May of each year as John Fitzgerald Kennedy Memorial Day; to the Committee on Post Office and Civil Service.

By Mr. REES:

H. Con. Res. 133. Concurrent resolution to lower interest rates; to the Committee on Banking, Currency and Housing.

By Mr. BRADEMAS:

H. Con. Res. 134. Concurrent resolution toward a barrier-free environment for all handicapped Americans; to the Committee on Education and Labor.

By Mr. BRADEMAS (for himself, Mr. O'NEILL, Mr. BURKE of Massachusetts, Mr. BOLAND, Mr. SCHEUER, and Mr. VANDER VEEN):

H. Con. Res. 135. Concurrent resolution expressing the sense of the Congress that no legislation imposing a ceiling on social security cost-of-living benefit increases be enacted; to the Committee on Ways and Means.

By Mr. HARKIN:

H. Con. Res. 136. Concurrent resolution relating to the World Food Conference of 1976 in Ames, Iowa; to the Committee on Foreign Affairs.

By Mr. LAGOMARSINO:

H. Con. Res. 137. Concurrent resolution expressing the policy of the Congress that the performance of the functions of the Federal Government should be attained by use of its own manpower and not by means of contracts with the private sector; to the Committee on Post Office and Civil Service.

By Mr. MITCHELL of Maryland (for himself, Mr. WON PAT, Mr. OTTINGER, Mr. MOAKLEY, Mr. ROSENTHAL, Mr. RODINO, Mr. CONYERS, Mr. RICHMOND, Mr. HARRINGTON, Mr. SIMON, Mr. BRODHEAD, Mr. RANGEL, Ms. HOLTZMAN, Mr. DELLUMS, Mr. KOCH, Mr. CHARLES H. WILSON of California, Mr. SYMINGTON, Mr. HAWKINS, Ms. SCHROEDER, Mr. LEGGETT, Ms. CHISHOLM, Ms. ABZUG, and Mr. SOLARZ):

H. Con. Res. 138. Concurrent resolution expressing appreciation to Mr. Frank Wills; to the Committee on the Judiciary.

By Mr. PATTISON of New York:

H. Con. Res. 139. Concurrent resolution expressing the sense of the Congress with respect to increases in costs of operating a national school lunch and school breakfast program; to the Committee on Education and Labor.

By Mr. ROE:

H. Con. Res. 140. Concurrent resolution expressing the sense of Congress concerning recognition by the European Security Conference of the Soviet Union's occupation of Estonia, Latvia, and Lithuania; to the Committee on Foreign Affairs.

H. Con. Res. 141. Concurrent resolution expressing the sense of the Congress with respect to the incorporation of Latvia, Lithuania, and Estonia into the Union of Soviet Socialist Republics; to the Committee on Foreign Affairs.

By Mr. GAYDOS:

H. Res. 225. Resolution concerning the safety and freedom of Valentyn Moroz, Ukrainian historian; to the Committee on Foreign Affairs.

By Mr. JONES of Alabama (for himself and Mr. HARSHA):

H. Res. 226. Resolution to provide funds for the expenses of investigations and studies authorized by the Committee on Public Works and Transportation; to the Committee on House Administration.

By Mr. MORGAN (for himself, Mr. BEVILL, Mrs. BOGGS, Mr. BURGENER, Mr. BURLESON of Texas, Mr. COHEN, Mr. DOWNEY, Mr. DU PONT, Mr. ESCH, Mr. FORD of TENNESSEE, Mr. FRENZEL, Mr. HALL, Mr. HENDERSON, Mr. KETCHUM, Mr. KINDNESS, Mr. MAZZOLI, Mr. MURTHA, Mr. RIEGLE, Mr. RINALDO, Mr. RODINO, Mr. ROONEY, Mr. TREEN, Mr. WAGGONNER, Mr. WAXMAN, and Mr. CHARLES WILSON of Texas):

H. Res. 227. Resolution expressing the sense of the House of Representatives with respect to the missing in action in Southeast Asia and the Paris Agreement; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

31. The SPEAKER presented a memorial of the House of Representatives of the State of Hawaii, relative to national health insurance; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 3524. A bill for the relief of Antonio Mendoza Jimenez; to the Committee on the Judiciary.

H.R. 3525. A bill for the relief of Candida Menes Malolot; to the Committee on the Judiciary.

By Mrs. HOLT:

3526. A bill for the relief of Randall L. Talbot; to the Committee on the Judiciary.

By Mr. MEZVINSKY:

H.R. 3527. A bill for the relief of William M. Kornman; to the Committee on the Judiciary.

By Mr. SCHULZE:

H.R. 3528. A bill for the relief of Maria Elena San Agustin; to the Committee on the Judiciary.

By Mr. STOKES:

H.R. 3529. A bill for the relief of Noel Abueg Ende; to the Committee on the Judiciary.

H.R. 3530. A bill for the relief of Slobodanka Petrovic; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3. By the SPEAKER: Petition of Aline Beatrice McCloud, Houston, Tex., relative to redress of grievances; to the Committee on the Judiciary.

32. Also, petition of Roy D. Vinson, Covina, Calif., relative to a magnetically levitated vehicle; to the Committee on Public Works and Transportation.

SENATE—*Thursday, February 20, 1975*

The Senate met at 11 a.m. and was called to order by Hon. THOMAS F. EAGLETON, a Senator from the State of Missouri.

PRAYER

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

O God, our Father, who alone knows what this day may bring, grant that in every hour of it we may stay close to Thee. We would test our thoughts and deeds and words not by our faulty standards but with our eyes upon the transparent glory of One who went about doing good. In these dangerous days sober us with the knowledge that our greatest gift to this age is a life that is clean, strong, honest, trustworthy, and serviceable. We pray that we may not fail our generation and Thee—that injustice may be redeemed by justice, indecency by decency, hate by love, until Thy kingdom unfolds for all men. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, February 19, 1975, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

PROHIBITION AGAINST IMPOSITION OF TARIFFS ON OIL—SENATE JOINT RESOLUTION 12

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 3, Senate Joint Resolution 12, Prohibition Against Imposition of Tariffs on Oil, be placed under "Subjects on the Table."

The VICE PRESIDENT. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

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

The VICE PRESIDENT. Without objection, it is so ordered.

THE EDELIN CASE

Mr. MANSFIELD. Mr. President, I have noted with interest the situation which has developed in Boston with respect to the so-called Dr. Edelin case. I very rarely comment on judicial decisions, but I will let the words of an outstanding conservative journalist—in my opinion, the most fair-minded of conservative journalists—Mr. George F. Will, in a commentary entitled "There's No Justice in Edelin Case," speak for my feelings on this matter.

Mr. President, 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:

THERE'S NO JUSTICE IN EDELIN CASE

(By George F. Will)

WASHINGTON.—The verdict in the Boston "abortion trial" is that the trial was not about abortion.

The jury decided that it was considering a case of manslaughter, of negligence that caused the death of a baby boy after an attempted abortion. The defense had argued that no such "person" existed, so no such person was killed.

October 3, 1973, there was no Massachusetts law restricting abortions. On that day Dr. Kenneth C. Edelin, chief resident in obstetrics and gynecology at Boston City Hospital, performed an abortion by hysterotomy

on an unmarried 17-year-old who was between 20 and 28 weeks pregnant. Actually, the jury's verdict was that Dr. Edelin did not abort a fetus; he was negligently responsible for the death of a baby.

A hysterotomy is like a cesarean-section delivery: a fetus is removed from the woman through an incision in the abdomen and uterus. Dr. Edelin performed the hysterotomy after there were several unsuccessful attempts to destroy the fetus with infusions of a saline solution into the uterus.

The prosecution acknowledged that the fetus did not leave the woman's body alive. But the prosecution charged that the fetus was alive, and became a person, at the moment when, during the hysterotomy, Dr. Edelin detached the placenta from the uterus.

As proof of life, the prosecution said that an autopsy of the fetus revealed that its lungs were partially expanded, indicating "respiratory activity," albeit brief.

The prosecution argued, in effect, that the abortion ended and a birth took place at the instant when the fetus, capable of respiratory activity, was detached from the woman. The prosecution charged that Dr. Edelin held the fetus in the woman for three minutes until it suffocated. Dr. Edelin adamantly denied this. The jury accepted the prosecution's assertion that Dr. Edelin was negligent in not trying to sustain the life indicated by the "respiratory activity."

The jury accepted the view that when the fetus was detached from the woman's life-support system, and tried to breathe, it was a person, however briefly, even though still in her body, and even though it did not emerge from her body alive.

The defense argued that the hysterotomy, and hence the abortion, did not end until all the "products of conception" were removed from the woman's body, and that Dr. Edelin performed that operation at a normal pace in the normal method.

The defense emphasized, and the prosecution conceded, that the fetus was dead when removed. And the defense insisted that the 1.5-pound fetus had no realistic chance of surviving the abortion process that had as its legal purpose extinguishing the life of the fetus.

Anti-abortion militants are celebrating this manslaughter conviction. They may not understand it.

Militants argue that all abortions are "murder" because a "person" exists from the moment of conception. But when instructing the jury, the judge stipulated that no manslaughter occurred unless the fetus was born alive:

"A fetus is not a person and therefore not a subject for an indictment for manslaughter."

The jury evidently accepted the prosecution's view that at some point during the hysterotomy a baby suffocated as a result of Dr. Edelin's negligence. The decision will be appealed.

Perhaps until appeals are finished some obstetricians will be reluctant to perform "late" abortions. What else did this six-week trial accomplish?

It convicted a physician who, acting within the law, in accordance with standard gynecological practice, and in response to a patient's wishes, terminated the life of a fetus. Whether he offended some abstract canon of justice by doing this, his trial offended the common sense of justice; he could not have known that his conduct was subject to a manslaughter indictment.

It is said that hard cases make bad law. But as regards the hard issue of abortion, this Boston case made no lasting law.

APPOINTMENTS TO THE FEDERAL ELECTION COMMISSION

Mr. MANSFIELD. Mr. President, there has been a good deal of talk about experience, knowledge, national prominence, and the like relative to appointments made by the President and the majority and minority leaders within the concept of the law.

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that my 5 minutes be yielded to the distinguished majority leader.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. I point out, Mr. President, that, so far as the majority of the Members of this body are concerned, very few of us, if any, had national exposure or national experience or national recognition before we were fortunate enough, lucky enough, to be elected to a Congress of the United States.

In that respect, may I say that it is my intention at this time to vote for Mrs. Carla Hills, on the basis of my knowledge today, when her nomination is presented to the Senate for confirmation to be Secretary of HUD, because I think on-the-job training is not a bad way to become experienced and certainly to do so on a basis of a more open mind.

Prior to the adjournment of the 93d Congress, the distinguished Republican leader (Mr. HUGH SCOTT) and I, pursuant to the Federal Elections Campaign Act of 1974, selected our respective appointees to the Federal Election Commission. As the Senate knows, these two designees, together with those of the House leaders and the President, are subject to hearings and confirmation not only by the Senate but also by the House.

However, no sooner had the designees of the Senate leadership been announced when a hue and cry was raised against them. Ignored was the fact that the appointments were subject to confirmation so that any flaws might be aired at that time. Forgotten was the fact that Senator HUGH SCOTT had been a leader in the effort to enact campaign reform legislation. Forgotten, too, was the fact that I have been an advocate of the reform of political campaign practices, including public financing, for more than a decade. So anguished were the complaints that one would have thought that the two Senate leaders were bent on sabotaging campaign financing by their appointments.

What was so appalling in our choices? Why were they subject to this barrage of criticism?

I know the distinguished Republican leader very well and I know, therefore, that his appointee to the Federal Elections Commission needs no defense from me. Nor, may I add, does mine. Nevertheless, for the benefit of those who do not know Mr. Joseph Meglen, of Billings, Mont., I want to say a few words about my appointee. I address my remarks especially to those denizens of this city who believe that the borders of political wisdom and competence are coterminal with the coterie of elitists in the Washington metropolitan area, reinforced occasionally from nearby cities—New York, Boston, Chicago, and perhaps as far west as Minneapolis and Albuquerque once in a while. Yes, I had the temerity to propose for the Federal Elections Commission, a citizen of Montana, and a campaign manager in several elections, not only of my campaign but also others, such as the distinguished Senator from Montana (Mr. METCALF) who can also be regarded as a parent of Federal campaign reform. Yes, I had the temerity to make this appointment, moreover, without consulting any of those groups or persons who appear to have developed a vested interest in criticism of Congress.

Joseph Meglen is not my "crony"; he is a friend and fellow Montanan, and I am honored to know him in both relationships. Neither consideration, however, was controlling in my naming him for the Federal Election Commission. He has other qualities which, in my judgment, warranted proposing his name. His integrity is without flaw. His reputation in his own community—his own grassroots Montana community—is of the highest. He is an ordinary American from a small city in the Far West. And what, may I ask, is wrong with that for starters?

Joseph Meglen is also a highly competent lawyer who has served the Federal Government as a U.S. assistant district attorney and a a member of the President's Commission To Study Executive Pay Schedules.

He was and is a strong advocate of the Federal regulation of campaign financing. He did not come by this position lightly or lately. On the contrary, he has done the hard and, often, thankless volunteer work for American politics. As I have already noted, he has managed several political campaigns and taken the responsibility for reporting finances in connection therewith which, under Montana law, is very strict. The honesty and integrity of his participation in these campaigns has never been challenged or otherwise subject to censure.

Joseph Meglen does not come self-sealed in the cellophane robes of defender of the public weal. He is too modest and too unassuming for that mandarin role. He is, rather, a private American who happens to have a deep sense of public service, an experienced awareness of the complexities of the American political process and a passion for wanting to keep alive in this Nation, representative and egalitarian government, responsive to the people through honest elections.

Joseph Meglen was educated in Montana and Washington, D.C. He is a graduate of Georgetown University and he has worked here in the past. Nevertheless, he is not well known in this city. His name has no snob appeal. Certainly, he is not known at all to the vestal virgins—those self-designated guardians of the purity of the Federal electoral process—who were agonized by his designation to the Federal Election Commission.

Without taking the time to find out about him, without waiting for hearings in either House, without weighing his qualities and his competences, Mr. Meglen was dismissed, at best, as a "crony" appointment. Even worse, he was seen as merely an ordinary American, an obscure Montanan, without "prestige" or "stature" who obviously could not pro-

vide luster to the Federal Election Commission.

Well, Mr. President, I fear for the future of the Commission or any other branch of this Government if its operations come to depend on the prestige of its members as defined by the in circles of Washington. Indeed, I think it is high time that we paid a little less attention to big names and showed a little more concern for bringing into this Government new names, new faces, and above all, a new dedication to the welfare of the people who live outside this city as well as within.

I regret, deeply, that Mr. Meglen, through no fault of his own, through my effort to bring a new voice into the administration of this new law, has been pilloried by the snobs of this city. In their zeal to put their particular brand on the Federal Election Commission they may have done to a most desirable law a great disservice.

I regret to have to announce that despite my repeated urgings to the contrary, Mr. Meglen has requested that his nomination be withdrawn. After the treatment to which he has been subjected, I cannot in good conscience blame him for his decision. Even as I reiterate my regret to him, however, I cannot, also in good conscience, restrain my anger at the arrant behavior which has prompted it. If, in the name of reform, we cannot entrust the administration of the Federal Campaign Contributions Act to Americans of the caliber of Joseph Meglen, I fear that we are headed for the further isolation of the electoral process and the Federal Government from its popular roots.

I now read a letter from Joseph Meglen.

J. F. MEGLEN,
ATTORNEY-AT-LAW,
207 Behner Building,
2822 3rd Ave., North Billings, Mont., 59103.

Just an ordinary address for an ordinary American—

DECEMBER 23, 1974.

Hon. MIKE MANSFIELD,
Majority Leader, U.S. Senate, Office of the Majority Leader, Washington, D.C.

DEAR SENATOR MANSFIELD: After considering the matter thoroughly, I request that you withdraw my nomination to serve on the new Federal Election Commission.

I shall always appreciate the nomination and your confidence that I could render a service in the post, but there are dual reasons to decline. It would mean a considerable sacrifice to completely close out my law business and move to Washington. In addition, I love Montana and like very much living out here.

Also, the hostile reception of the appointment of an "unknown" and a "crony" makes me fear that, regardless of how well I might perform in the job, criticism would continue if for no other reason than to justify those original appraisals. I would be confronted with an uphill job to prove your wisdom, as well as my own.

Elections in Montana are conducted like elections all over the Nation. Perhaps more money is spent on them in the East and a few states like California, but the law and reporting requirements are the same throughout the United States. I do feel that my experience in your campaigns and the campaigns of Lee Metcalf and John Melcher, in which compliance with law has never been questioned, did qualify me to make some contribution to the effort to make our elections reflect the will of our citizens rather than the results of expensive public relation blitzes, or worse, financed by special interests.

I also feel it is unjust to rule citizens ineligible for positions of responsibility bebecause they have not previously attained a national reputation and are therefore not already well known to people unwilling to take the time and trouble to look into their qualifications. There are probably a number of fine citizens of America who have never come to the attention of Common Cause, the editors of The Washington Post, and others critical of my nomination for this reason.

Perhaps I should regard the early criticism of the appointment as a challenge, but I have accumulated too many years to embark on Quixotic adventures to slay the dragons of unjust or ill-advised criticism.

I am sure that you can find a nominee fully as capable as I am who can enter on the duties of the office without two strikes on him—the charge of obscurity and cronyism—and can therefore start without any handicap.

For both the personal and public reasons, I request you withdraw my name. I shall always take great pride that Mike Mansfield felt I could do a service in the post, as well as in the charge that I was one of his close longtime friends!

My warmest best wishes.

Sincerely,

J. F. MEGLEN.

Mr. President, I truly regret that Joe Meglen has asked me to withdraw his name. I hope that Senator SCOTT's designee, Joan Aikens, will not yield to the kind of pressure that has been coming in. Everything I know about Mrs. Aikens tells me that she is a professional businesswoman with an intimate knowledge of election and campaign laws. She has worked in local, State, and National politics for more than 15 years and recently served as president of the Pennsylvania Council of Republican Women.

Even though Mrs. Aikens does not possess the "star quality" so much desired by some pressure groups, I believe that she is otherwise qualified for the job and deserves a fair chance. Let us have the hearings on her nomination to see what she is like. Let us not be led around by the nose by those who are irritated because they cannot have it their own way all of the time.

I send to the desk the name of a nominee to replace Mr. Meglen under the Federal Elections Campaign Act of 1974 and ask that the clerk report the name.

Mr. HUGH SCOTT. And, if the Senator will yield, I will now resubmit the nomination, to the Federal Elections Commission, of Joan D. Aikens, of Pennsylvania.

The PRESIDING OFFICER (Mr. MONDALE). The clerk will report the names.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MANSFIELD) submits the names of Thomas E. Harris to be a member of the Federal Elections Commission.

The Senator from Pennsylvania (Mr. HUGH SCOTT) resubmits the name of Joan D. Aikens, of Pennsylvania, to be a member of the Federal Elections Commission.

Mr. MANSFIELD. Mr. President, Mr. Thomas E. Harris is equally "unknown" but I trust that there will be, in the consideration of this designee, on the part of sundry self-anointed Cromwellians, the constraints of decency and balance which were totally lacking in the case of Mr. Meglen.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a background résumé on Thomas E. Harris, and also, out of the Larousse Encyclopedia of Mythology, Prometheus Press, N.Y., 1963, the definition of the word "Vesta," especially in relation to the use of the appellation "vestal virgins." I also ask unanimous consent to have printed in the RECORD a news article entitled "Billings Man Defends Appointment by Mike," written by Frank Adams, and published in the Great Falls Tribune of Monday, January 20, 1975.

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

THOMAS E. HARRIS

BORN

Little Rock, Arkansas, May 25, 1912.

EDUCATION

Little Rock public schools; University of Arkansas (B.A. 1932); Columbia Law School (LL.B. 1935); Kent Scholar; and Law Review.

PROFESSIONAL EXPERIENCE

1935–6—Law Clerk to Justice Harlan Fiske Stone.

1936—7—Associate, Covington & Burling (Washington, D.C.)

1937–9—Attorney, Lands Division, Department of Justice.

1939–41—Office of Solicitor General, Department of Justice.

1941–2—Associate General Counsel, Federal Communications Commission.

1942–3—Associate General Counsel, O.P.A.

1943—Board of Economic Warfare (North Africa).

1943–5—Associate, Cahill, Gordon, Zachry & Parlin (New York City).

1945–6—Military Government, Germany.

1946–7—Partner, Alvord and Alvord (Washington, D.C.).

1947–8—Special Assistant to Attorney General, Alien Property Division, Department of Justice.

1948–55—Associate General Counsel, Congress of Industrial Organizations.

1955 to date—Associate General Counsel, American Federation of Labor and Congress of Industrial Organizations.

ARGUED THE FOLLOWING CASES IN SUPREME COURT

U.S. v. *American Trucking Association,* 310 U.S. 534 (1940).

Republic Steel Corporation v. *NLRB,* 311 U.S. 7 (1940).

Helvering v. *Janney,* 311 U.S. 189 (1940).

Taft v. *Helbering,* 311 U.S. 195 (1940).

**Phelps Dodge Corp.* v. *NLRB,* 313 U.S. 177 (1941).

Scripps Howard Radio v. *F.C.C.,* 316 U.S. 4 (1942).

Cole v. *Arkansas,* 338 U.S. 345 (1949).

**American Communications Association* v. *Douds,* 339 U.S. 382 (1950).

Smith v. *Evening News Association,* 371 U.S. 195 (1962).

Wiley & Sons, Inc. v. *Livingston,* 376 U.S. 543 (1964).

*Important constitutional law cases.

[From Larousse Encyclopedia of Mythology, Prometheus Press, N.Y., 1963]

VESTA

Vesta is the most beautiful of Roman divinities, bright and pure like the flame which is her symbol. Her name derives—like the name Hestia—from a Sanskrit root, *vas,* which expresses the idea of "shining".

The Latins had made Vesta a goddess who personified the earth and fire. The Romans kept only the second of these personifications. Nor was Vesta the goddess of fire in its broad-

est sense, but only of fire required for domestic use or in religious ceremonial.

In the beginning Vesta was associated with Janus Pater and Tellus Mater, and was the protectress of sown fields. She was also a symbol of idealised maternity—although she was a virgin—because fire nourishes.

As a goddess of fire she received both a private and public cult.

