? And is it good or bad?

There is surely no simple answer to how it happened; many fundamental forces are at work, individually and in combination, and it is difficult to assign degrees of importance to them. For example, there is the leveling process foretold by Tocqueville in "Democracy in America." It is fueled by resentment toward those in positions above the mass of mankind, and by a sense of having been betrayed by them. Universal education and the promise of unlimited opportunity have created expectations among millions of people which could not possibly be satisfied.

Related to this is the nature of our colleges and universities. Many millions have now attended college, and it is reasonable to expect that tomorrow's leaders will come in large part from the most ambitious among them. Yet today's intellectual tradition is predominantly critical. It is resistant to the essential pretension of leadership—i.e., that a leader is capable of guiding others more wisely than they are capable of guiding themselves. To the extent that college-educated men and women have been exposed to that tradition, they may be presumed to be biased against the pretension of leadership.

Added to these is the growing call in our society for "participation." This demand—whether or not it is accepted when granted—proceeds from a suspicion of leadership, often well founded; and when granted and accepted, it usually complicates the situation. "Participation" and "decisiveness"—the latter the characteristic of leadership—are antithetical.

Further breeding suspicion of leadership have been Vietnam and Watergate, the U–2 flight and the Bay of Pigs, which have generated a deep cynicism in the public, to which no politician is immune. And as for the would-be leaders, the contumely, the threats of physical harm—indeed, the murder—which have befallen some public figures have caused many to renounce ambition for public office.

These are some of the forces. There are many others:

The media have over-exposed public men, showing their feet, in some cases their whole bodies, of clay. Television burns up new personalities quickly; those politicians who survive TV are typically cooler and blander than the leaders of earlier eras. They are correspondingly less likely to stir people, i.e., to lead them. Television also cannot offer a two-way channel of communication with the public, so that potential leaders cannot feel what their potential followers think of them.

Political, economic, and social changes, which various leaders offered as remedies for the nation's ills, are perceived as having failed or only partially succeeded.

The enormous variety of means by which outstanding people can now succeed, or at least make do, has vitiated the single-minded drive—whether to command, or to own, or to develop a vision through art—which is central to leadership.

The growth of mammoth institutions has made the emergence of individual leadership much more difficult.

The flight from city to suburb has destroyed communities in which leadership flourished, without substituting others for them; it is hard to reach people, or to address them as members of a corporate entity, when they have been spread apart by a centrifugal force of their own making.

Permissiveness is the watchword of our society; since anything goes, nothing in writing, painting, or music, as well as in politics, may legitimately command.

Regulation is the watchword of government; variation from any norm is suspect; neither a public benefactor, a creative loner, nor a robber baron can be allowed to operate free of reporting requirements and compliance with generic rules.

Leaders make, or are made by, causes, and we're bored and let down by those.

BARONS AND KINGS

Is the result good or bad? Leadership is a spectrum at one end of which is tyranny, suffocating dominance, intolerance for variety. We do not need a French Academy to prescribe our letters, any more than we need a commissar to rule our politics. Grown-ups, like children, must learn to assume responsibility for their decisions. And understanding that leaders are human-sized is the beginning of wisdom. There are benefits to be had from the absence of leaders.

There is also a cost—a high cost, in my view. A society without barons is in danger of being ruled by a king—by a man on a white horse who thrills its leader-hungry people, and who is unchecked by other persons of esteem. Perhaps our strong, skeptical and democratic people are immune to that danger. I think we are, but so have other people thought themselves to be, mistakenly. Nixon was no man on a white horse, but we saw how easily he commanded the business of government in his prime. A weakened Congress was no match for him.

The absence of leaders means that there are few channel-markers to define a course for us. It may be good that there is nobody whose opinion I wait to read before forming my own; "thinking for one's self" is a highly regarded activity, justly so. And yet (unless I am divinely inspired) how am I to think intelligently without the benefit of other thought, whose thinkers I respect, though I disagree with them? A society without traditions, without established and respectable positions, is a swamp. And traditions cannot be formed and maintained in the absence of leadership.

Leaders call upon, and ultimately focus, the energies of the rest of us. It is safe to say that none of our national problems can be successfully tackled unless we act to some degree collectively, upon the recommendations of genuine leaders. It is likely that without leaders, art tends to decay into incoherence, legislative politics into mere log-rolling, the executive into deviousness, electoral politics into promotional schemes, business into timorousness and fast-buck manipulations, labor into preoccupation with narrow interests and so on.

I've no idea whether leaders are born or made. Whichever it is, they require a reasonably hospitable climate to grow in, and on the evidence ours is not such a climate today. Perhaps leadership is one of those historical pendulums whose movement is dictated more by the mysterious laws of nature than by the conscious choice of citizens. If that is the case, we can relax and simply wait out this leaderless time.

On the chance that we have something to say about it, however, I have several suggestions. One is for the majority of us. We should be patient with potential leaders. We should remember that Winston Churchill enjoyed several periods of glory, and endured almost as many crushing rejections, in the course of his long career. That Roosevelt took many years to mature into the man whose leadership rallied the country in a dark hour. That Faulkner wrote poor novels, and Yeats weak poems, and that Martin Luther King made some empty speeches, in the course of their brilliant and productive lives. We must judge leaders over the long pull. We should be wary of their abuse of authority, but we must not snap them off impatiently, as we would a television comedy that fails to amuse.

And we must not regard the following of excellence—or even of high competence—as indecent.

The other suggestions are for potential leaders. One is that they should not regard public opinion polls as sovereign in determining their own course. Leaders teach, as well as cozen to, public opinion; and in our confused times, we are much in need of teaching.

Another suggestion amounts to a stage direction. It is, in Lyndon Johnson's phrase, to "get your head up above the grass." In Johnson's hill-country version of hubris, "any rooster that sticks his head up above the grass'l get a rock thrown at it." True enough. But that's where a leader's head belongs. Unless human nature has radically changed, some talented and decent people are inherently driven to leadership; more importantly, the rest of us need them.

EXPERIENCES OF MR. ROSWELL GARST WITH RUSSIANS

Mr. FULBRIGHT. Mr. President, Mr. Roswell Garst is one of the most imaginative and original men I have ever known.

He is also a very fine farmer and plant breeder.

In addition, he has great understanding and commonsense about international relations and has worked hard to improve our relations with Russia before détente became our official policy.

Recently, Mr. Garst sent me an account of some of his experiences with the Russians.

I ask unanimous consent to have printed in the RECORD his letter to me.

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

GARST & THOMAS HYBRID CORN CO.,
Coon Rapids, Iowa, December 10, 1974.

Senator J. W. FULBRIGHT, Arkansas,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FULBRIGHT: Much to my sorrow and disappointment, it will not be long before your long and distinguished terms in the Senate will end.

It was in the fall of 1959 that we met at Des Moines when we both gave talks before the Iowa Bankers' Association annual meeting.

You spoke one day—and I spoke the next day. Our Iowa Senator, Burke B. Hickenlooper, was on your Foreign Relations Committee—and had refused to even be in the same city with Nikita Khrushchev. He left Washington the day you put on the luncheon for the Foreign Relations Committee.

You knew I was in the seed corn business—that most bankers are conservatives—and you stayed over a day to get the Iowa bankers' reaction to a farmer selling seed corn to a communist country. The reaction of both the bankers and of Iowa farmers was not bad—and I have had pride in all the years since of having contributed to an improving relation between the Communist countries of Eastern Europe and the United States.

In January or February of 1955 Khrushchev had made a speech in the parliament of the U.S.S.R. saying that "what the Soviet Union needs is an Iowa Cornbelt."

Mr. Loren Soth, Editor of the Des Moines Register, had written an invitation as a result of the Khrushchev speech which invited Khrushchev to send a delegation over to see how the Iowa Cornbelt was operated.

Khrushchev accepted the offer. The State Department said about as follows: "No! No! We will not accept a delegation from the Soviet Union unless we can send a delegation of the same size to the Soviet Union." Khrushchev agreed immediately and the exchange of delegations took place in July and early August.

The U.S. delegation was led by the Dean of Agriculture of the University of Nebraska and a fine group of farmers—mostly from Iowa and Illinois.

The Soviet delegation was headed by V. V. Matskevich, Deputy Minister of Agriculture, who became Minister of Agriculture on his return to the Soviet Union—and only retired from that post about two years ago. He is now retired to the less demanding job of Ambassador to Czechoslovakia.

The Soviet Delegation had spent a week or ten days in Iowa when they spent a Saturday night in Jefferson, Iowa. They were spread out around town with the local citizens—two per home. A cousin of mine was a banker in Jefferson—and he and his wife kept two of them (one of whom spoke English). Mrs. Garst and I invited them over for Sunday morning breakfast—the two Russians and their hosts—my cousins.

We were at that time farming about 2,500 acres. We were producing hybrid seed corn. We were feeding cattle ground corn cobs for the carbohydrate—using a mixture of 10% urea and 90% molasses as the protein supplement. We were fertilizing generously and, of course, getting very high yields.

The Soviet delegates had to be back to Jefferson in time to go to church so I only had two hours or so to show them around. But they reported back to the delegation leader, Matskevich, that he must come to Coon Rapids.

They phoned us about 1 p.m. and invited us to come to a cocktail party they were having that Sunday evening at Ames, Iowa where they were going to stay that night so they could see Iowa State University the next day. We accepted the invitation.

Matskevich asked me to have the itinerary changed if possible, so the whole group could come. But, I urged him to let the rest of the delegation fill the itinerary schedule—bring an interpreter with him—and come over by himself which he did do. He spent from 9 A.M. to 4 P.M. at our farm and invited me to come to the Soviet Union in September and October.

I did not immediately accept. I did not know what the attitude of the State Department would be. I told Matskevich that I would let him know before he had finished his tour of the U.S.A.

I immediately went to Washington and told the State Department about the invitation. Secretary Dulles was on the other side of the world when I was there.

I told the State Department that I knew a good deal about agriculture. If the State Department thought it was in the best interest of the U.S.A. to have the U.S.S.R. improve their agriculture, I would like to go—and try to help them. But—

If I told them the virtues of hybrid seed corn, I wanted to be able to sell them hybrid seed corn so they could have a demonstration in their own country. If I told them the virtues of fertilizer, insecticides, herbicides, improved machinery—anything that would help them produce more and better food with less labor I had to be assured that I could get an export license!

They explained that as soon as Secretary Dulles returned they would take the matter

up at the highest level and let me know. I think they meant that Secretary Dulles and President Eisenhower would make the decision.

In any case, in about two or three weeks, the State Department asked me to come back which I did do.

They told me they felt I had wasted a good deal of their time—that they thought no one could teach the communists anything—nor sell them anything but—

If I wanted to go "on my own" without any encouragement from them, they were willing to validate my passport and authorize me to visit the Soviet Union.

In the meantime I had discovered that Romania, Hungary and Czechoslovakia were better yielding areas—so I asked them to validate my passport for those three nations as well! The State Department assured me that they felt sure I could not get a visa from any of the three countries. I pointed out that it did not cost anything for them to write the three extra names and agreed not to go unless I received visas.

I waited till I got to Moscow before I asked for visas to Romania, Hungary and Czechoslovakia and I not only had all the visas in 24 hours—I had an invitation to visit for as long as I had time in each country as a guest of their Department of Agriculture.

I spent about three weeks in the U.S.S.R.—about one week in Moscow with the Department of Agriculture. I gave lectures on hybrid corn, on about the use of fertilizer, insecticides, herbicides, how to raise chickens, hogs, cattle and about fertilizer. Then, I was taken to South Kiev, Kharkov, Dneipersevesk, on down to Odessa.

There I was informed Mr. Khrushchev, Matskevich the Minister of Agriculture, Mikoyan the Minister of Foreign Trade, the Minister of Agriculture of the Ukraine and quite a few other experts of one kind or another were waiting.

We started about 1 p.m. and ran on until 5 p.m. with questions—then an hour of cocktails—then a couple of hours or so for a many course dinner with wine with each course.

The next morning I sold them 5,000 tons of hybrid seed corn for $200 per ton in spite of the fact that I only let them have extra small kernels—which were not saleable in the U.S.A. because American farmers wanted not only "good seed corn", they wanted it to "look" like good seed corn.

(Now farmers plant "extra small kernel" sizes, willingly, because there are more kernels per bushel so it costs less per acre and they do just as well as the larger kernels but that was not true in 1955.)

I did not see Nikita Khrushchev again until 1959. Mr. Mikoyan, Minister of Foreign Trade, was in Washington after having visited Cuba. I flew to Washington and had lunch with him.

He told me that Khrushchev had told him that he would like Mrs. Garst and me to come to the Soviet Union—that he would like to visit with us both.

I explained that Mrs. Garst and I had been planning on a Mediterranean trip in February, March and early April—and that we would interrupt our tour at Khrushchev's convenience and be glad to come. I agreed to call on the U.S.S.R. Embassy in Rome to pick up our visa and find out which date would be most convenient for Krushchev. We did that in late February. He wanted us to come in March so we went on to Egypt and Lebanon—then to the Soviet Union and back to Greece.

Mrs. Garst went with reluctance! She had never met him. She was afraid he would take his shoe off and pound the table as he had done at the United Nations. But, I wanted to try to sell him on the advantages of greatly lowering "Defense Expenditures". He was at Sochi on the Black Sea. Mrs. Khrushchev was in Moscow welcoming a new grandchild.

I went over with Minister of Agriculture Matskevich and our interpreter in the morning and we spent from 10 A.M. till noon talking about agriculture. Then about noon Mrs. Garst joined us and I would think we spent the luncheon and till 3 P.M. or 3:30 P.M. talking about the fact that the armaments were simply too costly for both the U.S.S.R. and the U.S.A.

I pointed out we were so productive we could afford it far better than the U.S.S.R.—that we still had so many cars we did not know where to park them—so many electrical gadgets we had difficulty keeping them in repair.

I pointed out the Soviet Union only had about half as much industrial capacity as the U.S.A. so much of their armaments burden came out of things American people would consider to be necessities.

He did not argue—never raised his voice, seemed to agree. When we had discussed the matter fully and were leaving, Mrs. Garst told Khrushchev that she had one regret. He asked what it was.

She said, "You have been such a nice host that I wish I could entertain you, and Mrs. Khrushchev, in our home as you have so cordially entertained us in your home!"

He bowed politely and said about as follows: "Mrs. Garst, if I ever visit the United States, I promise I will visit you in your home."

Within a few months, President Eisenhower invited him and he did visit us in our farm home.

He invited me to come to the Soviet Union while he was here. I was feeling poorly in 1960, so I got him to issue an invitation for our nephew, Mr. John Chrystal, who had met every visitor from not only the Soviet Union—but from Romania, Hungary, Czechoslovakia. And John did spend the summer of 1960—more than a month in the U.S.S.R. and the rest in Romania and Hungary.

I have been in the Soviet Union in 1955—in 1956 (with Mrs. Garst), in 1959 with Mrs. Garst, in 1963 with John Chrystal, in 1972 and 1974, both times with John Chrystal.

Khrushchev was demoted from Chairman to a non-person in the spring of 1964. I feared that it would be embarrassing to him, to me, to friends of his or mine to visit the Soviet Union while he was being treated as a non-person.

So I waited until after his death which I think was 1970. Matskevich was Minister of Agriculture and I encouraged our Secretary of Agriculture to invite him to come and visit the U.S.A. (he had not been in the U.S.A. after he headed the first farm exchange delegation in 1955). He came for a short visit in December of 1971.

I had a nice visit with him in Des Moines. And explained that hybrid grain sorghums were very popular in the areas of low rainfall in Nebraska, Kansas, Oklahoma and that the Soviet Union had lots of areas where the moisture—precipitation was from 25" per year to as low as 16" per year where corn had to be irrigated—but sorghums could prosper.

I sent him with my compliments ten bags of hybrid grain sorghum seed which was planted in the U.S.S.R. in 1972.

In the fall of 1972, he sent a delegation over and bought 900 tons of hybrid grain sorghum seed—invited John Chrystal to come over. In the fall of 1973, he sent another delegation over and bought 700 tons of seed (all we could supply).

Then this year, he invited John Chrystal and me to come to the Soviet Union and advise them where to build their own plants for the production of seed in the Soviet Union.

* * * * *

It seems to me that we have been as warmly received in 1972 and 1974 as we were when Khrushchev was alive. And, we have had visitors from Romania, Hungary, Poland and Bulgaria.

* * * * *

You, of course, have known almost all of the information contained in this letter. But it strikes me that your successor as Chairman of the Senate Committee on Foreign Relations might find the information of some value. So I am sending you an extra copy of it, and telling you that you have my permission to hand the extra copy to the Senator who succeeds you to that chairmanship. I think probably it will be Senator Sparkman but I am not sure.

I am also enclosing a copy of the letter and material I sent you the other day about the World Food Conference.

* * * * *

It seems to me that Secretary Kissinger was wise to suggest it. But Secretary Kissinger does not know about farming—and apparently neither does Edwin Martin. They both apparently thought Secretary Butz and Paarlberg would know.

So a great opportunity was lost for the time being. I think the situation can be greatly improved by a series of articles about the waste of flaring natural gas.

I do not know who will finally head the energy program. But, I feel almost sure that if the Mid East oil countries could sell a billion dollars or more of gas that is now being wasted, they might well be willing to reduce the price of the oil they export by a billion dollars!

The Persian Gulf lies in the center of the hungriest area in the world—i.e. Pakistan, India, Bangladesh on the east—the East Indian Islands farther east and Africa to the south. Freight of the fertilizer would be minimal.

I am not looking for a job—but I would not hesitate to visit with the State Department so that they know the opportunity that exists.

Only one thing more! I have no idea what you intend to do nor where you intend to live after you retire from the Senate. You may not have firmly decided yourself. I do hope you will let me know when you decide, so I can keep in touch with you when I think I have something that will interest you.

With warm regards,

Sincerely,

ROSWELL GARST.

ADELA

Mr. JAVITS. Mr. President, ADELA, the Latin American investment company, recently celebrated its 10th anniversary of successful participation in Latin American economies. At a time when multinational corporations are under sharp consideration at home and abroad, ADELA offers a unique example of a foreign investment means that has both prospered and won the real backing of Latin Americans. ADELA's success is in large measure a result of its becoming closely identified with Latin America. It has become "latinized" and this process has been made possible by its policy of taking only minority positions, and recycling its investments when the particular business gets on its feet and becomes prosperous. ADELA is certainly not the only model for invest-

ment in developing countries, but in a time of rising economic nationalism it is a model worth following on a worldwide scale.

It was in that spirit that I proposed in October the development of a global ADELA, that would cover also companies now operating in Africa and Asia to provide new investment on a worldwide scale. ADELA is a particularly useful instrument for absorbing significant amounts of oil revenues for productive investment in developing countries. Efforts are now underway to achieve a global ADELA.

ADELA's success was recently discussed in an article in the New York Times by H. J. Maidenberg. I ask unanimous consent that the article be printed in the RECORD.

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

PRIVATE AID TO PRIVATE ENTERPRISE

FINANCING BUSINESSES IN LATIN AMERICA

(By H. J. Maidenberg)

LIMA, PERU.—Few multinational companies have had a stranger birth and childhood than ADELA, a fairly successful Latin-American investment group that will be 10 years old next month.

Unlike other multinational groups, ADELA was conceived more because of its parents' fears about their existing holdings than as a vehicle for making a profit.

Basically, ADELA finances businesses in which it takes a minority equity interest. When the venture prospers, ADEDA sells out its holding and reinvests the proceeds in other businesses.

Often confused with the International Basic Economy Corporation (IBEC) and the Deltec Group, ADELA's role was defined by its president, Ernst Keller, during an interview here the other day.

"The Rockefellers started IBEC, to develop basic businesses or industries that were lacking in less developed countries, and Deltec is simply a merchant banking organzation. "ADELA, for its part, seeks out qualified entrepreneurs already in business or industry who are being held back by the lack of capital and know-how, which we are capable of supplying."

Mr. Keller, a 55-year-old Swiss-born former investment banker here, also noted that ADELA confined its operations solely to Latin America, although its nominal headquarters is in Luxembourg "for tax and other technical reasons."

Actually, ADELA, whose name is derived from its original designation—Atlantic Community Development Group for Latin America—is based here because Mr. Keller preferred to live in Lima, and because this city is within five hours flying time from the region's major financial centers—Mexico City, São Paulo and Buenos Aires.

An articulate banker well known in international financial circles, Mr. Keller said he preferred to discuss ADELA's future rather than its odd past, which was gleaned from a number of other bankers familiar with the venture capital company.

"I don't mind telling you," he said, "we got under way with about 50 shareholders—all top industrial or banking concerns in North America and Europe—who put up the original $16 million in January of 1965. Today, we have more than 250 shareholders and assets of roughly $2.5 billion."

Among ADELA's shareholders are such American companies as the Bank of America, Burroughs, Exxon, Firestone, I.B.M., International Harvester, Phelps Dodge, Irving Trust and White, Weld. Foreign participation includes the Bank of Tokyo, Hitachi, Commerzbank, Dresdner Bank, Fiat and Pirelli.

During ADELA's first 10 years, it has invested in 150 concerns ranging from fruit canning to shipyards, and has sold out its holdings in 40 of what Mr. Keller termed "mature" enterprises.

One company aided by ADELA was Listos Chimbote, a construction company set up following the Peruvian earthquake in 1970 to produce "antiseismic" prefabricated housing. This has become a money-maker.

A Colombian cheese factory and a producer of steel rods in Ecuador—now the biggest such concern on the Pacific Coast of South America—were among other ADELA ventures.

ADELA's president said that a guiding principle was to have his company "sitting always on a cushion of liquidity. That means at least $60-million in unused bank credit and an equal sum generated each year by cash flows."

However, he conceded that he recently had to go "from bank to bank around the world" to keep that cushion comfortable because of the inflationary problems affecting Latin-American economies.

"If ADELA, which represents the top-drawer banks and industrial corporations from Tokyo to Stockholm and from Toronto to Buenos Aires is having a difficult time raising money," he declared, "then I see trouble ahead for all less developed countries in obtaining credit."

Despite his pessimistic view of the international monetary scene, Mr. Keller said ADELA's next 10 years will see the company setting up national investment vehicles to serve as catalysts for economic development. Under this plan, major banks and industries in Mexico, Brazil, Venezuela and other lands will be organized to create ADELAs of their own to help "their own small entrepreneurs to become big ones and thus preserve free enterprise."

In addition, ADELA hopes to tackle the trade barriers of the industrialized countries by concentrating on developing export-oriented ventures. "We will teach them how to export. After all, our shareholders have the best connections."

Meantime, ADELA hopes to double its earnings in the next five years. For 1974, it expects to clear $8-million, compared with $7-million last year. However, most of the earnings will continue to be plowed back into the company, despite occasional grumbling from shareholders.

"I like to remind our shareholders that ADELA has never had a company fail after we sold out our interest, although we sometimes have to continue to help some out from time to time with technical or financial aid," Mr. Keller declared.

Not all ADELA stockholders share Mr. Keller's rosy view of the future of the company or, for that matter, of foreign investments in Latin America.

One foreign banker, whose institution is a founding shareholder in ADELA, reflected the other day:

"The whole idea came from Senator Jacob K. Javits. He got the idea in 1962, a year after the Democrats under President Kennedy began the Alliance for Progress to counter the panic that swept foreign investors in Latin America following the Cuban revolution of 1959.

"IBEC, of course, provided the concept—help set up basic industries and demonstrate that free enterprise can work for the betterment of the less-developed lands."

For several years, the Republican Senator from New York struggled to get a free-enterprise counterpart of the Alliance for Progress started and the idea only took wing after that ill-fated program degenerated into a directionless bureaucratic effort, torn between those in Washington who saw it as a philanthropic or social reform program and those in Latin America who viewed it as a means to further their personal ends.

The death of the Alliance was in the air when Senator Javits, Emilio G. Collado (an executive vice president and director of Exxon), Giovanni Agnelli of Fiat and other top international industrialists with interests in Latin America met in Paris 10 years ago next month to discuss ADELA.

"It was then or never," a North American executive of a shareholder company recalled the other day. "After a lot of shouting, the founding group agreed to go ahead with Senator Javits—providing he could get Keller to fold his investment banking outfit and take charge. Everyone knew Keller and respected him even when he was working for W. R. Grace in Peru."

Mr. Keller agreed to the conditions, which included a minimum investment of $100,000 and a maximum of $500,000 because he wanted no "big shots throwing their weight around." He also obtained agreement that ADELA would confine its investment in a company to between 10 and 35 per cent interest and that no stockholder would use its influence to insinuate itself into the business that was being developed.

But to a small and growing number of shareholders the success of ADELA as an entity has not prevented nationalism from sweeping the region, causing the fears that fathered the company to become a reality.

THE RESPONSIBILITIES OF THE LEGISLATIVE BRANCH

Mr. INOUYE. Mr. President, on February 4, 1974, the President of the United States submitted a budget to Congress.

This budget, with subsequent amendments, proposed new obligational authority in the amount of $5,215,362,000 for agencies, activities, and programs funded through the foreign assistance and related programs appropriations bill.

I am keenly aware of the obligation of the Congress to act on appropriations bills in a timely—before the first of the fiscal year on July 1. I also know of the waste of money and the loss of momentum and direction to both new and ongoing programs when this does not occur.

As chairman of the Foreign Operations Subcommittee, and in an effort to meet the subcommittee's responsibilities, I began hearings on February 25—the first appropriations subcommittee to do so.

Mr. President, we have been ready, willing, and able to report an appropriation bill since the first of May.

I am not unaware of the problems of the legislative committees in acting on authorization bills, but I am just as aware of the responsibilities of the legislative branch—to the Government—and to the people.

In this instance, Mr. President, we, as a body, have failed, and, in my opinion, failed miserably.

It is no consolation for me; however, I do want the record to reflect that the long and costly delays which he has experienced in this matter cannot be laid at the door of the subcommittee which I chair or the Committee on Appropriations on which I have the honor to serve.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, this month we are commemorating the 26th anniversary of the proclamation of the Universal Declaration on Human Rights by the General Assembly of the United Nations. The lack of press and governmental attention to this anniversary is a sad commentary on the approach of the United States to the promotion of human rights issues on a global scale.

Respect for human rights is fundamental to our own national tradition and is clearly spelled out in our Constitution and Bill of Rights. Yet the human rights factor is not accorded the high priority it deserves in our foreign policy. This is not merely my conclusion but is supported by a report of the Subcommittee on International Organization and Movements of the House Committee on Foreign Affairs.

That committee was appalled by the U.S. ratification record of human rights treaties. There are at least 29 human rights conventions which the United States has not yet acted upon. They conclude that:

The United States, through its failure to become a party to all but a few of the human rights treaties, has become increasingly isolated from the development of international human rights law. This failure impairs both our participation in the U.N. work in human rights, and our bilateral efforts to persuade governments to respect international human rights standards.

It is imperative that we begin to correct this abysmal record. Today, the Genocide Convention remains on the Senate calendar—25 years after it was originally submitted to us for consideration. Ratification of this treaty before the close of the 93d Congress would be a step in the right direction.

I urge my colleagues to heed this call.

Mr. President, I ask unanimous consent that the list of human rights treaties that the United States has not yet ratified be printed in the RECORD.

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

LIST OF HUMAN RIGHTS TREATIES

UNITED NATIONS CONVENTIONS

International Covenant on Economic, Social, and Cultural Rights;

International Covenant on Civil and Political Rights;

Optional Protocol to the International Covenant on Civil and Political Rights;

Convention on the Prevention and Punishment of the Crime of Genocide;

Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity;

International Convention on the Elimination of All Forms of Racial Discrimination;

Convention Relating to the Status of Stateless Persons;

Convention Relating to the Status of Refugees;

Convention on the Reduction of Statelessness;

Convention on the Political Rights of Women;

Convention on the Nationality of Married Women;

Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriage;

Convention on the International Right of Correction; and

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

INTERNATIONAL LABOR ORGANIZATION CONVENTIONS

Freedom of Association and Protection of the Right to Organize Convention;

Abolition of Forced Labor Convention;

Employment Policy Convention;

Right to Organize and Collective Bargaining Convention;

Equal Remuneration Convention; and

Discrimination (Employment and Occupation) Convention.

UNESCO CONVENTION

Convention against Discrimination in Education and Its Protocol.

CONVENTIONS OF THE ORGANIZATION OF AMERICAN STATES

Inter-American Convention on the Granting of Political Rights to Women;

Convention on Asylum;

Convention Relative to the Rights of Aliens;

Convention on Nationality;

Convention on Political Asylum;

Inter-American Convention on the Granting of Civil Rights to Women;

Convention on Diplomatic Asylum;

Convention on Territorial Asylum; and

American Convention on Human Rights.

PROPOSED NATURAL GAS PRODUCTION AND CONSERVATION ACT OF 1974

Mr. TOWER. Mr. President, recently, the Senate Committee on Commerce held hearings on a proposed Natural Gas Production and Conservation Act of 1974. Since that bill affects the jurisdiction of State conservation agencies, as well as sales of natural gas in intrastate commerce, and since the States of Texas and Louisiana provide the vast bulk of natural gas sold in the United States, I think it would be appropriate to have the comments of the chairman of the Texas Railroad Commission reprinted in the CONGRESSIONAL RECORD.

Mr. President, I ask unanimous consent that the statement of the Honorable Jim C. Langdon, chairman, Railroad Commission of Texas, concerning the Natural Gas Production and Conservation Act of 1974, be printed in full in the RECORD.

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

STATEMENT OF HON. JIM C. LANGDON

It seems to me most strange that your Committee would call upon only federal officials and Washington-based special interest groups to testify on a matter as important as still further proposed amendments to the Natural Gas Act, particularly when the proposal purports to preempt state jurisdiction. Other representatives of producer states and I have tried to make it clear in prior testimony before your Committee that the Reconstruction Days are over, and significant policy decisions affecting the citizens of our states cannot be made on the basis of accommodation among the spectrum of Washington-oriented witnesses you choose to call. The states of Texas and Louisiana provide this nation with almost three quarters of its marketed natural gas, including the entire offshore area, a fact which cannot be ignored.

We trust then, that we will be heard by means of these comments on the "Natural Gas Production and Conservation Act of 1974." After reading this bill and the arguments put forward in its favor, I respectfully suggest that it be reentitled more appropriately the "Natural Gas Cessation of Production Act of 1974."

This bill represents a hallmark of the kind of thinking that produced the present mess we find ourselves in as a have-not nation when it comes to energy. The experience of the last twenty years of federal regulation of the wellhead price of natural gas, if it has taught us anything, has proved the folly of this approach as a means of assuring adequate supplies of this valuable resource at a reasonable price. But what is widely believed to have failed utterly when carried out as an administrative duty of the FPC is now to be written into stone by statute. It would be a gravestone, not a cornerstone, of a national energy policy.

It would appear that the drafters of this bill had a vested interest in vindicating the result of the regulation of natural gas pricing adopted in the first Permian decision in the mid sixties, a decision whose dead hand continues to guide present regulatory policy. If the Congress adopts this result, those who perpetrated the error may be granted absolution, but not pardon, for what they have done to this country.

We are told in the summary that the statutory price "will adequately reimburse natural gas producers for their costs and risks." Is this so? From whence does this assumption come? Neither the bill nor the report provides any clue as to the means by which a range of 40 cents per Mcf to 60 cents per Mcf was selected as the statutory price, assuming that the statutory standard would even permit a rate in that range. If it was by oblique reference to the nationwide rate for sales of new gas in interstate commerce set by the FPC, it is a mistaken reference. That rate is expressly stated to be in effect only for the period of January 1973 through December of this year, after which period another rate based upon entirely different productivity figures, costs and other information is to be promulgated.[1] Even so, the statutory rate is obsolete with reference to the present nationwide rate which, even at 50 cents per Mfc,[2] is nothing more than an application of Permian I principles to more current data. With all due respect to Chairman Nassikas and his fellow Commissioners who have the unenviable task of setting such a rate, the present rate suffers from these and other infirmities, as the Chairman candidly admitted in his testimony before this Committee only yesterday. If my information is correct that he expressed the view that a new gas price of around $1.00 an Mcf would be necessary to get future gas supplies out of the ground on the exact day that the FPC approved a rate of precisely half that amount, then the preposterous nature of our current fix should be more apparent than ever.

At least under the present system, however, the FPC has the option of reconsidering the facts and taking new developments into account in setting a ceiling rate. This opportunity would be revoked by the draft bill, and we would be stuck with a ceiling rate set by statute, adjustable only for cost-of-living changes, which could not be revised to take into account other factors such as productivity levels, cost of capital and reasonable rates of return, changes in the tax laws, changes in rate base or other factors which could render the statutory rate obsolete before it reached the statute books. FPC regulation of the wellhead price has been a twenty-year bad dream; setting the rate by statute would be an out-and-out nightmare.

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[1] FPC Order Instituting National Rate Proceeding, issued December 4, 1974, in Docket No. RM 75–14.

[2] Base rate exclusive of state production taxes and gathering allowance; FPC Opinion No. 699–H, issued December 4, 1974.

It is smugly suggested in the summary (which would sound facetious if it were not made seriously) that setting the wellhead rate in this fashion will produce "certainty." It will thereby evoke immediate tenders of gas supplies which have long been withheld in the hope of a higher price. Let us just suppose, although I have never seen any credible evidence, that there is presently some gas around which meets this description. Suppose further that the producer who owned it decided to hand it over to the closest buyer upon the enactment of such legislation. What then? Will he then be expected to go forth and make new investments to explore for new supply knowing that he will not be able to sell what he finds for what it is worth but only at a price which will not even return him his costs? The question answers itself. The only certainty which would be produced by this bill is that such investments would not be made, and the consumer will end up with progressively fewer gas supplies.

Our citizens will all suffer from this result. Our people who are dependent on the FPC regulated pipelines for their gas—and that includes citizens of Texas and Louisiana—will face deeper and deeper curtailments, as even the Project Independence Report recognizes. As natural gas exploration, development, and production falls off, so does the production of natural gas liquids—the propane, the butane, and other valuable hydrocarbons. Consider propane, some 70 percent of which comes from natural gas liquids. What will happen to our farmers and rural citizens who do not live within reach of a gas pipeline? What will happen to our petrochemical plants which convert these liquids into vital materials such as medicines, fibers for clothing, food storage materials, rubbers and plastics? You purport to provide feedstocks in fertilizers and pesticides, and the like, but where do you draw the line? In fact, this bill deals these citizens a double blow—not only will their supplies be deeply curtailed, but what supplies of liquids remaining will be diverted to the gas companies to make synthetic natural gas to offset some of the gas curtailment. This is done by the simple expedient of making SNG jurisdictional. You could take 80 percent of the liquids now produced, turn them into synthetic gas, and still not offset the current gas shortage.

Or you could take almost a million barrels a day of naptha and turn it into SNG to offset the current gas shortage, but both of these are fruitless in the light of curtailments escalating at the rate of 100 percent per year. The inclusion of SNG in the bill can only be construed as a sop to the self interest of the industry trade groups appearing as witnesses at your current hearings, a sop to mitigate their opposition to this bill, if not win their support, without consideration of what the effect would be on other consumers.

What makes the SNG section amusing, if it were not so devious, is the comparison with the section calling upon the FPC to outlaw boiler fuel use of natural gas *and propane*. Passing for the moment the built-in conflict with the propane allocation jurisdiction of the Federal Energy Administration, examine the ludicrous result when propane is banned as a boiler fuel and yet propane-based synthetic gas is encouraged. One can wonder if the drafters know what they are doing.

The hard truth, of course, which we now experience as we harvest the bitter fruits of federal producer regulation, is that the only certainty which will allow full and expeditious development of our vital natural gas reserves is that of a fair market price for what may ultimately be discovered and developed. The summary of the draft bill contains precisely the kind of hollow, if not fraudulent, rhetoric about "consumer protection" which has brought the consumer to his knees.

Other intriguing aspects of the draft bill which warrant comment are:

(a) The "price freeze" on flowing gas and even new gas is nothing new; it is a form of confiscation so that producers cannot even obtain reimbursement for increased costs of operating older fields. What assurance is there that the formula will correlate even with cost increases?

(b) The proposal for 50 percent higher ceiling rate for small producers also lacks originality, since such treatment has been approved in principle by the U.S. Supreme Court, is presently the subject of a rule-making proceeding at the FPC and does not require new legislation to be carried out.

(c) The proposal to speed up FPC certificate proceedings is amusing, because there has not, to my knowledge, been any significant delay in those proceedings for connection of conventional new supplies under area rate standards, but mainly in those involving unconventional and supplemental supplies, such as LNG and SNG, where the FPC expressed grave concern over the price and environmental impact of issuing such certificates. The purpose of the bill, I take it, is to prevent the FPC from looking closely at the relative costs to the consumer of such supplies (which are as much as ten times higher than the cost of gas from conventional wells) which are required in such large amounts only because of the federally-imposed restraints on developing conventional supplies. If the drafters of the bill are frightened by the implications of the comparison, then a truncated FPC proceeding to force approval of outrageously expensive and uneconomic supplemental supplies makes sense. Of course, this bill inferentially outlaws the optional procedure for new conventional gas supplies, a procedure which was just validated by the D.C. Court of Appeals.

(d) The attempt to force cancellation of a federal lease if the producer does not deliver any gas he has discovered within a stated period is gratuitous and unnecessary, because he is under such obligations under present law, and the implication that withholding of supply is presently going on is simply one more unfounded assumption of this bill. The best assurance of prompt exploration and development after leasing is the present system of cash bonus bidding, whereby a producer must put his money on the table at the outset and leave it there, whether he finds anything or not. Do the drafters of the bill fear that, having paid millions of dollars for the privilege of drilling and later selling his discoveries, if any, the producer will, first, not drill and, second, not sell?

(e) By now this Committee should recognize that provisions preempting state jurisdiction do nothing more than legitimize the envy of those who covet the gas supplies of their neighbors. Without debating the issue of whether boiler fuel should be outlawed or not, allow the question: why should the indigenous fuel of a region be proscribed? What will the Commerce Committee provide to replace it? Coal from Eastern or Western states? Nuclear power? Oil from the Middle East? Until you legislate the alternate fuel, how can you preemptorially order the end of a fuel use? End use of natural gas is being approached now on a case by case method in both state and federal forums, and a rigid legislative standard is no help at all. If you wish to do something helpful, pass legislation that would permit boilers with the installed coal burning capacity *to burn coal.*

And let it not go unnoticed, this bill federalized production within a state from federally owned lands. To Texas and Louisiana, this is of minor importance, but what does this do to the Rocky Mountain States? Do you intend this result?

As I have stated in prior testimony before this Committee, federal policies with respect to natural gas pricing, off-shore leasing, environmental restriction, coal mining and burning, and the oil import program, to name some notables, have made this country into a have-not nation that cannot now come close to self sufficiency. How freezing natural gas prices by statute can be expected to increase supply and lower price is not stated in the bill—nor can it be. The ultimate effect, regardless of its stated purpose, will be the gradual elimination of private enterprise, and the effective takeover of the entire energy industry by the federal government. It will mean the nationalization of the energy industry without reasonable compensation. A direct taking of this nature is, of course, unconstitutional, but the slow, deliberate method proposed in this bill could accomplish the same result.

The Railroad Commission stands firm in its position of supporting a strong and independent domestic producing industry and considers this to be a cornerstone in the security and national defense of the United States. These goals can best be met by simply allowing a market price for our natural resources. In this regard, all forms of energy should be allowed, in fact *required,* to compete with each other for the available market. Such a return to the free enterprise system would be in the best interests of the producer and consumer alike, and will provide the best, the fastest and most permanent solution to the problem of energy shortages.

This proposed bill should be rejected.

DOLORES DRAYER

Mr. McINTYRE. Mr. President, I know that my colleagues in the Senate will agree that the effectiveness of this institution is greatly dependent on the quiet, faithful service of the staff of its Members and its committees.

Upon the retirement of my dear friend and distinguished colleague, NORRIS COTTON, I wish to express my appreciation for the remarkable record of public service which has distinguished the career of his principal assistant, Dolores Drayer.

No Senator has been served more faithfully or more ably than NORRIS COTTON has by Miss Drayer. Her integrity, her willingness to work long and hard, her canny understanding of the legislative process, her toughness of mind and of spirit, her unwavering devotion to duty, have marked her years of service. Her passion for anonymity makes it all the more important that we express our appreciation now. NORRIS COTTON, his junior colleague, the entire U.S. Senate, the State of New Hampshire, and our Republic, itself, is in Dolores Drayer's debt.

Mrs. McIntyre and I value her friendship. And upon her retirement let me express our warmest affection, our deepest respect, let me say, "Well done"—"Very well done, indeed." God bless her.

RELATIONS WITH THE SOVIET UNION

Mr. GRIFFIN. Mr. President, one of the signs of the times is that relations with the Soviet Union are improving on

various fronts. For example, an agreement was signed recently under which the Russians will respect royalty rights for live performances of American music.

Mr. President, I ask that an article from the New York Times of December 11, 1974, be printed in the RECORD.

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

ASCAP AND SOVIET SIGN ROYALTIES PACT

(By Louis Calta)

The first agreement between the American Society of Composers, Authors and Publishers and the Soviet Union's new Copyright Agency obligating the Russians to pay royalties for live performances of American music was signed here yesterday.

Stanley Adams, the Society's president, signed on behalf of ASCAP, and Boris Pankin, chief of the Soviet Agency, signed on behalf of his delegation. Under the terms of the agreement, American lyricists and composers are expected to collect about $100,000 a year. The agreement does not cover works published before 1973.

Founded in 1914, ASCAP has a membership of 16,000 composers and lyricists and their 5,700 publishers. Its members include creators of every type of music—pop, rock, jazz, folk, soul, country, musical theater, television, motion picture, electronic, opera, religious, chamber, symphonic, choral, band and blues.

Mr. Adams stressed the importance of the agreement, saying: "There is now a contractual basis for American and Soviet writers to be paid for performances of their musical works in the territories where ASCAP and the Copyright agency operate. We regard this as a significant contribution to the economic well-being of creators in both nations, and we look forward to continuing cooperation for the benefit of the men and women who write music in both countries."

Mr. Pankin, speaking through an interpreter, hailed the agreement as having "a great impact on our cultures." "People of our countries know well enough of our music, and American music is well-loved in the Soviet Union. I'm sure more meetings are for us," he said.

SOVIET REPRESENTATION

The Copyright Agency will represent ASCAP members in the Soviet Union, and ASCAP will represent Soviet composers and authors here. Before May, 1973, when the Soviet Union joined the Universal Copyright Convention, there was generally no legal basis in either country for protecting the copyrighted works of the other.

A Soviet team headed by Mr. Pankin visited ASCAP in May. At the end of July, the American society sent to Moscow a team that consisted of Mr. Adams; Benard Korman, ASCAP general counsel, and Dr. Rudolf Nissim, who has headed the society's foreign department for three decades. These men took part in the current negotiations.

The Soviet delegation now in the United States consists of Mr. Pankin, Aleksandr A. Lebedev, the director of the international relations department of the agency, and Boris Zatsepin, Yuri Gradov, Lex Mitrokhim and Vasily Pogulayev. The group arrived here on Sunday and plan to visit Washington tomorrow to conclude other transactions.

MAGAZINES ARE COVERED

While here, Mr. Pankin said that he was planning to sign contracts for the publication of Soviet books in this country and of American books in the Soviet Union.

The Soviet copyright chief, who is 44 years old, said that he had reached agreements for the publication of much needed Western scientific documents. Agreements also have been reached to copy about 200 magazines, and 200 more are still being negotiated.

The relatively low amount of $100,000 in potential Soviet royalties for American works each year was attributed to the fact that the copyright agreement does not cover compositions published before the 1973 convention, according to Mr. Koman. The Soviet Union also does not make royalty payments for recordings. The ASCAP counsel estimated that the society collected a total of about $65-million a year in royalties in this country and about $10-million a year from abroad.

Mr. Korman said that the ASCAP "already does business with such Eastern bloc countries as Czechoslovakia and Hungary" and that an agreement was pending with East Germany.

MR. FORD'S LITTLE LIST

Mr. CHURCH. Mr. President, I ask unanimous consent that an editorial, "Mr. Ford's Little List," from the New York Times of December 9 be printed in the RECORD. The editorial specifically finds that Mr. Ford's proposed budget cuts are exactly the wrong kind of medicine for our economy and our society. It specifically mentions the proposed medicare cutbacks and it also describes the President's suggested military budget cuts as more nominal than real. It provides useful commentary which should receive careful attention by the Congress.

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

MR. FORD'S LITTLE LIST

The deeper the economy slides into recession and the longer the ranks of the jobless—there are now six million out of work and the unemployment rate has jumped to 6.5 per cent—the more fatuous appear President Ford's proposals for cutting the budget.

In their total impact upon the economy, the President's list of $4.6 billion in budget cuts would only intensify the slump and increase the level and duration of unemployment, for the presumed purpose of squeezing inflation out of the system. In terms of their specific impact upon individuals, most of Mr. Ford's proposed budget cuts would fall hardest upon those who have already suffered most from inflation—the poor, the aged, the infirm, and those whose hold on their jobs is most tenuous.

The principal Ford cuts come in five areas—agriculture, Social Security, other health, education and welfare programs, veterans' benefits and defense. It should be said at once that some of the proposed cuts are fully justified—such as reductions in impact aid for school districts that are not severely affected by Federal installations; reductions in outlays under the Hill-Burton Act for hospital construction where there is already an excess number of hospital beds, and elimination of some fighter aircraft that the Pentagon itself did not request but that particular Congressmen wanted and got for the sake of their districts.

For the most part, however, the President's proposed reductions make little sense. Two-thirds of the $545-million chop in the agriculture budget would result from higher chargs for food stamps. The bulk of the $670-million in savings under Social Security would come from collecting higher payments for Medicare. Nearly a third of the total out of $1 billion from other H.E.W. programs would come from a $295-million reduction in Federal matching grants to the states for Medicaid; the hardpressed states would either have to raise more money themselves or cut back medical benefits to the aged and indigent.

Mr. Ford's proposed cuts in the military budget are more nominal than real. The President told his news conference last week that, since Congress had already lowered the defense budget by $2.6 billion, he was proposing only $400 million in further cuts. But those reductions would scarcely faze the Pentagon; $125 million would represent receipts ("negative outlays") for the sale of oil from the Elk Hills naval reserve in California, and most of the balance would be from minor trims in maintenance and operation, along with cuts in the procurement of planes that the Pentagon did not request.

Even with the combined budget-cutting by both Congress and the Administration, outlays for national defense will still rise from $79.4 billion in fiscal 1974 to $85 billion in fiscal 1975. Admittedly, that 7 percent increase does not keep pace with the economy's 11 per cent overall rate of inflation, but the same can be said—and is is not being said by Mr. Ford or his aides—about a great many social expenditures, which now would be choked down both by inflation and by the President.

Ironically, some of Mr. Ford's key advisers have now begun to talk up the idea of tax cuts to support the economy, if the slump gets out of hand and unemployment climbs too high. Their preference for tax cuts to individuals and businesses, combined with their proposed budget cuts in social programs, reveals their ideological bias. The people who would be hurt now by the budget cuts the President is proposing would get little from subsequent tax reductions.

The Ford Administration seems piously content with the Biblical adage, "For unto every one that hath shall be given"—and, conversely, "From him that hath not shall be taken away."

HERALD STRINGER, NATIONAL LEGISLATIVE DIRECTOR, AMERICAN LEGION

Mr. HARTKE. Mr. President, at the end of this year, Herald Stringer will retire from his position as national legislative director of the American Legion after 10 years of service.

Although I am confident that the Legion will appoint a worthy successor, it should be noted that Mr. Stringer has left a record of high excellence that will take great wisdom and hard work to match.

Since becoming Chairman of the Veterans' Affairs Committee, I have grown to know Mr. Stringer as a friend, an articulate champion of veterans' causes, and a man of quiet dignity and faultless integrity.

There are 29 million American veterans, and the network of veterans' benefits affects nearly 100 million of our fellow citizens But without men like Herald Stringer, and organizations such as the American Legion, the causes of veterans would have great weight but no clear voice.

It takes a clear voice to be heard, to get things done.

Without the voice of a Herald Strin-

ger, who speaks for the largest veterans' organization in the country, it would be impossible for those of us responsible for veterans' legislation to know adequately what veterans across the country are thinking and feeling, and we lawmakers cannot fulfill our concern without knowing the needs of our veterans.

With the help of Mr. Stringer, the American Legion, and others like Mr. Stringer and other veterans' organizations, we have been able this year to continue to make significant progress on many fronts for veterans.

For example, this year alone the following far-ranging measures have either been enacted or are on the President's desk: The Veterans' Insurance Act of 1974, the Veterans' Disability Compensation and Survivors Benefits Act of 1974, the Vietnam-Era Veterans' Readjustment Assistance Act of 1974, the Veterans' and Survivors' Automobile and Adaptive Equipment Amendments of 1974, and the Veterans' Housing Act of 1974. Perhaps the most eloquent tribute to Mr. Stringer's skills is the vote by which Congress overrode the President's veto of the GI bill: 390 to 10 in the House and 90 to 1 in the Senate.

On all of these matters, and more, I and other members and staff of the Veterans' Affairs Committee have had the wise counsel of Mr. Stringer and the unstinting support of the American Legion.

It is clear that veterans' legislation touches the common welfare of people in many areas: housing, insurance, education, medical care. What has struck me most about Mr. Stringer is his realization of and simple devotion to this simple fact: The steps we take here in Washington in law are translated into fulfilling the promises of peace to our Nation's veterans who have so rightfully earned the Nation's gratitude.

Mr. Stringer was born in Murfreesboro, Ark., and received his undergraduate degree there. He received his legal training at the University of Southern California at Los Angeles. He is an Army veteran of World War II with service in the Asiatic Pacific threater during 1942–1943.

He is a life member of American Legion Post No. 1 in Anchorage, Alaska, where he served as post commander before becoming Department Commander and before serving 9 years as a member of the Legion's national executive committee.

Mary Ann and Herald Stringer have two children and live here in the District of Columbia.

In his letter of resignation to National Commander James Wagonseller, Herald Stringer wrote that "I hope it can be said of me that I made some contribution to the success of our programs."

Mr. President, that is an understatement by any standard I or anyone else might apply.

In conclusion, I and the committee members wish Mr. Stringer well in whatever endeavors he chooses to follow in the coming years.

HOUSING STARTS DECLINE AGAIN

Mr. HATFIELD. Mr. President, housing starts declined again last month, to the lowest seasonally adjusted annual rate in 8 years. Worse still the issuance of building permits, which forecasts housing starts, were the lowest on record in November.

The November figures clearly point out the need for positive action to stimulate homebuilding. Daily, the possibility of homeownership for low- and middle-income families becomes increasingly remote. The Congress has taken some action to deal with the problem through legislation such as the Emergency Home Purchase Assistance Act, which was sponsored by Senator BROOKE and Senator CRANSTON, but much more is needed.

Time and time again, the Congress has committed itself to the laudable goal of a decent home for every American, but the necessary programs have not been provided. I am hopeful, Mr. President, that when this body reconvenes next month it will constructively deal with the housing crisis and to alleviate the disastrous economic impact of the slump on all segments of the housing industry.

Mr. President, I ask unanimous consent that an article from today's Wall Street Journal on the November housing figures be printed in the RECORD.

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

HOUSING STARTS IN NOVEMBER FELL TO 8-YEAR LOW: BUILDING PERMITS DECLINED 8.6 PERCENT FROM OCTOBER TO LOWEST RATE ON RECORD

WASHINGTON.—The home-building slump worsened in November: Housing starts tumbled to an eight-year low and the issuance of new building permits fell to the lowest rate on record.

Housing starts declined to a seasonally adjusted annual rate of 990,000 units last month, down 10.5% from a downward-revised October pace of 1,106,000 units and off 40.9% from a year-earlier rate of 1,675,000 units, the Commerce Department said. It was the fifth consecutive month that home building declined, and the November rate was the lowest since a like 990,000-unit rate in December 1966.

Issuance of building permits by the 14,000 localities that require them fell to a seasonally adjusted annual rate of 720,000 dwelling units in November, down 8.6% from a downward-revised rate of 782,000 units in October and off 48% from a pace of 1,361,000 units in November last year, the department said. Last month's rate of building permits issued, an indicator of future housing starts, was below the previous low of 736,000 units in November 1966.

The declining housing statistics, while not unexpected, brought more gloom to the home-building industry. "It's terribly depressing news," said Michael Sumichrast, chief economist for the National Association of Home Builders. "It shows the government just must do something more than it has done," Mr. Sumichrast contended.

HOME BUILDERS' CONTENTION

Home builders have contended that government programs to subsidize mortgage rates have provided only minimal help to the housing market because the rates are too high. They have urged the Ford administration to release funds for low- and moderate-income housing subsidy programs suspended nearly two years ago by the Nixon administration.

Mr. Sumichrast of the Home Builders Association predicted that housing starts would continue at about November's depressed rate, or even lower, through next year's first quarter. But "after three or four months are over, I think you'll see gradual improvement," said the housing industry official, who previously had forecast that a housing pickup may begin next spring.

A sharp drop in the construction of rental apartment buildings and for-sale condominium apartments accounted for much of the November decline in housing starts. Starts of buildings with five or more units fell 41.5% in November to an annual rate of 161,000 units from a 275,000-unit-pace in October, the Commerce Department said. The November rate was 75% below the year-earlier pace of 653,000 units and was the lowest since the Commerce Department began keeping such statistics in 1960.

"Apartments and condominiums have been particularly depressed by higher interest rates and the scarcity of funds for construction loans and mortgages," said James L. Pate, Assistant Secretary of Commerce for economic affairs. "The recent declines in interest rates and returning flows of funds into savings and loan associations are a good sign for the future, but time will be required before a recovery can be launched in the home-building industry," Mr. Pate added.

ADMINISTRATION REACTION

The rate of housing starts last month fell sharply in all areas of the country except the north central region, where the rate was up slightly. The rate of building permits issued declined last month in all regions except the West.

James Lynn, Secretary of Housing and Urban Development, termed the November housing figures "disappointing but not unexpected." He too predicted better times ahead. Government programs to "pump more money into the mortgage market coupled with "the first signs of a net inflow of money into savings and loan associations should produce a turnaround in housing starts in the coming months," the Secretary said.

While Secretary Lynn defended the Ford administration's mortgage-subsidy programs, he said "the President shares my view that we must continue to examine any and all actions that might be taken to improve the housing industry." He didn't specify what, if any actions, the administration might be contemplating.

Under a housing-aid program approved by Congress in October, the administration has released $3 billion in government funds for HUD to buy from lenders conventional mortgages, or those that aren't backed by any government agency, at below-market interest rates. Home builders complained that the initial rate set by HUD, including added charges such as insurance fees, was too high. For December, HUD lowered the basic interest rate on mortgages it will agree to purchase to 8.25% from 8.5% and eliminated certain other charges to lower the effective rate to 8.895% from 9.25%.

Since the changes were made, "demand has been strong" for the mortgage money, said Daniel Kearney, president of HUD's Government National Mortgage Association. From Dec. 2 through yesterday, Ginnie Mae has made commitments for $1.05 billion in mortgages, compared with commitments of $700 million in the first six weeks of the programs through Nov. 30, Mr. Kearney said.

THE FUEL ADJUSTMENT CLAUSE—II

Mr. METCALF. Mr. President, on October 16 I inserted in the RECORD—page 35954—material relating to overcharges by electric utilities through fuel adjustment clauses. Federal energy officials and

utility spokesmen—it is hard to tell one from the other—continue to press State regulators to expand use of automatic adjustment clauses and other devices to increase revenue without being subjected to adversary proceedings. Eight high-handed investor-owned utilities have *even* urged the Federal Power Commission not to provide emergency power service to States where prospective power shortages could be attributed to the "unwillingness" of State regulators to order rate increases sufficient to finance what IOU's regard as necessary generating and transmission capacity. The FPC is even considering an all-encompassing automatic clause which will adjust charges for changes in all costs, including return on investment.

I am pleased to note that citizen groups in a number of States are opposing the attempts to make a mockery of the regulation of monopolies. As one of the groups, Carolina Action, succinctly stated:

> The fuel adjustment clause . . . poses a greater threat than any one particular increase because it could completely by-pass the regulatory process. And this organization is determined to see that it is erased from our bills.

Some utilities are jacking up the cost of coal at their captive mines to the price of coal on the open market. The extra profit slips into the fuel clause. The West Virginia Public Service Commission says the Appalachian Power, a subsidiary of American Electric Power, obtained more than $2 million in this manner during the first 9 months of this year.

Thanks to the fuel adjustment clause—better termed the "fool adjustment clause"—the utilities do not in the manner of prudent businessmen engage in hard bargaining with the coal companies. The extent to which coal companies unduly enrich themselves shows in their own reports. Pittston's third quarter earnings this year were 787 percent above the same period last year. Westmoreland's profits soared 1,252 percent during the same period.

Mr. President, I commend the citizen groups which are involving themselves in the automatic adjustment clause issue, and the State regulators who, despite pressure from the administration and the IOU's, are preserving and improving the regulatory process.

So that Members and other readers of the RECORD may be apprised of recent developments in this matter I ask unanimous consent to insert the following articles at this point in the RECORD.

First. "Eight Private Utilities Urge FPC To Put Pressure on State Regulators," Public Power Weekly Newsletter, November 15, 1974;

Second. "Floridians, Shocked by High Electric Bills, Fight Utilities' Effort To Pass on Fuel Costs," Wall Street Journal, November 26, 1974;

Third. "Automatic Fuel Clauses Under Fire," Electrical World, November 15, 1974;

Fourth. "Coal Profiteering in Appalachia," by Willis Farley, Environmental Action, Nov. 23, 1974;

Fifth. "Class Action Suits Challenge Legality of Ohio Company's Fuel Clause," Public Power Weekly Newsletter, November 8, 1974;

Sixth. "Coal Producers' Profits Zoom to New Records; Pittston Co. Net Income Up 787 percent," Public Power Weekly Newsletter, November 15, 1974; and

Seventh. "The Fuel-Adjustment Caper," Consumer Reports, November 1974.

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

EIGHT PRIVATE UTILITIES URGE FPC TO PUT PRESSURE ON STATE REGULATORS

A group of eight major investor-owned electric utilities has urged the Federal Power Commission to agree not to provide emergency power service to states where prospective power shortages could be attributed to the "unwillingness" of state regulators to order rate increases sufficient to finance adequate generating and transmission capacity. For several months, FPC chairman John Nassikas and other Ford Administration energy chiefs have been pressuring members of state regulatory commissions to grant immediate rate increases and other monetary benefits to private utilities. This has drawn the resentment of a number of regulators, who have cited the responsibility they have to ratepayers hit by far-ranging inflationary prices. Some of them have angrily complained that Federal energy officials are trying to make them the "scapegoats" for the economic policies made in Washington and the failure to roll back record-high fuel prices and interest rates. If the FPC were to grant the unprecedented request made by the eight large private utilities, the reaction of affected state regulators could cause a widening feud and a storm of counter actions reflecting increased resentment of Federal interference with the prerogatives of the various states in setting their own regulatory policies. The statement advocating that the FPC require the state commissions to conform to a so-called "national policy" was filed in response to a proposed Commission rulemaking expanding its emergency powers. It was submitted by these utilities: Pacific Power & Light, Pennsylvania Power & Light, General Public Utilities (New Jersey and Pennsylvania), Long Island Lighting, New England Electric, Northeast Utilities, Virginia Electric & Power, and Tampa Electric.

POWER PLAY: FLORIDIANS, SHOCKED BY HIGH ELECTRICITY BILLS, FIGHT UTILITIES' EFFORT TO PASS ON FUEL COSTS

(By Jim Montgomery)

When a Florida public-service commissioner, William T. Mayo, entered his favorite Miami restaurant recently, a waitress who had served him there for years shouted angrily across a roomful of startled diners: "Mayo, get out!"

The once-friendly waitress' change of heart came about as the result of an explosive controversy simmering over the state's runaway electricity bills. Florida's utilities, with the implicit sanction of the public-service commission, have been passing on to customers the higher cost of the fuel they burn to generate electricity. Largely because of these "fuel-adjustment charges," the average monthly bill sent out by the state's largest utility, Florida Power & Light Co., for example, rose about 36% in the past year.

The public-service commission has always allowed utilities to pass on fuel costs to their customers in Florida. But these charges rarely amounted to more than a few cents a month per customer until 18 months ago, when the fuel shortage suddenly pushed costs dramatically upward. And it wasn't until last January that the utilities—upon orders from the commission—began itemizing the charges on bills, showing customers for the first time what a big chunk of their payments went for fuel.

The utilities contend, that without the extra charges they can't continue to operate profitably or offer satisfactory service. Consumers argue that the extra charges are not only excessive, but also illegal because they were imposed without prior public hearings. And, like the Miami waitress, they have reacted with frustration and an unprecedented outpouring of public rage.

Besides jamming protest rallies around the state, many Floridians are threatening not to pay the fuel-adjustment portion of their electric bills. Some customers reportedly have even tried "stealing electricity" by using magnets to slow down their electric meters while leaving the flow of current undisturbed. Over 15% of the state's population consists of retirees on fixed incomes, adding to the pressure for relief.

A PREVIEW OF THINGS TO COME

"Working folks can't live with the automatic fuel-adjustment charge the utilities claim they can't live without," asserts Sandra Brunet of Titusville, a $2.47-an-hour deputy voting registrar and the organizer of a protest group called the Florida Tea Party.

The three-member public-service commission has permitted the utilities to continue collecting fuel-adjustment charges but has frozen them at the October level until it decides—probably this week—on the procedure for leveling any future increases. The agency is expected to forbid automatic adjustments and require instead that periodic public hearings be held on any fuel-charge increases. Whatever its decision, it is almost certain to be contested in court.

The darkening storm of public wrath in Florida is particularly ominous, for it promises to foreshadow similar confrontations in some of the other 42 states where electricity bills include surcharges for fuel. (Already, a Cleveland utility faces three class-action suits that would bar it from passing on such charges to customers.) The effect of last year's more than 200% rise in coal, oil and gas costs hit first in Florida, where electricity bills tend to be highest during the summer months, when air conditioning is heavily used. Other areas of the nation, where electricity use peaks during the winter heating months, are just beginning to feel the fuel-charge crunch.

NO MORE CHEAP ENERGY

The Florida controversy is also significant because it illustrates the intense reluctance of Americans to accept the fact that the times of bountiful, cheap natural resources are over. Few seem able—or willing—to recognize that, barring unforeseen technological breakthroughs, basic commodities such as power will claim a significantly larger portion of their paychecks than in the past.

Florida Power & Light says its residential customers use an average of 1,000 kilowatt-hours of electricity a month. In October 1973, the bill for this much power was $23.81, including a fuel-adjustment charge of 87 cents. Last month the cost for the same amount of electricity had risen to $32.34. The difference was due to a tenfold spurt in the fuel-adjustment charge. Typical bills were substantially higher during the recent summer months.

Sentiment against Florida's rate rises intensified in October, when Robert L. Shevin, the state attorney general, issued a highly controversial opinion on the matter. Mr. Shevin found the automatic fuel-adjustment charges illegal, on the ground that they allowed utilities to raise rates without public hearings or regulatory review by the Public Service Commission.

During nine heated days of testimony before the commission last month, the utilities warned that an adverse ruling by the regula-

tory agency would drive them into insolvency and disrupt service. A spokesman for Gulf Power Co. of Pensacola, a unit of Southern Co., melodramatically introduced a hearing witness as "our vice president in charge of bankruptcy."

The fuel-adjustment flap has already prompted the cancellation of an offering of $125 million of mortgage bonds that Florida Power & Light had planned. In place of this offering, the utility last week floated $125 million of seven-year notes, but because the notes have a lower rating, it will have to pay $625,000 additional interest each year.

Even with fuel-adjustment charges, Florida Power & Light's earnings fell 6% in the 12 months ended Oct. 31 to $102.5 million, or $2.69 a share, from $109.1 million, or $3.15 a share, in the year-earlier period. The company says that if it hadn't been able to pass increased fuel costs along to customers, earnings in the past 12 months would have plummeted to about $20 million.

CUTTING OFF POWER

Next month the public-service commission is expected to lift the temporary freeze on fuel-adjustment charges, and most officials on both sides of the furor predict continued high electricity bills until fuel prices themselves fall—an admittedly remote prospect.