Every hearth had its Vesta. With Jupiter Dapalis she presided over the preparation of meals; she was offered the first food and drink. With the Lares and the Penates she held a pre-eminent position in the house.

At Rome the centre of her cult, which was said to have been originated by Romulus, was in the Regia. It lasted almost all the year, being interrupted only during the months of January and November. The chief festivals of Vesta were the Vestalia which were celebrated on the seventh of June. On that day her sanctuary (which normally no one except her priestesses, the Vestal Virgins, entered) was accessible to mothers of families who brought plates of food. The Vestals officiated. The ceremonies were simple and unsanguinary. The objects of the cult were essentially the hearth fire and pure water drawn into a clay vase, handmade, and narrow at the base so that it could not stand on the ground.

The Vestals, who played a role of first importance in Roman liturgy, enjoyed exceptional prestige. When Numa first instituted them they were two in number; Servius increased them to six. They were chosen by lot from patrician families and entered the college between the ages of six to ten. They remained there for thirty years. During the first ten years they received instruction in their duties which they exercised for the following ten years. Then, in their turn, they taught the younger Vestals.

They took their vows of absolute chastity. Those who broke their vows were punished by death. Originally they were whipped to death, but the Elder Tarquin modified this torture: they were then whipped and walled-up alive in a tomb which was sealed after a few provisions had been deposited in it. Vestals accused of impurity sometimes managed to clear their reputation. It was told how Tuccia proved her virginity by bringing back water from the Tiber in the sacred sieve. The accomplice of the guilty Vestal was whipped to death in the Forum Boarium. During the course of eleven centuries only twenty Vestals broke their vow and suffered punishment.

If a Vestal let the sacred fire go out she was whipped by order of Pontifex Maximus.

When the Vestals had finished thirty years of their engagement they could marry. They rarely took advantage of this right, however, preferring to maintain the privileges of their position.

[From the Great Falls (Mont.) Tribune, Jan. 20, 1975]

BILLINGS MAN DEFENDS APPOINTMENT BY MIKE

(By Frank Adams)

BILLINGS.—Joseph Meglen has been treasurer and manager of half a dozen congressional campaigns.

So he figures he knows something about the problems and potential abuses and could make a contribution toward enforcing the new National Campaign Reform Act.

But Meglen's selection by Sen. Mike Mansfield as a member of the new law's enforcement commission has been labled by Common Cause "disappointing, smacking of political cronyism."

"I guess because I don't have a national reputation I'm a crony," says the Billings lawyer.

Meglen, 64, was born and reared in Butte. That's where he became acquainted with Mansfield, who worked in the Anaconda Co. mine. "Mike has been a friend of mine for many, many years," says Meglen. "He's in my opinion one of the real great senators that Montana has had."

Meglen was Mansfield's treasurer and campaign manager in 1958, 1964, and 1970. He was also treasurer of congressman John Melcher's campaigns except in 1970 when Mansfield was running.

"And certainly all of the campaign reports were accepted and they never found any fault with them," he says. "And I thought I could make a contribution, and I'm in favor of the objectives of the Campaign Reform act."

The act was signed last October and hailed as an answer to the election abuses that came to light in the Watergate scandal. It sets limits on how much candidates can collect and spend, and controls who may give and how much.

Senate leaders Mansfield and Hugh Scott nominated their choices for the enforcement commission, and both were approved by the Senate in October. But the action was rescinded after complaints that neither Meglen nor Scott's appointee had been subject to committee hearings.

President Ford has not named his two appointments to the commission, nor have House leaders.

Meglen says he has had no indication when the rules committee will hold hearings on his nomination for the $38,000 a year, full-time job.

A source in Sen. Mansfield's office says the allegations of cronyism originated because a couple of organizations pushing for campaign reform had a couple of nationally known people they wanted to get on the commission. Because Meglen and Scott's choice weren't known by the organizations, "they started stories of cronyism," says the spokesman.

Mansfield's administrative assistant, Peggy DeMichele, says Mansfield picked Meglen because "he's known him and he knew how involved he's been in campaigns and figured he would be qualified."

"And he thought somebody from Montana who hadn't been involved in any difficulties could do a better job," she says.

Meglen is no stranger to Washington. He graduated from Georgetown Law School and worked in the Justice Department before and after the war.

He was assistant U.S. attorney in Montana from 1947 until the Republicans came into power with the election of Eisenhower in 1952. He has practiced law in Billings since.

Meglen was appointed by Mansfield to the salary commission set up during the Johnson administration to make pay recommendations for top government officials. The commission finished its work last June.

"Edward Foley and myself, two Democrats, voted against pay raises," he notes. "We didn't think they were justified. President Nixon was talking continuously about holding the line and so on. The rest of the commissioners were up to about a 32 per cent increase. We couldn't see where that would be justified with the congressmen making $42,500 and the cabinet members were making more than that."

His salary commission job was of a part-time advisory nature, involving about five trips to Washington. Meglen would have to move to Washington as a member of the Campaign Enforcement Commission.

Mr. MANSFIELD. Mr. President, I hope that what I have said will be taken to heart, not only by these self-appointed trustees of congressional appointments, these bosses, and the like; but I hope that the Members of the Senate will continue to be aware of the fact that most of us became Senators or Members of Congress on the basis of on-the-job training; that we are all ordinary Americans; that we have been the recipients of public honors and public respect well beyond our ability, know-how, and even integrity; and that hopefully we shall never accept the principle that people have to have national prominence and stature to be appointed to a commission, a bureau, or a department of the Government of the United States.

President Lincoln did not forget the one Declaration of Independence, that this is a government of the people, by the people, and for the people; and if I might add—not a government run for the benefit of a self-anointed few.

The PRESIDING OFFICER (Mr. ALLEN). The nominations submitted by the distinguished majority leader and the distinguished Republican leader will be received and appropriately referred.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that I may proceed for 10 minutes, and yield to the distinguished Senator from Alabama.

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

Mr. SPARKMAN. Mr. President, I want to say to the majority leader that I was impressed by what he had to say about on-the-job training. Of course, as he says—and this applies to the majority leader, too—those of us who served in the House of Representatives before coming to the Senate did have to have a lot of on-the-job training. But I want to call attention to a nomination that the President has sent up here, that is to be considered by the Committee on Banking, Housing, and Urban Affairs next Monday. I refer to Mrs. Hills, who had been nominated to become Secretary of Housing and Urban Development.

The objection has been made that she knows nothing about housing, and has had no experience in housing. But my attitude has been this, and I so told the representative from the White House and Mrs. Hills personally: She has had a brilliant record in the Justice Department. I am told that she is one of the most qualified, generally, of persons who could be found, and I am supporting her nomination as head of the Department of Housing and Urban Development because I am confident that with her fine grasp of things generally, the good mind which she has, and the fact that she will have experts in the housing field who have been there for years, she will make an excellent Secretary of Housing and Urban Development, and I support her nomination on that basis.

Mr. HUGH SCOTT. I would like to say, Mr. President, that I endorse everything the distinguished Senator from Alabama has said, and I endorse very strongly indeed the entire statement of the distinguished majority leader.

What we have seen here is the activity of people who themselves are largely obscure. The staffer from one of these virtue groups, whom I personally may have seen but certainly never heard of, and whose judgment has no weight with me, undertook to publicize for the benefit of the local press and the press of my State the fact that he did not know my appointee.

Well, that is just too bad. He found a couple of things wrong with her. I know he has embarrassed the head of his organization, but it is just too bad that he does not know her. It is too bad that he objects because he has stated that she is my friend. I had not known that was a disability.

Further, his objection seems to be that she is in retail trade. Well, I might add, so was Harry Truman, and I do not find anything wrong in being in retail trade.

She is a businesswoman; she is extremely well qualified, as the majority leader has said. I resubmit her name in full confidence, and I resent the attack by this small group of arrogant know-it-alls who spend most of their time manufacturing halos for each other.

These are the kind of critics who did not even wait to examine the qualifications of these appointees. They certainly could not and did not wait for the hearings. They made no reference to the fact, for example, that Common Cause, in numerous advertisements in newspapers, paid tribute to me as one of the authors of the campaign reform bill, and as the specific author of the amendment creating the Federal Elections Commission, which I fought for in two Congresses.

Having created that Commission, would I attempt to slaughter my own child? And I certainly would not engage in the kind of sabotage that these saboteurs are so busy at, simply because they have access to press outlets. They try their case unilaterally. They withhold the essential facts. They deliberately deceive the public, and it is done to aggrandize themselves.

I know what this particular staffer is getting at: he believes that Senator MANSFIELD and I should have consulted him, and perhaps named him, but certainly named someone of his choice. Well, he will live a long time before he has any favor with me.

I am not and never have been dominated or dictated to by anyone, and I am not going to start now.

I would like to say, Mr. President, that I have named here a woman who has been honored by an organization of thousands of other women for the presidency of that organization; who has been a successful businesswoman in the communications field. She is an account executive with the Lew Hodges organization in King of Prussia, Pa.

Well, just like Billings, Mont., King of Prussia, Pa., does not carry a whole lot of weight with these characters and types who infest the Washington scene, who seem to think that unless you are from Washington or New York City, unless you can get the endorsement of the newspapers of those cities, you cannot possibly amount to much.

Well, I think they have got something to learn. They have got to learn that the Congress of the United States is not going to be run by pressure groups, no matter how many halos they erect over their own heads, and no matter how noble they contend that their aspirations are.

Had they had nominees to suggest they should have come to Senator MANSFIELD and myself. Had they had nominees to suggest, they should go to the House Members and to the President. They had done none of that. They have tried their case in the papers.

I may add, Mr. President, that I do not know what they expected, whom they expected me to name. They say I named a friend. Did they expect I would name an enemy?

Mr. President, I have never named anybody who was not a friend, and I have observed that most of them are better friends right after I name them, and I see nothing wrong with that.

This is not a patronage position. This is a full-time job. Mrs. Aikens knows she has to call them as she sees them, that she has to be tough and she has to be upright, that she has to be incorruptible, and I have no doubt that she can do precisely that.

She will have to exercise her duties in the full light of publicity, and I am satisfied that that does not deter her.

Therefore, I have resubmitted her name, and I will do all I can to see that the nominees submitted by all the parties having the nomination power are confirmed in the Senate.

Mr. MANSFIELD. Mr. President, will the Senator yield to me briefly?

Mr. HUGH SCOTT. Yes.

Mr. MANSFIELD. I would just like to say briefly that Joseph Meglen, of Billings, Mont., was appointed to the Presidential Pay Commission 3 years ago. He served for about 7 months. He attended five meetings in Washington on a per diem basis, and he was one of only two members out of a Commission of seven who recommended against a pay increase for Members of Congress and members of the judiciary and members of the executive branch.

ORDER FOR STAR PRINT—S. 445

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that a star print be made of S. 445, a bill I introduced on behalf of myself and numerous cosponsors, to assure that an individual or family, whose income is increased by reason of a general increase in monthly social security benefits, will not, because of such general increase, suffer a loss of or a reduction in the benefits the individual or family has been receiving under certain Federal or federally assisted programs.

The star print is necessary, because two references to dates in the bill are inaccurate.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri (Mr. EAGLETON) is recognized for not to exceed 15 minutes.

EXECUTIVE-CONGRESSIONAL RELATIONS IN FOREIGN POLICY

Mr. EAGLETON. Mr. President, in recent days both President Ford and Secretary of State Kissinger have addressed the important question of Executive-congressional relations in foreign policy. First, Dr. Kissinger, in a major speech before the Los Angeles World Affairs Council, proposed a "new national partnership" in the formulation of our Nation's foreign policy. Then, in a speech at a fundraising dinner for the New York State Republican Party, President Ford asked for a return to the Vandenburg era and appealed for "an openminded spirit of enlightened national concern to transcend any partisan or internal party politics that threaten to bring our successful foreign policy to a standstill."

While both speeches advanced a common theme—a return to an era of clear Executive dominance in foreign affairs—Secretary Kissinger's initiative was clearly the more serious attempt to address constructively our contemporary situation.

It is now obvious that our Government is in the throes of institutional change. I believe that the return to shared power is a healthy one, but I recognize that the struggle to find balance may dangerously preoccupy our Nation with institutional parochialism. Dr. Kissinger has opened a dialog which I hope will carry us beyond petty conflict to a greater understanding of the contribution Congress and the Executive can make together in shaping a creative and effective foreign policy.

It is first important to define the terms of this new partnership in a way that will meet the demands of today's world. We must realize, for example, that there is no turning the clock back to the institutional relationships of the cold war era. That period was characterized by a clear understanding of common goals, the acceptance of a common enemy, and the total subordination, largely self-imposed, of the legislative branch.

As we pursued active internationalist policies after World War II, it seemed natural to acquiesce to the efficiency and the dynamism of the Presidency. The United States was thrust suddenly into a position of world leadership. A Congress previously identified as overwhelmingly isolationist seemed incapable of contributing to our Nation's pell mell rush to internationalism. Senator Vandenberg, chairman of the Foreign Relations Committee and a reformed isolationist, was ideally suited to whip the Senate into line as it considered and approved such Presidential initiatives as the creation of the United Nations and the Marshall plan.

These creative, internationalist initiatives quickly gave way to the static policies of the cold war era. The ease with which we identified the enemy during the cold war made policy formulation relatively simple. The American people readily embraced the concept of "containment," and a politician who questioned the President would do so only at great risk. The congressional role in foreign policy soon eroded away and the legislative branch became a rubber stamp for Executive initiatives.

Were it not for Vietnam, we might conclude, as has President Ford, that the Congresses of the post-war era served their Nation well. But Vietnam became the ultimate tragedy of a decisionmaking process which had gradually become de-

void of checks and balances. In our search for a new partnership in foreign affairs, we cannot afford to ignore the lessons of that devastating experience.

Today the confidence and dedication with which we earlier pursued a policy of containment have been replaced by uncertainty and cynicism. We face a complex world in which the United States may no longer be capable alone of controlling its own destiny. As Dr. Kissinger recognized in his Los Angeles speech:

> Old international patterns are crumbling; old slogans are uninstructive; old solutions are unavailing.

Today's constantly changing world patterns have confused the American public. And as a consequence, the job of the policymaker has become infinitely more complicated. In the public's mind our relations with foreign governments are colored by a mask of suspicion. And the most discernible mood is the overwhelming desire to withdraw.

If the United States is to compete successfully in the highly complex international arena of today, we need both a strong and flexible President and a legislature which is institutionally equipped to make the people's will felt. At a time of transition and uncertainty, the congressional responsibility as described by Jefferson "to represent all opinions, argue all options, and raise all objections to any suggested course of action" becomes a vitally important ingredient in policy formulation.

I believe that Secretary Kissinger has come to realize that the reappraisal of America's world role must go on, despite his belief that it is having a negative impact on the day-to-day business of diplomacy. And I believe that he has come to realize that this reappraisal can only be accomplished through a close partnership, with Congress and the President working together to determine the nature and the extent of America's foreign commitments.

It is not easy to be at the helm during a period of transition. This is especially true in the conduct of foreign relations, where the swiftly changing currents of American political thought are not easily comprehended by those with whom we negotiate. In this sense, I can sympathize with the concerns Secretary Kissinger has expressed over our current lack of a foreign policy consensus.

But it is vital that opposing views be joined in a rational debate rather than in a debilitating power struggle. The future course of our society will not be set by appeals for unity for unity's sake—it will be set by the collective wisdom we derive from open debate. We cannot return to the Vandenberg era and still pay heed to the lessons of Vietnam.

The real dichotomy in today's debate over foreign policy is not partisanship, as President Ford implied in his New York speech. It is, rather, a fundamental disagreement over the general approach we should adopt as a nation in conducting our relations with the rest of the world. I believe it is still valid to say that partisan politics stops at the water's edge. Ideas, however, do not.

Dr. Kissinger's approach to foreign affairs has brought our Nation dramatic success. It has brought some failure as well. And for those who have involved themselves in the foreign policy debate, the Kissinger approach has, in itself, become a central issue.

To many his pragmatism has come to mean, rightly or wrongly, a search for solidarity and stability to the exclusion of other important considerations. His traditional use of diplomatic, military, and monetary devices is seen by his critics as unseemly manipulation.

Dr. Kissinger's greatest triumphs—his initiative toward China and his détente with the Soviet Union—have, for example, opened him to the criticism that his diplomacy ignored old allies. His preoccupation with the superpowers led many to question whether his success was worth the deterioration of our relations with nations in Africa, South Asia, and Latin America.

In an effort to highlight the weaknesses rather than the strengths of this record, Dr. Kissinger's critics seem to be offering a totally opposite approach to world affairs. This approach minimizes the importance of contemporary power relationships. It emphasizes instead the need for social change. Such change is seen as holding the promise of relief for those oppressed peoples who, it is said, are losing ground under the status quo Dr. Kissinger's policies seek to preserve. Advocates of this approach concern themselves with such worldwide problems as human rights, food distribution, ecology, and the proliferation of conventional arms.

This is perhaps an oversimplified analysis, but I present these apparently polarized positions because I see them as the main obstacle to consensus. It is not partisanship, in other words, so much as it is ideas which keep us from a common approach to the foreign affairs of our Nation.

If we are to move toward consensus, we must understand that these divergent views are not irreconcilable. We need not, in my view, abandon the search for balance and stability, especially among the superpowers. Nor can we afford to ignore the needs of the developing world or the plight of those whose inalienable rights are denied by oppressive governments.

But if our foreign policy is to contain the proper mix of pragmatic and human considerations, we will have to assure that the most important decisions affecting that policy receive, to use Justice Joseph Story's words:

> The utmost deliberation, and the successive review of all the councils of the nation.

Mr. President, the most grievous errors of American policy in the past decade can be traced to a decisionmaking process which has not benefited from institutional balance. The American people were too often presented with fait accomplis in foreign policy, because Congress was unaware of important commitments being undertaken by the executive branch. From Vietnam to the India-Pakistan dispute, to Chile, to our current Cyprus policy, initiatives were taken in the name of the American people without the advice and consent of their elected representatives in Congress.

Secretary Kissinger has acknowledged "the indispensable contribution of Congress to the general direction of national policy." He has recognized that "the separation of powers produces healthy and potentially creative tension * * *." I believe he sees the need for consultation and compromise. But his rhetoric too often dwells on the limitations of Congress and his actions confuse the initiative toward cooperation he has commendably begun.

When "national policy" was set by statute in the case of our military assistance laws, for example, the law was circumvented to accommodate an attitude that there exists a higher order of interest.

It is no longer in our national interest, it was argued, to insist that a recipient of American arms refrain from using those arms to commit aggression. It is not in our interest, it was said, to stop the arms flow to a nation which used our weapons to invade and occupy a friendly nation.

These arguments formed the basis for the administration's refusal last fall to follow the law and cut off military assistance to Turkey. Regrettably, Congress had to act to reaffirm the Nation's policy on military assistance. It was a confrontation that could have been avoided if both the letter and spirit of the law had been initially applied.

The Secretary of State has expressed concern over the breakdown of authority in the Western world and has appealed for a return to order. But there can be no greater "crisis of authority" than that which is characterized by public officials who rationalize placing themselves above the dictates of law. The new national partnership must accept that fundamental principle.

The revitalization of Congress as a meaningful participant in the shaping of foreign policy must be largely our own undertaking. While Dr. Kissinger is correct in saying that a legislative body is not "well-suited to the detailed supervision of the day-to-day conduct of diplomacy," Congress must vigorously impose itself as a check over Executive action through proper oversight. And we must participate in the setting of the proper legal parameters within which our diplomats can operate, always mindful of the benefits of flexibility in the conduct of negotiations.

Secretary Kissinger has taken an important step toward a new partnership by offering support as Congress seeks to fulfill its constitutional obligations. I can personally attest to his willingness to consult with Members who are concerned about particular aspects of foreign policy. But whether meaningful support is forthcoming or not, I believe Congress will insist, through legislation if necessary, that the following actions be taken:

First. That information necessary in fulfilling constitutional responsibilities be provided by the executive branch to appropriate committees and individual Members of Congress. Claims of an alleged right of executive privilege have, in themselves, resulted in a usurpation

of legitimate legislative power and have been used primarily to protect erroneous judgments. Congress cannot be an effective check if it is denied the information it needs to fulfill its role.

Second. That the treaty power of the Senate be honored. The Executive has seriously distorted the "advice and consent" clause of the Constitution by negotiating executive agreements in lieu of treaties which are subject to ratification by two-thirds of the Senate. If Congress permits the most important international commitments to be made wtihout its advice and consent, then it is abdicating its responsibility in favor of an arrangement which is not even acknowledged by our Constitution.

Third. That laws concerning foreign policy be faithfully executed. If there are statutes on the books affecting foreign policy which, in the view of the State Department, are no longer appropriate, they should be brought immediately to the attention of Congress and either reaffirmed or changed. When events require the implementation of a law, it is too late to argue that the law is not in the national interest.

Mr. President if these minimal actions are taken with the support of the executive branch, we can go far toward restoring the institutional balance our system requires.

I agree with Secretary Kissinger that consensus is a desirable goal, but we should realize that the institutional arrangements which characterized the cold-war era are now unacceptable. Consensus cannot be achieved by submission of Congress; rather it must be the product of active consultation and open debate.

In a world where policy formulation is complicated by the understandable uncertainty and cynicism of our people, and in a world where each policy option vitally affects their lives, the ideas of this democratic society cannot be restricted, even by the water's edge.

Mr. President, I yield back the remainder of my time.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized for not to exceed 15 minutes.

Mr. ALLEN. Mr. President, I thank the Chair for recognizing me at this time.

THE PROPOSED AMENDMENT OF RULE XXII

Mr. ALLEN. Mr. President, the purpose of my remarks at this time is to explain for the record, and, it is hoped, for the Vice President, had he been present in the Chamber presiding over the Senate, the parliamentary situation that we may expect to have later on in the day. The reason the Senator from Alabama is speaking at this time is because, under the parliamentary procedure that he understands is to be pursued, a motion to table a point of order is expected to be made to a motion to be made by the proponents of Senate Resolution 4, a motion to be made to table that point of order, and that would cut off debate.

So, Mr. President, that makes it incumbent on the Senator from Alabama at this time to explain just what is involved.

The distinguished majority leader requested the proponents of Senate Resolution 4 to advise those of us who oppose any effort to amend rule XXII as to the procedure that they plan to follow to raise this question here in the Senate. I commend the distinguished majority leader for his fairness and for his arms-length dealing with the opposing side in this controversy.

The Senator from Alabama has been advised that at 12 o'clock, or shortly thereafter, the distinguished Senator from Kansas (Mr. PEARSON) will be recognized for the purpose of making a motion that the Senate proceed to the consideration of Senate Resolution 4, appearing first on the calendar.

That motion, of course, is debatable and has been debated.

It is the understanding of the Senator from Alabama that a motion will then be made in what I call the McGovern-Humphrey plan of 1967, that some 2 hours, or another length of time—it was 2 hours in the McGovern situation in 1967—be allowed for debating the motion that is to be filed.

It would provide that at the end of 2 hours the Presiding Officer would put the question on whether or not we should proceed to consider Senate Resolution 4. It is planned that a point of order will be made against that motion, which, of course, would suspend the rules, would evade rule XXII, and would seek to amend the Senate rules by a majority vote.

That point of order, of course, would be a point well taken. But without waiting on the Presiding Officer of the Senate to rule on that point of order, a motion will be made to table the point of order, cutting off debate.

The point the Senator from Alabama wishes to make is that even if the point of order to the motion to be filed to proceed to a vote on the motion at the end of 2 hours is made and it is tabled, all that would decide is that the motion to have a vote after 2 hours is properly before the Senate. It would not decide the question of the passage of the motion. It would still be there, and it would still be subject to debate.

The Senator from Alabama wants to call that to the attention of the Presiding Officer of the Senate because he does not know what the advocates of Senate Resolution 4 have been doing about advising the Presiding Officer, the Vice President, of their views on this matter. The Senator from Alabama long ago said he would have no private conversations with the Vice President. Anything he had to say he would say here on the Senate floor.

In the first place, Mr. President, this motion that the Senate, after 2 hours, vote on the motion of the Senator from Kansas (Mr. PEARSON), a motion to proceed with Senate Resolution No. 4, is only a unanimous-consent request. The Senator from Alabama points that out. How many times have we heard the distinguished majority leader get up and say, "I ask unanimous consent that there be 2 hours of debate" on an issue "and at the end of that time there will be a vote"? That is all this motion does. Assuming that the Chair thinks otherwise, it is certainly a motion to suspend the rules which takes a two-thirds vote.

Mr. President, this McGovern-Humphrey route that was followed in 1967 was so thoroughly discredited by the Senate at that time that, until now it has never been used since. Can you imagine the picture: the Senator from Minnesota (Mr. HUMPHREY), then-Vice President, presiding over the Senate, and then the Senator from South Dakota Mr. McGOVERN) getting up and making this motion. The distinguished then-Vice President (Mr. HUMPHREY) said, when the point of order was made by Senator Dirksen, that this motion was out of order and a tabling motion was made on the point of order, that he was going to let that be a test vote, and if they tabled the point of order, then he was going to put this resolution to a vote without any further debate.

Well, you cannot decide one question by deciding how you vote on another question. That is a mistake the Vice President made at that time.

But the point of order was not tabled by the Senate; it was sustained.

(At this point the Vice President assumed the chair.)

Mr. ALLEN (continuing). Much is to be said about the action of Vice President HUMPHREY at that time.

The Senator from Minnesota (Mr. HUMPHREY) as Vice President made two rulings. One was not a ruling but it was a statement of what he was going to do. In 1969 he made a ruling that a majority, a simple majority, fewer than the two-thirds majority, can invoke cloture.

I have been saying in 1969 his ruling lasted only 15 minutes, when Vice President HUMPHREY said that a simple majority could invoke cloture. I have been saying that that stood for 15 minutes, until the Senate could overrule the Vice President. I was mistaken on that, Mr. President. I want to correct that. Back in 1969, rollcall votes lasted for 20 minutes, not 15 minutes. So the ruling by the distinguished Vice President, Mr. HUMPHREY, was a ruling that lasted not for 15 minutes but for 20 minutes. That was how long it lasted. As soon as the Senate had an opportunity to vote on it, the Senate overruled the Vice President.

In 1967, this route of throwing the rule book out of the window was used, trying to invoke cloture by force of numbers, without regard to the rules. It is an effort that ill becomes the advocates of this rules change.

Mr. President, if a motion to table is made with respect to the point of order, I will not have an opportunity to discuss the matter further, and I should like to capsule what is going to be at issue.

The Senator from Kansas is to make a motion that the Senate proceed to the consideration of Senate Resolution No. 4, the resolution seeking to change rule XXII. Thereafter, I understand that

the Senator from Minnesota (Mr. MONDALE) is going to make a motion that at the end of a certain length of time, following the McGovern script, 2 hours, the Chair put the question. A point of order will be made that this motion is an evasion of rule XXII and is not in order.

Then a motion will be made by the proponents of Senate Resolution No. 4 to table the point of order, taking the question away from the distinguished Presiding Officer. If the point of order is tabled, the point that the Senator from Alabama wants to make to the Presiding Officer is that all that is decided is that the motion to proceed to a vote on the Pearson motion at the end of a stated length of time—perhaps 2 hours—is properly before the Senate. It does not rule out subsequent debate with respect to the Mondale motion. That is up for debate because it has not been adopted. It has to be adopted by the Senate and would be subject to debate.

The Senator from Alabama contends, further, that all that the motion to be made by the Senator from Minnesota (Mr. MONDALE) constitutes is a simple unanimous-consent request, and the Senator from Alabama expects to object to that.

If that objection is not felt to be proper, then the Senator from Alabama is going to point out that if this motion ever comes to a vote, since it is a suspension of the rules and the precedents of the Senate, not the written rule, require a two-thirds vote to suspend the rules, it will require a two-thirds vote. This effort that is being made is a back door approach.

Back in 1971, the distinguished majority leader moved to table an appeal by the Senator from New York to the ruling of the Chair that it took a two-thirds vote to invoke cloture. Senator MANSFIELD had this to say, and I read from the RECORD, on page 5486, of March 9, 1971:

> I have said time and time and time again that I am against a mere majority vote to bring about a change in the rules, because I think to do so would alter the position of the Senate in our scheme of Government.

So, Mr. President, what they are trying to do is to change the rules by majority vote—pure and simple.

The VICE PRESIDENT. The Senator's time has expired.

Mr. ALLEN. I thank the Chair.

(The following order was entered during the foregoing remarks of Senator ALLEN and is printed at this point in the RECORD by unanimous consent.)

ORDER FOR ROUTINE MORNING BUSINESS AND FOR RECOGNITION OF SENATORS

Mr. MANSFIELD. Mr. President, the hour of 12 o'clock has arrived. Because of an unusual situation which was developed, in fact, by the majority leader, I ask unanimous consent that after the distinguished Senator from Alabama completes the time allocated to him, the distinguished Senator from Oklahoma (Mr. BARTLETT) be recognized for not to exceed 15 minutes; that there be a morning hour for the conduct of morning business, for not to extend beyond 12:30; that at that time, the distinguished Senator from Kansas (Mr. PEARSON), who was supposed to have achieved recognition at 12 o'clock, be recognized instead.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER OF BUSINESS

The VICE PRESIDENT. Under the previous order, the Senator from Oklahoma is recognized for not to exceed 15 minutes.

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

Mr. BARTLETT. I yield.

PRIVILEGE OF THE FLOOR—SENATE RESOLUTION 4

Mr. JAVITS. Mr. President, I ask unanimous consent that Charles Warren and Patricia Shakow, of my office, have the privilege of the floor during the consideration of the proceedings on rule XXII.

The VICE PRESIDENT. Without objection, it is so ordered.

HAZARDS OF NUCLEAR OPERATIONS

Mr. BARTLETT. Mr. President, this country faces widening shortages of domestically produced hydrocarbon fuels. All alternate economic sources must be developed to the fullest. Nuclear energy, although still in its infancy, is certainly the bright spot on the horizon and has the promise of becoming a most significant energy source in the future—perhaps the most.

The Kerr-McGee Corp. has a facility in Oklahoma which is one of only two existing plants in the United States which manufacture fuel for the AEC's FFTF breeder reactor program. This fuel will be used in Westinghouse's breeder reactor test facility at Hanover, Wash., which is under construction and scheduled for completion in 1977. This testing program for the breeder reactor is an essential element not only in this country's nuclear program but in its total energy program.

Industrial firms associated with the development of nuclear energy are obviously in a precarious position from a public opinion standpoint. We are aware of honest expressions of concern by many citizens and organizations about the hazards of nuclear operations. Although I personally believe much of the criticism is not well founded, I recognize that it does exist and also the right of those concerned citizens to express their feelings.

An honest debate is beneficial. With greater public awareness, more experience, and improved technology, I am confident nuclear energy will be developed safely and will contribute significantly to this country's energy supplies in the years to come.

Mr. President, I became very concerned, however, when I learned of a series of very unusual events which occurred at the Kerr-McGee facility in Oklahoma and which, quite frankly, appear to be an improper effort to discredit both Kerr-McGee's operation in particular and nuclear operations in general.

Since last November Kerr-McGee's Cimarron facility has been the subject of a nationwide hostile publicity campaign by some press and media, in which various allegations concerning the facility were reported in a very sensationalized manner. These charges apparently originated from several local Kerr-McGee employees and appear to be fomented by legislative representatives of the Oil, Chemical & Atomic Workers—OCAW—Union, Mr. Steven Wodka and his superior, Mr. Anthony Mazzocchi, claimed violations of AEC health and safety regulations and deliberate falsification of quality control records on the plutonium fuel pins being produced at the plant. It was even implied that Kerr-McGee may have been involved in the unfortunate death in a one-car accident of Ms. Karen Silkwood, a laboratory technician who figured prominently in the allegations against the facility.

At least six different investigating teams from State and Federal agencies, including three from the AEC, have investigated various aspects of the charges. These extensive investigations revealed only three minor occurrences which technically amounted to deficiencies in the facility's compliance with AEC regulations and also that one employee, without the knowledge or sanction of his supervisor or of the management, did alter certain photographic negatives of test welds to shortcut his work. The AEC reported that not one of the three deficiencies found constituted a health or safety hazard to employees or to the public. The AEC has not yet determined that the altering of the negatives by the one employee did affect the quality of the product involved, although the AEC is reportedly still investigating this.

This very unusual series of events concerning Kerr-McGee's facility in Oklahoma began early last September when a petition was filed with the NLRB calling for an election to decertify OCAW as bargaining representative at the facility. Ms. Silkwood and two other members of the OCAW local came to Washington 3 weeks later to consult with union leaders, including Mr. Mazzocchi and Mr. Wodka. Union personnel accompanied them the next day when they met with AEC representatives at Bethesda and presented a list of 39 allegations concerning working conditions at the Kerr-McGee plant. The AEC apparently considered the allegations minor and planned to handle them in the course of one of its routine inspections of the facility. Thus, investigation into these allegations was not initiated until almost 2 months had elapsed.

Oddly enough, Kerr-McGee had not been informed of the allegations until that time, although its collective-bargaining agreement with the union requires employees to report all safety hazards to their supervisors promptly. Clearly the secretive manner in which these allegations were made could not have been motivated by any sincere concern over the welfare of the employees at the facility.

The decertification election was held in October 16. Two days before the election, a local union meeting featured two critics of the nuclear industry who spoke on hazards of plutonium. OCAW won continued representation by the narrow margin of 80 to 61.

An interesting series of events beginning on November 5 preceded the death of Ms. Silkwood. On two successive days she was discovered to be contaminated with radioactivity while working in the laboratory at the plant. No source for the contamination could be detected, but on each occasion she was thoroughly decontaminated.

On the following day she was examined upon reporting to work and was discovered to have again become contaminated with a higher degree of contamination than before. She also brought urine samples to work that day, as is required, and they were found to have high levels of contamination. This indicated that the source of her contamination was not in the plant.

After being decontaminated, she was accompanied by Kerr-McGee health physics personnel to her apartment which she shared with another Kerr-McGee lab analyst. The roommate was contaminated on two areas of her body and the apartment was also contaminated, particularly in the bathroom and kitchen.

On November 8, Mr. Wodka was in Oklahoma City when Ms. Silkwood made herself unavailable for medical examination which had been recommended by Kerr-McGee's consulting physician. On November 9 Mr. Wodka accompanied Ms. Silkwood while she was seen by AEC and Kerr-McGee consulting physicians. On November 10 Ms. Silkwood, her boyfriend, and her roommate were sent to AEC's Los Alamos laboratory for tests to determine whether radioactive materials were present in their bodies.

None of the three had received sufficient exposure to constitute a hazard to their health.

Ms. Silkwood returned to work on November 13, participated in union management negotiations, and was interviewed by AEC representatives. That evening she attended a union meeting in Crescent, Okla., and after the meeting, was killed when her car left the road. Reportedly, she was on her way to Oklahoma City to meet with Steven Wodka and David Burnham, a New York Times reporter.

The Oklahoma Highway Patrol investigation of the accident revealed that Ms. Silkwood had been under the influence of drugs which impaired her ability to drive. An autopsy established that her death was unrelated to her contamination.

On November 18, Anthony Mazzocchi sent a telegram to Attorney General Saxbe and advised that the OCAW had hired a private investigator who had evidence to suggest that Ms. Silkwood's car was hit from behind by another vehicle forcing her off the road. He requested an immediate investigation into Ms. Silkwood's death.

This is when the hostile publicity campaign began. An article in the New York Times on November 19, written by David Burnham, quoted Mr. Mazzocchi as saying:

> I am not accusing any particular person with murder. Based on an independent investigation, however, it is apparent that someone forced Karen Silkwood from the road, thereby causing her death. I'll leave it to the Federal authorities to determine who and why.

The Washington Star-News headlined Mr. Burnham's article "Murder Hinted in Death of Atom Peril Witness." In an interview with an Oklahoma City TV station the union's investigation was described as "conclusive" by a spokesman for OCAW.

Dr. A. J. Chapman, the Oklahoma State medical examiner, conducted an autopsy and reported there was "more than a therapeutic dose" of a hypnotic sedative present in her body which was enough to "unquestionably" impair her driving. Steve Wodka expertly commented to the press that the union did not believe the drug level found by the Oklahoma State medical examiner would have greatly affected Ms. Silkwood.

The FBI is reportedly conducting an investigation of the accident but has not yet published any results indicating any criminal activity. In the Oklahoma Highway Patrol's reinvestigation of the accident, the accident was reconstructed to test the union investigator's theories. At a new conference on January 10 in Oklahoma, the patrol presented its findings and concluded the union investigator's theories were "without foundation." The patrol further went on to say that the union investigator's construction of the path by which the car left the road and came to rest in the culvert "defies all laws of physics."

A dent which appeared in the left rear of the car, and alleged by the union investigator as evidence the car had been struck from behind, was actually caused by the wrecker which removed the car from the culvert.

The OCAW has continued to ignore the painstaking and exhaustive investigations and reinvestigations by the Federal and State agencies of jurisdiction. Just several weeks ago—on January 22—another attempt was made to revive the controversy through Mr. Burnham of the New York Times. In this article four investigators are now quoted, but the story is essentially the same. The union again implicated Kerr-McGee's involvement by saying that "some unknown person might have deliberately contaminated Ms. Silkwood."

As to the degree and cause for Ms. Silkwood's repeated contaminations, the AEC conducted an extensive investigation beginning the day following the discovery of the apartment contamination in early November, and lasting into early January. This included participation by experts from Los Alamos in Ms. Silkwood's autopsy and intensive testing of her organs for contamination. From this and other tests, the AEC concluded that radioactive material had been added to two of Ms. Silkwood's urine samples. Furthermore,the AEC report of Ms. Silkwood's contamination concluded that her contamination in November probably did not result from an accident or an incident within the plant. Quoting from the AEC report—

> Two urine samples submitted . . . contained plutonium which was not present in the urine when it was excreted.

Mr. President, theft of plutonium, a highly radioactive material, is a Federal crime. Clearly, if the AEC's conclusion is correct that some plutonium was added to two of Ms. Silkwood's urine samples, some plutonium must have been stolen, and adding the plutonium must have been an overt act.

Furthermore, I think it is fair to say, based on these facts, that this act was committed with some purpose in mind. Whether that be the discrediting of Kerr-McGee's facilities of nuclear operations in general, or for some other reason, remains to be determined. The effort to capitalize on the death of Ms. Silkwood may be part of a larger publicity campaign, orchestrated by the legislative representatives of the OCAW with the aid of a reporter at the New York Times. If their common purpose is to undermine the development of nuclear energy in this country, these actions have grave implications, indeed. Certainly they have not been motivated by a genuine concern for the welfare of the OCAW members working at Kerr-McGee's plant.

Mr. President, the development of nuclear energy is extremely important for this country. Honest expressions of concern about the potential hazards of nuclear operations can be a constructive contribution to this development. However, sensationalized reporting of unsubstantiated allegations like the death of Ms. Silkwood have certainly not been a positive contribution. Damage has been done and the negative publicity has been made. This is unfortunate.

There are important questions which have not been answered. It certainly appears to me, Mr. President, that some plutonium was stolen; and it is very strange that someone would deliberately contaminate himself. In as much as theft of plutonium is a Federal crime, I have requested the Attorney General and the Department of Justice to further investigate this matter along these lines. First, who stole the plutonium? And, secondly, what or who motivated the theft? Did Ms. Silkwood contaminate herself? If so, why?

The Department of Justice has indicated their intention to proceed with this investigation.

The VICE PRESIDENT. The Senator's 15 minutes have expired.

Mr. BARTLETT. Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The VICE PRESIDENT. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 12:30 p.m., with statements therein limited to 3 minutes.

PRIVILEGE OF THE FLOOR—SENATE RESOLUTION 4

Mr. MONDALE. Mr. President, I ask unanimous consent that Barbara Dixon of Senator BAYH's staff and Burton Wides of Senator PHILIP A. HART's staff be accorded the privilege of the floor during the consideration of Senate Resolution 4.

The VICE PRESIDENT. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I did not hear the Senator's request.

Mr. MONDALE. We are asking for privileges of the floor during the consideration of the modification of rule XXII.

Mr. ROBERT C. BYRD. For whom?

Mr. MONDALE. Barbara Dixon of Senator BAYH's staff and Burton Wides of Senator PHILIP A. HART's staff.

Mr. ROBERT C. BYRD. Just two persons?

Mr. MONDALE. That is correct.

Mr. ROBERT C. BYRD. I thank the Senator.

The VICE PRESIDENT. Without objection, it is so ordered.

PROPOSED AMENDMENT OF RULE XXII

Mr. MONDALE. Mr. President, we hope today to deal with the question of the change in rule XXII, the so-called filibuster rule. I think the circumstances in which we now find ourselves show how absurd the present two-thirds rule is, in paralyzing, frustrating, and delaying the deliberations of the Senate on essential matters bearing upon national needs.

Just the question of the consideration of a change in the rules and making that the pending business has taken from January 14 until February 19. Although it may seem strange to my colleagues, what we are trying to do today is not to adopt rule XXII, not to consider the merits of rule XXII, but 1 month after it was introduced, we are still trying to get it raised as the pending business of the Senate.

We estimate that in the last Congress over 6 months of the time of that Congress was used intermittently, and sometimes on a full-time basis, by various filibusters involving various issues.

We saw the filibuster raised against campaign finance reform. We saw it raised against the effort to register Americans so that it might be easier for them to vote.

The VICE PRESIDENT. The Senator's 3 minutes have expired.

Mr. ALLEN. Mr. President, I ask that I may be recognized, so that I might yield my time to the Senator from Minnesota.

The VICE PRESIDENT. The Senator from Alabama is recognized.

Mr. MONDALE. I thank the Senator from Alabama for his courtesy.

The filibuster took its toll during the 93d Congress. The voter registration program was delayed for several weeks. The filibuster forced the modification of the campaign reform measure. Two measures were killed by the filibuster, the Consumer Protection Agency bill, and the tax reform package, which we attempted to attach to the debt ceiling bill in June 1974.

I predict that if we fail to reform rule XXII, this Congress will be known as the "filibuster Congress." Every one of the crucial issues we face, including tax reform, energy priorities, and broad economic policies, every one of them a crucial issue, will be delayed. We have never had a session of Congress, perhaps, since the Great Depression, in which so many crucial issues were involved. It is necessary for this Congress, in cooperation with the President, to serve the national needs during this crisis.

If we fail to revise this rule, to reduce the cloture requirement to three-fifths, I predict that on every fundamental issue we will be held hostage by a third of the Senate. We will be unable to serve the national needs. I think we will be subject to tremendous criticism.

For that reason, I hope today we can at least make S. Res. 4 the pending business, so that we might be able to get down to responsible debate and consideration of this crucial matter.

Mr. MATHIAS. Mr. President, as we approach the time when we will finally grapple in a serious way with rule XXII, I have been sitting here and looking at the busts of two distinguished Americans who presided over the Senate, John Adams, our first Vice President, and Thomas Jefferson, one of our most distinguished Vice Presidents and Presidents of the Senate.

I wonder how they would feel about rule XXII. There is a misconception which is broadly believed in this country that rule XXII is one of the hallowed traditions of the Senate. That is a misconception. Rule XXII is really a very modern invention, and I think it would have outraged John Adams, the great civil libertarian, or Thomas Jefferson, one of the apostles of freedom, to think that a majority of the Senate could not control the activities of the Senate.

Rule XXII is, as I say, a modern invention. It is an invention of the year 1917. I think it represents a retreat from the great ideals of the American Revolution, rather than progress toward greater freedom, which has been the American goal. I think if the spirits of John Adams and Thomas Jefferson say anything to us today, they say to us that it is time to return to the democratic concepts that led to the esablishment of the Senate. They say to us, "Give to the Members of the Senate a greater opportunity to control the direction of the policies of the Senate by simple majority rule."

That is all that we ask, as we bring this serious question of the amendment of rule XXII to a decision by the Members of the Senate, and I hope by a majority of the Members of the Senate.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Vice President laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

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

APPROVAL OF BILL

A message from the President of the United States announced that on February 18, 1975, he had approved and signed the enrolled bill (S. 58) relating to the compensation and other emoluments attached to the Office of the Attorney General.

REPORT ON BALANCE-OF-PAYMENTS DEFICIT RESULTING FROM U.S. FORCES IN NATO—MESSAGE FROM THE PRESIDENT

The Vice President laid before the Senate the following message from the President of the United States which was referred to the Committee on Armed Services:

To the Congress of the United States:

In accordance with Section 812(d) of the Department of Defense Apropriation Authorization Act, 1974 (Public Law 93–155), I am pleased to submit a fifth report to the Congress on our progress toward offsetting the balance of payments deficit resulting from the deployment of U.S. forces in NATO Europe.