A ruling by the commission upholding the charge is apt to encounter stiff consumer resistance, warns Frederick B. Karl, the state's first public counsel and, as such, the consumer advocate at public-service commission proceedings. "There's a real crisis out there in the field," he told the commissioners at the hearings. "If in fact large numbers of customers do decline to pay their bills, you're faced with a decision whether you're going to permit wholesale termination of service."

Firm figures on how many customers have had their elecricity cut off for nonpayment aren't available. But Mrs. Brunet, the Florida Tea Party founder, says her power was cut off for four days and restored only when she paid "under protest" the $40 in fuel charges she had deducted from her $156 electricity bill for September and October, as well as a $5 penalty. She says she had already paid the other $116 with "every cent" she could muster and, as a result, "had to quit buying milk" for her four teen-agers. Still unpaid is a $57 electricity bill for November, which includes a $16 assessment for fuel. Mrs. Brunet's husband, Gerald, recently lost his job as a $214-a-week construction superintendent, and she says she isn't sure when the latest bill will be paid.

Consumer groups have already filed five lawsuits in state circuit courts seeking to bar Florida's utilities from collecting fuel-adjustment charges and from disconnecting the service of customers who refuse to pay. At least one of the suits demands refunds of previously collected fuel charges, which by some estimates total over $200 million for the state's four big investor-owned utilities alone. The state supreme court will probably make the final ruling in these cases and is currently considering arguments on whether it can assert original jurisdiction over the lower courts. In two of the cases, the circuit courts had ruled against the utilities, but these judgments were set aside pending supreme-court action.

AUTOMATIC FUEL CLAUSES UNDER FIRE

Spiraling electric rates—and especially automatic fuel-cost clauses—are causing major problems for utilities.

Law suits that could cut deeply into the economic structures of Florida Power & Light Co and Florida Power Corp were filed last month after Florida Attorney General Robert Shevin provided an opinion that automatic fuel adjustments are illegal because they become part of the rate base without the benefit of public hearings, and that the PSC does not have the authority to permit such automatic surcharges (EW, Nov. 1, 1974, p 21).

High electric rates also prompted the following actions:

A class-action suit filed in a Cuyahoga County (Ohio) court claims Cleveland Electric Illuminating Co put automatic fuel adjustments into rates without specific authorization of the Ohio Public Utilities Commission. In 1973, says the complaint, the PUC authorized the use of a fuel-adjustment formula, but it never accepted the proposal submitted by CEI.

Cuyahoga Falls (Ohio) Mayor Bob Quirk asked the Federal Power Commission to investigate higher wholesale rates to municipalities caused by fuel-adjustment charges by Ohio Edison Co and others.

The District of Columbia Dept of Highways & Traffic has petitioned the D.C. Public Service Commission to look into the legality of Potomac Electric Power Co's practice of passing along fuel increases without review.

Rhode Island Governor Philip Noel asked President Ford to intervene in favor of a New England Regional Commission proposal for federal subsidies to lower electric rates. Former Federal Energy Administrator John Sawhill came out against it, and Noel called this reaction "insensitivity and lack of concern for our problems."

In Dade County, Fla., Circuit Judge Francis Knuck issued a temporary injunction, suspending Florida Power & Light Co's automatic fuel adjustments as of Oct. 23. However, he has been holding off enforcement of the ruling, "extending and deferring" it pending a ruling by the Florida PSC. In the meantime, FPL has continued collecting the October fuel-adjustment surcharge of $9.19/1,000 kwhr, and, unless the court forbids it, will collect the November charge of $10.47.

At Florida Power Corp, the situation is more hairy. Orange County Circuit Judge Frederick Pfeiffer first issued an order barring the utility from shutting off power to residential customers who did not pay the fuel surcharge. Later, however, he changed his mind, and said the surcharge could be paid to the company along with the regular bill, or else paid to the Orange County Circuit Court's Clerk's office within four days of receiving a shutoff notice.

The court plans to keep the surcharge payments in escrow, to be either turned over to the company or returned to customers, pending the final ruling on a class-action suit that is now pending.

Pfeiffer's order affects 500,000 residential customers in the 32-county service area. Florida Power says it has no way of determining who is withholding the surcharge under its billing system, and that the ruling could cost the company $10-million/month and force it to curtail service. The fuel-adjustment charge currently represents 40% of the firm's revenues.

COAL PROFITEERING IN APPALACHIA

(By Willis Farley)

Residential electric bills have increased dramatically over the last year and the primary reason behind the monthly increases has been the cost of fuel to power the electric generating plants. But consumers have begun to demand relief from the highly inflationary increases, and price hikes by numerous power companies are currently under investigation.

Such complaints in West Virginia caused the State Senate to pass a resolution requesting a review of the automatic fuel adjustment clause by the state's Public Service Commission. The two major suppliers of electricity in West Virginia are the Appalachian Power Company (a wholly-owned subsidiary of the American Electric Power System) and Monongahela Power Company (part of the Allegheny Power System). Both companies, located in the heart of the eastern coal fields, rely almost exclusively on coal to fire their steam-producing boilers.

A utility recovers most costs through a rate system, established in a proceeding before the state utility regulatory commission. However, the cost of fuel used to generate electricity is, in West Virginia and most other states, passed directly on to customers through an automatic adjustment to their monthly or bi-monthly bill. In the last year the portion of the consumer's bill attributed to fuel costs has climbed relentlessly—in many states amounting to more than one-third of the total cost of electricity.

On September 18 and 19, the West Virginia Public Service Commission held a public hearing in Charleston to give the utilities and the public an opportunity to present their arguments. Two days prior to the hearing, an order was issued by the commission ordering Appalachian Power Company to discontinue the practice of "repricing" coal purchased from its affiliated mines. According to information obtained by the commission, Appalachian Power has been charging its customers the same price for coal produced at its own mines as the average price of coal on the open market. Thus, if the average cost of coal on the market were $25 per ton and Appalachian Power's own coal cost $10 per ton, a customer's bill would only reflect the $25 average cost and Appalachian Power would gain a $15 profit. For the first nine months of this year the Public Service Commission claims that Appalachian Power Company received $2,077,212 in additional revenue through this method.

The hearings, perhaps the most extensive investigation of fuel adjustment clauses in the country, produced several insights into the high cost of fuel. The power companies, chiefly Appalachian Power, attributed the high prices being paid for coal to environmental regulations and a demand which far outruns supply. The companies contend that environmental regulations have forced utilities to seek high-priced low sulfur coal. Further aggravating the situation is the additional demand created by the Arab oil embargo of last fall, when many eastern utilities switched from oil to coal. This situation, it is said, has created a "seller's market" wherein the coal producers are able to demand and get exorbitant prices for coal supplies.

However, citizen groups participating in the hearing, including Citizens for Environmental Protection and the Mercer County Economic Opportunity Corporation, both of Charleston, contend that the major cause in high coal prices is the fact that the power companies refuse to enter long-term contracts with eastern low sulfur coal suppliers similar to contracts being negotiated with western coal suppliers.

Paul Martinka, vice-president of fuel supply for American Electric Power Company (AEP), stated in the September hearings that his company has entered contracts of 25 and 30 years in duration for low sulfur strip-mined coal in the West, but has no contracts approaching that length of time for low sulfur eastern coal produced by independent coal companies. Thus AEP is forced to purchase most of its coal on the spot market at much higher prices and consumers are charged the difference.

During the hearings it was learned that AEP, the nation's largest investor-owned utility, owns or leases land containing 1.5 billion tons of coal. Of that figure, less than 10 percent is low sulfur coal, meaning that the vast majority of AEP's own reserves cannot be used under the existing sulfur dioxide standards of the Clean Air Act.

A number of citizens groups represented at the hearing have contended that AEP's ownership of large reserves of high sulfur coal has prompted the company to conduct its recent $3 million advertising campaign to amend the Clean Air Act and promote other legislative and policy changes. It was also suggested that this factor is the chief reason for Appalachian Power's failure to enter into long-term contracts for eastern low sulfur

coal. Under the automatic fuel adjustment clause, there is no incentive for a utility to bargain for a lower price of fuel. This is evidenced by the large number of higher priced spot market purchases and the relatively few long-term contracts for coal at lower prices. Thus, it is to the utility's advantage not to enter long-term contracts as long as the customer pays and there is a possibility of obtaining amendments to the Clean Air Act which would allow the use of stockpiled high sulfur coal. Another reason that long-term contracts are being avoided is that advances in technology (stack gas desulfurization, coal liquification, or coal gasification) will make it possible within five or 10 years for utilities to burn the high sulfur coal and still meet environmental standards.

In the meantime, customers are paying extremely high prices while the utilities play their waiting game. This is absolutely unnecessary in areas such as West Virginia where low sulfur coal is found in abundance and can be used immediately to comply with Clean Air Act standards.

On October 8 and 9, the Public Service Commission held a second set of hearings for the cross-examination of witnesses who testified earlier. At this time it was established that during several months this year, Appalachian Power Company shipped low sulfur coal from its own mines in West Virginia to the Tanners Creek Plant in Dearborn, Indiana, owned by Indiana and Michigan Power Company, another subsidiary of AEP. At the same time, high sulfur coal from Tennessee and Kentucky was imported to West Virginia and burned in local plants owned by Appalachian Power. Thus, coal owned by Appalachian Power which could have been used in West Virginia was delivered to Indiana at a cost of $12 per ton, while customers of Appalachian Power were forced to pay for coal brought into West Virginia at a cost of $44 per ton.

It was also discovered at the October hearing that Appalachian Power Company had not discontinued their "repricing" practices as they had been ordered to do on September 16. As a result, on October 18, the West Virginia Public Service Commission ordered Appalachian Power to refund $488,700 which was improperly collected from customers during the period of September 16 through October 16. At press time the Commission had not decided whether Appalachian will have to refund the $2,000,000 which they received between January and September of this year through the repricing loophole.

Citizen intervenors in the fuel adjustment clause hearings have suggested that the automatic adjustments be discontinued or a new procedure devised in order to protect against such consumer abuses. One method suggested would allow the company to automatically pass on to the consumer a percentage of the cost (perhaps 80 percent) and would require a hearing to be held any time the cost of fuel rose more than a certain amount within a six-month period (perhaps 15 percent). Also, it has been suggested that utilities report all coal purchases by name of supplier, price of fuel, and quality of fuel. These changes could help protect utility customers and still allow the utilities to recover their expenses and maintain a stable financial condition.

Over $3 Million, and Rising

The cost of American Electric Power's (AEP) gigantic national advertising campaign to amend the Clean Air Act and renew coal leasing on federal lands has now reached $3.3 million, according to a company official.

The controversial campaign uses full-page advertisements in national magazines and newspapers, as well as in newspapers serving the communities where AEP operates. Controversy has developed not only over the content of the paid messages, but over the fact that taxpayers are subsidizing part of the costs through tax loopholes available to the company (EA, May 11).

AEP officials announced earlier this year that the campaign would include 20 full-page advertisements at a total cost of $2.7 million. But the series was expanded beyond the original plan and as of October 29, the company says 34 of the sternly-worded messages have appeared at a total cost of $3.3 million. More advertisements are scheduled for the remainder of this year and an unspecified number for 1975.

In one of the few judgments on the accuracy of the ads, aside from complaints by the Environmental Protection Agency (EPA) and the President's Council on Environmental Quality, an administrative judge presiding over EPA hearings in Charleston, West Virginia, has stated that some material in the campaign "is definitely misleading."

Judge Paul Pfeiffer is chairing hearings on West Virginia's request for a one-year delay in the implementation of dust and sulfur dioxide emission standards required by the Clean Air Act. Pfeiffer also accused the company of "trying the case in the newspapers," which an AEP spokesperson denied.

Class Action Suits Challenge Legality of Ohio Company's Fuel Clause

Three class action lawsuits filed in Cleveland on behalf of residential, commercial and industrial customers are challenging the legality of automatic fuel adjustment charges imposed by the Cleveland Electric Illuminating Co. on the basis that Ohio law doesn't permit utilities to charge higher rates without public hearings and regulatory agency approval on a case-by-case basis.

The Ohio suits are the latest in a spreading list of grievance actions being taken nationally by state officials and consumer and public interest groups in opposition to various automatic fuel assessments amid allegations that they amount to overcharges because they are overblown and do not represent the utilities' actual fuel costs (Newsletter 74-43, Nov. 1, p. 3).

Resistance to the automatic rate hikes is building in various states despite exhortations by Federal energy officials, such as Federal Power Commission head John Nassikas and Treasury Secretary William Simon, urging state regulators to allow private utilities to pass along not only fuel costs but assorted other costs to consumers (including wholesale power purchasers) on an automatic basis.

Florida Attorney-General Robert L. Shevin recently declared as illegal the fuel adjustment clauses being used by the state's private utilities and in quick follow-up action, the state's Public Service Commission abolished the clause, placed a freeze on fuel charges at October levels and informed the companies that it will require advance approval of any future increases.

In Cleveland, the Common Pleas Court is being requested to order the Public Utilities Commission to prohibit automatic increases and require advance consideration—leading to either rejection or approval—of fuel adjustment charges on an individual basis. The class action suits also seek payment by Cleveland Illuminating of damages and refunds of all overcharges. One of the lawyers for the plaintiffs, Lawrence Barker, said he also might seek a restraining order to stop the power company from collecting adjustment clause payments until the cases are settled.

Coal Producers' Profits Zoom to New Records; Pittston Co. Net Income up 787 Percent

Net profits for most of the Nation's coal producers rose to record levels during the third quarter of 1974 at a time when production was lagging despite increased demand and the threat of a nationwide strike worrying large users, who were forced to pay unprecedented per-ton prices to maintain adequate reserves.

The Pittston Co., the largest independent and the fourth largest producer, reported third quarter profits of $27.5-million, representing a whopping 787% increase over its $3.1-million earnings for the same period in 1973; and Westmoreland Coal Co. profits soared by 1,242%—from $1.3-million to $12.8-million; Consolidation Coal Co., a subsidiary of Continental Oil Corp., showed earnings of $15.9-million in the third quarter, compared to $200,000 a year earlier; and Island Creek Coal Co., a subsidiary of Occidental Petroleum Corp., posted earnings of $35.2-million after a third quarter loss last year of $929,000.

Peabody Coal Co., the largest producer in the Nation and a subsidiary of Kennecott Copper Corp., would not disclose what its profits were in the third quarter, but there were reports that the firm also posted sizable earnings.

There were other reports that several companies have made huge profits by exporting coal to Japan at spiraling prices. Pittston is said to have made a profit of more than $2-million by charging Japanese purchasers up to $120 a ton for spot market coal; and Consolidation Coal reportedly charged $84 a ton for 600,000 tons of coal it sold to Japan in October.

Large domestic purchasers, such as the Tennessee Valley Authority and others, have long urged the Justice Department to press antitrust suits against U.S. energy companies, which have large holdings in petroleum, coal and natural gas and have been charged with participating in anticompetitive activities aimed at pushing up the prices of all fuels to drastic levels.

TVA has conducted studies showing that coal producers' current prices are far in excess of their production costs—a situation similar to the record-high prices for petroleum products being charged by oil companies, which also have been reporting net profits described as "astronomical" by financial analysts.

The Fuel-Adjustment Caper

Electricity bills in many cities now stand 20 to 50 per cent higher than a year ago. Of all the ravages of inflation, this has proved one of the most frustrating to consumers. The supplier of the electricity, in most cases a privately owned corporation, possesses a monopoly on the service. If you don't like the price of electricity at one company, you can't take your business to another.

Most states regulate utilities, presumably to make sure the utilities don't take unfair advantage of their monopoly position to gouge consumers. Utilities must ask the state regulatory commissions for permission to raise rates. To support such requests they must file detailed documentation, which the commission is supposed to review in detail. Finally, before approving a rate hike the commission must usually hold public hearings.

Thus, in theory, the utility is a vehicle for providing a needed service under strict public control. In practice, however, state utility regulation has long been crippled by financial starvation, government indifference, and sometimes by corruption, as CU reported in March 1970. But so long as the regulatory machinery exists, reform is at least possible.

ENTER THE FUEL-ADJUSTMENT CLAUSE

Now a little-noticed development threatens to dilute even further the effectiveness of state regulation. The development is the strict application of the once-dormant "fuel-adjustment clause."

The fuel-adjustment clause permits a utility to pass its own higher fuel costs di-

rectly to the consumer without state approval, public hearings, or, in many cases, public scrutiny of any kind. Federal Power Commission statistics show the extraordinary effect on consumers' electricity bills of this pricing mechanism. If you live in New York City, about three-quarters of the increase in your electricity bill for the 12 months ended February 15, 1974, was due to the "adjustment" permitted by the clause; in Boston, two-thirds; in Philadelphia, one-half. In San Francisco, nearly every penny of increase in electricity bills came as a result of the fuel-adjustment clause.

Of 47 states with statewide utility regulation, 37 allow fuel-adjustment increases that bypass formal rate hearings. Many of the others are in the Northwest, where utilities rely mainly on hydroelectric power and therefore need not buy fuel. Since fuel-adjustment makes rate increases effortless, it's not surprising that the utility industry is now pressing states for automatic pass-through of other costs, such as wages, taxes, and pollution control. The Ford administration is supporting industry efforts. In September, Treasury Secretary William E. Simon urged additional cost pass-throughs to help avoid, in his words, "blackouts and brownouts and, worse, economic stagnation."

Some of the proposals approach the grotesque. Earlier this year, New England Power Co. asked unsuccessfully for an "automatic cost adjustment clause." One effect of such a clause: If people conserved energy and electricity use declined as a result, rates would automatically go up to maintain the utility's income. Thus, the more electricity consumers saved, the more they'd pay per kilowatt hour.

Utilities appear genuinely puzzled at the opposition of some consumer groups to fuel-adjustment clauses. "We're only passing through our higher fuel costs dollar for dollar," they argue. "There's not a penny of extra profit involved."

That argument sounds simple, and it is—deceptively simple. Some utility companies are going deeper and deeper into the fuel business by buying up coal mines or gas wells. With the fuel-adjustment clause in operation, a utility can buy fuel from itself at an artificially high price and pass that price on to the consumer. In this way, though the utility may not increase its profit on the electricity it produces, it could make extra profit through a fuel subsidiary not subject to regulation.

In Ohio, for instance, Ohio Power Co. owns coal lands. It leases the coal lands to a subsidiary called Central Ohio Coal Co. Central Ohio mines the coal and sells it to Ohio Power. If Central Ohio Coal Co. raises the price of coal for any reason, Ohio Power Co. can pass the increased cost directly to the consumer of electricity. Paul Hampton, chief rate-maker for the Ohio Public Utilities Commission, says that "by Ohio law we cannot control the price of the lease, and we cannot control the price Ohio Power pays for the coal. All we can do is threaten to cancel their fuel-adjustment clause." Ohio Power itself is a subsidiary of the giant American Electric Power Co., which owns several other utilities and coal companies that buy and sell coal and power to and from each other.

HOW CONSUMERS CAN BE TAKEN

These arrangements raise some important questions: Does the state have the legal right to grant a private corporation a monopoly electricity franchise and then give up the power to regulate its rates? (The Vermont Supreme Court said "no" last spring when it struck down that state's fuel-adjustment clause, since the clause violated state statutes setting out specified procedures for rate hikes.) What incentives do utilities have to bargain with fuel suppliers when they know they can pass on any additional costs? Finally, how do consumers know they're not being overcharged under the guise of passing on fuel price hikes?

CU's review of the operation of fuel-adjustment clauses across the country gives us reason to believe that consumers in many areas are indeed being overcharged. Here are three examples:

In North Carolina, Duke Power Co. was embroiled for more than a year in a nationally publicized fight with the United Mine Workers Union, which struck Duke's Brookside coal mine in Harlan County, Ky. Normally, a company suffering from a long strike might be expected to sustain a severe financial loss. That's not usually the consumer's problem—and it's certainly not the problem of those consumers who are also union members. But Duke simply replaced Brookside coal at its generating plants with much more expensive coal bought on the open market, passing the higher costs on to North Carolina rate-payers under that state's coal-adjustment clause. (The price of spot coal on the open market has been substantially higher this year than the price of coal bought under long-term contracts.)

Without the clause, Duke would have had to face the glare of unfavorable publicity from formal rate hearings—and would have had to foot the increased coal bill until state approval for a rate hike was granted, not an automatic procedure, considering the circumstances. So, in effect, any Duke customer who turned on a light, including any customer who's also a union member, was helping Duke Power Co. sit out its labor troubles by paying more for electricity.

In New York State, millions of electricity users (including customers of Consolidated Edison and Orange & Rockland Utilities) pay a penalty for higher fuel-oil prices when the utility does *not* burn fuel oil. Here's how the scenario goes: The gas division of the utility buys natural gas both to supply its retail gas customers and to power some of the utility's electricity generators. For the latter use, the gas division actually sells gas to the electricity division at a profit. The profit is pegged at half the difference between the price of gas that the electricity division *does* buy and the price of fuel oil it *would* buy if it burned oil instead of natural gas. Result: When fuel-oil prices rise much faster than natural-gas prices, as has been the case this year, the gap widens, the profit rises, and the consumer pays the utility for a cost the utility never incurred. Again, the increased charge for electricity is automatic, thanks to the fuel-adjustment clause.

In Massachusetts, where a consumer's electricity bills are computed for a two-month period, the cost of fuel during the second month is billed for the whole period. Thus, if fuel costs in October are 10 per cent higher than in September, consumers are billed at the higher fuel rate for all of September as well as October. The utilities are quick to point out that if fuel prices dropped in the second month, the consumer would be billed at the lower rate for two months, and eventually things would even out.

The prospect of declining fuel prices, even though made unreal by soaring worldwide inflation, is still a favorite part of many utilities defense of fuel adjustment. In times of declining fuel prices, they say, consumers benefit from fuel-adjustment clauses by getting the savings immediately. What they don't mention is that during periods when fuel prices actually *did* decline, in the mid- and late-60's, some utilities asked for, and got, state permission to drop fuel-adjustment clauses, only to reinstate them later, when prices began to rise sharply in the early 70's.

UTILITY ACCOUNTING: 2 PLUS 2 EQUALS 5

The extent to which utilities take advantage of fuel clauses is extremely difficult to discover because of the complex nature of their accounting and operating procedures. State regulators themselves say they are often befuddled.

Example: Arkansas Missouri Power Co. is part of the Middle South Utilities chain. It buys power from some of its sister Middle South subsidiaries. The cost of this power can be passed on to Missouri rate payers through that state's fuel-adjustment clause. But understaffed state commissions, flooded with requests for rate increases, can't check the details of these enormously complex transactions. "We can't go back to plants in Oklahoma and trace the cost of fuel," says Vernon Brouse, a staff engineer with the Missouri Public Service Commission. "There are so many different plants, and they have so many different contracts. We take their word for the figures."

Utilities themselves often refuse to give regulatory agencies copies of their fuel contracts. Making such information public, they say, would erode their bargaining position with other suppliers (a curious argument, since a fuel-adjustment clause makes a bargaining position unnecessary). The Federal Power Commission, which regulates interstate utilities, and which itself allows fuel-adjustment clauses, says its auditors get to see the fuel contracts only when they do spot-check audits on a utility—on an average of once every four to five years.

Still, enough can be discovered about accounting methods for fuel-adjustment clauses to raise serious questions in this area, too. Take the case of fuel for nuclear power plants. The nuclear fuel needed to produce a given amount of power can cost anywhere from one-half to one-tenth of the comparable amount of coal or fuel oil, and nuclear fuel costs have been rising far less rapidly than other fuel costs. An even more interesting fact about nuclear fuel: Most utilities don't include it in their fuel-adjustment clauses. (Salomon Brothers, a brokerage firm, found in a survey of large utilities last year that 45 didn't include nuclear fuel, while only seven did.) Result: When a nuclear power plant is in operation, the cheaper nuclear fuel that replaces high-priced coal or oil doesn't enter into the calculations that determine the fuel-adjustment charges. But should a nuclear plant shut down for repairs, the high-priced replacement fuel is included in the charge.

There's another, less common, way of "over-recovering"—through what is called a fixed-efficiency rate. Fuel adjustments are computed not just on the prices paid for coal, gas, and oil, but on the efficiency with which the fuel introduced into the utility's generating system produces electricity. Some fuel clauses assume a system's efficiency remains constant. A utility can install new, more efficient equipment but still base its fuel-adjustment charge on the efficiency of the replaced equipment. The Salomon Brothers survey found that one-third of the utilities polled don't pass through fuel-efficiency savings to consumers.

Easily the most perplexing accounting problem of all is the way utilities treat purchases of fuel from their own subsidiaries. On the surface, it seems odd that a utility can raise the price its right hand charges its left hand for coal or gas and then pass the price increase right on to the consumer without a rate hearing. And beneath the surface, the problem becomes even more curious as any attempt to comprehend the price structure dissolves in a web of corporate intertransactions and regulatory leniency.

One example can illustrate a typical tangle of transactions. Pacific Gas & Electric Co. (PG&E), the large Northern California utility, gets 38 per cent of its gas from the Canadian province of Alberta, and some of the utility's natural gas goes to fuel its electricity generators. Here's how the sequence works: Alberta and Southern Gas Co., Ltd., entirely owned by PG&E, buys the gas in

Alberta from the well owners (often Canadian subsidiaries of American oil companies). The gas then travels to California, being sold and resold at each step along the way to the following companies: Alberta Gas Trunk Line Co. Ltd. (unrelated to PG&E); Alberta Natural Gas Co. Ltd. (45 per cent owned by Pacific Gas Transmission Co., which itself is 51 per cent owned by PG&E); Pacific Gas Transmission (51 per cent owned by PG&E); and finally at the California border to PG&E itself. Then PG&E's gas division sells some of its natural gas to the electricity division at a profit, treating the electricity division just as it would a large industrial customer.

This tangled structure, not unlike many other utility gas-buying arrangements, led to the following dialogue when a man named Harry Booth testified earlier this year before the California Public Utilities Commission and was cross-examined by Sylvia Siegel, a San Francisco consumer advocate:

SIEGEL. I am puzzled by one thing, Mr. Booth. You are the president and chief executive of Alberta and Southern; you are also the president and chief executive of Alberta Natural, and you are also a director of Pacific Gas Transmission Co. Do you really think there can be an arm's-length negotiation or transaction between any of these units?

BOOTH. Yes, there can be between—certainly Alberta and Southern and Alberta Natural . . .

SIEGEL. I assume from your omission that you don't believe that there could be any arm's-length bargaining between Alberta and Southern and Pacific Gas Transmission?

BOOTH. Yes, there would be the same arm's-length bargaining to the extent that there is between PG&E and Pacific Gas Transmission, bearing in mind that Alberta and Southern is a wholly owned subsidiary of PG&E.

It may take no small act of faith to think of Harry Booth, president of Alberta and Southern, negotiating at arm's length with Harry Booth, president of Alberta Natural, but acts of faith appear to be what utilities demand from consumers and state regulators alike.

AN END TO REGULATION?

The Federal Government, which one would think has a role to play in protecting consumers from the worst effects of monopoly economic power, appears ready and willing to free utilities even further from public control. Even before Secretary of the Treasury Simon urged additional passthrough, John Sawhill, head of the Federal Energy Administration, wrote to all 50 state Governors, noting that "none of the states has an automatic pass-through for increased operating costs" and urged the Governors "to give this problem your attention."

The spread of automatic adjustments to other specific costs would multiply the inequities caused by fuel-adjustment clauses. Illinois has already had to face the problem. Last December, the Illinois Commerce Commission granted Commonwealth Edison Co., the big Chicago utility, the right to pass on, under its fuel clause, the costs of researching, developing, and operating pollution-control equipment. That raised new and difficult questions: How do you determine what portion of a researcher's day is spent on pollution control? If a new piece of equipment is installed that reduces emissions and also makes the plant more efficient, is the consumer to pay extra for electricity that costs the utility less to produce? Can a utility buy high-sulfur coal from a coal company it owns and pass on the expense of taking the sulfur out, rather than buy low-sulfur coal from another company and lose the mining profits?

An Illinois commission staff member says there are no guidelines or definitions in the ruling that would answer these questions. And an Environmental Protection Agency news release praising the Illinois decision notes that "in cases where many plants of one utility require [pollution-control] equipment, rates could go up as much as 15 percent to 20 percent."

No one can deny that some utilities have experienced serious financial problems this year. More and more investors abandoning utilities, increasing the cost to utilities of raising capital—another cost the consumer is ultimately forced to bear. It might therefore be in the public interest to permit utilities to pass through a percentage (but not all) of those costs that are rising rapidly—subject to regular and frequent full-scale hearings and to review upon petition from aggrieved consumers.

But automatic pass-through of all costs without any regulatory hearings perverts the theory underlying state regulation of utility monopolies. Such pass-throughs merely provide an economic incentive for inefficiency: Utilities could purchase expensive fuel or allow other operating expenses to increase without worrying about hurting profits. In effect, they would be operating on a cost-plus basis that would insulate them from any normal business risks. The consumer would bear all the risks of the utility business.

Automatic pass-through clauses needn't be automatically accepted by consumers. As a start, the Washington-based Environmental Action Foundation published earlier this year a comprehensive and exceptionally useful booklet called "How to Challenge Your Local Electric Utility" (available for $1.50 from the foundation at 720 Dupont Circle Building, Washington, D.C. 20036). State regulatory commissions are accustomed to acting in a climate of public apathy, and the huge spate of public protests this year—ranging from letters and formal interventions in rate hearings to picketing at closed commission meetings—may well have a positive impact.

They're already being felt politically. In California, for instance, charges of "rubber stamping" by the state's Public Utilities Commission have played a major part in this fall's gubernatorial campaign.

Pressure on legislators to finance public advocates can also play a role. Vermont and Maryland already have state paid lawyers to intervene for the public at rate hearings, and the New York legislature this year gave the state's Consumer Protection Board power and substantial funds for this function. With enough of this sort of pressure, the state commissions themselves might act as public advocates—the role for which they were created in the first place.

THE NEED FOR A NATIONAL FOOD POLICY

Mr. HUMPHREY. Mr. President, on many occasions I have pointed out the need for a national food policy and the price being paid because we have ignored this need. I would like to point out three very worthwhile articles which deal with this area.

The first, "The Agricultural Policy Debate," in Dupont Context, by Dan Balz highlights the need to evaluate the priorities of our very strong export market and of increased needs for humanitarian assistance for developing countries. In a tight market supply situation, this becomes a very difficult decision, and we have not yet faced up to the implications of this issue.

The second article, "The Future of a Hungry World," by Dan Morgan in the November 4 Washington Post, outlines what has happened to food aid levels in recent years as supplies have declined. Morgan writes:

The country is long overdue for a debate on whether Americans wish to undertake the responsibility for relieving world hunger.

The third article, "The Search for More Food," by Ray Vicker in the November 4 edition of the Wall Street Journal focuses on the role of the United States in providing technical assistance to increase food production throughout the world.

While there is general agreement that we should and must increase our technical assistance to expand food production abroad, there has been no effort to relate this assistance to our food aid in terms of a coherent policy. We must begin to relate all of these elements, including exports, costs of production, energy and domestic stocks into a sensible national policy.

It makes no sense to toy with our farmers with boom-and-bust policies which also hurt other nations.

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

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

THE AGRICULTURAL POLICY DEBATE—HOW MUCH TO KEEP, HOW MUCH TO SEND ABROAD

(By Dan Balz)

Start with a simple statistic: In fiscal year 1974, other countries bought from the United States $21.3 billion worth of agricultural commodities, a 65 per cent increase over the year before and nearly 300 per cent more than in fiscal 1971.

These numbers tell an embarrassing success story. At a time when the world's food supplies were dwindling to their lowest level in two decades, when parts of the world teetered on the brink of starvation, the United States came out a winner. Nothing underscores the dilemma facing U.S. officials more clearly than that.

At the recent World Food Conference in Rome, the United States pledged more food exports, the sharing of technological know-how and a willingness to help establish international food stockpiles. But there are doubts that even this effort will be enough to aid the world's short- and long-term food problems.

Trade and aid. The two words may have a pleasant ring, but in Washington they signal a policy tradeoff which has prompted an intensive and prolonged debate. The debate involves such key officials as Agriculture Secretary Earl L. Butz, an exponent of free markets and more trade, and Minnesota Senator Hubert H. Humphrey, an advocate of more aid to poor countries. It also involves officials in the State Department, the Office of Management and Budget, the Council of Economic Advisers, other members of Congress and a host of interest groups.

Long taken for granted as the supermarket to the world, American agriculture finds itself pushed meeting America's needs at a time when other countries most need its output. Despite wide-open production this year, the American food industry can barely produce enough to keep the world even. And demand for food abroad has helped to send domestic prices up more than 30 per cent in the past two years. That, in turn, has created pressure to keep food at home and to hold prices down. Suddenly the choices facing policy makers seem unappealing.

In years, past, agricultural policy in the United States was relatively easy to predict: hold down production to keep prices high enough to encourage farmers to stay on the job, but low enough to give the American consumer the least expensive food in the

world. Export some of what this country could not eat, and put the excess—and there was almost always some excess—into government-owned storage bins to be given away later under the Food for Peace program.

Now the backdrop has changed. Poor harvests hit parts of the world in 1972, including India and the Soviet Union. Instead of serving their consumers a diet of austerity, the Soviets decided to go into international markets to make up their losses. They bought 30 million tons of grain (18 million tons from the U.S.), and that put extraordinary strains on world markets, helping to kick up prices enough to end U.S. export subsidies. About that same time, the anchovies disappeared off the coast of Peru, ruining one of the world's sources of inexpensive protein and putting more pressure on the American soybean crop.

The next year, 1973, the U.S. dollar went through an official and an unofficial devaluation, reducing the prices of our exports and making our crops even more attractive to foreign buyers. That spring, floods in the Midwest held down plantings and reduced the corn crop, while in Africa drought conditions continued to worsen, bringing starvation to vast sections of the sub-Sahara.

This year (1974) expectations for a record 6.7 billion bushel corn crop evaporated in the summer sun as drought hit the Midwest and later frost reduced the harvest to around 5 billion bushels, good by historical standards but disappointing because the world needed all those other ears.

The combined effect of those events was to reduce carry-over stocks to their lowest levels in 20 years. The U.S. had sold off its stocks in early 1973, which helped keep domestic food prices from rising too rapidly. The rest of the world had never had much in reserve, preferring to depend on the U.S.

By the spring of 1974, U.S. officials trying to plot the next move found no easy choices. Food aid no longer meant a policy of "getting rid of the stuff," as Butz once called it. Instead it called for sacrifices on the part of the American consumer and on recipient nations. The need to build up shrunken reserve stocks became a pressing and divisive issue, even though in a time of scarcity it was almost an academic question. What made these decisions all the more difficult were those export statistics blinking in the background, tantalizing reminders of the potential of the American food industry, and especially enticing because higher oil prices threatened to throw the U.S. trade balance deeply into deficit.

In each of the past three years, U.S. agricultural exports have expanded far beyond what even the most optimistic experts had predicted. Two years ago, for example, officials in the Department of Agriculture estimated that with luck U.S. agricultural exports could total $18 billion by 1980. Little more than a year later their forecasts are vastly underestimated.

Recent trade figures show not a steady progression in trade, but a sudden lurch to a new plateau. In fiscal 1971, U.S. agricultural exports totalled $7.8 billion. The next year they hit $8.0 billion, and in fiscal 1973, they reached $12.9 billion. Then came the 65 per cent leap to $21.3 billion.

Much of that increase reflects higher prices, but increasing worldwide demands for better diets is a major factor. When most of the world's people talk about improving their diets, they mean one thing: eating more meat. For U.S. farmers that means more sales of food grains. Latest trade figures bear that out. From fiscal 1973 to 1974, sales of feed grains rose 101 per cent to $4.6 billion. Wheat exports rose 99 per cent to $4.7 billion. Agriculture Department economists say three-fourths of the increases were due to higher prices, with the rest coming on increased volume.

In the past few years, the United States has also begun to tap new markets. Besides expanding sales to traditional customers such as Western Europe and Japan, the U.S. found willing customers elsewhere in Asia and in Africa. The People's Republic of China bought $852 million in farm goods in 1974, more than four times what it had bought the year before. Asian countries as a whole increased their purchases 77 per cent, while those in West Asia bought 136 per cent more. Exports to Africa jumped to $980 million, nearly a threefold increase over the year before. Sales to Latin America doubled ($2.4 billion).

No one at the Agriculture Department wants to do anything to jeopardize these big and growing markets. Indeed, officials want to exploit them even more. As Clayton Yeutter, an assistant secretary, said recently, "We must use (our) advantage not only for our own good, but to help supply the rest of the world with the food it wants to purchase from us."

For that reason, Butz has been an outspoken opponent of export controls—then President Ford imposed them on corn by holding off U.S. shipments to Russia this fall. They were used briefly in 1973 to limit soybean exports, and whenever the food supply of the U.S. is threatened—or when prices begin to rise—such controls are often advocated as tools to protect American consumers. But Butz thinks such controls ultimately work against the United States because they make our foreign customers nervous. The Japanese probably will never forget those soybean controls of 1973, and fears of a rerun can make it more difficult for the U.S. to sell its crop abroad.

Not everyone, however, sees agricultural trade policy in quite the same way Butz does. His critics claim the secretary is taking a conservative view about American production and the profits of its farmers and agribusiness firms. While these critics are not opposed to trade, they say the United States, as the leading food producer in the world, has an obligation to develop other policies to help ease tight supply situations throughout the world and to prevent starvation wherever possible.

Such policies involve tradeoffs: by helping others we must pay the costs at home, and this is where the debate has centered. It focuses on two issues: the development of reserve stocks, and the level of American food aid.

No one seriously disputes the need for the world to rebuild its depleted reserve stocks, although a few years ago there were plenty of American economists, among others, who were distressed by the huge stocks held by the government. At that time, those reserves were seen as a permanent price depressant which hung over the commodity markets and prevented farmers from getting the return they deserved. Moreover, those stocks were costing the government almost a million dollars a day for storage. To economists like Butz and former Treasury Secretary George Shultz, the best solution was to sell them off quickly.

But events of the past two years have changed some attitudes in this country, for, as Gary Seevers, a member of the Council of Economic Advisers, said recently, the United States suddenly learned the disadvantages of not having those stocks.

"Without a buffer of domestic and international food reserves, consumers throughout the world will be victims of the vagaries of chance," Humphrey says. The consumer saw the effects of that in 1973, and Butz said recently it probably would have been better not to dispose of the U.S. stocks as quickly as the government did.

The question facing U.S. policy makers is how best to rebuild those stocks to gain their advantages without having to accept their disadvantages. Butz wants to keep the government out of it, although he favors some kind of internationally shared system. "The burden of holding such reserves." Butz says, "should be shared by all countries, the importing as well as the exporting countries, the developing as well as the more developed countries." As for the reserves held in this country, Butz says he would "prefer to see (them) held by commercial interests, rather than the U.S. government."

His chief opponent in the debate has been Senator Humphrey, who wants the government to help rebuild stocks as both a market stabilizer and a humanitarian stockpile. Under Humphrey's plan, the government would hold modest stocks—200 million bushels of wheat, 15 million tons of feed grains, 50 million bushels of soybeans, and 1.5 million bales of cotton. They would be accumulated only during periods of excess production and could be sold only in times of short supply. To protect farm prices, they could only be sold for domestic use when the market price had climbed above the government target price for each commodity.

Other reserves would be held privately and, through a number of trigger mechanisms, Humphrey proposes to monitor exports to guard against another Russian wheat deal, which depleted US. stocks.

Final U.S. policy will probably fall somewhere between Butz and Humphrey, with as little reliance on the government as possible but with an adequate stockpile to help meet temporary shortages throughout the world.

The web of morality, politics, and economics becomes most intertwined around the handwringing question of food aid. The U.S. has long prided itself on being a generous supplier of free food, or food sold on generous terms, to poor nations.

Now the choice is more difficult, especially in a time of rapid inflation, rising food prices, and the desire on the part of the Ford Administration to keep federal budget expenditures in check.

Most officials agree that the ultimate solution to the world food shortage is to increase production in the developing nations. That will require bringing elements of the Green Revolution and American technology and expertise to bear and, even under the best of circumstances, will take decades to accomplish. The Agency for International Development (AID) has put special emphasis on this problem, and its fiscal 1975 budget request reflects that. It wants to spend $675 million on such developmental assistance, more than twice the 1974 amount.

But the returns on this investment are a long way off. In the meantime, the U.S. must make tough decisions about the level of direct food aid it can afford now.

Butz says he is convinced the American people are committed to providing food to prevent starvation in other parts of the world. The question is just how strong that commitment is when it bangs up against other domestic policy desires.

"The worst we can do," Butz says, "is to over-commit ourselves."

The United States funnels its food aid through the Food for Peace program. When budget officials put together the fiscal 1975 budget in late 1973, they calculated that it would cost the government about $750 million to supply other countries with a fixed amount of food. Then came this summer's drought. Now those same officials say it will cost the government about $1.2 billion to give away the same amount of food.

Those new estimates were made just about the time senior economic advisers in the Ford Administration were searching for places to cut the budget. And the increased costs dramatized to them the difficult tradeoffs involved in devising the proper policy stance to take to Rome to the World Food Conference. These leaders, who hoped to devote their efforts to setting the level of food aid for the next five to seven years, realized they first had to come up with this year's level, and that doing that put them in conflict with their own desires to cut fed-

eral spending and hold down inflation at home.

The end of the World Food Conference really marks the beginning of U.S. policy in these areas. During the six months leading up to the conference, policy makers forced themselves to wrestle with these painful choices, eventually settling on what one of them called "a defensible position" to take to Rome. But now the problem may be more difficult—translating those policy intentions into action in a world hungry and looking to the United States for help.

THE SEARCH FOR MORE FOOD

(By Ray Vicker)

ROME.—When the United Nations and the Food and Agriculture Organization several years ago scheduled the World Food Conference, which will get underway tomorrow, they conceived it as a gathering where the 135 nations that will take part would consider mainly long-term measures to improve world food production.

But conditions have changed drastically since then—and not for the better. People are starving in India, in Bangladesh, in Ethiopia, in the Sahel region on the Sahara's southern edge. It's estimated that 10,000 people a day are dying from starvation or from diseases related to hunger. Obviously the delegates to the Rome conference can ill afford to spend the bulk of their time arguing about long-range agricultural expansions to pay off by 1980 when such pressing problems exist in 1974.

Nevertheless, long range measures must be implemented (and quickly) if the world is to avoid even greater catastrophes in the future. These won't come smoothly even though the hierarchy of world agriculture will be assembled here for nearly two weeks, after months of pre-meeting preparations.

A praiseworthy goal of the conference is to stimulate food production in the poor countries of the world so that they won't be so dependent upon outside aid. That's easier said than done, for these same nations keep producing people faster than food, and so their problems mount.

Still there is reason for hoping that the conference will achieve some results, even though there is a dark suspicion that the United States is not as philanthropically minded today as the conference organizers would have liked.

The conference is likely to lay the foundation for a new system of international grain reserves (because of U.S. objections, aiders don't like to term it a "food bank" though this is the basic idea). Farm research in backward nations is likely to be stepped up. An early warning system for spotlighting crop disasters may be strengthened. An emergency food aid bank may be established, although this still is subject to agreement. Agricultural assistance to the Third World is likely to be increased. Channels may be opened to permit more private enterprise cooperation in Third World aid projects. It also is hoped that a world fertilizer fund may be established to assist developing nations.

However, a suggestion for creating a new world food authority may not get far. This proposed agency would administer the $5 billion worth of annual farm assistance which is being set as a goal.

Despite the pressure for the creation of the agency, its chances of seeing the light are slender, though a committee might be formed "to investigate its feasibility." Such a committee, of course, would study the question for years. Other questions to come up overlap so many areas that even clarifying the issues won't be simple.

AN ENORMOUS MESS

Inflation, energy, population and food problems are so interwoven that the mess is enormous. Inflation has soared to the point where the poor nations of the world are being priced out of food markets. The quadrupling of petroleum prices in the last two years has led to fertilizer shortages, to a dearth of fuel in irrigation pumps and to transport difficulties. The exploding population adds 1.4 million additional food consumers each week to the world's total. And world food production is leveling off.

That quick summary is enough to sober even the most cheerful optimist. And when it is translated into national terms it sets up a whole new set of perplexing dilemmas. Americans, because they already feed about a quarter of the world's population, will be asked to bear the brunt of the load. Pressure already is building on the U.S. to increase its food and money aid to the Third World. The World Food Conference Secretariat is calling for a trebling of the current world aid allocation of more than $1.5 billion. Admittedly, it would like $2 billion of that increase to come from oil rich nations. But America also will be expected to contribute more.

When it comes to food aid, the U.S. has more cereals available for export than the rest of the world combined.

So, right from the first, the World Food Conference puts a question to the U.S. government and its citizens: How far is America willing to go to extend food aid, knowing that the volume of exports may have a direct bearing on inflation and the price of food in the U.S.? The more food aid that is extended, the higher domestic food prices are likely to be.

Another question is also emerging as central to the conference discussions. Can the free market system survive in the international food area? Soaring prices freeze many Third World nations from that market and lately more and more people in aid work are saying that this calls for suspension of the free market system.

"The present situation should finally make it clear to all concerned that any purist concept of international free trade in food is dangerously outdated," says A. H. Boerma, secretary general of the FAO. "The poorer developing countries which are facing crop deficits and serious balance of payments difficulties cannot be left to compete in a free-for-all scramble for basic food supplies where cash is preferred to credit."

But if the price incentive is removed from the world food market, it could be the U.S. farmer who would pay for it. Two-thirds of American wheat, half its soybeans and a fifth of its corn are exported, along with an array of other agricultural products. One wonders, too, how world food prices can be controlled without price regulation of home markets. And questions certainly can be raised about the merits of tinkering with the free market system at a time when more, not less food is desired from those countries which practice free enterprise.

Ironically, the Soviet Union, which is a firm believer in state-controlled rather than market prices, is dragging its feet insofar as world food problems are concerned. It doesn't even belong to FAO. It will be at the conference but the non-cooperation it has displayed *vis a vis* the United States concerning the sharing of crop information certainly promises little for cooperation on a worldwide basis. Some American sources declare that a world food reserves program would be meaningless without Russian support.

Strong arguments admittedly can be mustered today for such a reserves program. Yet the objections by some U.S. officials are understandable, too. It costs money to store food. So who is to pay for this? And since the U.S. is far and away the largest producer, will it be expected to hold surpluses for the whole world, as it did for years through the 1950s, 1960s, and into the '70s?

There should be room for some sharing of this burden, though it is evident that the world must achieve surpluses before stocks can be replenished. This is likely to take several years, even with favorable weather. And then, of course, any food bank system raises more questions. Ample stocks in storage bins tend to drive down market prices. That's fine for consumers up to a point. But what about farm income?

THE ORR PROPOSAL

The world food authority idea has been around for a long time and has always been controversial. In 1946, Dr. John Orr, the Aberdeen, Scotland, physician who helped create FAO, proposed the establishment of a world food board. It would have held buffer stocks, controlled food prices in a range that would protect the interests of consumers and producers and would generally have regulated world food trade.

The idea died, to be revived futilely from time to time. But from discussions about it have come commodity agreements in wheat, sugar, cocoa, coffee, rice and tea. None have worked well, for consumers seldom agree with producers about prices. Moreover, buffer stocks are difficult to manage and managers seldom are prescient enough to forecast accurately the future consumption patterns when controlling their stocks.

Nevertheless, the idea of trying to stabilize markets through "dirigism" refuses to fade away. It is generally recognized in Rome that it probably would be impossible to build food reserves without commodity agreements affecting prices, too. So an intensive effort to sell commodity agreements may be anticipated.

One World Food Conference document says: "Stockholding for the purpose of market stabilization could form the basis of a new approach to international grains arrangements, including a new international wheat agreement, supported by more limited arrangements for rice and coarse grains. Such an agreement would be able to influence world prices through holding and regulation of stocks designed to maintain world prices in a given range."

It is evident that hard bargaining lies ahead before any such agreements may emerge. The situation won't be helped if Third World and Communist countries seek to lambast capitalistic nations as they did at the World Population Conference in Bucharest in August.

Fortunately, S. A. Marei, the secretary-general of the World Food Conference, seems to have little patience for ideological grandstanding. He is, for instance, seeking free enterprise corporate aid for conference problems along with help from nations of all political hues. Already an impressive list of about 150 of the world's top corporations have pledged cooperation, with FAO's Industry Cooperative Program serving as the bridge between the multinational corporations and the conference.

"It is interesting that the United Nations should call on business for help at this time," comments G. S. Bishop, chairman of Booker McConnell Ltd, a big British food company with broad international interests. "We feel we have something definite to offer. Often food troubles in developing countries are due to management shortages, not only in food production but processing, packaging, and transportation. And major corporations do want to help."

The conference's participants will be conditioned by some rather grim news when they arrive in Rome. This year, for the second time in three years, world production of cereals will show a decline. Meanwhile, of 97 developing countries checked in one survey, 61 showed a deficit in food supplies. Perhaps a more suitable name for the Rome meeting would have been the World Hunger Conference.

THE FUTURE OF A HUNGRY WORLD

(By Dan Morgan)

As the United Nations-sponsored World Food Conference opens in Rome tomorrow, the U.S. position on future food assistance

to a hungry world is a model of bureaucratic caution. No increases in food giveaways are likely to be promised and an international effort to distribute food resources will be supported only if "other donors" put up their share.

Although the United States will call for more technical help to stimulate food production in developing nations and will promote efforts toward an international grain stockpile, the U.S. essentially goes into the conference without a plan for alleviating hunger caused by this year's food shortages.

The reason for the caution is that the huge stockpiles of surplus grain are gone and the United States is confronted by a situation in which American consumers and affluent foreigners have outbid the hungry nations for the limited supplies of U.S. food.

The recent government decision to require approval for all large sales of U.S. grain and soybeans abroad was an acknowledgement of the new and uncomfortable position in which the U.S. finds itself. In this case, the move enabled the government to allocate supplies among commercial buyers. But there is still no clear plan to set aside more than a nominal amount of food stuffs for needy nations which cannot afford to buy commodities at commercial prices. This is because the administration has not resolved all the moral dilemmas engendered by the limited supply of grain available.

The administration plainly assigns a very high priority to meeting the needs of cash-paying foreign customers. Recently, it lifted a temporary restriction and authorized the sale of 2.4 million tons of wheat and corn to the Soviet Union, valued at more than $400 million.

At the other end of the scale of administration priorities are countries which are seeking loans or donations to cover their 1974 food gap. For example, the administration has delayed action for months on a request by drought-striken Tanzania for a long-term, low-interest credit of several million dollars for buying U.S. wheat. Officials cite the shortage of commodities and the effort to cut federal spending.

The U.S. food assistance program is shrinking rapidly. The amount of food that the government has been giving away to needy people in 91 countries has become infinitesimal in comparison with what is produced. Earlier this year, the administration proposed a fiscal 1975 giveaway program of 647,000 tons of wheat and 442,000 tons of feed grains. That amount represents about half of one per cent of the 200 million tons of wheat, corn, barley, oats and sorghum that farmers will probably produce in 1974.

The annual budget for the giveaway program has dropped from $290 million in fiscal year 1973 to $174 million in fiscal year 1975 and the number of people being fed declined from 63.5 million to 45.6 million between fiscal years 1973 and 1974.

The last several years have also seen drastic changes in the size and nature of the program under which the U.S. government grants credits on easy terms to foreign governments to purchase American farm commodities to supplement local supplies. The volume of commodities shipped under that program has been plummeting, mainly because funds available have remained about the same while the prices of the foodstuffs have tripled. In 1972, the U.S. shipped more than nine million tons valued at $1.054 billion. This year, officials say, it is doubtful if the volume will exceed 3.5 million tons. Meanwhile, in fiscal 1974, 70 per cent of the loans under the program went to Indochina or other countries considered vital to U.S. security interests. This year, officials say, they plan to reduce this to 50 per cent.

Overall, last year, the U.S. share of international food assistance dropped below 50 per cent for the first time in years. Many poor countries are turning to the European Common Market for assistance instead of to the United States. At the same time, there has been no apparent easing of world food shortages and malnutrition. India is reported to be facing a 1974 food deficit of 5 to 10 million tons. Starvation is increasing in South Asia.

The juxtaposition of these facts causes consternation among Americans who have believed that the United States always responds generously to the needs of hungry people or that it subordinates commercial gain to humanitarian ideals. America was generous in the 1950s and 1960s. But the nature of the generosity was habitually misstated by U.S. politicians. As Agriculture Secretary Earl L. Butz has candidly said, the U.S. food aid program started as a "program to get rid of the stuff."

The programs did not require substantial sacrifices by Americans. They benefited taxpayers by relieving them of some of the costs of storing vast quantities of surplus grain produced by U.S. farmers under subsidies. Indirectly, the program kept other countries from trying to muscle in on potential U.S. agricultural markets of the future and, therefore, served the aims of U.S. foreign policy.

Today, the situation is entirely different. And the country is long overdue for a national debate on the question of whether Americans wish to undertake the responsibility for relieving world hunger on a massive scale.

Among the questions are these:

Should the United States adopt a national policy for food distribution and appoint a "food czar"? How does the United States choose, for instance, between Russian demands for grain to feed their livestock and the pleas of African nations for the same grain to feed their people? Does the United States have a right to limit food sales abroad when such a policy might reduce the amount of grain available in world markets and increase the price to poor nations? If the United States has an obligation to feed hungry Americans, does it not have a moral obligation to also help alleviate hunger elsewhere in the world? Or should the money being spent abroad be used instead to aid many low-income Americans who still have substandard diets? And finally, should the United States help populations whose own governments divert funds to military and nuclear programs, away from agricultural modernization and population control?

Most experts agree that the long-range answer is technical assistance to stimulate production. The administration's foreign aid bill now before Congress would increase the amount the U.S. spends on expanding food production and improving nutrition in poor countries.

Agriculture Secretary Earl L. Butz considers that such technical aid, combined with incentives to farmers, such as higher prices, is the only long-term answer to the hunger problem.

But can food aid be abandoned while these programs are taking effect? Over the years, developing nations became extremely dependent on food assistance. Between 1954 and 1969, free food or commodities received on easy credit terms accounted for more than 30 per cent of total food imports of developing countries.

It will take time for the poorer nations to reap the full benefits of new seeds, fertilizer, irrigation projects, and modern techniques. The U.S. and other rich countries interested in world stability have an obvious stake in making this transition from dependence to greater self-reliance a smooth one. The effort will be a major test of global interdependence.

HENRY J. NAVE'S VIEWS ON PRODUCTIVITY

Mr. MATHIAS. Mr. President, a problem which is at the very heart of our economic difficulties is that of productivity, and the struggle to remain competitive. Henry J. Nave, chairman of the board of Mack Trucks, Inc., has an excellent perspective on this crucial problem, not only from the viewpoint of a businessman, but in the context of our country's worldwide standing as a producer of goods. An editorial from Heavy Truck Transportation contains some of his strongly held views.

Not all Americans would agree with all of the suggestions that Mr. Nave has made. Some would request strong supporting evidence that every one of his proposals point in the right direction.

But the thing that is important is that Mr. Nave is producing positive and creative ideas. He is helping to start an important national debate which will help to arouse the American people and stir their genius to solve a national problem. For this alone, we owe him our thanks.

I ask unanimous consent that Mr. Nave's editorial be printed in the RECORD.

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

MACK'S HENRY J. NAVE

Henry J. "Hank" Nave, who this month was named to succeed Zenon C. R. Hansen as chief executive officer, Mack Trucks, Inc., has been associated with the automotive industry for 38 years, and with the heavy duty truck industry for the latter 24. His career began in 1936, following graduation from Temple University, when he accepted a sales trainee position with the Firestone Tire & Rubber Company. In 1946, he became president and co-owner of the Acme Supply Company, an automotive parts and Firestone tire distributorship in Framingham, Massachusetts. He entered the heavy duty truck industry in 1950, when he joined the White Motor Company as service sales manager. He became president of the White Motor Company of Canada in 1954.

In 1958, Nave was appointed executive vice president of the White Truck Division, and was subsequently elevated to group vice president for all truck divisions of the White Motor Corporation. He was elected president and chief operating officer in 1970, and then was named temporary chief executive officer. He resigned from that organization to accept the presidency of Mack Trucks, Inc. on January 21, 1972. Subsequently named chief operating officer, he gradually assumed increased responsibilities at the top management level, with Mack's marketing, engineering, and operations divisions reporting directly to him. He was elected to the Board of Directors of The Signal Companies, Inc., in May of 1974; and then succeeded Zenon C. R. Hansen as chief executive officer, Mack Trucks, Inc., upon Hansen's retirement on July 31, 1974, assuming the title of chairman of the board and president.

HTT—One of the things we want to talk to you about today is productivity, in particular, and probably the most ambitious five-year program we've seen. Your projection is a definite 55-percent increase.

Nave—Yes, and we're sticking our neck out when we make such an estimate. In fact, it's rather unusual, but we feel that over five years it is an obtaintable goal. While we may not maintain the increase each year (when you're building a new plant, anything can happen) we believe that over a five-year span it's a realistic projection. In fact, when I look at the last two years and see a 68-percent increase, then 55-percent over the next five years looks quite probable. Now, as old Barnum said, ". . . you never educate a sucker," and that's why we don't talk too much about it, but on the other hand, Mack

is very strong in the international field and I feel we can maintain that strength. We devote a lot of effort to it without damage to our domestic sales, as has been the case with some others.

Our international emphasis has been strong all along—in addition to rather than instead of domestic efforts.

It's very unusual to visit our building without seeing a foreign flag flying outside. We always fly the country's flag of the foreign representative that's here for the day. Over 65-percent of all the heavy duty diesel trucks shipped out of the United States last year were Mack trucks. Now that's a fine sounding figure and a "hell of a good one" but you must realize that the foreign market isn't that big to begin with, but nevertheless, we had a 65-percent chunk of it.

Back in the thirties we had a tremendous slice of the diesel market, primarily because we were the only ones in it. As the years progress, your percentage will drop, but the market increases, therefore the quantity also will increase. Here at Mack, the important thing is not just the percentage of the market, but the quantity sold. Our goal is to build more trucks every year and make a greater profit every year. If we can do that, regardless of a loss or gain in percentage of total market, then the percentage gain or loss is incidental. Granted, if you continue to lose your share, you could eventually go out of business, but as long as you're building more trucks each year, then the forecast is good.

HTT—Let's look at another aspect of the five year program. We notice that you expect an approximate 50-percent increase in Brockway production. We wondered if you had some secret plan for freeing up an additional 5,000 or 7,000 engines?

NAVE.—The Brockway picture is an interesting one, and it's very important that you understand our philosophy on Brockway. This is an almost identical situation (albeit handled in a completely different way) to the one when my friends on the shore of Lake Erie a few years ago acquired Diamond T and then Reo which were later combined. As a member of the White Corporation at that time, I can honestly say this was against many of our philosophies and was done over the objections of many in the truck division. However, we were told we were prejudiced. The facts are these: You had a direct competitive situation. Both Diamond Reo and White were assembled vehicles. Neither made very many of their own components. Diamond Reo had their gas engine which was a real 'honker' and White made quite a few axles, but really a small percentage of the total. Picture a White dealer here, and a Diamond Reo dealer across the street . . . head-on competition. Nobody benefited but the customer. The customer could play one against the other, saying, 'You both have the same components, and White will give me this for this much, why won't you?" The philosophy at the top of the company was this: Diamond Reo doesn't have any service, and White's got the service, so sell the service. It doesn't take much imagination to picture what happened then. The customer would buy the truck at Diamond Reo and then bring it across the street for servicing at the White dealership. When the White dealer balked (and he did) the customer would call the president of the company and say, "You own both of them, so take care of my truck." Consequently, Diamond Reo was eventually sold.

This brings us to the parallel of today at Mack. Brockway is a completely assembled vehicle and competes with everybody else on that basis. They don't have any Mack components. We don't give Brockway anything but a Mack kit. No Mack distributor ever has to put up with a Brockway customer saying, "This is a Mack engine, a Mack transmission, or a Mack axle." Mack and Brockway are completely separate businesses. So when you say free up extra engines . . . this would not be us, but engines from Cummins or someone else.

As you may know, Cummins is spending a tremendous amount of money on expansion and has just purchased a plant in Jamestown, N.Y. In their recent presentation to our staff, and they're always on the pessimistic side, they indicated the "K" engine is coming along well, and the essence is they hope to have three engines in 1975 with a return to a competitive situation. There's no question, in my opinion, but that Brockway will be able to get more engines from Cummins.

Let me re-emphasize, Brockway is independent. If they become more aggressive in their engineering they could be the Kenworth and Peterbilt of the East. The whole western part of the United States is out there, but they haven't crossed the river yet. Our plan is to set up a parts distribution system such as we now have in Atlanta, Chicago, Toronto, and Hayward, California. Our feeling is that we could stock Brockway parts in those same warehouses (to a warehouseman, a part's a part and he doesn't care whose it is). So there's no reason why Brockway couldn't expand west of the river as soon as they get the product necessary.

HTT—Working with this new distribution system, would these warehouses directly service those truck stop outlets that you are setting up?

NAVE—Now, when you say truck stop outlets, you confuse me a little because there is a National Association of Truck Stops. What you're referring to is perhaps the Mack service dealership.

HTT—Exactly, one that is also a truck stop.

NAVE—It can be.

HTT—At this point in time, you've four or five hundred of them.

NAVE—It's coincidental if it's a truck stop. When you say truck stop, I think of those big stops on the interstate highways. They're not the fellows we're concentrating on, but if they want to be a Mack service dealer and can qualify, then fine. Not too long ago we had very few service dealers. The only negative aspect of being a Mack customer was that the customer was "married" to Mack—he could not get parts in every crossroads town as with Ford or International. When I first came here, the first thing I said was, "Fellows, you're on the verge of one hell of a big truck market. A big expansion in the truck market, and I want to tell you that the parts business is going to follow this like night follows day . . . and if you're not set up for it, you're going to miss the boat completely. You'll miss it not only from a profitability standpoint but from future truck sales." It took a lot of effort to get this philosophy across, but now they've got it. We must expand our service distribution facilities; the potential is tremendous. We have an exceptionally fine service dealer contract which now allows our distributors and our branches to open up service facilities. With the contract, he can stock Mack parts and then service Mack customers. Our goal was 500 by the end of 1973 and although we didn't quite achieve it by year end, we've topped it now. We're talking about more than a name on a building—we want authentic service dealers. Now we're purifying that 500 plus figure—and facing the possibility of losing maybe even 75. But those we retain will be able to handle the job. Some of our distributors have opened two or more service dealerships—some distributors have opened subbranches. It's not important exactly how it's done, but the primary goal is to make these parts available to our customers and maintain high standards of service quality.

HTT—It has come to our attention that some of the new service dealers are pirating mechanics and/or foremen from Mack branches—the unusual thing is we hear Mack is not angry but almost encouraging in this situation.

NAVE—My feeling is that the company should be the fountainhead of both material and experience. Losing experienced personnel to a competitor is one thing, but losing them to your own dealer is not really a loss. We should always have a backlog of people in training to replace those we 'lose.'

HTT—Due to your close association with the Signal Companies, how do you see the so called energy problem? Do you expect the 55 mph speed limit to be continued? Does not the success of the K-type engine hinge upon these energy problems?

NAVE—Why do you say the K-type engine?

HTT—By that I mean engines of that size; if the speed limit is retained and weight laws do not increase, doesn't this preclude this necessity for a K-type engine?

NAVE—One of the greatest wastes of productivity is due to maintaining old weight laws that are based on 1956 standards. Since we've reduced the speed limit to 55 mph there are all kinds of reserve power which with a few gearing changes could increase productivity substantially if the weight limitations were increased. Realistically, when we consider the fact that 80-percent of the goods in this country are moved by truck, I have great difficulty envisioning any sort of crisis that would shut down trucks which in turn would shut down our entire economy. As to the speed limitation, selfishly I can point out Mack saves about 13-percent fuel over its nearest competitor. The saving of lives with this reduction has had tremendous public acclaim and I don't think you'll see that phased out too quickly.

HTT—Which brings us back to the original question about the necessity for the 400-plus horsepower engine. In my home state of Illinois there's a movement not only to maintain current weight limitations, but to further reduce them. Public opinion is that highway resurfacing is necessary because of the trucks. What the press fails to point out is that it's not the weight but the number of units traveling these roads that necessitates continual repairs.

NAVE—Just compare the congestion in the East with that of the West. We thought the West was too aggressive in asking for triples, because in Boston they haven't even accepted singles yet. Even if this passes Congress, it will still have to be approved by the individual states. When people hear triples and doubles, they think of triple 45-footers instead of 27-footers; they envision passing a Super Chief on the highway. But it could be the solution to some of the bottlenecks that now occur in the East.

I might just say we've been planning a bigger engine in the V series, however, because of these developments, we've postponed it from 1975 to 1976. At this time, the bigger engine is not that critical a necessity.

THE REALITIES OF DÉTENTE

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to print in the RECORD an article appearing in today's Washington Post by George F. Kennan.

Mr. Kennan is one of the best qualified observers of the world scene in this country.

I commend his article to the Members of the Senate:

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

THE REALITIES OF DÉTENTE

(By George F. Kennan)

Certain points have been reached in the recent public discussion of "detente" where a word might be usefully added from one

whose involvement with Soviet-American relations now runs back for some 46 years.

(1) The fact that the process of detente has been accompanied neither by any marked liberalization of Soviet internal practices nor by any reconciliation of their stance with ours on the problems of third countries or areas, notably the Middle East, should surprise no one. The Soviet leaders cannot be expected to connive at what they see as efforts to destroy their regime, nor can they afford, in the light of Chinese competition, to appear to be dropping their ideological guard or abandoning their Leninist-Marxist principles. The fact that this is so constitutes, however, no adequate reason for failing to make the most of those areas where their interests and ours might coincide; and this, surely, is what not only this administration but its two most recent predecessors have been attempting to do.

(2) The recent passage of the trade bill by the Senate permits us to hope that the issue of most-favored nation treatment for imports from the Soviet Union, an issue of minor practical importance which was unfortunately permitted to become one of high symbolic significance, will soon be overcome. The road will be the open for a further development of what has already grown to be, for the first time since the Russian Revolution, a very considerable volume of Soviet-American trade.

This is, however, not the only problem involved. Dealings by American firms with a foreign governmental trade monopoly require constant scrutiny and a minimal degree of governmental regulation to assure that they do not proceed to the detriment of the national interest. Such is the fragmentation of authority within the Executive Branch that our government is today poorly constituted to meet this responsibility. The firms need and deserve a single authoritative center somewhere in the government where they can be told promptly and consistently what they can and cannot do in dealing with the Russians. This center should be located in the Department of State, as the agency with the widest and deepest responsibility for the conduct of our foreign relations. Once this requirement is met, the further expansion of Soviet-American trade is only greatly to be welcomed.

(3) It is of course disappointing that the SALT talks have not yet led to any appreciable reduction of nuclear arsenals. But the internal inhibitions that have thus far prevented their doing so are ones no less powerful on our side than on the other one. The failure to make greater progress should therefore not be held against the negotiators, who have probably made just about the best they could of the possibilities open to them.

It is important to recognize that what one is dealing with, in these talks, is not proper weapons, capable of rational and effective use in warfare, but grotesquely excessive quantities of devices scarcely less dangerous to potential users than to potential victims—devices that have, therefore, primarily psychological rather than practical significance. The talks, in other words, are concerned with appearances rather than realities; and it is the appearances which one is concerned, for good and sound reason, not to de-stabilize.

Seen from this standpoint, the ceiling established at Vladivostok represents a useful beginning, the value of which should not be underestimated. Meanwhile, the mere continuation of these discussions, from which both sides gain a more reliable and reassuring picture of each other's motives and calculations that could be obtained in any other way, is of highest importance. It is right that our government, in conducting these negotiations, should have the benefit of public discussion and criticism. It would be unfortunate if such criticism were to be destructive of the talks themselves, or discouraging to these—and not those on the American side alone—who have carried them forward over these recent years with such commendable patience and persistence.

(4) The Soviet leaders, in sponsoring and pursuing, have had their own internal detente, have had their own internal opposition to contend with and have taken a heavy political responsibility upon themselves. Most of those who have followed Soviet affairs closely in this recent period have been impressed, I believe, with the mounting evidence of the seriousness of their commitment.

These men are of course the heirs to the Marxist-Leninist ideology which lies at the origins of their system of power. The legitimacy of their rule depends on it. They cannot be realistically expected to deny or ignore it. This, together with certain internal practices which seem to have become habitual with them, will long continue to constitute limitations on the sort of understanding we can hope to reach with them.

But they are men who have come a long way from the sweeping cynicism and malevolence that marked the mentality of Joseph Stalin. They represent, moreover, an aging regime; and their priorities, like those of most older men, relate primarily to the development and preservation of what they have rather than to the incurring of great risks to acquire what they have not. We in the West will only be penalizing ourselves if we fail to recognize these circumstances and to make the most of them while they last.

There is no greater mistake we could make in our policy toward Russia than to assume that the Soviet leadership has no attractive alternatives to the continued effort to arrive at better relations with us, or that these alternatives, once adopted, would not be worse for us—and much worse—than what we face today. The predictable strains of the coming year upon ourselves and our European allies are such that we are going to need, and should value at full worth, the best possible background of relations with the Soviet Union, as a starting point.

To many people, the advantages of the present relationship may not seem large. But they represent the product of long and patient effort; and they rest, such as they are, on certain reassuring concepts of the motives and purposes of the other party which it has taken long to establish but which could be quickly shattered by confusing signals or abrupt changes in personality and behavior at either end. Once shattered, these concepts could not be easily restored. Let us make the most, therefore, of this situation while we have it, and above all not play fast and loose with it in our public debates. Discussion?—yes. Criticism?—by all means. But restraint, thoughtfulness and forebearance should be the order of the day.

JACKSON URGES FORD TO SIGN STRIP MINING BILL

Mr. JACKSON. Mr. President, on Monday, the Senate completed final congressional action on S. 425, the Surface Mining Control and Reclamation Act of 1974.

S. 425 is the product of 4 years of intensive work in both the Senate and House of Representatives. The Senate passed the bill 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 to regulate surface coal mining now.

Last week, administration spokesmen indicated that President Ford had decided to veto S. 425. Yesterday, I wrote to the President urging him to sign the bill. Among other things, I pledged to work with the administration to correct any problems which might arise in the implementation of the bill.

I understand that the White House has received a number of communications from coal producers asking the President to sign the bill. These companies recognize that the bill will not lock up coal reserves. They know that they can afford the cost of reclaiming surface mined land, but that they cannot afford the continuing uncertainty created by failure to resolve this surface mining issue. This situation is recognized by outside observers as well. In an editorial today, the Wall Street Journal urged the President to sign S. 425 "not out of a misplaced sense of obligation, or because the ensuing 'veto-proof Congress' might produce an unreasonable piece of legislation, but simply on its existing merits."

Mr. President, I now understand that the White House is giving serious consideration to approving S. 425. I applaud their willingness to reconsider what I regard as an unwise preliminary decision.

I have been informed that the White House Press Secretary indicated earlier today that "congressional leaders" were showing sign of movement to amend the bill. This statement was presumably based on proposals made by representatives of the administration to the committee staff. I wish to make it clear that no deal has been or will be made.

If the President does sign the bill, I will fulfill my commitment to give very serious consideration to any amendments which the administration might suggest. If the President decides to veto the bill, I urge him to return it now so that the Congress will have an opportunity to override the veto. The administration must understand, however, that if the bill is pocket vetoed, I will work with Senate and House leaders for rapid enactment of a new strong bill in the 94th Congress.

I ask unanimous consent that a copy of my letter to the President and the Wall Street Journal editorial be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., December 17, 1974.

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

MY DEAR MR. PRESIDENT: Yesterday the Senate completed final Congressional action on S. 425, the Surface Mining Control and Reclamation Act of 1974.

S. 425 is the product of four years of intensive work in both the Senate and House of Representatives. The Senate passed the bill by a vote of 82–8. The House of Representatives passed its amendment to S. 425 by a vote of 291–81. This overwhelming support reflects the feelings of the American people about the need for Federal legislation to regulate surface coal mining now.

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 concerns. But Congress is not prepared to sacrifice legitimate environmental goals. I firmly believe that the bill now before you for approval achieves a balance between the need to protect the environment and the need to develop our coal reserves to meet our national energy needs.

Last week, Administration spokesmen indicated that you had decided to veto S. 425. I urge you to reconsider that decision.

The explanation given by Federal Energy Administrator Zarb of his recommendations to you 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.

Enactment of S. 425 will not cause serious coal production losses nor prevent a reduction in oil imports. It is misleading to talk about a diminution in production at present prices, much less those anticipated in the future, and it is even more misleading, given the massive amount of our coal reserves, to refuse to assume the relocation of mining operations (e.g. to areas which can be prudently mined) in estimating the impact of this bill. I was interested to note that Secretary of the Interior Morton and Environmental Protection Agency Administrator Train who have been working with Congress on surface mining legislation for four years did not agree with Mr. Zarb's recommendations.

Administrator Zarb also spoke of "ambiguous language" and fear of citizen suits. S. 425 is a long and complex measure which, like many other laws, undoubtedly will require modification in the future. By its own terms, it will not be fully implemented for two and one-half years. As Chairman of the Interior Committee, I pledge to work with the Administration to correct any unanticipated problems in implementation of the bill.

The coal industry can afford the cost of reclaiming strip mined land. What it cannot afford is the continuing uncertainty created by the failure to resolve this issue.

Industry has in the past fought strip mining bills far less stringent than the legislation before you 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. The existence of an urgent need for coal will not forestall effective regulation of strip mining. In fact, I am certain that, if S. 425 does not become law, the 94th Congress will enact even stronger legislation early next year.

If you are determined to veto the bill, I urge you to follow the spirit of the Constitution and to return it immediately so that Congress will have an opportunity to override the veto. Whatever the outcome of such Congressional action, your return of the bill would provide a more reasoned basis for action in the 94th Congress.

With warmest regards,

Sincerely yours,

HENRY M. JACKSON,
Chairman.

THE STRIP MINING BILL

After several years of effort, Congress finally passed a bill regulating strip mining and reclaiming abandoned mined lands. But it may never become law, since President Ford has threatened to veto it. Even if he does not merely allow it to die by leaving it unsigned until Congress adjourns, it's unlikely that the House could override his veto.

The President's position is simply that additional coal is necessary for America's energy needs, all the more so if the administration goes ahead with plans to reduce oil imports next year by about 15%. There are trillions of tons of known coal reserves in the U.S., and the quickest and most efficient way to get at them is by strip mining those layers of coal just below the surface. Mr. Ford is persuaded that prohibitions in the strip mining bill would result in a reduction of current coal output by as much as 25%, and would increase utility bills that have already skyrocketed in many parts of the country.

It's impossible to calculate the precise effect the bill will have on coal production, but our own assessment is that it is unlikely to be anywhere near the administration's gloomy estimates. There is even good reason to doubt whether the regulations would result in any reduction at all. Moreover, independent cost estimates reveal that the bill's effect on utility bills would be slight indeed. The alternative to a workable bill setting national standards on strip mining, which already accounts for about 50% of current production, is to have continued uncertainties over costs and siting of projects and thus further delays in relieving the energy shortage.

There are shortcomings and ambiguities in the bill, as we noted previously. We're not at all persuaded that money is needed for training mineral engineers or scientists, much less the $2.5 million earmarked for that purpose. We question the initial $15 million for demonstration projects at mining and mineral resource institutes that will be established under the bill.

But on balance the bill strikes us as a realistic effort to balance environmental concerns and energy needs. It would require operators to restore mines to the approximate original contour of the land, eliminating vertical cuts in mountainsides, depressions and spoil piles. It would bar downslope dumping of spoil and mined materials in mountainous areas. It would reclaim lands previously stripped and abandoned through a $165 million fund raised from user fees of 35 cents per ton on surface mined coal and 25 cents per ton on coal mined underground. Finally, surface owners still would be required to give their consent before minerals can be mined beneath their lands.

This last provision caused considerable initial concern that it would encourage speculation. To discourage that possibility, profits would be limited to $100 an acre. And "surface owners" are defined as those who held title to the land, resided on the land or personally farmed or received a significant portion of income from farming the affected land.

By setting minimum standards, the bill removes much of the uncertainty from an industry that heretofore has had to contend with uneven degrees of regulation in 29 states. It will beef up ineffective regulations and prod states that had none at all to either adopt their own or conform to federal standards. And it will encourage the entire industry to give more thought to long-term planning to protect the land and watersheds, instead of leaving it to individual corporate decisions.

We reject the silly argument of some supporters of the bill that President Ford has a moral obligation to sign it since he is not an elected President. We think he should sign it, all right—not out of a misplaced sense of obligation, or because the ensuing "veto-proof Congress" might produce an unreasonable piece of legislation, but simply on its existing merits.

If he does sign, though, it will then be up to Congress and environmentalists to put aside frequently obstructionist ways and give greater attention to helping solve the problem of energy self-sufficiency. A clean environment is esthetically pleasing and a valuable national asset. But it doesn't heat homes, keep factories running or solve the nation's serious energy problems.

ICC HAS 1973 STATISTICAL DATA ON RAILROADS

Mr. METCALF. Mr. President, on October 17 I called attention to the improvement in data reporting by an independent regulatory commission, the Interstate Commerce Commission. I placed in the CONGRESSIONAL RECORD the Commission's release regarding the availability to the public of preliminary statistical data on railroads for calendar 1973.

Additional statistical data is now available at the ICC. It includes data on individual railroads.

I ask unanimous consent to have printed in the RECORD the ICC's November 8 press release on this subject, with the observation that the moribund old ICC is still compiling a better track record in getting out information than are some of its sister commissions.

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

ADDITIONAL STATISTICAL DATA ON RAILROADS TO BE AVAILABLE TO THE PUBLIC ON MICROFILM

In addition to the summary tables of Part I, First Release, Transport Statistics in the United States, 1973—Railroads, previously issued on microfilm, there is now available to the public final summary data tables and individual statistics for all Class I Line Haul Railroads. The summary tables included are Nos. 158 through 166, which are abstracts of various statistical data by districts. Data for individual roads is from Section A–1 of Part I of Transport Statistics.

The data will be available on reels and microfiche. Copies may be obtained at reproduction cost by addressing a request in writing to:

James H. Bayne, Chief
Section of Reports
Bureau of Accounts, Room 6417
Interstate Commerce Commission
Washington, D.C. 20423

Please specify format desired—microfilm (reel) or microfiche copy.

A microfiche copy of the data will also be available for viewing in the Commission's Public Reference Room (Room 6114), 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

Comparable data in printed form will be available through the Superintendent of Documents in about 120 days.

THE TRADE REFORM ACT

Mr. CURTIS. Mr. President, many fine statements have been made concerning the trade bill. I ask unanimous consent to have printed in the RECORD two articles by Robert F. Hurleigh which were delivered over the Mutual Broadcasting System on December 9 and December 10.

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

COMMENTARY BY ROBERT F. HURLEIGH, MUTUAL BROADCASTING SYSTEM, DECEMBER 9, 1974

One of the most important pieces of legislation to come before the Congress during this session is the Trade Reform Act, which garnered more publicity over the Soviet Union's Jewish emigration policies than any of the other authorizations and reforms contained in the measure. Now that Senator Jackson and Secretary Kissinger have effected a compromise on this volatile issue, one would suppose that a bill to enable the United States to participate in international negotiations to expand world trade would have no trouble moving through Congress to the President's desk. The Trade Bill is intended to expand U.S. exports, thus promoting the growth of the jobs in industry and agriculture, which should be applauded as another means of shortening the recession. The bill also provides American industry with the opportunity for more secure access to raw

materials in foreign countries, which could assist in fighting inflation.

The very fact that the Trade Reform Act of 1974 is predicated on the idea of international economic cooperation should be enough to win immediate passage in the Senate, as it has in the House. Although Senator Jackson appears satisfied with the promise Secretary Kissinger has obtained from Moscow on the Soviet's policy on Jewish emigration, some Members apparently want the exact terms of the new policy spelled out, while other Members are fretting under the pressures of some segments of the AFL–CIO, which opposes the bill. President George Meany questions the bill as possibly opening this country to a flood of cheap foreign goods and the loss of jobs in industries so affected. No one could possibly disagree with George Meany's often repeated warnings on the Soviet's use of slave labor in its detention camps, as most recently documented by Alexander Solzhenitsyn, but known and reported by other respected authors for years and years.

This is the way it is, and we need not like it, but as the President of the International Longshoremen's union, Thomas W. Gleason has put it in a telegram to members of Congress, "We are aware of the controversy regarding details of the legislation and of concern with the internal policies of the Soviet Union, whose trade with the United States would increase under terms of the measure. Still, we appear for enactment of the bill because it will be beneficial to the people of the United States and ultimately it will aid those people in other countries seeking our help. The bill may not be perfect, but it is needed and it is needed now by all American workers.

So goes the world today.

COMMENTARY BY ROBERT F. HURLEIGH, MUTUAL BROADCASTING SYSTEM, DECEMBER 10, 1974

There's certainly no doubt that the twin plagues of recession and inflation are "bread and butter" issues—and there's certainly no doubt that the Administration and Congress are deeply concerned with these problems. And yet, one of the most important of these "bread and butter" issues, the Trade Reform Act, has been kicked around in the Congress for two years, and now—having passed the House—is considered by some observers to be in danger of being defeated in the Senate—or equally as bad—not acted upon during this session.

Two-way trade for America adds up to many jobs for workers in all parts of the country, from the farmer to the machinist to stevedores, and the fact that some segments of labor oppose the trade bill should not be taken as an indication that *all* labor is actively pressing those members of the Senate who are considered "labor oriented" to vote against the bill. It is true that the AFL–CIO is opposed to the bill because it fears that some segments of labor will be injured, and the Federation is anxious to protect each of its affiliated unions, and suffers with each International Union if membership is lost through unemployment in industry. But, as we reported yesterday, the International President of the Longshoremen's Union with jurisdiction over the east and gulf coast ports has strongly urged the Senate to pass the trade bill in the national interest of the entire country because the benefits will be universal. And Thomas W. Gleason, the Longshoremen's president—you will recall—has never been in the cheering section for the Soviet Union! No! Mr. Gleason need not take a back seat to anyone as an anti-Communist, which is another factor, however small, in the AFL–CIO opposition to the bill.

As the members of the Senate should recognize, the trade bill now before them is vitally important to the economic well-being of millions of workers with jobs related to foreign trade, and the national economy generally. The purpose of the trade bill is simply to give the Administration the authority to work out new international trade rules and to make agreements for American access to scarce foreign raw materials. The bill includes reforms in our own import laws to provide workers and producers alike with more effective relief in event there is injury due to unfair foreign practices in export. At this moment of economic crisis in the world, the assumption should be that any law to increase jobs in this country and to assist our lagging economy would never be treated as a political football.

So goes the world today.

CHALLENGES TO OUR UNIVERSITIES THROUGH THE YEAR 2000

Mr. HARTKE. Mr. President, I introduced legislation last September which addressed itself to the problems facing American educators between now, the year 2000, and the 21st century. My bill addressed itself to the many complexities facing those who desire to further their education beyond high school.

Recently, the Educational Record published an article by Dr. Albert Sabin entitled "Challenges to Universities Through the Year 2000."

My legislation contemplates the educational circumstances that our nation will face for the rest of the 20th century. Dr. Sabin notes in his article that:

If one were to ask presidents of American universities what they regarded as the most important challenge to their institutions in the remaining years of the 20th century, the majority would probably answer "survival" in the sense of preventing the disintegration of the quality of their institutions in the face of decreasing income, increasing costs, and increasing numbers of students.

The tax credit with alternate refund proposal contained in my legislation would alleviate the financial challenge facing our educators, students and parents of students. They would then be able to address themselves to the more esoteric challenge raised by Dr. Sabin.

Dr. Sabin points out that the challenge facing American educators is:

Whether we can find ways to use the tremendous store of knowledge already available plus that which is in our power to acquire to create a life and a world better by far than any we have yet known. . . .

I believe Dr. Sabin's challenge to be more than interesting. It is a clear signal to the educated world that knowledge, if properly shared, can be used to alleviate the problems facing the many thousands of millions of people who survive from day to day. Conditions could be better if resources were shared.

My legislation when enacted will provide the necessary financial impetus needed to bring individuals to the university community. The learning and knowledge they acquire will lend itself to the challenges of the world. I would answer Dr. Sabin by saying that the people and desires are available. But without the capital resources necessary to provide the educational learning required, the individuals are unable to pursue the challenges he ably addresses.

Mr. President, I ask unanimous consent that the article by Dr. Albert Sabin which appeared in the Educational Record (Vol. 55) entitled "Challenges to Universities Through Year 2000" be printed in the RECORD.

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

CHALLENGES TO UNIVERSITIES THROUGH YEAR 2000

(By Albert B. Sabin, M.D.)

"American colleges and universities are challenged today by problems resulting from decreasing income, increasing costs, and growing numbers of students." But, the author believes, higher education institutions must grapple with the even more fundamental challenge of an economically and educationally unbalanced world. How to fulfill this task is the focus of Dr. Sabin's essay.

If one were to ask presidents of American universities what they regarded as the most important challenge to their institutions in the remaining years of the twentieth century, the majority would probably answer "survival" in the sense of preventing the disintegration of the quality of their institutions in the face of decreasing income, increasing costs, and increasing numbers of students. They may very well add, "Never mind the end of this century; it is the next few years that worry us."

I do not wish to minimize the importance of this and other equally pressing immediate challenges. But a much more fundamental challenge confronts universities today—that of redefining the functions, responsibilities, and *modus operandi* of institutions of higher learning in light of the critical problems that will beset this country and the world during the next several decades. If problems are not anticipated and if appropriate action is not taken long before they reach crisis levels, we must be prepared to suffer the chaos that follows. My thesis is that future plans for universities and affluent countries such as the United States cannot be made without reference to the problems facing the world.

I speak in terms of the remaining years in this century because I believe, as many do, that the fate of the relatively affluent and the poverty-stricken, economically undeveloped regions of the world may very well be decided during this critical period. The affluent countries will not be able to isolate themselves from the other nations. Abraham Lincoln said over 100 years ago that America could not long survive half slave and half free. Today there is sufficient justification for saying that the world cannot long survive one-third relatively affluent and two-thirds on a collision course with catastrophe.

The challenge to all concerned world citizens—not just the universities—is whether we can find ways to use the tremendous store of knowledge already available plus that which is in our power to acquire to create a life and a world better by far than any we have yet known, or whether we shall in due time descend to a level of barbarism unequaled in human history.

The history of human civilization is to me a history of increasing cooperation among ever larger units of human society to achieve those survival values which can be realized only through cooperative effort. And yet, with full appreciation of the reality and immensity of the difficulties, the present national and world leaderships seem to be bogged down in the ruts of "business as usual" in dealing with totally new problems that require totally new national and international approaches.

SELF-FULFILLMENT

In the affluent, highly industrialized countries, the challenge is to provide the opportunities for a life of self-fulfillment and dignity for an ever larger number of people. We

must never forget that the present well-being of the majority could be eroded by a continuing increase in the misery and unfulfilled expectations of a minority. In highly specialized, advanced societies, the pattern of a better life can be achieved solely through the efforts of increasingly more people with special skills acquired by hard work in institutions of higher learning. We must be especially careful, therefore, not to create a society in which only an intellectual elite and the indispensable professional specialists will be endowed with dignity and the gratification of self-fulfillment. There will *always be* many millions who will not be inclined to study and yet will serve society in innumerable ways by their toil. The world was not made for the elite, although the world would be a poor place without the talented, competent, creative, and hard-working individuals who constitute the real chosen people, or elite who, I would say, achieve their greatest self-fulfillment when they serve the world.

Now over two billion people populate the economically and educationally underdeveloped areas of the world where there is very little progress toward fulfillment of those needs that would bring them at least some hope for a better life. This large number of people now living in misery and despair will increase two or three times in the next 26 years, because the rate of population growth is greatest among the poorest nations whose economic development cannot, under present conditions, improve significantly without *outside help.*

A capacity for help exists among the people in the educationally and economically developed nations to make cooperation with the hundreds of millions of poverty-stricken and hopeless people in the world the major goal of humanity now. This cooperation must be a worldwide effort involving both the capitalist and communist countries, and it must be on a new, unprecedentedly large scale.

CHALLENGES TO UNIVERSITIES

It is in this context of cooperation that I group the really important challenges to universities in the relatively affluent nations.

The first challenge is the transformation of the universities into real institutions of higher learning and transfer of the responsibility for providing a broad liberal education to the secondary schools. Four years of undergraduate study in the university should be neither the time nor the place for a broad liberal education. Rather, a liberal education should be provided to all people in the high schools. We have been underestimating for too long what young people 14 to 18 years old can absorb provided they are not burdened with myriad unnecessary and boring details and are instead presented a *curriculum* that makes the learning process the exciting experience it ought to be.

SELF-PRESERVATION AND JUSTICE

One of the most important objectives of a liberal education is to provide human beings with some perspective of what is currently known about the universe and the planet we share with an almost infinite variety of living things, about the miracle that is life, and about the story of man's struggles toward a more civilized existence—the process of working together to improve the quality of life for greater numbers of people and the acceptance of the principle that mutual help is the foundation of both self-preservation and justice. A liberal education should provide an insight into the evolution of all religions as a basis for greater tolerance and so we can know how different peoples have been searching for an understanding of the mystery of creation and trying to develop ethical and moral guidelines.

A liberal education must illuminate riches of human artistic expression in painting, sculpture, architecture, and music. It should also illuminate the nature of matter and of life—up to the threshold of current scientific exploration—and the extent to which scientific research and the technologies resulting from it have affected the world's population. We can no longer afford the luxury of teaching in high school the science of 50 years ago only to bring young people into college where they start all over again. High school students can understand present-day science. This understanding should be as much a part of the culture totality of a person as is an understanding of the contribution of the humanities, philosophy, art, and music. We cannot live intelligently in the present world, which survives on the discoveries of science and technology, without realizing how this knowledge gives not only a greater appreciation of everything around us, but also a basis for building a better world.

IMMUNIZING THE SPIRIT

A liberal education must provide knowledge about ourselves and the world we live in and must also enrich and broaden the spirit of the large masses of people. We must never forget that the most inhuman acts of the twentieth century, if not all history, were committed by the Nazis who constituted the government of a nation with the highest level of formal, artistic, philosophic, scientific, and technical education in the world. While some people believe that this horrible episode in human history should be forgotten as a bad dream, I believe that it must not be forgotten. The same thing could happen again among other nations unless we "immunize" the spirit of the world's population against acquiescence in such barbarism by *appropriate* humanistic education during the early years of life.

The second challenge is the reorganization of the curricula and activities of the universities to permit greater involvement of both the faculty and students in the identification of those problems in their communities, states, regions, nations, and the world whose solution requires specialized knowledge and concerted action between those who have knowledge and know how to acquire it and those who need that knowledge. Such activities would, of course, be part of the job that must be the main business of higher learning institutions—training a multitude of expert professionals and scholars, as well as discovering new knowledge in the humanities and sciences, which is totally unrelated to any human need other than the urge to know more about the universe of which we are a part.

PUBLIC SERVICE

Reserving the universities for *higher* education and for public service in transforming knowledge into action includes several functions:

a) The development of the leaders, the teachers, the professors, the scholars, the scientists, and the tremendous variety of highly specialized and skilled professional people—engineers, architects, physicians, dentists, nurses, administrators, managers—so urgently needed for our present and future way of life.

b) The discovery of the new understanding and new knowledge on which our future depends.

c) The dispassionate analysis of the problems facing communities, states, and nations. This analysis should be *interdisciplinary* within individual universities and among institutions when required. The goal of such analysis should be the development of various options for solving the problems with existing knowledge or yet to be acquired knowledge in concert with the people in the communities and nations who ultimately have to translate knowledge and decisions into action.

In a highly complex society few things happen by themselves. Thoughtful planning and coordination of activities is a prerequisite for the successful functioning of any highly developed organism. If our universities were to work with the other segments of society, we would not be suffering from what some experts regard as a current overproduction of highly specialized, talented people. Rather, we would be reversing what I regard as a tragic underutilization of such people because of insufficient and inadequate planning for meeting the urgent needs of both the present and the future. Two years ago, Richard A. Cellarius and John Platt carefully itemized a tremendous number of pressing problems and indicated how coordinating councils could focus and legitimize research on solutions of major crises.[1] Their concrete proposals could well be the starting point of long overdue action.

The third challenge is the development of universities in the service of those countries whose educational and economic underdevelopment poses the greatest threat not only to the deprived and despairing people who live there, but also to the rest of the world.

UNITING THE NATIONS

The role for universities in the economically developed nations in any cooperative international program to advance the economically undeveloped countries would be to meet the need that would arise for large armies of trained manpower *if* the nations of the world could unite to achieve this most important goal. Money without the necessary trained manpower of teachers, agronomists, engineers, technologists, managers of industry and other enterprises, and many other specialists is not enough to improve the status of developing countries.

The existing universities in the United States and in other educationally advanced countries would be unable to meet the manpower need, and new institutions would have to be created to fulfill this greatest challenge of the remaining years of this century. The universities can perhaps begin to plan on their own, but it would be an exercise in *vacuo* and in futility unless the nations of the world united to develop practical, cooperative plans to utilize properly such trained manpower. The communist and capitalist countries will have to combine against what may be regarded as their common enemy—the growing misery and despair of ever larger numbers of people throughout the world—instead of fighting each other. If the nations can unite to meet this common threat, the universities will have to raise new armies for a new kind of United Nations whose main purpose will be to provide dignity and hope for a new and better life to the hundreds of millions of people in the world who find it impossible to help themselves. The time for talk has long since passed and the time for action is now.

If these challenges are not to be taken as just one more fervent declaration to be followed by little or no significant action, who must act to meet them? In the United States, the responsibility for action belongs to the elected representatives of the people in the legislative and the executive branches of government. The universities, *united* in a dedication that can inspire their students and faculties, have the responsibility not only of continuously prodding the elected representatives to action but also of working with them in a disciplined manner to develop and implement the plans for a better future than we now have reason to expect.

WHERE DOES THE FOOD DOLLAR GO?

Mr. CHURCH. Mr. President, I think it is time that we started calling attention

[1] "Councils of Urgent Action," *Science*, 25 August 1972, pp. 670–76.

in this country to the facts behind the cost of food.

An appropriate place to start is the high cost of packaging. Bill Whittom of the Idaho Farm Bureau recently pointed out, for example, that out of every dollar spent for food, 7 to 12 cents goes for packaging and labeling.

Whittom noted:

Consumers are surprised to learn that, in some cases, the cost of the container is more than the farmer gets for producing the food inside.

Mr. Whittom's comments were brought to light in an editorial in the Post Register in Idaho Falls, which concluded:

We need to get back to the simple fundamentals—for our resources, our out-of-sight inflation, and our own durability.

To which I say, amen.

Mr. President, I ask unanimous consent that the editorial from the November 26 issue of the Post-Register be printed in the RECORD.

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

[From the Post (Idaho Falls) Register, Nov. 26, 1974]

EDITORIAL

W. F. (Bill) Whittom, director of information for the Idaho Farm Bureau Federation, made a significant point recently when he noted that "out of every dollar spent by the average U.S. consumer for food, 7 to 12 cents goes for packaging and labeling."

"Consumers," Whittom commented, "are surprised to learn that, in some cases the cost of the container is more than the farmer gets for producing the food inside."

With increased costs of labor and materials, packaging and labeling has become the third largest item of cost in the consumer food bill. A move to standardize, simplify and reduce the costs of packaging (as well as the sheer waste of paper and plastic and time) would seem a step in the right direction, Whittom quite correctly emphasized.

The plain brown wrapper wasn't too bad. But, even this, we suspect, should give away to permanent shopping bags which consumers bring to the store—just like they have done for many years in Europe. Why put everything in a sack, to begin with? They are mostly thrown away—another indictment of our throw-away American society.

We need to get back to the simple fundamentals—for our resources, our out-of-sight inflation, and our own durability.

NEW APPROACHES TO ECONOMIC EDUCATION

Mr. BROCK. Mr. President, new approaches to economic education have been recently described in an article written by Richard A. Riley, president of Firestone Tire and Rubber Co. His description of the educational tools Firestone is using is both enlightening and encouraging. I am hopeful that others will find these approaches to be of some use in describing how our economic system operates.

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

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

NEW APPROACHES TO ECONOMIC EDUCATION

(By Richard A. Riley)

The Firestone Tire & Rubber Company, a $3 billion plus corporation with headquarters in Akron, Ohio, has a continuing program of economic education for the public at large in communities where it has plants and for its 61,000 domestic employes.

The program is aimed at overcoming one of the serious threats to the health of our nation's business community and the free market system under which it operates—the appalling lack of correct information—and the alarming amount of misinformation—about our companies and how they function.

The general public's present low regard for business is at least partly based on this information shortage and misinformation surplus. Firestone's activity is directed toward bringing this economic understanding that should exist between business as such and the rest of the world to which it relates into a better balance by building bridges of economic understanding for employes, students, educators and opinion leaders.

Recently Firestone announced a grant of $125,000 to establish a chair of economic education at the University of Akron. The objective of the grant is to develop a program to improve understanding of the American economic system among students, educators and the public at large. This program will aim at increasing economic knowledge throughout the education system, starting at the elementary level. The company believes proper and effective economic education must begin with children.

We believe it is important to the national well-being that people understand the interlocking relationship between profits and jobs as well as the link between industry-developed technology and a high standard of living.

Through utilization of people from business and industry and the development of new concepts, materials, teaching strategies and improved communicating techniques, Firestone hopes the University of Akron program will reach some 100,000 students and teachers at elementary, secondary and university levels in the Akron area alone. The longer range plan for the program envisions development of curricular materials for distribution nationally.

"Community-wide support of the program is manifest in the number of top Akron business and civic leaders who have volunteered to serve on the advisory and other committees," according to Mario DiFederico, an executive vice president of the company and a member of the executive and advisory committees of the university's Center for Economic Education. "Forty-two individuals and companies have made financial contributions to date in support of the program and others have indicated their desire to participate."

The carefully structured and highly practical work of the center will supplement a variety of other on-going activities traditionally a part of Firestone's philosophy of business education at its headquarters and in 43 cities throughout the United States where its manufacturing plants are located.

Student groups are welcome at the company's major plants and the company strongly encourages employes to take part in and sponsor business-education programs under its corporate-wide plant community relations program.

At its corporate headquarters and in plants throughout the country, Firestone employes are active as advisers in Junior Achievement where young people learn what business is all about by running one and get to understand the economic facts of life by direct experience.

Among the educational aids offered free of charge to school systems are booklets, slide presentations and films designed for use at the elementary, junior and senior high school levels. Through the company's "University Speakers Bureau," experts in 19 different fields, including such major areas of interest as finance, engineering, law, communications, research and product development, are available for seminars or special talks at colleges.

Firestone is a sponsor of "Screen News Digest" in a number of its major plant locations. Screen News Digest is a filmed documentary which brings to the classroom each month at the junior and senior high school levels an in-depth analysis of some outstanding current event of significance to the country and the world.

In a company-wide effort to better acquaint its employes with the economic facts of life, all of Firestone's domestic plants are holding day-long seminars for their employes in small groups of 10 to 15 persons each to give them a complete over-view of what the company is and how it operates. Also covered are the basic economic principles of the free market system.

The plant manager spends 90 minutes with each group at the end of the day answering questions, listening to complaints and correcting misinformation or misunderstandings which may have surfaced during the open discussions. Matters requiring further information or corrective action are taken care of—and often by the plant manager himself.

Complimenting this group economic education are periodic mailings of "Business and Economic Facts of Life" from Chairman Raymond C. Firestone to the company's 61,000 domestic employes. These reports set forth in a simple way basic information about such joint concerns as productivity, profits, taxes and prices.

For the past two years, the company has issued a special annual report for employes. This is in addition to the formal annual report sent to stockholders, including the more than 10,000 employees who are also stockholders through participation in the company's stock purchase and savings program.

In 1972, the employe report was keyed to a Firestone family studying the results of the company's financial operations for that year. Last year it was a comprehensive but simplified accounting of what happened to the Firestone sales dollar in 1973.

To reach the opinion leaders in its plant communities, Firestone plant managers periodically mail to 8000 civic and government officials, educators, ministers and heads of organizations some of the more appropriate employe communications materials as well as executive speeches on matters related to business, the enterprise system and economic education.

One such talk, "Economic Beliefs and National Progress," elicited 15,000 requests for additional copies from individuals and organizations including the heads of small businesses and a state school system.

As Chairman Firestone said in a talk to community and business leaders attending a company-sponsored civic luncheon in one of the company's plant cities: "Something has to be done about the problem (the general lack of understanding of business) and we must begin now."

What Firestone does is to pursue with vigor its internal and external programs to make people more knowledgeable about business, more appreciative of its benefits and more understanding of the overall role of corporate enterprise in sustaining our economic system for the benefit of all.

A VISIT TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. FULBRIGHT. Mr. President, in September of this year I had the good fortune to lead a delegation of distinguished Members of the Senate and House on a visit to the People's Republic of China. The deputy leader was Representative PETER H. B. FRELINGHUYSEN, and the other members of the delegation

were: Representative CLEMENT J. ZABLOCKI, Representative WILLIAM S. BROOMFIELD, Senator HIRAM L. FONG, Senator HUBERT H. HUMPHREY, Representative BARBARA C. JORDAN.

We were treated with the utmost courtesy and consideration. The facilities put at our disposal were excellent, and the entire trip was extremely well-organized. I believe all members of the delegation were deeply impressed by what they saw in China, and I am sure have a sympathetic attitude toward the people and their sense of purpose and the tremendous dedication and energy which they are devoting to the accomplishment of their purposes. This was an educational trip in the best sense of that word.

I ask unanimous consent that our report on that visit be printed in the RECORD.

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

A VISIT TO THE PEOPLE'S REPUBLIC OF CHINA

At the invitation of the Chinese People's Institute of Foreign Affairs, our delegation visited the People's Republic of China (PRC) from September 2 to 14, 1974. This was the sixth such trip since 1972 by American officials other than members of the Executive Branch

We spent our first four days in Peking, where we held nearly five hours of free and frank off-the-record discussions with Vice Premier and Politburo member Teng Hsiao-ping, Vice Foreign Minister and Central Committee member Chiao Kuan-hua, and other officials. We also enjoyed the hospitality of Ambassador and Mrs. David Bruce at the United States Liaison Office, including a reception at which we met a number of American businessmen and the members of the American plant studies delegation to the PRC led by Dr. Sterling Wortman.

Subsequently we visited the Tachai Production Brigade in Shansi Province, where we met with the Brigade's former leader, Politburo member Chen Yung-kuei. After an overnight stay in Taiyuan, the Shansi provincial capital, we spent two days in Hunan Province visiting Changsha, the provisional capital, and Shaoshan, Chairman Mao's birthplace. Next came two days each in scenic Hangchow, the capital of Chekiang Province, and finally in the industrial city of Shanghai, where we had earlier stopped only briefly enroute to Peking from the United States.

In Shanghai, we continued substantive discussion of the kind we had had in Peking, and on the same off-the-record basis, with Central Committee member and Shanghai Municipal Revolutionary Committee Vice Chairman Hsu Ching-hsien, who at age 40 is one of the younger generation of national leaders.

Other than foreign affairs—the main topic of our talks in Peking and Shanghai, our delegation's predominant interest was in the agriculture of this vast country, some 80 percent of whose people are engaged in agricultural pursuits. For the time available, the itinerary arranged by our hosts met this interest very well, enabling us to observe in some detail representative farming conditions and methods in the relatively arid north and the climatically more favored south. We also visited a number of facilities in such fields as education, culture, medicine, commerce, and industry and several sites of historic, art and archeological interest.

The hospitality accorded us throughout the visit was unfailingly warm and gracious.

Ours was the fifth Congressional delegation to visit China since our Government initiated efforts to normalize US-PRC relations. There had been two delegations in 1972, those led by Sentors Mike Mansfield and Hugh Scott in April and by Representatives Hale Boggs and Gerald Ford in June. A delegation led by Senator Warren Magnuson and Representative Thomas Morgan visited China in July of 1973, and Senator Henry M. Jackson went there in July of this year.

We can, however, claim one distinction. Although agreed to in principle during Secretary Kissinger's trip to Peking in November 1973 as one of the people-to-people cultural exchanges in 1974 facilitated by the two Governments under the terms of the Shanghai Communique, ours was the first visit to China by a Congressional delegation since President Ford's assumption of office. As such we saw our visit, and we believe the Chinese saw it, as a timely expression of the continuity in American foreign policy, and in particular of the continuing bipartisan Congressional support for the improvement of US-PRC relations on the basis of the Shanghai Communique.

But the Chinese leaders with whom we talked will have had no difficulty in perceiving that we, like earlier Congressional delegations, had come to China as individual legislators, and not as spokesmen for the Administration or for the Congress, or for our respective parties. Our questions and our comments were our own, arising from our legislative responsibilities but reflecting the diversity of interests and opinion within our ranks. The views given to us by Chinese leaders in our off-the-record discussions were, on the other hand, both authoritative and—to the extent we raised the same questions with different leaders—uniform. Since our return, we have conveyed these views, and some of our own, to President Ford and Secretary Kissinger. At the request of Vice Premier Teng, we also conveyed to both the President and the Secretary the regards of Chairman Mao and Premier Chou.

The visit bore home to us two of the salient points in the Shanghai Communique in a way that no amount of reading, or taking of testimony, could do: that "there are essential differences between China and the United States in their social systems and foreign policies"; but also that "the normalization of relations between the two countries is not only in the interest of the Chinese and American peoples but also contributes to the relaxation of tension in Asia and the world." Our visit was part, if only a small part, of the process of normalization; the results can be counted as having helped in some degree to broaden mutual understanding of the very real common interests Americans and the Chinese share, and of the very real differences which remain between us.

We will forgo relating in detail impressions and conclusions which for the most part are very like the ones to be found in the accounts of earlier Congressional delegations, not to mention material published or broadcast by many among the more than eight thousand private Americans estimated to have visited the PRC since 1972. Some further general observations of this particular group of travellers in China may be of interest, however.

We came away with the strengthened belief that the process of normalization of US-PRC relations is seen in the PRC to be on course, notwithstanding the well-advertised view there that our official relationship with Taiwan is an obstacle to normalization. Our delegation gained no insight that is new to our Government on how, concretely, the Taiwan issue might be dealt with, and we will not in this report propound any views on the subject. But we are among those who maintain that this issue, important though it is to both sides, should be viewed not in isolation, but in the much larger framework of basic interests that have brought the US and PRC into their new, constructive—and from all available portents enduring—relationship. And it appears to us that Peking's standpoint on Taiwan, while principled and firm, is also not without understanding and patience

We were impressed by the predominantly inward orientation of the Chinese people and their leaders. This needs to be put in some perspective, for to be sure, they are fully conscious of the world out there, and indeed now have it categorized into Three Worlds: the superpowers (the Soviet Union and the United States), other industrial nations occupying an intermediate position, and the Third World—of which China, as a developing country, considers itself a member. The President of Togo and the President of Nigeria made state visits to China during the two weeks we were there, and the all-out effort to give them a warmly fraternal welcome demonstrated the high priority China attaches to cultivating close ties with Third World countries. There are few major international issues on which the PRC has not publicized a stand consistent with its world view and in particular with its Third World orientation, and whenever feasible it votes accordingly in the United Nations. Still, Peking appears to have a rather modest view of its own ability to influence the course of international affairs; and in any event little desire to go beyond having its positions on record. At that, one need not be a dialectical materialist to discern contradictions in a number of the Chinese positions bearing on the Third World and the world at large. Perhaps the outstanding example just now is Peking's support for the oil-pricing policies of the OPEC countries, policies which have had their most ruinous effect thus far on the ability of other Third World countries to pay for desperately needed imports of petroleum and petroleum-based chemical fertilizer. The Chinese of course did not create this problem, and they are in no position to solve it. Their stand is not helpful, but neither is it any real impediment to a solution.

Over the long term, however, we fail to see how many salient problems of this ever more interdependent globe can be solved except by cooperative efforts that engage more fully the energies and talents of a nation representing about 22 percent of the world's people.

But these energies and talents are mainly absorbed, and in our view likely will be for a good many years to come, in the enormous task of China's own development. The Chinese take great and justifiable pride in their country's economic and social achievements in the 25 years since the founding of the new order, but they also point out that much remains to be done.

And they point to self-reliance as the basic means. This principle, self-reliance, is central to China's developmental effort and to its defense policy. Moreover, its counsel to other developing countries, including those to which it extends economic aid, and to foreign revolutionary movements, appears to be that they too should be self-reliant.

Of all the sayings of Chairman Mao, none is more universally in evidence throughout the country than "In industry, learn from Taching; in agriculture learn from Tachai." This refers to the Taching oilfield in Manchuria and the Tachai Production Brigade, which we visited, in Shansi Province. In both cases, the message is that local initiative, ingenuity and plain hard work can and must largely take the place of reliance on national investment in developing China's resources.

Our observations on the agricultural front—and, more importantly, the extensive observations of the delegation of American plant scientists we met in Peking—suggest that China is well on the way to achieving

stable self-sufficiently in food, although the American scientists seem to have been no more successful than we in obtaining detailed statistics. One other significant qualification is the American scientists' finding, reported on their return home, that, owing to the impact of political-ideological movements on educational and research institutions, China has produced few highly trained agricultural scientists in recent years, and that this situation if prolonged could seriously retard agricultural progress over the next few decades. Both they and we found, however, a number of food-raising techniques that might be adopted for use in other developing countries. And we have learned with particular pleasure that the American scientists and their Chinese colleagues exchanged a wide variety of seeds and made plans for further exchanges, for such exchanges offer both countries an important means of developing improved plants.

The Chinese have placed the greatest emphasis thus far on labor-intensive methods of increasing crop yields, supplemented with industrial inputs as these become available, and complemented by a national program in support of family planning. Although China's total land surface is slightly larger than that of the United States, rather less than 15 percent is arable, and most of that is already under intensive cultivation. Thus, it would seem that further increases in food production will depend increasingly on greater use of chemical fertilizer. In this regard China is fortunate in having abundant petroleum.

The self-reliance policy, which we also saw emphasized in small industrial enterprises and at the Shanghai Industrial Exhibition, would appear, however, not to exclude imports of advanced foreign technology and equipment useful for national development, such as recent Chinese purchases of chemical fertilizer plants and transportation and mining equipment from the U.S. Imports of such equipment and technology (on which there has been some debate in the Chinese media in recent months) will continue, if our perception is correct, but only on the basis that the Chinese will be able as in the past to pay for them out of their own resources and without disrupting the stability of their economy. The Chinese, who press often describes the inflationary ills of our country, are clearly determined to avoid this problem at home.

A final point or two. The Chinese are an industrious and highly disciplined people, but even though fully expecting it we were still impressed as so many other Americans have been by the extent to which a single value system—that embodied in the thought of the Mao Tse-tung—appears genuinely to inform and motivate the entire national enterprise, and is being systematically imparted to the young.

As we were visiting Mao's family home at Shaoshan, and the nearby museum devoted to his and his family's contributions to the revolution, someone in our party remarked that Shaoshan could be called the Mount Vernon of the new China. Yet a number of the PRC's founding fathers, and Mao Tse-tung foremost among them, still direct the nations' affairs.

We have little doubt that the directions set by Mao Tse-tung will profoundly influence national policy long past his lifetime. We know all too well, however, as politicians and as students of world history, the limits on the ability of any one generation in any country to commit succeeding generations to its own vision.

This observation is relevant to the joint declarations of principle and purpose in the Shanghai Communique. Our visit helped reinforce our conviction that these declarations have an objective basis in the long-term national interests of the two countries, just as the 1972 photograph of Chairman Mao and then-President Nixon clasping hands symbolizes far more than the personal attitudes of these two leaders. But our experience also heightened our perception of the need for broader contact between the people and leaders of our two countries in accordance with the principle, set forth in the Shanghai Communique, of "equality and mutual benefit".

As a case in point, we note that our visit, like the four previous Congressional trips and the one this past April by the U.S. Governor's delegation led by Governor Evans of Washington, was facilitated by the two Governments on essentially the same basis as certain of the far more numerous people-to-people exchange visits that have been taking place each way in scientific, technical and cultural fields. It pleased us to learn that under this program a Chinese agricultural delegation was visiting our country at the same time the American plant scientists were touring China.

It concerns us, however, that the PRC has not yet availed itself of the opportunity to have members of its political leadership visit our country on a similar basis. It is our hope, expressed at various times in China and reiterated here, that delegations of such leaders in whatever category and at whatever level their side deems appropriate, will begin visiting our country to see for themselves the achievements and the problems of our society, enjoy American hospitality, and engage as we did in their country in mutually educational substantive discussion. For much as we favor the continuation of trips such as ours, we strongly believe that comparable Chinese visits to this country could contribute a great deal to improving mutual understanding and friendship between our two peoples.

ACKNOWLEDGEMENTS

Our thanks are due to many: to Dr. Chou Chiu-yeh and his colleagues in the Chinese People's Institute of Foreign Affairs and to all the national and local officials and other persons we met in China; to Ambassador Huang Chen, Chief of the PRC Liaison Office in Washington, who saw us off on our trip and who after our return had us to yet another splended Chinese banquet; to President Ford and Secretary of State Kissinger; to Ambassador and Mrs. Bruce; to the military commanders and other Defense Department personnel involved in our travel to and from China; and to the staff from the White House, State Department and the U.S. Liaison Office who accompanied us on our trip.

MODEL STATE ENERGY ACT

Mr. METCALF. Mr. President, in a number of States, legislators and other officials have searched for model legislation on which to base revision of energy regulation. This need has been expressed in hearings before the Government Operations Committee, and in letters and conversations I have had with State officials. One of the provisions—section 110—of my bill to establish an Office of Consumer Counsel (S. 770) would require the counsel to prepare a comparison and analysis of State and Federal laws covering regulated services to consumers and prepare model laws and recommendations for regulation of such services.

Fortunately, not everyone waits for the Federal Government to act before they do things which need to be done. Lee Webb of Goddard College in Vermont and Jeff Faux of Gardiner, Maine have drafted a model State energy act, in association with the Institute for Policy Studies here in Washington.

This model provides for a State energy board initially appointed by the Governor and subsequently elected by public energy districts. The board would have regulatory powers now held by State utility commissions. The model further provides for local public energy districts—PED's—within members publicly elected, empowered to operate local utilities and, where practical and necessary, distribute oil and gas. The model also provides for a state power authority, to generate and import electrical power for resale to PED's, and a State fuel corporation to obtain petroleum and, where appropriate, engage in the production, distribution and importation of oil, coal and gas. The State power authority and State fuel corporation would be under the jurisdiction of the State energy board. Provision is made for participation of citizens and small businessmen in policy formulation.

I commend the authors of this model. It may be useful to State legislators who will be meeting next month. Therefore, I ask unanimous consent to have the Model State Energy Act printed in the RECORD, preceded by the authors' introductory comments.

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

MODEL STATE ENERGY ACT

(A draft bill for a democratically-controlled, publicly-owned state energy system, prepared by Lee Webb and Jeff Faux)

INTRODUCTION

A. Background

This draft bill describes a democratically controlled, publicly owned energy system. It is being circulated to help citizens and legislators interested in proposing a workable alternative to the present energy system in their state.

The time for such proposals has come. Americans are becoming increasingly aware that the present system dominated by multinational corporations, regional power monopolies and aided by weak regulatory agencies—is inadequate. It cannot provide the energy we need at reasonable cost and without environmental pollution.

The energy crisis is likely to be with us in one form or another for a long time. Costs are soaring, capital is scarce and the demand for energy, encouraged by the system itself, keeps rising. But the financial burden will not be upon the private corporations and banks who operate our energy system, even though they are supposed to take the "risks" in capitalism. It will be upon the individual citizen. We citizens will pay in higher prices. We will also pay in higher taxes (or reduced public services) as a result of government subsidies for the energy industry. We will also pay in a more polluted environment as environmental restrictions are loosened to permit corporations to burn polluting fuels and to postpone installation of devices to eliminate waste discharge into the air and water.

Finally, we will pay in the form of cold homes and reduced supplies of gasoline. Energy conservation will not be planned or fairly administered. It will be conservation of the market place. The conservationists will be those who cannot afford to buy the energy they need. Those who conserve will be working people, the poor, small businessmen, the elderly and—to an increasing extent—the middle class. Those who make our energy policies in Washington and New York and other capitals of finance will not wait on long lines for gas nor wear two sweaters indoors this winter.

Even if the government were more sympathetic to the plight of its citizens-consumers, there is little that it can do in the long run under the present system. Since the energy resources and the means to deliver them to the public are in private hands, it is trapped. In the end it has been and will continue to be forced to support higher *prices* and profits for the energy corporations because that is what they are demanding in return for increasing the energy supply. Without a new energy system we are all trapped.

B. Assumptions, scope and limitations

The model bill is based upon the following assumptions:

1. The goals of an energy system are:
adequate energy availability;
reasonable cost;
energy conservation;
environmental protection.

2. To achieve these goals public energy planning is necessary.

3. To make public planning responsive to the needs of the public rather than the needs of business corporations and bankers, public ownership of the key energy institutions and resources is needed.

4. To make a publicly owned system responsive to the needs of the people rather than to the needs of a bureacracy, local control is needed.

5. The bill is an effort to apply these principles to the energy industry on the state level.

The bill was drafted on the basis of the author's knowledge and experience in states which are not major producers of coal, oil or gas. Therefore, the primary focus of the bill is on electric power and the distribution of gasoline and fuel oil. The effort was made in Title V, Section 7(d) to leave the door open for the public development of fuel resources, but its usefulness in that area may be limited.

The major purpose of the model bill is to present the ideas in general legislative form so they can be introduced and debated. In any given state, therefore, language may have to be changed and details worked out to make it compatible with existing law and to fill out specific legal holes. However, citizens who want to use all or any part of the bill to press alternatives in their own state ought not to be inhibited by the details of writing legislation. Putting bills into legislative language is what you pay legislators and legislative staffs for.

The draft is just that. A draft. It is in good enough shape now to be debated and will soon be introduced into the legislatures of several states when they reconvene. However, citizens who want to use it should feel free to take any portion of the bill and fit it to their own needs and ideas.

C. A short description of the act

Title II provides for a State Energy Board to be the major planning and operating arm of the public sector in the energy field. After an initial period in which the Board is appointed by the Governor, the members of the Energy Board are elected by local Public Energy Districts (PEDs).

The State Energy Board in turn creates the State Power Authority and the State Fuel Corporation. The Board has the regulatory powers now held by the State Public Utility Commissions.

Its major functions are:

To make policy for the Power Authority and the Fuel Corporation;

To assist the development and operation of the PEDs;

To prepare long range energy plans for the State;

To engage in and operate research and development into new sources of energy and conserving present energy resources.

Title III provides for local Public Energy Districts, elected by citizens of utility districts, much the same as local Public Utility Districts are elected in the State of Washington and a few other Western states. The functions of the PED are:

To operate as a local electric power utility;

To operate as a distributor of oil and gas where practical and necessary;

To asist local citizens and small businesspeople to conserve energy and to use it efficiently, in part through a system of Energy Extension Agents;

To be the means through which local citizens can participate in state energy policy.

Title IV provides for a State Power Authority. The major function of a State Power Authority is to generate and import electrical power for resale to the Public Energy Districts.

Title V provides for a State Fuel Corporation. The major functions of the Corporation are:

To secure an inventory of 150 days' supply of petroleum in order to free the state from immediate reliance upon the major oil producers;

Where appropriate, to engage in the production and distribution and importation of oil, coal and gas.

D. Problems and issues

1. This draft takes away the regulatory authority of the State Public Utility Commission over energy and gives it to the State Energy Board. Since the energy system would be publicly owned it seemed like an unnecessary duplication of bureaucracy to keep the Public Utility Commission. The argument for leaving the regulatory power in the hands of the Public Utility Commissions is that it would provide some countervailing power to the State Energy Board and the PEDs.

2. In the discussions with various people over the proposals, many people concerned with the environment were wary of putting too much power in the hands of the local energy districts. They were afraid that such a system would be too much biased toward growth. Several people proposed statutory limits to growth in electricity which are not included in this draft.

3. The purpose of prohibiting more than a two-to-one ratio of the highest power rates to the lowest was to prevent the PEDs from favoring one class of customers over another. Some people felt that the prohibition was too restrictive and that requiring a "cost of service" study in which the true costs of servicing different classes of customers are identified and prohibiting promotional rates was sufficient.

4. There was some disagreement on the number and timing of the plans for which the State Energy Board was responsible. One alternative proposal was to require the Board to submit two, five, and ten year plans every two years.

5. There is no provision for special financing of the takeover of private corporate assets. In terms of legality, the history of condemnation in the U.S. would appear to provide ample constitutional precedent. In terms of economics, there is even less of an issue. The purchase of private corporate assets—whether under condemnation or otherwise—is financed over time and paid for out of the income of the business, just as any one business finances the purchase of another. The only issue is price—which is subject to negotiation and litigation between the buyer and seller.

6. One person suggested that the State Research and Development Fund contribute to the national pool of funds for research and development in energy. The present draft does not provide for such a contribution. This bill designed to help states achieve a capacity for research and development in fields that for them are high priority but would not be priorities on a national agenda.

7. Several people we talked to felt that it was dangerous for the states to get too deeply into the production end of energy, since it is in fact a national problem. Thus, if each state or region were to take control over its own natural resources, areas which have no resources but have large populations would be at a disadvantage. The authors agree that control over energy resources is a national and regional problem as well as a state problem. Therefore, we need national as well as subnational planning, and this draft is entirely compatible with national ownership of energy resources as provided, for example, in the Magnuson-Stevenson bill in the U.S. Senate for a Federal Oil and Gas Corporation. But we cannot wait for action from Washington, paralyzed as it is with money from the large oil, coal, and power corporations. Citizens in the states have the responsibility to create their own sensible publicly owned energy system. With or without Washington.

[Draft, September 1974]

H.R. —

An act to provide for the Public Ownership of the Energy Industry within the State

TITLE I. LEGISLATIVE FINDINGS AND POLICY

Section 1. The Legislature finds and declares that—

(a) the provision of energy in the form of electricity, refined petroleum products, liquified petroleum gases, coal, natural gas, solar, wind, tidal and other sources is essential for the health, safety and well being of the people of the state and of the state's economy.

(b) it is the responsibility of the state government to assure that supplies of energy are available to the people at a level consistent with the protection of the public health and safety, the promotion of the general welfare and the protection of the natural environment.

(c) it is the responsibility of the state government to assure that energy supplies are priced to the people of the state so that their basic human needs can be met without undue economic hardship.

(d) the direct ownership and control of the production and distribution of energy in all its forms by this state and by subdivisions of the state, as provided under this act, is a legitimate and desirable function of government.

(e) information on cost, supply and other aspects of energy production, distribution and sale must be publicly available in order for citizens to participate in the formulation of energy plans.

(f) the rapid rate of growth in demand for electrical energy is in part due to wasteful, uneconomic, inefficient, and unnecessary employment of energy and that a continuation of such growth will result, and is currently resulting, in serious depletion and irreversible commitment of these energy sources, land and water resources, and further poses a potentially serious and dangerous threat to the state's environmental quality.

(g) there is a pressing need to accelerate research and development on alternative sources of energy to provide for more ecological and environmentally sound methods of making adequate amounts of energy available to the people of the state.

Section 2. It is the policy and intent of the legislature:

(a) to establish with all necessary powers a corporate instrumentality of the state to be called a State Energy Board with the powers and responsibilities to assure adequate supplies of energy to meet the short and long term needs of the state; to plan for the rational and fair distribution of energy within the state; to negotiate in behalf of the state with other states, the Federal government, private corporations and individuals on public energy matters; and to research and develop improved and alternative sources of energy.

(b) to establish Public Energy Districts as subdivisions for the state, through which the citizens of the state can exercise authority over energy supply, distribution and use.

(c) to establish a State Power Authority to acquire, manage, operate and maintain facilities for the generation of high voltage transmission of electrical power in the state.

(d) to establish a State Fuel Corporation to assure adequate supplies of petroleum, petroleum products, coal and natural gas to meet the needs of the state through purchase, storage, distribution and, if necessary and feasible and with the separate consent of the Legislature, production and refining.

(e) to establish within the State Energy Board an Energy Resources and Development Fund to coordinate, encourage, finance and carry out research and development of projects for the development of alternative sources of energy.

TITLE II. STATE ENERGY BOARD

Section 1. Establishment of State Energy Board:

(a) There is hereby created a corporate instrumentality of the state to be known as the State Energy Board which shall be a body corporate and politic and a political subdivision of the state, exercising government and public powers, perpetual in duration, capable of suing and being sued, and having a seal, and which shall have the powers and duties hereinafter enumerated.

(b) The State Energy Board shall initially consist of 7 (seven) members, for three-year terms nominated by the Governor and confirmed by the Legislature.

(c) The initial members shall reflect a variety of interests in the state including conservationist, labor, small business, agriculture and social welfare, and shall be selected with due regard to a fair and equitable distribution of members by race, sex, income and geography.

(d) After the term of office of the initial board members the State Energy Board shall consist of one person selected by the directors of each Public Energy District in the state plus one member chosen by the Governor with the advice and consent of the Senate.

Section 2. Members and employees: Qualifications—

(a) all members of the board shall be individuals who believe and profess a belief in the feasibility and wisdom of this Act and who believe and profess a demonstrable belief in the environmental, antitrust and consumer protection laws of the state.

(b) No person shall be a member of the Board who, during the five years prior to election or appointment, received any substantial portion of his or her income directly or indirectly from any private corporation engaging in the production, processing, storage or distribution of fuels or electrical energy.

(c) No member of the Board or employee shall be employed by any private corporation engaging in the production, processing, refining or distribution of fuels or electrical energy within five years after he or she ceases to be a member or employee of the Board.

(d) No person who is a member or employee of the Board shall participate personally and substantially as a member or employee of the Board, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, hearing, application, request for a ruling, or other determination, contract, claim, controversy, study, plan, or other particular matter in which, to his knowledge, he or she, a spouse, minor child, or partner, or any organization he or she is serving, or has served as an officer, director, trustee, partner, or employee, while serving as a member or employee of the Board or within five years prior to his or her appointment as a member of the Board, has a direct or indirect financial interest.

(e) All members of the Board must prepare and submit a conflict of interest statement listing all their financial interests totaling more than $100. This statement should be submitted to the State Power Authority and to the Secretary of State annually to be made available for public inspection in his or her office.

(f) The members of the Energy Board shall cause all employees of the Board to prepare and submit to the Board a conflict of interest statement listing financial interests in a form and manner that the Board shall determine.

Section 3. State Energy Board: Public Access—

(a) All meetings of the Board of Directors of the State Energy Board shall be open to the public, including all meetings of subcommittees and superior committees of the Board. In addition, complete minute. of the meetings shall be kept and shall be open to public inspection at convenient places throughout the state.

(b) All documents, working papers, reports, studies and financial data shall also be open to public inspection at convenient places throughout the state.

Section 4. Authorization of appropriations—

(a) There is hereby authorized to be appropriated such sums as may be necessary for the establishment and operation of the State Energy Board.

Section 5. State Energy Board: Powers—

(a) The State Energy Board shall have the power to establish a State Power Authority and a State Fuel Corporation, with the powers and duties described in Titles IV and V, and to assist in the creation of Public Energy Districts as described in Title III.

(b) The State Energy Board shall appoint the members of the Board of Directors of the Power Authority and the Fuel Corporation for specified terms. However, the Energy Board shall have the power to discharge members of the Board of Directors of the Power Authority and the Fuel Corporation.

(c) Upon complaint from a PED that a private seller of fuels has consistently engaged in excessive profiteering or has violated consistently reasonable standards of proper and fair service, the State Energy Board shall have the power to investigate the complaint and to hold hearings. If after impartial hearing, the Energy Board finds a private seller in violation, the State Energy Board shall have the power to suspend the right of the seller to engage in trade or service until it is satisfied that the violations will cease.

(d) The Energy Board shall have the power to contract and be contracted with; to sue and be sued; to adopt and amend by-laws; and to adopt and amend regulation governing the exercise of its duties.

(e) The Energy Board shall have the power to employ an executive director and such assistants, agents, technical, financial, legal or other help as required to properly perform its duties.