As required by Section 812, the Department of Commerce has been working in consultation with the Department of Defense and the General Accounting Office to define the U.S. balance of payments deficit on military transactions incurred in Fiscal Year 1974 as a result of our NATO commitments. In my November report, I provided to the Congress tentative figures developed by the Commerce Department which estimated our FY 74 expenditures at $1.983 billion. This has now been confirmed as the final FY 74 expenditure figure.

The Commerce Department is now in the process of identifying U.S. FY 74 balance of payments receipts reflecting military-related sales and exports to our European NATO allies, through both official U.S. Foreign Military Sales (FMS) and commercial channels. Once total receipts have been identified, they will be subtracted from the $1.983 billion in expenditures to establish the FY 74 deficit. While the Department has been able to confirm Allied purchases through FMS channels, it has been unable to settle on a figure for commercial receipts. The Commerce Department's balance of payments accounting procedures are not in sufficient detail to permit it to isolate all of these purchases. Using information provided by our Allies through the NATO Economic Directorate, the Commerce

Department is making an effort to identify as many of these transactions as possible and to include them in its calculation of the balance of payments deficit.

An interagency committee within the Executive Branch has been working to identify other transactions which serve to offset this balance of payments deficit. Of major importance is the FY 74–75 US/FRG Offset Agreement, which was described in some detail in the May 1974 report. We have since been working in cooperation with our Allies to identify additional categories of offsets. These will include Allied purchases of U.S. military-related equipment which cannot be extracted from the U.S. balance of payments accounting system. I will provide details on these offset categories in my May 1975 report to the Congress.

Once our analysis has been completed and the FY 74 military balance of payments deficit has been established, I am confident that this deficit will be offset by the items we have identified and that the requirements of Section 812 will be met.

GERALD R. FORD.

THE WHITE HOUSE, *February 20, 1975.*

MESSAGE FROM THE HOUSE

At 11:34 a.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (S. 281) to amend the Regional Rail Reorganization Act of 1973 to increase the financial assistance available under section 213 and section 215, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the Speaker has signed the enrolled bill H.R. 1767, an act to suspend for a 90-day period the authority of the President under section 232 of the Trade Expansion Act of 1962 or any other provision of law to increase tariffs, or to take any other import adjustment action, with respect to petroleum or products derived therefrom; to negate any such action which may be taken by the President after January 15, 1975, and before the beginning of such 90-day period; and for other purposes.

The enrolled bill was subsequently signed by the Vice President.

At 3 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker has appointed Mr. FLYNT, Mr. STRATTON, Mr. ARMSTRONG, and Mr. TREEN members of the Board of Visitors to the U.S. Air Force Academy on the part of the House.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE CIVIL SERVICE COMMISSION

A letter from the Chairman of the Civil Service Commission reporting, pursuant to law, with respect to positions in grades GS–16, GS–17, and GS–18 (with accompanying papers); to the Committee on Post Office and Civil Service.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

S. Res. 84. An original resolution authorizing additional expenditures by the Committee on Foreign Relations for a study of matters pertaining to the foreign policy of the United States (Rept. No. 94–17).

By Mr. THURMOND, from the Committee on Armed Services, without amendment:

S. Con. Res. 9. A concurrent resolution relating to the establishment of the naval and maritime museum in Charleston, S.C. (Rept. No. 94–18).

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. JAVITS (for himself, Mr. RIBICOFF, Mr. WILLIAMS, Mr. GRIFFIN, Mr. PHILIP A. HART, Mr. HUGH SCOTT, Mr. SCHWEIKER, Mr. CRANSTON, Mr. RANDOLPH, Mr. BROOKE, Mr. KENNEDY, Mr. STAFFORD, Mr. PELL, Mr. CASE, and Mr. LEAHY):

S. 766. A bill to amend the Emergency Unemployment Compensation Act of 1974 so as to increase from 13 to 26 the maximum number of weeks for which an individual may receive emergency compensation thereunder. Referred to the Committee on Finance.

S. 767. A bill to amend the Emergency Jobs and Unemployment Assistance Act of 1974 so as to increase from 26 to 39 the maximum number of weeks for which an individual may reecive unemployment assistance under the special unemployment assistance program established by title II of such act. Referred to the Committee on Labor and Public Welfare.

By Mr. SPARKMAN:

S. 768. A bill to exempt small independent oil products from the Emergency Petroleum Allocation Act of 1973. Referred to the Committee on Interior and Insular Affairs.

By Mr. SPARKMAN (by request):

S. 769. A bill to authorize appropriations for fiscal years 1976 and 1977 for carrying out the Board for International Broadcasting Act of 1973. Referred to the Committee on Foreign Relations.

By Mr. INOUYE:

S. 770. A bill to amend title 38, United States Code, to increase the statutory rates for anatomical loss or loss of use. Referred to the Committee on Veterans' Affairs.

By Mr. McGEE:

S. 771. A bill to assist certain employees of the United States in finding other employment in the civil service. Referred to the Committee on Post Office and Civil Service.

By Mr. TALMADGE (for himself, Mr. DOLE, Mr. BARTLETT, Mr. BELLMON, Mr. BENTSEN, Mr. BUCKLEY, Mr. CHILES, Mr. CHURCH, Mr. CURTIS, Mr. EASTLAND, Mr. FANNIN, Mr. FONG, Mr. FORD, Mr. GARN, Mr. HANSEN, Mr. HRUSKA, Mr. HUMPHREY, Mr. HUDDLESTON, Mr. JOHNSTON, Mr. MCCLURE, Mr. McGEE, Mr. McGOVERN, Mr. MATHIAS, Mr. MONTOYA, Mr. NUNN, Mr. PACKWOOD, Mr. PEARSON, Mr. HUGH SCOTT, Mr. SYMINGTON, Mr. TOWER, Mr. THURMOND, Mr. TUNNEY, and Mr. YOUNG):

S. 772. A bill to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products. Referred to the Committee on Agriculture and Forestry.

By Mr. PROXMIRE:

S. 773. A bill to establish an emergency mortgage credit program to reduce unemployment and aid middle-income homebuyers. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. PERCY (for himself and Mr. RIBICOFF):

S. 774. A bill to regulate lobbying and related activities. Referred to the Committee on Government Operations.

By Mr. CHILES:

S. 775. A bill to limit the categories of questions which may be asked in decennial censuses. Referred to the Committee on Post Office and Civil Service.

By Mr. TUNNEY (for himself, Mr. MAGNUSON, and Mr. PHILIP A. HART):

S. 776. A bill to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes. Referred to the Committee on Commerce.

By Mr. HOLLINGS:

S. 777. A bill for the relief of Alexandra Graham. Referred to the Committee on the Judiciary.

By Mr. MOSS:

S. 778. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to individuals with respect to high mortgage interest rates. Referred to the Committee on Finance.

S. 779. A bill to amend the Internal Revenue Code of 1954 to allow rapid amortization of certain new multiple dwelling units. Referred to the Committee on Finance.

By Mr. BENTSEN:

S. 780. A bill to provide education equalization incentive grants to the States. Referred to the Committee on Labor and Public Welfare.

By Mr. SYMINGTON (for himself and Mr. RANDOLPH):

S. 781. A bill to reduce the salaries of Senators, Members of the House of Representatives, and other Federal officers and employees. Referred to the Committee on Post Office and Civil Service.

By Mr. BAYH:

S. 782. A bill to provide for the establishment of a Foreign Service grievance procedure. Referred to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself, Mr. BAKER, and Mr. GLENN):

S. 783. A bill to authorize a Federal program of research, and demonstration in connection with ground propulsion systems. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS (for himself, Mr. RIBICOFF, Mr. WILLIAMS, Mr. GRIFFIN, Mr. PHILIP A. HART, Mr. HUGH SCOTT, Mr. SCHWEIKER, Mr. CRANSTON, Mr. RANDOLPH, Mr. BROOKE, Mr. KENNEDY, Mr. STAFFORD, Mr. PELL, Mr. CASE, and Mr. LEAHY):

S. 766. A bill to amend the Emergency Unemployment Compensation Act of 1974 so as to increase from 13 to 26 the maximum number of weeks for which an individual may receive emergency compensation thereunder. Referred to the Committee on Finance.

S. 767. A bill to amend the Emergency Jobs and Unemployment Assistance Act of 1974 so as to increase from 26 to 39

the maximum number of weeks for which an individual may receive unemployment assistance under the Special Unemployment Assistance Program established by title II of such act. Referred to the Committee on Labor and Public Welfare.

Mr. JAVITS. Mr. President, I am today introducing two bills, S. 766, the Special Unemployment Assistance Extension Act of 1975, and S. 767, the Emergency Unemployment Compensation Extension Act of 1975, designed to provide critically needed economic aid for the unemployed. These bills would provide an additional 13 weeks of unemployment assistance benefits for the more than 2 million unemployed Americans who are expected completely to exhaust their unemployment compensation benefits under existing law this year. The fact that more than 1 million Americans joined the rolls of the unemployed in January, bringing nationwide unemployment to 7.5 million workers, dramatizes the critical need for continuing Federal programs of emergency assistance to the unemployed. Until this Nation begins its recovery from the current recession it is our responsibility to see to it that those Americans who are bearing the brunt of the recession—unemployed workers and their families—are provided with this basic measure of economic security. I am pleased to be joined on these bills by Senators WILLIAMS, RIBICOFF, HART, GRIFFIN, and NELSON, and invite my other colleagues to join us.

The bills that we are proposing here today will bolster our first line of defense in this war against unemployment—the provision of unemployment compensation payments for those who have lost their jobs through no fault of their own, and who are unable, because of the economic crisis, to find new employment.

These bills build upon two emergency measures I sponsored last November, which were enacted into law in December. The first measure provides for the payment of up to 26 weeks of unemployment assistance to unemployed workers who had not previously been employed at a job covered by the Federal-State unemployment insurance system. The second provides that those workers who had been working in covered employment, but who had exhausted their entitlement under the permanent legislation to regular unemployment insurance and extended unemployment insurance benefits, are entitled to receive up to 13 additional weeks of unemployment assistance—bringing their total compensable period up to 52 weeks.

We hoped that these extensions would be sufficient to meet the needs of the unemployed in this recessionary period. Unfortunately, however, we now know that they are inadequate to the unemployment crisis we are likely to face for many months to come. Not only has total unemployment been spiraling, but equally distressing, is the indication that the average duration of periods of unemployment—a figure that has over the past year remained relatively stationary—has now begun to rise sharply. Estimates are that the average duration of period of unemployment may exceed 20 weeks by late spring. Not only are more and more Americans finding themselves out of a job, they are remaining unemployed for longer and longer periods of time.

To address this problem, the bills we are introducing today would provide an additional period of unemployment compensation for all workers who had exhausted their full entitlements to unemployment compensation. This would provide unemployed workers in "covered employment" with up to 65 weeks of unemployment assistance, and those workers who were newly covered under the Emergency Jobs and Unemployment Assistance Act of 1974 with up to 39 weeks of benefits.

Without the benefit of this legislation thousands and thousands of American workers will be exhausting their unemployment assistance benefits in the coming months, as many as 2 million by the end of the year. Many of these workers will not be able to find jobs before they exhaust benefits, as they have been unable to find them over the past year. At that point, increasingly large numbers of unemployed workers will be forced to apply for public assistance in order to provide the necessities of life for their families. We already know of the distressing accounts of the desperate economic status of overburdened State and local governments. To add to that burden now, by forcing them to assume responsibility for income maintenance payments for the unemployed, would be intolerable.

These bills represent the third and fourth pieces of legislation that I have introduced in this Congress to provide emergency relief for the unemployed. The first such bill, S. 609, would expand and extend the public service jobs provisions of the Emergency Jobs and Unemployment Assistance Act passed last session, to provide for the establishment of up to an aggregate of 1 million public service jobs under titles II and VI of the Comprehensive Employment and Training Act. The second bill, S. 625, which I have cosponsored with the Chairman of the Labor and Public Welfare Committee, Senator WILLIAMS, the chairman of the Health Subcommittee, Senator KENNEDY, and the subcommittee's ranking minority member, Senator SCHWEIKER, would provide health insurance benefits for the unemployed.

Barring unexpected economic changes in the coming year, one in four working Americans will lose their jobs and find themselves forced to apply for unemployment assistance. The plight of these workers and their families, the people upon whom the burden of the recession will invariably fall hardest, must be the No. 1 priority of this Congress. I urge that all four of these measures receive the most prompt attention from the Senate.

By Mr. SPARKMAN:

S. 768. A bill to exempt small independent oil producers from the Emergency Petroleum Allocation Act of 1973. Referred to the Committee on Interior and Insular Affairs.

Mr. SPARKMAN. Mr. President, last fall, I introduced S. 4001. This legislation was designed to provide a clear and concise distinction between the truly independent oil producers of this country and the major oil companies. S. 4001 died with the adjournment sine die of the last Congress.

I am reintroducing this legislation today because it seems to me to be rather urgent from the standpoint of small independent producers of this country that with all of the proposed tax legislation applicable to the industry, they be carefully identified and then separated from the giant integrated, multinational major oil companies.

The last time Congress failed to distinguish between the independents and the majors, the Tax Reform Act of 1969 became law. The majors passed their additional tax loss on to the consuming public and the nonintegrated producers who have traditionally found 80 percent of the domestic reserves of oil and natural gas in this country were penalized.

In discussing the merits of this bill in this Chamber during the last Congress, I analogized the capital structures of the major oil companies as opposed to the economic posture of the independent producers as reminiscent of David and Goliath. I characterized our previous attempts to limit the size of the Goliaths as having only succeeded in taking away pebbles from the Davids of the oil industry.

My overriding reason for preserving and protecting the small independent oil sector of the oil industry is because they are and have been the traditional sources of new domestic exploration and drilling.

It is my fervent hope, Mr. President, that this legislation will be a building block upon which we can move closer to true energy independence. We must take a long view in preserving and encouraging the sector of the oil industry that has consistently stood at the frontier of energy exploration and development. The problem is squarely before us. The time to answer is now.

By Mr. SPARKMAN (by request):

S. 769. A bill to authorize appropriations for fiscal years 1976 and 1977 for carrying out the Board for International Broadcasting Act of 1975. Referred to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request I introduce for appropriate reference a bill to amend the Board for International Broadcasting Act of 1973, as amended, to provide authorization for appropriations for fiscal years 1976 and 1977.

The bill has been requested by the Board for International Broadcasting and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when it is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Chairman of the Board for International

Broadcasting to the President of the Senate dated February 4, 1975.

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

S. 769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 8(a) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877 (a)) is amended—

(1) by striking out "$49,990,000 for fiscal year 1975, of which not less than $75,000 shall be available solely to initiate broadcasts in the Estonian language and not less than $75,000 shall be available solely to initiate broadcasts in the Latvian language" in the first sentence and inserting in lieu thereof "$65,640,000 for fiscal year 1976 and such sums as may be necessary for fiscal year 1977"; and

(2) by striking out "fiscal year 1975" in the second sentence and inserting in lieu thereof "fiscal year 1976."

BOARD FOR INTERNATIONAL BROADCASTING,
Washington, D.C., February 4, 1975.

Hon. NELSON A. ROCKEFELLER,
Vice President of the United States and President of the Senate, U.S. Capitol, Washington, D.C.

DEAR MR. PRESIDENT: The Board for International Broadcasting encloses and recommends for your consideration proposed legislation to amend the Board for International Broadcasting Act of 1973, as amended, to provide authorization for appropriations for fiscal years 1976 and 1977.

The authorization sought by this bill will provide for the operations of the Board for International Broadcasting in fiscal year 1976 through 1977 and for the continuation of grant assistance to Radio Free Europe and Radio Liberty. It continues to be the position of this Administration that the broadcasts of these Radios to Eastern Europe and the Soviet Union contribute significantly to international peace and serve the interests of the United States.

The Office of Management and Budget advises that enactment of the proposed legislation would be in accord with the President's program.

A letter similar in content is being sent to the Speaker of the House of Representatives.

Sincerely yours,

DAVID M. ABSHIRE,
Chairman.

By Mr. INOUYE:

S. 770. A bill to amend title 38, United States Code, to increase the statutory rates for anatomical loss or loss of use. Referred to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, as a disabled veteran, I have firsthand knowledge of many of the problems and difficulties facing those who have been injured while in the service. I have been more fortunate than many other veterans in both professional and financial terms, for which I am grateful. Still, those less fortunate veterans, many of whom rely on veterans' assistance programs for necessary financial support, have suffered as the continued rise in the cost of living has eaten away the purchasing power of their assistance dollars.

The periodic congressional review and restructuring of disability compensation programs have been designed to keep payments to the 2,206,496 veterans who have service-connected disabilities in line with their needs. For most veterans this has been successful, but for 85,645 who receive section 314(K) awards, it has not been.

The "K" award is paid to veterans who have suffered anatomical loss or loss of use of one foot, one hand or one eye. This award is independent of other compensation provided to veterans.

In 1946, Public Law 79–662 set the "K" award at $42 per month. In 1952, Public Law 82–427 increased it to $47 per month. And the 93d Congress increased the award an additional $5 per month to $52 with Public Law 93–295. The report of the Senate Committee on Veterans' Affairs to accompany S. 3072 stated:

The "K" award while a minor portion of the total award of compensation is nonetheless a compensatory award for anatomical loss. Thus in the light of the extraordinary inflation disabled veterans are experiencing, the Committee is of the opinion that a 10 per cent increase in the "K" awards is warranted.

Thus between the years 1946 and 1974 when the cost of living has inceased more than 152 percent, the "K" award has risen only 24 percent.

Therefore, I am introducing today, for appropriate reference, a bill that will increase the statutory award from the present $52 to $80 per month.

This increase is necessary in light of the "extraordinary inflation disabled veterans are experiencing" that the Veterans' Affairs Committee cites. It is essential in those rare cases where the statutory award is all the assistance a veteran receives. This reasonable and overdue increase is the least we can do for these dedicated veterans who have sacrificed so greatly on our behalf. I hope that Congress will take expeditious action to correct this grave inequity.

By Mr. McGEE:

S. 771. A bill to assist certain employees of the United States in finding other employment in the civil service. Referred to the Committee on Post Office and Civil Service.

Mr. McGEE. Mr. President, implementation of section 12 of the Indian Reorganization Act, giving preference to American Indians for positions involved in the administration of Indian affairs, has created a quandary for many nonpreference employees of the Bureau of Indian Affairs and the Indian Health Service.

By far, most of these employees who have either spoken or corresponded with me concerning their problem support the principle of self-determination and firmly believe that qualified Indians should be handling Indian Affairs. Yet, the implementation of that policy creates a dead-end situation for the career employee who does not enjoy preference under the law. For some, who have sufficient service and age, the option of retirement is available. For others, though, the prospect is, at present, quite bleak. Legislation has been proposed to revise retirement benefits for these personnel and thus create more opportunity for Indian advancement and employment in the affected agencies.

There are many who desire to remain in the civil service and who hope for greater assistance in their efforts to obtain employment offering an opportunity for advancement. These employees have been told that the Department of the Interior is working on a placement assistance program. And while most BIA and Indian Health Service employees do seem to have applications out, I have a thick file of letters from employees caught in this situation which casts great doubt on the progress of any out-placement program for these people, whose position, if not unique, certainly approaches that status. Public policy has, to a considerable degree, resulted in their opportunities being limited by the principle of Indian preference.

Today, I am introducing a bill which I trust can be the vehicle for a thorough consideration of the plight of these people and, at the same time, help facilitate the progress toward Indian self-determination by increasing opportunities for Indian people.

By Mr. TALMADGE (for himself, Mr. DOLE, Mr. BARTLETT, Mr. BELLMON, Mr. BENTSEN, Mr. BUCKLEY, Mr. CHILES, Mr. CHURCH, Mr. CURTIS, Mr. EASTLAND, Mr. FANNIN, Mr. FONG, Mr. FORD, Mr. GARN, Mr. HANSEN, Mr. HRUSKA, Mr. HUMPHREY, Mr. HUDDLESTON, Mr. JOHNSTON, Mr. MCCLURE, Mr. MCGEE, Mr. MCGOVERN, Mr. MATHIAS, Mr. MONTOYA, Mr. NUNN, Mr. PACKWOOD, Mr. PEARSON, Mr. HUGH SCOTT, Mr. STONE, Mr. SYMINGTON, Mr. TOWER, Mr. THURMOND, Mr. TUNNEY, and Mr. YOUNG):

S. 772. A bill to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer education, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products. Referred to the Committee on Agriculture and Forestry.

BEEF RESEARCH AND CONSUMER INFORMATION ACT

Mr. TALMADGE. Mr. President, the beef producers of America, in the face of the most severe economic crisis in the history of the cattle industry, have proposed a far-reaching program for self-help. Their program is aimed at: First, improving the efficiency of production and marketing of beef; second, improving the general viability of the industry; third, assuring adequate supplies of beef at reasonable prices for all Americans; and fourth, providing consumers with better information about the quality factors of beef and how to more efficiently utilize all beef products. They propose to do these things through basic research and dissemination of better information to all persons. And most admirably they will do all of this through self-assessment at no cost to the Federal Government.

This plan is incorporated into the Beef Research and Consumer Information Act, which I am pleased to introduce with the ranking minority member of the Agriculture Committee, Senator DOLE.

Before explaining some high points of the act, let me briefly review the status of the beef industry and some recent developments that make the passage of this act imperative.

The cattle industry is the largest segment of American agriculture. Cash receipts for cattle and calves in 1973 totaled $22.1 billion. On January 1, 1975, there were nearly 1.9 million farms and ranches with cattle—131.8 million head valued at $21.8 billion. In addition to these producers, there are several million more Americans who are directly dependent upon the beef industry for their livelihood—the farmers who grow the grain and other feed for cattle; factory workers who manufacture machinery, pharmaceuticals and related items used by cattlemen; meat processors who slaughter, pack, and transport beef; retail clerks who handle and sell beef in retail stores; and many more.

In addition, beef is a vital source of protein so necessary to good nutrition. Cattle can convert raw materials, which are not palatable to people, into a palatable meat for people. Without cattle and other ruminant animals, about 890 million acres of pasture, grass, and grazing land—39 percent of the total land area of the United States—would not be utilized. This would be a terrible waste. But through cattle, the forages on these grasslands are converted to high quality protein.