(f) The Energy Board shall have and exercise all powers necessary or convenient to effect any and all of the purposes for which it is organized.

Section 6. State Energy Board: Policy Responsibilities—

(a) The State Energy Board shall be responsible for giving overall policy direction and guidance to the Board of Directors of the State Power Authority and to the State Fuel Corporation.

Section 7. State Energy Board: Review of Rates and Responsibilities—

(a) All powers and authorities regarding the approval of rates and practices for the sale of electricity and other energy sources now held by the Public Utility Commission shall be transferred to the State Energy Board.

(b) The rates and practices for the sale of electricity energy source by the State Power Authority, the Public Energy Districts, the cooperatives, and the municipal utilities shall be regulated and set by the State Energy Board.

(c) The rates and practices for the sale of oil, gas and any other energy source by the State Fuel Corporation and the Public Energy Districts shall be regulated and set by the State Energy Board.

(d) All major contracts, construction projects, and plans shall be regulated by and approved by the State Energy Board.

(e) Upon petition of more than 1% of the residents of any PED, cooperative or municipal utility, or upon receipt of a petition of more than 1000 customers of the State Fuel Corporation, the State Energy Board shall appoint an attorney-for-the-public to represent the public in the petition before the Board.

(f) The State Energy Board shall not approve any project of a PED, cooperative, municipal utility, or the State Fuel Corporation which has not received all necessary environmental permits from the appropriate state agencies.

(g) The State Energy Board shall require the PED's, the cooperatives, the municipal utilities, the State Power Authority and the State Fuel Corporation to hold frequent and periodic public hearings throughout the state on any significant policy change, proposal, construction plan, or related matter.

Section 8. State Energy Board: Planning responsibilities—

(a) The State Energy Board shall be the primary and superior planning and directing body of the state for purposes of assuring an adequate supply of all energy resources for the people of the state at reasonable prices, of preventing environmental damage, and of conserving state and national supplies of nonrenewable fuels.

(b) Within one year from the date of this Act, the Energy Board will submit to the Governor and the Legislature for their approval a plan for the supply, distribution and the use of energy within the state over a ten year period. The plan will be developed on the basis of public hearings held in conjunction with individual Public Energy Districts. In drawing up the plan, due consideration will be given to such factors as the provision and fair distribution of employment and income to residents of the state, rational patterns of urban growth and transportation, and protection of the natural environment. As is appropriate, the State Energy Board may make changes and modifications which do not change the basic intent of the initial plan, with the consent of the Legislature. Every seven years from the date of the original plan, the Energy Board must submit a new ten-year plan for the approval of both the Legislature and the Governor, except that the Energy Board may, upon finding that the basic economic assumptions underlying the plan have substantially changed, submit a new plan at any time for the approval of both the Legislature and the Governor.

(c) The State Energy Board shall prepare and continually update five, ten, and twenty year forecasts of energy demand, with needed new facilities.

(d) The State Energy Board shall also prepare and continually update five, ten, and twenty year forecasts of the availability and cost of fuel resources, with special emphasis on those which are nonrenewable.

(e) The State Energy Board shall also prepare and continually update five, ten, and twenty year forecasts of projects, population growth, urban development, industrial expansion, and other growth factors influencing increased demand for electric energy.

Section 9. State Energy Board: Conservation responsibilities—

(a) The State Energy Board shall annually submit to the Governor and the Legislature a Conservation Report describing its progress and the progress of the State Power Authority, the State Fuel Corporation and the Public Energy Districts in conserving nonrenewable resources.

(b) The Conservation Report shall also include, based on the ongoing forecasts, an assessment of trends in energy consumption, and possible adverse social, economic, or environmental impacts which might be imposed by continuation of the present trends, including the costs of all forms of energy to consumers, the depletion of nonrenewable forms of energy, increases in air, water, and other forms of pollution, threats to public safety, and the loss of scenic and natural areas.

(c) The Report shall also include an analysis and evaluation of the means by which the projected annual rate of demand growth by energy may be reduced, together with an estimate of the amount of such reduction to be obtained by each of the means analyzed and evaluated.

(d) The Report shall also include concrete and specific recommendations for reducing the state's projected increase in the demand for energy, especially the energy generated by the consumption of nonrenewable fuels.

Section 10. State Energy Board: Research and development responsibilities—

(a) The Energy Board shall have the power to engage in research directed toward the development or utilization of abundant and nonpolluting supplies of energy, from whatever source, and may build, own and operate research, testing or demonstration facilities, *alone or on* a joint or cooperative basis with private or public entities.

(b) In order to carry out its research and development responsibilities the Energy Board is authorized, after appropriate hearings and consultations with the general public as well as those possessing technical expertise, to establish research and development priorities which take into account the economic, social and physical characteristics and resources of the state and the goals of adequate economic growth, fair distribution of energy resources and environmental protection, and to negotiate on the basis of these priorities with Federal agencies and public or private foundations for grants, loans and other means of financial assistance.

(c) There is hereby created an Energy Resources and Development Fund within the State Energy Board for the purpose of financing research and development. This Fund will be financed by a surcharge of six-tenths of a mill per kilowatt of electricity generated by the State Power Authority, six-tenths of a mill per gallon of fuel oil, and one mill per gallon of gasoline sold within the state.

(d) The Board shall continuously carry out studies, research projects, data collection, and other activities required to assess the nature, extent, and distribution of energy resources to meet the needs of the state, including possible alternative sources of energy and more efficient ways of utilizing existing energy.

(e) The Board shall also carry out a program of studies, research and demonstration projects on alternative sources of energy, more efficient utilization of existing sources of energy, and better means for the conservation of energy. At least one-third of the money collected in the Fund must be made available for grants to Public Energy Districts, cooperatives and municipal utilities for research and development projects enumerated above. At least one-third of the money collected in the Fund must be made available for grants to citizens, municipalities, associations, and other groups for research and development projects as enumerated above.

Section 11. State Energy Board: Responsibilities for assisting the establishment of public energy districts—

(a) The State Energy Board shall, after proper investigation and public hearings, determine the proper boundaries for the various Public Energy Districts to be established throughout the state in accordance with Title III of this Act, provided that the boundaries of any Public Energy District shall not disect the boundaries of existing counties, municipalities and townships.

(b) Upon the submission of a petition to establish a Public Energy District, in accordance with Title III of this Act, the State Energy Board will make available to the citizens of the proposed Public Energy District technical, legal, financial and other appropriate aid to bring about the speedy establishment of the Public Energy District.

(c) The State Energy Board shall issue guidelines for the establishment, organization and operation of Public Energy Districts. These guidelines shall include, but not be limited to, procedures for acquisition of property, auditing, accounting, record-keeping, bonding and insurance, contracts, employee relations, compensation and benefits, rate setting, and general management. These guidelines shall be revised annually to reflect the acquired experience of the Public Energy Districts.

TITLE III. PUBLIC ENERGY DISTRICTS

Section 1. Establishment of Public Energy Districts—

(a) There is hereby established a new type of municipal corporation, as a political subdivision of the state, entitled a Public Energy District (PED). A Public Energy District is defined as a political subdivision of the state organized to operate as a corporation for the distribution of electricity and fuel to the residents of a certain part of the state, and through the State Energy Board to establish energy policies for the state.

(b) To organize a Public Energy District, 15% of the registered voters, on the basis of the number of voters in most recent gubernatorial election, must sign a petition requesting establishment of a PED, and file this petition with the Secretary of State. On receipt of such a petition, the Secretary of State must approve such petition, and the PED is thereby organized.

Section 2. Public Energy Districts: Selection of directors—

(a) The Directors of a PED shall be selected at the polls, as part of the regular biennial elections of the state.

(b) There shall be nine members of the Board of Directors. They shall be selected by subdistricts within the Public Energy District. The subdistricts will conform to the greatest feasible degree to existing political boundaries.

(c) The term of office shall be four years, except that four of the members of the initial Board shall have a term of two years. No member of the Board may serve for more than two consecutive four year terms. Successors to fill out the term of office of a member of the Board shall be selected at the next regular election to fill out the term of the departed member, unless the term of office of the departed member would have otherwise expired.

(d) The bylaws of the Public Energy District shall include provisions for removal from office of any member of the Board of Directors upon a referendum.

(e) Expenses of all candidates for the Board of Directors shall not exceed —— cents for each voter for the office at the last election. On at least three occasions during the eight weeks prior to the election the Public Energy District shall sponsor an open forum giving the opportunity for all candidates for the Board to appear and present his or her candidacy before the citizens of the District. Moreover, the PED shall mail out at least once the literature of equal size and weight for each candidate for the Board.

Section 3. Directors and Employees: Qualifications—

(a) No Director or employee of the PED or its subsidiaries shall be employed by an privately-owned electrical utility or by any company or person who engages in the sale or manufacture of any major component of any facility within five years after he or she ceases to be a Director or employee of the PED.

(b) No person who is a Director or employee of the PED shall participate personally and substantially as a Director or employee of the PED, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, hearing, application, request for a ruling, or other determination, contract, claim, controversy, study, plan, or other particular matter in which, to his knowledge, he or she, a spouse, minor child, or partner, or any organization he or she is serving, or has served as an officer, director, trustee, partner, or employee, while serving as a Director or employee of the PED or within five years prior to his or her appointment as a Director of the PED, has a direct or indirect financial interest.

(c) All Directors of the PED must prepare and submit a conflict of interest statement listing all their financial interests totalling more than $100. This statement should be submitted to the State Power Authority and to the Secretary of State annually to be made available for public inspection in his or her office.

(d) The Directors of the PED shall cause all employees of the PED to prepare and submit to the Board of Directors a conflict of interest statement listing financial interests in a form and manner that the Board shall determine.

Section 4. Public Energy Districts: General corporate powers—

(a) The PED shall have and exercise all other powers necessary or convenient to effect any and all of the purposes for which it is organized.

(b) The PED shall have the power to contract and be contracted with; to sue and be sued; to adopt and amend bylaws; and to adopt and amend regulations governing the sale and delivery of all services sold, furnished or supplied by the PED.

(c) The PED shall have the power to acquire and hold real or personal property necessary or convenient for its purposes.

(d) The PED shall have the power to sell, lease or otherwise dispose of any personal or real property rights not necessary for its purposes.

(e) The PED shall have the power to apply to any federal, regional, or state board, agency or commission having authority to make or issue rulings, licenses, orders, or decisions.

(f) The PED shall have the power to acquire by the exercise of the power of eminent domain any lands, properties, or rights it deems necessary for fulfilling its corporate responsibilities, subject to complete review by the appropriate courts. The PED shall not have the power of eminent domain over state or municipally owned lands.

(g) The PED shall have the power to fix, establish, revise, maintain, charge, and collect rates or charges for electric power and energy and all other services, facilities and commodities sold, furnished or supplied by the PED.

(h) The PED shall have the power to employ a general manager or executive director and such assistants, agents, engineering, financial, and legal help as required to properly perform its duties.

(i) The PED shall have the power to borrow money and issue evidences of indebted-

ness for any of the purposes as provided in this Act payable solely from revenues pledged for the payment of such bonds, notes, certificates, or other evidences of indebtedness. Such bonds, notes, certificates or other evidences of indebtedness shall not be an obligation of the state, and prior to sale, must be approved by a majority of voters residing in the District at a regular election.

Section 5. Public Energy Districts: Powers and duties—

(a) Upon formal approval of the petition of a PED by the Secretary of State, the PED shall request the State Power Authority to turn over to it, at cost, all distribution facilities for electricity within the boundaries of the PED.

(b) The PED, thereupon, has the responsibility of managing, controlling and constructing and operating an electric utility system in its area for the maximum benefit and welfare of the residents of its service area.

(c) A PED is required to sell the electric power distribution system in a particular municipality to that municipality upon request, following a majority vote of the residents of that municipality through a referendum.

(d) A PED shall endeavor to provide space for the needs of the State Energy Board and the State Fuel Corporation within the area of the PED, in the construction, purchasing, or rental of any office space by the PED.

(e) A PED shall apply to the Energy Board for funds, if so desired, for research and development projects in the development of alternative sources of energy, better utilization of existing sources of energy, and the conservation of energy.

(f) The PED shall have the power to purchase petroleum, petroleum products, coal and other fuels from the State Fuel Corporation for resale within the PED boundaries.

(g) The PED shall act as agent for the Energy Resources and Development Fund in making low interest loans to home owners, small businessmen and farmers to encourage them to install insulation or other improvements or devices to conserve energy.

(h) The PED shall have the power to set and to monitor standards of service, including policies on deposits and disconnections, and fair distribution for all wholesale and retail dealers in its area. It shall publicize all violations. A pattern of clear and consistent violations of reasonable standards shall be reported to the State Energy Board for appropriate action.

(i) Upon a determination of need, the PED shall have the power to establish a retail outlet for electric, gas and other appliances which emphasize conservation of energy.

Section 6. Public Energy Districts: Rates and service—

(a) All Public Energy Districts, cooperatives and municipal utilities within the state are required to establish as part of their electric power rate structure a "Lifeline" rate which would provide a basic necessary amount of electricity to every resident of the state at a minimum rate.

(b) The amount of service, expressed in terms of kilowatt hours per month, that shall be available at the "Lifeline" rate shall be determined by the State Energy Board. The determination of the amount shall be based entirely on investigations of the average resident's ability to pay, and not on the basis of "cost of service" or other such consideration.

(c) The "Lifeline" rate per kilowatt cannot be, under any consideration or reason, higher than the average price per kilowatt for the entire state as a whole.

(d) No rates can be submitted for approval to the State Energy Board that are promotional in nature or intent. The State Energy Board cannot approve any rates that are promotional in nature or intent.

(e) No rates can be submitted to the State Energy Board within which the lowest rate per kilowatt is less than 50% that of the highest rate per kilowatt. All requests for changes in rates shall be based upon studies of the cost of services to each class of customer.

(f) A Public Energy District, cooperative or municipal authority may not require any deposits from any customer as a requirement for receiving electrical service.

(g) A Public Energy District, cooperative or municipal utility may not disconnect the electrical service of any person when the person's health might be endangered.

(h) A Public Energy District, cooperative or municipal utility may not disconnect the electrical service of any person in the winter if the electrical service is necessary for heating.

(i) A Public Energy District, cooperative or municipal utility may not disconnect the electrical service of any person without a fair and impartial hearing before the State Energy Board.

Section 7. Energy Extension Agent—

(a) The PED shall establish staff positions for Energy Extension Agents to assist consumers and small businesses to use energy resources in the most efficient manner.

(b) The duties of the Energy Extension Agent will include developing and distributing educational materials, holding workshops, demonstrating new techniques of energy conservation and otherwise providing technical assistance to residential and small business energy consumers.

(c) The program will be financed through contract with the State Energy Board.

TITLE IV. STATE POWER AUTHORITY

Section 1. Establishment of State Power Authority—

(a) There is hereby created a corporate instrumentality of the state to be known as the State Power Authority which shall be a body corporate and politic and a political subdivision of the state, exercising governmental and public powers, perpetual in duration, capable of suing and being sued, and having a seal, and which shall have the powers and duties hereinafter enumerated together with such others as may hereafter be conferred upon it by law.

(b) The Board of Directors of the State Power Authority shall consist of five qualified individuals, four of whom shall be selected by the members of the State Energy Board. All members of the Authority Board shall be individuals who believe and profess a belief in the feasibility and wisdom of this Act. Appropriate weight in the selection of the Authority Board members will be given to such factors as race, age, and sex. The members of the Energy Board shall designate the Chairperson of the Authority Board.

(c) One member of the Authority Board shall be a nonsupervisory employee of the Authority chosen in an election among all nonsupervisory employees. The election will be held when the number of nonsupervisory employee reaches twenty.

(d) The term of office of the members of the Authority Board shall be three years, with no person serving more than two consecutive terms. A successor to a member of the Authority Board shall have a term of office expiring three years from the date of expiration of the term for which his predecessor was appointed.

(e) The Directors shall employ such technical and legal assistance as they require for the performance of their duties and shall prescribe the duties and compensation of each officer and employee. They shall adopt bylaws and rules and regulations suitable to the purposes of this Title. So long as and to the extent that the Authority is dependent upon appropriations for the payments of its expenses, it shall incur no obligations for salary, office or other expenses prior to the making of appropriations adequate to meet the same.

(f) Directors shall receive an annual salary determined by the Legislature. In addition, each Director shall receive his or her reasonable expenses in the performance of duties hereunder, and may elect to become a member of the state employees' retirement system.

Section 2. Directors and Employees: Qualifications—

(a) No Director or employee of the Authority or its subsidiaries shall be employed by any privately-owned electrical utility or by any company or person who engages in the sale or manufacture or any major component of any facility within five years after he or she ceases to be a Director or employee of the Authority.

(b) No person who is a Director or employee of the Authority shall participate personally and substantially as a Director or employee of the Authority, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, hearing, application, request for a ruling, or other determination, contract, claim, controversy, study, plan, or other particular matter in which, to his knowledge, he or she, a spouse, minor child, or partner, or any organization he or she is serving, or has served as an officer, director, trustee, partner, or employee, while serving as a Director or employee of the Authority or within five years prior to his or her appointment as a Director of the Authority, has a direct or indirect financial interest.

(c) All Directors of the Authority must prepare and submit a conflict of interest statement listing all their financial interests totalling more than $100. This statement should be submitted to the State Power Authority and to the Secretary of State annually to be made available for public inspection in his or her office.

(d) The Directors of the Authority shall cause all employees of the Authority to prepare and submit to the Board of Directors a conflict of interest statement listing financial interests in a form and manner that the Board shall determine.

Section 3. State Power Authority: Public access—

(a) All meetings of the Board of Directors of the State Power Authority shall be open to the public, including all meetings of subcommittees and superior committees of the Board. In addition, complete minutes of the meetings shall be kept and shall be open to public inspection at convenient places throughout the state.

(b) All documents, working papers, reports, studies, and financial data shall also be open to public inspection at convenient places throughout the state.

Section 4. State Power Authority: Authorization of appropriations—

(a) There is hereby authorized to be appropriated such sums as may be necessary for the establishment of a State Power Authority until such time as the Authority has successfully issued notes or bonds.

Section 5. Repayment of State appropriations—

(a) All appropriations made by the state to the Authority shall be treated as advances by the state to the Authority, and shall be repaid to it without interest either out of the proceeds of securities, notes, or from excess revenues.

Section 6. State Power Authority: General corporate powers—

(a) The Authority shall have and exercise all other powers necessary or convenient to effect any and all of the purposes for which it is organized.

(b) The Authority shall have the power to contract and be contracted with; to sue and be sued; to adopt and amend bylaws; and to adopt and amend regulations governing the sale and delivery of all services sold, furnished or supplied by the State Power Authority.

(c) The Authority shall have the power to

acquire and hold real or personal property necessary or convenient for its purposes.

(d) The Authority shall have the power to sell, lease or otherwise dispose of any personal or real property rights not necessary for its purposes.

(e) The Authority shall have the power to apply to any federal, regional, or state board, agency or commission having authority to make or issue rulings, licenses, orders, or decisions.

(f) The Authority shall have the power to acquire by the exercise of the power of eminent domain any lands, properties, or rights it deems necessary for fulfilling its corporate responsibilities, subject to complete reviews by the appropriate courts. The Authority shall not have the power of eminent domain over state or municipally owned lands.

(g) The Authority shall have the power to apply for and accept grants or loans and the cooperation of the United States of America or any agency thereof to carry out the purposes of the Authority.

(h) The Authority shall have the power to perform, through contract, technical services for Public Energy Districts.

(i) The Authority shall have the power to fix, establish, revise, maintain, charge, and collect rates or charges for electric power and energy and all other services, facilities and commodities sold, furnished or supplied by the Authority.

(j) The Authority shall have the power to employ a general manager or executive director and such assistants, agents, engineers, financial, and legal help as required to properly perform its duties.

(k) The Authority shall have the power to borrow money and issue evidences of indebtedness for any of the purposes as provided in this Act payable solely from revenues pledged for the payment of such bonds, notes, certificates, or other evidences of indebtedness.

Section 7. State Power Authority: General duties—

(a) The Authority shall acquire through negotiation or condemnation all facilities in the state owned by privately owned utilities directly or indirectly used for the generating, transmission, or distribution of electricity for any purpose.

(b) The Authority shall pass title to all facilities for the distribution of electricity below 45 KVA to the PED within which these facilities are located. The title shall be passed upon demand of the PED with no payment required.

(c) The Authority shall operate all generation and transmission of electricity above 45 KVA in the most efficient manner consistent with the need for low rates and the protection of the natural environment.

(d) In those areas where a PED has not been established the Authority shall sell electricity directly to consumers at rates that will cover both fixed and operating costs.

(e) The Authority shall sell electricity at the lowest possible cost, consistent with sound financial practices to PEDs, cooperatives, and municipal utilities without discrimination.

(f) The Authority shall make available to the PEDs, cooperatives and municipal utilities within the state, assistance in raising money in the form of notes, debentures, or bonds taking advantage of the higher credit rating of the Authority.

(g) The Authority shall undertake a continuing assessment of trends in the consumption of electrical energy and analyze the social, economic, and environmental consequences of these trends, and carry out energy conservation measures, and recommend to the Energy Board new and expanded energy conservation measures.

(h) The Authority shall also, if it deems it necessary, make available through retail and wholesale new products and appliances that would assist in energy conservation, such as solar heating and cooling devices.

Section 8. State Power Authority: Nuclear Moratorium—

(a) The State Power Authority shall not build or otherwise cause to be built any nuclear power plant within the boundaries of this state until the Legislature, after appropriate investigation into the unresolved questions of the safety of such plants, gives specific approval for the construction of nuclear plants within the state.

Section 9. State Power Authority: Bonding—

(a) The Authority, for the purpose of acquisition of the existing privately owned utilities or for the construction of new facilities, may from time to time issue negotiable bonds or notes, and refund any bonds or notes by the issuance of new bonds or notes whether the bonds or notes to be refunded have or have not matured.

(b) The bonds or notes shall be authorized by resolution of the Board of Directors, shall be in such denominations and bear such dates, mature at such times not exceeding forty years from their respective dates, be in such form, be executed in such manner, be payable in such medium of payment at such places, and be subject to such terms of redemption as the resolution may provide.

(c) The full faith and credit of the state is pledged to the payment of bonds of the Authority issued under this section.

Section 10. State Power Authority: Acquisition—

(a) The state through its instrumentality, the State Power Authority, shall make a reasonable offer to acquire by purchase the assets of the privately owed electric utilities within the state.

(b) The Authority shall establish a Negotiation Board to determine the assets of the company or companies to be acquired, and in determining such compensation the Negotiation Board shall deduct any excess profits that the Board has determined the utility has accumulated in the most recent five years.

(c) If a reasonable offer as authorized is refused, the Authority is hereby authorized to acquire the desired assets through the exercise of the power of eminent domain and such acquisition is hereby determined to be in the public interest.

Section 11. State Power Authority: In lieu of taxes—

(a) The Authority shall not be liable for payment of any local or state taxes, but is required to make payment to the State a sum equal to 10% of its annual gross revenues, to be allocated amongst the subdivisions of the state as the Legislature shall determine.

Section 12. State Power Authority: Rights of employees—

(a) The right to collective bargaining is guaranteed to all employees.

(b) Employees shall have the right to participate, consistent with good management practices, in decisions regarding health, safety and general working conditions, scheduling, management procedures and general working conditions. Employees shall also be consulted on all major policy decisions involving changes in organization and technology.

TITLE V. STATE FUEL CORPORATION

Section 1. Establishment of State Fuel Corporation—

(a) There is hereby created a corporate instrumentality of the state to be known as the State Fuel Corporation which shall be a body corporate and politic and a political subdivision of the state, exercising governmental and political powers, perpetual in duration, capable of suing and being sued, and having a seal, and which shall have the powers and duties hereafter enumerated, together with such others as may hereafter be conferred upon it by law.

(b) The Corporation shall be administered by a Board of Directors (hereinafter referred to as the Corporation Board). The individuals appointed as members of the first Corporation Board shall be deemed the incorporators of the Corporation. The date of incorporation shall be held to be the date of the first meeting of the first Corporation Board at which a quorum is present.

(c) The Corporation Board shall consist of five qualified individuals, four of whom shall be selected by the members of the State Energy Board. All members of the Corporation Board shall be individuals who believe and profess a belief in the feasibility and wisdom of this Act. Appropriate weight in the selection of the Corporation Board members will be given to such factors as race, age, and sex. The members of the Energy Board shall designate the Chairperson of the Corporation Board.

(d) One member of the Corporation Board shall be a nonsupervisory employee of the Corporation chosen in an election among all nonsupervisory employees. The election will be held when the number of nonsupervisory employees reaches twenty.

(e) The term of office of the members of the Corporation Board shall be three years, with no person serving more than two consecutive terms. A successor to a member of the Board of the Corporation shall have a term of office expiring three years from the date of expiration of the term for which his predecessor was appointed.

(f) The Directors shall employ such technical and legal assistance as they require for the performance of their duties and shall prescribe the duties and compensation of each officer and employee. They shall adopt bylaws and rules and regulations suitable to the purposes of this Title. So long as and to the extent that the Corporation is dependent upon appropriations for the payments of its expenses, it shall incur no obligations for salary, office or other expenses prior to the making of appropriations adequate to meet the same.

(g) Directors shall receive an annual salary determined by the Legislature. In addition, each Director shall receive his or her reasonable expenses in the performance of duties hereunder, and may elect to become a member of the state employees' retirement system.

Section 2. Directors and employees: Qualifications—

(a) No Director of the Corporation or employee shall be employed by any privately owned corporation in the business of producing, refining, distributing, buying or selling petroleum, petroleum products or natural gas, within five years after he or she ceases to be a Director or employee of the Corporation. To further assure the independence of Corporation Board members, their compensation shall be continued for a period of one year at a level equal to three-quarters of their compensation at the end of their term.

(b) No person who is a Director or employee of the Corporation shall participate personally and substantially as a Director or employee of the Corporation, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, hearing, application, request for a ruling, or other determination, contract, claim, controversy, study, plan, or other particular matter in which, to his or her knowledge, he or she, a spouse, minor child, or partner or any organization he or she is serving, or has served as an officer, director, trustee, partner, or employee, while serving as a Director or employee of the Corporation or within five years prior to his or her appoint-

ment as a Director of the Corporation, has a direct or indirect financial interest.

(c) The Director chosen by nonsupervisory employees shall not participate in discussion or decision or in any other way attempt to influence the other members of the Board in any matter directly related to the nonsupervisory employees' individual status in the Corporation.

(d) All Directors of the Corporation must prepare and submit a conflict of interest form listing all their financial interests totaling more than $100. This form should be submitted to the Energy Board and to the Secretary of State annually to be made available for public inspection in his or her office.

(e) The Directors of the Corporation shall cause all employees of the Corporation to prepare and submit a conflict of interest statement listing financial interests in a form and manner that the Board shall determine.

Section 3. State Fuel Corporation: Public access—

(a) All meetings of the Board of Directors of the Corporation shall be open to the public, including all meetings of subcommittees and superior committees of the Board. In addition, complete minutes of the meetings shall be kept and shall be open to public inspection at convenient places throughout the state.

(b) All documents, working papers, reports, studies, and financial data shall also be open to public inspection at convenient places throughout the state.

Section 4. Authorization of Appropriations—

(a) There is hereby authorized to be appropriated such sums as may be necessary for the establishment of a State Fuel Corporation until such time as the Corporation has successfully issued notes or bonds.

Section 5. Repayment of State Appropriations—

(a) All appropriations made by the state to the Corporation shall be treated as advances by the state to the Corporation, and shall be repaid to it without interest either out of the proceeds of securities, notes, or from excess revenues.

Section 6. State Fuel Corporation: General corporate powers—

(a) The Corporation shall have and exercise all other powers necessary or convenient to effect any and all of the purposes for which it is organized.

(b) The Corporation shall have the power to contract and be contracted with; to sue and be sued; to adopt and amend bylaws; and to adopt and amend regulations governing the sale and delivery of all goods and services sold, furnished, or supplied by the State Fuel Corporation.

(c) The Corporation shall have the power to acquire and hold real or personal property necessary or convenient for its purposes.

(d) The Corporation shall have the power to sell, lease, or otherwise dispose of any personal or real property or rights not necessary for its purposes.

(e) The Corporation shall have the power to apply to any federal, regional, or state board, agency or commission having authority to make or issue rulings, licenses, orders, or decisions.

(f) The Corporation shall have the power to acquire by the exercise of the power of eminent domain any lands, properties, or rights it deems necessary for fulfilling its corporate purpose, subject to complete review by the appropriate courts. The Corporation shall not have the power of eminent domain over state or municipally owned lands or property.

(g) The Corporation shall have the power to apply for and accept grants or loans and the cooperation of the United States of America or any agency thereof to carry out the purposes of the Corporation.

(h) The Corporation shall have the power to fix, establish, revise, maintain, charge and collect rates or charges for all energy products and services that this Act authorizes the Corporation to provide to the public.

(i) The Corporation shall have the power to perform, or contract, technical services for Public Energy Districts.

(j) The Corporation shall have the power to employ a general manager or executive director and such assistants, agents, engineering, financial, and legal help as required to properly perform its duties.

(k) The Corporation shall have the power to borrow money and issue evidences of indebtedness for any of the purposes as provided in this Act payable solely from the revenues pledged for the payment of such bonds, notes, certificates, or other evidences of indebtedness.

Section 7. State Fuel Corporation: General duties—

(a) The Corporation is required within one year of the date of this Act, to acquire the direct ownership of or the legal rights to one hundred and fifty days' supply of petroleum, petroleum products and natural gas based on the relevant provisions of the Plan. To accomplish this, the Corporation is authorized to purchase at cost plus a profit of no more than seven percent the inventories of any corporation doing business in this state or to acquire such inventories by eminent domain. In the event that the establishment of a one hundred fifty day inventory would require the state to pay a price that is deemed by the Corporation and the Energy Board to be excessive, the Energy Board may extend the period for acquiring inventory to up to one additional year.

(b) Upon the approval of the Plan as described in Title II, the Corporation shall take all reasonable steps necessary to assure that the supply, distribution, and cost of energy to the state's residents as called for in the Plan will be met.

(c) The Corporation will have the authority to require disclosures of contract terms, inventories, and other information relevant to the carrying out of its responsibilities from any individual, association of individuals, or corporation engaged in the buying, selling, storing, or transporting of petroleum, petroleum products and natural gas within the state.

(d) After examining the records, plans, and capabilities of the private sector of the state's economy to determine whether the supply, distribution, and cost of petroleum, petroleum products and natural gas are adequate to meet the needs of the Plan, the Corporation may take such steps as it deems necessary to assure that the Plan will be met. Such steps may include:

(1) the leasing, purchasing, building, operating, and sale of storage facilities;

(2) the leasing, purchasing, and operating of transportation vehicles and facilities;

(3) the contracting with any agency, public or private, for storage, and transportation facilities, except that where feasible preference for such contracts must be given to public and nonprofit enterprises and single entrepreneurs and partnerships owned and operated primarily by residents of the states;

(4) purchase from any supplier, public or private, domestic or foreign, of petroleum, petroleum products or natural gas;

(5) invest, as part of a joint venture with other public corporations, federal or state, in enterprises for the production and refining and transport of petroleum, petroleum products and natural gas;

(6) with the specific approval of the Legislature and the Governor, engage in the production and refining of oil and natural gas, alone or in joint venture with private or public corporations;

(7) sell excess supplies of petroleum, petroleum products or natural gas.

(e) The Corporation is authorized to enter into long term contracts to supply petroleum products and natural gas to independent retailers in the state, giving preference to nonprofit enterprises and single entrepreneurships and partnerships operated by residents of the state. The Corporation is authorized to provide reasonable credit terms in the exercise of this authority.

(f) The Corporation is prohibited from owning directly all or a portion of a retail establishment.

Section 8. State Fuel Corporation: Bonding—

(a) The Corporation, for the purpose of acquiring, building, purchasing and operating facilities necessary for the exercise of its responsibilities, may from time to time issue negotiable bonds or notes whether the bonds or notes to be refunded have or have not matured.

(b) The bonds or notes shall be authorized by resolution of the Energy Board, be in such denominations and bear such dates, mature at such times not exceeding forty years from their respective dates, be in such form, be executed in such manner, be payable in such medium of payment at such places, and be subject to such terms of redemption as the resolution may provide.

(c) The full faith and credit of the state is pledged to the payment of bonds of the Corporation issued under this section.

Section 9. State Fuel Corporation: In lieu of taxes—

(a) The Corporation shall not be liable for payment of any local or state taxes, but is required to make payment to the state a sum equal to 10% of its gross revenue to the General Fund, to be allocated or not amongst the subdivisions of the state as the Legislature shall determine.

Section 10. State Fuel Corporation: Rights of employees—

(a) The right to collective bargaining is guaranteed to all employees.

(b) Employees have the right to participate, consistent with good management practices, in decisions regarding health, safety, hours of work, management procedures and general working conditions. Employees shall also be consulted on major policy decisions involving changes in organization and technology.

FIGHTING UNEMPLOYMENT WITH QUESTIONABLE STATISTICS

Mr. HUMPHREY. Mr. President, I have been concerned for some time now about the use of misleading economic statistics. Unemployment statistics are a good example. They do not include new job market entries, part-time workers, or workers unemployed for extended periods of time who get discouraged and stop looking for work.

Therefore, the unemployment problems we face today are vastly understated in Government statistics. I hope that the accuracy of these statistics will be improved quickly in order to help all of us have a clearer picture of the true extent of unemployment. Perhaps with the improved awareness of the real dimensions of the problem that this would provide, the administration would be moved to act more rapidly to initiate and support essential programs to aid our fellow Americans during the current deepening recession.

Mr. Sar A. Levitan, a noted expert in the employment field, who is associated with the Center for Manpower Policy Studies at the George Washington University, has recently prepared an insight-

ful analysis of our national unemployment statistics. It is a conclusive rebuttal to Prof. Raymond Livingstone's recent criticism of the use of aggregate national statistics. Professor Livingstone reached what I find to be an incredible conclusion, namely that our unemployment statistics overstate the seriousness of our unemployment problem. Regrettably, his views have been given wide publicity through an article in the U.S. News & World Report. Under normal conditions, such academic wanderings would be of minor significance. However, given today's economic conditions, such an analysis can be dangerously misleading to public policymakers.

Mr. President, I ask unanimous consent that Mr. Levitan's excellent paper, "Fighting Unemployment With Questionable Statistics," be printed in the RECORD.

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

FIGHTING UNEMPLOYMENT WITH QUESTIONABLE STATISTICS

Blaming the messenger for the bad news is an old, if not too respected, sport. Now that unemployment is on the rise, it is not at all surprising to find a revival of the old shibboleths that our unemployment problems are largely the creation of the bureaucrats.

One presumed analysis of government unemployment figures has been released by Raymond S. Livingstone, a visting professor in the College of Business and Public Administration at Florida Atlantic University. His findings have been publicized in the U.S. News & World Report (November 18, 1974), and the NAM (November 25, 1974).

According to Professor Livingstone, the problems of unemployment are grossly exaggerated because the media zero in only on a single unemployment rate. These overall figures, he claims, greatly overstate the problem. Since unemployment is now a national issue which has received banner headlines, it is worth reexamining the accuracy of Professor Livingtone's allegations.

Professor Livingstone would count only full-time primary earners as unemployed. He claims that this is what the British do. The fact is that the British count not only the primary earners, but also any other jobless worker who registers at the Employment Exchange. We do have a similar figure collected for the purposes of paying unemployment insurance. When employment was 6 percent, the insured unemployed in the United States were 3.6 percent of all covered workers and not 1 percent, as Livingstone suggested.

It really wouldn't make any sense to count only primary earners as unemployed since more than 40 percent of American wives with husbands present are now employed. Over half work full-time for at least half the year and contribute significantly (over 30 percent on average) to family budgets. Let's assume these working wives lose their jobs. If Mr. Livingstone would have his way, they would not be counted among the unemployed. However, the accompanying dip in consumer purchasing power could create a deep depression rather than the recession we have now. According to Mr. Livingstone, we would still have only 1 percent unemployed, but would that reflect actual economic conditions?

2. Unemployment, according to Mr. Livingstone, is apparently not a serious problem because "only" 347,000 individuals in October should be counted among the hard-core unemployed, namely those unemployed for more than 26 weeks. Clearly, 6 months is a long period to be forced into idleness, but Mr. Livingstone, who claims to be familiar with government unemployment statistics, is less than candid with his readers when he limits the hard-core unemployed even if well-paying jobs are available for 26 weeks or more. The government also reported in October another 556,000 who were idle 15 to 26 weeks, bringing the total jobless over 15 weeks to 17.9 percent of the unemployed. And surely Mr. Livingstone is acquainted with statistics about discouraged workers—unemployed workers who quit seeking work because no work is available for them. As the third quarter of 1974, the United States Bureau of Labor Statistics counted 592,000 persons who gave up looking because they could not get jobs. If Mr. Livingstone wanted to count hard-core unemployed, shouldn't he also have added the discouraged workers who have even stopped looking for a job?

3. Another problem Mr. Livingstone finds with the unemployment figures is that some people expect what he considers inordinately high wages, and they may be counted among the unemployed even if jobs paying lesser wages are available. But Mr. Livingstone cannot have his cake and eat it too. If there is any merit to his argument that some workers are counted among the unemployed even if well-paying jobs are available for them, shouldn't he include in his unemployment totals those employed family heads who earn less than a poverty wage? These figures are also available from government statistics and he would find that there were 2.1 million fully-employed family heads whose earnings were insufficient to bring their families above the poverty threshold. Before the present recession started, an additional 3.5 million family heads were subject to spells of unemployment and therefore did not work full-time and earned less than poverty wages.

4. In addition, Mr. Livingstone might have shown more concern with the concentration of unemployment, instead of dealing only with aggregates. While average unemployment in the United States, according to government statistics, was 6 percent, black unemployment was 10.9 percent and has been constantly about double the national average for whites. And, government statistics list 314 areas of chronic unemployment where the rate has been over 6 percent during the past year, long before the national average climbed to that level. Mr. Livingstone completely overlooks these "details."

5. Finally, Mr. Livingstone's analysis sidesteps the basic reason for rising concern with unemployment. Whatever method one chooses to count the noses, the numbers are rapidly growing. Between October 1973 and 1974, while employment among household heads grew by 593,000, unemployment among that important segment of the labor force grew by 462,000. Those out of work over 15 weeks rose from 298,000 to 399,000. Five years ago when the unemployment rate averaged a more acceptable 3.8 percent, only one-third as many household heads were idle over 15 weeks compared with this October.

We are facing a serious unemployment problem. Proper national policies are likely to ameliorate the problems, but distorting available statistics is not part of the solution to our unemployment situation.

SAM MALKAN

Mr. RIBICOFF. Mr. President, on December 4 an old friend, Sam Malkan, celebrated his 81st birthday and was able to share this wonderful milestone with many of his dear friends in Connecticut. As a devoted public servant, Sam Malkan should be cited for his work for the State of Connecticut in many capacities. He was elected to the State senate twice, and during his tenure in that body he had the honor of occupying the Governor's chair on two occasions in the absence of the sitting chief executive in the State. He was later named State boxing commissioner and implemented many significant advances in that post. He has also had a distinguished career on the stage, in the business world, and with the veterans' groups with which he has been involved. And in each field he has quickly gained the respect and friendship of his associates.

Sam Malkan clearly deserves the praise of all who seek to recognize accomplishments in the field of public service, and I ask unanimous consent that an article in the New Haven Register detailing his accomplishments be printed in the RECORD.

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

[From the New Haven Register, Nov. 30, 1974]

SATURDAY JOURNAL

Somewhere it is written, "Man in his time plays many roles." Right now in Yale-New Haven Hospital, former State Sen. Samuel H. Malkan is playing the part of an irritable patient recovering from a hip operation.

That scene is nearly complete. The one-time singer who toured the vaudeville circuits of the nation as a tenor with the Cabaret Trio has received unofficial word that he'll be released next week.

Actually his physical troubles began a year or so back according to his sister, Tessie, who, with Sam, is the last of the family of four born to Mr. and Mrs. Jacob Malkan in Washington, D.C.

It seems that Sam was taking some dresses home from the tailors for his sister. He stepped from the car and onto the cellophane bags, slipping to the ground. He was hospitalized and unknown to him, had a pin placed in his hip.

Six months later came the pain which for most of his life had been unknown to the man who is renowned for the carnation that he wears daily in his coat lapel.

Sammy will be 81 next Wednesday and he can look back upon a background of the stage, politics and business. The business instinct was cut from his father's cloth. His politics from the faculty of hitting when the iron is hot. As for the stage Malkan says, "I always knew I could sing."

When Jacob decided to move his family to New Haven, Sam was just a toddler. He attended the old Winchester School on Gregory Street, walking daily from the family home on Oak Street.

When he got to a working age, he picked up the rudiments of real estate from his father whose office, for 40 years, was in the old Poli Theater Building on Church Street.

Then he went to Hillhouse mornings and worked afternoons for 50 cents at Little & Freeman's on Chapel Street.

He was invited to sing one night while waiting on tables at the home of Lewis G. Stoddard where the Yale football team of 1916 was breaking its training. The late "Jigger" McCarthy heard him and invited him to stick around. Sam did and filled in as a tenor in the Cabaret Trio billed as from New York. He was well received and shortly thereafter went on tour with the group which had a blind pianist, Arthur Stone, singing the lead, and Benny DeVere as baritone.

"I was of draft age when the First World War broke out," Malkan recalls. "So I enlisted in the Navy. I was called up in 1917 and was out in January of 1919 and I went back to the stage playing all of the big circuits. I spent some time with the trio in New York

singing in nightspots but finally I returned to New Haven to help my father—and myself.

Sam did a good job of it and at the suggestion of Nick Mona worked to get the Democratic nomination for state senator in 1933. His diligence paid off and he was able to defeat Republican Harold Blakeslee by seven votes for the post. An official recount held up and for the next seven terms, Sam went to the State Senate, twice serving as Governor for a Day in the absence of Governors Earl E. Baldwin and Chester E. Bowles under the rules which require the president pro-tem of the Senate to fill the seat.

It was in 1948–1949 that Malkan was appointed State Boxing Commissioner by Bowles. During his tenure he saw his own bill passed which made it mandatory for all boxers in state rings to carry insurance.

The night most cherished by Sam was the testimonial given him at the old Wilcox Pier at Savin Rock.

Congressman James A. Shanley was general chairman and Alexander Winnick the toastmaster.

Seated at the head table were U.S. Senators Brien McMahon and Raymond Baldwin, Congressmen Abraham Ribicoff and John A. McGuire, Gov. Bowles, Lt. Gov. William T. Carroll, Secretary of the State Winifred McDonald, Treasurer Joseph A. Adorno, Comptroller Raymond S. Thatcher, Atty. Gen. William L. Hadden, State Police Commissioner Edward P. Hickey, World's Featherweight Champion Willie Pep and such state and national figures as John M. Bailey, Dorothy Satti, Paul F. Connery, Mary Flynn, Alfred Wechsler, John P. Cotter, and Rabbi Stanley Rabinowitz of the B'nai Jacob Synagogue gave the invocation.

"It started with Freda Svirsky accompanying Mary Colella's rendition of the "Star Spangled Banner" and wound up with a New York vaudeville show. How's that for a cast?"

Solid, man. Solid.

THE DEATH OF DR. KENNETH M. LYNCH

Mr. THURMOND. Mr. President, Dr. Kenneth M. Lynch, an eminent South Carolina physician and educator, died on November 29, 1974, at his home in Summerville, S.C. Any profession pursued with diligence and integrity is worthy of high regard, but there seems to be something especially noble about the jobs of caring for the sick and educating the young. A man who has performed both of these jobs, and performed them tirelessly for almost seven decades, has rendered services to his State and country that should never be forgotten. Such a man was Dr. Lynch.

A native of Texas, Dr. Lynch received his medical degree from the University of Texas in 1910. After 3 years of practicing and teaching pathology in Pennsylvania, he came to the Medical College of South Carolina in 1913, the institution to which he was to devote the rest of his long life.

From professor of pathology, his first position at the college, Dr. Lynch rose to the position of vice dean in 1935 and dean in 1943. In 1949, he became president; and in 1969, when he retired from the presidency, he was named chancellor and professor emeritus. Thus, at different times, he held all the most important administrative positions of the college, and he deserves much of the credit for the college's steady growth in size and reputation.

Besides leading the college as an administrator, Dr. Lynch continued to teach pathology throughout his career. Nor did he neglect his scientific interests, as the 100 papers and 2 books he published on his researches will testify. Indeed, his medical colleagues thought so highly of him that they repeatedly elected him to high office in professional organizations, including the presidency of the American Medical Association. The awards he received for his scientific work were numerous and prestigious.

Dr. Lynch has gone from us now after 87 years of incomparable service. However, the legacy he has left behind him will be with us for many more years than that. His research and his personal care have given to many the priceless possession of health, and his work as an educator has enabled many others to do the same. As long as medicine is practiced in South Carolina, Dr. Lynch's name will be gratefully remembered.

Mr. President, on the occasion of Dr. Lynch's death, a number of articles appeared in many South Carolina newspapers in his honor. I ask unanimous consent that four representative accounts be printed in the RECORD at the conclusion of my remarks, as follows: "Former MUSC President, Dr. Lynch, Dies," the State, Columbia, S.C., November 30, 1974; "Dr. Kenneth M. Lynch, Former MUSC Head, Dies," The News and Courier, Charleston, S.C., November 30, 1974; "Dr. Lynch Funeral Sunday," the News and Courier, Charleston, S.C., December 1, 1974; and "Dr. K. M. Lynch," the Evening Post, Charleston, S.C., December 3, 1974.

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

FORMER MUSC PRESIDENT, DR. LYNCH DIES

Dr. Kenneth Merrill Lynch, professor emeritus and retired president and chancellor of the Medical University of South Carolina, died Friday.

The funeral will be 3 p.m. Sunday at the graveside in Sunnyside Cemetery, Orangeburg, directed by Dukes-Harley Funeral Home.

Dr. Lynch retired as president of MUSC in 1960 after 47 years with the university. He then was named professor emeritus and chancellor.

With Dr. Joseph I. Waring, he was coauthor of the university's commemorative sesquicentennial history published earlier this year.

Dr. Lynch was born Nov. 27, 1887, in Hamilton County, Tex., a son of William Warner Lynch and Mrs. Martha Isabel Miller Lynch.

He received his medical doctor's degree from the University of Texas in 1910 and has been awarded honorary degrees by his alma mater and by the College of Charleston, Clemson University and the University of South Carolina.

He served as resident in pathology at Philadelphia General Hospital and taught pathology at the University of Pennsylvania and was also assistant pathologist at Pennsylvania University Hospital and Philadelphia General Hospital.

When the Medical College of South Carolina (now the university) became a state institution in 1913, Dr. Lynch became the first full-time member of the new faculty as professor of pathology, a position he held until his retirement.

He was named vice dean of the college in 1935 and dean in 1943. In 1949 he was elected consultant pathologist to the Veterans Administration and also was pathologist in charge of hospitals associated with the college and several other hospitals. He served as a captain in the U.S. Army Medical Corps during World War I.

The Southern Medical Association presented him with its First Award for Scientific Exhibits, the Distinguished Service Award and the Research Medal. The American Medical Association awarded him the gold medal for scientific exhibits.

He was a member of numerous scientific and learned societies and was a past president of the American Society of Clinical Pathologists, American Society of Tropical Medicine and the S.C. Medical Association. He also was past president of the American Medical Association.

He held membership in Phi Beta Kappa, Alpha Omega Alpha, Omicron Delta Kappa, Blue Key and other honor societies and in 1967 was presented the Distinguished Service Award of the University of Texas Medical Branch.

He was the author of two medical books and more than 100 papers published in various medical and scientific journals. His publications concerned mainly his research in protozoal diseases, industrial dust diseases of the lung and cancer.

Shortly after retirement he was honored at a special governor's appreciation dinner at which his work in increasing the size and scope of the Medical University was praised. Speakers also noted that he had at that time (1961) taught more than half of the physicians then practicing in South Carolina and that more than 2,000 medical doctors had attended his classes.

Dr. Lynch was an ardent sportsman and experimented with raising wild turkeys. His studies of that game bird have proven valuable to state and federal game management programs.

He was given much credit for his influence in having a Veterans Administration hospital built at Charleston.

Surviving are: two daughters, Mrs. William W. Humphreys, and Mrs. C. S. Farley Smith, both of Charleston; a son, William W. Lynch of Orangeburg; two brothers, Howard W. Lynch of Amarillo, Tex., and Henry M. Lynch of Estes Park, Colo.; a sister, Miss Maude I. Lynch of Amarillo; nine grandchildren.

DR. KENNETH M. LYNCH, FORMER MUSC HEAD, DIES

SUMMERVILLE.—Dr. Kenneth M. Lynch, 87, chancellor and former president of the Medical University of South Carolina, died Friday at his Summerville home.

Dr. Lynch was born in Hamilton County, Tex., and received his medical degree from the University of Texas. He held honorary degrees from the University of South Carolina, College of Charleston and Clemson University.

He served as dean of the Medical University from 1943 to 1949 and as president and dean of faculty from 1949 to 1960. He was named chancellor and professor emeritus of pathology in 1960. He had been associated with the medical school since 1913, becoming the institution's first full-time faculty member.

He served as vice president of the American Medical Association, on the board of governors of the American College of Physicians, as president of the American Society of Tropical Medicine, as president of the American Society of Clinical Pathologists, and as president of the S. C. Medical Association, on the board of directors of the American Cancer Society, chairman of the S.C. Cancer Commission from 1939–1944 and chairman of S.C. State Board of Health.

He received the distinguished service award of the Southern Medical Association in 1957, and in 1958 the distinguished service cita-

tion and medal of the American Cancer Society.

Surviving are two daughters, Mrs. Fairey Lynch Smith of Charleston and Mrs. William Humphreys of Charleston; a son, William Wannamaker Lynch of Orangeburg; two brothers, Howard Lynch of Amarillo, Tex., and Henry Lynch of Estes Park, Colo.; a sister, Miss Maude Lynch of Amarillo, Tex.; nine grandchildren; and three great-grandchildren.

Services will be at 3 p.m. Sunday in Sunnyside Cemetery in Orangeburg.

Dukes-Harley Funeral Home is in charge.

DR. LYNCH FUNERAL SUNDAY

The funeral for Dr. Kenneth Merrill Lynch will be 3 p.m. Sunday at the graveside in Sunnyside Cemetery, Orangeburg, directed by Dukes-Harley Funeral Home.

Dr. Lynch, professor emritus and retired president and chancellor of Medical University of South Carolina (MUSC), died Friday. He was 87.

Dr. Lynch retired as president of MUSC in 1960 after 47 years with the university.

He was the first full-time faculty member, as profesor of pathology, of the Medical College of South Carolina (now the university) when it became a state institution in 1913. He was president for 11 years.

DR. K. M. LYNCH

Under the strong leadership of Dr. Kenneth M. Lynch, the Medical College (now University) of South Carolina entered a period of expansion which has continued since his retirement in 1960.

Dr. Lynch piloted through the General Assembly legislation to build a teaching hospital, and supervised its construction. His 47-year connection with the medical school at Charleston began in 1913, when he became the first fulltime member of the faculty of the newly designated state institution. Dr. Lynch was appointed professor of pathology, a position he held until his retirement.

A native of Texas, Dr. Lynch achieved a nationwide reputation as a pathologist and administrator. In a career devoted to teaching, he supervised the training of thousands of physicians. He wrote two books and more than 100 published papers. He had many interests, among them the raising of wild turkeys. His death at age 87 has ended a fruitful lifetime and a distinguished service to medical education.

TOLEDO NEWSPAPER LAUDS SENATOR CANNON

Mr. ROBERT C. BYRD. Mr. President, the Blade, an outstanding newspaper in Toledo, Ohio, carried an interesting and justifiably flattering profile of the distinguished Senator from Nevada (Mr. CANNON) in its Sunday, December 15, edition.

The article, written by Mr. Frank Kane, Washington correspondent for the Blade, commends Senator CANNON for the "thorough, courteous manner" in which he, as chairman of the Senate Rules Committee, conducted the hearings on Nelson Rockefeller to be Vice President.

Mr. Kane's profile traces Senator CANNON's childhood on a Utah farm, and his early years in politics—and it mentions the skill with which he played the saxophone with a dance band to help pay his way through law school.

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

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

HOWARD CANNON GREW UP ON UTAH RANCH—COURTEOUS SENATE RULES CHAIRMAN IS LAWYER, AVIATOR, SAXOPHONIST

(By Frank Kane)

WASHINGTON.—When the Senate Wednesday voted overwhelmingly to confirm the nomination of Nelson Rockefeller as vice president, Mr. Rockefeller promptly voiced high praise for the chairman of the committee which had handled the nomination—a fairly senior but hitherto obscure Nevada Democrat, Howard W. Cannon.

In a way, Mr. Rockefeller was voicing the feelings of many other Americans who got their first real look at Senator Cannon and his Senate Rules and Administration Committee via either public or commercial television during the Rockefeller hearings.

Like him, they may have been impressed with the courteous, thorough manner in which the Nevada senator conducted what the committee itself later described as probably the "greatest in-depth confirmation inquiry ever carried out by a committee of the United States Senate—and properly so."

The Senate Rules Committee, unlike the House Rules Committee, which serves as a traffic cop on legislation, is basically concerned with what Senator Cannon himself calls housekeeping matters.

Assignment of office space in the Senate Office Buildings; administration of the Senate restaurant, matters relating to printing and correction of the Congressional Record; management of the Library of Congress and the Smithsonian Institution are a few of the unexciting subjects that come under its jurisdiction.

But it also holds the purse strings on operating funds for the other Senate committees, an important power, and has jurisdiction over all legislation and matters pertaining to federal elections and corrupt practices as well as "presidential succession."

Under its power to hear legislation on federal elections, it did the basic work for the Senate on the recent campaign spending reform law. It also will conduct hearings on the close senatorial election in New Hampshire, which Senator Cannon expects will wind up in the Senate's lap for a final decision.

And because it also is designated as the committee for matters involving "presidential succession," it conducted the Senate's hearings on the two men who have been nominated as U.S. vice presidents so far under the 25th Amendment to the Constitution—Gerald Ford and Nelson Rockefeller.

It also was the committee charged with the responsibility for developing the rules for the impeachment trial of Richard Nixon. These rules were developed and are pending on the Senate calendar. If and when they are ever adopted they will serve as the framework for any future impeachment trials.

One indication that some senators realize the potential importance of the committee is the fact that no fewer than three of the four top Senate leaders serve on it: Democratic whip Robert Byrd of West Virginia, Republican minority leader Hugh Scott of Pennsylvania, and assistant Republican leader Robert Griffin of Michigan.

Senator Cannon himself first went on the committee in 1959, when he came to the Senate, at the request of then Democratic majority leader Lyndon Johnson.

In a typical Johnsonian deal, the majority leader offered to give Senator Cannon his other preferred committee assignments if he would serve on the Rules Committee.

The Senator from Nevada was born 62 years ago in the small town of St. George, Utah, about 125 miles from Las Vegas, Nev. His father was a farmer and rancher, served as a postmaster under Republican administrations, taught at the local college, and was on the board of directors of a bank.

But the family was "not at all well-to-do," the senator says, and he worked his way through Dixie Junior College in St. George, Arizona State Teachers College at Flagstaff, and the University of Arizona law school by playing saxophone in a dance band that he had organized.

The senator is still proud of that band, which once played on a cruise ship touring the Far East. He talks about how one member went on to become director of the Tucson Philharmonic Orchestra, another played with Fred Waring, and another taught at Juilliard School of Music. "I had a lot of good musicians with me."

Occasionally, on request, he'll stand in with a band in a Las Vegas nightspot and play a few bars.

After graduation from law school in 1937, he practiced law in St. George and was elected county attorney in 1940. But he had also enlisted in the Utah National Guard and in 1941 he was called to active duty with a unit of combat engineers.

However, he had a lifelong interest in aviation and had taken flying lessons while in college and even helped a roommate, who later became an airline pilot, deliver newspapers by air to small towns in Arizona.

After Pearl Harbor, the army air corps conducted an intensive search for persons with flying experience and Mr. Cannon shifted from the engineers to the air corps.

In the fall of 1944, then Major Cannon and a Col. Frank Krebs were in the lead ship of a 45-plane formation carrying the first wave of paratroopers to be dropped in the Arnheim bridge area in the Allied invasion of The Netherlands.

Their plane was hit by anti-aircraft fire and the other crew members bailed out. Major Cannon and Colonel Krebs were separated from the rest of the crew and, with the aid of the Dutch underground, spent 42 days evading capture by the Germans.

At one point they masqueraded as a farmer and his hired hand and used the munching of an apple as a recognition signal to contact one group of Dutch sympathizers on a bridge.

Today a large oil painting showing two Dutch farmers crossing a bridge, with a half-eaten apple in the foreground, hangs in the senator's office. It was painted by an air force intelligence officer after he heard their story.

Col. Krebs is now a member of the senator's staff, specializing in military and space legislation.

Mr. Cannon continued in the air force reserve after the war ended. He now is a retired reserve major general.

He also continued his flying, piloting some of the more advanced air force planes over the years, and even today manages to get in about 150 hours a year, mostly piloting himself to small communities in Nevada which lack good commercial air service.

After the war he moved to Las Vegas, then only 10,000 or 12,000 in population but about three or four times bigger than St. George, and started practicing law there.

He was elected four times as Las Vegas city attorney, served as president of the county chamber of commerce, and in 1958 was elected to the U.S. Senate and re-elected in 1964 and 1970.

In 1964, he barely managed a 48-vote win over then Lt. Gov. Paul Laxalt, who won Nevada's other Senate seat last month. Mr. Cannon picked up 58 per cent of the vote in 1970.

He is chairman of the Senate Commerce subcommittee on aviation and also chairman of the tactical air power subcommittee of the Senate Armed Services Committee.

He was a staunch backer of development of the supersonic transport plane (SST) and once told an aviation writer that its congressionally dictated demise ranked as his biggest disappointment.

He also is a sharp critic of the Civil Aeronautics Board, which he claims is failing to provide Americans with inexpensive air transportation. He told the Senate last week that "never in my memory have we had a Civil Aeronautics Board so callous to the needs of the public."

If criticism could be voiced of the way that Senator Cannon and the Rules Committee handled the Rockefeller nomination, it would be the fact that some of the material damaging to the nominee, such as the financing of the Arthur Goldberg book and the gifts to public officials, came out via "leaks" between the committee's first set of hearings in September and the time they were resumed in November.

Senator Cannon says that he knew about the Goldberg book before the committee even started its hearings and had made enough of an investigation himself to believe what Mr. Rockefeller had told the FBI in its inquiries—that he had nothing to do with the publication of the book.

However, when parts of the story were "leaked," apparently by staff members, and Mr. Rockefeller subsequently assumed full responsibility for the publication of the book, the senator felt that the committee would have to go into the matter thoroughly and "lay everything out on the record."

The committee eventually concluded that the most Mr. Rockefeller had done was exercise "poor judgment" by "tacitly" approving the publication of the book, which was used in his 1970 New York gubernatorial race against Mr. Goldberg, and asking his brother, Laurance, to arrange for its financing.

As for the gifts, they were not brought out in the first set of hearings because the committee was not that far enough along in its investigation at that time, he adds.

At that time, the committee was in a hurry to get the hearings under way because it was under criticism for delaying confirmation of the appointment, he explains.

A central question involved in the Rockefeller hearings was whether the wedding of great wealth (in the nominee's family fortune) and great political power (if he became vice president, with the possibility of some day succeeding to the presidency) would involve potential conflicts of interest.

On that the committee accepted the former governor's "candor and straightforward responses" that he would be guided by the public interest rather than his family's business interests. This conclusion, it said, was supported by the absence of any evidence that "meaningful" conflict-of-interest charges had been raised against him during 15 years as governor of New York, where his family's major holdings are headquartered.

Now that his committee has heard two vice presidential nominees (one of whom later became president) under the 25th Amendment, Senator Cannon thinks that it might be time to take another look at that amendment and see if it needs to be revised.

Perhaps there should be some procedure whereby if one person suceeds to the presidency without election, the second person (his vice presidential nominee) would be subjected to a popular referendum.

In other words, some method of avoiding a situation where presidential succession gets "too far away from the public" might have to be developed.

STRIP MINING—COSTS OF RECLAMATION

Mr. BAKER. Mr. President, on last Monday, when the Senate turned its consideration to the conference agreement on S. 425, I submitted in my statement on this legislation statistics furnished me last year by the Tennessee Valley Authority regarding the cost of back to contour reclamation. Those statistics showed that multiple-seam, back-to-contour reclamation in the Appalachian Mountains could be accomplished with total costs—including mining, loading and reclamation—of somewhat over $11 per ton compared with a cost of $8.50 at a standard reclamation mine.

In the last few days I have received another report from the Tennessee Valley Authority regarding a single-seam, backcut strip mine in the same area of eastern Tennessee. The coal seam at this area was only 19 inches thick, but in order to provide data on more commercially mineable seams the TVA has projected the cost on the basis of 30, 36, and 40 inch seams. Their report, which was submitted by Dr. Thomas H. Ripley, the director of their Forestry, Fisheries and Wildlife Development Division, indicates that this project experienced a total cost—including mining, loading and land reclamation—of only $8.65 per ton.

As I am sure my colleagues are aware, the present cost of eastern coal is substantially in excess of this amount. Therefore, it would seem safe to conclude that the reclamation standard specified by S. 425, approved in the last several days by both the House of Representatives and the Senate, will not add substantially to the cost of surface-mined coal from Appalachian coal fields.

While this news is encouraging from the standpoint of substantiating the practicability of the standard contained in S. 425, I feel that it is a sad footnote to the devastation of millions of acres of land in the Appalachian Region.

Mr. President, I ask unanimous consent that a copy of the report of Dr. Thomas H. Ripley be printed in the RECORD.

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

TENNESSEE VALLEY AUTHORITY

To: Mr. Lynn Seeber, General Manager, 411 NSB, Knoxville

From: Thomas H. Ripley, Director of Forestry, Fisheries, and Wildlife Development, Norris

Date: December 3, 1974

Subject: Single seam "block-cut" project—Koppers Property, Campbell County, Tenn.

We have completed the compilation of mining and reclamation costs on the single seam Pennsylvania "block-cut" project on the Koppers property. Attached is a breakdown of the distribution of expenses reported by Long Pit Mining Company and verified by Finance.

The coal seam on the test area averaged only slightly more than 19 inches. We have, therefore, recalculated costs to show what they would be had the coal been of more commercial thickness, specifically 30, 36, and 40 inches. Based on this test, the mining, loading, and land reclamation associated with a three-foot seam would average *$8.65* per ton.

Costs reported here are the result of using only bulldozers and front-end loaders as commonly practiced in Pennsylvania. Mr. Long is now testing efficiency improvements in this type mining by utilizing large haul trucks in addition to the dozer and front-end loader. The results of this test work will be available later.

All data and work sheets on these tests are being supplied the Office of Power. Special thanks are due Mr. Bob Smith, Division of Finance, for his thorough job of cost accounting.

THOMAS H. RIPLEY.

SINGLE SEAM BLOCK—CUT PROJECT—KOPPERS PROPERTY—CAMPBELL COUNTY, TENN.

DISTRIBUTION OF EXPENSES FOR THE 10 COMPLETED BLOCKS INCLUDING SUMMARY OF ESTIMATED COSTS FOR COAL SEAM THICKNESSES OF 30, 36 AND 40 INCHES

	Total blocks 1–10	Block No. 1	Block No. 2	Block No. 3	Block No. 4	Block No. 5	Block No. 6	Block No. 7	Block No. 8	Block No. 9	Block No. 10
Drilling and blasting	$25,630.08	$3,162.75	$1,991.45	$1,399.40	$1,627.51	$3,726.61	$3,096.11	$1,694.15	$2,880.82	$4,323.79	$1,727.49
Clearing trees, silt basins, prospecting, build roads	9,119.43	911.95	911.95	911.95	911.94	911.94	911.94	911.94	911.94	911.94	911.94
Removal of overburden	61,276.78	11,581.31	6,740.45	1,427.75	3,192.52	4,742.82	8,033.39	5,453.63	5,802.91	8,621.64	5,680.6
Safety equipment	186.83	37.31	19.32	7.19	10.41	16.16	21.93	15.15	18.23	25.09	16.04
Loading at pit	4,506.93	970.79	313.23	142.87	190.64	286.19	459.71	333.96	715.25	551.65	542.64
Reclaiming	9,885.26	5,686.00	412.22	534.79	412.22	534.79	412.22	534.79	412.22	534.79	411.22
Supervision	2,072.31	413.84	214.28	79.78	115.43	179.25	243.29	168.06	202.26	278.31	177.81
Maintenance and fuel	46,335.72	9,253.24	4,791.11	1,783.93	2,580.90	4,008.04	5,439.81	3,757.83	4,522.37	6,222.89	3,975.60
Office and Miscellaneous	12,658.37	2,726.61	879.76	401.27	535.45	803.81	1,291.15	937.99	2,008.88	1,549.38	1,524.07
Total	171,671.71	34,743.80	16,273.77	6,688.93	9,577.02	15,209.61	19,909.55	13,807.50	17,474.88	23,019.48	14,967.17
Average seam thickness (inches)	19.2	18	12	14.4	16.8	14.4	21.6	16.8	24	21.6	24
Tons—Estimated	10,586	2,280	736	336	448	672	1,080	784	1,680	1,296	1,274
Cost per ton	$16.22	$15.24	$22.11	$19.91	$21.38	$22.63	$18.43	$17.61	$10.40	$17.76	$11.75
Average seam thickness (inches)	30	30	30	30	30	30	30	30	30	30	30
Tons—Estimated	16,933	3,800	1,840	700	800	1,400	1,500	1,400	2,100	1,800	1,593
Cost	$174,373.91	$35,390.84	$16,743.91	$6,844.08	$9,726.98	$15,519.46	$20,088.46	$14,069.58	$17,653.69	$23,234.17	$15,102.74
Cost per ton	$10.30	$9.31	$9.10	$9.78	$12.16	$11.09	$13.39	$10.05	$8.41	$12.91	$9.49
Average seam thickness (inches)	36	36	36	36	36	36	36	36	36	36	36
Tons—Estimated	20,320	4,560	2,208	840	960	1,680	1,800	1,680	2,520	2,160	1,912
Cost	$175,815.90	$35,714.40	$16,900.58	$6,903.69	$9,795.09	$15,638.67	$20,216.18	$14,188.79	$17,832.51	$23,387.44	$15,238.55
Cost per ton	$8.65	$7.83	$7.65	$8.22	$10.20	$9.31	$11.23	$8.45	$7.08	$10.83	$7.97
Average seam thickness (inches)	40	40	40	40	40	40	40	40	40	40	40
Tons—Estimated	22,556	5,062	2,451	932	1,066	1,865	1,998	1,865	2,797	2,398	2,122
Cost	$176,767.87	$35,928.13	$17,004.04	$6,542.85	$9,840.22	$15,717.43	$20,300.48	$14,267.55	$17,950.44	$23,488.77	$15,327.96
Cost per ton	$7.84	$7.10	$6.94	$7.45	$9.23	$8.43	$10.16	$7.65	$6.42	$9.80	$7.22

TOM KOROLLOGOUS—A DEDICATED PUBLIC SERVANT

Mr. WILLIAMS. Mr. President, over the past decade I have had the pleasure of working with Tom Korollogous, first as administrative assistant to the senior Senator from Utah (Mr. BENNETT) and later as Senate liaison officer for the White House. During this entire period of time, and although we may not have always agreed on specific matters—I found Tom to be a dedicated public servant.

Tom has always carried out his duties in an honest and forthright manner. He has worked long and hard in the service of his Nation and I for one regret seeing him leave Government service. His dedication to duty will be sorely missed and I know that in his future endeavors he will be as successful as he has been in the past in working with the Congress.

In particular I would like to take this opportunity to commend Tom for his excellent counsel and advice during our consideration of the mass transit bill last month. Without Tom's efforts this most important legislation which benefits all of our Nation's citizens might well not have been enacted into law.

Mr. President, I know that I speak for all Members of this body when I say: "Tom, your shoes will be hard to fill and we will all miss your contributions to our efforts; but, in the months ahead, we all wish you success in your future endeavors."

THE DEATHS OF MR. AND MRS. CHALMERS LUKE GODWIN, SR.

Mr. THURMOND. Mr. President, a double note of sadness befell the town of Summerton, S.C., in recent months with the deaths of Mr. and Mrs. Chalmers Luke Godwin, Sr.

They were beloved in their community and had been so much a part of life in the area in which they lived that it is difficult to realize they are no longer a part of it. Mr. Godwin died August 14, 1974, at the age of 78. Mrs. Godwin died October 29, 1974, at the age of 72.

Mr. President, this devout couple exemplified the life of service and compassion which can serve as guides to each of us who knew them. It is heartwarming, indeed, to know of the love and affection which is part of the legacy to their family and numerous friends.

Mr. Godwin was a rural mail carrier who retired after 38 years of service. In his daily rounds he carried not only the mail to the people along his route, but also the friendship of a neighbor. Throughout America, no finer example could be followed by every citizen in the regular discharge of their duties than Mr. Godwin's record of responsibility blended with the interest of a helping hand.

In later years he had headed a real estate firm. He was also a farmer who worked the soil for the rewards of the cultivated earth. He knew the ageless process of rejuvenation in the planting of fields, as well as the renewal of human spirit.

His community interests went well beyond the duties of his daily work. A veteran of World War I, he was a charter member of the American Legion post in his community. He also served with distinction for more than 50 years as a member of the Masonic Lodge in Summerton.

A staunch member of the Summerton Baptist Church, he had served as president of the men's Bible class and was always one of its faithful participants.

Mrs. Anna Huggins Godwin was the perfect complement to her husband. She shared with him the friendship and affection of all who knew her, for she was a gracious lady. Her interest in the community and their friends was unbounded.

In all of her endeavors, she brought the qualities of faith, dedication, and service. Her community activities included membership in the Summerton Garden Club, the American Legion Auxiliary, and the Summerton Missionary Society. She was a lady of high standards and was held in esteem by those whose lives she touched.

I extend my sympathy to all the family in the deaths of Mr. and Mrs. Godwin. They are survived by three daughters, Mrs. E. T. Chandler of Olanta, Mrs. J. H. Davis of Summerton, and Mrs. P. D. Quillen of Chesapeake, Va.; three sons, Chalmers Luke Godwin, Jr. of Winnsboro, Dr. Winston Y. Godwin of Cheraw, and Joharie L. Godwin of Summerton; and 20 grandchildren. Mr. Godwin is survived by a brother, S. J. Godwin of Cheraw. Mrs. Godwin is survived by three sisters, Mrs. S. T. Godwin and Mrs. Lottie Gaskins of Lake City, and Mrs. C. M. Miller of Mount Pleasant; and two brothers, B. M. Huggins of Stone Mountain, Ga., and Archie Huggins of Atlanta, Ga.

Mr. President, at the time of the deaths of Mr. and Mrs. Godwin several newspaper accounts were published in South Carolina, as well as a concurrent resolution by the South Carolina General Assembly. I ask unanimous consent that three such accounts be printed in the RECORD at the conclusion of my remarks, as follows: "C. L. Godwin," the Daily Item, Sumter, S.C., August 15, 1974; "Mrs. Godwin of Summerton Services Set," the State, Columbia, S.C., October 30, 1974; and a concurrent resolution by the South Carolina General Assembly extending sympathy to the family of Mr. Chalmers Luke Godwin, Sr., August 21, 1974.

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

[From the Sumter (S.C.) Daily Item, Aug. 15, 1974]

C. L. GODWIN

SUMMERTON.—Chalmers Luke Godwin Sr., 78, a retired postal employe, died Wednesday in a Columbia hospital.

Born in Florence County, he was a son of the late William James and Sarah Cameron Godwin.

Mr. Godwin retired after 38 years from the U.S. Postal System and was a retired farmer. He was a member of the American Legion and Masonic Lodge No. 105 AFM. He also was a veteran of World War I.

Surviving are his widow, Anna Huggins Godwin; three daughters, Mrs. E. T. (Margie) Chandler of Olatna, Mrs. J. H. (Willa Jean) Davis of Summerton and Mrs. P. D. (Sybil) Quillen of Cheasapeake, Va.; three sons, Chalmers Luke Godwin Jr. of Winnsboro, Dr. Winston Godwin of Cheraw and Joharie L. Godwin of Summerton; a brother, S. J. Godwin of Cheraw; and 20 grandchildren.

Services will be 3 pm. Friday in Summerton Methodist Church will burial in Summerton Evergreen Cemetery.

Shelley-Brunson Funeral Home in Manning is in charge.

The family suggests that those who wish make memorials to the building fund of Summerton First Baptist Church.

[From the Columbia (S.C.) State, Oct. 30, 1974]

MRS. GODWIN OF SUMMERTON SERVICES SET

SUMMERTON.—Mrs. Anna Snow Huggins Godwin, 72, widow of Chalmers Luke Godwin Sr., died Tuesday in a Sumter hospital.

She was born in Georgetown County, a daughter of the late James Thomas and Anna Jane Truett Huggins. She was a members of the Summerton Garden Club, the American Legion Auxiliary and the Summerton Missionary Society.

Surviving are three daughters, Mrs. E. T. (Margie) Chandler of Olanta, Mrs. J. H. (Willa Jean) Davis of Summerton and Mrs. P. D. (Sybil) Quillen of Chesapeake, Va.; three sons, Chalmers L. Godwin Jr., of Winnsboro, Dr. Winston Y. Godwin of Cheraw and Joharie L. Godwin of Summerton; three sisters: Mrs. S. T. Godwin and Mrs. Lottie Gaskins of Lake City and Mrs. C. M. Miller of Mt. Pleasant; two brothers, B. M. Huggins of Stone Mountain, Ga. and Archie Huggins of Atlanta, Ga.; and 20 grandchildren.

A CONCURRENT RESOLUTION EXTENDING THE SYMPATHY OF THE MEMBERS OF THE GENERAL ASSEMBLY TO THE FAMILY OF MR. CHALMERS LUKE GODWIN, SR., OF CLARENDON COUNTY WHO DIED WEDNESDAY, AUGUST 14, 1974

Whereas, the members of the General Assembly were saddened to learn of the death on Wednesday, August 14, 1974, of Mr. Chalmers Luke Godwin, Sr., retired postal employee and farmer; and

Whereas, Mr. Godwin was a member of the Summerton Baptist Church, a Mason, a veteran and a member of the American Legion; and

Whereas, he was beloved and respected by all with whom he was associated and the people of Clarendon County have lost an outstanding citizen and friend. Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

That the sympathy of the General Assembly is hereby extended to the family of Mr. Chalmers Luke Godwin Sr., of Clarendon County, who died Wednesday, August 14, 1974.

Be it further resolved that a copy of this resolution be forwarded to Mrs. Godwin.

STATE AND LOCAL GOVERNMENTS: A VICTIM OF RECESSION AND INFLATION, NOT THE CAUSE

Mr. HUMPHREY. Mr. President, in recent months there has been considerable debate about the extent to which State and local governments have contributed to the high inflation rates that this country is experiencing. Many have suggested that fast expanding State and local government budgets, combined with the Federal budget, have been a major cause of spiraling prices. This argument simply cannot hold water.

State and local governments have played an increasingly important role as

employers and providers of goods and services. Nevertheless, these governments have very little control over national economic developments that significantly affect their revenues and expenditures. State constitutions require that State and local governments have balanced budgets, thus precluding them from initiating discretionary fiscal policies designed to expand or deflate the national or local economy. By law, they cannot budget for deficits as the Federal Government does. As a result, State and local governments are a significant victim, not cause, of recession and inflation, experiencing shortfalls in revenues and increases in the demand for and cost of goods and services. In the present economic situation, the State and local sector has been further victimized by a seemingly conscious but unconscionable policy to cut back grants to State and local governments in order to fight inflation.

Two years ago, or even one year ago, the State and local sector would not have been as great a concern as it is now. State and local governments had maintained large surpluses in total accounts.

Mr. President, I ask unanimous consent that a table of State and local funds surplus or deficit over recent years be printed in the RECORD.

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

TABLE I.—SURPLUS OR DEFICIT, NATIONAL INCOME AND PRODUCT ACCOUNTS, ANNUAL BASIS

[In billions of dollars]

					1973				1974		
	1970	1971	1972	1973	I	II	III	IV	I	II	III
Surplus or deficit	+1.8	+4.0	+12.3	+9.2	+13.2	+00.4	+8.4	+4.6	+3.2	+2.0	+2.1
Surplus or deficit, social insurance funds	+6.5	+7.5	+8.4	+9.1	+8.8	+9.0	+9.2	+9.4	+9.6	+9.7	+9.8
Surplus or deficit, all other State and local funds	−4.8	−3.4	+4.0	+.1	+4.5	+1.3	−.8	−4.7	−6.4	−7.7	−7.7

Source: Survey of current business.

Mr. HUMPHREY. Mr. President, certainly, the size of these surpluses is deceptive because it includes significant surpluses in the social insurance trust funds—table I, line 2—that obviously are not available for operating expenditures. However, even when pension and other trust fund surpluses are removed—table I, line 3—the State and local sector did have surpluses in funds available for operation in 1972 and the first half of 1973.

This picture has completely reversed since mid-1973. The combined State and local sector is now experiencing a huge deficit in operating funds of $7.7 billion at an annual rate. The economic recovery which had buoyed State and local revenues has abruptly been turned around. Inflation, which first expanded revenues, now has a far more significant impact on expenditures. Finally, the Federal Government has exacerbated the fiscal problems of State and local governments by cutting grants-in-aid to State and local governments.

Mr. President, I ask unanimous consent that a table on trends in Federal grants-in-aid be printed at this point in the RECORD.

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

TABLE II.—PERCENTAGE ANNUAL INCREASE IN FEDERAL GRANTS-IN-AID

	1967–68	1968–69	1969–70	1970–71	1971–72	1972–73	1973–74 [1]
Current dollar	15.7	10.3	20.7	18.8	28.5	8.3	5.9
Constant 1958 dollar [2]	9.5	3.9	12.1	12.8	22.2	2.0	−2.4

[1] 1st half of 1973 to 1st half of 1974.
[2] Deflated by implicit GNP deflator for State and local governments.

Source: Survey of Current Business.

Mr. HUMPHREY. Mr. President, the real value of these grants, which had shown necessary increases in the past, grew only 2 percent from 1972 to 1973 and actually declined by 2.4 percent from the first half of 1973 to the first half of 1974. To say that these cuts came at an inopportune time would be an incredible understatement. But let us take a more specific look at how inflation and recession affect State and local governments.

In much the same manner that it affects the Federal budget, inflation increases State and local revenues before it has any significant impact on expenditures. Thus, in the very short run, many State and local governments experienced what I call an inflation dividend. Unfortunately, there have been and are going to be long hard times following the short good times. State and local governments are being and will be subjected to serious expenditure inflation in the upcoming year as public employees and public assistance recipients rightfully attempt to regain some of their lost purchasing power. These individuals have suffered major declines in real purchasing power and should not be asked to continually sacrifice their own well-being for the benefit of the rest of the economy. The 20-percent increases in construction costs will also hurt State and local governments as they are responsible for 85 percent of all public construction. In fact, many States and localities have already cut back on their construction budgets.

Inflation is likely to have particularly devastating effects on those governments that do not have responsive revenue systems. Many local governments will experience insufficient revenue gains because they are dependent on the property tax as a major source of revenue. Lags in reassessment and resistance to reassessment, as a result of declining real incomes, are likely to retard growth in this revenue source. Other governments that derive a major share of their revenues from fees and charges or from taxes that are levied by volume—gasoline, liquor, cigarettes, et cetera—will find that their revenues lag behind the rate of inflation. As an example, the recent Department of Commerce survey of State revenues showed that general sales tax receipts increased 14.2 percent from 1973 to 1974, while selective sales taxes which are generally levied by volume increased only 3.6 percent. Similarly, revenue from licenses and fees expanded only 5.3 percent, while receipts from corporate and individual income taxes grew over 9.5 percent.

However, as bad as inflation is, recession has a far more sinister effect on State and local governments. Whenever the economy operates at levels below full employment, State and local governments experience large shortfalls in revenues. Income and sales tax receipts are affected by the shortfall in personal income and retail sales which accompany a downturn, while property tax receipts are primarily affected by the decline in construction activity. The Joint Economic Committee has estimated that this revenue shortfall in the fourth quarter of 1974 could be as much as $20 billion at an annual rate. That is $20 billion a year that State and local governments will not receive because the Federal Government is unable to move the economy to full employment; that is $20 billion that will be lost forever. Even more alarming, this situation can be expected to deteriorate. The JEC has estimated that the revenue shortfall can be expected to increase to as much as $25 billion as the economy weakens through 1975.

High levels of unemployment also tend to create additional demands for certain State and local government expenditures, particularly for unemployment compensation and public assistance. More people on the unemployment rolls means higher public assistance expenditures. In addition, some States are coming dangerously close to exhausting their unemployment compensation trust funds. Three States and the District of Columbia have already borrowed from the Federal Government to finance unemployment compensation expenditures, and several others may be forced into this position as unemployment rates continue to rise.

While the problems that recession creates for all State and local governments are devastating, the impact of recession on vulnerable States and localities is even more damaging. While unemployment rates in November were 6.5 percent nationally, certain labor markets are experiencing depression-level unemployment. In October, unemployment in San Diego was 9.1 percent; Detroit, 8.1 percent; New Orleans, 7.6 percent, Atlantic City, 8.6 percent; the State of Michigan, 7.2 percent; and the State of Massachusetts, 7.1 percent. Since these October unemployment rates are not seasonally adjusted and were surveyed before most major layoffs occurred, many of these unemployment rates are now at least 1 percentage point higher. Detroit, of course, would be much worse. The economic devastation and social upheaval that unemployment of this magnitude imposes upon a region and the government within simply cannot be tolerated.

Our State and local governments are being greatly damaged by the combined impact of recession and inflation. The tremendous social needs that these governments normally satisfy are in great danger of going unmet. Many State and local governments are already laying off employees, cutting back services, raising taxes, and canceling major capital projects. We simply cannot sit idly by as important housing, transportation, public assistance, and public works needs are set aside for lack of fiscal resources. The myth of the State and local government surplus must be exposed for what it really is—a myth and a fallacy—so that we may begin to provide much-needed increases in Federal assistance to State and local governments.

While new assistance is necessary to cushion State and local governments from the impact of present economic developments, nothing will serve the interest of State and local governments better than restoring the economy to full employment and price stability. There are several actions that the Federal Government should undertake immediately which would make a great contribution to returning the economy to full employment.

First and foremost, we need an immediate $10 billion tax cut for low- and moderate-income individuals and families. This tax cut is essential to restore lost purchasing power which has significantly eroded the standard of living of these families and to provide much needed stimulus to our already sagging economy.

Second, we need a relaxation of tight money policies which have raised interest rates through the roof. High interest rates discourage much needed investments for expansion of plant capacity and discriminate against important sectors of the economy, such as housing and State and local governments, which are unable to pass on constantly rising interest costs to the consumer.

Third, we must allocate credit to those sectors of the economy that have been starved for credit by tight money policies. Housing, small businesses and State and local governments must be able to obtain a larger share of the total credit pool if important social needs are to be met and competition preserved.

Fourth, immediate and massive assistance must be provided to revive the housing industry from the industrywide depression. The annual rate of housing starts is less than half our national goal, leading to an unemployment rate in the construction industry which approaches 15 percent. My domestic development bank proposal could provide immediate assistance, but in the long run we should consider establishing a housing bank to subsidize mortgage rates for families with incomes below $15,000.

Fifth, stronger energy conservation measures and extensive research and development of new energy sources must be begun without any further delay. In the short run, mandatory measures must be adopted to encourage more efficient use of gasoline, heating oil, electricity, and other sources of energy. I intend to introduce comprehensive legislation which will require massive energy conservation efforts from all sectors of the economy. In the long run, we must bring into production new sources of energy which will lessen our dependence on the OPEC nations.

Sixth, we need a strengthened wage and price program. The appropriation for the Council on Wage and Price Stability should be increased to provide sufficient funds for a more effective incomes policy. The Council should be given subpena power, the power to hold public hearings, the power to delay the imposition of excessive price increases up to 90 days, and, in a few cases where administered price increases have been exorbitant, the power to roll back prices.

Finally, Federal assistance to State and local governments must not be reduced, particularly in light of the hardships imposed by the present economic situation. These essential grants for planning, such as 701 funds, construction, manpower training and other essential social needs must be maintained if State and local governments are to maintain adequate levels of service through the present economic downturn.

Mr. President, I would like to call to the attention of my colleagues several recent newspaper articles which highlight the plight of our State and local governments. I ask unanimous consent that these articles be printed at this point in the RECORD.

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

AVERAGE NASSAU TAX RISE ESTIMATED AT $80 A HOME

(By Roy R. Silver)

MINEOLA, L.I., November 12.—The average Nassau County homeowner will pay about $80 more in county taxes next year on the basis of a proposed budget for 1975 released today.

The County Executive, Ralph G. Caso, said at a news conference that the proposed budget of $690-million, an increase of $103-million, or 17.5 per cent, over this year, would necessitate a tax-rate increase of $1.06 for each $100 of assessed valuation over the present rate.

The average new rate for next year, which includes a general fund, the state court, the police and the community college, would be $7.28 for each $100 of assessed valuation, compared with $6.22 this year.

"Inflation combined with increased state and Federal mandated costs have overwhelmed the aggressive efforts of my administration to cut the county's general-fund tax rate for fourth consecutive year," Mr. Caso said.

In presenting the proposed record budget, which was prepared by Thomas G. DeVivo, chief deputy county executive and head of the budget staff, Mr. Caso said:

"The current state of the economy has adversely affected everyone's cost of living, including the cost of providing essential government services."

The budget calls for the following tax rates in the three towns and two cities:

Hempstead and North Hempstead, $4.65; Oyster Bay, $4.63; Glen Cove, $4.70, and Long Beach, $5.02.

The proposed police district tax rate of $2.395 for each $100 of assessed valuation, up .035 cent from this year, applies only to 70 per cent of the county's residents who are served by the county police.

Nassau County residents also pay school taxes, which are the most costly, as well as town, city, village or special district taxes. The three towns have proposed budgets calling for tax increases for next year ranging between 5 cents and 16 cents, and the city of Long Beach is expected to increase its tax by 65 cents.

Mr. Caso noted that more than 80 per cent of the increase in spending for next year involved mandated programs, including state and Federal welfare increases, $17.5-million; salaries, $17-million; state retirement, Social Security and fringe benefits, $26-million, and transportation subsidies, $6-million.

The amount to be raised through property taxes to meet next year's expenditures is $169.2-million.

Mr. Caso said his administration would continue a job freeze, emphasize employe productivity and would re-evaluate priorities involving all county programs.

The Board of Supervisors will hold public hearings on the proposed budget on Dec. 2 at 2 P.M. and at 8 P.M. in the Board of Supervisors Hearing Room. The board has until the first week in December to adopt the budget.

BUFFALO, ONCE SO PROUD, FACES FINANCIAL CALAMITY

(By James Feron)

BUFFALO.—A city on the brink of bankruptcy, like a family in financial straits, does what it can to make ends meet. It looks for new sources of revenue while cutting costs at home. In Buffalo, this has had some bizarre results.

Take the fighting of harbor fires. When a blaze flares up on the waterfront these days, fire fighters from a conventional land-based fire company race to a pier, jump abroad the citys fire boat and roar off to the scene.

To an outsider, this may bespeak a Mack Sennett quality, but its not funny here. The

new system, necessitated by a city decision to phase out the regular fire boat crew, seems to be working, but there are misgivings.

"We need more men than before," a crew member said, "and it takes one truck out of service, but it's added no new jobs and I suppose that's what counts."

CHANGE SHRUGGED OFF

Then there is the garbage "rollout," another austerity measure. For as long as anyone can remember, homeowners counted on the city's sanitation men to collect the refuse from cans left behind the house. Now like much else in Buffalo, that's part of the past.

These days the refuse has to be hauled out to the street. It is a vexing and, in some cases, difficult chore for those residents who have resisted the restless movement out of this once proud industrial center.

A man dragging his garbage out to the curb shrugged off the change as one of many he had seen.

The problems of Buffalo, the second largest city in the state, are hardly unique for a major city. In the view of most fiscal authorities, New York City, by comparison, is in its deepest economic trouble since the Great Depression of the Nineteen-Thirties.

But the last year have conspired to heap exceptional difficulty on Buffalo. Budgetary solutions are either wiped out by inflation, reversed by legal and legislative decisions or undercut by other factors.

It is a situation that has attracted the attention of candidates for state office, sharpening the longstanding dispute between the Democratic city administration and Republican state leaders. The city sees itself as continuously shortchanged; the state blames the city's own fiscal policies.

YOU SOLVE IT

Mayor Stanley M. Makowski told a panel studying changes in constitutional tax limitation last week that he had eliminated over 800 city jobs, costing $7.5-million, and trimmed the operation and maintenance budget below the level of a year ago despite severe inflation.

"But there is only so much that can be done at our level," the Mayor said. "The lasting answer must be found at the state level. We are creatures of the state—its children, if you will. If we cannot turn to our parent, where can we turn?"

The City's Finance Commissioner, James Burns, put it more pungently and perhaps only partly in jest when he said in an interview: "Perhaps we should just take the charter and the keys, send them to Albany, and say, 'Okay, you solve it. We can't do any more.'"

Buffalo's fiscal problems have their origins, as do the fiscal problems of many other cities, with the movement of industry and population to other areas, including the suburbs. Here the change was more dramatic than elsewhere, and the inabiltiy to attract new industry more pronounced.

Dr. Joseph Manch, the Superintendent of Schools, interupted a discussion of his own fiscal problems to walk to the window of his office in City Hall. Pointing to the waterfront, just beyond, he said, "That's a big part of the problem—long stretches of undeveloped prime land."

Buffalo once was the door to the Middle West, serving Great Lakes carriers with grain and ore bound for New York and beyond. Buffalo was once the world's largest grain-milling center. Some of its huge steel mills have shut down.

Then ships began to bypass this port, carrying their cargoes directly to the sea along the St. Lawrence Seaway. Employers began to move out, seeking cheaper labor as well as more convenient sites. The railroad fell into disuse. A railroad terminal built on the scale of Grand Central Station in New York City now stands largely empty, a forlorn giant just beyond the center of town.

CITY POPULATION DOWN

Population figures offer an indication of what has happened here. In 1950, Erie County had 901,000 residents, with 580,000 of them living within Buffalo's compact, 42 square miles. In 1970, the County figure had grown to 1,115,000 while the city population had dropped to 462,000.

An official, in the city's planning department said, "We believe the current city figure is 450,000; others say it's even lower."

Some of Buffalo's problems have a quality of unsolvable inevitability about them. The status of the Penn Central railroad is one, according to Mr. Burns.

"A lot of real estate in the city is owned by the Penn Central, but we can't touch it," he said. We are in line with others waiting for bankruptcy proceedings against the railroad to be completed. In the meantime we can't collect the $5-million in unpaid taxes, we can't collect $6-million in unpaid taxes, we can't condemn the land and we can't buy it at the price, they're asking."

Nor is it a certainty that a developer might be found if the land were to become available. In one case, Mr. Burns said, "we acquired 400 acres, cleared it and could not get developers." The difficulty in attracting new industry has been compounded by the tight money market of the past year.

New construction is apparent in Buffalo, some of it in recent years with the help of the state's Urban Development Corporation. But along with the modern office buildings downtown, there are many parking lots and, beyond them, vast acres covered only by weeds and scrub.

PROPERTY OFF TAX ROLLS

To add to Buffalo's problems, much of the city's property has been removed from the tax rolls since the war. "Upwards of 40 per cent of our real property is tax exempt," Mr. Burns said, adding that the comparative figure for nearby Rochester was 22 per cent.

"We have two belt highways and a spur of the State Thruway, two State University campuses, a Federal building as well as county and state structures New York—in addition to—we provide many services for much of Western five private colleges, hospitals, housing agencies, museums, zoos and so forth."

The problem feeds on itself, with the continuing reduction of taxable property leading to increasingly larger taxation of fewer taxpayers. This adds to the exodus, reducing the total value of the city even further and discouraging new investors.

State officials in June, 1972, said Buffalo was digging its own fiscal hole by giving up on pay-as-you-go financing in favor of going into debt to pay current expenses, the city agreed in effect but asked how it could meet continually rising obligations, some of them compounded by state actions.

Mr. Burns says: "When revenue sharing came in, we were told we'd get 21 per cent. We drew up budgets with that in mind and then saw the Legislature reduce our share to 18 per cent. Then there was the Taylor Law, which strengthened the bargaining capabilities of public employes but added enormously to our costs in recent years."

Some say Buffalo's solution might be found in consolidating its municipal services with those of the smaller cities, towns and villages in the county. However, an effort to combine police functions on this basis was rejected recently, offering little hope for wider cooperation.

Only changes in the Constitution, redressing the imbalance that has developed between the state's large cities and its other municipalities, will provide a lasting solution, the city fathers say. Without such help, they insist, cities such as Buffalo cannot survive.

GOLDIN PREDICTS $650 MILLION GAP IN CITY'S BUDGET; SAYS BEAME UNDERESTIMATED DEFICIT BY $220 MILLION—URGES NEW ECONOMIES

(By Michael Stern)

The deficit being piled up in this year's city expense budget by recession and inflation will mount to $650-million, not the $430-million predicted three weeks ago by Mayor Beame, Controller Harrison J. Goldin said in a letter to the Mayor that he made public yesterday.

In his three-page letter, dated Friday, Mr. Goldin said he was forecasting the higher figure on the basis of a new analysis of actual spending and revenues in the first four months of the fiscal year, which began on July 1, and on projections for the remaining seven months of the year.

Responding for Mr. Beame, who is in Florida on a brief vacation, First Deputy Mayor James A. Cavanagh rejected Mr. Goldin's figures as "inaccurate." He also said the letter was no help because it was bare of suggestions on how to make new economies.

GREATER AUSTERITY URGED

The Controller coupled his estimate with a tough warning of the dangers of either new taxes or new borrowing to close the deficit—the largest in the city's history—and urged instead even harsher austerities than the dismissal of 1,510 employes, overtime cuts and other measures already ordered by the Mayor.

"My own conviction," Mr. Goldin said, "is that the public will understand the dimensions of the crisis, will react well to candor and leadership, and will acknowledge the need for significant cuts in spending."

The letter, with its admonitory tone, reopened the political warfare between the Mayor and the Controller. By implication it cast Mr. Goldin in the role of the public official with a greater willingness to face up to unpleasant necessities than Mr. Beame.

However, in an interview, the Controller refused to designate specific areas where he thought spending cuts would have to be made. While acknowledging that more city employes would have to be discharged—salaries and fringe benefits take 65 per cent of the $11.1-billion expense budget—he would not pinpoint the departments or programs on which he thought the Mayor's ax should fall.

On Nov. 8, following up on warnings he had been issuing since September, Mr. Beame said the city's costs, pushed up by inflation, were rising $280-million above the levels authorized by the budget for 1974–75. At the same time, tax revenues, cut by the national economic slowdown, were falling short of projections by $150-million. Together, the Mayor said, these trends would create a $430-million deficit by next June 30.

Mr. Beame then announced measures to cut the deficit by $100-million and called on the city's departments and agencies for recommendations to close the remaining gap of $330-million.

But when he got the recommendations, which might have forced the discharge of 20,000 city employes, Mr. Beame rejected them as too harsh.

Instead, a week ago Friday he ordered a second $100-million program of savings, including a freeze on all hiring and the dismissal of 510 permanent and 1,000 provisional employes, out of a total workforce of 338,000. Mr. Beame also announced he was going to try to get as much as he could of the remainder that he needed from the state and Federal governments.

Mr. Goldin said in his letter that his own estimates indicated a much larger budget gap. Where the Mayor predicted a shortfall of $14-million in sales-tax receipts, Mr. Goldin predicted $56.6-million. The Mayor forecast $68-million less than anticipated from

the stock-transfer tax; the Controller forecast $76-million less.

The total difference between the estimates on the revenue side of the ledgers is $100-million. On the spending side, Mr. Goldin predicts a $125-million overrun on welfare and Medicaid costs, compared with only $53-million predicted by Mr. Beame.

ESTIMATES ARE QUESTIONED

The Controller also foresees higher costs than the Mayor for interest on short-term borrowing, for energy, for Social Security contributions and for other items, totaling $400-million.

Besides these items, Mr. Goldin questioned the reality of some of the additional income the Mayor said he could realize this year as part of his new austerity programs. Among these are $15-million from sales of city properties and $25-million in additional income from interest on the city's bank accounts.

Deputy Mayor Cavanagh challenged Mr. Goldin's estimates and said they "predict unaccounted-for decreases in revenues and increases in expenditures that our estimates do not show." He invited the Controller to have his staff sit down with the Mayor's staff to substantiate his claims.

"Specific constructive suggestions from the Controller to help solve our financial problems would have been most welcome to the Mayor and to the people of our city," Mr. Cavanagh said. "Instead, we are treated to generalizations which all but say that we should cut $650-million from the budget, without mention of any specific cuts to be made."

If cuts of that magnitude were made, Mr. Cavanagh said, they could force the dismissal of thousands of teachers, policemen, firemen and sanitationmen and the closing of hospitals and other essential institutions.

"Neither the economy nor the people of this city can be expected to absorb such wholesale layoffs and disruption of public services," he said.

For his part, Mr. Goldin asserted that the need for more economies was urgent since only seven months remained in the fiscal year. If cuts in personnel and programs are not adopted promptly, he said, the cuts will have to be even deeper, to make up for lost time.

TAX RISE REJECTED

"I share and support your view that the Federal and state governments should respond to the plight of New York and other cities by lifting the costly burdens the cities have been unfairly bearing for too long," Mr. Goldin said.

"However, since our budget deficit confronts us today, there is little time to seek new Federal and state action. Nor can we risk the possible consequences of counting on massive additional assistance, which may not come as the days rush by and the crisis deepens."

The Controller rejected the idea of raising taxes on city residents and businesses, saying that the taxes "are already at the point of diminishing returns, and further increases would drive marginally self-sufficient families into economic dependency."

He likewise rejected "the route of additional borrowing." He said one-fifth of the projected deficit was a result of increases in the costs of debt service, adding that debt service had risen 57 per cent in the current budget over last year. Interest and repayments of principal on long-term debt this year amount to $1.79-billion—almost 17 per cent of the total budget.

Referring to the borrowing of more than $300-million to cover a budget deficit in 1970-71, when John V. Lindsay was Mayor, Mr. Goldin said such borrowing "was described at the time as a 'solution' to the year's deficit, but it caused agony when repayment came due this year and, in fact, repayment required a new type of borrowing which will compound the cost of the original debt."

Mr. Goldin's strong emphasis on the dangers of borrowing is a response to the warnings he has been getting from the big banks and Wall Street financial houses that underwrite the city's bonds and notes. They have been telling him of their increasing difficulties in marketing the city's debt offerings, which have been growing in size and frequency this year.

The program is not fear of a default. There are no doubts about the city's ability or willingness to meet its debt obligations. But in a market already glutted with tax-exempt issues, every new offering by the city becomes that much harder to sell, with the result that interest costs are soaring.

Besides greater economies, Mr. Goldin urged the Mayor to continue the month-long freeze on new contracts for capital spending, ordered on Nov. 8. The order affects $316-million worth of contracts for building and other permanent improvements that were about to be let under the city's separate capital budget of $1.76-billion.

Mr. Goldin also suggested that all other capital projects be reviewed in the light of the current money shortage, including those that had already been started and were still in their early stages.

The new argument over the size of the budget gap has different numbers but is of the same character as past disputes between Mayors and Controllers. When he was Controller, Mr. Beame frequently differed with Mr. Lindsay over the magnitude of the city's fiscal problems.

DEFICIT ESTIMATES DIFFER

Soon after Mr. Beame alerted the city in September that a big deficit was looming, fiscal experts in and out of government made their own assessments of the impact of inflation and recession on the budget and came up with deficit estimates that ranged as high as $1-billion.

The estimates varied in part because of the different weight that economists and budget specialists gave to such factors as price rises, the level of retail sales, unemployment and, the trend of interest rates.

Both Mr. Beame and Mr. Goldin said their estimates were based on the assumption that inflation, unemployment and recession would get no worse. If conditions did worsen then the size of the deficit would increase, they said.

Under state law, in any year that the city's budget slips into deficit, it may borrow up to 1 per cent of its budget to close the gap. This year, that law would limit borrowing to $110-million—not enough to cover the deficit projected by either the Mayor or the Controller.

One way around the difficulty would be to seek legislation permitting larger borrowing. Such legislation has been sought and granted before.

CITY TO CUT OUTLAYS AGAIN; $330 MILLION REDUCTION IN PAY AND SERVICES ORDERED BY BEAME

(By Michael Stern)

Responding to what he called "an emergency" and "a totally unheard of situation" brought on by inflation and the recession, Mayor Beame is ordering a new round of budgetary belt-tightening that will cut city payrolls and services by $330-million. He had earlier ordered reductions of $100 million.

At a Gracie Mansion luncheon with the Board of Estimate and Council leaders yesterday and at a City Hall news conference later, the Mayor revealed that austerities of that magnitude, affecting every department of city government, were needed to keep his $11.1-billion expense budget—the day-to-day costs of running the city—from drifting into deficit.

Mr. Beame said the basic arithmetic of the situation was that higher costs of $280-million and revenue shortfalls of $150-million were building up a potential deficit of $430-million by next June 30.

He said he hoped to reduce that sum by $100-million through previously ordered payroll cuts of $30-million and other devices. The rest will have to come out of basic services.

"I hope by the end of this month I'll be able to put into effect a program to balance the budget," Mr. Beame said. "We are determined to avoid borrowing if it is at all possible, but we can't cripple vital services."

In another move that further deepened the economic gloom settling over the city, Budget Director Melvin Lechner yesterday put a 30-day hold on $316-million worth of construction contracts that were about to be let for bidding under the city's $1.3-billion's over-all $1.76-billion capital budget.

The expense budget supported by taxes, Federal and state aid and short-term borrowing, covers the day-to-day costs of the police, fire, sanitation and other services offered by the city.

CONCERN MOUNTS

The capital budget supported by long-term borrowing, is intended to cover permanent improvements, such as schools, fire engines, street lights and water mains, although increasingly it is being used to cover expenses that the city's Mayors can find no room for in the expense budget.

The Mayor's briefing of top city officials yesterday followed by two months his first warnings that inflation and the recession were building up a $200-million expense-budget deficit.

Concern has been mounting since then, as fiscal experts in and out of government, making their own assessments of the city's troubled economy and shrinking public purse, projected much larger potential deficits.

In his statements at Gracie Mansion yesterday, and in an interview with The New York Times on Thursday, which he asked the newspaper not to publish until he could brief city officials on his intentions, Mr. Beame said the current situation was the worst fiscal crisis that New York had suffered.

"It's going to be tough, very tough, for the people to accept some of these things, but I hope they will support me, and I think they will if they understand the seriousness of the situation."

Mr. Beame said his new projections of revenue shortfalls and rising costs were based on the assumption that "things won't get any worse." If the rate of inflation steepens, if the recession deepens, or if unemployment worsens, he said, then even further austerities may become necessary.

Using boards covered with columns of figures, and charts, the Mayor told members of the Board of Estimate and the Council that the $330-million would have to come out of the $4-billion of the expense budget that is under his direct control and not out of the parts supported by Federal and state programs.

If the cuts were applied across the board, he said, there would be an 8.5 percent reduction of spending by all departments. This would mean, for example, $62.2-million less for the Police Department; $74.1-million less for the Board of Education; $26.9-million less for Health and Hospitals, and an equal amount less for the Environmental Protection Administration, which includes the Sanitation Department.

EARLIER MOVES MADE

Such deep cuts would be difficult to impose because they would come on top of more than $168-million in staffing costs already

being taken out of departmental budgets since the beginning of the fiscal year through orders not to fill vacant jobs. They also would come on top of the $30-million in payroll cuts ordered by Budget Director Lechner last month.

Mr. Beame said he was not proposing across-the-board cuts. Rather, he said, he is asking the departmental administrators and commissioners to develop their own proposals within a week.

"We don't want to impose anything until we get the thinking of the people who run the agencies," he said.

But he warned that if the departments and agencies did not cooperate he and his budget aides would have austerity programs of their own, ready to make sure, that sufficient spending reductions were made.

"For eight years John Lindsay cried "wolf" and the public no longer believes—they think it is just for Albany's sake," he said, referring to the former Mayor's battles with the Legislature over aid. "I want you to know this is not crying "wolf," Mr. Beame said.

Ahead for the Mayor is a series of 12 meetings in the next two weeks with 22 different groups, including unions, businessmen's organizations and civic agencies, all designed to explain the budget crisis and to win public support for the austerities necessary to meet it.

Mr. Beame also intends to meet Governor-elect Hugh L. Carey and leaders of the Legislature as well as the New York City Congressional delegation to discuss additional aid for the city.

He said he hoped that the strengthened Democratic majorities in the House and Senate and the incoming Democratic administration in the state might produce more fiscal aid for the city. The state and Federal governments now provide 46 per cent of the city expense budget.

TAX INCOME DOWN

However, observers in Washington and Albany have said that inflation and the recession are creating budgetary problems there, too, and that prospects for new revenues for the city are slim.

The Mayor said the national economic slowdown, which is being deeply felt here, has been cutting receipts from all city taxes. The stock-transfer tax, for example, is now expected to produce $68-million to $70-million less than projected, and the sales tax $14-million less.

The $30-million in staff cuts ordered last month are to be achieved by leaving unfilled 4,700 jobs that will become vacant by attrition by next June.

The Mayor hopes to get $70-million more to offset the projected $430-million deficit this way: $15-million from increased parking-violations collections; $25-million in additional interest income on the city's investments, and $30-million in projected interest costs to be saved by cutting borrowing in anticipation of state and Federal aid.

OUR BONDS ARE GOOD

At his City Hall news conference, Mr. Beame said: "This is no fault of our operation. The bulk of it was from the inflation and the recession."

Then, banging his fist on his desk for emphasis, he said: "I want you to understand that this has no relationship to the word 'bankruptcy.' Our bonds are good and secure. They will be paid."

Asked about the need to impose new or higher taxes, Mr. Beame said in his interview that he would do everything he could to avoid them.

He listed four factors that would determine how successful he will be: how quickly the economy reverses its downward trend and begins moving upward again; how much state aid comes to the city from Albany; how much Federal aid comes from Washington, and how cooperative the city's citizens are in accepting the austerities he is about to impose.

He vigorously denied assertions made by such groups as the Citizens Budget Commission and the Chamber of Commerce and Industry that he had put together an unworkable budget and that he should have foreseen the impact of national economic troubles on the city's economy.

"We made up the budget last May and June on the basis of the best economic information available to us," Mr. Beame said. "We made realistic projections, but they were made unworkable by a downturn in the economy and worse inflation than anyone expected."

FOOD PRICES AND THE ELDERLY

Mr. HUMPHREY. Mr. President, no group of citizens has been harder hit by the 15-percent rise in food prices this year than the elderly. They are the victims of both soaring retail food chain profits—profits which now rival the returns on equity being earned by the giant oil companies—and a cutback in the food stamp program. The food stamp program was designed as a bulwark against deterioration in the diet of our elderly, due to higher food prices. Yet, at a time when it is needed most, the administration proposes to trim the program.

The Joint Economic Committee is currently holding hearings on Food Chain Pricing Activities. Voluminous material has been presented and subpenaed by the committee in its effort to determine why food prices have risen 15 percent in the same period that the farmers' share of the consumer food dollar has declined. The food retailers or processors have reaped windfall and unwarranted profits as a result, and the evidence I have seen points more to the retailers. I will comment on these findings at a later date when the hearings are concluded.

Among the material presented to the committee is a statement by Mr. Nelson H. Cruikshank, president of the National Council of Senior Citizens, entitled, "The Impact of Increasing Food Prices on the Elderly." This statement goes to the heart of my concern and alarm for the elderly who are being punished today by a triple burden of soaring food prices and chain profits, and a reduced food stamp program. I commend the statement to my colleagues.

Mr. President, I ask unanimous consent that Mr. Cruikshank's statement be printed in the RECORD.

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

THE IMPACT OF INCREASING FOOD PRICES ON THE ELDERLY

Mr. Chairman and distinguished members of the Joint Economic Committee, I wish to express on behalf of the National Council of Senior Citizens appreciation for this opportunity to describe the impact of increasing food prices on the elderly.

We are heartened that Congress is concerned about finding the causes of inflationary price increases in highly concentrated industries and realizes the ruinous impact of soaring prices on the American consumer's budget. In this regard, we think it important that the Congress extensively examine corporate practices of the food industry, especially retailers and processors.

Inflationary price increases for food are probably most devastating to the diet and well-being of the elderly, most of whom are struggling on "bare-bone" retirement income.

The price for living in our "double-digit" economy is especially high for the elderly who pay a disproportionate amount of their budget for food, shelter, medical care and transportation.

Table 1 below contrasts the percentage of the total Bureau of Labor Statistics family budget spent for these four expenditure classifications in Autumn 1973 by an intermediate level family of four with an intermediate and lower level retired couple. (The intermediate retired couple amount approximates the median family income for *senior* citizens and the lower level budget amount is even more generous than the Census Bureau poverty threshhold.)

Table 2 shows the annual rate of the Consumer Price Index increase for these four items since October 1973 when these budgets were last updated.

TABLE 1.—PERCENTAGE OF BLS FAMILY AND RETIRED COUPLE BUDGETS SPENT FOR SELECTED ITEMS, AUTUMN, 1973

	Intermediate budget		Lower budget retired couple
	Family of 4	Retired couple	
Housing	23.1	34.0	33.9
Food	25.2	29.5	31.4
Medical care	5.2	8.4	12.0
Subtotal	53.6	71.9	77.3
Transportation	8.1	8.5	6.3
Total	61.7	80.4	83.6

Source: Bureau of Labor Statistics, U.S. Department of Labor.

TABLE 2.—*Annual rate of Consumer Price Index increase for selected items, October 1973–October 1974*

[In percent]

Housing	13.5
Food	11.9
Medical care	11.1
Transportation	16.5

Source: Bureau of Labor Statistics, U.S. Department of Labor.

How can low-income elderly spend 30 percent of their budget for food and yet handle significant increases in food costs? With incomes fixed the effect of new rent and utility increases or a medical bill can make oatmeal a staple, fish and chicken a luxury.

Even more dramatic than these percentage figures are the actual dollar amounts of the retired couple's budget and their food bill. The figures for Autumn 1973 indicate that at the lower level the retired couple spent $1,182 out of a total budget of $3,763 and at the intermediate level spent $1,599 out of a total budget of $5,414. For Autumn 1974 we estimate these same food items cost the low budget couple about $1,323 and the intermediate budget couple $1,789.

A closer examination of BLS figures show that not only does food account for a very high percentage of the elderly's budget, but that the percentage is increasing. In Autumn 1972 food swallowed up 28.7 percent of the retired couple's "poverty level" budget and 26.7 percent of the "median income" budget, but, as stated, the Autumn 1973 food expenditures increased to 31.4 and 29.5 percent of the total budgets respectively.

Older Americans are not in a position to heed the exhortation of President Ford and his economic spokesmen to reduce their spending and to seek out less expensive substitutes. With their fixed retirement incomes being devoted to basic and essential expenditures our members do not have "fat" in their diets and do not have an more "notches in their belts for tightening."

The economic problems confronting workers and their families today are approaching

what the elderly have had to live with for at least two years now.

When food prices go up, most families adjust their dietary habits by reducing their consumption of some items and purchasing cheaper substitutes for others.

But poor elderly have long been limited to the cheapest, and often least nutritious, foods. Their problem is not "spending down" from meat to poultry, but from poultry to diluted soup.

One of the most poignant statements in this regard is that of Dr. Joseph E. Lowery, Chairman of the Southern Christian Leadership Conference, whose reaction to the misguided remark of Mr. Alan Greenspan about the economic plight of the Wall Street stock broker was, "It is incredible that the Chairman of the President's Council of Economic Advisers equates the fact that a Wall Street financier has to eat less steak and drink less champagne, with the fact that poor people have to eat dog food and pretty soon, the dog."

How do we expect an elderly widow to cope when she has not tasted meat for months and can no longer afford soup?

When confronted with these higher and higher prices at the supermarket they must simply buy less food and reduce other essential expenses. Must older people suffer the indignity of eating baby or dog food, wearing the frayed dress and worn shoes, putting off replacing the broken window or seeking physician care, and stop buying toilet goods or medications?

But from the contacts we have with older people, and from our correspondence with them all over the country, we know this is exactly what is happening.

It must be remembered that the Consumer Price Index reflects the consumption patterns of workers, not retirees. This caveat is particularly relevant to a discussion of food prices and the elderly because the CPI food index presently understates food price rises for the poor.

The recent moderation in the rate of CPI food increases reflects a reduction in the rate of price increases, in some cases actual price cuts, in the food stuffs which might be characterized as a working family's "meat-potatoes" diet.

As a result, the CPI food group cannot adequately report that food items common to the diet of the low income person are skyrocketing.

To notice this fact you must go beyond the aggregate classifications of the preliminary CPI reports for the previous month and examine the itemization in the CPI Detailed Report which is available about four months later. Unfortunately, the policy makers, the press, and the general public often stop at the first stage of this information.

The August CPI Detailed Report reveals the unadjusted percentage price increases during the preceding year for food items often found in the cupboard of the poor elderly household:

TABLE 3.—*Annual Rate of Consumer Price Index Increases for Selected Food Items, August 1973–August 1974*

[In Percent]

Corn flakes	29.4
Rice	89.5
Bread, white	27.3
Milk, fresh, skim	22.0
Fruit cocktail, canned	26.8
Peas, green, canned	25.2
Dried beans	146.9
Margarine	56.2
Coffee, instant	24.7
Bean soup, canned	52.7
Chicken soup, canned	26.0
Spaghetti, canned	21.5
Mashed potatoes, instant	23.1

Source: Bureau of Labor Statistics, U.S. Department of Labor.

Although we look forward to federal action to break up the food cartel, the short-term dilemma of older people does not permit their surviving long-range programs to improve the marketplace for the consumer.

I do not wish to dampen your enthusiasm for curbing price setting practices of non-competitive businesses or eliminating obsolete and counterproductive government regulations, but only to stress the immediate need for more direct action to protect the elderly and other poor from the ravages of inflationary food price increases.

Before closing I would like to describe a recent development of major concern to the National Council and other social action organizations affecting the nutrition of the poor. I am referring to the action of President Ford to virtually remove poverty level old people from the beneficial Food Stamp Program as of the first of March.

On August 23, two weeks into the Ford Administration, Mr. William R. Hutton, our Executive Director, myself and a small group of other national representatives of senior citizens, had the opportunity to meet with the new President.

Mr. Ford wanted to discuss with us the problems of the elderly, especially in the double-digit inflation he inherited.

Coming into the Oval Office without much of a "sidelines warm up", I think the President became more sensitive to the general problems of the elderly as a result of our meeting. In addition, he expressed concern that older people have been bearing more than their fair share of the inflationary burden and can be asked to bear no more.

But it appears that it did not take him long to learn the game plan and follow the policies of his predecessor's team.

Last month the President proposed to cut $4.6 billion out of the Fiscal Year 1975 Federal Budget, largely in the area of basic social programs. Major cuts were asked for in Food Stamps and Medicare, as well as smaller cuts in Social Security and Medicaid.

Unfortunately for the elderly and the poor the Food Stamp change differs from most of the other proposed cuts because it can be implemented by administrative fiat without Congressional approval.

The change in the Food Stamp Program will require older people to pay significantly greater percentages of their meager incomes to purchase food stamps.

Under the Ford program, already scheduled to take effect March 1, most all recipients would be required to pay the program maximum of 30 percent of their net incomes for food stamps. At present, nearly all individuals pay 15 to 20 percent of income for food stamps and most couples pay 15 to 25 percent.

The Community Nutrition Institute, a non-profit public interest research organization in Washington, D.C. has done an excellent job in analyzing the impact of President Ford's food stamp scheme on the 15 million food stamp recipients, two million of whom are over age 65.

Because of the basic Federal payments under the new Supplemental Security Income program of $146 a month for an individual and $219 for a couple, the SSI "disregard" of $20 from Social Security or unearned income, and the additional SSI payment of the most populous states, the elderly poor would effectively be removed from the Food Stamp Program because their income would be too high!

SSI individuals with a net income of $146 a month—basic SSI benefit—would be eligible for food stamps, but would have to pay $43.80 each month for $46 in food stamps. Presently such persons would pay $30 for $46 in stamps.

If the individual was like 70 percent of SSI beneficiaries who are able to disregard" $20 of Social Security, the person would be in the ironic situation of paying more for food stamps than they are worth, $49.80 for $46 of stamps to be exact. Presently, the person is paying $33 for that $46 benefit.

A retired couple receiving a basic $219 SSI payment would have to pay $65.70 or $71.70 if they are able to take advantage of the $20 "disregard" for $84 in food stamps.

It is clear that a large number of food stamp recipients will leave the program if this plan is carried out, either because their food stamp benefit would effectively disappear; would be too small to go through the burden of applying for, picking up and using food stamps; or because they will be unable to afford the new price after paying increasing costs for other food items, rent, medical expenses, and other fixed bills.

As a result, Mr. Ford will be able to achieve through administrative action what his predecessor had unsuccessfully attempted to achieve through Congressional action, that is the elimination of SSI recipients from the Food Stamp Program and the gradual elimination of the program.

While preparing this statement I noted with great interest an editorial in the Washington Post of December 12. The editorial reviews a decision of U.S. District Court Judge Miles W. Lord of Minneapolis:

"The case before Judge Lord (Bennett v. Butz), turned on the question of whether the Department of Agriculture was conducting the food stamp program as Congress intended. The act called for an 'outreach' program that would 'insure the participation of eligible households.' Judge Lord, after hearing what Agriculture had to say in its defense about the fact that only half of those eligible are receiving aid, said of Secretary Earl Butz: 'The secretary's response to the congressional directive, when viewed in its totality, is fairly described as a total failure on his part to do what the Congress clearly intended him to do.' "

It would appear that President Ford's food stamp scheme was developed to thwart Congressional intent by a slightly different means.

We are pleased that concern is beginning to be generated within Congress to stop by legislative action this ill-conceived notion of Mr. Ford's. We are aware of an effort in the House by Congressmen Donald Fraser and John Heinz to build support for Agriculture Committee action on this critical matter.

I strongly urge you and your colleagues to make one of the first priorities of the 94th Congress the prohibition of this food stamp change and the strengthening of Congressional intent about the purposes and policies of this essential social program.

I thank you again for the opportunity to discuss with you the food problems of the elderly and am looking forward to working with you in improving the well-being of the American consumer.

NATIONAL DAY OF PRAYER

Mr. HATFIELD. Mr. President, on April 17, 1952, a joint resolution of the Senate and the House of Representatives calling for an annual National Day of Prayer was approved. Public Law 314, chapter 216 (66 Stat. 64) authorizes the President to proclaim the Day of Prayer each year on a day other than a Sunday. The day is determined by the President and by established custom—since 1957—it has been observed on the third Wednesday in October. However, this year the time has been changed to the holiday season which we are now entering. On December 5, 1974, President Ford issued a proclamation desig-

nating Wednesday, December 18, 1974, as a National Day of Prayer. The proclamation reads as follows:

A PROCLAMATION—NATIONAL DAY OF PRAYER, 1974

(By the President of the United States of America)

Ours is a Nation built upon a belief in a Creator who has endowed all men with inalienable rights, and faith in that Creator permeates every aspect of our way of life.

With characteristically quiet eloquence, President Dwight D. Eisenhower once described the central role of religion in American life:

"Without God there could be no American form of government, nor an American way of life. Recognition of the Supreme Being is the first—the most basic—expression of Americanism. Thus the founding fathers of America saw it, and thus with God's help, it will continue to be."

Let us pray, each in our own way, for the strength and the will to meet the challenges that face us today with the same profound faith in God that inspired the Founders of this Nation.

Let us pray, as our Fathers prayed, for the wisdom to know God's way and the determination to follow it.

Let us pray that God will continue to bless this great and good land as abundantly in the future as he has in the past.

In 1952 the Congress directed the President to set aside a suitable day other than a Sunday each year as a National Day of Prayer, in recognition of the profound religious faith on which America is built.

NOW, THEREFORE, I, Gerald R. Ford, President of the United States of America, do hereby proclaim Wednesday, December 18, as National Day of Prayer, 1974.

I call upon all Americans to pray that day, each after his or her own manner and convictions, for Deity's blessing on our land and for peace on earth, goodwill among all men.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of December, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred ninety-ninth.

GERALD R. FORD.

Mr. HATFIELD. Mr. President, just 3 weeks and a day ago this body considered and passed Senate Resolution 437 regarding conservation of food, sharing our food with the hungry, and establishing November 24, 1975, as a National Day of Fasting. As we reaffirm today our need to depend upon God, let us also remember our responsibility to care for the survival needs of His children. Today human beings are starving. They are in need of food overseas, within our own cities, in rural areas.

In the weeks since Senate Resolution 437 was passed I have received in my office hundreds of letters reflecting the attitudes and convictions of citizens from around the country with regard to the U.S. involvement in the alleviation of the immediate food needs of the hungry. The great majority of these letters have been positive, expressing interest in voluntary relief agencies involved in food relief work. Many cannot understand the calculated indifference to the needs of the hungry which is expressed in the manner in which our food for peace program has been administered.

Mr. President, on this day, December 18, when thousands and hopefully millions of people are praying for our Nation, for us as leaders, for individual needs of life and health, let us not turn a deaf ear to their cries and to the instructions of the man who is recognized by all faiths as one of the greatest teachers who has ever lived. Jesus of Nazareth, whose birth Christians will celebrate in 1 week, left us with these words describing the encounter between men and God:

Then shall the righteous answer him, saying, Lord, when saw we thee ahungered, and fed thee? or thirsty, and gave thee drink? . . . And the King shall answer and say unto them, Verily I say unto you, Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me. (Matt. 25:37, 40)

Let us purpose that we as individuals will, by our own example, cease from wasteful overconsumption and begin to share our resources with those in great need. Let us purpose to give moral leadership in the use of the wealth of our Nation, looking for the best ways we can work for mankind and not self interest or small but powerful "special" interests.

And, Mr. President, as the Nation today prays in response to our President's proclamation, I propose that we too quietly and individually offer thanks and pledge ourselves to a greater sensitivity to those in need.

WILL THE PUBLIC USE MASS TRANSIT?

Mr. TAFT. Mr. President, in view of the recent passage of the mass transit bill, the remarks which Gov. Arch A. Moore, Jr., of West Virginia made before the American Road Builders' 1974 convention in Las Vegas sometime ago are now quite timely. Governor Moore, who has been extremely active in transportation policy over the years, once again has raised some important matters which demand our attention.

The Governor points out that as we move into the implementation stage of the mass transit legislation, we must remember that the evidence of people's willingness to utilize this mode of travel is unconvincing, even in some of our Nation's largest metropolitan areas. While I strongly supported the mass transit legislation, I believe it is essential that we undertake the new program with our eyes open to such potential problems.

I ask unanimous consent that Governor Moore's remarks be printed in the RECORD.

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

OUR TRANSPORTATION SYSTEMS

(Remarks by the Honorable Arch A. Moore, Jr.)

I am delighted to be with you today, and your invitation to address this, the ARBA's 72nd Annual Convention, was a pleasure for me to accept. We all have one thing in common—the goal of a better, safer transportation system for our nation, our states, and for all Americans.

I speak to you as Governor of a progressive, forward-looking state—but essentially a rural state. And West Virginia, where only 39 percent of its 1.7 million people live in an urbanized area, will probably always remain a basically rural state. Therefore, I get a little perplexed at some of the proposals and ideas as they relate to transportation in the modern age—and I am a little inclined to think that the bulk of these suggestions are made by and for those in our nation who live and work in the major metropolitan areas. Too little time and too little thought, in my opinion, is given to those of us who are more concerned with the farm to market road than we are with rapid rail transit.

There is, of course, a great need for a balanced transportation system in the nation, a system on which the New York City resident can rely, as well as the Iowa farmer and the West Virginia coal miner. And before I go further, let me emphasize that I am certainly not opposed to rapid transit—nor am I against the national transportation policy that was recently announced by President Nixon and the U.S. Department of Transportation.

But I do get concerned when the federal government seems to ignore basic needs in favor of some idea that may or may not solve some transportation problems. Enroute here, I had the time to read some of the latest issues of ARBA's fine magazine, and I read with a great deal of interest the recent article by Frank Turner, the former Federal Highway Administrator. The article, in case you haven't read it, is entitled, "A Quick Solution to Washington's Commuter Problems," and it appeared in the January issue of the ARBA magazine. Among other things, I was somewhat startled to learn that the metro transit system, now under construction in our nation's capitol, is expected to cost approximately three billion dollars when completed about 1980, and some feel that this price tag is somewhat conservative. The projections are that Metro will handle only about six percent of the daily person-trips into the Washington metropolitan area.

Now, I am not opposed to Metro—far from it. Having lived and worked in the Washington area during six terms in the U.S. House of Representatives, I am well aware of the need for an answer to that city's tremendous traffic problems. But ladies and gentlemen, three billion dollars is double the total value of highway construction that has been undertaken in West Virginia in the past five years, and the population of West Virginia is more than twice that of the District of Columbia. And at the same time, West Virginia and many other states are having great difficulty in obtaining federal funds to complete its Interstate system and other needed highway endeavors. I can't help but think that maybe we, as a nation, should complete one thing before we plunge into public transit at a national level.

To some, it may sound strange for a West Virginian to talk about public transit in such a manner, when at Morgantown, West Virginia, the Experimental Personnel Rapid Transit—PRT—is under construction. But really, it's not. It's just that we find it difficult to ascertain why federal funds for PRT seem unlimited, when we find it increasingly hard to obtain federal funds to complete Interstate 79 to get traffic to Morgantown, where they can utilize the PRT. In recent years, we have finished a lot of I–79, but there are several other federal-aid highway projects on the shelf back in Charleston, simply because of the lack of federal funds. And I can't help but take this opportunity to note the fact that the federal government has in its possession about sixty million dollars in impounded highway funds that we could well use now in West Virginia.

The new Unified Transportation Assistance Program, anticipated to cost 16 billion dollars over a six-year period, is a commendable undertaking, and may well provide the answers to the complex traffic and transportation problems of the nation's metropolitan centers. But, I ask you, what does it do for the little, rural states like West Virginia, and like our host state here, Nevada? The 16 billion dollars may well be necessary to com-

bat these problems, but it seems to me that perhaps it may be another case of throwing money at a problem and hoping it will go away.

Mass transit is not new—far from it. In this nation, we've had mass transit since our early days. The sailing of the Mayflower to Plymouth Rock was a form of mass transit, as were the Wells Fargo stage coaches of the Old West. We've had trolley cars, railroads, steamboats and on and on. Mass transit has been tried in every conceivable fashion. But it all boils down to one thing—the American citizen will get to the place he wants to go, and he will determine his mode of travel to suit his schedule, his pocketbook and his own personal pleasure. He will not travel by air if he doesn't want to fly. He will not join a car pool if he simply doesn't want to be bothered. It is somewhat odd that at the same time the President was asking Congress to spend road users money on buses and trains, some severe gasoline shortages were plaguing the American motorist. Despite this, the motorist showed not one extra inclination to abandon his automobile in favor of public transportation. In Boston, for example, the Public Transit Authority, two commuter railroads, and a private commuter bus firm reported a negligible increase in riders in a two-month period earlier this year when the Boston area was experiencing a gasoline shortage.

In short, your tax funds may be going to subsidize some of the nation's transit systems in cities like Boston, New York and Chicago, where for years, the populace has demonstrated an unquestionable apathy for such modes of travel. The Department of Transportation, in responding to critics of the new program, claim that it will not result in a discarding of the Interstate highway system. No one, I am certain, will dispute this. The American people want the Interstate system completed, and I believe Congress and the Administration want it, also. However, the question is, when?