But of even greater importance is the place of beef in the life styles of the American people. Beef is truly the premier food item for Americans and has assumed an ever more central role in the American diet. It is enjoyed by nearly all of the 68 million households in the United States.

Just how important beef is to Americans is illustrated by the fact that per capita consumption has more than doubled in a little over two decades.

In 1974 per capita consumption of beef reached 117 pounds. However, the ongoing supply of beef is currently endangered by the economic crisis beef producers face. This problem endangers the quality of life for every American.

Beef producers are in the midst of an unprecedented economic crisis. Average prices received for fed cattle dropped from $53.25 per hundredweight in August 1973 to $47.28 in August 1974, and to about $35 this month. The result is that cattle feeders have lost $50 to $200 on every animal fed, adding up to total losses of over $2 billion. Some cattlemen already are bankrupt and many more, faced with predictions that it will take 2 years to work out of this depressed cattle cycle, are selling their herds and switching to other enterprises. The economic repercussions of these losses are now being felt by financial institutions, allied industries, and the entire economies of many communities.

It will also cause severe impact on consumers when beef supplies dry up and as a result, prices shoot upward.

The problem is an outgrowth of several well intended but ill advised efforts over the past couple of years to control the normal market adjustments of beef prices. These include the beef boycotts of early 1973 and the especially pervasive impact of phase IV on beef markets in July and August of 1973.

In addition, the crop shortfalls of last year and the general economic recession of today are further deepening the problem.

There is not enough awareness in our society of the complexity of agricultural production, nor of the workings of free markets in which beef and other agricultural products operate. While beef prices have risen, the increase for the past 20 years is only 98 percent compared to a 165 percent increase in disposable income for the same period.

And last year, consumers spent about 2.6 percent of their incomes on beef, the same percentage as in 1950, but they received nearly twice as much beef and better beef.

It is against this backdrop and toward the proposition of lessening these problems that the beef industry is asking for the Beef Research and Consumer Information Act. They are not asking for Government money or Government aid—only for permissive legislation that will permit a self-help program. And the way they propose to help themselves is to help their customers—the consumers.

Under this program, the cattlemen will spend their own money on research projects relating to nutrition, human health, new beef products, marketing, and distribution. Progress in any of these areas will help consumers and thus create better markets for beef.

Under this program, the cattlemen will spend their own money on consumer information and education programs—youth education in our schools as well as adult education. They propose education programs on the economics of buying, how to get more for your food dollar, how to select and prepare the most economical beef cuts, et cetera. Likewise, they will attempt to provide the best possible information about beef and human health based on reliable research.

Under this program, the cattlemen will spend their own money on market information programs—on the supply and demand for beef, on production cycles, et cetera—aimed at leveling out the extreme fluctuations in supply. Relative price and market stability is, in the long run, advantageous to both producers and consumers.

From the endorsements by many State and national cattlemens' associations, it is obvious that most cattlemen favor this self-help approach to solving their problems. However, in the best tradition of the free enterprise system, any individual cattleman who does not wish to participate may request a refund of his deduction. In this way, the program is truly voluntary and democratic.

Again, I emphasize that this program will cost the Government nothing. The act even calls for cattlemen to reimburse the Government for the cost of conducting the referendum and for any administrative cost in auditing or other miscellaneous expenses.

Mr. President, for all these reasons, I am pleased to introduce the Beef Research and Consumer Information Act.

I ask unanimous consent that an explanation of this legislation, together with the bill itself, be printed at this point in the RECORD.

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

SUMMARY OF BEEF RESEARCH AND CONSUMER INFORMATION ACT

NOTE.—The final implementation of a national uniform collection plan will require three separate documents which are integrated to provide the whole cloth of the program. They are as follows:

1. Enabling Legislation. An Act must be passed by the U.S. Congress, setting up the basic mechanism of the assessment, enforcement, and administration.

2. Beef Research and Promotion Order. The enabling legislation once enacted by Congress, will call for the Secretary of Agriculture to issue "Orders", after published notice and hearings, which will flesh out the working details. This Order must be approved by the producers in a nationwide referendum election.

3. Regulations. The internal technical details of everyday enforcement, such as forms, audit procedures, voting, etc., will be worked out by the Beef Board and the Secretary of Agriculture, consistent with the Enabling Act and the Order.

Since the Act and the Order are both necessary to a complete understanding of the program, this memorandum will summarize the principles rather than section by section, with appropriate references to the Act and the Order.

PURPOSE

To enable cattle producers to establish, finance, and carry out a coordinated program of research, produce and consumer education, and promotion to improve, maintain, and develop markets for cattle, beef and beef products, and to provide an adequate, steady supply of high quality beef and beef products readily available to the consumers of the Nation at reasonable prices.

ENACTMENT

To effectuate the declared policy of the Act once passed, the Secretary of Agriculture will issue beef research and promotion orders. Such orders will be issued only after due notice and opportunity for hearing shall have been given to producers and producer organizations, and after the Secretary shall have determined that the issuance of such an order will effectuate the declared policy of the Act.

The Secretary will then conduct a referendum election among cattle producers who, during a representative period have engaged in the production of cattle. No Order issued by the Secretary will take effect until approved by referendum.

THE ORDER—APPROVAL, SUSPENSION OR TERMINATION

Any proposed order must be approved by not less than two-thirds of the producers voting in the referendum, or by a majority of the producers voting in such referendum if such majority produced not less than two-thirds of the cattle owned by producers voting in the referendum.

The Secretary shall suspend or terminate the Order at any time he finds that Order or any provisions of the Order do not effectuate the declared purpose of the Act.

The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 percentum or more of the number of producers voting in the referendum approving the Order. Such Order shall be terminated six months after it is determined that suspension or termination of the Order is approved or favored by a majority of the cattle producers voting in such referendum who produced more than 50 percentum of the cattle produced by the cattle producers voting in the referendum.

BEEF BOARD

A Beef Board is established to administer the Order in accordance with its terms and provisions, to make rules and regulations to effectuate the terms and provisions of the Order, to receive, investigate and report complaints of violations of the Order, and to recommend to the Secretary amendments to the Order.

The Beef Board will be made up of 68 members, all cattle producers appointed from nominations submitted by eligible cattle producer organizations. The members of the Beef Board shall represent the proportion of cattle produced in each geographic area of the United States. The Beef Board members will serve for six year staggered terms.

Any plans for advertising, sales promotion, consumer education, producer education, research, and the annual budget shall be developed by the Beef Board and submitted to the Secretary of Agriculture for approval. The Beef Board shall have power to enter into contracts or agreements for the development and carrying out of the activities authorized under the Order.

BEEF PRODUCER ORGANIZATIONS

In order to nominate persons for selection to the Beef Board, beef producer organizations must be certified by the Secretary of Agriculture. Certification shall be based, in addition to other available information, upon a factual report including:

(a) Geographic territory covered by the organization's active membership.

(b) Proportion of active membership accounted for by producers of cattle.

(c) The extent to which the cattle producer membership is represented in setting the organization's policies.

(d) Evidence of stability and permanency of the organization.

(e) Sources from which the organization's operating funds are derived.

(f) Functions of the organization.

(g) The organization's ability and willingness to further the aims and objectives of the Act.

Where more than one organization is certified in any geographic area, such organizations may caucus to determine the area's nominations. If joint agreement is not reached with respect to the nominees for any such position, each organization may make nominations from which the Secretary shall choose an appointee.

ASSESSMENT AND COLLECTION

The producer (seller) of all cattle shall be assessed at a specific rate to be determined as follows:

(a) The initial rate specified in the Order, is three-tenths of one percent (.3%) of the sale price of the cattle sold.

(b) After the first year, the rate may be set anywhere from one-tenth of one percent (.1%) to five-tenths of one percent (.5%) by the Beef Board with the approval of the Secretary.

(c) The assessment rate can be raised above five-tenths of one percent (.5%) only with the approval of the producers in a new referendum election.

Each time cattle are sold, the cattle producer (seller) shall pay to the purchaser the amount assessed, based upon the sale price of the cattle. The purchaser shall hold that assessment, and pay the same to any person to whom he subsequently sells the cattle, along with the added assessment resulting from the increase in value of the cattle under his ownership. The purchaser at the point of slaughter shall receive from the seller at that point the total assessment, based upon the sale price of the cattle at the point of slaughter, and shall remit that assessment to the Beef Board.

The sale of breeding cattle shall be exempt from assessment until the final sale at slaughter, and the final assessment at point of slaughter shall be at one half the rate for the first six months of operation.

PRODUCER REFUNDS

Any cattle producer against whose cattle or beef any assessment is made and collected from him shall have the right to demand and receive from the Beef Board a refund of such assessment. The producer must furnish proof that he paid the assessment for which the refund is sought. Demand for a refund must be made not more than thirty days after the end of the month in which the sale of said cattle occurred, and any such refund shall be made within sixty days after demand is received.

STATE BEEF BOARDS

Nothing in the program shall be construed to pre-empt or interfere with the workings of any beef board, beef council, or other beef promotion entity organized and operating within and by authority of any of the several states.

The Beef Board shall, with the approval of the Secretary of Agriculture, return to each state where a request is made by a qualified state beef council, beef board or other beef promotion entity operating within and by authority of said state, an amount up to the proportion which cash receipts for cattle sales for the previous three years within said state is to total cash receipts for cattle sales for the previous three years within the United States, of ten (10) percent of the collections by the Beef Board for the given year, after administrative costs and refunds from the given state have been deducted. Approval of such requests shall be based upon the apparent ability of the programs to further the purposes of the Act and Order and complement the national research and promotion efforts. Nothing in this provision shall prevent the Beef Board from entering into further contracts or agreements with any state beef promotion entity to carry out purposes or projects to implement the Act.

To qualify for the funds described in this provision, a state beef board, beef council or other beef promotional entity shall be organized pursuant to legislative authority within the state, or by charter with goals and purposes complementary to the goals and purposes of the Act and Order, and demonstrate ability to provide research, promotion and education within the state consistent with the Act and Order. In no event shall more than one entity qualify within a state. If more than one entity applies for qualification within a state, they should attempt to merge or combine, and if no such merger or consolidation is possible, the Secretary shall choose the one most qualified to fulfill the purposes of the Act and Order.

REPORTS, BOOKS AND RECORDS

Each purchaser, handler or agent thereof, may be required to report to the Beef Board periodically concerning number of cattle handled, amount assessed, sale price of cattle on which assessment was collected, and other information necessary for the enforcement of this Act.

Each handler of cattle subject to the Act shall make available for inspection by the Beef Board and the Secretary such books and records as are necessary to carry out the provisions of the Act. Any information obtained from such books, records or reports shall be kept confidential under penalty of law.

ENFORCEMENT

The Act and Order may be enforced in the District Courts of the U.S., with the U.S. Attorney General having authority to bring any Civil suits authorized under the Act.

Any person who willfully violates any provision of the Act, Order, or regulations issued thereunder, or who willfully fails or refuses to collect or remit any assessment or fee duly required of him, shall be liable to a penalty of not more than $1,000 for each such offense.

FUNDS NOT TO BE USED TO INFLUENCE GOVERNMENTAL ACTION

No funds collected by the Beef Board shall in any manner be used for the purpose of influencing governmental policy or action.

S. 772

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 "Beef Research and Consumer Information Act".

LEGISLATIVE FINDINGS AND DECLARATION OF POLICY

SEC. 2. Beef constitutes one of the basic, natural foods in the diet. It is produced by many individual cattle producers throughout the United States. Beef products move in interstate and foreign commerce and those which do not move in such channels of commerce directly burden or affect interstate commerce of beef products. The maintenance and expansion of existing markets and the development of new or improved markets and uses are vital to the welfare of cattle producers and those concerned with marketing, using, and processing beef as well as the general economy of the Nation. The production and marketing of beef products by numerous individual cattle producers have prevented the development and carrying out of adequate and coordinated programs of research and promotion necessary for the maintenance of markets and the development of new products of, and markets for, cattle, beef, or beef products. Without an effective and coordinated method for assuring cooperative and collective action in providing for and financing such programs, individual cattle producers are unable to provide, obtain, or carry out the research, consumer and producer information, and promotion necessary to maintain and improve markets for any or all beef products.

It has long been recognized that it is in the public interest to provide an adequate, steady supply of high quality beef and beef products readily available to the consumers of the Nation. Maintenance of markets and the development of new markets, both domestic and foreign, are essential to the cattle industry if the consumers of beef and beef products are to be assured of an adequate, steady supply of such products at reasonable prices.

It is therefore declared to be the policy of the Congress and the purpose of this Act that it is essential and in the public interest, through the exercise of the powers provided herein, to authorize and enable the establishment of an orderly procedure for the development and the financing, through an adequate assessment, of an effective and continuous coordinated program of research, consumer and producer education, and promotion designed to strengthen the beef industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for United States beef. Nothing in this Act shall be construed to mean, or provide for, control of production or otherwise limit the right of individual cattle producers to produce cattle or beef.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "Secretary" means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(b) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(c) The term "cattle" means domesticated bovine quadrupeds.

(d) The term "beef" means the flesh of cattle.

(e) The term "beef products" means products produced, in whole or in part from cattle.

(f) The term "producer" means any person who sells any cattle or shares in the proceeds of the sale of any cattle, or who sells or shares in the proceeds of the sale of any beef or beef products which comes from cat-

tle of his own production: *Provided,* That a person shall not be considered to be a producer if his only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

(g) The term "United States" means the forty-eight contiguous States of the United States of America, Alaska and Hawaii, and the District of Columbia.

(h) The term "promotion" means any action, including paid advertising, to advance the image or desirability of beef and beef products.

(i) The term "research" means any type of research to advance the image, desirability, marketability, production, or quality of beef and beef products.

(j) The term "consumer education" means any action to advance the image or desirability of beef.

(k) The term "marketing" means the sale or other disposition of cattle, beef, or beef products, in any channel of commerce.

(l) The term "commerce" means interstate, foreign, or intrastate commerce.

(m) The term "purchaser" means any person specified in the order or the rules and regulations issued thereunder, who receives or otherwise acquires ownership of cattle or beef from a producer.

(n) The term "handler" means any person, specified in the order or the rules and regulations issued thereunder, who receives or otherwise acquires cattle or beef from a producer, and processes, prepares for marketing, or markets, such beef or beef product including cattle of his own production.

BEEF RESEARCH AND PROMOTION ORDERS

SEC. 4. To effectuate the declared policy of this Act, the Secretary shall, subject to the provisions of this Act, issue and from time to time amend, an order applicable to persons engaged in the production or sale of cattle (or both), persons who receive or otherwise acquire cattle or beef from such persons and who process, prepare for market, or market such beef, including cattle of their own production, and persons engaged in the purchase, sale or processing of beef for beef products. Such order shall be applicable to all production or marketing areas, or both, in the United States.

NOTICE AND HEARING

SEC. 5. Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this Act he shall give due notice, and opportunity for hearing upon a proposed order. Such hearing may be requested and proposal for an order submitted by an organization certified pursuant to section 16 of this Act, or by any interested person affected by the provisions of this Act, including the Secretary.

FINDING AND ISSUANCE OF AN ORDER

SEC. 6. After notice and opportunity for hearing as provided in section 5, the Secretary shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this Act.

PERMISSIVE TERMS IN ORDERS

SEC. 7. An order issued pursuant to this Act shall contain one or more of the following terms and conditions, and except as provided in section 8, no others:

(a) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising, sales promotion, and consumer education with respect to the use of cattle, beef, or beef products and for the disbursement of necessary funds for such purposes. Any such plan or project shall be directed toward increasing the general demand for cattle, beef, or beef products. No reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against the cattle, beef, or beef products of other persons. No such advertising, consumer education, or sales promotion programs shall make use of false or misleading claims in behalf of cattle, beef, or beef products, or false or misleading statements with respect to quality, value, or use of any competing product.

(b) Providing for, establishing, and carrying on research, marketing, and development projects, and studies with respect to sale, distribution, marketing, utilization, or production of cattle, beef, or beef products, and the creation of new products thereof, to the end that the marketing and utilization of cattle, beef, or beef products may be encouraged, expanded, improved, or made more acceptable, and the information collected by such activities may be disseminated and for the disbursement of necessary funds for such purposes.

(c) Providing that persons engaged in the sale of cattle or beef, persons engaged in the production of cattle or beef, and persons who receive or otherwise acquire cattle, beef, or beef products from such persons and who process, prepare for market, or market such cattle, beef, or beef products, including cattle of their own production, maintain and make available for inspection such books and records as may be required by any order issued pursuant to this Act and file reports at the time, in the manner, and having content prescribed by the order, to the end that information shall be made available to the Beef Board and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of the Act, or of any order or regulation issued pursuant to this Act: *Provided,* That all information so obtained shall be kept confidential by all officers and employees of the Department of Agriculture, the Beef Board, and by all officers and employees of contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which he or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, (2) the publication, by direction of the Secretary, of general statements relating to refunds made by the Beef Board during any specific period, or (3) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee violating the provision of this subsection shall, upon conviction, be subjected to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and if an officer or employee of the Beef Board or Department of Agriculture, he shall be removed from office.

(d) Terms and conditions incidental to and not inconsistent with the terms and conditions specified in this Act and necessary to effectuate the other provisions of such order.

REQUIRED TERMS IN ORDER

SEC. 8. The order issued pursuant to this Act shall contain the following conditions:

(a) Providing for the establishment and appointment, by the Secretary, of a Beef Board which shall consist of not more than sixty-eight members, and alternates therefor, and defining its powers and duties which shall include only the powers (1) to administer such order in accordance with its terms and provisions, (2) to make rules and regulations to effectuate the terms and provisions of such order, (3) to receive, investigate, and report to the Secretary complaints of violations of such order, (4) to recommend to the Secretary amendments to such order. The term of an appointment to the Beef Board shall be for three years with no member serving more than six consecutive years, except that initial appointment shall be proportionately for one, two and three years.

(b) Providing that the Beef Board, and alternates therefor, shall be composed of cattle producers appointed by the Secretary from nominations submitted by eligible organizations, associations, or cooperatives, and certified pursuant to section 16, so that the representation of cattle producers on the Board shall reflect, to the extent practicable, the proportion of cattle produced in each geographic area of the United States as defined by the Secretary: *Provided,* That each such beef producing geographic area shall be entitled to at least one representative on the Beef Board.

(c) Providing that the Beef Board shall, subject to the provisions of subsection (g) of this section, develop and submit to the Secretary for his approval any advertising, sales promotion, consumer education, producer education, research, and development plans or projects, and that any such plan or project must be approved by the Secretary before becoming effective.

(d) Providing that the Beef Board shall, subject to the provisions of subsection (g) of this section, submit to the Secretary for his approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of advertising, promotion, consumer education, research, and development projects.

(e) Providing that each cattle producer shall pay to the purchaser or handler of beef designated by the Beef Board pursuant to regulations issued under the order, an assessment based upon the value of cattle, beef or beef products handled for the account of such producer, and in the manner as prescribed by the order, for such expenses and expenditures—including provisions for a reasonable reserve and those administrative costs incurred by the Secretary after an order has been promulgated under this Act—as the Secretary finds are reasonable and likely to be incurred by the Beef Board under the order during any period specified by him. Such purchaser or handler shall collect such assessment from the producer and shall in the case of a purchaser, pay the same to any person to whom he later sells the cattle, provided that any cattle sold solely for breeding purposes shall be exempt from said assessment until sale at point of slaughter. In the case of a handler who receives the cattle at the point of slaughter, he shall pay the same to the Beef Board in the manner prescribed by the order or regulations: *Provided,* That any handler collecting any assessment at the point of slaughter during the first six months after the effective date of this Act shall pay to the Beef Board one half of the applicable rate. In the event that no live action transaction occurs at the point of slaughter, a fair value shall be attributed to the animal at time of slaughter. The rate of assessment shall be as prescribed by the order. To facilitate the collection of such assessments, the Beef Board may designate different purchasers or handlers or classes of purchasers or handlers to recognize differences in marketing practices or procedures utilized in the industry. The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with

jurisdiction to entertain such suits regardless of the amount in controversy.

(f) Providing that the Beef Board shall maintain such books and records and prepare and submit such reports from time to time, to the Secretary as he may prescribe, and for appropriate accounting by the Beef Board with respect to the receipt and disbursement of all funds entrusted to it.

(g) Providing that the Beef Board, with the approval of the Secretary, may enter into contracts or agreements for development and carrying out of the activities authorized under the order pursuant to section 7 (a) and (b) and for the payment of the cost thereof with funds collected pursuant to the order. Any such contract or agreement shall provide that such contractors shall develop and submit to the Beef Board a plan or project together with a budget or budgets which shall show estimated costs to be incurred for such plan or project, and that any such plan or project shall become effective upon the approval of the Secretary, and further, shall provide that the contracting parties shall keep accurate records of all of its transactions and make periodic reports to the Beef Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require.

(h) Providing that no funds collected by the Beef Board under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (a) (4) of this section.

(i) Providing the Beef Board members, and alternates therefor, shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Beef Board.

REQUIREMENT OF REFERENDUM AND CATTLE PRODUCER APPROVAL

SEC. 9. The Secretary shall conduct a referendum among cattle producers who, during a representative period determined by the Secretary, have been engaged in the production of cattle for the purpose of ascertaining whether the issuance of an order is approved or favored by such producers. No order issued pursuant to this Act shall be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum, or by a majority of the producers voting in such referendum if such majority produced not less than two-thirds of the cattle owned by producers voting in the referendum.

SUSPENSION AND TERMINATION OF ORDERS

SEC. 10 (a) The Secretary shall, whenever he finds that any order issued under this Act, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this Act, terminate or suspend the operation of such order or such provisions thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of cattle producers, voting in the referendum approving the order, to determine whether such producers favor the termination or suspension of the order, and he shall suspend or terminate such order six months after he determines that suspension or termination of the order is approved or favored by a majority of the cattle producers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of cattle, and who produced more than 50 per centum of the volume of cattle produced by the cattle producers voting in the referendum.

(c) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this Act.

PROVISIONS APPLICABLE TO AMENDMENTS

SEC. 11. The provisions of this Act applicable to orders shall be applicable to amendments to orders.