The shortage of federal funds severely hampers the productivity of the states in an era when the American public is demanding safer, better-designed highways. In West Virginia for the coming fiscal year, the Highway Department has the design capacity to produce plans for projects estimated to cost $190 million in federal funds. That is, we could utilize $190 million in federal funds for the coming fiscal year. However, our apportionment is only $67 million, and $55 million of this has already been earmarked for conversion of pre-financed work. Therefore, we will have available in West Virginia only about $12 million in federal funds for Interstate *and other* federal-aid highway construction for the entire year. In a state like West Virginia, with high construction costs, this will amount to one Interstate project.

Because of the lack of available federal funds, West Virginia has had to resort to pre-financing by utilizing bond funds to provide 100 percent state funds until conversion to 90 percent federal funds can be arranged. Only in this way have we been able to keep West Virginia's highway program going. But despite this, at the current level of federal funding, West Virginia's 511-mile Interstate will not be completed until 1981 or 1982, or about 25 years after Congress enacted the landmark Interstate highway legislation.

Another distressing point about the Federal Aid Highway Program is the red tape and seemingly endless period of time required to obtain federal approvals. Environmental impact statements, while they may be desirable, are adding at least one year to the time required to get a project to contract. I feel that the eight or nine years that are required to plan, design and construct a highway are far too long, and some projects are taking even longer. Even emergency relief projects, and we have several in this category in West Virginia, are subject to countless delays to obtain federal approvals even though the federal government, at the outset of these projects, agreed upon 100 percent funding, apparently with the thought in mind that these projects should be expedited. To cite just one example—we have one Ohio River bridge project in West Virginia which has been pending before the U.S. Coast Guard for a navigational permit for nearly a year and a half. How long should a state be required to wait for a federal agency to determine if the piers on a proposed bridge meet navigational standards?

As road builders, all of you should take a keen interest in the developments regarding the highway and the mass transit programs, since your industry will be called upon to construct the facilities for these modes. You should take an active part in the affairs of the program, not only in Washington, D.C., but also in your home state. All of us are aware of the difficult times, and you may be assured that in West Virginia, the problems are no less real than in the larger states. But, in the Mountain State, where extremely rugged terrain and unstable soil conditions combine to offer a road builder a great challenge, we are used to meeting such problems head on. Many of our road builders in West Virginia are giants of the industry who have been attracted to our state, and they have done an excellent job in surmounting these problems, and I am sure they will continue to do so in the future. At the same time, I challenge the industry, and you as individual contractors, to keep abreast of recent research programs and new developments in hopes that these may lead to innovations that shorten the construction period and stabilize costs. Because of spiraling costs and reductions in revenues from motor users taxes, many states in this nation have already curtailed, partially or completely, their highway lettings because of the uncertainty in the situation. One Eastern state, for example, has thus far declined to authorize any contract lettings for the summer, and has undertaken a reduction of its Highway Department's engineering staff by attrition. We have not had to do either in West Virginia, and I hope that we never have to do this. But it is obvious that we must move ahead cooperatively in order to meet these challenges.

FORD INFLATION PLAN—A DOUBLE BLOW FOR ELDERLY

Mr. MUSKIE. Mr. President, the Ford administration's recent proposed cutbacks in medicare and food stamps would deal a harsh blow to the elderly and disabled.

It is ironic, indeed, that the administration is asking persons who are hardest hit by inflation to make some of the greatest sacrifices.

Surely there are more humane and sensible ways to pare our budget than to saddle aged and handicapped Americans with new medical and food costs.

Of all the possible alternatives for reducing Federal spending, the administration could not have chosen a more inappropriate target than medicare protection for older Americans.

What it represents is a resurrection of a discredited Nixon administration proposal to raise health care costs for the elderly.

It was rejected then in 1973, and it should be rejected now.

In brief, the administration proposal would add a new coinsurance payment for medicare patients who are hospitalized. This would be equal to 10 percent of charges above the hospitalization deductible—now $84 but to rise to $92 this January.

Under present law the medicare beneficiary pays the first $84 of his hospital bill, and nothing thereafter until the 61st day.

For the overwhelming majority of the 5.6 million medicare patients who are expected to be hospitalized in 1975, this proposal could greatly increase their hospital costs.

Second, the administration proposed to increase the annual deductible for physician services under medicare from $60 to $67. Then the deductible would rise proportionately with social security percentage increases.

These measures represent a serious retreat in coverage under medicare. They would dramatically affect the overall security of older and disabled Americans.

All in all, the reaction to the administration's recommendations has been overwhelmingly in opposition.

In fact, the Federal Council on Aging has sent a letter to the President, expressing their concern. They also asked the administration to provide the Council with advance notice of any proposed legislation affecting older Americans.

Mr. President, yesterday's Washington Star-News includes an excellent Associated Press article which describes the impact of the administration's proposals for the aged.

It merits the attention of every Member in the Senate.

For this reason, I ask unanimous consent that the article entitled "Ford Inflation Plan—a Double Blow for Elderly" be printed in the RECORD.

I also ask unanimous consent to have the Federal Council on Aging's message to President Ford printed in the RECORD.

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

[From the Washington Star-News, Dec. 17, 1974]

FORD INFLATION PLAN—A DOUBLE BLOW FOR ELDERLY

(By John Stowell)

Millions of elderly Americans on fixed incomes would be dealt a double blow in their health and food budgets if Congress accedes to President Ford's inflation-fighting proposals on Medicare and food stamps.

The average retired worker receiving a $187.11 monthly Social Security check now pays $92 for up to 60 days of hospitalization. But under the President's proposed amendments to Medicare, this retiree would have to pay $250 out of his own pocket if hospitalized 10 days, $600 for 40 days and $750 for 60 days.

The same person would become ineligible for federal food stamps March 1, as the Agriculture Department hurries to comply with a presidential directive. He now pays $36 to receive $46 worth of food stamps each month.

Ford proposed a $4.6 billion reduction in federal spending this fiscal year. Some of this Nov. 26 proposal has drawn fire from influential legislators, nutrition groups, the presidentially appointed Federal Council on Aging and the American Hospital Assn.

As part of the proposed budget cuts, the administration estimated a net $425 million saving in the Medicare program for the remainder of this fiscal year if the elderly were charged more for their health care, and a

$215 million saving in the food stamp program between March 1 and June 30.

The higher cost for food stamps, with a partial year savings of $215 million, is considered assured because the Agriculture Department can place it into effect without congressional approval.

The USDA has offered a shortened comment time ending Dec. 27 for objectors. The plan will boost the cost of food stamps most sharply for single recipients and couples, eliminating singles with monthly incomes between $172 and $194.

About 23.5 million persons receive automatic Medicare benefits. These persons pay $92 when hospitalized to cover the first 60 days in the hospital. They may also pay $60 a year for optional supplemental medical coverage.

Under Ford's proposal, Medicare beneficiaries would be charged 10 percent for all bills above the present $92 deductible up to a $750 maximum "per spell or illness" and $67 annually for physician's care.

Out-of-pocket outlays for both Medicare programs would be tied directly to increases in Social Security benefits.

"The chief drawback in the present arrangement is that the beneficiary's cost-sharing burden occurs at the end of a long, institutional stay when the beneficiary is least able to afford it," HEW said in arguing for Ford's proposed change. Under the existing program, the flat $92 coverage ends on the 60th day of hospitalization and increases to $23 daily until the 90th day when the patient becomes obligated for all future hospital charges.

However, he can draw on a once-only reserve of 60 days but must pay $46 daily for that privilege.

Without using the reserve, a Medicare patient now pays $782 for 90 days in a hospital, $2,392 for 125 days and $3,542 for 150 days.

HEW argues that Ford's proposal would not cause such a financial burden at the end of a long hospital stay because of the $750 ceiling.

Under the proposal, the patient would pay $750 for 60 or more days in a hospital during a "benefit period." A new benefit period wouldn't begin until he had been out of the hospital for two months.

However, Social Security records show that of about 6 million Medicare patients who will seek hospital care this fiscal year, 97 percent will be hospitalized for less than 60 days.

Only 2 percent—or 100,000 beneficiaries—would be hospitalized between 60 and 90 days, and less than 1 percent—or 35,000—between 90 and 150 days, the length of stay needed for the Ford proposal to benefit them financially.

While the administration projects a half-year saving of $465 million with higher Medicare charges, about $40 million of that would be eaten up by increased Medicaid outlays to aid elderly persons who would become medically needy for the first time.

DECEMBER 9, 1974.

MESSAGE TO PRESIDENT FORD

MY DEAR MR. PRESIDENT: The Federal Council on Aging wishes to convey to you its deep concern about the financial burden that would fall on the elderly as a result of the reductions you have proposed in the 1975 budget. In particular, we cite the additional costs that would have to be borne by the aged in relation to such programs as Medicare, Medicaid and food stamps.

As a body established by the Congress to advise the President on the needs of older Americans, we would have liked the opportunity of expressing our views on this matter, of such great consequence to the elderly, before it left the White House.

In the future, we would hope that the Administration might utilize the Federal Council on Aging for advice and consultation when matters of such great impact on the lives of older Americans are still in their formative stages.

Sincerely,

BERTHA S. ADKINS,
Chairman, Federal Council on Aging.

WORLD IN CRISIS

Mr. CHILES. Mr. President, the year 1974 has certainly been one of crisis. The American people—and we in Congress—have been confronted with crisis on the heels of crisis, so that it has been impossible to focus on and deal with any one of them fully and effectively. As a result, we face 1975 and the 94th Congress with severe problem areas still remaining to be solved. James McCartney of the Knight Newspapers-Miami Herald, in a series of six articles published this month, has done an outstanding job of focusing and interrelating four major crises we face—food, energy, money, and population. These articles are very informative, and I wish that every Floridian and American had the understanding that they provide.

Mr. President, because I think that we would all find this series interesting and worthwhile—and in a sense a challenge for action in the upcoming Congress—I ask unanimous consent that the articles be printed in the RECORD.

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

[From the Miami Herald, Dec. 8, 1974]

HOW FOUR FORCES IMPERIL MAN'S FUTURE

(By James McCartney)

WASHINGTON.—The 110-story Sears Tower in Chicago was first occupied only last year, the tallest building in the world, with a power system large enough to serve a city of 144,000.

Before the century is out it may become a towering museum, as useless as the pyramids along the Nile, and just as symbolic of a bygone age.

But it would not be alone as a giant relic of the past in a period of energy shortages. Such proud achievements as the nation's 23,000-mile interstate highway system could also stand virtually useless.

"That highway system" says Stewart Udall, former secretary of the interior and one of the nation's leading independent energy experts, "may very well be used primarily as a right-of-way for trains and for bicycling."

These are conclusions by serious students of what the future may hold in what is now unfolding as a great and multilevel world crisis—the most serious since World War II.

President Ford has said a "breakdown of world order and world safety is threatened."

The crisis burst into public consciousness with a dramatic rise in oil prices a year ago, threatening a world depression.

But as time has passed it has become clear to both statesmen and scholars that far more than energy is involved.

Suddenly not one but a host of powerful forces has come together to shake the very foundations of life in the modern industrialized world.

President Valery Giscard d'Estaing of France believes he has identified four horsemen of a threatened modern Apocalypose—energy, food, population and finances.

Many government officials, economists and political scientists agree.

The four are not so different from the four horsemen of Biblical prophesy—war, famine, pestilence and death.

The major constituent problems:

Energy. The oil price rise is only part of it. The world can eventually run out of its major source of power—oil. While consumption is rising, oil producers have a corner on the market, and are turning the screws on the industrial world.

Food. Prices are soaring, in part because fertilizers are oil based. Starvation is spreading. An estimated 10,000 persons a week are dying in one part of the world or another. An estimated 460 million are "permanently hungry," according to the United Nations.

Finance. Oil price rises have fed worldwide inflation. Shifts in nations are changing the balance of world economic power. Secretary of State Kissinger has said that "enormous unabsorbed surplus revenues now jeopardize the very functioning of the international monetary system."

Population. None of these problems can be separated from the population explosion, still uncontrolled, and many believe uncontrollable. The world's population is expected to double by the end of the century. It has already doubled since 1930.

"None of these issues are separate," says Seyom Brown, a political scientist for the scholarly Brookings Institution in Washington. "They are all inter-related."

What all this means, scholars say, is that civilization as we know it in modern America may be in for drastic changes.

Life styles for everyone may change—such fundamental matters as how you live, how you get to work, what you eat and how much.

The international monetary system, which has knit together the economies of the industrial world, is clearly trembling. Institutions that seemed rock-solid only a few years ago—both banks and nations—may collapse.

The fact that there is a new and unprecedented world crisis of monumental proportions is no longer disputed by top government officials.

A few days ago Secretary of State Kissinger compared the crisis directly to the years following World War II, when, as he put it, there was a "breakdown of international order" and the world was threatened by "economic chaos and political upheaval."

"We face another such moment today," Kissinger said.

The drain of dollars from industrial nations from high oil prices alone, he said, is "beyond the experience or capacity" of financial institutions.

"If current economic trends continue, we face further and mounting worldwide shortages, unemployment, poverty and hunger.

"No nation, east or west, north or south, consumer or producer, will be spared the consequences."

Kissinger considered this speech his most important since becoming secretary of state.

Other scholars and thinkers, studying the same problems from many points of view, emphasize that long-term, not short-term, factors are involved.

Energy expert Udall believes an historic turn has come, from a time when oil-based energy was considered limitless, to a time of shortages.

"We've got to stop thinking that there's going to be a sudden turnaround," Udall says. "People think that suddenly they're going to start hiring again in Detroit, and that will be the end of it.

"It's not going to be that way this time. It's far deeper than that."

Lester Brown, a food and population expert with Washington's Overseas Development Council, says the world has discovered in the years since 1970 that its vision of unlimited resources is false.

"The assumption of boundless abundance of raw materials is being replaced by the prospect of chronic scarcity for many vital ones," he says.

". . . We may be on the verge of one of the great discontinuities in history."

In a news conference a month ago French President Giscard said that "the crisis the world knows today will be a long one . . . It is not a passing difficulty . . . It is actually the recognition of permanent change . . . Practically all (the) curves are leading us to disaster."

Sen. J. William Fulbright (D., Ark.), the ascerbic outgoing chairman of the Senate Foreign Relations committee, who has established a reputation as a seer, has said bluntly:

"The condition is economic crisis, and the *prospects—unless* immediate and drastic corrective measures are taken—are for economic depression political breakdown and perhaps war."

Economist Robert Heilbroner, author of a provacative book called "An Inquiry into the Human Prospect," has written:

"We are entering a period in which rapid population growth, the presence of obliterative weapons and dwindling resources will bring international tensions to dangerous levels for an extended period."

Signs of both economic and political trouble related to the complex world crisis have already begun to appear.

The industrial world is suffering the worst inflation since World War II, which is affecting almost everyone on the globe. Inflation rates range to as high as 24 per cent annually in Italy and Japan.

Great Britain, France and Italy are in serious economic trouble. Italy, say economists, is threatened with collapse.

Much of the southern tier of European countries, including Portugal and Spain, Italy and Turkey, are teetering on the brink of chaos and political uncertainty.

Kissinger and others are talking more and more of fears of "political instability" around the world. What they fear are riots and revolution growing out of economic turmoil.

Kissinger remains optimistic, however.

"The problem is grave, but it is soluble," he said recently.

"The Atlantic nations and Japan have the ability, if we have the will, not only to master the energy crisis but to shape from it a new era of creativity and common progress. In fact, we have no alternative."

But Kissinger has acknowledged that he did not foresee the world's problems as they shape up today, in either energy or food.

"In 1969, when I came to Washington, I remember a study of the energy problem which proceeded from the assumption that there would always be an energy surplus," he said recently. "It wasn't conceivable that there would be a shortage of energy.

As recently as 1972, he has admitted, he thought the U.S. had "inexhaustible" food surpluses, and that it wasn't clear to him that this might be incorrect until last year.

Many in the intellectual community believe Kissinger missed many of the early cues that world economic problems were coming because of his pre-occupation with political power balances as the key to peace.

There is also evidence Kissinger has been slow in learning the lesson, and acting on it.

Kissinger today, for example, does not have a single top-ranked adviser in international economics on his State Department staff. The top economic job in the department—under secretary for economic affairs—has been vacant since last March.

Even now the U.S. has not developed an over-all program to deal with the new multilevel world crisis.

The government appears to have been trapped by its own massive bureaucracies, which often pull in different directions. The Agriculture Department has developed food policy, and represented the U.S. formally at a World Food Conference in Rome. The Department of Health, Education, and Welfare took primary responsibility for the U.S. position at a World Population Conference in Bucharest. The Federal Energy Administration attempted to develop a mandatory fuel conservation program, but was overruled by the White House.

In the diplomatic field, Kissinger made an early effort to drive oil prices down by calling a Washington Energy Conference last February. The move failed.

Then he and former President Nixon entered into extensive diplomacy with Arab and oil-producing lands, making friends, selling arms, switching policies. These moves also failed to affect prices.

By September, Kissinger and the new president, Gerald Ford, were telling the United Nations by implication that the U.S. was ready to use food as a weapon to respond to the use of oil as a weapon.

Those threats also have failed so far.

Thus it is clear that a world crisis, with many facets, is upon us. But the U.S. is still wallowing in a search for clear-cut programs to meet it in all its dimensions.

[From the Miami Herald, Dec. 9, 1974]

ENERGY PROBLEMS JUST BEGINNING

(By James McCartney)

WASHINGTON.—The energy crisis is not over. It's just beginning. Any way you look at it, there is nothing but trouble ahead.

It is threatening to touch off a world depression.

It has created widespread fears of riots and revolution—reminiscent of upheavals of the 1930's.

And today's crisis is almost bound to lead to profound changes in the way we live.

"The great energy joyride is ending," says former Interior Secretary Stewart Udall. ". . . Within a few years a chronic shortage of energy will force a complete readjustment of the way the country produces, consumes and lives."

No one knows on a percentage basis exactly how hard the U.S. consumer will be hit, but there are some clues.

By 1985, if present government plans are put into effect, about a third of the oil now available in the United States to consumers will not be available, unless new supplies are found.

There are sharp disputes over some details, but essentially these are the major elements in the energy crisis:

The United States, indeed the world, is running short on oil. As industrialization has grown, the world has become more and more dependent on the Middle East.

At current rates of consumption, proven U.S. oil and gas reserves are good for only about 10 years, according to a Federal Energy Administration study. No one yet knows how much oil and gas may be found in the years immediately ahead. Higher prices are stimulating exploration.

The world's major oil-producing nations outside the United States—the Mideastern countries and Venezuela—aware of their power in a world with growing demands for energy have established an effective cartel and are turning the screws.

These nations have arbitrarily raised oil prices by 400 per cent, creating unprecedented strains on the modern world's finance structure. Intensive efforts over the past year to get prices down have totally flopped.

Their motives are partly political, partly economic. The Arabs in the group want Israel to return to borders that existed before the 1967 Mideast war and a solution to the Palestinian problem. Others—particularly Iran and Venezuela—want money for their own development.

This combination of circumstances has produced a crisis that almost literally has industrial world leaders trembling.

Political tensions related to the crisis are threatening to ignite a new war in the Middle East which would mean a new Arab oil embargo, far more severe than last year's.

The economic problems growing out of the crisis are already threatening a world depression, even without a new embargo.

As Treasury Secretary William Simon said in a recent speech: "The policies of the oil cartel now pose a fundamental challenge to the economic and political structure which has served the international community for a quarter of a century."

Economist Richard Cooper of Yale University has called the oil price rise "the biggest economic shock the world has ever seen, with the possible exception of World War II."

In the classic supply-price equation, it is price that is at the heart of the present crisis.

Before the Middle East war last year, the price of a barrel of oil on world markets was less than $2. Today it is approximately $10.

Thus U.S. policy today is aimed directly at the single major goal of trying to force down the price of oil. The program, however, if it works, will directly cut oil supplies for Americans.

The result of that will be either gas rationing or a sharp rise in gas taxes—by at least 15 cents or more a gallon—or a fuel-allocation program of some sort, or perhaps some elements of all three.

Former White House adviser Melvin Laird, convinced that tough measures are needed in the United States, said recently, "I think sooner or later a rationing system is going to be needed . . . We may have to consider using a tax system coupled with a very tough, firm rationing system."

Laird criticized his own Republican friends in the White House for not educating the public to the energy problem.

"We're not getting the kind of awareness of the level of conservation that's needed and necessary now," he said.

Simply put, U.S. leaders have decided that the only effective tool to force down the price is a sharp cutback on the use of oil in the industrial world.

The idea is based on the classic economic theory that if you cut demand, price will fall.

The United States fumbled for almost a year after prices were hiked before settling on this policy, and announced it formally only Nov. 14, through Secretary Kissinger, in a speech in Chicago.

Even then, Kissinger was vague about details.

And because he spoke in intellectual and oil industry jargon, his message was not universally understood.

But it was there. He said the U.S. would set "as a target" for the next decade the reduction of its oil imports to no more than one million barrels a day.

The United States today consumes about 17 million barrels of oil a day. Seven million are imported. If the number imported was cut to no more than a million a day, the cut would equal almost a third of daily consumption.

More graphically, at today's prices, this would be a cut of $60 million a day in imports—or almost $22 billion a year. This would also mean, of course, that the oil-producing nations would not be getting $22 billion a year from the United States that they are now getting.

But Kissinger said the United States itself could not make this cutback program work. The entire industrial world would have to cooperate, each country setting cutback quotas in order to pressure the oil producers.

This is, in fact, a program designed to break the back of the oil cartel.

Kissinger also proposed that the United

States "press on" to try to find new oil supplies and alternative sources of energy.

But really helpful development of new oil sources or completely new energy sources are years away. The nuclear-power dream has faded for the next decade, and development of solar and wind energy are in the crawling stage, and the oil crunch is immediate.

Government officials are well aware that the consumer is going to get hurt, particularly in the near term.

"Let's not kid ourselves," said one close Kissinger adviser. "This is going to be extremely painful."

In the classic tradition of governments in power, the Republican administration has not sought to dramatize the dimensions of the energy crisis—preferring to present as rosy a picture as possible.

But officials essentially do not disagree with Stewart Udall's vision that an end of an era has arrived.

"The only reasonable course for the United States is to admit that it is in trouble and begin a transition to a lifestyle and an economy which emphasize thrift and efficiency," Udall says.

"We can no longer sit comfortably in our horseless chariots, dazzled by the promises of prosperity and technology run amuck."

The reason the Ford Administration has not yet confided in the public on how much pain is to come is also quite clear.

With the nation already in an economic recession, there is fear that immediate steps to cut back on energy use might make it worse. Hundreds of U.S. industries making thousands of products are dependent on oil. Hundreds of thousands of jobs are involved.

But it is virtually certain that a day of reckoning will come.

Where does the United States stand today in attempting to manage the energy crisis? A program has been developed, but is still on the drawing boards.

Treasury Secretary Simon has acknowledged that disaster awaits unless somehow the crisis can be brought under control, through "decisive collective action to break the present train of events."

The administration's program will require difficult negotiations with other countries to form a united front. It will undoubtedly meet resistance domestically, with many hassles to come.

Sen. Henry Jackson (D., Wash.), the most powerful congressional figure facing the administration, said recently that "I just don't believe" that cutting demand will fix a "just price" for oil. "This is the most efficient cartel in the world."

And as for the oil producers, they don't appear to be worried.

Saudi Arabia's top oil expert, Harvard-educated Sheikh Zaki Yamani, said recently: "I think that conservation alone will never put a real downward pressure on the price of oil."

[From the Miami Herald, Dec. 10, 1974]

FOOD UNABLE TO KEEP PACE WITH EXPLODING POPULATION

(By James McCartney)

WASHINGTON.—In 1974, the number of mouths to feed in the world outstripped the world's ability to produce food.

The results of that statistical event:

By United Nations count, imminent starvation and bankruptcy now face no fewer than 32 nations.

In Bangladesh alone 100,000 have died in the last six weeks and the government says a million more will die by the end of the year unless they get emergency aid.

Death rates are climbing in Central America, Africa and India, as well as elsewhere in developing countries, reversing trends of 20 years.

Food prices are soaring around the world. Increases in the United States are now expected to amount to nearly 15 per cent for the year, far above forecasts.

Food reserves are depleted.

"Food has become a central element in the international economy," says Secretary of State Henry Kissinger. He points out the relationship of food with other elements in the current world economic and political crisis.

"A world of energy shortages, rampant inflation and weakening trade and monetary system will be a world of food shortages as well," he said.

For the average American, the world food crisis won't mean much in the short run, unless the United States, as a nation, decides to do more than it is doing to help the starving.

If that happens, food will be more expensive. In the years immediately ahead, however, if problems aren't solved, there will be chronic shortages. Diets will have to change. You'll eat less meat, more cereal. The "frills" you may be used to will go.

In the long run, if population can't be controlled, there will not be enough food anywhere. The food crisis, which has now spread across the globe, was not foreseen.

Only a few years ago, U.S. leaders considered food surpluses a burden, rather than a blessing. Kissinger has acknowledged that it wasn't until last year that he began to recognize his mistake.

A 130-nation World Food Conference was called in Rome early this month to deal with the food crisis.

The conference failed to produce a short-term program to prevent the death of millions before next spring's harvest, despite dire warnings.

The United States wound up at the conference in the role of villain for failure to pledge new emergency food aid.

The decision was President Ford's who clearly feared a firm pledge of aid would force up already soaring U.S. food prices.

Neither did the conference produce any notable long-term program, for the consensus of U.S. experts is that if soaring population rates can't be brought under control by early in the next century, there is "no answer," as one has put it, "to the food problem."

The conference may have had more luck in approaching what were called "middle-term" problems: producing enough food to keep up with population growth in the next 10 to 20 years.

Councils and committees were formed, but success will all depend on whether there is a followup.

For the individual U.S. citizen, the immediate issue of threatening widespread starvation has now shaped up as an issue with heavy moral overtones.

How much, if anything, should he give up of his own standard of living, or changing in his eating habits, to contribute to the starving in the world?

The U.S. citizen is the world's best fed.

In developing countries the average person eats roughly 400 pounds of grain a year, just barely enough to keep alive.

An American accounts for about five times that amount, much of it in the form of beef, pork or chicken from grain-fed animals.

Americans in recent years have eaten better than ever before.

The average American, for example, ate about 55 pounds of beef a year in 1940—steaks, pot roasts, or perhaps in sandwiches.

Today, the average American eats 116 pounds of meat. Americans are the biggest and often the fattest of the world's beef-eaters.

With the coming of the energy crisis, however, the rich have been getting richer, and the poor poorer, as the high cost of fertilizer—which has an oil base—has contributed to the food crisis.

"In the last two years," says James Grant of the Overseas Development Council, a leading food expert, "it appears that for the first time the richest billion people of the world have been eating more each year while a majority of the poorest billion have been eating less."

Grant says that the rich have had the money to buy up scarce food supplies, and "preempt" them from the poor.

The question is whether the rich need so much.

Harvard nutritionist Jean Mayer has computed that "the same amount of food that is feeding 210 million Americans would feed 1.5 billion Chinese on an average Chinese diet."

Mayer is one of those who believe that Americans and others in the rich nations are going to have to eat less if the crisis is to be met.

Agriculture Secretary Earl Butz strongly opposes proposals to cut back on U.S. meat consumption for shipments abroad.

He is fearful that U.S. farmers will lose income if demand for meat products drops. His answer to the problem is to try to develop more pasture land to fatten up more cows and steers, increasing production.

The United States has long been the world's largest and most generous donor of food aid to help the hungry and dying.

Butz has estimated that the United States has shipped about $25 billion in food aid to the needy of the world in the last 20 years.

At the same time, however, the amount of U.S. food aid has dropped drastically in recent years as agricultural surpluses disappeared.

Much of the U.S. food aid in the past was surplus food purchased by the government to support high farm prices in the United States. With no surpluses, food aid had dwindled from about nine million tons a few years ago to 3.2 million in 1974.

More could be sent, but the government would have to go into the grain market at going prices, forcing up prices about 5 per cent when housewives are already complaining loudly.

But the issues are clearly more than moral, and involve more than a new threat of higher food prices.

Starvation breeds social unrest, with the threat of riots and revolution. Food riots are already commonplace in Bangladesh and India. Food prices have contributed to the toppling of governments in Ethiopia, Niger and Thailand.

Grant of the Overseas Development Council has said that a "deep sense of grievance has developed" against the United States in the developing world because of the drop in food aid.

These countries believe, he said, that "the United States has withdrawn from leadership and in some cases even from a fair-share role" in efforts to help the starving.

Grant said that this sense of "grievance" has been a major factor in the ability of the oil-producing countries to rally support behind them in the United Nations, and elsewhere, in the world's oil crisis.

The food crisis, however, goes far beyond the immediate problem of feeding the starving.

There is no way the United States can indefinitely feed the world even if it wished. The less-developed countries have to learn how to produce their own food. Early steps in trying to develop programs to help them do that grew out of the World Food Conference in Rome.

But even more threatening is the long-term outlook in population which is increasing by 1.4 million a week—1.4 million new mouths to feed. The population is expected to double by the end of the century.

No one yet knows how those kinds of numbers could possibly be fed.

[From the Miami Herald, Dec. 11, 1974]

OIL PRICES ARE THE KEY TO MONETARY STABILITY

(By James McCartney)

WASHINGTON.—The date was Dec. 23, 1973. It was a Pearl Harbor in the annals of world economic history.

For that was the day that the world's oil-producing countries, except the United States, met in Tehran, Iran, and announced an unprecedented increase in oil prices that quadrupled prices of a few months earlier.

The world economic system is still reeling from the shock.

Now, nearly a year later, there is virtually universal agreement among economists and political leaders that a world economic crisis is upon us.

More importantly, no solutions have been found. The industrial world's best economic minds are still groping about what to do.

Both Secretary of State Henry Kissinger and Treasury Secretary William Simon have said that if present trends continue, world economic disaster is all but inevitable.

H. Johannes Witteveen, managing director of the International Monetary Fund, has summarized what has already happened:

Worldwide inflation rates have soared.

Economic growth almost everywhere is down sharply.

Stock market prices around the world have plummeted.

Financial markets are under "severe strain."

Kissinger has gone one step further, and predicts that, if the crisis can't be brought under control the upshot will be:

Mounting world wide shortages, and thus more inflation;

More unemployment; poverty; hunger and mass starvation; "dangerous" political unrest.

President Ford has said a "breakdown of world order and world safety" is threatened. Sen. J. William Fulbright (D., Ark.) has said that unless "immediate and drastic corrective measures" are taken, "the prospects are for economic depression, political breakdown and perhaps war."

The possibility of a vast world depression as deep as, or deeper than, the depression of the 1930s with attendant suffering and starvation for hundreds of millions is what leaders are worried about.

But they also are worried about the rise of neo-fascism in some places, or of new Communist states. Top Kissinger aides say he is haunted by personal memories of Nazi Germany in his youth.

Kissinger has also expressed worry about the possible collapse of the "detente" policies toward the Soviet Union and China, if the West collapses.

What is happening, basically, is a massive shift in the world's monetary wealth from oil-consuming nations, rich and poor, to the oil producers, in the Middle East, Africa and Venezuela.

The world has never seen anything quite like it.

Rich countries like France, Germany, Great Britain, the U.S. and Japan have been sending money for oil at a record rate to Iran, Saudi Arabia, Iraq, Kuwait and all the other oil producers.

For example, Saudi Arabia, a desert country with a population of eight million counting Bedouin tribesmen has increased its reserves of gold and foreign currency from $4 billion a year ago to $11.5 billion.

It is now the world's fourth richest nation, surpassed only by the United States, West Germany and Japan. It will soon pass both the United States and Japan.

Meanwhile, Great Britain, once famed as the world's banker, is in debt about $10 billion, France about $6 billion, Italy $9 billion. The United States is running in the red.

Bankers and economists have coined the word "petrodollars" to refer to the fast-moving oil money. The rate at which "petrodollars" are piling up now in the oil producing countries boggles the mind.

Kissinger has estimated that the oil producers now have a $60-billion surplus in funds, far beyond what they can spend or even invest.

The industrial nations, at the same time, face a collective deficit of $40 billion. It is "the largest in history," Kissinger said, and "beyond the experience or capacity of our financial institutions."

But he warned that this is only the first year of the new high oil prices, saying "the full brunt of the petrodollar flood is yet to come."

Some experts have estimated the petrodollar surplus will total from $300 billion to $600 billion by 1980. One computed that this is two to four times the total gold and foreign exchange reserves of the entire world at the end of last year.

These figures are so large as to be almost meaningless to a layman, and, indeed, baffling to many economists.

But what they mean, essentially, is that wealth is shifting from one part of the world to another, at an unprecedented rate.

"The focus of world savings has now shifted to the OPEC (Organization of Petroleum Exporting Countries) says Yale University economist Richard Cooper.

"And there is no way to get it back. It's a levy on real income. That is a simple point that is rarely made."

A State Department economist makes the same point this way: "Twenty five billion dollars from the U.S. to the other oil producing countries means, quite plainly that Americans will have $25 billion less to spend on other things."

The same principle, of course, applies to all of those in consuming countries who are paying out.

What it means is that standards of living inevitably will suffer in these countries and the United States is no exception.

But there is also an even more serious threat: that the complex highly interdependent world monetary system may collapse, as it did in the 1930s.

Virtually all the experts agree that the system is, as President Ford has phrased it, "under severe stress."

A major and obvious potential problem is that countries won't be able to pay their oil debts and will go bankrupt. Italy already appears to be on the verge of bankruptcy.

If one country goes bankrupt, declaring a moratorium on its debts, it will affect others, domino style.

The United States has, proposed a program to try to avoid this kind of catastrophe by creation of a government supported international facility to help countries in trouble—a loan and guarantee agency that could handle up to $25 billion in 1975. Big industrial countries would support it.

A major concern of financial experts is what the oil producers do with their surplus "petrodollars."

The oil producers have the money and that represents a loss that can't be remedied. But there are ways in which they could use the money that would at least take some of the pressure off the rest of the world.

"If this money could be invested in long-term savings," said one State Department economist, "it could be used to keep our economy growing."

The problem, he said, "is to recycle money back to where it comes from, in such a way that it can be used."

But so far this is not what the oil producers have been doing.

They have been piling up much of their money in a small number of banks in wealthier countries of the world, mostly the United States, West Germany and Switzerland.

And they have been depositing it on a short-term basis.

Some banks are now refusing to accept this kind of money. They find it hard to use and they fear what might happen if there were massive, sudden withdrawals. Those kinds of withdrawals could destroy a bank.

There is a wide disagreement among experts about the benefits, if any, of "recycling." Some think the whole idea is nonsense. But the official administration view is that so far problems have not been solved to the satisfaction of the oil-consuming world.

"The process isn't working," said one State Department economist "and the system is capable of breaking down."

There is still another major fear—that individual nations, under the pressure of the oil crisis, will begin to act independently to try to save their own necks.

They might restrict imports, devalue currencies, or seek to make special deals with the oil producers.

Economists fear that if this starts to happen on a widespread scale it could lead to a breakdown of the international system—and directly to a world depression.

These are the kinds of actions that nations took in the 1930s seeking to protect their own interests, and results were disastrous.

U.S. officials have concluded that there is no real answer to the monetary crisis unless oil prices can be driven down.

They have been very slow in developing a government-wide program to attempt to do that, and even now have only suggested possible solutions. No clear-cut program is in effect.

Kissinger has provided an elaborate argument for oil conservation, on a world-wide basis, as a major element in such a program. But the United States has no mandatory oil conservation program of its own.

There is a consensus among government experts that under the best of circumstances it will take several years to get the monetary crisis under control.

The question is whether the world's financial system will survive that long.

[From the Miami Herald, Dec. 12, 1974]

POPULATION CONTROL IS KEY TO SURVIVAL

(By James McCartney)

WASHINGTON.—On Nov. 5, Secretary of State Henry Kissinger stood before the 130-nation World Food Conference in Rome and spoke earnestly of a need to bring the world's population explosion under control, if the food crisis is to be mastered.

"World population is projected to double by the end of the century," he said.

". . . At some point we will inevitably exceed the earth's capacity to sustain human life."

Eighteen days earlier, Kissinger's own State Department, without fanfare, had slashed by almost 20 per cent the staff of the major unit within the department, and within the U.S. government, working on population control.

The contrast was a dramatic demonstration of two major failures by the United States in seeking to come to grips with a new world economic and political crisis.

First, it showed that the government hasn't coordinated its policies on population.

Second, it showed that the administration's policy has yet to recognize complex interrelationships between various parts of the world crisis—among them food and population, energy, and monetary problems.

Kissinger had put his finger on what many economists and political scientists, in and out of the government, now believe is the

most pressing underlying problem in the world—population.

For soaring world population is clearly a major factor in the food and energy crisis, which have attracted wide attention, and they, in turn, are contributing to a monetary crisis.

There is no precedent for what is happening to world population today.

If you are middle-aged—at 45—the population of the world has doubled in your lifetime. It was less than two billion in 1930; it's a little less than four billion now.

A billion people have been born in the last 10 years.

Each day, the world has 200,000 new mouths to feed. That many more are born than die, a net annual increase of 70–80 million.

There would be no food crisis today if it were not for rapid population growth. There would probably be no energy crisis.

But the most serious problems are in the future, for population doesn't simply add up, one by one, or two by two. It multiplies, progressively. The more people there are, the faster the increase.

United Nations experts have spelled out the problem with a series of projections of possible population growth in the years ahead—"low," "medium" and "high" guesses.

Today's world population is estimated at 3.9 billion.

The "medium" projection of the experts for year 2000—25 years away—is 6.5 billion.

In the same "medium" projection, the estimated figure for the year 2050 is 11.2 billion. That would mean a tripling of the world population in 75 years.

Even the "low" projection for the next 75 years, by the year 2050, is 9.2 billion. The point is that even the low projections suggest immense problems for the world in the years ahead.

"What we must now recognize is that continuing population growth, even at a moderate rate, will aggravate virtually all of the important economic, ecological, social, and political problems facing mankind," says Lester Brown, a population expert with Washington's Overseas Development Council.

"Population pressure will aggravate problems such as food scarcity and pollution . . ."

The world food crisis is directly related to the population boom. In the last 20 years the world's food output has increased by more than 50 percent. It has not been enough.

"During the 1970–74 period," said Brown, "the world demand for food expanded by both population growth and rising affluence, is outstripping world food production."

The energy crisis is also tied closely to the boom.

"World energy consumption is expected to double between 1970 and 1980 as population grows and industrialization advances in developing countries," according to a United Nations study, which predicted that energy consumption by the year 2000 "is likely to be five times the 1960 level."

The UN's International Labor Office has said that "the staggering growth of population has all but wiped out recent economic gains in many developing countries."

By the end of the century, the U.N. agency adds, "we will need twice as much food, water and power—and twice as many jobs—merely to maintain the present unsatisfactory standard of living for most of the world's people."

An important facet of the problem is where population is growing. The world's poor are multiplying much more rapidly than the rich.

About 74 per cent of the world's population today lives in underdeveloped areas of Asia, Africa and Latin America—only 25 percent in relatively prosperous industrialized nations.

With wealth, population growth rates tend to drop.

Most of the growth in the years ahead—more than 80 per cent of it—is expected to take place in those poor parts of the world, where the rate of reproduction is twice as high as in developed countries.

India, for example, now has a population of about 550 million, according to a World Bank study. It will be nearly a billion in 25 years.

Populations are expected to more than double in the next 25 years in Indonesia, Bangladesh, Pakistan, Nigeria, Mexico, the Philippines, and Thailand, among others.

These kinds of growth rates could produce problems approaching the grotesque. In 1970, for example, Indonesia had a population of 120 million. But Lester Brown had computed that if the current growth rate of 2.7 per cent per year continues for a century it will have a population of 1.7 billion—or nearly half of the present world population.

Not surprisingly, perhaps, many rich and poor countries, Communist and non-Communist, Catholic and non-Catholic, found themselves in sharp disagreement on population questions last August at a World Population Conference in Bucharest, Romania, sponsored by the United Nations.

Many poor countries took a view that the rich, in advocating population controls, were attempting to deprive the poor of their natural rights—and of potential power.

India said it would put some stress on family planning only if it were tied to a radical distribution of wealth between rich and poor.

On one hand were nations that were genuinely alarmed by soaring population—and advocating limits—while others felt that more and more people would be useful resources.

A delegate from the Soviet Union said that with proper planning and technology—plus elimination of capitalistic monopolies—the earth could comfortably feed 35 billion.

One of those who believes that the U.S. could have major impact on getting population under control is Dr. R. T. Ravenholt, director of the Office of Population in the U.S. Agency for International Development.

This office, with 103 employes, handles the major U.S. and world effort to meet the problem. It is essentially an effort to distribute birth-control devices and to help educate large numbers of people who want them on how to use them.

Ravenholt says that when people anywhere learn about birth control they are almost always eager to practice it. Population growth rates can be brought down, after that, simply by making birth-control devices easily available, he says.

This year, the United States will deliver more than 100 million packets of birth-control pills in the developing world to those who want them, according to Ravenholt. "We're supplying about 10 per cent of the pills that are needed," he says.

Ravenholt has received notice that the number of employees in his office is being cut from 103 to 84 as part of an across-the-board slash in all aid programs.

It is his conviction that a crash effort by the United States could level off world population below five billion.

There are no signs, however, that a crash effort will be tried.

[From the Miami Herald, Dec. 13, 1974]

GRIM FACTS—MANY CURES, NO ACTION

(By James McCartney)

WASHINGTON.—A growing consensus has now developed among statesmen and scholars that the world is, indeed, in crisis. The question is: What can be done about it?

The evidence is that a lot can be done. Concrete programs to address every major aspect of the current crisis—energy, food, finance and population—have been proposed by public officials, in and out of the Ford Administration, as well as by privately supported students of public affairs.

If accepted, they add up to some hard realities:

Oil prices must be driven down, at almost any cost in effort. The experts believe it is a necessity if the world economy is to be saved.

Energy must be conserved, even if it hurts. That probably means rationing, higher gas taxes, and a good deal more affecting the way you live.

Food can no longer be wasted. Diets will have to change and the United States, as the world's leading food producer, must pay more attention to what is happening in underdeveloped nations.

If the United States is to survive, it can no longer afford the luxury of avoiding the world's population explosion. It needs a program to promote population control quickly, or it may be too late.

The elements of this program, pieced together from the views of many experts, would not come as a surprise to top administration officials.

But the administration has talked about problems and recognized their existence, without developing and putting into effect, hard-nosed programs to solve them individually.

And the administration has not developed an integrated program addressing all of the interlocking aspects of the world crisis. Nor has it sought to educate the public on what must be done.

The basic difference between what has been talked about and reality involves a sense of urgency. Here, in more detail is what statesmen and scholars are suggesting:

ENERGY

There is now wide agreement among experts, public and private, that the United States and the industrial world have only three effective weapons to use against high oil prices.

They are: (1) oil conservation, on a massive international scale; (2) development of new oil fields beyond the control of today's oil-producers' cartel; and (3) development of other power sources.

Conservation must be the major area of immediate attack. New oil sources are simply inadequate to fill the world's needs. Nor is there any prospect of finding oil reserves comparable to those in the Middle East. Workable alternative power sources simply haven't been found.

Top officials, including Secretary of State Henry Kissinger and Treasury Secretary William Simon have acknowledged in recent weeks that conservation will have to be the major way out, if there is to be one.

But the United States today has only a voluntary conservation program that neither does the job domestically nor encourages other nations to conserve.

The essential debate now is not whether to conserve, but how it should be done, and how much coercion may be necessary to make a conservation program work.

Some officials believe President Ford does not yet understand that drastic action is necessary.

Conservation is going to be painful for nearly everyone. It means less car driving, cooler homes in winter, warmer homes in summer. It means a whole new approach to the using of energy, in a society that has taken unlimited energy for granted.

FOOD

The food crisis is closely related to both the energy crisis, and the population explosion.

If oil prices can be driven down, it will

help in dropping food prices, which are tied, in part, to high costs of oil-based fertilizer.

But chances are that, even if prices can be driven down, they won't drop soon enough, or far enough, to provide much help for millions threatened with starvation before next spring's harvests.

There is probably only one way these millions could get substantial help. U.S. citizens would simply have to buckle their belts, eat less and face a 3 to 5 per cent additional hike in food prices to free food for the starving.

The food, at least today, is available, because the United States is so well fed, probably overfed. Less meat eating, for example, would free vast quantities of grain.

If the U.S. government did go into the marketplace to buy food for the starving, it would cut back on market supplies, and thus force up prices. It would contribute to inflation but it would stave off starvation. It is a difficult choice.

In the immediate years, after next spring's harvests, the only practical approach to the food problem is a crash program, on an international basis, to try to help underdeveloped nations to learn to grow more of their own food and distribute it better.

Even the rich United States doesn't have the capability of growing all the food necessary and getting it to those who need it.

In the long run, the only answer to the food problem is a major attack to try to solve the population problem.

As Don Paarlberg of the Agriculture Department has said, if population can't be controlled "there is no answer to the food problem."

FINANCE

The international financial crisis has been caused by the oil-price problem, and can be solved only by solving the oil-price problem.

Oil prices are going to be forced down or nations are going to tumble, and the world's wealth, and power, will gravitate to oil-producing nations, some of them ill-equipped to handle it.

Kissinger has proposed that the United States cut back sharply on oil imports, to lessen the demand pressure for oil and help drive down the price. He wants other oil-consuming nations to do the same.

Then he would get the consuming nations together, to confront the producers, and try to work out long-term arrangements that would be more stable. But so far all this is only a proposal. Nothing concrete of importance has been done.

Kissinger has also proposed that the industrial nations set up a huge international loan guarantee agency to give help to countries that have been plunged deeply into debt because of oil prices.

This would help relieve pressure in some countries, but the heart of the problem is still the price of oil.

Most economists, in and outside the government, seem to believe that the price inevitably must come down, and will come down, that a cartel cannot indefinitely sustain an artificially high price.

But the oil cartel has been getting away with it for nearly a year, and the belief is growing that nothing short of a massive effort to try to force the price down through conservation will work.

POPULATION

This may be the most serious underlying problem of all, and perhaps the most difficult to deal with.

The population explosion is contributing directly to both the food and energy crises, and they in turn have contributed to the financial crisis.

Population growth is insidious. "It's like a cancer," says Dr. R. T. Ravenholt, director of the Agency for International Development's Office of Population.

"It moves silently and may not be perceived until it is too late, eating up all of the resources and eventually crippling a nation."

There does not seem to be substantial dispute that there is a population explosion, and that world population may double in the next 30 years, and quadruple by the year 2050.

But many oppose population-control measures—the Roman Catholic Church, for example. And some of the world's poor countries believe the rich are fearful that the poor may become more powerful. They have raised questions about the very nature and meaning of life, which cannot be brushed aside as trivial.

But those who advocate population-control measures are arguing that civilization itself may be wiped out by mankind's multiplying numbers.

"What would a world be like that contained 10 billion people?" asks Lester Brown, of the Overseas Development Council. "Staggering changes would be required in the world's political, economic and social institutions."

The technical means to control population are available, according to Dr. Ravenholt. Those means include birth-control pills, condoms, and others, including educational techniques.

He estimates that the United States could level off world population growth at less than five billion persons with an unrestricted investment of about $250 million a year over the next 10 years.

However, Ravenholt's budget is being cut back, in a government economy program, and the United States hasn't so much as developed an official stated position on population.

Some day, that could rank as one of the most serious failures of the era.

Beyond specific problem areas, the experts, including Kissinger, agree on one overriding principle: that one of the major challenges of the modern world has become to develop new international political institutions.

Few Americans are aware of it, but a phenomenon of modern life has been the growing interdependence of the nations of the world.

Two leading economists here, Fred Sanderson and Harold Van Cleveland, both former State Department officials, have written:

"Among the events that have shaped the history of the past quarter century, one stands out above all others. The Cold War; the Communist takeover of China, Korea and Vietnam; decolonization; the rise of the Third World—all have made their imprint.

"But the most far-reaching development by far has been the undramatic process of construction of the great system of economic, political and military cooperation and interdependence among major industrial countries reaching across the Atlantic and Pacific."

The world today is far more "One World" than ever. What happens in one part of it almost immediately affects what happens elsewhere.

The U.S. economy is more dependent today on both imported basic raw materials and finished manufactured products than at any time in post-colonial history, and it will become even more dependent in the years ahead.

But working in international groups, in a way that means anything, may require the surrendering of some sovereignty, or some freedom of choice, on the part of the United States.

Seyom Brown, of Washington's prestigious Brookings Institution, says this is inevitable, that it is the only way the world will be able to cope with its growing economic interdependence.

He says political institutions have lagged far behind economic realities.

So far Kissinger seems to be inching in the direction of international cooperation to solve the pressing problems of the world crisis in energy, food, finance and population.

But this approach as yet has not paid off in significant achievement.

Brown says it must or we'll all go down the drain.

At least one top State Department official believes that only the threat of a nuclear holocaust has prevented war in today's crisis, with its interlocking problems of food, population, finance and energy. And the interdependence of large portions of the world is greater than ever before.

To prevent war and to find ways to cope with the four modern horsemen of the Apocalypse will take more than talk or good intentions.

CASSANO ENTERPRISES, INC., OF DAYTON CUT PRICE OF HARDEE'S FOOD PRODUCTS

Mr. TAFT. Mr. President, I have been informed that Cassano Enterprises, Inc. of Dayton, Ohio, has reduced the prices on its Hardee's food products to help with the fight against inflation.

I am bringing that action to the attention of the Senate because I believe strongly that the fate of our efforts to fight inflation depends largely upon the actions of private enterprise. The possible success of the program hinges on the private sector's price restraint and cooperation.

In that respect, I commend Cassano Enterprises for its action. The reduction in price of a Hardee's hamburger from 30 cents to 19 cents and similar reductions in other Hardee's prices, may not make a tremendous difference in a family's food budget, but in these times any price reductions are helpful. The price-cutting action also sets an example for other businesses in the area and across the country.

CONTINUING EDUCATION FOR OLDER CITIZENS

Mr. PELL. Mr. President, an article in the December issue of The American Way has come to my attention which deals with some very interesting concepts concerning the need for continuing education for our older citizens.

Education is not something which should end with the completion of traditional schooling; it is a growing experience which should be a part of every person's daily living. Nor should education be limited only to the young people of our nation, as our somewhat youth-oriented society often seems to think. Many senior citizens are fully capable of creative and innovative thinking and should not be discouraged from continuing to learn simply because of their age.

As the article points out, the percentage of Americans over the age of 65 is continuing to increase, and, by the year 2000, is expected to make up approximately 12 percent of our total population. We must realistically deal with this situation and not simply put our aging citizens on the shelf. We must make available to them useful and creative educational outlets in which to involve themselves so that they continue to grow, albeit grow old, with dignity.

I ask unanimous consent that the

American Way article be printed in the RECORD.

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

CONTINUING EDUCATION FOR OLDER CITIZENS

One change has been creeping up on us steadily, but perhaps not noticeably.

In the United States of 1900, there were 3.1 million people over sixty-five out of a total population of 77 million, so that the elderly made up just about 4 percent of the whole. In 1940, it was 9 million out of 134 million, or 6.7 percent. In 1970, it was 20.2 million out of 208 million, or nearly 10 percent. By 2000, it is likely to be 29 million out of 240 million, or 12 percent.

It isn't just that our senior citizens are increasing in numbers; they are steadily increasing in terms of percentage of the population. Naturally so, since, in the United States, the average length of life has been increasing and the birthrate decreasing throughout the twentieth century.

Population pressures may force a steady decrease in birthrate the world over in the decades to come, and the continuing advance in science and medicine may increase the average length of life. If so, what has been true of the United States and some of the other industrial nations may become a world phenomenon. All over the world, a larger and larger percentage of the population will be middle-aged, elderly, old.

The most interesting point about such a situation is that mankind as a whole will be faced with an age pattern it has never experienced before. Never! Throughout the world's history, till now, the situation everywhere has been one of short lives and a high birthrate. Those who managed to pass their fortieth birthday were a small minority; those over sixty-five an actual rarity.

Many of our social customs are a reflection of this past. We tend to ignore our oldsters because, in the societies of the past, they were too few to worry about. We tend to assume that they are feeble, dull and worthless because in the past those few who did manage to survive into middle age were worn out by repeated bouts of disease, by poor diets, bad teeth, hormonal imbalance, and lifelong overwork.

So now, when the aging are stronger, more vigorous and more alert than they once would have been, we still retire them ruthlessly to get them out of the way, and leave them to wait out their life's ending on a park bench. The easy excuse for this is that the aging are stodgy and conservative, no longer capable of creative thinking. Only the young, we suppose, are fit to blaze new and innovative trails.

Might we not be reasoning in a circle? After all, we only educate the young. There is a cutoff date taken for granted in education. We go to school only for as long as it takes us to learn a trade or profession, or to gain the ability to converse in a cultivated fashion, and then we quit—having become *educated* (past tense).

The notion that one has already been *educated* (past tense) offers one social permission never to read a book again, never to learn anything more, never to have another thought. Is there any surprise that, under such conditions, so many people as they grow older become incapable of reading, learning, or thinking altogether?

In a long-life, low-birthrate world of the future, however, this will have to change. As aging people make up larger and larger percentages of the population, it will become more and more dangerous to permit them to remain a nonthinking deadweight on society.

We will have to alter our attitude toward education. Society will have to take it for granted that learning is a lifelong privilege; that education is not a task to be completed, but a process to be continued. Men and women, growing up and seeing this attitude all about them, will accept as natural the fact that, throughout life, they will be able to make use of educational institutions and techniques to learn new things and enter new fields. Under such conditions, accustomed to lifelong learning, why shouldn't they remain creative and innovative to very nearly the end of their lives?

This is a difficult notion to accept. It may seem self-evident that the mental workings of aging individuals simply must become rusty and creaky. That kind of "self-evident" proposition is, however, only a guess based on youth-centered prejudice. In actual fact, we have never, in the world's history, had a real process of adult education, and we have never given the aging mind a chance to show what it can really do—so we just don't know what it can do.

Given the kind of world we may be entering, we will *have* to give the aging a chance, and my guess is that we will be in for a pleasant surprise.

RETIRING CONGRESSMAN BRYAN DORN

Mr. THURMOND. Mr. President, an old friend and colleague of mine in the South Carolina congressional delegation is retiring from Congress this year, and I want to record my gratitude for his many services to State and Nation. Congressman BRYAN DORN of Greenwood, S.C., has represented the State's Third District for 13 terms. This long tenure has made him the dean of our delegation, an unofficial position which he has filled with great dignity and which he has often used to be helpful to his more junior colleagues. As the new dean of the delegation, I shall have an excellent example to follow.

Congressman DORN has been in public life for so long that it would be impossible to list all of his achievements. He was elected to the South Carolina State House of Representatives at the age of 22 and to the State senate at the age of 24. After 3½ years in the Army Air Force during World War II, he returned to politics and was elected to Congress at the age of 30. He has remained in Congress ever since, except for a 2-year absence at the end of his first term.

During his many years in Washington, Congressman DORN has acquired a vast store of knowledge and experience. His expertise in veterans affairs is particularly noteworthy. As a member of the House Veterans' Affairs Committee for 24 years. Congressman DORN was instrumental in helping numerous deserving veterans all over the Nation. As chairman of this committee for the last 2 years, he has shown skillful leadership in the cause of veterans.

Mr. President, merit deserves to be commended wherever it is found, but I am particularly happy to commend it in a fellow South Carolinian. Congressman DORN's career has won him a place in South Carolina history and the respect of people throughout our State. His wife Millie has been of immeasurable assistance to him over the years, and I commend her as well. It has been a privilege to know them, and I wish them the long and happy retirement they have so thoroughly earned.

SOME MORE EQUAL THAN OTHERS?

Mr. HUMPHREY. Mr. President, the Federal Reserve Board has taken a long awaited step recently in proposing that Federal regulations on domestic banks should also apply to foreign bank operations in the United States.

The Federal Reserve Board would prohibit interstate bank and brokerage operations by foreign owned banks—placing them under the same rules and regulations now covering domestic bank operations. It is a good step, a step toward greater competition by financial institutions. It will avoid the fearful specter of several giant foreign banks rapidly dominating regional, and eventually, national financial activities.

In calling for foreign banks to be allowed to do only what domestic banks can do, the Board chose more bank competition over less competition—to the benefit of every consumer. It imposed limitations on foreign bank operations, rather than alternatively easing existing limitations on domestic banks.

The proposal is extensive. It will subject foreign banks in the United States to Federal regulation for the first time. These banks will need to meet Federal Reserve Board reserve requirements and will be required to join the Federal Reserve System. They will have to carry Federal Deposit Insurance Corporation insurance on deposits. And, most will be subject to provisions of the Bank Holding Company Act.

Unfortunately, these steps are not enough, not nearly enough. The Federal Reserve Board's proposal stops short of being truly comprehensive and effective in leaving a gaping loophole for foreign banks to roar through. This loophole will allow foreign banks with existing multistate banking or brokerage operations to retain them. It will "grandfather in" existing foreign banks. It will enable them to conduct highly profitable and powerful interstate operations which all newly established foreign banks and all domestic banks cannot conduct. Yes, it will make all banks equal; but existing foreign banks will be more equal than others.

Mr. President, the impact of these multistate foreign banks will be staggering in a short time. Already, these banks, more than 60 in number, hold over $38 billion in assets. They will be able to add to this stock from many different States. They will be able to utilize deposits from a State or region of local dominance to conduct cut-throat competition and the acquisition of competition in other States, if they *so desire*. The only limitation these multistate foreign banks will face, under the Board's proposal, is that they cannot enter new States—States in which they do not now have branches.

News reports say foreign bankers don't like the Reserve Board's proposal. I agree with them—but for entirely different reasons.

The Federal Reserve Board will, I understand, submit this proposal to the Congress this week, and again in January. I urge my colleagues to consider this proposal with dispatch—and amend it

to require divestiture by existing foreign banks, in a fair and equitable manner and over a reasonable period of time, of all multistate branches and brokerage operations. It is the right thing to do. It is fair to all banks. It will promote bank competition, not discourage it. And it is vitally necessary to the maintenance of a strong, competitive domestic banking system.

I know Dr. Burns has given this proposal long and serious study. I have written him, however, to ask that he reconsider the proposal to "grandfather in" certain foreign branch special treatment provisions that exist today. It is my hope that he and his fellow board members will respond favorably to this suggestion. That is the quickest way to see this badly needed proposal—without its loophole—enacted in January.

I ask unanimous consent, Mr. President, that my letter to Chairman Burns of the Federal Reserve Board be printed in the RECORD, along with a Wall Street Journal article entitled "Fed Submits Bill for Regulation of Foreign Banks."

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

U.S. SENATE,
Washington, D.C., December 19, 1974.

Dr. ARTHUR BURNS,
Chairman, Federal Reserve Board of Governors, 20th and Constitution Avenue, Washington, D.C.

DEAR DR. BURNS: I am delighted with the Board's initiative to bring foreign banks under the same broad rules and regulations that cover the operations of domestic banks. However, one aspect of this proposal is of concern to me.

It appears that existing multistate bank operations of foreign banks would be permitted to continue. In addition, other ancillary operations of these banks, such as brokerage operations, would similarly be permitted to continue. I see no sound reason to "grandfather" such operations by existing foreign banks. This will only serve to perpetuate the major reasons why rules and regulations were called for in the first place. It will also give such banks an uncompetitive advantage over other foreign and all domestic banks.

I would appreciate knowing the reasons for the Board's decision not to press for divestiture of such operations. I urge that this decision be reconsidered.

Best wishes.

Sincerely,

HUBERT H. HUMPHREY.

FED SUBMITS BILL FOR REGULATION OF FOREIGN BANKS—IT SEEKS TO PUT THEIR ACTIONS UNDER THE SAME CONTROLS THAT COVER U.S. BANKS

WASHINGTON.—Fast-growing foreign bank operations in the U.S. would be brought under new federal control by legislation sent to Congress yesterday by the Federal Reserve Board.

The Fed proposal is designed to place foreign banks on an equal legal footing with domestic banks so that they both are subject to similar rules and regulations. The effect of the Fed legislation would be to prohibit in the future some activities, such as multistate branching and ownership or brokerage houses, which some foreign banks currently engage in but which are banned for domestic banks.

The Reserve Board said its basic principle in drafting the legislation was "nondiscrimination," which means allowing foreign banks in the U.S. to do the same things domestic banks can do, but no more. To accomplish this, the board decided to place new restrictions on foreign banks rather than to relax limitations on domestic banks.

In submitting the legislation to Congress, Arthur Burns, the Fed's chairman, wrote that "foreign banks would continue to be welcome in the U.S. to operate on a fair and equitable basis." The board "strongly recommends" enactment of its draft bill, Mr. Burns said. As a practical matter, the complex proposal isn't likely to get any serious consideration in Congress until next year.

The board's action reflected the rapid expansion of foreign banking operations in the U.S. Currently, more than 60 foreign banks operate in this country, the Fed said, and their assets at the end of 1973 totaled about $38 billion, up from only $6.5 billion in 1966.

At present, there isn't any federal regulation of foreign banks in the U.S. They are subject "almost exclusively" to state laws, the Fed noted, which results in a haphazard pattern of regulation and permits some foreign banks to engage in some activities barred to domestic banks. The legislation is designed to "standardize" and equalize the regulatory treatment of foreign banks, the Fed said.

Included among the major provisions of the Fed's draft legislation are the following:

Nearly all foreign bank operations in the U.S. would be required to become members of the Federal Reserve System, making them subject to Fed regulations and reserve requirements and giving them access to the Fed's lending facilities. The membership requirement would apply to affiliates of any foreign bank with world-wide assets exceeding $500 million.

Branches and agencies of foreign banks would be required to carry federal deposit insurance, as subsidiaries of foreign banks currently are.

Foreign banks newly establishing an affiliate in the U.S. would be required to obtain a federal banking license from the Comptroller of the Currency, who would issue such licenses on approval of the Secretary of the Treasury. Existing foreign banks wouldn't be required to obtain a license, but they would have to register with the Comptroller.

To provide foreign banks with an alternative to state chartering, the bill would allow the Comptroller to issue national charters to foreign banks. Current law requires all directors of national banks to be U.S. citizens; the bill proposes an amendment allowing up to half the directors of a national bank to be foreigners.

The Bank Holding Company Act would be extended to cover "virtually all" foreign banks conducting depository and lending functions in the U.S., the Fed said. The coverage wouldn't extend to joint ventures of foreign banks or New York state investment companies, which are firms organized under New York law authorized to transact all normal banking activities except deposit functions.

Among the most important provisions of the Fed bill are the so-called "grandfather" clauses permitting banks to permanently keep operations that would be prohibited by the bill in the future. The result of these clauses is to avoid the necessity for divestiture of such operations.

Some foreign banks conduct banking operations in more than one state, and others own securities brokerage or underwriting affiliates. Both these practices are prohibited for domestic banks, and both would be prohibited in the future for foreign banks, except those already in existence, which would be given a reprieve by the grandfather clauses.

Thus, foreign banks would be allowed to retain banking facilities in states where they are currently operating, but they wouldn't be allowed to expand to additional states after yesterday, the proposed effective date of the grandfather clause. Foreign banks with securities affiliates would be allowed to keep them, though they wouldn't be allowed to acquire or set up new affiliates of that type.

"No public purpose would be served by requiring divestiture" of such facilities, the board said.

The initial reaction of foreign bankers to the proposed legislation was negative, but none was willing to comment for publication until after reading the bill. In the past, however, executives of foreign banks have objected to proposals that would require membership in the Federal Reserve System and the Federal Deposit Insurance Corp.

"The FDIC is to protect smaller depositors and almost all branches of foreign banks here don't do that kind of business," said Paul E. Hollos, the U.S. representative in New York of Banque Verne & Commerciale de Paris and president of American Swiss Credit Corp. Requiring membership would be unjust, he said, "because it requires us to pay a premium for insurance which isn't germane to our business."

As for required membership in the Federal Reserve, Mr. Hollos said foreign bankers believe this also would be unfair, as not all U.S. banks must belong. He noted that foreign banks here already are maintaining reserves against depositors voluntarily at the request of the Fed.

U.S. bankers have mixed feelings on foreign bank operations here, depending largely on their own size. Smaller banks, especially in California, have complained in the past about what they regard as the unfair competitive advantage of foreign banks.

WATER RESOURCES

Mr. McGOVERN. Mr. President, an article in the Wall Street Journal, December 16, 1974, points out in a clear and concise manner the need to properly manage our water resources in the Western part of the United States. The article, Mr. Les Gapay also illustrates the conflict between "project independence" and the effect this policy may have on such basic natural resources as water. It seems obvious to me that one of the best decision criteria we may have concerning the conflicting use of water resources is that any policy which "mines" our water supply, that is takes out more than what nature is able to replenish, should be examined very carefully prior to any irreversible commitment of these scarce resources.

Mr. President, I ask unanimous consent that the article "Far West's Shortage of Water May Block Many Energy Schemes" be printed in the RECORD.

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

FAR WEST'S SHORTAGE OF WATER MAY BLOCK MANY ENERGY SCHEMES

(By Les Gapay)

CHEYENNE, WYO.—Bold plans are being made to tap rich coal fields in this state and help move the U.S. toward self-sufficiency in energy.

They call for mixing ground-up coal with water and transporting the resulting slurry by pipeline more than 1,000 miles to electric power plants in Arkansas. The pipeline project's cost is calculated at $750 million.

But those big plans are threatened, not by high cost or environmental dangers but simply by lack of the necessary water.

Over the years, a little ocean of water

would be needed to carry the coal through the pipeline. Each year an average of 15,000 acre-feet of water (an acre-foot would cover an acre of land one foot deep) would be needed—enough to supply a city of nearly 100,000 people. The water would come from 40 deep wells to be drilled in semiarid northeast Wyoming.

Though the present Republican-controlled state government has given the pipeline a go-ahead, Democratic Gov.-elect Ed Herschler won victory last month mainly on his opposition to the pipeline, and some victorious Democratic legislative candidates, demanding that Wyoming water be kept in Wyoming, have promised to raise the issue in the legislature. The neighboring state of South Dakota, worried about a drain on its water, has threatened a lawsuit. Citizens of tiny Edgemont, S.D., close to the Wyoming well sites, fear that water levels in their municipals wells will drop. "We're already short during the summer," says Mayor Jack R. Nelson.

UNEXPECTED BOTTLENECK

That's just a sample of the situation prevailing in the West. Fuel-rich states from North Dakota to Arizona are short of water needed for energy development. That shortage is delaying or imperiling plans for shipping coal by pipeline, converting coal into gas and oil, extracting oil from shale, building electric power plants. Scarcity of this necessity, it seems, has turned out to be an unexpectedly tight bottleneck impeding President Ford's Project Independence drive to reduce reliance on imported oil.

Many authorities agree the West lacks the water to satisfy the thirsts of energy projects and to fill pressing agricultural, recreational and household needs as well—especially now that expanding food production is demanding more irrigation.

"There isn't enough water to do all of the things planned down the road," says William L. Rogers, who is Interior Secretary Rogers Morton's assistant in Denver. As a result, Jack O. Horton, assistant Interior Secretary for land and water resources, concedes that "some energy projects may not get off the ground between now and 1985 because of water." He himself has pledged that he will "fight hard to see that water for energy is not taken at the expense of water for food."

A National Academy of Sciences report concludes that "not enough water exists for large-scale conversions of coal to other energy forms" such as gas or electric power. And the Federal Energy Administration's Project Independence blueprint warns that limited water supply will be a "serious constraint" on any plan for full-scale development of oil shale and synthetic fuels in the West.

(The blueprint also foresees water shortages affecting energy projects in the East. It says that some states lack water-storage facilities adequate to provide water for cooling power plants expected to be built.)

RISING RIVALRY

Already Panhandle Eastern Pipeline Co., which plans to build a coal gasification plant in northeast Wyoming, has bumped into a water problem. The plant would need about 6,500 acre-feet of water a year. Recently the state rejected Panhandle's plans to buy water rights from a ranch on the North Platte River and convert the use from irrigation to industrial. The company is contesting the decision in court.

In this and other Western states, the rivalry for water is rising. Like Panhandle Eastern, many energy companies are scrambling to buy up water rights from ranchers; some, fearing that only the oldest water rights will be honored, have been buying up rights that are many decades old. Other companies are acquiring whole ranches just for their water, or else are negotiating for purchases from state and federal reservoirs. Meantime, disputes have developed among states over compacts that divide up river water and over the wishes of coal and oil companies to divert water from one part of the West to another.

In Wyoming, according to recently resigned State Engineer Floyd Bishop, there has been discussion of diverting Yellowstone River water from Montana to the coal regions in the northeastern part of this state. But both Montana and North Dakota are resisting changing the water compact among the three states to allow such a move.

TIME FOR STUDY

In fact, Montana has imposed a three-year moratorium on the use of its water for energy development until it can study the matter. Gary Wicks, director of the state's natural resources and conservation department, explains: "Our surplus water was rapidly being tied up by commitments for various energy projects." He says the state "is opposed to wholesale use of water for energy development."

Moreover, a coalition of environmental and other groups has filed suit against the Interior Department to try to cancel sales of water from two federal reservoirs—one in Montana and one in Wyoming—to energy companies at the expense of agriculture. The plaintiffs claim the reservoirs were authorized by Congress strictly for irrigating farms and generating hydroelectric power; they argue that the water sales are illegal.

And in Colorado, environmentalists and others are concerned that diversion of water to oil-shale projects would reduce the flow available for farming and ranching use.

Shale mining being planned for Colorado and Utah is among the most controversial energy developments demanding water. The extraction of oil from shale would leave huge residues of loose waste; water would be needed for compacting it and for revegetating the ravaged land.

It's estimated that shale mining would require almost three barrels of water for each barrel of oil brought forth. For two shale tracts in Utah and two in Colorado already leased by the federal government to industry, the Bureau of Reclamation reckons that 111,000 acre-feet of water will be needed annually. Of that total, one developer figures 18,000 acre-feet must go just to supply a new town planned near Bonanza, Utah, to serve the industry.

Eventually, shale operations in Colorado, Utah and Wyoming much bigger than those now planned would require massive flows of water—and probable diversion away from agriculture.

Water for shale areas could be provided by tapping the Colorado, White or Green Rivers in the Utah-Wyoming-Colorado region, says a recent Bureau of Reclamation report; although it makes no recommendations, the report lists 28 potential projects for dams, reservoirs and pipelines to choose from.

But environmentalists are prepared to try to thwart such ideas, and especially any project affecting the White River, which is being studied for official designation as a wild and scenic river. The opponents warn of damaging consequences.

"Water is so tight in the whole Colorado Basin that industry uses would increase its salinity and endanger agriculture," says Katherine Fletcher, staff scientist in Denver for the Environmental Defense Fund.

(A recent Interior Department report says that about 3.7 million acre-feet of water per year are now used from the Colorado River and its tributaries in the upper Colorado Basin; most of it goes for irrigation. Another 870,000 acre-feet of water a year will be needed by the year 2000 for more than 30 major planned energy development projects, the study predicts. Demands for water for industrial, agricultural, municipal and recreational uses also are expected to increase greatly. The competing uses could result in "significant shortages" of water in the region by the year 2000, the study warns.)

INDIANS WORRY, TOO

Shale mining, of course, is just one of the planned energy developments that need generous amounts of water. The nation's electric power plants currently use more water (a total of 170 billion gallons a day in cooling towers and ponds) than any other energy sources. The figure will rise as more nuclear and coal-fired power plants come on line. Large-scale surface mining of the West's relatively clean coal is being planned; water is needed for dust control, coal washing and reclamation of the land as well as for use in slurry pipelines. Planned plants to make synthetic gas and oil from coal will consume thousands of acre feet of water each day, experts figure. Lesser amounts of water are needed in uranium mining and in recovery of oil through flooding of wells.

Objections from farmers, environmentalists and community leaders are not the only obstacles to a free flow of water for energy projects; warnings also are being heard from the West's Indian reservations.

Recently 26 tribes in the five-state Missouri River Basin of Wyoming, Montana, North and South Dakota and Nebraska formed a federation to protect their natural resources, including water. They want the government to decide how much water they are entitled to by law, and to reserve it for them. "We want to make sure our water isn't appropriated away," says Robert Burnette, head of the federation and president of the Rosebud Sioux tribe in South Dakota.

By law, Indians are allowed all the water they want to use for the purposes for which their reservations were established. Some legal authorities say that Indian water rights could in the future preempt existing water contracts. The conflict could tie up many energy projects in court for years, government energy planners fear.

FREE-FLOWING RIVERS

The water-for-energy complications also stretch into the federal bureaucracy. Within the Interior Department there are disputes about diverting water from certain rivers for energy projects or reserving it for recreational use or giving priority to wildlife protection. Some Fish and Wildlife Service officials stress that the department is responsible for preserving endangered species of fish that require free-flowing rivers to survive.

Government experts say that water for energy projects will continue in short supply unless states cooperate to make their water agreements more flexible and unless the federal government perhaps proposes laws requiring the most efficient possible use of water. One such law could restrict use of water for cooling in power plants and require more expensive air-cooled systems.

Another possibility, however improbable it may appear, is to increase the West's water supply by tinkering with the weather. One current experiment, which officials say is only a few years from practical use, involves seeding clouds in southwest Colorado to make snow. The intent is to augment the snow pack so more water will run into the Colorado River each spring. Preliminary indications are that the snow pack would be increased by 10% to 30% annually and that the flow of the Colorado could be boosted yearly by 1.3 million acre-feet or about 10%, says Assistant Interior Secretary Horton. He adds, though, that there are obstacles, including the legal puzzler of "Who would own the water?"

RETIRING CONGRESSMAN TOM GETTYS

Mr. THURMOND. Mr. President, Unfortunately, it is becoming increasingly rare in this world of ours to encounter a true gentleman, a man of never-failing courtesy, good humor, and generosity. The pressures of modern life tend to make even the best of us discourteous or unfriendly at times. However, we do occasionally meet a man who successfully resists these pressures and who displays the same thoughtfulness at all times and before all people. We have had such a man in Congress for the last 10 years, and as he is retiring this month, I wish to pay him tribute. The man I mean is my friend TOM GETTYS of Rock Hill, S.C.

Of course, Congressman GETTYS has shown many other admirable qualities during the five terms that he has represented South Carolina's Fifth District. He has been hard-working and practical. Shunning the publicity that many Congressmen actively seek, he has considered it best to expend all his energies in the interest of his constituents and of the Nation. With this calm, business-like approach, he has compiled a record of achievement that speaks for itself, particularly in his work on the House Banking Committee.

Nevertheless, TOM GETTYS' personal virtues deserve to be stressed. They are as much-needed as they are rare. His courtesy and thoughtfulness and kindness set an outstanding example not only for his fellow Congressmen but for all men in public life.

I cannot praise TOM GETTYS, however, without also praising his fine and capable wife Mary Phillips. Throughout his stay in Washington, she has been an invaluable asset in all his work.

Mr. President, there are probably very few Members of Congress who have more friends than TOM GETTYS. I am sure that each one is saddened that he will be leaving us at the end of this month. However, I am equally sure that they are as proud as I am of his accomplishments while he has been here, and that they join me in extending thanks, congratulations, and best wishes for the future.

CONGRESSMAN ED YOUNG OF SOUTH CAROLINA

Mr. THURMOND. Mr. President, when the new Congress convenes in January, many distinguished Members will have departed from both the House and the Senate. I wish to pay tribute to one of these, my good friend Congressman ED YOUNG, who has served the Sixth District of South Carolina for the last 2 years with dedication and ability.

ED YOUNG came to Congress with a record that was already illustrious. A native of Florence, S.C., he graduated from Clemson University in 1941 and immediately entered the U.S. Army Air Force. There he helped defend his country as a fighter pilot, flying 195 combat missions in the South Pacific. After the war, he returned to Florence to become a farmer and businessman and soon achieved great success in both professions. However, he did not rest content with the successful management of his own affairs. Setting a fine example for other Americans, he began to take an increasing interest in the affairs of his country, and in 1972 he was elected to Congress.

Nevertheless, bright as ED YOUNG's reputation was when he entered Congress, it is brighter still today. As a Congressman, he has been hard-working, efficient, and patriotic. He has consistently spoken up for the practical, conservative policies the Nation needs. In particular, he has labored tirelessly on behalf of America's farmers, one of the most important and neglected elements of our society. In short, ED YOUNG has been a credit to his district, his State, and his Nation.

I hasten to add that Congressman YOUNG's charming wife Hatsy has given him great assistance and understanding in all his undertakings.

Mr. President, I know that ED YOUNG's services to America have not come to an end. However, no time could be more appropriate than this for us to show our appreciation of the work he has done in the 93d Congress. I am sure the rest of the Senate joins me in sending our thanks and our sincere best wishes to an outstanding servant of his country.

NATURAL GAS PRIORITY NEEDED FOR FERTILIZER PRODUCTION

Mr. HUMPHREY. Mr. President, I have become very concerned over the recent actions by the Federal Power Commission which in effect deny emergency relief supplies of natural gas for the production of nitrogen fertilizer.

The reversal of the earlier position of the FPC was made clear when it issued an order denying emergency relief to the Cherokee, Ala., plant of United States Steel.

Other plants also are operating under the threat that their supplies of natural gas will be curtailed.

It is clear that the implications of this decision are most serious. The action by the FPC with regard to the Cherokee, Ala., plant has already reduced the output of that plant to 35 percent of capacity.

This reduction is equivalent to 17 million bushels of corn per month. If this policy is allowed to prevail, there is no telling what the impact will be.

I participated in the World Food Conference discussions last month in Rome. It is crystal clear that a reduction in our production of fertilizer will place an even greater strain on world fertilizer supplies and the chance of some countries such as India of mounting a serious agricultural production effort.

The Senate of the United States, twice this past year, in its passage of Senate Resolutions 289 and 391 made it abundantly clear, in my judgment, that it considers the production of fertilizer and farm chemicals more socially desirable than other products manufactured that depend upon natural gas for their production.

In Senate Resolution 391, which the Senate adopted on September 9, 1974, the Federal Power Commission was specifically asked to take immediate steps to provide the highest possible priority in the allocation of natural gas supplies for existing and expanded production of fertilizer, farm chemicals, and other agricultural uses of natural gas.

Now that it is all too apparent that the Federal Power Commission does not intend to carry out the intent and desire of the Senate, I am hoping that the FPC will change its mind and drop its present "gas deregulation" politics. Too much is at stake.

I am happy to join Senator TALMADGE, Senator JACKSON, Senator MAGNUSON, and others in urging the administration, because of the lateness of the session, to come to terms and accept Senator TALMADGE's amendment which would provide a 6-month natural gas priority to fertilizer and farm chemical manufacturers to maintain capacity production of these essential farm inputs for use by farmers to achieve maximum production of 1975 crops.

The timing is critical, and the need is urgent. U.S. fertilizer producers are now trying to build inventories of fertilizers to meet peak demand during the spring planting period next spring. And to the extent that such manufacturers are denied needed natural gas supplies, the availability and price of fertilizers next year will be affected accordingly; namely, fertilizer supplies will be sharply reduced and prices will be sharply increased.

In light of the President's best pledges to the American farmer, I hope this amendment will be accepted without delay.

ARTHUR J. GOLDBERG

Mr. PELL. Mr. President, in the closing days of this Congress, I think it appropriate to take a few moments to do justice to a distinguished citizen of our Nation, the Honorable Arthur J. Goldberg.

Justice Goldberg has the unusual distinction of having served our Nation in three of the most responsible offices of our Federal Government. He served as Secretary of Labor in the Cabinet of President Kennedy as an Associate Justice of the Supreme Court, and as U.S. Ambassador to the United Nations.

To fulfill the responsibilities of any one of these offices adequately requires a man of unusual ability. To perform the duties of each of these offices, in succession, with distinction requires truly exceptional talent and dedication. Justice Goldberg proved that he is such a man, with the tact required for diplomacy, the firmness required for executive action, and the compassion and learning required for the administration of justice.

And throughout his varied career, Justice Goldberg has demonstrated the highest standards of personal integrity. Never has his word or his personal honor been challenged.

It is my pleasure to consider myself a personal friend of Justice Goldberg.

For that reason, it was a particularly unhappy experience for me, as a member of the Senate Committee on Rules

and Administration, to consider the distortions and slurring of the career of Justice Goldberg that became a matter of concern during the committee's hearings on the nomination to fill the vacancy in the Vice Presidency.

It is to the credit of Vice-President-designate Nelson A. Rockefeller that he admitted that he had erred in playing any role in the publication of the unflattering campaign biography of Justice Goldberg and that he apologized for that error.

It is, nevertheless, unfortunate, that one of the unavoidable results of the committee inquiry was to focus attention on a petty political book intended to tarnish the image of Justice Goldberg.

There is consolation, however, in the fact that the outstanding record of public service by Justice Goldberg is one that will withstand the tests of time and history and will be remembered long after his detractors are forgotten.

HUNGER KNOWS NO BOUNDARIES

Mr. HATFIELD. Mr. President, I call the attention of my colleagues to a letter to the editor which appeared in the December 17, 1974, issue of the Washington Post. It is entitled "The Pangs of Hunger" and is written by Rev. Albert P. Shirkey, Minister Emeritus of Mount Vernon Place United Methodist Church. Reverend Shirkey brings the world hunger problem close to us all as he gives testimony to his own experience of hunger. I commend the reading of this article to each of us as we anticipate the conclusion of the 93d Congress and the beginning of a new Congress next month. It is my personal hope that the headlines of which Reverend Shirkey writes may more adequately reflect what I have learned is a major concern of the population of our country—that of feeding the world's hungry. And we, gentlemen, influence what those headlines say.

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

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

THE PANGS OF HUNGER

I have just finished reading the Dec. 8 editorial in The Washington Post on hunger and the elderly. My own suggestion is that it could have been inclusive of the children and youth as well. For hunger knows no age group or geographical boundaries, or colors or creeds or countries. It stalks the world seeking whom it may devour.

I write as one who knows from the past the pangs of hunger. As a child I have cried myself to sleep to try to ease the pains of hunger in my body. I write now from the vantage point of needing nothing.

Hunger cannot wait. I read the headlines in Sunday's Post: "Ford Meets with Advisors on Energy Issue"; "Kissinger Says Critics Perils Detente"; "D.C. Democrats Defuse Bias Issue"; "Democrats Adopt Their First Charter"; "GOP Reformers Approve Campaign Spending Limit." But what is the first priority rising like a mountain peak above the plains? It is food to feed the hungry. This has been the cry of The Post and Senators McGovern and Humphrey and others in the government.

You miss breakfast and you are hungry at noon. You miss breakfast and lunch and you are craving food beyond any other need. Miss food for two days and you are painfully hungry, three days and you are starving. I know—I have been there.

The guillotine in France was put up by hungry people. They cried for bread to Marie Antoinette, and her answer was, "If they can't find bread, let them eat cake," and they beheaded her and her husband Louis XVI and France ran with the blood of the great and the noble. It should never have happened.

They marched on Washington during the Depression which I so vividly remember, when I was taking my salary as a young preacher in Richmond, Virginia, to feed my wife and child, my brothers and sisters and the people of my church, and just people who knocked at our door for bread. Today the people of the street, out of work, are steeped in the skills of destruction that could tear Washington or any city or county apart with the marching chant, "Give us jobs so that we may give our children bread." We must not and we dare not let this happen here or any place in our nation.

REGULATORY COMMISSIONS' INDEPENDENCE ACT

Mr. METCALF. Mr. President, inasmuch as the 93d Congress is drawing to a close, there is not time to complete action on S. 704, the Regulatory Commissions' Independence Act. However, for the information of Members I wish to discuss the bill and related legislation which has reduced to a degree the influence over independent regulatory commissions by the Office of Management and Budget.

The purpose of S. 704, as amended, is to provide independent Federal regulatory commissions with a greater degree of independence by permitting them to:

First, transmit their budget estimates and requests to the Congress and the executive branch concurrently;

Second, transmit their legislative recommendations, testimony, and comments on legislation to the Congress and executive branch concurrently; and

Third, supervise, and at their discretion conduct, any civil litigation in their own name and through their own attorneys.

The seven independent regulatory commissions covered by S. 704 are the Civil Aeronautics Board, Federal Trade Commission, Federal Maritime Commission, Federal Power Commission, Federal Communications Commission, Interstate Commerce Commission, and Securities and Exchange Commission.

The bill would amend basic statutory provisions which provide the President and the executive branch with controls over the independent regulatory commissions. This bill would amend the Budgeting and Accounting Act of 1921 as amended, to provide for the transmission of budget estimates and requests directly to the Congress. A copy of each estimate is to be transmitted concurrently to the President or the Office of Management and Budget. The President may prepare differing estimates for his budget. However, the President must include within the budget document the unaltered requests of the commissions.

The bill also contains language which would insure that the long standing practice of the OMB in reviewing legislative recommendations can no longer serve as a device for inhibiting the views and proposals of the commissions.

Finally, the bill amends basic statutory authority of the regulatory commissions to permit them to conduct, at their discretion, civil litigation in their own name and through their own attorneys. The FTC, the ICC and, to a limited extent, the FPC already have such authority. This legislation is designed to standardize that authority among the regulatory commissions.

The Consumer Product Safety Commission already has the statutory authority to submit its budget request and legislative recommendations simultaneously to both the Congress and the Executive. The Commission has no authority to go into court under its own name and with its own attorneys.

The initial version of S. 704 was introduced in the 91st Congress (S. 789). Hearings were held in the 92d Congress on identical legislation (S. 448) by the Senate Government Operations Subcommittee on Intergovernmental Relations. This year the Senate Subcommittee on Budgeting, Management, and Expenditures compiled a compendium of materials on the subject, including detailed comments from commissions and executive agencies. The bill as approved by the Senate Government Operations Committee was modified to include commission recommendations and meet some administration objections.

VARIATIONS CONCERNING THE TRANSMISSION OF BUDGET REQUESTS

First, S. 704 provides that each of the seven regulatory commissions shall submit budget estimates and requests directly to the Congress. Concurrently that commission shall transmit a copy of each such estimate or request to the President or the Office of Management and Budget. Each such estimate or request shall reflect the independent judgment of the commission concerned and shall not be changed at the direction of the President, the Office of Management and Budget, or any other agency of the Government. Nothing herein shall preclude any communication with respect to such budget estimates and requests, or any comments on such estimates and requests, between the commission and any other agency, the President, or the Office of Management and Budget.

The budget shall also set forth the budget estimates and requests transmitted by the independent regulatory commissions pursuant to section 206(b).

Second, on October 23, 1974, the President signed into law H.R. 13113, the Commodity Futures Trading Commission Act (P.L. 93-463). This bill was reported from the Agriculture Committee. Section 101, which established the commission, provides, in part, that—

Whenever the commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry.

This approach is similar to S. 104 in that it provides for the concurrent budget submissions of the Commodity Futures Trading Commission to both the President and the specified committees of the Congress. However, this language does not contain what appears to be a necessary element of such transmissions by an independent regulatory commission—the preclusion of any changes at the direction of the President, the Office of Management and Budget, or any other agency of the executive branch. Nor does the language in this law require the President to include the Commission's original budget submission in his budget when it is submitted, as would be required by S. 704.

The President specifically opposed the inclusion in the commodity commission legislation of the simultaneous budget transmission—as well as a provision for simultaneous transmission of legislative recommendation. He submitted draft legislation on 18 November to amend the Commodity Futures Trading Commission Act of 1974 to "eliminate (the) provisions which encroach on the separation of powers." This draft has not been introduced as legislation in the Senate. However, on 11 December, the House Agriculture Committee reported H.R. 17507, in a manner designed to meet the President's objections. Essentially, this legislation would leave untouched the simultaneous transmission of legislative recommendations, but negate any accomplishments in the area of simultaneous budget submissions. No report has been filed, and no floor action scheduled.

Third. The first major legislation containing language similar to S. 704 was the Consumer Product Safety Act, Public Law 92–573. Section 27(k)(1) of that act provides that:

Whenever the (Consumer Product Safety) Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

This language enacted the heart of the S. 704 approach, but stops short of:

(a) including the estimates submitted by the Commission in the President's budget, and

(b) clarifying—in terms of the legislation—the role of the Office of Management and Budget vis a vis the traditional role of OMB in budget preparation. S. 704 makes clear that the requests must be the independent views of the agency concerned, and cannot be changed at the direction of any agency of the government. However, consultation with other agencies is recognized as a necessary factor, and is not prohibited.

Fourth. On December 10, the House passed an amended version of S. 1149, the Surface Transportation Act of 1974. Title VI of the House amendment provides that the Interstate Commerce Commission budget shall be treated in the same manner as that of the Supreme Court and the legislative branch, that is, not subject to any change by the President. The President's budget must contain only the original requests of the ICC with respect to its budget estimates.

This approach is similar to the original version of S. 704, calling for the direct budget submissions to the Congress by the regulatory commissions. However, this was compromised to avoid a confrontation with the executive branch concerning the "independence" of the regulatory commissions from the executive branch. Additionally, both Justice and OMB agreed that such provisions would effectively destroy two key elements of Presidential responsibility, first, preparation of a comprehensive unified budget reflecting overall policies and decisions based on limited resources and, second, coordination of government policy through the budget. While the Government Operations Committee did not defer to the OMB and Justice views, it nevertheless agreed to follow precedent and provide for simultaneous transmission.

VARIATIONS CONCERNING THE TRANSMISSION OF LEGISLATIVE RECOMMENDATIONS

First. S. 704 provides that whenever an independent regulatory commission:

. . . submits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony or comments to the Congress. This section would not preclude any communication between the commission or any agency, the President or the Office of Management and Budget.

Second. The Consumer Product Safety Commission has language identical to that proposed in S. 704, except that the language is silent regarding communication between the Commission and any other agency or OMB. This flexibility is considered necessary to insure that agencies may communicate on possible overlapping legislation and coordinate the submission and consideration of legislation.

Third. Public Law 93–495 (amendments to and extensions of provisions of law relating to Federal regulation of depository institutions) provides yet another approach to the limitations of OMB control on legislative recommendations. Section 111 of that act provides that:

No officer or agency of the United States shall have any authority to require the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, or the National Credit Union Administration to submit legislative recommendations, or testimony, or comments on legislation to any officer, or agency of the United States for approval or comments prior to the submission of such recommendations . . . to the Congress, if such recommendations, testimony, or comments to the Congress include a *statement indicating that the views expressed are those of the agency submitting them and do not necessarily represent the views of the President.*

This is a unique provision concerning the transmission of legislative recommendations.

Fourth. The Commodity Future Trading Commission Act states:

Whenever the Commission transmits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit copies thereof to the House (and Senate) Agriculture Committees. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations . . . to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations . . . to Congress. *In instances in which the Commission voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Commission shall include a description of such actions in its legislative recommendations . . . which it transmits to the Congress.*"

The italic sentence is similar to the provision in S. 704 which permits communications between agencies. However, this language requires an identification of such voluntarily undertaken actions included in the recommendations submitted to the Congress.

VARIATIONS ON CONTROL OF LITIGATION

S. 704 permits the independent regulatory commissions discretion to go to civil court in their own name, and through their own attorneys. Although agencies have varying degrees of independence, no new legislative alternatives to this proposal have been enacted. Under the Alaskan Pipeline bill (P.L. 93–153) the Federal Trade Commission is given the authority to appear in any civil proceeding in its own name and through its own attorneys, after formally notifying and consulting with and giving the Attorney General 10 days to take the action proposed by the Commission.

This provision has not caused the Federal Trade Commission undue hardship. Although it has been operating under this provision for only a short time, FTC feels that the language in S. 704 would remove this needless restriction. If the Justice Department refused to conduct the litigation under the "Pipeline" provision FTC could use its own attorneys. If Justice refused to conduct litigation under the "S. 704" provision, the FTC could use its own attorneys. If Justice agreed to conduct the litigation under either provision, the FTC would not have to use its own attorneys.

PROPOSED REFORM OF FEDERAL CRIMINAL CODE

Mr. HART. Mr. President, earlier this month I inserted in the RECORD some important testimony given before the Subcommittee on Criminal Laws concerning the proposed reform of the Federal Criminal Code.

As I indicated then, I did so because of the long delay expected in the printing of the last volume of hearings in which that testimony appears and the interest expressed by many Senate offices and other interested parties in studying this massive proposal with the benefit of the best available commentary.

For the same reason, I ask unanimous consent that following these remarks, testimony presented to the subcommittee on July 19, 1974, regarding S. 1 and S. 1400 and prepared by the Congress Watch organization, be printed in the RECORD. This extremely helpful memo-

randum was presented to the committee by Mr. Ralph Nader, and it provides a detailed, informed analysis of the most troublesome issues and the most important differences among the several proposals before the subcommittee. It repays careful study, and I am sure it will prove very useful to my colleagues in their review of the many areas involved in criminal code revision.

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

MEMORANDUM ON PROPOSED FEDERAL CRIMINAL CODE

1. Background

A. The National Commission on Reform of Federal Criminal Laws was established by Congress in 1966 (P.L. 89-901, 80 Stat. 1516) to undertake a complete review of federal criminal law and to propose a new Title 18 of the United States Code. The real starting point, however, was the Model Penal Code, drafted by the Council of the American Law Institute in 1953. The National Commission on Reform of Federal Criminal Laws was chaired by former Governor Edmund G. Brown and is most often referred to as the Brown Commission. The Commission was composed of 12 members. They were: Gov. Brown, Congressman Richard Poff, U.S. Circuit Judge George C. Edwards, Jr., U.S. District Judges A. Leon Higginbotham, Jr., and Thomas J. MacBride, Senators Sam Ervin, John L. McClellan and Roman Hruska, Congressman Abner Mikva and Donald Scott Esq. and Theodore Voorhees Esq. Also serving for a period were Congressman Don Edwards and U.S. Circuit Judge James M. Carter. The Advisory Committee was chaired by Hon. Tom C. Clark and the Staff Director was Louis B. Schwartz. The work product of the Commission includes a Study Draft published in June 1970, three volumes of Working Papers and the Final Draft, submitted in January 1971.

B. S.1 The Criminal Justice Codification, Revision and Reform Act of 1973, was introduced by Senators McClellan, Ervin and Hruska on January 4, 1973. Senator McClellan's introductory remarks and analysis appear on page S. 558 of the Congressional Record of January 12, 1973 (Vol. 119). Sen. McClellan stated that, ". . . (S.1) is far from a final penal Code for the United States . . . we view it only as the preliminary and intermediate work product of 2 years of efforts by the Subcommittee on Criminal Laws and Procedures . . .". Title 1 of S.1 is the revision of Title 18, containing the basic criminal law. Title 2 transfers procedural rules of the present Code into the Federal Rules of Criminal Procedure. Title 3 contains conforming amendments, transferring Title 18 offenses to other more appropriate Titles and amending other Titles in line with Title 18 sentencing scheme. Title 4 includes a severability and effective date clause. Beginning in February of 1971, the Senate Judiciary Committee's Subcommittee on Criminal Laws and Procedures held hearings on the proposed legislation.

C. S. 1400 was introduced by Senators Hruska and McClellan on March 27, 1973, and is entitled the Criminal Code Reform Act of 1973. Following the submission of the Brown Commission Final Report to the President on January 7, 1971, President Nixon instructed the Department of Justice to undertake an evaluation and to make recommendations. This evaluation resulted in S. 1400. Senator Hruska's introductory comments are found on page S. 5777 of the Congressional Record, March 27, 1973 issue.

D. All the proposals contain the same basic features: jurisdictional elements are separated from the definitions of the offenses and are deleted as elements of the offense, defenses are defined and affirmative defenses for which the defendant has the burden of proof are established, standards of criminal culpability are established and the sentencing scheme is created. The Codes as proposed reach every facet of federal criminal law. Among the topics treated by the proposals are: Federal jurisdiction for criminal offenses, federal jurisdiction as an element of the offense, creation of affirmative defenses, death penalty, insanity defense, immunity of witnesses, wiretapping, entrapment, intoxification, execution of public duty, conspiracy, protection of national security and classified information, espionage, sabotage, bribery and graft, bail, probation, parole, civil commitment, obstruction of a government function both physically and by fraud, rioting, obscenity, inciting the overthrow of the government, civil rights; para-military conduct, various offense relating to elections, corporate liability, unfair commercial practices, securities law, bankruptcy, regulatory offenses, income tax evasion, extortion, loansharking, theft, fraud, environmental spoilation, etc.

Both S. 1 and S. 1400 and Brown classify sentences within the broad classes of felony and misdemeanor. Future memos will refer to these classes. They are presented here for later referral.

	Brown	S. 1[1]	S. 1400
Felonies:			
Class A	30 yr–$10,000	30/20 yr–$1,000	Life–$100,000.
Class B	15 yr–$10,000	20/10 yr–$1,000	30 yr–$100,000.
Class C	7 yr–$5,000	10/ yr–$500	15 yr–$100,000.
Class D		6/3 yr–$500	7 yr–$50,000.
Class E		1 yr–$100	3 yr–$25,000.

	Brown	S. 1[1]	S. 1400
Misdemeanors:			
Class A	1 yr–$1,000	6 mo–$50	1yr–$10,000.
Class B	30 days–$500		6 mo–$5,000.
Class C			30 days–$2,500.
Infraction (violation)	$500	30 days–$50	5 days–$500.

[1] The number to the left of the slash (/) is the term authorized for "dangerous special offender." The term to the right is for all others. The fines are on a per diem basis for up to 3 years (1,095 days at $1,000 per day for class A felony, for example, would amount to $1,095,000 maximum fine.

2. Congress watch

Congress Watch is a non-profit organization, organized by Ralph Nader in 1973, and funded by Public Citizen, Inc. Public Citizen, Inc. supports a number of public interest projects including a retired professionals group, tax reform group and a litigation unit. It is supported by voluntary contributions from several thousands of contributors. While the process of reform and codification has been progressing for several years it was only this January and later in March, that legislative proposals were developed and fications but represent the creation of new offenses and the changing of old ones. The concern of Congress Watch is based on several considerations. First, that the criminal laws must adequately and effectively protect the citizens in their personal and economic interests. Secondly, the public must be protected against government actions which are not in the public interest introduced. At that time the importance of the proposals became clear, reflecting as they do, society's evolving standards of public duty. Also, the proposals are not mere codior which are directed against legitimate citizen activity. Thirdly, the criminal laws must not upset or deter Constitutional principles, such as, separation of powers.

Because of the lack of information on the effect that these proposals will have, Congress Watch is undertaking to develop and disseminate research memoranda on these proposals over the next several months and to express, where appropriate, preferences or objections. The research project, already begun, involves lawyers, law school professors and law students from across the country. These memoranda will be available to members of Congress and their staffs, the relevant committees, interested organizations and persons and the press.

Congress Watch is located at 133C Street, S.E., Washington, D.C. 20003. Telephone (202) 546-4996.

On March 22, 1973, H.R. 6046 was introduced. It is identical to S. 1400.

On September 5, 1973, H.R. 10047 was introduced. It contains the majority report of the Brown Commission. Its numbering system corresponds to the Brown Final Report.

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MEMORANDUM ON PROPOSED FEDERAL CRIMINAL CODE NO. 2

SCHEME TO DEFRAUD

S. 1 § 2-8D5—S. 1400 § 1734

Summary—The Brown Commission deleted the existing mail and wire fraud statutes, leaving prosecution of fraud cases

to be done under the general theft section (1732). Many consumer groups criticized that approach as making prosecution of mail fraud schemes more difficult, since there would be no offense unless the scheme were successful and since the felony/misdemeanor grading of the offense would depend on the amount of the victim's loss rather than focusing on the defendant's conduct. (See the statements by consumer representatives in Hearings on Reform of the Federal Criminal Laws, Part III–B).

Both S. 1 and S. 1400 follow the suggestions of the consumer groups that a section covering schemes to defraud be added to the Code. The language of both 2–8D5 and 1734 follows that of the present mail and wire fraud statutes (18 USC 1341, 1343), so judicial construction can be carried forward.

Elements of the offense—Sections 1341 and 1343 use the following language: "Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations or promises," uses the mails (1341) or wire, radio or TV (1343), "for the purpose of executing such scheme or artifice," is guilty of mail (or wire) fraud. Thus, there are two elements: (1) devising or intending to devise a scheme, and (2) using the mails or wire.

Both S 1 and S 1400 use virtually the same language as 1341 in defining the first element of the offense. Both retain the language about a scheme and that about obtaining property by false pretenses.

Since S 1 and S 1400 are intended to cover a broader range of schemes to defraud than just mail or wire fraud, the language regarding the second element of the offense is broader. The second element in S 1400 is engaging in conduct with intent to execute the scheme. S 1 appears to cover more offenses. A person who has (1) devised a scheme is guilty if (2) he *or an accomplice* engages in or causes performance of conduct to effect the scheme. Thus S 1 takes the approach of most conspiracy laws and allows prosecution of all those involved in devising the scheme.

Comment—The difference may not be crucial, since the cases applying 1341 have repeatedly held that a defendant is guilty of mail fraud if he devised a scheme and if his conduct would normally be expected to lead to use of the mails, even though the actual mailing was done by someone else. Thus, since S. 1400 would carry forward the judicial construction of 1341, its coverage could be held to be as broad as that of S. 1. (S. 1 is preferable since the language is clearer).

Jurisdiction—S. 1400 covers schemes to defraud that use the mails, interstate commerce (including wire, radio or TV), or those that induce persons to travel in interstate commerce. Both bills extend jurisdiction to cover the use of instrumentalities of interstate commerce—without necessitating proof of actual interstate phone calls as required by the present wire fraud statute. This is desirable because fraudulent schemers often avoid making interstate calls to escape federal jurisdiction under current law. (See Vincent Broderick, testimony before the Criminal Law Subcommittee, June 13, 1973).

S. 1 covers the same jurisdictional bases that S. 1400 covers, plus (1) cases arising within federal special maritime, territorial or aerospace jurisdiction; (2) cases in which the U.S. owns the property that is the subject of the offense; and (3) cases in which a financial institution owns the subject property.

Comment—It is not clear why S. 1400 is not as broad jurisdictionally as S. 1. But from a consumer point of view S. 1's additional jurisdictional grounds do not seem to add much. Also, it might be useful to amend both sections to cover extraterritorial jurisdiction (S. 1 section 1–1A7, S. 1400 Section 204), so as to cover schemes operated from outside the U.S. that don't fall under one of the enumerated jurisdictional categories.

Penalties—The maximum fine is greatly increased:

18 USC 1341, 1343: $1,000 or 5 years.

S. 1400: Class D felony: $50,000 or 7 years.

S. 1: Class D felony; up to roughly $500,000 (when the day fine is applied to its fullest limits) or 6 years.

Civil Remedies—Many consumer representatives suggested (1) giving the judge discretion to order restitution to victims as part of a judgment of conviction for mail fraud and (2) permitting a preliminary injunction against mail fraud as is now done with stock fraud cases. The advantages of an injunction are that it is specific and that it can be imposed rapidly, before a criminal trial can be concluded.

S. 1 provides for permanent or temporary injunctions in 3–13A1; S. 1400 in 3641. The S. 1 provision is preferable in that it allows "any aggrieved party," as well as the Attorney General, to apply for an injunction.

S. 1 3–13A2(c) provides that a person injured by a scheme to defraud may bring a civil action for damages to recover treble his actual damages plus punitive damages plus attorney's fees. Under S. 1, the judge may require the defendant to make restitution to the victims (section 1–4A1(c)(5)) and/or require him to give notice of his conviction to the persons affected by the conviction (1–4A1(c)(7). S. 1400 appears to have no restitution or damages section, unless restitution can be ordered under the court's authority to impose civil penalties (section 2001(d)). Section 2004 provides a notice sanction.

Comment—S. 1's damages section is good, since it can be used for consumer class action suits. But since a class action requires initiative by the victims, the provision that the judge be able to order restitution is also useful. (However, there might be a problem in identifying the victims if there are many victims.)

Culpability—The cases construed section 1341 to mean that a defendant was guilty if he was "recklessly indifferent" to whether a statement was true or false. Corporation unions and other organizations are liable also.

The general culpability standards of both S. 1 and S. 1400 makes the scheme to defraud sections at least as broad as 1341, since one who is reckless or criminally negligent is culpable, as well as one who acts intentionally or knowingly.

Organization Liability—S. 1 section 1–2A7 would make an organization guilty of any offense engaged in by an agent within the scope of his employment.

S. 1400 section 402 also covers conduct within the scope of the agent's action, implied, or apparent authority, and which he intended would benefit the organization.

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MEMORANDUM ON PROPOSED FEDERAL CRIMINAL CODE NO. 3

ENTRAPMENT

S. 1 section 1–3B2, S. 1400 section 531, Brown section 702

Summary—The key issue in the entrapment defense is whether the test of entrapment should focus on the conduct of the police (an objective test) or on the predisposition of the defendant to commit the offense (a subjective test). The more subjective the test, the less will prosecutors and police see entrapment as a hindrance and the more will civil libertarians object to it. Brown uses the most objective test, S. 1400 the most subjective. S. 1 falls somewhere in between the other two.

Objective v. subjective tests: the purpose of the entrapment defense.—The two key Supreme Court cases in this area were Sorrells v. US 287 U.S. 435(1932) and Sherman v. US 356 U.S. 369(1958). The test that has evolved out of those cases is a subjective one that focuses on whether the defendant was predisposed to commit the offense. The test suggested in Brown, on the other hand, requires an objective look at the conduct of the police to see whether that conduct was "likely to cause normally law-abiding persons to commit the offense." This approach sees the entrapment defense as something that will regulate the conduct of police. It's related to due process notions and the Frankfurter "shock the conscience" test. The character and past criminal record of the defendant are thus irrelevant.

Some critics of the Brown test argue that the "normally law-abiding persons" clause slips a subjective element in through the back door, in that proof might focus on whether the defendant is a normally law-abiding person. If that criticism is valid, S. 1 perhaps takes care of it by taking its language from the Model Penal Code rather than from Brown. The test in S. 1 is whether the police conduct created a "substantial risk that the (prohibited) conduct would be committed by persons other than those who are ready to commit it."

However, S. 1 then introduces a large subjective element into its test by adding that the "risk is less substantial where a person has previously engaged in similarly prohibited conduct and such conduct is known to the agent." (Note that this says "engaged in", not, "was convicted for engaging in." The inclusion of this subjective element won't affect the person who has no criminal record, but it may lead to conviction of a person who has a record regardless of his innocence on this particular occasion. The overall effect will be to work much less of a restraint on police conduct than the Brown test would.

S. 1400 is even less desirable in that the test is even more subjective. It says the defense is available only where (1) the defendant was not predisposed to commit the offense and (2) he did so *solely* as a result of active inducement by police.

Affirmative defense v. Bar to prosecution—Brown and S. 1400 follow current case law and establish entrapment as an affirmative defense. S. 1 calls it a bar to prosecution. The comments to Brown suggest that an affirmative defense formulation would make the issue a jury matter, as is usually done now, whereas the bar formulation would leave entrapment for the court. The advantage of leaving it to the jury appears to be that the jury has a chance to evaluate the conduct and acquit the defendant when police conduct shocks the community standards of propriety. Much scholarly writing has favored making entrapment a matter for the court, so that the courts can give police better and more explicit standards to guide their conduct in the future. The defendant should have a choice as to whether the issue is heard by the jury or the court. In either case, the defendant must meet a preponderance of the evidence standard of proof.

Other issues—The statute should go into greater detail on burden of proof, who tries the issue, the focus of the proof (subjective v. objective), the meaning of police "encouragement," and probable cause. More explicit standards on these issues would guide police conduct more effectively and protect defendants.

S. 1 exception—S. 1 says entrapment is not a bar when the offense involves bodily injury. This exception does not appear major.

According to the Working Papers, entrapment is usually involved in vice and narcotics cases, and only rarely in violent crime cases (p. 309). Nevertheless, present case law does not make this exception.

A Plea of not guilty should not be inconsistent with the defense of entrapment. The bar to prosecution approach of S. 1 suggests that not guilty plea is not inconsistent.

U. S. v Russell—The most recent Supreme Court entrapment case, *U. S. v Russell*, 93 S.Ct. 1637, 41 US 4538 (1973), does not affect these proposals. In that case, the Court held that the *Sorrells* and *Sherman* subjective focus on the predisposition of the defendant should still be used. However, the Court rejected all suggestions of a constitutional basis for the entrapment defense and relied on the notion that "Congress could not have intended criminal punishment for a defendant who has committed all the elements of a prescribed offense, but who was induced to commit them by the government." Thus, the holding does not affect Congress' ability to establish a statutory entrapment defense.

MEMORANDUM ON PROPOSED FEDERAL CRIMINAL CODE NO. 4

MISAPPLICATION OF ENTRUSTED PROPERTY

S. 1 § 2-8D6, S. 1400 (none), Brown § 1737

Summary—This provision covers a misapplication of entrusted property by a Fiduciary, or in the capacity as a Federal Public Servant, or as an Agent or person controlling a financital institution which was unauthorized and which involved a risk of loss, but which was not done with the intent to steal that is necessary to constitute theft under the general theft provision (2-8D3). An example of this is a person borrowing, without authorization, $4,000 from organization funds to use for his honeymoon. The actor need not lose control of the property to be guilty of this offense. The S. 1 provision is taken directly from Brown. The provision to be desirable as it is written.

S. 1400 has no similar provision. A prosecutor would have to resort to the general theft section (1731), but it is inadequate for this kind of offense in that it covers only situations in which there was an intent to deprive the owner of his rights with respect to the property or to appropriate the property to the actor's or another person's use. This is a serious deficiency in S. 1400. S. 1400 would fail, for example, to cover some existing offences, such as unauthorized loar of public funds (18 USC 653) and willful misapplication of bank funds (18 USC 656).

Jurisdiction—Federal jurisdiction under § 2-8D6 is extremely broad. It is coterminous with jurisdiction over theft under § 2-8D3, which covers federal property, financial institutions, affecting commerce, mails, or property connected to employee benefit plans, public works kickbacks, HUD-insured funds, common carriers, OEO, labor unions, or one of several other jurisdictional bases.

Penalties—This is a class D felony, which carries a six-year maximum term. Brown called this a Class A misdemeanor, which would have a one-year maximum.

Comment—The comments to Brown indicate that this section fits into the second of three tiers of property offenses. The most severe tier is theft, where the offender intended permanently to acquire the property. Misapplication, forgery, fraud, etc., form the second tier, regulatory offenses are the third.

MEMORANDUM ON PROPOSED FEDERAL CRIMINAL LAW NO. 5

THE REGULATORY OFFENSE PROVISION

S. 1: § 2-8F6; Brown: § 1006

Summary—The regulatory offense section in S. 1 is designed to provide a consistent penalty scheme for regulatory laws that carry criminal penalties, such as the Meat Inspection Act or the Hazardous Substances Act. It is not a new substantive crime, nor does it make violation of every regulatory statute or rule a crime. It would apply only to those regulatory statutes that specifically incorporate it. The best way to understand its use is to look first at the comparable section offered by the Brown Commission's Proposed Criminal Code, on which the S. 1 provision is based. That approach will highlight some of the problems involved and will offer some starting points for modifying the section.

Brown—Brown § 1006 provided:

(1) The section was to govern the use of sanctions to enforce a penal regulation (only) to the extent that another statute so provides. "Penal regulation" means "any requirement of a statute, regulation, rule or order which is enforceable by criminal sanctions, forfeiture, or civil penalty."

(2) General Scheme of Regulatory Sanctions:

(a) Nonculpable Violations—

Culpability as to conduct or the existence of the penal regulation need not be proved, unless required by the regulation. Penalty: a fine of up to $500; no jail sentence.

(b) Reckless or knowing violation—Culpability as to both conduct and existence of the regulation is required. Penalty: up to 30 days in jail and/or a $500 fine.

(c) Flouting Regulatory Authority—Willful and persistent disobedience of a body of regulatory laws. Penalty: 1 year/$1000.

(d) Dangerous Violations—a reckless or knowing violation that creates, in fact, "a substantial likelihood of harm to life, health, or property, or of any other harm against which the penal regulation was directed." Penalty: 1 year/$1000.

Note that the section would apply only when invoked by another regulatory statute. And, if it were invoked, the section would usually set the penalty for violation of any "penal regulation" contained in, or issued under, the statute.

The purposes of the section were to achieve consistency in penalties among various regulatory laws, and to have penalties set by a Congressional Committee with criminological, rather than regulatory, expertise. It is important to note that Brown designed the regulatory penalty to be incorporated in regulatory statutes which attach criminal penalties not only to violations of black-letter sections in the statutes but also to violations of rules or regulations issued thereunder. The apparent theory was that such malum prohibitum conduct which is proscribed in a body of rules and regulations, rather than in a black-letter statute, is not so clearly cognizable as "wrong" to the potential offender, so it should not be punished severely. Thus, the Brown provision carried penalties that are weaker than many of the penalty provisions authorized by existing statutes. (Many existing regulatory laws, for instance carry 1 year/$5000 penalties. Even the "dangerous" violation in Brown D006 has a much smaller maximum fine.) With that in mind, Brown's guidelines to be used in drafting the conforming amendments suggested the regulatory offenses section be incorporated only in those statutes (labeled here as Group A for simplicity) where the statutory penalty applied to violations of rules and regulations, as well as to violations of black-letter statutory commandments. The guidelines suggested that the penalties prescribed in provisions of other statutes (call them Group B)—those in which criminal penalties attached only to violations of provisions in the statute itself, not to subsequently issued rules—simply be relabeled to mesh with the Code labeling scheme and if necessary, downgraded to a misdemeanor, in accordance with Brown's idea that all felonies should be enumerated only in title 18 of the U.S. Code (and thus not scattered in a number of other sections of the U.S. Code.)

S. 1—S 1 retained the regulatory offense idea in section 2-8F6, but changed it very significantly: the penalties are made much stronger. The wording in 2-8F6 is substantially the same as that in Brown, but the maximum penalties are:

Nonculpable violation—about $50,000 and/or 30 days in jail.

Reckless—$50,000/6 months.

Knowing—$100,000/1 year.

Flouting Regulatory Authority—$500,000/6 years.

Dangerous—$500,000/6 years.

Thus, while a knowing violation under Brown carried a penalty that is often slightly less than under existing law, a knowing violation under S 1 carries a maximum fine that is almost always much greater than present law. The S 1 approach is certainly preferable, in that the fines at least begin to be substantial enough to deter large organizations from violating the law. However, the conforming amendments to S 1 here drafted on the basis of the Brown guidelines, and due to the increase in the penalties under S 1, the effect is precisely the opposite to what the guidelines intended.[1] That is, the "Group A" statutes (the ones which permit impositions of criminal penalties on violations of rules and regulations), to which Brown wanted to attach lesser penalties, would receive under S 1 penalties that are greater than Group B (Statutory Violations) and greater than Group A has under existing law. The penalties for Group B statutes are maintained at current (low) levels.

A possible alternative—One can criticize Brown's idea that a regulatory offense should not be penalized too stiffly because it is hard to keep track of what is right and wrong when right and wrong are defined by a body of changing rules and regulations. However, most such laws are aimed at organizations, rather than at individuals, and organizations at least have the resources to become familiar with the laws and rules. Further, the more relevant criteria for grading such offenses are, as with other laws, the degrees of culpability and the gravity of resulting harm—not the source of the rule. This suggests a two dimensional grid approach for grading the regulatory offense. For instance:

GRAVITY OF HARM [2]

Culpability	Tertiary	Secondary	Primary
Nonculpable		Violation	Misdemeanor.
Reckless	Violation	Misdemeanor	Class D felon.
Knowingly	Misdemeanor	Class E felony	Do.
Flouting regulation authority	do	Class D felony	Class C felon.

Under this tentative scheme, the culpability standards would be defined as they are in S 1 and Brown. The gravity of harm standards are more difficult to define. Tertiary rules would be those whose purpose is merely administrative convenience, i.e., housekeeping rules. Primary rules are basically safety regulations, whose purpose is protection of life, health, the environment, and possibly some kinds of economic interests (e.g. anti-trust). Secondary rules are those that don't fit in either of the two extreme categories, like rules designed to provide information to consumers and rules protecting other kinds of property. Defining a workable and reasonable set of categories is clearly the most difficult part of drafting such a scheme. Note that any given regulatory law and its accompanying rules and regulations (if any) might well include some proscriptions and prescriptions in each of the three categories. The idea is to leave

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Footnotes at end of article.

it to the court (a matter for judge or for jury?) to decide on the proper category. Under this scheme, there would be no distinction between "Group A" and "Group B" statutes. Both would be governed by the Regulatory Offense section.

Another problem is whether, to constitute a knowing offense, culpability as to the existence of the penal regulation, as well as to the *actor's* conduct, should be required. One argument in favor of such a requirement is that regulatory offenses are malum prohibitum; one argument against is that ignorance of the law is generally no excuse, so it should not mitigate the offense here. A possible middle ground on this issue is suggested by the Brown Study Draft, which created a presumption that a professional's violation is willful. Slightly modifying the Study Draft idea, one could establish a presumption that culpability as to the existence of the penal regulation is presumed in the case of a person engaged, whether as owner, employee, or other wise, in a business, profession, or other calling subject to licensing or pervasively regulated, when *charged with* violating a penal regulation applicable to him in that capacity.

Footnotes

1. An example of Group A is the Truth in Lending Act. Its current penalty provision provides that a violator of a statutory prohibition or of a rule or regulation "shall be fined not more than $5,000 or imprisoned not more than one year, or both." Under the S 1 conforming amendment, a violator of a provision of the statute or of a rule issued thereunder, "shall be guilty of a regulatory offense under section 2-8F6." The maximum penalty in the severest regulatory offense category is $500,000/6 years.

An example of Group B is the Robinson-Patman Act. The existing maximum penalty for a violation is 1 year and/or $5,000. Under the S 1 conforming amendment, a violator "shall be guilty of a Class E felony, *except that* the maximum fine shall be $5,000." A Class E felony normally carries a 1 year/$100,000 maximum penalty.

2. The maximum penalties under S 1 are:
Violation—$54,750.
Misdemeanor—$54,750/6 months.
Class E felony—$109,500/1 year.
Class D felony—$547,500/6 years.
Class C felony—$547,500/10 years.
Alternatively, the judge may impose a fine of twice the benefit derived or twice the loss caused.

Other available sanctions include corporate or individual probation, restitution, disqualification of an individual from holding organizational office, requiring an offender to give notice (such as by advertising) of his conviction to the class of persons affected, and suspension of the right to engage in interstate commerce.

ADDENDUM TO REGULATORY OFFENSE

Another possible way to approach violations of regulatory laws is the S 1400 approach or a variant thereof. S 1400 has no regulatory offense section comparable to that of S 1. It does, though, incorporate certain regulatory law felonies into the criminal code in sections 1765 and 1766. The felonies incorporated consist primarily of adulterated food and drug product violations. Under the S 1400 scheme, these sections are necessary in order to preserve the felony grading of those violations since S 1400 adopts the Brown Commission principle of downgrading any offense in a title outside Title 18 to a misdemeanor. This principle is put into effect through section 2002, Classification of Offenses outside Title 18. Offenses outside title 18 are classified and labeled according to the term of imprisonment they carry under existing law. If the term is more than six months, the offense is classified a Class A misdemeanor. The maximum fine that may then be imposed for such an offense is either 1) the fine authorized by the statute defining the offense, or 2) the maximum fine for an offense of that classification under the Code, whichever is greater.

That scheme could be modified in the following way: 1) Offenses outside title 18 would be classified according to their maximum jail terms, as done in S 1400, but the idea of putting all felonies in title 18 would be dropped. Thus, they would be reclassified as felonies if the existing term is sufficiently high. 2) The maximum fine for such an offense would then be the fine under the original provision, or the fine for an offense of that classification under the Code. Such a change would bring into play the advantages of the new sanction proposed in all three versions—higher fines, notice and disqualification.

S 1400's scheme also includes section 1615, Reckless Endangerment. This section makes it an offense if a person recklessly engages in conduct which places or may place another person in danger of death or serious bodily injury. Federal jurisdiction exists when the reckless endangerment occurs during the commission (or during the flight from the commission) of *any other offense* over which federal jurisdiction exists, whether defined in title 18 *or elsewhere*. Thus, if a person or corporation violates the Flammable Fabrics Act, which conduct may place another in danger of serious injury, the actor may be guilty of reckless endangerment, S 1400 makes this offense a Class D felony if the circumstances manifest extreme indifference to human life, and a Class E felony in any other case. A possible modification of this section would be to include other sorts of endangering conduct, such as serious danger to the environment or to habitation, in the definition of the offense.

If this offense is to be used as a major vehicle in regulatory violations, it is important that the language defining the offense continue to read "conduct which places *or may place* another person in danger." Otherwise, the reach of the section would be unreasonably limited. For instance, violation of the Flammable Fabrics Act occurs during the manufacture or distribution process. Jurisdiction under section 1615 depends on the reckelss endangerment occurring "during the commission of" the Flammable Fabrics offense. The danger that victim is actually placed in at that point is less than immediate. But as long as it suffices that the first offense *may* place another person in danger, section 1615 has a broad reach.

It may be objected that this approach is undesirable because the penalties are not clearly enumerated along with the statute defining the offense. This argument has some merit, but it should not be accepted too quickly. With regard to the penalty levels (especially the fines), one would expect that the U.S. Code would be updated and annotated in such a way the fine levels and other sanctions of the criminal code would appear along with the statutes defining offenses. That could be achieved even if the regulatory laws were not formally amended to reflect the title 18 penalties. As for the Reckless Endangerment Offense, it should be pointed out that this tends to be more of a common law type offense than a regulatory provision. To require that a violator know that endangering a person's life or safety is an offense does not conform to the traditional jurisprudence of criminal law.

MEMORANDUM ON PROPOSED FEDERAL CRIMINAL LAW NO. 6

DEATH PENALTY

S. 1 section 141E1,2 S. 1400 section 2401,2, Brown section 3601-05

OFFENSES

1. The Brown Commission authorized the death sentence for defendants convicted of murder or treason,

2. S. 1 also limits it to these offenses.

3. S. 1400 authorizes it for

(a) treason, sabotage, espionage if—

(1) the defendant has been convicted of "another offense involving treason, sabotage, or espionage, committed before the time of the offense for which a sentence of life imprisonment or death was imposable" or

(2) the defendant knowingly created a grave risk of substantial danger to national security, or

(3) the defendant created a grave risk of death and

(b) for murder if—

(1) the defendant committed during the offense or in connection with it, treason, sabotage, espionage, escape, kidnapping, aircraft hijacking, or arson or

(2) the defendant has been convicted of another federal or state offense for which a sentence of life imprisonment or death could have been imposed or

(3) the defendant had been convicted of 2 or more federal or state felonies involving serious bodily injury to another or

(4) the defendant had knowingly created a grave risk or death to another person in addition to the victim or

(5) or committed the offense in an especially heinous, cruel or depraved manner, or

(6) had procured the murder by money or other benefit or had received money for it, or

(7) had murdered the President, a successor, a foreign dignitary in the U.S. or a U.S. official, law enforcement officer, employee of U.S. penal institution or diplomat.

Exclusion

1. Under Brown the death sentence could not be imposed if the defendant was less than 18 years old at the time of the offense, or if the defendant's physical or mental condition calls for leniency or there are other substantial mitigating circumstances or "although the evidence suffices to sustain the verdict, it does not foreclose all doubt respecting the defendant's guilt."

2. S. 1 does not provide any exclusion standards. S. 1 does provide mitigating and aggravating circumstances as a guide for the court or jury. The *mitigating* factors (for murder and treason) are that the defendant

(a) was under extreme mental or emotional disturbance

(b) was under unreasonable pressures or under the domination of another person

(c) the mental capacity was impaired as a result of mental illness, defect or intoxication

(d) was emotionally immature

(e) was an accomplice whose participation was relatively minor

(f) had no significant history of prior criminal activity and

(g) the crime was committed under circumstances which the offender believed to provide a moral justification or extenuation which is plausible by ordinary standards of mortality and intelligence.

The *aggravating* circumstances in cases of treason are that the defendant:

(1) knowingly created a great risk of death to another person or of substantial impairment of national security

(2) violated a legal duty concerning protection of the national security

(3) committed treason for securing benefit.

In cases of murder the *aggravating* circumstances are that the defendant

(1) was previously convicted of another murder or crime involving the use or threat of violence to the person or has a substantial history of serious assaults or terrorizing criminal activity

(2) committed a double murder

(3) knowingly created a great risk of death to at least several persons,

(4) committed the murder in an especially heinous, atrocious, cruel, manner or mani-

fested exceptional depravity by ordinary standards of morality and intelligence

(5) the violator was a public servant who was holding the defendant or another in official detention.

(6) the violator was a law enforcement officer or

(7) the victim was the President or other high public servant.

Separate proceeding to determine sentence

All three bills provide for a separate hearing on the death penalty for which a jury may be waived or impaneled regardless of guilty plea or jury trial. Any evidence relevant to sentencing may be admitted. Brown explicitly states any evidence inadmissible under the exclusionary rule would be admissable.

S. 1 simply states the evidence must be relevant. S. 1400 provides that the court must provide the presentence report to the government and defendant. The standards regarding the admissibility of evidence apply except for that evidence relevant as to why the death sentence should not be imposed.

In Brown and S. 1 the burden of proof necessary to impose the death penalty is not stated. Under S. 1400 the jury returns a special verdict setting forth its findings as to existence of the factors specified by the statute (see above). Under S. 1400 if the court or jury finds by a "preponderance of the information" that one or more grievous factors exist and none of the precluding factors exist, the court must sentence the defendant to death. If none or even if some of the grievous factors exist but one or more of the mitigating factors also exists the defendant is sentenced to any other sentence authorized (life imprisonment). Under S. 1 the defendant would be sentenced to life imprisonment also.

Comment

Furman v. Georgia, 408 U.S. 238 (1972), is the most recent death penalty decision by the Supreme Court. There was no single majority opinion. Justice Brennan and Marshall reached the result that the death penalty, irrespective of the mechanics of its application, is cruel and unusual punishment. Justice Douglas' position is not as clear but it may be safe to assume that he would not favor mandatory imposition on conviction nor jury discretion in deciding the death penalty. There is no clear indication how Justices Stewart and White would respond to this legislation, if enacted. Justices Burger, Blackmun, Rhenquist and Powell dissented. Generally both S. 1 and S. 1400 respond to the due process-fairness objection to the death penalty. The proponents of the death penalty cite its deterrence effect as the most important ground for its existence. However the deterrence factor in S. 1 and S. 1400 is not as substantial as it would be under a mandatory system due to the ambiguity of some of the provisions (e.g. moral justification, extreme emotional or mental disturbance, unusual pressures, heinous, atrocious, cruel manner, relatively minor participation. As an article by Daniel Polsby, *The Death of Capital Punishment?* (1972 Supreme Court Review 1973) points out the existing evidence makes the deterrence justification untenable. The evidence is *inconclusive* on the general deterrence effect of capital punishment but persuasively suggests that there is usually no such deterrent effect. The question that must be answered by the proponents of the legislation before such sections are enacted is: Can the death penalty statute be justified on grounds of deterrence when it cannot be shown that the death penalty is a greater deterrent than prison for major crimes?

MEMORANDUM ON PROPOSED FEDERAL CRIMINAL CODE NO. 7

PARA-MILITARY OFFENSE

S.1 § 2–9D1, S.1400 § 1104, Brown § 1104

Summary

Basically all three drafts make it a criminal activity to engage in or facilitate the acquisition, caching, use, or training in the use of dangerous weapons by or on behalf of a group of 10 or more persons with the intent of influencing the conduct of governmental affairs. The offense is not of an individual acquiring, caching or training but only if it is done:

(a) in connection with a group and

(b) if that group has political motives vis a vis the government.

This raises a question whether, under the First Amendment, group activity can be outlawed which would be lawful for individuals or groups with non-political objectives. The Brown draft speaks of acquiring or training in weapons "for political purposes or on behalf of an association of 10 or more persons." S.1 requires intent "to influence the conduct of government public affairs in the United States through the use or threat of the use of such weapons". S.1400 requires that the organization or group have as a purpose the taking over of, the control of or the assumption of the function of an agency of the U.S. government or of any state or local government by force or threat of force. Organizations as dissimilar as the National Rifle Association, Black Panthers and a neighborhood association of armed citizens who have a need for group protection would come under the scope of this section. The Working Papers (at p. 436) note, "the activities prohibited by the draft are limited neither to those with armed insurrection as the object, nor those carried on by organizations under foreign control . . . the Commission should however, consider whether the limitation of the proscription to groups with "political purposes" presents a constitutional or policy danger by permitting wide latitude in executive and judicial discriminations as to what constitutes a "political purpose".