PRODUCER REFUND

SEC. 12. Notwithstanding any other provisions of this Act, any cattle producer against whose cattle or beef any assessment is made and collected from him under authority of this Act and who is not in favor of supporting the programs as provided for herein shall have the right to demand and receive from the Beef Board a refund of such assessment: *Provided,* That such demand shall be made in accordance with regulations on a form and within a time period prescribed by the Board and approved by the Secretary but in no event more than thirty days after the end of the month in which the sale of said cattle occurred and upon submission of proof satisfactory to the Board that the producer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received therefor.

PETITION AND REVIEW

SEC. 13. (a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provisions of such order or any obligations imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with the law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 15(a) of this Act.

ENFORCEMENT

SEC. 14. (a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this Act. Any civil action authorized to be brought under this Act shall be referred to the Attorney General for appropriate action.

(b) Any cattle producer, purchaser, handler, or other person who willfully violates any provision of any order issued by the Secretary under this Act, or who willfully fails or refuses to collect or remit any assessment or fee duly required of him thereunder, shall be liable to a penalty of not more than $1,000 for each such offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States: *Provided,* That subsections (a) and (b) of this section shall be in addition to, and not exclusive of, the remedies provided now or hereafter existing at law or in equity.

CERTIFICATION OF ORGANIZATIONS

SEC. 15. The eligibility of any organization to represent cattle producers of any cattle producing area of the United States to request the issuance of an order under section 5, and to participate in the making of nominations under section 8 (b) shall be certified by the Secretary. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

(a) Geographic territory covered by the organization's active membership,

(b) Nature and size of the organization's active membership, proportion of total of such active membership accounted for by producers of cattle, a chart showing the cattle production by State in which the organization has members, and the volume of cattle produced by the organization's active membership in each such State,

(c) The extent to which the cattle producer membership of such organization is represented in setting the organization's policies,

(d) Evidence of stability and permanency of the organization,

(e) Sources from which the organization's operating funds are derived,

(f) Functions of the organization, and

(g) The organization's ability and willingness to further the aims and objectives of this Act: *Provided,* That the primary consideration in determining the eligibility, of an organization shall be whether its cattle producer membership consists of a substantial volume of cattle. The Secretary shall certify any organization which he finds to be eligible under this section and his determination as to eligibility shall be final. Where more than one organization is certified in any geographic area, such organizations may caucus to determine the area's nominations under section 8 (b).

PATENTS, COPYRIGHTS, INVENTIONS, OR PUBLICATIONS

SEC. 16. Any patents, copyrights, inventions, or publications developed through the use of funds collected under the provisions of this Act shall be the property of the Beef Board, and shall, along with any rents, royalties, residual payments, or other income from the rental, sale, leasing, franchising, or other uses, of such patents, copyrights, inventions, or publications, inure to the benefit of the cattle industry.

STATE BEEF BOARDS

SEC. 17. Nothing in this Act shall be construed to preempt or interfere with the workings of any beef board, beef council, or other beef promotion entity organized and operating within and by authority of any of the several states.

REGULATIONS

SEC. 18. The Secretary is authorized to issue regulations with the force and effect of law as may be necessary to carry out the provisions of this Act and the powers vested in him by this Act. The Secretary shall appoint an advisory committee representing a broad spectrum of producers to assist in the initial formulation of regulations: *Provided,* That upon the initial appointment of the Beef Board, the advisory committee shall no longer continue to exist.

INVESTIGATIONS; POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATIONS; AID OF COURTS

SEC. 19. The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this Act or to determine whether a cattle producer, processor, or other seller of cattle, beef, or beef products or any other person has engaged or is about to engage in any acts or practice which constitute or will constitute a violation of any provisions of this Act, or of any order, or rule or regulation issued under this Act. For the purpose of

such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, including a cattle producer, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

SEPARABILITY

SEC. 20. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

AUTHORIZATION

SEC. 21. There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this Act. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Beef Board in administering any provisions of any order issued pursuant to the terms of this Act.

EFFECTIVE DATE

SEC. 22. This Act shall take effect upon enactment.

Mr. DOLE. Mr. President, I am pleased to join with the chairman of the Agriculture and Forestry Committee in the introduction of this important legislation. Throughout the history of America, the beef cattlemen of this country have been an admired group of rugged individuals, known for their spirit of free enterprise, their self-reliance, and their abilities to fight adversities—all without the temptation of asking for Government help.

At the same time, they have continued to produce one of the most desired food items in the world—beef—in abundance and at a price that most consumers could afford.

During the past 2 years, however, there have been attacks and discrimination against the product beef and against the producers of beef which they never before have experienced. I refer to the Government price controls in 1973 which, under phase IV, singled out beef and triggered unprecedented economic losses for cattle feeders and producers; to expanding beef imports into the United States, which have depressed prices and continue to threaten the markets for our domestic beef; to the increasing number of regulations, by State and Federal regulatory agencies, which could undermine and demoralize this largest sector of our agricultural economy; to beef boycotts and "eat less meat" campaigns—by groups that admittedly used beef as a symbol of their protest against inflation, without realizing that beef cattle prices actually have come down more than any other major consumer item.

To meet these problems, which surfaced during the past 2 years and which are likely to reoccur in the future, cattle industry leaders have come up with a self-help plan which the chairman of the Agriculture Committee and I are introducing today, along with 26 other Senators, that can: First, strengthen the beef industry; second, assure consumers of more beef at prices they can afford; and third, cost the Government nothing. I commend the cattlemen for this, because self-help programs with characteristics like these are needed in many of our industries today.

I believe that this type of program is the best example of bootstrap operation. It would be a case of producers helping themselves by working in a united manner to improve the market. We are working with the various livestock and trade groups on this legislation and hopefully we can move quickly in the Congress to enact it.

In the past, this type of program has met with a great deal of success in the wheat and grain industries. Our export markets represent a very important part of those industries. Agricultural exports have also become a very beneficial part of the national economy. They have helped to improve our trade balance tremendously and have strengthened the overall health of the economy. I am hopeful that a market development organization for beef will be beneficial in expanding our foreign markets for American beef as well as improving market conditions here at home.

The Beef Research and Consumer Information Act would help consumers in many ways. It would provide for expanded research on nutrition, health, new beef products, marketing, and distribution. Likewise, it would expand research on reduced cost of production and marketing of beef cattle—to assure a stable and adequate supply at reasonable prices. Then it would permit more consumer education programs—youth education in our schools as well as adult education—on purchasing economics; on how to get more for your food dollar; on how to select and prepare the most economical beef cuts; et cetera.

Mr. President, when this legislation was being drafted we considered broadening it to include pork and other meats. It seems these other meats are produced and marketed in such a way that at present there is not the same unified desire among producers and processors to participate in such a program for hogs and pork. The following letter was received from the American Pork Congress regarding this legislation:

DEAR SENATOR DOLE: I was contacted today concerning the Senate and House bills that are now being prepared for introduction that pertain to a beef market development board and legislative funding program.

I have been informed that you questioned whether the pork industry might oppose this bill or would be interested in similar legislation introduced in their behalf. Our structure in the pork industry is quite a bit different than that of the beef industry in that our National Pork Producers Council is more of a promotional arm for the industry than it is for legislative and other purposes. We have 35 member states at the present time, 30 of which are on a voluntary funding system and, according to polls of the producers that we conduct each year, our 14 main pork production states of the Midwest area still believe that they would rather function under the voluntary funding system rather than pursue the legislative route.

However, they have expressed no opposition to whatever program the beef industry seeks. Therefore, I'm sure there will be no organized opposition to the proposed beef legislative program, and I can assure you that the pork industry will not be perturbed because they are not included at this time in similar legislation.

If this tone changes as to the desires of the pork industry, I'm sure that they would be most pleased to have you working in their behalf if and when that occasion should arise. Thank you for your consideration of our thoughts on this matter and if we can be of service at any time we hope that you will call on us.

Sincerely yours,

J. MARVIN GARNER,
Executive Vice President.

I am sure the chairman joins me in pledging our cooperation in working with these producers on similar legislation if these groups can organize the unified support that has been generated in the cattle industry for this legislation.

Mr. President, it appears to me that everyone—beef producers, consumers, and the Government—would benefit from this plan. That is why I am pleased to introduce the Beef Research and Consumer Information Act.

Mr. THURMOND. Mr. President, I am pleased to cosponsor legislation introduced today by Senators TALMADGE and DOLE to provide a program for our cattle farmers to help themselves out of their current economic dilemma and maintain the beef industry on a viable basis in the future. Termed the Beef Research and Consumer Information Act, the bill was developed under the leadership of cattle farmers themselves and enjoys wide support throughout the beef industry.

The program they have put together is a comprehensive and attractive approach to product research, market development, and problem solving. It will benefit not only the cattlemen who will finance it with their own money, but also consumers, who will receive educational information about the beef industry and products available at the retail level.

Most of us are aware that the past year has been literally disastrous for cattle farmers. Their feed costs and the cost of other production inputs have rapidly increased, while the prices of cattle brought to market have plummeted. On an average, slaughter steers were selling at only 51 percent of parity in the middle of January 1975, and feeder calves were bringing relatively less at 36 percent of parity. There is just no way that cattle farmers can survive and produce beef for the dinner tables of American consumers under such unprofitable conditions.

The beef research and market development plan authorized under this legislation is certainly not an instant panacea to the cattlemen's problems. However, it

does provide a workable mechanism for a more healthy beef industry in the long run. It should be emphasized that the program it engenders is entirely financed by the beef industry itself, with no cost to the taxpayers. This is the kind of approach to problems that relies on the very best principles in our American free enterprise system. I congratulate all of those who have had the foresight and the wisdom to design this plan, and I am especially pleased to join the principal sponsors in support of it.

By Mr. PROXMIRE:

S. 773. A bill to establish an emergency mortgage credit program to reduce unemployment and aid middle-income home buyers. Referred to the Committee on Banking, Housing and Urban Affairs.

THE EMERGENCY HOUSING AND ECONOMIC RECOVERY ACT

Mr. PROXMIRE. Mr. President, our country is facing its deepest depression in 40 years. In January, the unemployment rate reached 8.2 percent—the highest rate since 1941 when we were still recovering from the great depression. Seven and a half million people are out of a job, the highest number since 1940. Economic forecasts predict that the unemployment rate will get worse before it gets better. The President's budget message projects an 8-percent unemployment rate through 1975 and 1976 and even these gloomy estimates may prove optimistic unless decisive action is taken and taken soon. As President Ford himself belatedly acknowledged, the economy is collapsing much faster than anyone in the administration had thought possible just a few short weeks ago.

The industry that has been hit the hardest by inflation, tight money, and recession is the homebuilding industry. The rate of unemployment among construction workers is 22.6 percent, or nearly triple the national average. In the first 8 months of 1974, over 1,100 construction firms with total liabilities of $270 million went out of business. New housing starts have skidded to an annual rate of 868,000, the lowest rate since the disastrous credit crunch of 1966. This is about one-third of the 2.6 million units we should be building each year to meet our national housing goals as outlined in the Housing Act of 1968. In short, the homebuilding industry is on the verge of collapse.

Those who have also been hurt by the housing recession are home buyers and especially middle-income families who have been priced out of the market because of high interest rates and the lack of mortgage credit. And here is the bitter irony. Unlike the recession in the auto industry, the depression in homebuilding is not the result of reduced buyer demand. The demand is there. Many families have the money to buy homes; many families want to buy homes. What they do not have is mortgage credit at rates they can afford, and in many cases they cannot get mortgage loans at all.

To make matters even worse, the staggering Federal budget deficits projected for 1975 and 1976 threaten to block any recovery in homebuilding. Given the slowdown in the demand for credit by large corporations, more money might have been available in the mortgage market. However, the dropoff in business credit demand is more than offset by increased Treasury borrowing. The result is that less money than ever will be available for housing. Thus the combination of a tight monetary policy followed by a loose fiscal policy has dealt the housing industry a devastating and perhaps lethal one-two punch.

Last week, President Ford, with much fanfare, released some $2 billion in impounded highway construction money. And while this will undoubtedly generate some jobs, it seems to me that at a time when Americans are painfully trying to reduce their energy dependence on private automobiles, there are more important priorities than highway construction.

Mr. President, if we really want to get our economy moving again, we need to stimulate the homebuilding industry. One of our great, unmet social needs is for more and better housing. There are vast unemployed resources in the construction industry so we need not fear that more homebuilding will fuel inflation. Putting people back to work in homebuilding creates needed jobs in the private sector and not make-work jobs in the public sector.

I believe we can put people back to work in homebuilding at a very small initial cost and in fact at no net cost if we count the added tax revenue flowing from the increase in employment. All we need is a stable supply of mortgage credit at rates which the average family can afford to pay. Therefore, I am introducing a bill to do just that—to provide a stable source of mortgage credit at a rate of 6 percent. The Government would pay the difference between 7 percent and its cost of borrowing. Thus if interest rates decline, the need for a continued subsidy is eliminated.

I call this bill the Emergency Housing and Economic Recovery Act. Here is how it works.

HOW THE BILL WORKS

The program would be activated and deactivated automatically by a formula tied to the rate of unemployment and housing starts. The program would be activated whenever the rate of unemployment exceeded 6 percent and the level of housing starts dropped below 1.75 million for 3 consecutive months. Once activated, the program would continue until the rate of unemployment dropped below 6 percent or the level of housing starts exceeded 1.75 million for 3 consecutive months. This automatic trigger mechanism assures that the program will actually be used when it is needed the most and is not perpetuated when the need for an emergency program has expired. Perhaps the trigger formula can be improved; however, I believe the concept of an automatic trigger is absolutely essential given the tendency of recent administrations, both Democratic and Republican, to ignore the laws passed by Congress.

Once the trigger is activated, private mortgage lenders would be able to make 6-percent mortgage loans on homes costing less than $40,000, or up to $50,000 in high cost areas. These loans would then be sold to the Department of Housing and Urban Development under an arrangement where the lender could continue servicing the loan at the customary fee which would be paid out of the 6 percent. The bill prohibits any additional points from being assessed against the buyer or seller, hence the rate of interest paid by the borrower is limited to a true 6 percent.

HUD would carry out its operations through a special revolving fund financed through Treasury borrowing authority. In order to avoid any substantial impact on the budget, HUD is required to sell the mortgages it buys before the end of the fiscal year. The mortgages must be sold at par to private investors, or, if there are no takers, to the Federal Financing Bank, an agency outside the budget and recently established by Congress to assist in the financing of Federal credit programs. HUD would be authorized to compensate the Bank for any difference between the net yield on the mortgages it sells the Bank and the current Government borrowing rate. At present rates, this would amount to about 1 percent.

The payments by HUD to the Federal Financing Bank would rise or fall in future years depending upon changes in the rate on Treasury obligations. In order to place a reasonable upper limit on the cost of the program, the bill authorizes the Secretary of HUD to increase the rate of interest paid by the homebuyer after 3 years up to a maximum of 9 percent; however, any single increase must be in 6 month intervals and could not exceed one-half of 1 percent.

The bill authorizes an appropriation to HUD in order to reimburse the Department for the cost of making any interest adjustment payments to the Federal Financing Bank as well as for any other losses sustained under the program. Not more than 1 million mortgages can be purchased by HUD under the program in any one fiscal year. Assuming an average mortgage loan of $30,000 and an interest rate subsidy of 1 percent, an appropriation of $300 million would be needed.

GENERAL BENEFITS

Of course in the final analysis, the cost of any program must be assessed in terms of its benefits. The general benefits of the Emergency Housing and Economic Recovery Act are substantial.

First and foremost is the job creation potential of the bill. If the program were fully utilized during the next fiscal year, it could generate 1 million new housing starts, 2 million additional jobs, an additional $30 billion in GNP, and at least $7 billion in additional tax revenue or lower welfare payments resulting from the increase in GNP. Thus the benefit to the U.S. Treasury alone far exceeds the likely cost of the program even under the most pessimistic of assumptions about the future direction of interest rates.

Second, the program will help to end the boom and bust pattern of the homebuilding industry which has borne a disproportionate share of the cost of fighting inflation. It is wasteful and inefficient to be constantly moving resources into and out of the homebuilding industry

with every episode of tight money. The cost of this instability is inevitably passed on to the general public in the form of higher housing prices.

Third, the program will make it possible for middle income families who have been priced out of the housing market because of high interest rates and tight money, to obtain a mortgage loan on terms they can afford. These families did not cause inflation. And yet they have been called upon to shoulder almost the entire burden which tight money has inflicted upon the economy. Under the bill, opportunities for homeownership will be distributed more equitably throughout the economy.

ADVANTAGES OF BILL

In addition to these general benefits, there are particular advantages to the Emergency Housing and Economic Recovery Act compared to other emergency housing bills which have been introduced or discussed.

First, my bill has an automatic trigger mechanism for activating the program. Once the trigger conditions are satisfied, the program becomes operational. This provision is essential given the sorry record of hostility shown by this and previous administrations toward congressional initiatives in the field of housing.

Second, my bill can be activated quickly without advance appropriations. Once the trigger conditions are met, the program can commence operations through Treasury and Federal Financing Bank borrowing authority. Of course, the Secretary of HUD must ultimately come to Congress for an appropriation to cover any losses incurred. But in the meantime, the Secretary has adequate authority to begin the program.

Third, by relying on lower cost Treasury-FFB financing, my bill requires less of a subsidy compared to bills which would pay the subsidy directly to a private mortgage lender. For example, mortgage interest rates charged by private lenders currently average about 9 percent whereas the average cost of borrowing by the Government is about 7 percent. Thus the cost of a program to subsidize the rate of interest on mortgage loans to 6 percent would be about 3 percent if private financing is used and only 1 percent if Treasury financing is used.

Also, interest subsidies to private lenders tend to maintain rates at artificially high levels since the borrower has little incentive to bargain for a lower rate as long as Uncle Sam is picking up the tab.

Fourth, the provision for adjusting the rate of interest paid by the borrower after 3 years protects the Treasury in the event interest rates remain at their present abnormally high levels. In such cases, the authority to increase the rate would be phased in gradually and any increased monthly payments should be in line with the increased market value of the house and the normal increase in income which can be expected of most borrowers.

Mr. President, I ask unanimous consent that the text of the Emergency Housing and Economic Recovery Act be printed in the RECORD at the conclusion of my remarks.

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

S. 773

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 "Emergency Housing and Economic Recovery Act of 1975."

FINDINGS AND PURPOSE

SEC. 2. The Congress finds and declares that:

(1) The economic recession combined with severe inflation and tight mortgage credit conditions have drastically restricted residential housing construction;

(2) Diminished construction and sale of homes, in turn, has intensified the economic slump, and increased unemployment; and

(3) Recessions in the housing construction industry occur cyclically, and this problem requires a permanent program of emergency mortgage credit that can be activated periodically in order to counteract the credit cycle, and as a means of promoting economic recovery and easing hardship for millions of middle-income Americans who wish to purchase or sell homes, but are unable to do so because of market conditions.

ACTIVATION AND DEACTIVATION OF PROGRAM

SEC. 3. (a) (1) The emergency housing and economic recovery program authorized in this act shall be activated whenever: (i) the national rate of unemployment (seasonally adjusted) as determined by the Chief of the Bureau of Labor Statistics exceeds six percent for three consecutive months; and (ii) the annual rate of housing starts (seasonally adjusted and exclusive of mobile homes) as determined by the Secretary of the Department of Housing and Urban Development (hereinafter referred to as "The Secretary") is less than 1,750,000 units for the same three consecutive month period. If the requirements of this subsection are satisfied by the experience in the three months immediately preceding the month in which this act is enacted into law, the emergency housing and economic recovery program shall be deemed to be activated as of the date of enactment of this act.

(2) Notwithstanding paragraph (1), the emergency housing and economic recovery program may be activated by The Secretary if he or she determines that the rate of unemployment is substantially in excess of six percent, or that the annual rate of housing starts is substantially lower than 1,750,000 units, and that an activation of the program is necessary to achieve the purposes of this act.

The Secretary shall promptly provide a detailed explanation to the Congress of any determinations under this paragraph.

(b) The program activated pursuant to subsection (a) (1) shall be terminated whenever: (i) the national rate of unemployment (seasonally adjusted) as determined by the Chief of the Bureau of Labor Statistics is six percent or less for three consecutive months; or (ii) the annual rate of housing starts (seasonally adjusted and exclusive of mobile homes) as determined by The Secretary is 1,750,000 or more units for three consecutive months.

EMERGENCY HOUSING AND ECONOMIC RECOVERY FUND

SEC. 4. (a) There is hereby established within the Department of Housing and Urban Development an Emergency Housing and Economic Recovery Fund (hereinafter referred to as the "Fund") to enable The Secretary to discharge his or her responsibilities under this Act. Whenever the emergency housing and economic recovery program is activated pursuant to Section 3 (a), The Secretary is authorized and directed, within the limits under Section 8 (a), to utilize the Fund to make commitments to purchase and to purchase mortgage loans offered for sale to the Secretary and which meet the requirements of Section 6.

(b) (1) The Secretary shall issue to the Secretary of the Treasury obligations of the Fund in an amount outstanding at any one time sufficient to enable The Secretary to discharge his or her responsibilities under this act. The proceeds from the issuance of such obligations shall be deposited in the Fund. Each such obligation shall have such maturity as determined by The Secretary and bear interest at a rate equal to the current average yield on all outstanding marketable obligations of the United States of comparable maturity.

(2) The Secretary of the Treasury is authorized and directed to purchase any obligations of the Fund to be issued under this subsection, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which such securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the Fund's obligations hereunder. (c) The Secretary is authorized to—

(1) charge a fee for making commitments to purchase mortgage loans under this section and for incurring other administrative expenses, but the aggregate of all such fees, regardless of on whom imposed, shall not exceed two percentum of the amount of such commitment;

(2) deposit the proceeds from such fees into the Fund;

(3) use monies in the Fund to purchase eligible mortgage loans at a price not greater than 101 percentum of the unpaid principal at the time of purchase with adjustments for interest and any comparable items;

(4) contract with mortgagees or other persons to service mortgage loans purchased under this act;

(5) sell such mortgage loans at a price not less than the unpaid principal at the time of sale;

(6) deposit the proceeds from such sales into the Fund;

(7) make quarterly interest adjustment payments to the Federal Financing Bank. Such payments shall be equal to the difference between the net interest received by the Bank in connection with all mortgage loans purchased by the Bank pursuant to section 5 and held by the Bank during each quarter of the fiscal year and a sum equal to the average amount of such mortgage loans held by the Bank during that quarter multiplied by a rate equal to the quarterly equivalent of the average annual yield on all outstanding marketable obligations of the United States during that quarter plus one eighth of one percent.