Constitutional problems

Supreme Court cases have strongly indicated that it is highly suspect under the First Amendment to place restrictions on an individual's right of advocacy and association without the strongest showing by the government of imminent violence. These cases tend to indicate that a blanket prohibition of acquiring firearms in conjunction with a politically-oriented organization, without some further requirement that imminent danger results to the community from this action is unconstitutional. In *Brandenburg* v *Ohio* 395 U.S. 444(1969) the court said, "the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action" (395 U.S. at 447) and, "(A) statute which by its own words and as applied, purports to punish mere advocacy or to forbid on pain of criminal punishment *assembly with others* merely to advocate the described type of actions within the condemnation of the First and Fourteenth Amendments" 395 U.S. at 449 (emphasis added). *Brandenburg* seems to cast real doubt on the constitutionality of a statute which is aimed directly at political assembly, aimed at the right to associate in an activity which, if done singly, would be perfectly legal. The proposed statutes, however do not prohibit advocacy but actions which are deemed to be per se dangerous. The problem is one of legislating such a description or in looking at the threat on a case by case basis. The offense does not amount to assault, rebellion, sabotage or obstructing a government function by physical force. Presumably it allows the government to protect itself from feeling intimidated by an irate band of armed citizens who have yet to take any overt action which is otherwise illegal. Without any sort of legislative fact finding it is difficult to see what compelling need there is to outlaw what has heretofore been non-criminal association conduct. Both S.1(§ 3–10C2) and S. 1400 (§ 3127) authorize government wiretapping to acquire evidence on which can be used for a prosecution under this section or any other section of the law.

MEMORANDUM ON PROPOSED FEDERAL CRIMINAL LAW NO. 8

CRIMINAL COERCION

Brown § 1617, S. 1400 § 1723, S. 1 § 2–9C4

Summary

The coercion offense falls with the blackmail-extortion type of offense. It holds a person liable for threatening certain specific acts either with an intent to compel action or to obtain property. The "threatening" aspect raises serious First Amendment questions concerning free speech and the acts which are the subject of the threats raise questions of consumer actions and other legitimate disputes.

S. 1400 provides that:

"A person is guilty of an offense if he knowingly obtains property of another by threatening or placing another person in fear that any person will:

(1) commit any crime;

(2) accuse any person of a crime;

(3) procure the dismissal of any person from employment, or refuse to employ or renew a contract of employment of any person;

(4) wrongfully subject any person to economic loss or injury to his business or profession;

(5) expose a secret or publicize an asserted fact, whether true or false, tending to subject any person, living or dead, to hatred, contempt, or ridicule, or unjustifiably to impair his personal, professional or business reputation or his credit; or

(6) unjustifiably take or withhold official action as a public servant, or unjustifiably cause a public servant to take or withhold official action."

This offense is graded as a Class D felony if the property which is the subject of the offense has a value in excess of $500 or is a firearm, or a U.S. government document or engraving equipment or mail. It is a Class A misdemeanor if the property has a value in excess of $100. In all other cases it is a Class B misdemeanor.

There is federal jurisdiction if the fear is of a federal crime, or involves federal official action or if committed within the special jurisdiction of the U.S. or concerns property owned or under the care of the U.S. or is owned or under the care of a national credit institution, or in any way affects interstate or foreign commerce or involves movement of a person across a state or U.S. boundary or if a facility of interstate commerce is used.

The Brown Commission had a similar offense (§ 1617) the gravamen of which is "with intent to compel another to engage in or refrain from conduct". The Commission provided the affirmative defense for which the defendant would have the burden of proof, that the actor believed the primary purpose of the threat was to cause the other to act in his own best interests, behavior from which he could not lawfully abstain or to make good a wrong done by him or re-

frain from taking any action or responsibility for which he was disqualified.

S. 1, § 2–9C4, provides that it is an offense if a person intentionally compels or induces another person to engage in conduct from which the other person has a lawful right to abstain, or to abstain from conduct in which he has a lawful right to engage by means of instilling a reasonable fear that if the demand is not complied with, the person or another will cause bodily injury, cause damage to property or subject anyone to physical confinement. This is a Class E felony (up to 1 year and $100 per day.) Federal jurisdiction is established when the offense is committed in the special jurisdiction, concerns a high public official, invokes the piracy jurisdiction or affects commerce.

Comments—S. 1 and Brown both establish the intent in terms of compelling another to do, or refrain from, an act. S. 1400 provides that the intent is to obtain. This is an improvement but S. 1400 defines property to include intellectual property or information. Secondly it should be noted that S. 1 has limited the threats to a well defined area of traditionally considered criminal activity and has a more limited jurisdiction than does S. 1400.

The activity in these proposed statutes reaches not only conduct but speech as well. In that regard First Amendment issues must be considered. Various consumer groups and others expressed the fear that this section (as proposed in the Brown Draft) would deter legitimate conduct. Richard E. Israel, Legislative Attorney of the American Law Division of the Library of Congress wrote (Hearings, supra, at p. 3373): "The issue as to constitutionality on First Amendment grounds thus centers on the adequacy of the affirmative defense provision to limit what is conceded to be a "broad" prohibition involving not only "conduct" but "speech". To be a real limitation, the affirmative defense provision would have to be read as an integral part of the statute as it is to be applied rather than a justification to be raised after the fact in a court proceeding. There are also, as has been noted, problems of vagueness which are raised by the affirmative defense provision."

S. 1400's restriction of the coercion proposal to intent to obtain "property", as opposed to intent to compel "activity", is an improvement. However the expansion of the *kinds* of threats and the exclusion of any mention of defense or affirmative defenses continues the constitutional problems.

S. 1400's use of the term "unjustifiably" in relation to both threats to impair personal, professional or business reputation or credit and to the taking or withholding of official action is similar to the term "wrongfully" in the Hobbs Act (18 U.S.C. § 1951) which has been construed to apply only to inherently wrongful methods. S. 1400 also improves the Brown formula by requiring that the threatened party be placed "in fear". This would seem to exclude the business-consumer bona fide disputes which were the basis of much criticism of the Brown draft.

MEMORANDUM ON PROPOSED FEDERAL CRIMINAL CODE #9

MENTAL ILLNESS

Insanity Defense—S. 1 § 1–3C2; S. 1400 § 502; Brown § 503

1. *Insanity*—S. 1 and Brown follow the formulation of the American Law Institute which denies the defense to sociopaths. S. 1400 eliminates the defense except insofar as it negates an element of the offense charged.

2. *Incompetency to Stand Trial*—S. 1 allows an individual to bypass criminal trial if found to be incompetent. Under S.1400 one cannot avoid trial. Under S.1 § 3–11C4 a person found incompetent may be detained for treatment by the Secretary of HEW until (a) he regains competency or (b) charges are disposed of pursuant to § 3V11C7 or (c) a petition for civil commitment is filed by the Secretary of HEW. Detention is not indefinite and must expire at the end of the time of a maximum sentence for the most serious offense charged. Judicial review is required no later than one year after detention commenced. If found not likely to regain competency within a reasonable time, he must be released within a reasonable time, unless within sixty days HEW files a petition for civil commitment. If found competent, he is released and reenters the criminal process. Only if he is not yet competent, but likely to regain competency within a reasonable time can a person be committed for more than one year. In S. 1, after the first year review, there is no further requirement for judicial review.

Procedures for Psychiatric Examination on Issue of Sanity: In S. 1 (§ 3–11C2) the court must refer the defendant for a psychiatric examination if he or counsel give notice of his intention to raise the defense. If the defendant objects to the examination, the court issues an order prohibiting use of such evidence at trial.

The examination must be performed expeditiously and copies of the report submitted to the court and copies given to the government attorney, the court, and the defendant. Restraint on the liberty of the person must be minimal. If the panel finds hospitalization is needed, the court may order temporary detention. S. 1400 requires the defendant who wishes to invoke the insanity defense to give written notice either at the time the not-guilty plea is entered or within 10 days thereafter. The court then may order the defendant confined for not more than sixty days for psychiatric study. Copies of the study as to whether the defendant was insane at the time of the offense must be provided to the court, government and defense prosecutors. It is not clear in S. 1400 who pays for this. There is no time limit stated to ensure that the reports are filed promptly. S. 1400's sixty-day examination period is four times as long as S.1's. There is no burden on the psychiatrist to demonstrate a need for hospitalization to the court.

3. *Disposition of Mentally Ill After Conviction:* S. 1 (§ 3–11C2) provides that the court may have the individual referred to the panel of psychiatrists for examination who then report back within fifteen days after examination with copies for the court, government, and defendant. This report should include sentencing recommendations. In S. 1400 (§ 4224) hospitalization of a convicted person suffering from a mental disease or defect requires the court to hold a hearing on motion by either party when there is reasonable cause to believe the defendant is "presently suffering from mental disease or defect for the treatment of which he is in need of custody, care, or treatment in a mental institution." The court may order a psychiatric examination. If the defendant is found to be suffering from a mental disease or defect, the court may commit the defendant to the A.G.'s custody for treatment in a suitable facility. This commitment is equivalent to a provisional sentence of imprisonment for the maximum term authorized for the offense for which the defendant is found guilty. It is not clear whether the court must consider whether there is actually any treatment available at federal facilities or if the non-dangerous defendant would prefer prison. Until the head of the facility to which the defendant is committed decides that he is no longer in need of the institutional services of custody, care, or treatment, the defendant is stuck with the maximum sentence, with no guaranteed periodic review and no right to treatment.

Also, the mandatory hearing for the defendant who recovers prior to the termination of the maximum sentence does not provide due process. At this hearing, the judge may order the defendant to serve the remainder of the sentence or a portion thereof in prison, reduce the sentence or place the individual on parole. This is, in effect, a second sentencing hearing, yet the proposed statute does not require the court to give notice to the defendant, provide counsel, or govern the presentation of evidence.

4. *Civil Commitment:* (§ 3–11C8)—Under S. 1 (§ 3–11C8) civil commitment may be sought for three kinds of people: (1) those deemed incompetent to stand trial and found likely to regain competency, (2) those whose official detention is pursuant to a sentence which is about to expire, and (3) those who have been acquitted by reason of mental illness or defect. The decision to seek civil commitment is made by HEW after examination of the individual to determine whether the person could create a likelihood of serious harm by reason of mental illness or defect unless hospitalized. A hearing is then held at which the defendant may be committed to official detention, § 3–11C1 (4) defines "a likelihood of serious harm." The commitment "shall continue only during such time as the Secretary is not able to find for the treatment or care of such person" or until failure to hospitalize the person no longer would create a likelihood of harm (§ 3–11C8 (f)). S. 1 also provides for annual review by HEW and notice of the annual report to the person and his counsel and provides the right to petition for a hearing. It can be maintained that given the effects of commitment, annual review is not sufficient. Also, the rules of evidence are suspended for the hearing and the burden of proof is unarticulated. There is no Fifth Amendment protection for statements made to psychiatrists that may be used against them. Nor is there an indication that an individual has a right to trial by jury.

S. 1400 (§ 4225) sets forth procedures for civil commitment for persons who have finished serving the full term of their sentence after conviction. If the person is still suffering at the conclusion of his sentence from a mental disease or defect such that his release would create a substantial danger to himself or to the person or property of others, the A.G. notifies the court to schedule a hearing to determine whether the defendant is sufficiently dangerous to warrant further custody, if other arrangements are not available. There is no provision which prohibits detention of the defendant after expiration of the sentence without an immediate hearing (S. 1 provides that the hearing is to be held at least ninety days prior to the date of the offender's release). Nor is there a provision of warning that statements made to psychiatrists during their examination may be used against him at the commitment hearing. Nor is there a provision respecting the right to trial by jury for civil commitment proceedings. § 4225(e) designates a "preponderance of the evidence" as the burden of proof standard. *In re John Ballay* (—— F. 2d ——, U. S. Cir. May 31, 1973, S. A. No. 71–2023) held that proof must be established beyond a reasonable doubt in civil commitment proceedings. Concerning the likelihood of causing harm, Judge Sprecher in *Tessard* v. *Schmidt* 349 F. Supp. 1078 (E.D. Wis. 1972) (at p. 1093) said, "the state must bear the burden of proving that there is an extreme likelihood that if a person is not confined, he will do immediate harm to himself or others. Moreover, the dangerousness must be based upon a finding of a recent overt act, attempt, or threat to do substantial harm to oneself or another." Additionally, there is no provision for periodic judicial review of hospitalized patients.

MEMORANDUM ON PROPOSED FEDERAL CRIMINAL CODE #10

ORGANIZATION LIABILITY; INDIVIDUAL LIABILITY FOR CONDUCT ON BEHALF OF AN ORGANIZATION

S 1 §§ 1–2A7, 1–2A8, S 1400 §§ 402, 403, Brown §§ 402, 403

Summary—This memo will discuss an organization's liability for its conduct and liability of agents for an organization's conduct. Generally speaking, S. 1400 provides for broader liability in both instances than does S 1.

I. *Definitions*—S 1, § 1–1A4 (51) defines organization broadly to include corporations, other sorts of business organizations, nonprofit organizations, governments, government agencies and "any other groups of persons organized for any purpose." S 1400 (sec. 111) uses a similar definition, but excludes governments and government agencies. (Those opposed to governmental liability argue that it is pointless, in that a fine is borne by the taxpayers and in that a "notice" sanction may be unnecessary since the press generally monitors governments better than it does corporations. They also fear politically motivated prosecutions such as a federal prosecution of a local government for the political ambitions of the U.S. Attorney. On the other hand, some argue for at least extending governmental liability to such crimes as regulatory and civil rights offenses, etc. The Working Papers (p. 175) note that current federal law generally does not exclude governments or agencies.)

The definition of agent appears sufficiently broad in both S 1 and S 1400.

II. *Organization Liability*—Before discussing the provisions on corporate liability, it will be useful to discuss two concepts—the scope of a servant's employment and the scope of an agent's authority—which are used in various definitions of organization liability. Subsequent discussion will focus on the development of existing case law on the subject, and then the provisions of the two bills.

(a) "Scope of employment" is a tort law concept relating to master-servant relations.[1] Under the doctrine of respondeat superior, a master is vicariously liable for a tort committed by his servant if it was committed within the scope of the servant's employment. It is not necessary that the master authorized, had knowledge of, or consented to the servant's act for him to be held liable. In fact, the doctrine of respondeat superior is most useful where the act was unauthorized. Generally speaking, an act is committed within the scope of employment if it was of the same general nature as the conduct authorized or incidental to that authorized, and if it was intended to benefit the master's business. A master is usually held liable even if the servant's tort was willful or even if the servant violated or misunderstood the master's clear instructions. However, the doctrine of respondeat superior does not apply to the acts of independent contractors.

(b) The "scope of an agent's authority" is a contract law concept relating to principal-agent relations. The scope of a principal's liability for acts of his agent is more narrow than the scope of a master's liability for a servant's acts. A principal gives power to an agent in a contractual manner that an offeror makes an offer—consent is essential. The power of an agent can be given with any conditions or limitations. Whereas the acts of a servant are acts committed within the course of performing duties for his master, the acts of an agent are acts of consent that the principal shall be bound in a legal transaction such as a contract. A principal is generally liable for those acts of an agent that fall within the agent's "express, implied or apparent authority." Express authority is that given to an agent orally or in writing by the principal. Implied authority is authority implied by conduct, or authority to do acts that would reasonably be expected to accompany acts performed under express authority. Apparent authority is the authority that a reasonable third person would understand an agent to have.

(c) Existing law—Historically, the scope of corporate criminal liability has progressed toward broader liability. Lord Holt, in an anonymous case, 12 Mod. 559 (1701), said that a corporation was not indictable at all, though its members were. The reason for this view was that a corporation, as a fictional entity, is not capable of acting and cannot be imprisoned. Fletcher, 10 Cyclopedia Corporations, section 4942. It was said that any illegal act by a corporate agent was without authority and ultra vires.

That general proposition has been modified over time. The landmark federal case was *N. Y. Central and Hudson R.R. v. U.S.*, 212 U.S. 481 (1909), in which the Supreme Court held that a corporation may be held liable for the criminal acts of its agents and employees if the acts are done within the scope of the agent's employment and on behalf of the corporation. The court seems to use the terms "scope of employment" and "scope of authority" interchangeably. In that case, which involved payment of shipping rebates to sugar companies, using them interchangeably created no problem since the agent's acts were covered by either term. In later cases, the courts sometimes refer to scope of employment, sometimes to scope of authority, sometimes to both. *U.S. v. Armour and Co.*, 168 F 2d 342 (3rd Cir., 1948). *U.S. v. American Radiator and Stand. San. Corp.*, 433 F 2d 174 (3rd Cir.), cert. den. 401 U.S. 948 (1970). *U.S. v. Parfait Powder Puff Co.*, 163 F 2d 1008 (7th Cir.) cert. den. 332 U.S. 851 (1947). *U.S. v. Brunett*, 53 F 2d 219. A recommended jury instruction shows how corporate liability is often defined: A corporation is criminally responsible for "all unlawful acts of its directors, or officers, or employees, or other agents, provided such unlawful acts are done within the scope of their authority, as would usually be the case if done in the ordinary course of their employment, or in the ordinary course of the corporation's business." Mathes and Devitt, Federal Jury Practice and Instructions, section 19.08 (1965). It would appear that the legal concept used to determine the scope of corporate liability properly depends on the nature of the crime—i.e., if the case involves a fradulent contract, "scope of authority" applies, since corporate liability depends on the agent's power to bind the corporation, whereas if the crime is theft of trade secrets, it is a matter of whether the act was within the agent's scope of employment.

The following cases give some idea of the bounds of corporate liability under existing law. A corporation is not liable if it was not the intended beneficiary of the agent's criminal acts. *Standard Oil Co. of Texas v. U.S.* 307 F 2d 120 (5th Cir., 1962). It is the intent that the corporation benefit, not benefit in fact, that is material. *Old Monastery Co. v. U.S.*, 147 F 2d 905 (4th Cir. 1945). The status of the agent in the corporate hierarchy is immaterial; he need not be a person in high authority. *U.S. v. George F. Fish, Inc.*, 154 F 2d 798, (2d Cir.), cert. den., 328 U.S. 869 (1946). A corporation may be found guilty even though the actor whose conduct is imputed to the corporation as the basis of liability is found not guilty. *Magnolia Motor and Logging Co. v. U.S.*, 264 F 2d 950 (9th Cir., 1959). A corporation may be held liable for the criminal act of an independent contractor, even though the contractor's act was contrary to the corporation's instructions. *U.S. v. Parfait Powder Puff Co.*, 163 F 2d 1008 (7th Cir.) cert. den., 332 U.S. 851 (1947).

III. *Current Proposals on Organizational Liability*—

(A) The Brown version § 402 greatly cuts back on the scope of corporate liability for *felonies*, since it would make the organization liable only if the conduct was authorized, requested, or commanded by persons in certain categories of control of the organization. Brown subsection 1(a) provides that a corporation is liable for "any offense committed by an agent of the corporation within the scope of his employment on the basis of conduct authorized, requested or commanded, by any of the following or a combination of them:"

i) the board of directors,

ii) an executive officer or comparable policy-maker or supervisor,

iii) any person who controls the corporation or is "responsibly involved in forming its policy."

iv) any other person for whose act or omission the statute defining the offense provides corporate responsibility.

Brown does provide for liability for an agent's *misdemeanors and nonculpable offenses*, regardless of authorization, if the conduct was within the scope of employment (1 (c) and (d)). Subsection 1(b) provides liability for failure to discharge an affirmative duty imposed on the corporation.

The minority alternative of 1(a) in Brown provides greater liability. It covers any offense committed in "furtherance of the corporation's affairs" that was "done, authorized, requested, ratified, or recklessly tolerated in violation of a duty to maintain effective supervision of corporate affairs," by a person in one of the four enumerated policy-making categories. The "furtherance of affairs" phrase may appear to be broader than "scope of employment," but it's difficult to imagine an act that "furthers affairs" and is authorized or tolerated by highers-up that would not be within the simple "scope of employment" or "scope of authority" concept. The "reckless toleration" idea goes well beyond the standards of the original 1(a) in Brown, but it is doubtful that it is broader than the basic scope of employment/authority concept of existing law, especially since simple scope of employment may be easier to prove at trial.

(B) S 1 section 1–2A7(a)(1) provides that an organization is guilty of "any offense consisting of conduct engaged in by an agent of the organization within the scope of his employment." Unlike Brown, S 1 appears to be a codification of the core of existing case law. But if the language were narrowly construed, it could be held not to be as broad as existing law, which often uses the "scope of authority" concept. For that admittedly limited reason, the language of S. 1400 (see below) is preferable. Another problem with S. 1 is its coverage of failure by the corporation to act. "Conduct" is defined in section 1–1A4(13) to include omissions as well as acts; therefore 1–2A7(a)(1) would cover a failure to act if the prosecutor could point to a specific corporate agent who should have acted. However, (a)(1) does not seem to cover cases in which an affirmative duty is imposed on "the corporation" and in which the corporation put no one in charge of discharging the duty.

Subsection (a)(2) in S 1 says an organization is also guilty of "any offense for which a human being may be convicted without proof of culpability, consisting of conduct engaged in by an agent of the organization within the scope of his employment." That subsection appears to be only an elaboration, since it covers no acts that (a)(1) does not already cover.

(C) S 1400 § 402 is broader than S. 1. The core of S 1400 is the same as that of S. 1—an organization is liable for criminal conduct of an agent "that occurs in the performance of matters within the scope of the agent's

[1] This discussion is based on Ferson, *Principles of Agency*. See also Restatement of Agency 2d Section 229.

employment" (§ 402(a)(1)(A)). But the second part of (a)(1)(A) adds the phrase "or (matters) within the scope of the agent's actual, implied, or apparent authority." Thus, it codifies existing law well. The inclusion of both phrases insures that attempts to deny corporate liability when the agent's conduct is a question of "authority," rather than "scope of employment," will be unsuccessful.

Subsection (a)(1)(B) says an organization is also liable for conduct relating to matters for which the organization "gave the agent responsibility," and which is "intended by the agent to benefit the organization." Generally, any situation that (B) covers is already covered by (A), but the additional formulation might be useful in insuring corporate responsibility for the acts of independent contractors—provided the definition of "agent" were construed to include independent contractors.

Subsection (a)(1)(D) provides that an organization is liable for an agent's conduct that involves a nondelegable duty of the organization, where the organization is otherwise legally accountable for the offense. The impact of this extension of the provision's scope is unclear, but it may refer to such cases as a financial statement prepared by an outside accountant, or a lawyer's opinion.

Subsection (a)(2) provides liability for a failure to discharge a specific affirmative duty imposed on the organization by law. For example, section 1762 requires a person to report certain dealings in foreign currency. An organization, like a human being, is liable for a failure to do so.

S. 1400 covers in (b)(1) what subsection (a)(2) in S. 1 partly covers. It precludes a defense that the organization does not belong to the class of persons who by definition are the only persons capable of committing the offense directly. Both bills also preclude a defense that the person for whose conduct the organization is being held liable has been acquitted or cannot be prosecuted.

IV. *Personal Liability for Conduct on Behalf of an Organization*—(A) *Existing law:* An agent is responsible for acts he does on behalf of a corporation, and he may be found guilty even if the corporation is not. *U.S.* v. *Dotterweich*, 320 U.S. 277 (1934). Congress may exculpate individuals and hold only the corporation liable, but such an intent is not to be imputed to Congress without clear compulsion.

U.S. v. *Dotterweich*, supra. The Working Papers (p. 177) note that only in exceptional circumstances has Congress established a law under which only the corporation is liable.[2] In *U.S.* v. *Wise*, 370 U.S. 405, the Court rejected the defendant individual's reading of the Sherman Act that the acts of an officer, however illegal, are chargeable to the corporation but not to the individual.

The above general rule applies to active conduct by the individual. The Working Papers note that it is a question in existing law whether an individual may be held liable for knowing but passive acquiescense, unless the law either imposes an affirmative duty of supervision on him or says that certain officers are guilty of a crime if the corporation is found guilty.

(B) S 1 section 1-2A8 provides for what appears to be a codification of existing law. It holds a human being criminally liable for any conduct he performs or causes to be performed for the organization to the same extent as if he performed it for himself.

Some persons have criticized this section as being so broad that it might reach the assembly line worker who puts a misleading label on a jar. They say that he may be the "actor," but that imposing sanctions on him works no coercive or deterrent effect and seems plainly unfair. In general, though, he won't be liable, since the prosecutor must prove all elements of the offense—culpability, action, etc. If he does meet the culpability standard, holding him responsible would work a deterrent effect in the future—hopefully by causing him to blow the whistle on corporate practice, if he knew they were illegal. There is, though, a potential problem here with strict liability offenses: If the law says that anyone who mislabels a drug is liable without regard to his awareness of the result of his conduct or of the existence of the law, will the assembly line worker who unknowingly puts the wrong label on every jar, in accordance with his instructions, be held liable? Is he "responsible"? However, there are few such offenses. Practically speaking, the problem is likely to be taken care of just as it is now—by prosecutorial discretion and the good sense of juries.

(C) S 1400, following Brown, extends individual liability to the same extent as S. 1 and further. Subsection (a)(2), patterned very closely on Brown, provides that an individual who has "primary responsibility" for a duty imposed on the organization by law is liable for an omission to perform that duty to the same extent as if it were imposed directly upon him. This appears to be an extension of existing law. It is desirable in that it places responsibility for performance of the duty at the best point—on the person with primary responsibility for the area of the duty. However, critics claim that the phrase "primary responsibility" is unclear. Does it mean the "actor", officers, board of directors, etc.? Presumably, to have the best deterrent effect, the phrase should be defined to apply to someone in the chain of command who is close to the point of physical performance of the duty, or perhaps better, to the point of decision as to whether the duty is performed, since holding a mere operative liable may be undesirable. Also, when Mark Silbergeld testified on the Brown Draft, (Hearings, at p. 3013), Silbergeld proposed amending this section to read:

Except as otherwise provided, whenever a duty to act is imposed upon an organization by a statute or regulation thereunder, any officer, employee or agent of the organization who has or shares primary responsibility for the subject matter of the duty *or for appropriating or disbursing funds necessary for performance of the duty* is guilty of an offense which is based upon an omission to perform the duty *or to appropriate or disburse funds necessary to perform the required act* to the same extent as if the duty were imposed directly on himself.

Not only is the amendment desirable for extending the reach of the section; it also may help clarify that the purpose of the section is to reach those with some decision-making power, not workers.

Subsection (3) of Brown, on accomplices of organizations, is not carried forward into S. 1400. The subsection does not seem important, since the general complicity provision would seem to cover those situations.

The final extension of individual liability is the subsection 4 providing for liability for "reckless default in supervising conduct of organization." It says that "a person responsible for supervising particular activities who, by his reckless default in supervising those activities, permits or contributes to the occurrence of an offense by the organization is guilty of an offense of the same class," though his offense may be no higher than a misdemeanor. This in effect puts an affirmative duty on supervisors; it is not a vicarious liability provision. It should have a desirable deterrent/prophylactic effect by promoting effective supervision. The provision is highly desirable, in that it encourages effective supervision, by putting legal responsibility where the operating responsibility is. Critics argue that this provision will make executives afraid to delegate responsibility. However, it would seem more likely to lead to more clearly defined lines of authority where needed. In addition it would deter management which seeks results without regard to how those results were obtained. Most importantly, it would mean that delegation cannot be mindless, that those who delegate and benefit shall share the burden when delegation results in criminal activity.

V. *Should Corporations Be Criminally Liable at All?*

(A) To some persons, the concept of a corporate entity being criminally liable is unclear. Most crime stories and law and order speeches tell of individuals. However, corporate crime cannot be overlooked. It is extensive; it is done with impunity and its cost to victims and society is virtually immeasurable. As the corporate form of organization is the most prevalent form of operation, it lends itself easily to use by the law-abiding and law-breaking alike. A brief look at how a corporation, as opposed to its agents, commits a crime may be useful. The principal operative function is delegation. Take for an example the scandal of Equity Funding Corp. of America—one of the largest white-collar crimes in the history of American business. In this case, (which is too complex to fully explain here) various employees were delegated jobs—each part of which was an element of the crime—but each employee did not necessarily know that nor benefit from the offense. A printer made phony securities, another employee drew up phony life insurance papers, another programmed all of this into a computer, another sold the phony policies to other insurance companies while another used phony securities as collateral on business loans. It was the corporation itself that committed several alleged crimes and that reaped the benefits. Of course some top executives appear to have also committed crimes. But this does not negate the fact that the corporation—acting as a corporation in the usual course of its business—apparently committed a massive fraud.

Some critics of the imposition of criminal liability on corporations argue that holding a corporation liable for crimes is ineffective as a deterrent because a corporation can't go to jail and any fine that is imposed is borne in the end by innocent shareholders or passed along to consumers. These arguments overlook several crucial factors. First, to the extent the offending corporation faces competition in its industry, it won't be able to pass the burden of the fine along to consumers. Secondly, holding stock is a high risk investment and that the corporation engages in crime is one of the risks. Shareholders should be protected but overlooking crime is not protection. It is allowing behavior to one group that is denied to another. Thirdly, shareholders have no right to profit by someone's crime or some corporation's crime. Fourthly, the more a corporation's fines bite into dividends, the more the market will move away from that corporation's stock and the more pressure will be exerted on the corporate managers to deter future corporate criminal activity.

In fact though, fines are inadequate to deter or sufficiently punish corporate crime. Prosecutor offices are hampered by the complexity of many cases, the high burden of proof, the expert testimony all for a few thousand dollar fine. Fine levels themselves are inadequate. Corporations can feel free to break laws when the cost of so doing is slight, but the rewards—such as avoiding bankruptcy, increasing value of stock, merger, etc. are great.

Furthermore, corporate liability makes even more sense if the new, effective and logical sanctions are provided for as in S 1—restitution, periods of suspension from interstate commerce, notice, and probation with some powers over corporate behavior—are avail-

[2] E.g., *Sherman* v. *U.S.*, 282 U.S. 25 (1930), in which the Court held that the criminal penalties of the Safety Appliance Act did not apply to officers who were state officials responsible for the administration of a state-owned railroad.

able. Richard Givens, formerly with the U.S. Attorney's office, Southern District of New York, argues against those who say corporate liability serves no purpose (Hearings, page 1553): "My experience is that is does. In numerous cases corporate liability was bitterly contested because of the deterrent effect of publicity of the fact that misconduct has been established." He also argues (p. 1556): 1) Corporations are often taken over by organized crime, 2) a more lenient attitude would directly injure the public—especially the public as taxpayers where fraud against the government is involved not to mention the public as consumers where consumer frauds are involved, and 3) a lenient attitude towards corporations encourages disrespect for the law, by fostering the image that the criminal law does not involve the wealthy and powerful.

MEMORANDUM ON REFORM OF FEDERAL CRIMINAL LAW NO. 11

LIABILITY OF MEMBERS OF CONGRESS AND STAFFS FOR LEGISLATIVE ACTIVITY UNDER PROPOSED CODES

S. 1, and S. 1400

1. Congressional immunity

Congressional immunity from prosecution derives from Article I, section 6 of the U.S. Constitution which provides ". . . They (Senators and Representatives) shall in all cases, except Treason, Felony and Breach of the Peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other place." Thus, the Constitution provides that Senators and Representatives are free from arrest except for ordinary criminal activity and that their respective Houses are the only places where they can be questioned, by their peers, for their "Speech or Debate." This provision has recently been interpreted by the Supreme Court in the cases of *U.S.* v. *Brewster*, 408 U.S. 501, 33 L. Ed. 2d 507 (1972); and *Gravel* v. *U.S.*, 408 U.S. 606, 33 L. Ed. 2d 583 (1972); and *Doe* v. *McMillan*, 41 L.W. 4752 (5–29–73). The questions presented are: (a) what is the scope of the Speech and Debate clause, i.e. what are protected activities, and (b) did, or can, Congress delegate to the Executive the power to question Members of Congress in another place, and (c) what are the possible effects of the proposed new federal criminal code on Members of Congress.

The various sections of the proposed bills have serious implications for the press, for citizens and for Congressmen and Senators. While they may attempt to deter or punish unlawful conduct, they appear to provide authority to completely close off sources of information about government activity to citizens and their representatives. The provisions relating to classified information would delegate to non-elected, unrepresentative government employees the power to withhold information and to use severe criminal sanctions for unintended disclosure. This memo does not attempt an exhaustive discussion of the entire government information problem nor an exhaustive legal memorandum on the crimes mentioned. It is intended that Members of Congress, the press and the public be aware of the import of these provisions. The provisions discussed are limited to those cases where the Executive may institute investigatory proceedings such as a grand jury proceeding or criminal prosecution as opposed to the bringing of civil action by private citizens.

In *Gravel*, the issue was the questioning by a grand jury of Senator Gravel and an aide about the acquisition and disclosure of the Pentagon Papers. In *Brewster*, the issue was former Senator Daniel Brewster's liability for taking a bribe (18 USC 201) in return for a vote in the Senate. In *MacMillan*, the issue was a suit by private citizens to prohibit the publication of a report containing harmful information about their children in the D.C. school system.

In all the cases the issue centered on what conduct constituted "legislative activity" so as to invoke the constitutional privilege.

2. Information

In *Gravel*, the Supreme Court found that immunity does extend to a congressional aide if the conduct would be protected if done by a member. Legislative activity had been defined as meaning whatever a legislator does as a representative of his constituents (*Coffin v. Coffin* 4 Mass. 1 (1808)). The Court found the following acts to be protected activity: conduct, vote and speeches in committee and on the floor. A lower Federal court in *Dowdy v. U.S.* (#72–1614, 4th Cir., March 12, 1973) stated succinctly that *Gravel* held there are two exceptions to legislative immunity: (1) if the Member commits a crime, and (2) if some one else commits a crime.

The Court specifically held that a Member can be questioned on how he obtained materials for a hearing and how he secured unofficial publication of the proceedings of the hearing or meeting. Senator Sam Ervin (D–NC) wrote of the decision (*The Gravel and Brewster Cases: An Assault on Congressional Independence*, 59 Va. L.R. 175 (1973)): "A Senator is unprotected when he obtains information for use in a speech or a hearing or when he attempts to bring the result of such activity to the attention of the public," (at 178); and,

". . . the results of the Court's holding effectively blinds Congress to all information except that officially disclosed by the Executive. Neither a Member of Congress nor his aides may obtain a copy of any document a government bureaucrat has decided to withhold—be it battle plan, a report on corruption in the administration or an environmental impact study—or inform the American people of its contents without risking criminal prosecution or at least the harassment and inconvenience of a grand jury inquiry. In the past, despite the administration's efforts to frustrate the congressional oversight function, there remained one open avenue by which Members of Congress could obtain information on the administration's activities. That was when disaffected employees leaked information to the Congress. However, the holding in the *Gravel* case stripping immunity for obtaining such information and for publication of the committee record will discourage all but the most courageous informant from giving legislators information which Congress and the public need but which the administration refuses to release. Furthermore, by the removal of legislative immunity from publication, broadcasts or speeches which seek to inform the public of legislative views, Congress is made not only blind but mute as well. Although words spoken in debate or in hearings are themselves immune, as are the publication of these words in committee prints or the Congressional Record, no republication is permitted." (at p. 187)

What the majority opinion of the Court overlooked was expressed by Justice Douglas and Brennan in their dissents to the *Gravel* decision. Justice Douglas cited the Informing Function, i.e. a Member's informing his constituents and the public about governmental actions as basic to any interpretation of the Speech and Debate Clause. He cited Woodrow Wilson: "Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the Congressional Record, p. 10471 of April 2, being served; and unless Congress both scrutinize these things and sift them by every form of discussion, the country must remain in embarrassing, crippling ignorance of the very affairs which it is most important that it should understand and direct." (W. Wilson, *Congressional Government*, 303–304, 1885). Justice Brennan said of the decision, "In my view, today's decision so restricts the privilege of speech or debate as to endanger the continued performance of legislative tasks that are so vital to the workings of our democratic system."

In *Doe v. McMillan* the Court majority answered in part the arguments concerning the informing function in a very limited way, noting that, "We have no occasion in this case to decide whether or under what circumstances, the Speech or Debate Clause would afford immunity to distributors of allegedly actionable materials from grand jury questioning criminal charges or a suit by the executive to restrain distribution where Congress has authorized the particular public distribution." (fn. 11 at 4756). However, the majority decision stated, "We do not doubt the importance of informing the public about the business of Congress. However, the question remains whether the act of doing so, *simply because authorized by Congress*, must always be considered 'an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings' with respect to legislative or other matters before the House", (emphasis added); and later:

". . . we cannot accept the proposition that our conclusion, that general, public dissemination of materials otherwise actionable under local law is not protected by the Speech or Debate Clause, will seriously undermine the 'informing function' of Congress. To the extent that the Committee report is printed and internally distributed to the Members of Congress under the protection of the Speech or Debate Clause, the work of Congress is in no way inhibited. Moreover, the internal distribution is 'public' in the sense that materials internally circulated unless sheltered by specific congressional order, are available for inspection by the press and by the public. We only deal in the present case, with general, public distribution beyond the halls of Congress and the establishments of its functionaries and beyond the apparent needs of the 'due functioning of the legislative process'." (at 4765).

3. Political activities

In *Brewster* the Supreme Court distinguished between legislative and political activity (protected and unprotected by the Speech or Debate Clause). Legislative activity is that done in the course of the process of enacting legislation and includes votes and speeches in committee and on the floor and the motivations behind them (though whether this is always protected is questionable), legislative investigation, and the issuing of subpoenas (*Dombrowski v. Eastland*, 387 U.S. 82 (1967)). Political activities were described as "errands" by Chief Justice Burger that constituents have come to expect from their Representatives including preparing news releases, speeches, intervention before the Executive (*U.S. v. Johnson*, 383 U.S. 169 (1966)), and the making of appointments with agencies. The *Brewster* case is significant for the Supreme Court permitted the Executive Branch to initiate criminal proceedings against a Member of Congress for accepting a bribe to influence his vote on legislation affecting postal rates—so long as evidence concerning his legislative activities was not utilized. In a recent article (Reinstein and Silvergate, *Legislative Privilege and the Separation of Power*, 86 Harv. L.R. 1113, May 1973), the authors

state (at page 1119), "the history of the Speech or Debate Clause reveals that the privilege was not meant to apply broadly to suits brought by citizens to protect their civil rights from invasion by Congressmen or Congressional committees. Rather it was designed primarily to be invoked by Congressmen in order to prevent executive intimidation and harassment." That, of course, is precisely what the *Brewster* case authorized—the initiation of criminal charges against a disfavored legislator arising out of the conduct of his duties.

The caveat that evidence of his legislative activity not admissable is a question since the Department of Justice had claimed in the District Court that the performance of a legislative function was the issue. The Court said the illegal promise, not the act itself, was important. Justice White, in dissent, noted a difficulty here in connection with campaign contributions. "A Member of Congress becomes vulnerable to abuse each time he makes a promise to a constituent on a matter over which he has some degree of legislative power and the possibility of harassment can inhibit his exercise of power as well as his relation with constituents. In addition, such a prosecution presents the difficulty of defining when money obtained by a legislator is destined for or has been put to personal use. For the legislator who uses both personal funds and campaign contributions in office the choice of which to draw upon may have more to do with bookkeeping than bribery; yet an interchange of funds would certainly render his conduct suspect."

4. "... in any other place."

The problem is not one of allowing a guilty congressman to go free. The Constitution gives to each House the responsibility of establishing rules and disciplining members. Chief Justice Burger in the *Brewster* case allowed the Congressman to be prosecuted in the Judiciary. He said (at 525, supra), "Depriving the Executive of the power to investigate and prosecute and the Judiciary of the power to punish bribery of Members of Congress is unlikely to enhance legislative independence. Given the disinclination and limitations of each House to police these matters it is understandable that both Houses deliberately delegated this function to the courts, as they did with the power to punish persons committing contempts of Congress." Whether an individual member can be bound by what may be an unconstitutional delegation of power was not discussed (but see Reinstein and Silvergate, supra). This delegation of power, it was argued, arose from the fact that a Member of Congress was specifically a subject of prosecution in the statute. This is the case in the proposed codes (S. 1 and S. 1400) where public servant is defined to include legislators. Also, "official conduct" in both bills includes "vote" which is not the case under the existing bribery law.

5. Sections of proposed codes of possible use against Members of Congress

There are many sections of the proposed codes (S.1 and S.1400) which may affect Congressmen in the performance of their legislative function (as defined by the Supreme Court to mean floor debates and committee meetings) and their "political activity", such as preparing for committee and floor debates, communicating with government employees and informing their constituents and the public of government activities. Several proposals are redrafts of existing statutory and case law; others are new. These sections in all probability were drafted with activities other than those of Congressmen in mind. However, there is no exemption of Members from their enforcement. The defense of "Execution of Public Duty" (§ 1–3C3 in S. 1; § 521 in S. 1400) provides in S. 1 that it is a defense if conduct engaged in by a public servant in the course of his official duties and that he believes in good faith that the conduct is required or authorized by law unless he acts in reckless disregard of the risk that the conduct was not required or authorized by law to carry out his duty as a public servant or as a person acting at the direction of a public servant.

It may well be that the proposals if enacted would not be enforced against Members of Congress and their staffs. However, Senator Ervin is instructive when he writes, "Fears are not allayed by the knowledge that until now most Administrations have exercised great restraint in hauling legislators they do not like into court. Effective separation of powers between branches of government must rest not only on good faith and great expectations but also on the firm bedrock of the Constitution. The past is no guarantee of the future." (supra, at p. 181)

A. SECTIONS AFFECTING INFORMATION

1. Espionage

The Brown Commission (§ 1112) limited this offense to cases where national security information is revealed with intent to harm the U.S. Under S. 1 (§ 2–5B7) the information has to be gathered, for or, revealed to a "foreign nation" however friendly with knowledge that it *may be* used to the injury of the U.S. or to the advantage of a foreign power. National security information is defined (§ 2–5A1(10) in S. 1 and § 1112(4)(a) in Brown) as information regarding military capability of the U.S. or a nation at war with a nation which the U.S. is at war; military or defense planning or operations, military communications research or development, communications information; in time of war any other information which if revealed could be harmful to national defense and which might be useful to the enemy; defense intelligence relating to intelligence operations, activities plans, estimated, analyses, sources and methods, and restricted AEC data. It is a Class A offense (death or up to 30 years) if committed in time of war or if the information directly concerns means of defense or retaliation against attack by a foreign power, war plans or defense strategy. Otherwise, it is a Class B felony (up to 20 years imprisonment).

Professor Louis B. Schwartz, former Staff Director of the Brown Commission, in a memo to Senator John McClellan (D–Ark.) of February 20, 1973, wrote: "To scoop in all such information within an espionage offense that embraces non-hostile communication with friendly governments is to clamp a total censorship on such communication." (Note that "war" is not defined either as a state of being at war or as having been legislatively declared.) The S. 1400 definition of national defense information includes the above definition and also includes information regarding military installations and the conduct of foreign relations affecting the national defense. Detailed discussions of the espionage and related provisions appear at Congressional Record, p. 10471 of April 2, 1973, and p. 14713 of May 8 1973. The Administration's definition of Espionage (§ 1121) provides that the intent necessary is that the information be used or may be used to the prejudice or the safety or interest of the U.S. or to the advantage of a foreign power.

2. National defense information

In S. 1 (§ 2–5B8) it is an offense, if in a manner harmful to the safety of the U.S., a person (a) knowingly reveals national defense information to a person not authorized to receive it, (b) is a *public servant* and with criminal negligence violates a known duty as to custody, care or disposition, (c) knowingly having unauthorized possession of a document or thing containing national defense information, fails to deliver it on demand to a federal public servant entitled to receive it, (d) communicates, uses or makes available to an unauthorized person communications information, (e) knowingly uses communications information, or (f) communicates national defense information to an agent of a foreign power or a member of a Communist organization. In time of war it is a Class C felony (up to 10 years); otherwise it is a Class D felony (up to 6 years). The persons authorized to receive national defense information are not defined.

In S. 1400 (§ 1122), a person is guilty of an offense if he knowingly *communicates* information relating to the national defense to a person not authorized to receive it. Note here the word "communicates" versus S. 1's "reveals". The Brown Commission in its draft felt that "communicates" would apply to information already in the public domain whereas "reveals" means information not yet in the public domain. § 1123 would make it an offense, if being in possession or control of such information, a person recklessly permits its loss, theft, destruction or communication to a person not authorized to receive it or being in authorized possession, intentionally fails to deliver it on demand or fails to report to the agency its loss, or communication or recklessly violates a duty imposed upon him by a statute, or executive order or regulation or rule of the agency authorizing him to possess or control such information. This is a Class E felony if it involves the reckless violation of a duty (up to 3 years); otherwise it is a Class D felony (up to 7 years). Under § 1122, the defendant need not be shown to have intended to harm the safety or interests of the U.S. or benefit a foreign nation. It is no defense that the information was not harmful to the U.S. The Supreme Court has not decided if "communicate" is equivalent to "publish", *New York Times v. U.S.* 403 U.S. 713 (1971). § 1126 of the proposed bill provides that communicate means to make available by any means to a person or the general public.

3. Disclosing or receiving classified information

In S. 1400, § 1124, it is an offense for one having been in authorized possession while a public servant (includes a Member of Congress) to knowingly communicate classified information to a person not authorized to receive it. Persons receiving the information are not subject to prosecution under this section. It is a defense if the information was communicated only to a regularly constituted committee of the Senate or the House or to a joint committee pursuant to a lawful demand, presumably a litigatable question. Under this section all classified information is covered. The prosecution need only prove that the document was classified without revealing the contents thereof. It is specifically not a defense that the information was improperly classified. Classified information is defined in § 1126(b) as any information, regardless of origin which is marked or designated pursuant to the provisions of a statute or executive order, or a regulation or rule thereunder as information requiring a specific degree of protection against unauthorized disclosure.

S. 1 contains a similar provision, § 2–6F1, in which it is an offense if in violation of his duty as a public servant under a statute, or rule, regulation, or order issued under such statute, he knowingly discloses any information which he has acquired as a public servant and which had been provided to the government in compliance with the requirements of an application for a patent, copyright, license, employment, benefit, or in connection with the regulation, study or investigation of an industry or a duty imposed by law. Existing law applies only to members of the executive branch, department or agency (18 USC 1905) and pertains to any information coming to him in the course of employment or official duties ". . . which information concerns or relates to trade secrets, processes, operations, style of work or apparatus or to the identity, con-

fidential statistical data, amount or source of any income, profits, losses or expenditures of any person, firm, partnership, corporation or association or income return or any book containing abstract thereof."

4. Theft

S. 1400, § 111, defines property as "intellectual property or information, by whatever means preserved, although only the means by which it is preserved can have a physical location." S. 1 does not define property to include information. However, both S. 1 and S. 1400 make it an offense if the object of the theft is a government file, record, document or other government paper stolen from any government office or from any public servant. Intent to steal can be established by proof of converting the property to another's use (§ 2–8D3(d)(2)(iii) in S. 1; and § 1731(c)(b)(iii) in S. 1400). § 1732 and § 2–8D4 cover the offense of receiving stolen property.

5. Criminal coercion (See also Memo No. 8)

In S. 1400, § 1723 provides that it is an offense for one to obtain property of another by threatening or placing a person in fear that a person will (a) commit a crime, (b) accuse any person of a crime, (c) procure the dismissal of any person from employment or refuse to employ or renew an employment contract, (d) wrongfully subject any person to economic loss or injury to his business or profession, (e) expose a secret or publicize an asserted fact, whether true or false, tending to subject any person living or dead to hatred, contempt or ridicule or unjustifiably to impair his personal, professional or business reputation or his or credit or unjustifiably take or withhold official action as a public servant. Under S. 1's provision the threats are of bodily injury, damage to property or physical confinement (§ 2–9C4).

The Brown Commission had a similar provision (§ 1617) but provided defenses of the actor's belief, whether mistaken or not, that the primary purpose of the threat was to cause the person to conduct himself in his own best interests or to desist from misbehavior, to engage in behavior from which he could not lawfully abstain, make good a wrong done by him or refrain from taking any actions or responsibility for which he was disqualified. The threats subject of the offense were to commit a crime, accuse anyone of a crime, expose a secret or publicize a fact (as above) or to take or withhold official action as a public servant or cause a public servant to take or withhold official action.

The intent in the Brown Draft was to compel another to engage in or refrain from conduct as opposed to knowingly obtain property in S. 1400. The constitutionality of the Brown formulation, providing as it did for the defendant to prove the above defenses by a preponderance of the evidence, was doubtful. (See Hearings, Reform of Federal Criminal Laws, before the Subcommittee on Criminal Law and Procedure of the Committee on the Judiciary, U.S. Senate, Part III, subpart D, p. 3362.) Richard E. Israel, Legislative Attorney, American Law Division of the Congressional Reference Service, Library of Congress wrote of the Brown formulation, "The issue as to the constitutionality on First Amendment grounds thus centers on the adequacy of the affirmative defense provision which would have to be read as an integral part of the statute as it is to be applied rather than a justification to be raised after the fact in a court proceeding." The Administration proposal not only expands the kinds of threats but removes the defenses that Israel considered vital for the section's constitutionality.

B. OFFENSES RELATING TO PUBLIC SERVANT ACTIVITIES

1. Bribery

S. 1 (§ 2–6E1) and S. 1400 (1351) and the Brown Commission Final Draft (§ 1361). It is an offense for a person to offer or give a public servant, or as a public servant to solicit or accept anything of value in return for an agreement or understanding that the recipient's official action as a public servant will be influenced or that the recipient will violate a legal duty as a public servant. This is punishable by up to 5 years in S. 1 and up to 15 in S. 1400. S. 1 establishes a prima facie case exists upon proof that the defendant knew that a pecuniary benefit was conferred by or accepted from a person having an interest in an imminent or pending examination, investigation, arrest or official proceeding or bid, contract, claim and that the interest could be affected by the person's performance or non-performance of his official conduct. A Member of Congress is such a public servant and the definition of official conduct includes voting.

2. Graft

S. 1 (§ 2–6E2); S. 1400 (§ 1352). S. 1 makes an offense of knowingly conferring a pecuniary benefit (a) upon a public servant for employment as a public servant, (b) upon another for exerting special influence (through kinship or by reason of post in a political party) upon a public servant with respect to official conduct or (c) upon a public servant as compensation for advice or other assistance in preparing or promoting a bill, contract, claim or other matter which is or is likely to be before the public servant. A public servant as compensation for advice or other assistance in preparing or promoting a bill, contract, claim or other matter which is or is likely to be before the public servant. A public servant is guilty for accepting a pecuniary benefit for the above activities. This is punishable by up to 3 years. S. 1400 defines the offense as offering or accepting anything of pecuniary value for or because of an official action or a legal duty performed or to be performed or a legal duty violated or to be violated by the public servant or former public servant. This is punishable by up to 3 years, also.

3. Trading in Government assistance

S. 1400 (1353) makes it a misdemeanor for a person to offer a public servant, or for a public servant to solicit or accept compensation for advice or other assistance in promoting or preparing a bill, contract, claim, or other matter which is or may become subject to the public servant's official action.

4. Trading in special influence

S. 1400 (§ 1354) makes it an offense for a person to offer or solicit or accept anything of value for exerting or causing another person to exert special influence upon a public servant with respect to his official action or legal duty as a public servant. Special influence refers to influence by common ancestry or marriage or position as a public servant or as a political party official. This is punishable by up to 3 years.

5. Trading in public office

S. 1400 (§ 1355) parallels the employment aspect of S. 1's graft section and provides for imprisonment up to one year.

6. Speculating on official action or information

S. 1400 (§ 1356) makes it an offense punishable by up to one year imprisonment if as a public servant or within one year thereafter, or in contemplation of his official action or action by the agency with which he has been serving, or in reliance on information to which he has or had access to only in his capacity as a public servant he knowingly acquires a pecuniary interest in any property transaction or enterprise which may be affected by such official action or information or provides information with intent to aid another person to acquire such an interest. S. 1 (§ 2–6F3) has a similar provision entitled Conflict of Interest.

7. Threatening a public servant

S. 1400 (§ 1357) makes it an offense to knowingly use force, threat, intimidation or deception to influence a public servant in the exercise of his official action. S. 1 (§ 2–6E3) changes the threat to that of committing a crime against a person or property.

8. Retaliation

Both S. 1 (§ 2–6E4) and S. 1400 (§ 1358) make it an offense to injure a public servant or property because of official action.

9. Nondisclosure of retainer

S. 1 (§ 2–6F2) makes it an offense for a person, if, employed or retained for compensation or not to influence another person's conduct as a public servant, he privately addresses without disclosing such employment or retainer, to such public servant any representation, entreaty or argument or other communication with intent to influence such person's conduct as a public servant. This is punishable by up to 1 year.

10. Wiretap authority

Under S. 1 and S. 1400, federal investigators could obtain authority to wiretap Congressional office phones or private lines for some of the above offenses. S. 1 (§ 3–10C2) provides for wiretap authorization for the following offenses, inter alia:

Espionage.
Bribery.
Graft.
Theft.
Receiving Stolen Property.

S. 1400 (§ 3127) provides for authorization for the following offenses:

Disclosing National Defense Information.
Mishandling National Defense Information.
Disclosing Classified Information.
Unlawfully Obtaining Classified Information.
Bribery.
Criminal Coercion.
Theft.
Receiving Stolen Property.
Any personal offense against a Member of Congress.

The above sections are noted merely to inform what activities of Congressmen and Senators are being proposed to be included in the Federal Criminal Code. Options available to Congress concerning legislative immunity include:

(1) Prohibit grand jury investigations and criminal proceedings ". . . in any other place" of legislative activity defined to include any activity relating to the due functioning of the legislative process and the carrying out of a member's obligation to his House and his constituents including speeches, debates, votes, conduct in committee, receipt of information for use in legislative proceedings and speeches made outside Congress to inform the public on matter of national or local importance and the decision-making process behind each of the above activities. Such a provision, as suggested by Reinstein and Silvergate (supra) would provide for a motion to quash a subpoena on these grounds, invoking an automatic stay and requiring the prosecutor to show why the motion should not be quashed.

(2) Establish as a defense to a prosecution the above conduct.

(3) Provide that such offenses (specifically enumerated) are only subject to prosecution in the member's House.

(4) Limit the specific offenses to exclude such legislative activity.

A discussion of the problems of immunity of Members of Congress is found at Hearings, *Constitutional Immunity of Members of Congress*, Joint Committee on Congressional Operations, March 21, 27, 28, 1973.

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ORDER FOR ADJOURNMENT TO 8:30 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 8:30 a.m. tomorrow.

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

ORDER VACATING ORDERS FOR RECOGNITION OF SENATORS PREVIOUSLY ENTERED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that orders for the recognition of Senators previously entered be vacated.

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

ORDER FOR RECOGNITION OF SENATOR HUGH SCOTT AND SENATOR ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders or their designees are recognized under the standing order, Mr. HUGH SCOTT, of Pennsylvania, be recognized for not to exceed 15 minutes, and that I be recognized then for not to exceed 15 minutes.

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

ORDER FOR THE CONSIDERATION OF URGENT SUPPLEMENTAL APPROPRIATIONS BILL, 1975; HOUSE JOINT RESOLUTION 1180

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the completion of those two orders tomorrow, the Senate proceed to the consideration of the urgent supplemental appropriation bill.

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

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

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 THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE PRESIDENT OF THE UNITED STATES DURING ADJOURNMENT UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive messages from the President of the United States during adjournment over until tomorrow.

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

ORDER FOR COMMITTEE TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE CONFERENCE REPORTS

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that the Finance Committee be authorized to have until midnight tonight to file conference reports.

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

PRIVILEGE OF THE FLOOR TOMORROW DURING SWEARING-IN CEREMONIES OF THE VICE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no clerks or aides to Senators have the privilege of the floor during the swearing-in ceremony of Mr. Rockefeller tomorrow, and that only the secretary to the majority, the secretary to the minority, the assistant to the secretary to the majority, the assistant to the secretary to the minority, the two members of the Democratic policy staff, the Parliamentarian, the Assistant Secretary of the Senate, the Sergeant at Arms, the Deputy Sergeant at Arms, and the Administrative Assistant to the Sergeant at Arms have the privilege of the floor during that ceremony.

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

Mr. ROBERT C. BYRD subsequently said: Mr. President, in attempting to designate those persons who will have the privilege of the floor tomorrow, I have inadvertently overlooked two or three. I ask unanimous consent that the three aides to the Sergeant at Arms be included.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that the aide to Mr. SCOTT and the aide to Mr. GRIFFIN be included.

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. 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 THE SWEARING-IN CEREMONY OF THE VICE PRESIDENT TOMORROW TO BE IN EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the swearing-in ceremony tomorrow be in executive session.

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

AUTHORIZATION TO SUBMIT CLOTURE MOTIONS ON CONFERENCE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, with reference to the conference report on H.R. 10710, the Trade Act, that at any time that conference report is at the desk, it be in order to offer a cloture motion thereon; provided further that if such cloture motion is offered, the Senate then proceed to vote on the motion to invoke cloture 1 hour after the cloture motion is introduced, with the usual required quorum call intervening.

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

Mr. ROBERT C. BYRD. Mr. President, I make the same request with respect to the conference report on the social services bill, H.R. 17045, and

I make the same request with respect to the conference report on H.R. 421, the tariff schedules amendments.

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

Mr. ROBERT C. BYRD. Mr. President, do I correctly state the situation with respect to any one of these three conference reports I have just enumerated, that situation being as follows: That at any time a conference report on any one of the three measures is at the desk, it would be in order to offer a cloture motion on that conference report; and that, one hour after the cloture motion has been stated by the clerk, the clerk will call the roll to establish the presence of a quorum; that, following the establishment of a quorum, a mandatory roll-call vote will occur on the motion to invoke cloture?

The PRESIDING OFFICER. According to the unanimous-consent agreement, that would be the procedure.

Mr. ROBERT C. BYRD. That would be the procedure with respect to the conference reports on each of the three measures: H.R. 10710, H.R. 17045, and H.R. 421?

The PRESIDING OFFICER. The Senator is correct.

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

Mr. President, I want to be sure that it is understood that any cloture motion to any of the bills that I have just enumerated—the three in particular—would cover not only the conference report but also any amendments in disagreement. I make that request.

The PRESIDING OFFICER. Without objection, that will be considered the order.

AUTHORIZATION FOR SENATORS TO INSERT STATEMENTS IN THE RECORD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I apologize to Senators who had asked for orders to speak tomorrow morning. I ask unanimous consent that they be permitted at any time during the day tomorrow to insert their statements in the RECORD as though read.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 8:30 tomorrow morning.

Mr. SCOTT will be recognized for 15 minutes, the junior Senator from West Virginia will be recognized for 15 minutes, and at about 9 a.m. the Senate will proceed to the consideration of the urgent supplemental appropriations bill under a time agreement of 40 minutes to be equally divided.

ORDER FOR TIME LIMITATION ON URGENT SUPPLEMENTAL APPROPRIATIONS BILL

Mr. President, I ask unanimous consent that there be a time limitation on any amendment to the urgent supplemental appropriations bill of 20 minutes, to be equally divided—and the same with respect to any debatable motion or appeal, reduced to one-half.

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

Mr. ROBERT C. BYRD. Mr. President, after the time for the supplemental has run, the Senate will proceed to the consideration of the continuing resolution under a time agreement, and after the time on that measure has expired, the Senate will take up the Eximbank amendment conference report under a time limitation.

There will be no rollcall votes prior to the hour of 12:30 p.m. tomorrow, but any rollcalls that are ordered prior to that time will be stacked up back to back beginning at 12:30 p.m., with the first rollcall vote being a 15-minute rollcall and all other rollcall votes being limited to 10 minutes each.

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

Mr. ROBERT C. BYRD. There are other conference reports that will be called up tomorrow. I am not in a position at this time to state what conference reports will be called up, but I understand that there is a good likelihood that the conference reports that are under the jurisdiction of the Finance Committee will be ready to be called up tomorrow.

ORDER TO RECESS THE SENATE FOR AT LEAST 1 HOUR TOMORROW

Mr. President, I ask unanimous consent, upon receipt of information from the other body tomorrow that the nomination of Mr. Rockefeller has been confirmed, that it be in order for me to secure recognition at that time for the purpose of recessing the Senate for at least 1 hour for security reasons, after which the swearing in ceremony will proceed.

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

ADJOURNMENT TO 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, there being 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 8:30 tomorrow morning.

The motion was agreed to; and at 8:20 p.m. the Senate adjourned until tomorrow, Thursday, December 19, 1974, at 8:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 18, 1974:

DEPARTMENT OF JUSTICE

D. Dwayne Keyes, of California, to be U.S. attorney for the eastern district of California for the term of 4 years.

Peter C. Dorsey, of Connecticut, to be U.S. attorney for the district of Connecticut for the term of 4 years.

Frank X. Klein, Jr., of California, to be U.S. marshal for the northern district of California for the term of 4 years.

Kenneth M. Link, Sr., of Missouri, to be U.S. marshal for the eastern district of Missouri for the term of 4 years.

James R. Durham, Sr., of North Carolina, to be U.S. marshal for the eastern district of North Carolina for the term of 4 years.

Jose A. Lopez, of Puerto Rico, to be U.S. marshal for the district of Puerto Rico for the term of 4 years.

Marshall F. Rousseau, of Texas, to be U.S. marshal for the southern district of Texas for the term of 4 years.

Irvin W. Humphreys, of West Virginia, to be U.S. marshal for the southern district of West Virginia for the term of 4 years.

William E. Amos, of Maryland, to be a member of the Board of Parole for the term expiring September 30, 1980.

George J. Reed, of Oregon, to be a member of the Board of Parole for the term expiring September 30, 1980.

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

Marjorie W. Lynch of Washington, to be Deputy Administrator of the American Revolution Bicentennial Administration.

COMMISSION ON CIVIL RIGHTS

Murray Saltzman, of Indiana, to be a member of the Commission on Civil Rights.

FEDERAL COUNCIL ON THE AGING

Selden G. Hill, of Florida, to be a member of the Federal Council on the Aging for a term of 2 years.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The following-named persons to be members of the National Commission on Libraries and Information Science for terms expiring July 19, 1979:

Joseph Becker, of California.
Carlos A. Cuadra, of California.
John E. Velde, Jr., of Illinois.

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

The following-named persons to be members of the National Council on Educational Research for terms expiring June 11, 1977:

Larry A. Karlson, of Washington.
Arthur M. Lee, of Arizona.
James Gardner March, of California.
Carl H. Pforzheimer, Jr., of New York.
Wilson C. Riles, of California.

NATIONAL SCIENCE FOUNDATION

Robert E. Hughes, of New York, to be an Assistant Director of the National Science Foundation.

RAILROAD RETIREMENT BOARD

Neil P. Speirs, of Illinois, to be a member of the Railroad Retirement Board for the term of 5 years from August 29, 1974.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

THE JUDICIARY

Donald D. Alsop, of Minnesota, to be U.S. district judge for the district of Minnesota.

Joel M. Flaum, of Illinois, to be U.S. district judge for the northern district of Illinois.

John F. Gerry, of New Jersey, to be U.S. district judge for the district of New Jersey.

Edward N. Cahn, of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania.

Juan R. Torruella del Valle, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico.

James M. Fitzgerald, of Alaska, to be U.S. district judge for the district of Alaska.

James P. Churchill, of Michigan, to be U.S. district judge for the eastern district of Michigan.

H. Dale Cook, of Oklahoma, to be U.S. district judge for the northern, eastern, and western districts of Oklahoma.

HOUSE OF REPRESENTATIVES—*Wednesday, December 18, 1974*

The House met at 12 o'clock noon.

Thomas C. Starnes, minister, First United Methodist Church, Hyattsville, Md., offered the following prayer:

Eternal God, we come on this National Day of Prayer to ask for Your blessing on our land and for peace on Earth, goodwill among all people. But help us see, O God, that Your blessings, Your goodwill, and Your peace are expressed through us. So save us from praying for blessing and goodwill and peace, and then doing the things that make for adversity, hostility, and war. Save us from the comfortable prayers that are never answered: Where we ask You to act. Help us to pray the effective prayers: Where we ask You to help us act.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.