(8) invest any excess moneys in the Fund in obligations of the United States.

SALE OF MORTGAGES

SEC. 5. (a) The Secretary shall, in accordance with the requirements of Sec. 4(c)(5), sell each mortgage loan purchased under this act and such sale shall occur prior to the expiration of the fiscal year during which such mortgage loan is purchased. In the event it is not possible to sell a mortgage loan to a private investor at a price equal to or greater than its unpaid principal, such loan shall be sold at par to the Federal Financing Bank pursuant to an agreement to make quarterly interest adjustment payments as defined under section 4(c)(7).

(b) The Federal Financing Bank is authorized and directed to purchase all mortgage loans offered to it by the Secretary under subsection (a) and to receive quarterly

interest adjustment payments as defined under Section 4(c)(7). Any aggregate limitation on the Bank's total borrowing authority or authority to require the Secretary of the Treasury to purchase the Bank's obligations heretofore or hereinafter enacted is increased by an amount equal to the outstanding principal amount of all mortgage loans purchased by the Bank under this section.

MORTGAGES ELIGIBLE FOR PURCHASE

SEC. 6. To be eligible for purchase under this Act, a mortgage loan shall—

(a) involve an initial interest rate of six percent per annum;

(b) be accompanied by a certification by the mortgagee that no points, discounts, loan origination fees, or similar charges have been or will be assessed against the prospective buyer or seller in connection with the mortgage loan;

(c) have been executed to finance the acquisition of a residential dwelling to be used as the principal residence of the mortgagor (including newly constructed condominium or cooperative units) at a sales price not in excess of $40,000, or in the case of a residence located in Alaska, Hawaii, Guam or any other high cost area as determined by the Secretary, $50,000;

(d) permit the mortgagee to prepay at any time without penalty;

(e) contain appropriate provisions for the interest rate adjustments authorized under section 7.; and

(f) be otherwise eligible for purchase by the Federal National Mortgage Association.

INTEREST RATE ADJUSTMENTS

SEC. 7. (a) A mortgage loan eligible for purchase under this act shall contain provisions satisfactory to the Secretary that, upon the expiration of three years after the execution of the mortgage, the interest rate involved may be adjusted by the Secretary if such mortgage loan is held by the Federal Financing Bank. Such adjustments may not

(1) be made more often than once each six months;

(2) increase the rate of interest by more than one half of one percent; and

(3) cause the interest rate to exceed nine percentum per annum.

(b) The interest rate adjustments authorized under this section may be made by the Secretary when and to the extent necessary to minimize the need for appropriations under section 9.

PROGRAM LIMITATIONS

SEC. 8. (a) The Secretary may not purchase more than one million mortgage loans under this act during any single fiscal year.

(b) At least 75 percentum of the mortgage loans purchased under this act shall involve residences which have been constructed within the twelve months preceding the date of purchase.

(c) The Secretary shall insure that each State receives its fair and reasonable share of the assistance authorized under this act.

APPROPRIATIONS

SEC. 9. There is hereby authorized to be appropriated to the Fund such sums as may be necessary to reimburse the Fund for any net losses incurred in discharging the Secretary's responsibilities under this act.

By Mr. PERCY (for himself and Mr. RIBICOFF):

S. 774. A bill to regulate lobbying and related activities. Referred to the Committee on Government Operations.

LOBBYING DISCLOSURE OR "SUNSHINE" LEGISLATION

Mr. PERCY. Mr. President, the more accountable we can make Congress and the executive branch to the American people and the less subject to purely special interests, the better the public interest will be served. We have taken notable strides in the past couple of years to open up the processes of Government with passage of the Freedom of Information Act and opening up more congressional committee meetings to the public.

But there is one vast area of activity in the executive and legislative branches that remains shrouded in a veil of secrecy that the American people are only dimly aware of at best. That is the area of lobbying and special interest contacts with the Congress and executive branches. Current law, the 1946 Regulation of Lobbying Act, is deficient in that it narrowly defines what a lobbyist is; it does not cover lobbying activities unless the Member of Congress is contacted directly by the lobbyist; it does not cover those who lobby the executive branch; and, from what I can see, there is virtually no enforcement of the law. Senator ROBERT STAFFORD of Vermont has long pointed out the abuses in this area and suggested legislation that I have supported and so has my distinguished colleague Senator KENNEDY of Massachusetts.

I am today introducing legislation with Senator RIBICOFF to bring lobbying of Congress and the executive branches out in the open by requiring full disclosure of lobbying activities in those branches.

The purpose of this legislation is not to prohibit lobbying, as, indeed, lobbyists do on many occasions perform extremely useful functions in the national interest. They can be tapped for expert information on problems, they can analyze the impact of proposed legislation on their areas of concern, and they are an effective vehicle for representation of the interest group that they represent. They perform effectively and well in the spirit envisioned by one of our Founding Fathers, James Madison, in his discussion of "factions" in the Federalist Papers. This legislation also is not directed against any particular type of lobbyist. It would cover all types of lobbyists—business, labor, public interest groups, and all others who wish to represent their views to Congress and the executive branch.

The legislation has one simple purpose—to bring those activities out in the open. It is not designed or intended to in any way discourage legitimate lobbying activities that we all consider constructive and even vital to the operation of the Congress.

The legislation defines lobbying broadly and covers most attempts to influence either legislation or executive actions. It calls for comprehensive disclosure requirements on the activities and finances of lobbyists, of those who employ lobbyists, and of those who solicit others to lobby. It provides for reports from lobbyists on the source and amount of their income, their expenditures, the name of officials in the Government they have contacted, the bills or activities they have tried to influence, and any contributions or loans they have made to public officials.

In addition, officials of the executive branch would log their contacts with lobbyists and make those logs available for public inspection.

To make the bill meaningful, the Federal Election Commission is empowered to monitor the law and criminal sanctions are provided for willful falsification of any reports.

Mr. President, this bill has already been introduced in the House by Congressmen RAILSBACK and KASTENMEIER and already has approximately 100 cosponsors.

Senator RIBICOFF and I are introducing this legislation today for the purposes of discussion and we certainly solicit and welcome our colleagues' contributions and legislative ideas. Early hearings will enable us to have opposing views presented and determine only after that deliberative process what final legislation is advisable and necessary in this field. I shall keep an open mind until that hearing has been completed.

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

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

S. 774

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Disclosure of Lobbying Act of 1975".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "person" includes a corporation, company, association, firm, partnership, society, or joint stock company, as well as an individual;

(2) "the policymaking process" means any action taken by a Federal officer or employee with respect to any bill, resolution, or other measure in Congress, or with respect to any rule, adjudication, or other policy matter in the executive branch;

(3) "Federal officer or employee" means any officer or employee in the legislative or executive branch, and includes a Member of Congress, Delegate to Congress, or the Resident Commissioner from Puerto Rico;

(4) "income" means the receipt or promise of any consideration, whether or not legally enforceable;

(5) "expenditure" means the transfer or promise of any consideration, whether or not legally enforceable;

(6) "quarterly filing period" means any calendar quarter;

(7) "voluntary membership organization" means an organization composed of individuals who are members thereof on a voluntary basis and who, as a condition of membership, are required to make regular payments to the organization;

(8) "identification" means in the case of an individual, the name, address, occupation, principal place of business, and position held in that business, of the individual, and in the case of a person other than an individual, its name, address, principal officers, and board of directors, if any;

(9) "lobbying" means a communication or the solicitation or employment of another to make a communication with a Federal officer or employee in order to influence the policymaking process, but does not include—

(A) an appearance before a congressional committee, subcommittee, or joint committee or the submission of a written statement thereto or to any Federal executive department, agency, or entity at the request of such department, agency, or entity;

(B) any communication or solicitation by a Federal officer or employee; or

(C) except with respect to a publication of a voluntary membership organization, any communication or solicitation through the distribution in the normal course of business of any news, editorial view, letter to an editor, advertising, or like matter by—

(1) a periodical distribution to the general public:

(2) radio or television broadcast; or

(3) a book publisher;

(10) "lobbyist" means, with respect to any quarterly filing period, any person who engages in lobbying during that period and who—

(A) receives income of $250 or more for such lobbying during that period, whether such income is the prorated portion of total income attributable to that lobbying, or is received specifically for the lobbying;

(B) receives an income of $500 or more for such lobbying during a total of four consecutive quarterly filing periods, in each period of those four which begins after that total of $500 has been received;

(C) makes an expenditure of $250 or more, except for the personal travel expenses of the lobbyist, for lobbying during that period; or

(D) makes an expenditure of $500 or more for lobbying during a total of four consecutive quarterly filing periods, in each period of those four which begins after that total of $500 has been expended;

(11) "Commission" means the Federal Election Commission.

NOTICES OF REPRESENTATION

SEC. 3. Each lobbyist shall file a notice of representation with the Commission not later than fifteen days after first becoming a lobbyist, and each lobbyist who has filed such a notice and has been inactive as a lobbyist for three consecutive quarterly filing periods shall also file a notice of representation when that lobbyist again becomes a lobbyist. The notice of representation shall be in such form and contain such information as the Commission shall prescribe, including—

(1) an identification of the lobbyist;

(2) an identification, so far as possible, of each person on whose behalf the lobbyist expects to perform services as a lobbyist;

(3) a description of the financial terms and conditions on which any lobbyist who is an individual is retained by any person, and the identification of that person;

(4) each aspect of the policymaking process which the lobbyist expects to seek to influence, including any Government agency, committee, or Federal officer or employee, with which contact is to be made, the form of communication used, and whether for or against a particular measure;

(5) an identification of each person who, as of the date of filing, is expected to be acting for such lobbyist and to be engaged in lobbying including—

(A) any financial terms or conditions of such person's so acting; and

(B) the aspects of the policymaking process such person is expected to work at influencing; and

(6) in the case of a voluntary membership organization, the approximate number of members and a description of the methods by which the decision to engage in lobbying is made.

RECORDS

SEC. 4. Each lobbyist shall maintain for not less than two years after the date of recording records which shall be available to the Commission for inspection and which contain the following information:

(1) The total income received by the lobbyist, and the amount of such income attributable to lobbying.

(2) The identification of each person from whom income is received and the amount received, but in the case of a voluntary membership organization a contribution during any quarterly filing period from a member need be recorded only if the contributions to such organization from such member are more than $100 during that quarterly filing period, or during that quarterly filing period combined with the three immediately preceding such periods.

(3) The total expenditures of such lobbyist for lobbying, itemizing any expenditure made—

(A) to employ lobbyists (and the amount received by each lobbyist so employed); and

(B) for research, advertising, staff, offices, travels, mailings, and publications.

(4) Each expenditure made directly or indirectly to or for any Federal officer or employee.

REPORTS

SEC. 5. Each lobbyist shall not later than fifteen days after the last day of a quarterly filing period file a report with the Commission covering that lobbyist's activities during that quarterly filing period. Each such report shall be in such form and contain such information as the Commission shall prescribe, including—

(1) an identification of the reporting lobbyist;

(2) an identification of each person on whose behalf the reporting lobbyist performed services as a lobbyist during the covered period, but not including any member of any voluntary membership organization on whose behalf the lobbyist performed such services, if the member contributed not more than $100 to the organization during the covered period or during that period combined with the three immediately preceding quarterly filing periods;

(3) an identification of each person who acted as a lobbyist on behalf of the reporting lobbyist during the covered period;

(4) each decision of the policymaking process the reporting lobbyist sought to influence during the covered period, including bill numbers where relevant;

(5) an identification of each Federal officer or employee with whom the reporting lobbyist communicated during the covered period in order to influence the policymaking process;

(6) a copy of any written communication used by the reporting lobbyist during the covered period to solicit other persons to lobby, and an estimate of the number of persons to whom such written communication was made; and

(7) copies of the records required to be kept by the reporting lobbyist under section 4, to the extent such records pertain to the covered period.

EFFECT OF FILING ON CERTAIN DETERMINATIONS UNDER THE INTERNAL REVENUE CODE OF 1954

SEC. 6. Compliance with the filing requirements of this Act shall not be taken into consideration in determining, for purposes of the Internal Revenue Code of 1954, whether a substantial part of the activities of an organization is carrying on propaganda, or otherwise attempting to influence legislation.

RECORDS OF OUTSIDE CONTACTS

SEC. 7. (a) All officials and employees of the executive branch in grades GS–15 or above in the General Schedule, or in any of the executive levels under title 5 of the United States Code, or who are designated by any person to whom this subsection otherwise applies as being responsible for making or recommending decisions affecting the policymaking process in the executive branch, shall prepare a record of each oral or written communication received directly or by referral from outside parties expressing an opinion or containing information with respect to such process. The records shall be in such form and contain such information as the Commission shall prescribe, including—

(1) the name and position of the official or employee who received the communication;

(2) the date upon which the communication was received;

(3) an identification, so far as possible, of the person from whom the communication was received and of the person on whose behalf such person was acting in making the communication;

(4) a brief summary of the subject matter or matters of the communication, including relevant docket numbers if known;

(5) in the case of communications through letters, documents, briefs, and other written material, copies of such material in its original form; and

(6) a brief description, when applicable, of any action taken by the official or employee in response to the communication.

(b) Each agency in the executive branch shall assure that records prepared pursuant to subsection (a) of this section shall be placed, within two working days of the date when such communication was received, in the case file of the rulemaking or adjudication to which the communication related. If the communication related to matters for which there was no such case file, the records of such communication shall be placed in a public file which shall be maintained in the same location as the case files.

(c) Each agency in the executive branch shall assure that records filed pursuant to subsection (b) of this section shall be made available for public inspection in a convenient location within the agency. A comprehensive index of such records by subject matter and, when applicable, docket number shall be maintained and made available for public inspection in such location.

POWERS OF COMMISSION

SEC. 8. (a) The Commission has the power for the purposes of this Act—

(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe; and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine;

(2) to administer oaths;

(3) to require by subpena, signed by the Chairman or the Vice Chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the producton of evidence in the same manner as authorized under paragraph (3) of this subsection;

(5) to initiate (through civil proceedings for injunctive relief and through presentation to Federal grand juries), prosecute, defend, or appeal any civil or criminal action in the name of the Commission for the purpose of enforcing the provisions of the Act through its General Counsel;

(6) to delegate any of its functions or powers, other than the power to issue subpenas under paragraph (3), to any officer or employee of the Commission; and

(7) to make, amend, and repeal such rules as are necessary to carry out the provisions of this Act.

(b) Any United States district court within the jurisdiction of which any inquiry is carried on may, upon petition by the Commission, in case of refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order

requiring compliance therewith. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) Notwithstanding any other provision of law, the Commission shall be the primary civil and criminal enforcement agency for violations of the provisions of this Act. Any violations of any such provision shall be prosecuted by the Attorney General or Department of Justice personnel only after consultation with, and with the consent of, the Commission.

DUTIES OF THE COMMISSION

SEC. 9. It shall be the duty of the Commission—

(1) to develop forms for the filing of notices of representation, and reports pursuant to sections 3 and 5 of this Act and to furnish such forms to lobbyists upon request;

(2) to develop forms for the filing of records of outside contacts under section 7;

(3) to prepare a manual setting forth recommended uniform methods of bookkeeping and reporting to furnish such manual to lobbyists upon request;

(4) to develop a filing, coding, and cross-indexing system consonant with the purpose of this Act;

(5) to make the notices of representation and reports filed with it available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person, provided that the charge does not exceed actual marginal cost, but not information copied from such reports and statements shall be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(6) to preserve the originals or copies of such notices and reports for a period of ten years from date of receipt;

(7) to compile and summarize, with respect to each filing period, the information contained in such notices, and reports in a manner reflective of the disclosure intent of this Act and in specific relation to—

(A) the lobbying activities and expenditures pertaining to specific legislative or executive actions, including the identity of the lobbyists involved and of the persons in whose behalf they are acting; and

(B) the lobbying activities and expenditures of persons who share an economic, business, or professional interest in the legislative or executive actions which they have sought to influence;

(8) to have such information, as so compiled and summarized, published in the Federal Register within fifteen days after the close of each filing period;

(9) to have each notice of representation which is filed by any lobbyist published in the Federal Register within three days after each such notice was received by the Commission;

(10) to ascertain whether any lobbyist has failed to comply fully and accurately with the disclosure requirements of this Act and promptly notify such person to file such notices and reports as are necessary to satisfy the requirements of this Act or regulations prescribed by the Commission under this Act;

(11) to make audits and field investigations with respect to the notices, and reports filed under the provisions of this Act, and with respect to alleged failures to file any statement or reports required under the provisions of this Act, and, upon complaint by any individual, with respect to alleged violations of any part of this Act.

(12) to prepare a special study or report upon the request of any Member of the House of Representatives or the Senate from information in the records of the Commission; or, if such records do not contain the necessary information, but the information would fall under the scope of information required by this Act, the Commission may inspect the records of the appropriate parties and prepare the report, but only if such special inspection can be completed in a reasonable time before the information would normally be filed;

(13) to prepare and publish such other reports as it may deem appropriate;

(14) to prescribe suitable rules and regulations to carry out the provisions of this Act; and

(15) to recommend legislation to carry out the purposes of this Act.

SANCTIONS

SEC. 10. (a) Any lobbyist who knowingly and willfully violates section 3 of this Act shall be fined not more than $5,000 or imprisoned for not more than two years.

(b) Any person who knowingly and willfully falsifies all or part of any notice of representation or report which he files with the Commision under this Act shall be fined not more than $5,000 or imprisoned for not more than two years, or both.

(c) Any person who knowingly and willfully falsifies or forges all or part of any communication to influence legislative or executive action shall be fined not more than $5,000 or imprisoned for not more than two years, or both.

(d) Any Federal officer or employee of the executive branch to whom section 7 applies who knowingly and willfully falsifies, forges, or fails to file any record as required by such section shall be fined not more than $5,000, or imprisoned not more than two years, or both.

REPEAL OF FEDERAL REGULATION OF LOBBYING ACT

SEC. 11. The Federal Regulation of Lobbying Act (60 Stat. 839–842; 2 U.S.C. 261 et seq.) and that part of the table of contents of the Legislative Reorganization Act of 1946 which pertains to title III, also known as the Federal Regulation of Lobbying Act (60 Stat. 813), are repealed, effective on the date on which the regulations to carry out this Act first become effective.

EFFECTIVE DATE

SEC. 12. The provisions of this Act shall take effect upon the date of its enactment, except that any person required by section 5(a) to maintain records shall not have any duties or obligations under this Act to maintain such records until the date on which the regulations to carry out this Act first becomes effective.

By Mr. CHILES:

S. 775. A bill to limit the categories of questions which may be asked in decennial censuses. Referred to the Committee on Post Office and Civil Service.

Mr. CHILES. Mr. President, the right of privacy is one right few, if any, of our citizens would be willing to surrender. Today I wish to introduce a piece of legislation which would help to protect the right of privacy. This bill would limit the decennial census to six basic questions.

According to my proposal, each person would be asked their name and address, relationship to the head of their household, sex, date of birth, race or color, and visitors in the home at the time of the census. As you can see, none of these are the prying sort of information asked in the current census questionnaires.

Many of the questions asked in the 1970 census, such as requests for information on previous marriages, value of property, number of children borne by a woman including stillbirths, touch upon personal matters and should not be the subjects of a national survey. To require persons to answer them constitutes a violation of the constitutional right of privacy. Such a wide-ranging census increases the Government's power to conduct a regular, computerized surveillance of a citizen's every move, thought, word, and deed and represents a gratuitous intrusion by Government into the everyday lives of its citizens.

The Constitution provides for a census to be taken in order to determine the population for purposes of congressional districting. None of the personal questions currently asked in the census, such as the number of bathrooms in a given residence, is relevant to this purpose. Therefore, those questions are not within the constitutional intent of the census.

There is yet another argument for a simplified census procedure, an argument beyond the problem of the right of privacy. The 1970 form was too complex to be answered by the more than 30 million adults with less than an eighth grade education. When the Government says it needs census data in order to properly plan adequate health and welfare programs, it most importantly needs information on the poor and the minorities. These are often the very people who are not well enough educated to respond to the complex questionnaires they receive.

In addition, the complexity and volume of forms that must be completed by businessmen greatly burdens them with additional bookkeeping and accounting problems. The citizens' hostility is aroused when they face long and complex forms to be completed. Responses are likely to be more reliable and the number of responses greater if responding is easy. A short census form better meets Congress' need for a complete count. A short, simple form will get maximum results completely and promptly.

And, most importantly, the limited census questionnaire which I propose would not pry into the private lives of our citizens. The Government's desire to collect information should never be allowed to intrude on a citizen's right of privacy.

By Mr. TUNNEY (for himself, Mr. MAGNUSON, and Mr. PHILIP A. HART):

S. 776. A bill to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes. Referred to the Committee on Commerce.

TOXIC SUBSTANCE CONTROL ACT

Mr. TUNNEY. Mr. President, I am pleased to join today with the distinguished senior Senator from Washington, Chairman MAGNUSON, and the distinguished senior Senator from Michigan, PHILIP HART in introducing the Toxic Substances Control Act.

The urgency of instituting this type of regulatory program has never been greater. The number of new human health and environmental threats that have been discovered in recent months argue strongly for a new regulatory program to deal, not only with the environ-

mental hazards associated with consumer products, but with industrial use of chemicals as well. The hazards to workers, consumers, and the environment from products like vinyl chloride and the threats to the atmospheric ultraviolet shield that might be posed by the freon contained in aerosol cans and in refrigeration units are indicative of the need to act quickly and responsively.

I, however, find it discouraging that the Congress must once again address these kinds of problems. This is the third Congress in which toxic substance legislation has been introduced and considered. In each of the two previous Congresses legislation passed both the Senate and the House of Representatives only to be stalled when agreement could not be reached. Obviously, the positions of the two bodies were strongly felt. While the conference committee did meet on numerous occasions and a tremendous amount of staff work was expended in trying to reach agreement, the divisions in the past were insurmountable.

We can no longer afford further delay which subjects the American public to incredible hazards of increased risks of cancer, birth defects, and permanent genetic damage.

The primary purpose of the Toxic Substances Control Act is to provide a means of regulating chemical substances that appear in consumer and industrial products in this country. Perhaps the most important aspect of this program is the absolute necessity of giving regulatory officials the opportunity to review toxicity and use data prior to the manufacture of the chemical. Our experience in the past has amply shown that our failure to adequately test and screen new chemicals and new uses of chemicals prior to their introduction has had disastrous consequences. There have been approximately 20 deaths associated with the manufacture of vinyl chloride. In addition, this chemical has been suspected of causing injury through emissions in industrial environments. In fact, the full extent of health threats that may be present in its use in consumer products has not been fully researched.

Our hearings last year also demonstrated that asbestos in consumer and industrial products, mercury contamination in sponges, paint and floor wax, PCB in industrial uses, also may present serious hazards in certain circumstances and combinations. These types of health dangers cry out for further regulation. It is essential that we provide the means of detecting dangers from chemicals at a far earlier time than we have in the past. This bill, I believe, will provide that protection in a reasonable manner. It requires that certain chemicals be tested if EPA makes a determination that further examination is necessary due to potential health or environmental threats.

The results of these tests then must be furnished to EPA 90 days in advance of manufacture.

In addition, for all other new chemicals for which EPA cannot make a prior determination that testing is necessary, manufacturers must give notice of their impending intention to market the product. Armed with this type of information, EPA could, where necessary, then take action to impose restrictions or conclude that further tests must be conducted.

The premarket screening provisions of this bill go to the very heart of a proper toxic substances control program. Without it, or with a limited review, there is virtually no way that vinyl chloride-like experiences might be avoided on a timely basis in the future.

The legislation introduced today reflects important changes over last year's version relating to the submission of test data by the chemical industry. Hearings before the Commerce Committee in the last Congress raised substantial doubt that certain members of the chemical industry had released critical health data to regulatory agencies, to their own workers, or to the public in a timely fashion. This data might have revealed the carcinogenic potential of vinyl chloride. By its very nature, scientific data of this kind is subject to different conclusions. Resolution of questions like these should not be left to industry, which has a financial stake in the outcome of the studies. Their financial interests may temper their judgment and, therefore, these facts must be made available to regulatory officials.

The bill we introduce today contains a provision which requires manufacturers to keep the Environmental Protection Agency abreast of all studies it has conducted and is conducting. EPA would have the authority to require the submission of test results both on a preliminary and final basis. Had this provision been in effect in the past, the early industry-sponsored studies on vinyl chloride which indicated its cancer-causing potential might well have come to light at a much earlier date.

The bill contains a number of other changes over last year's version which should enable the statute to be administered in a more orderly fashion and without contributing to the bureaucratic lethargy which so many of us fear. The chemical industry, for example, will now have a voice in fashioning the exact kinds of tests that would be conducted. EPA, however, will closely scrutinize these tests and set standards of quality for the testing procedures and their results. Innovation in the development of testing methods would be encouraged to the benefit not only of regulatory decisionmakers, but to consumers who must ultimately pay for the costs of these tests.

Another change is that the advisory committee procedures of last year's bill have been removed. It is our feeling that these procedures could well have served as a delaying tactic to slow implementation of this act.

The Senate Commerce Committee will shortly holding hearings on this bill. It is important that we thoroughly investigate the new provisions contained in this legislation. I believe that a record needs to be built on each of these new provisions so the Congress can act quickly on this crucial legislation.

I introduce the bill for appropriate reference and ask unanimous consent that the text of the bill as introduced be printed in the RECORD.

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

S. 776

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 "Toxic Substances Control Act".

TABLE OF CONTENTS

DECLARATION OF POLICY

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

(1) Human beings and the environment are exposed each year to a large number of chemical substances.

(2) Some of the many chemical substances which are constantly being developed and produced are substances whose manufacture, distribution, use, or disposal may pose an unreasonable risk to health or the environment.

(3) The effective regulation of commerce in the interest of protecting human beings and the environment necessitates the regulation of such chemical substances.

(b) POLICY.—It is therefore declared to be the policy of the Congress in this Act that—

(1) chemical substances should be adequately tested with respect to their effect on health and the environment;

(2) such testing including the development of test protocols should be the responsibility of the persons who manufacture, import, or process such chemical substances;

(3) adequate authority should exist in the Environmental Protection Agency to regulate the distribution and use of, and to take protective action with respect to chemical substances which are found to pose an unreasonable risk to human health or the environment; and

(4) such authority should be exercised in such a manner as to assure that technological innovation and commerce in chemical substances are not unduly impeded while assuring that the manufacturing or distribution of such substances do not pose an unreasonable risk to human health or the environment.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "category of chemical substances" means a group of chemical substances which are similar in molecular structure, physical or chemical properties, use, mode of entrance to the human body or the environment, or in some other way suitable for formation of a group for the purposes of this Act, except that such term does not mean all new

chemical substances within the meaning of section 5 of this Act;

(3) "chemical substance" means (A) any organic or inorganic substance of a particular molecular identity; (B) any uncombined radical or element; or (C) any mixture;

(4) "commerce" means trade, traffic, transportation, or exchange (A) between a place in a State, and any place outside of such State, or (B) which affects trade, traffic, transportation, or exchange described in subparagraph (A) of this paragraph;

(5) "distribute in commerce" or "distribution in commerce" means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce, including use and disposal thereafter, importation, and reimportation;

(6) "environment" includes man and the human environment, water, air, land, all living things therein, and the interrelationships which exist among and between these;

(7) "health and safety data" means any data which relates to the effects on human health or the environment of a chemical substance, including data developed pursuant to health and safety studies. Such data shall include consumer or other individual correspondence regarding alleged adverse effects on human health or the environment due to a chemical substance, reports of worker illness or injury allegedly related thereto, and complaints or other notices of judicial or administrative proceedings initiated by local, State, or Federal authorities relating to injury to human health or the environment alleged to have been caused by a chemical substance;

(8) "health and safety studies" means any study of any effects of a chemical substance on human health or the environment. Such studies shall include epidemiological studies, studies of occupational exposure to a chemical substance, toxicological studies, clinical studies, ecological studies, and all tests performed pursuant to this Act;

(9) "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth;

(10) "import" and "reimport" mean to cause a chemical substance to be transported from a place outside the United States to a place within the United States;

(11) "importer" means any person (A) who imports a chemical substance for distribution in commerce for commercial purpose; or (B) who reimports a chemical substance, which was manufactured or processed in whole or in part in the United States for distribution in commerce;

(12) "manufacture" means to produce or manufacture;

(13) "manufacturer" means any person who manufactures a chemical substance;

(14) "mixture" means any mixture (A) which occurs naturally; or (B) which is produced by an industrial chemical process and which is marketed or used without separation into its constituents;

(15) "process" means to prepare a chemical substance for distribution in commerce (A) in the same or different form or physical state; or (B) as part of another product;

(16) "processor" means any person who processes a chemical substance;

(17) "standards for test protocols" means standards prescribing the quality of test protocols, such quality to be measured by—

(A) the reliability of test results;

(B) the amount of time necessary to complete a protocol; and

(C) the degree to which the protocol conforms to or advances the current state of the art of testing and thereby minimizes costs to ultimate consumers.

(18) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, or American Samoa;

(19) "test protocol" means a specific method or procedure to be followed in a test or tests to determine the effects of the manufacture, processing, or distribution in commerce of a chemical substance;

(20) "test results" or "test data" means results or data obtained from the performance of a test protocol; and

(21) "United States" means all of the States.

STANDARDS FOR TEST PROTOCOLS

SEC. 4. (a) GENERAL.—If the Administrator determines that—

(1) a chemical substance may present an unreasonable risk to health or the environment;

(2) there is insufficient data upon which to conclude that such a risk does in fact exist or not exist; and

(3) testing of such substance would assist in making such a determination,

then he shall, by rule, prescribe standards for a test protocol for such substance. Whenever such standards are prescribed, the Administrator shall require, in accordance with subsection (b)(3) of this section, that one or more persons formulate a test protocol for such substance, in accordance with such standards, and perform the tests required by such protocol.

(b) STANDARDS.—(1) In prescribing the standards for test protocols, the Administrator shall require that information pertaining to all relevant factors with respect to the applicable chemical substance be developed. Such factors include—

(A) the effects of such substance on human health, and the magnitude of human exposure; and

(B) the effects of such substance on the environment, and the magnitude of environmental exposure.

(2) Standards for test protocols shall require that such protocols be formulated in accordance with those standards and may require that tests be performed, in accordance with those protocols, for carcinogenicity, mutagenicity, teratogenicity, acute toxicity, subacute toxicity, chronic toxicity, cumulative properties, synergistic properties, clinical effects, epidemiological effects, ecological effects, and any other effects of such substance which might cause unreasonable risk to human health or the environment.

(3) A rule prescribing standards for a test protocol for a chemical substance shall require that any test contained in a test protocol for such substance which is formulated in accordance with such standards shall be performed by any person or governmental entity which is a manufacturer, processor, or importer of such chemical substance.

(c) PERFORMANCE OF TESTS.—(1) The Administrator may by rule permit two or more persons, who are required to test under a test protocol formulated in accordance with standards prescribed by him, to designate one such person or a qualified and independent third party to perform such testing pursuant to a cost-sharing arrangement. If the persons required to test are not able to agree upon a designee within a reasonable time, or if the agreed-upon designee is not acceptable to the Administrator, the Administrator may order one or more of such persons, or may designate a qualified and independent third party, to perform the required testing. If the Administrator issues such an order, he shall direct the persons who are thus exempted from the obligation to perform tests to provide fair and equitable contribution for the full cost of such testing, and of the cost, if any, of formulating any test protocol, in an amount determined under rules of the Administrator.

(2) Whenever the Administrator exempts a person from the obligation to perform tests, he shall, if such exemption takes effect during the reimbursement period for such data, order such exempt person to provide reimbursement in the same manner as if an exemption had been granted under section 5(g) of this Act (unless the parties agree on the amount and method of reimbursement).

(3) In any case in which a person provides contribution or reimbursment in accordance with paragraph (1) or (2) of this subsection or of section 5(g) of this Act, section 15 of this Act shall not be construed to prevent such person from having access to any data submitted as a result of the testing as to which such contribution or reimbursement was provided.

(d) REPORTING.—A person required to perform any test required by an applicable test protocol shall submit the test data developed pursuant to such test protocol and such protocol to the Administrator promptly upon completion of such test. The Administrator may provide for the submission of preliminary and other reports during the course of such testing.

(f) NOTICE.—Upon the receipt of test protocol and test data developed pursuant to it under this section, and subject to section 15 of this Act, the Administrator shall promptly publish a notice of such receipt in the Fed-

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eral Register. Each such notice shall (1) identify the chemical substance for which test data have been received, (2) list the uses or intended uses of such substance, and other information specified by the Administrator by rule, and (3) describe the nature of the test performed and the data which were developed. Such data shall be made available by the Administrator for examination by any person, except as otherwise provided in section 15 of this Act.

(g) PROCEDURE.—Rules issued under this section (and amendments thereto or repeals thereof) shall be promulgated pursuant to section 553 of title 5, United States Code. In promulgating, amending, or repealing any standard or other rule under this section, (1) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions, and (2) a transcript shall be made of any oral presentation.

PREMARKET SCREENING OF CHEMICAL SUBSTANCES

SEC. 5. (a) GENERAL.—Commencing 180 days after the date of enactment of this Act, a manufacturer or importer of a new chemical substance (other than a mixture or a chemical substance covered by subsection (b) of this section) shall notify the Administrator of the planned manufacture or importation of such substance at least 90 days in advance thereof. When providing such notice, such manufacturer or importer shall submit to the Administrator the information referred to in section 8 of this Act insofar as it pertains to such substance. If, in the judgment of the Administrator, such a substance does not present an unreasonable environmental or human health risk, he may reduce the number of days after submission of such information during which manufacture or importataion may not occur. The Administrator shall give priority attention to a chemical substance with respect to which information is received indicating that serious economic or other hardships are likely to result if there is any unnecessary postponement of manufacture or importation.

(b) SUBMISSION OF DATA.—(1) After the effective date of test standards issued under section 4 of this Act, any manufacturer or importer of a new chemical substance which is covered by such standards, and who first manufactures or imports such substance after such date, shall submit to the Administrator (in lieu of the information required in subsection (a) of this section), at least 90 days prior to such manufacture or importation, the test data developed in accordance with such standards, and the applicable information referred to in section 8 of this Act which pertains to the intended use or distribution of such substance.

(2) The Administrator shall promptly publish (subject to section 15 of this Act) in the Federal Register the identity of each such chemical substance, the use or distribu-

tion intended, and a statement of the availability of any test data or other information submitted.

(c) RULE.—If warranted by data available to him, or by the absence of data, the Administrator may propose a rule under section 6 of this Act with respect to a new chemical substance. If such rule is proposed prior to the expiration of the 90-day period referred to in subsection (a) or (b) of this section, or during the extension provided for in subsection (d) of this section, such proposed rule shall apply (pending the outcome of administrative proceedings on such proposal) to any subsequent manufacture or distribution in commerce of such new chemical substance as if such proposed rule were final.

(d) EXTENSION.—The Administrator may extend, for an additional period beyond the 90-day period from the submission of required information under this section, the date after which a new chemical substance may be manufactured or imported for any particular use or distribution. Such additional period may not exceed 90 days and shall not be granted except for good cause shown. Notice of any such extension, and the reasons therefor, shall be published in the Federal Register. Such an extension shall constitute a final action for purposes of judicial review.

(e) CLEARANCE.—Unless the Administrator proposes a rule with respect to a new chemical substance, under section 6 of this Act, within 90 days after the submission of information or data under subsection (a) or (b) (or in the case of information submitted under subsection (a) within such shorter period as the Administrator may consider appropriate) or within such period as extended under subsection (e), manufacture or importation of such new chemical substance may commence. Nothing herein shall be construed to prohibit the Administrator from promulgating a rule pursuant to section 6 of this Act with respect to any chemical substance after manufacture or importation has commenced, or from taking action against any substance which is found to be an imminent hazard pursuant to section 7 of this Act.

(f) EXEMPTION.—(1) The Administrator may exempt any person from the obligation to submit test data under this section, if he determines that the submission of test data by such person would be duplicative of data previously received. Such an exempt person shall not manufacture or import such new chemical substance prior to the date of termination of the premarket screening period for which test data were submitted under this section. Any chemical substance, or any manufacturer or importer thereof referred to under the preceding sentence, shall be subject to all the other provisions of this Act.

(2) If the Administrator, under paragraph (1), exempts any person from submitting data under this section because of the existence of previously submitted test data, and if such exemption takes effect during the reimbursement period for such data (defined in paragraph (3)), then, unless the parties can agree on the amount and method of reimbursement, the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount and subject to conditions determined under rules of the Administrator)—

(A) to any person who previously submitted test data on which the exemption was based, for a portion of the costs incurred by him in complying with the requirement under this section to submit such data, and

(B) to any other person who has been required under this paragraph to contribute with respect to such data.

An order under this paragraph shall be considered final agency action, for purposes of judicial review.

(3) For purposes of paragraph (2), the reimbursement period for any previously submitted test data is a period—

(A) beginning on the earliest date (after submission of such data) on which a person who previously submitted test data on which the exemption was based was no longer prohibited from proceeding with the manufacture and distribution in commerce of a chemical substance to which such data applied, and

(B) ending two years after such date (or, if later, at the expiration of a period after such date equal in length to the period which the Administrator determines was necessary to develop the previously submitted test data).

(g) SIGNIFICANT NEW USE.—(a) A chemical substance may not be manufactured or imported for a use which is identified by the Administrator in a rule as a significant new distribution in commerce of such substance, unless, at least 90 days prior to such manufacture or importation, the person intending to manufacture or import such substance for such use submits a notice of his intention to do so to the Administrator. Any such substance shall be subject to all other provisions of this section.

(2) Any manufacturer or importer who proposes to distribute in commerce a chemical substance for which notice may be required under this subsection, shall attempt to ascertain from the person to whom he distributes such substance (hereafter in this paragraph referred to as "distributee") whether such distributee proposes to distribute such substance for a use which would be a significant new use. If the distributee refuses or is unable to inform such manufacturer or importer whether the proposed use would be a significant new distribution in commerce, the manufacturer or importer shall so inform the Administrator and shall inform the distributee that such substance may be subject to this section. Such distributee shall thereafter be treated, for purposes of this section (including this paragraph), as the manufacturer of such substance.

HAZARDOUS CHEMICAL SUBSTANCES

SEC. 6. (a) GENERAL.—If the Administrator determines that a rule with respect to a chemical substance is necessary to protect against an unreasonable risk to human health or the environment, he may prescribe such a rule under this section. Such a rule may consist of one or more of any of the following types of requirements:

(1) Requirements (A) prohibiting the manufacture, processing or distribution in commerce of such chemical substance or (B) limiting the amount of such chemical substance which may be manufactured or distributed in commerce.

(2) Requirements (A) prohibiting the manufacture or distribution in commerce of such chemical substance for a particular use or (B) limiting the amount of such substance which, or regulating the condition under which such substances, may be manufactured or distributed in commerce for such uses.

(3) Requirements mandating that such chemical substance, or an article containing such substance, be marked with or accompanied by clear and adequate warnings and instructions with respect to its use or disposal, in such form and bearing such content as the administrator determines to be appropriate.

(4) Requirements (A) that persons subject to requirements prescribed under paragraphs (1), (2), or (3), make and retain records and monitor or conduct tests necessary to assure their compliance with such requirements; (B) that manufacturers and processors of a chemical substance make and retain records of the processes used to manufacture or process such substance; and (C) that manufacturers and processors monitor or conduct tests necessary to determine whether chemical substances manufactured or processed by them are adulterated (within the meaning of subsection (e)(2)), and retain records of such tests. Any records or data required under this paragraph shall not be considered research data or process technology for purposes of section 13(b) of this Act.

The Administrator shall select the least stringent requirement practicable consistent with the protection of human health and the environment against unreasonable risks.

(b) APPLICABILITY.—(1) The applicability of any rule issued under this section may be limited to specified geographic areas.

(2) The authority of the Administrator, under subsection (a)(2) of this section, to prescribe a rule prohibiting the manufacture, processing, or distribution in commerce of a chemical substance for a particular use includes the authority to prohibit the distribution in commerce of a chemical substance for a particular use in a concentration in excess of a level specified in such rule.

(3) Rules limiting the amount of a chemical substance which may be manufactured, processed or distributed in commerce or limiting the quantity of such substance which may be manufactured, processed or distributed for a particular use, shall provide for assigning production, processing and distribution quotas to the extent necessary, with respect to the chemical substance whose manufacture, processing or distribution is limited thereby. The permissible quota for each person who applies to manufacture or process such substance or to engage in its distribution in commerce shall be determined in accordance with criteria which the Administrator shall prescribe by rule. Such criteria shall take into account all relevant factors, including (A) effects on competition, (B) the market shares, productive capacity, and product and raw material inventories of the precursors of the chemical substance of persons applying for quotas, (C) emergency conditions, such as fires or strikes, and (D) effects on technological innovation.

(c) FACTORS.—In promulgating rules under subsection (a) of this section, the Administrator shall consider all relevant factors, including—

(1) the effects of the substance on health and the magnitude and duration of human exposure to it;

(2) the effects of the substance on the environment and the magnitude and duration of environmental exposure to it; and

(3) the benefits of the substance for a given use or uses and the availability of less hazardous substances for the same uses.

(d) EFFECTIVE DATE.—The Administrator shall specify the effective date of any rule proposed under subsection (a) of this section. Such date shall be as soon as feasible.

(e) QUALITY CONTROL.—(1) If the Administrator has good cause to believe that a particular manufacturer, importer, or processor is manufacturing, importing, or processing a chemical substance in a manner which permits or causes the adulteration of such chemical substance—

(A) he may require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance and he shall take such other actions as authorized by this Act; and

(B) if he thereafter determines by rule that such quality control procedures are inadequate to prevent the adulteration of such substance, the Administrator may order the manufacturer, importer, or processor to revise such quality control procedures to the extent which the Administrator finds necessary to remedy such inadequacy.

(2) For purposes of this subsection, a chemical substance is adulterated if it or any precursor substance used or produced in its manufacture or processing bears or contains any other chemical substance or contaminant which itself or, in combination with

the chemical substance, poses or is likely to pose an unreasonable risk to human health or the environment.

(f) PROCEDURE.—Rules issued under subsection (a) of this section (and amendments thereto or repeals thereof) shall be promulgated pursuant to section 553 of title 5 of the United States Code; except that in promulgating any such rule, amendment, or repeal (A) the Administrator shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions; (B) a transcript shall be made of any oral presentation; and (C) the Administrator shall provide for cross-examination to such extent and in such manner as in his discretion he determines is necessary and appropriate in view of the nature of the issue involved, the number of the participants and the nature of the interests of such participants.

IMMINENT HAZARD

SEC. 7. An imminent hazard shall be considered to exist when the evidence is sufficient to show that the manufacture, processing, or distribution in commerce of a chemical substance or product containing such substance will result in any unreasonable threat to human health or the environment, prior to the completion of an administrative hearing or other formal proceeding held pursuant to this Act. If the Administrator has reason to believe that an imminent hazard exists he may petition an appropriate district court of the United States, or he may request the United States attorney for such district to do so, to restrict the manufacture, processing, or distribution in commerce of the chemical substance or product responsible for the hazard, or to take such other action as is appropriate. The Administrator shall simultaneously, if he has not done so, propose any regulation which may be warranted under section 6 of this Act.

REPORTS

SEC. 8. (a) GENERAL.—(1) The Administrator may, by rule, require any manufacturer, importer, or processor of any chemical substance to maintain such records, and to submit such reports to him annually, and at such more frequent time as he may reasonably require. Reports which the Administrator by rule requires may include the following information:

(A) the common or trade name, the chemical identity, and the molecular structure of each chemical substance for which such report is required, insofar as known to the person making the report or insofar as reasonably ascertainable;

(B) the categories or proposed categories of use of each such substance, insofar as known to the person making the report, or insofar as such are reasonably ascertainable;

(C) reasonable estimates of the amounts of each substance manufactured, imported, or processed for each such use; and

(D) a description of any byproducts resulting from the manufacture, processing, distribution in commerce of each such substance, insofar as known to the person making the report or insofar as reasonably ascertainable.

(2) For purposes of this subsection, the term "byproduct" means a chemical substance which is produced or results as a consequence of the manufacture, importation, processing, or distribution in commerce of some other chemical substance.

(b) INVENTORY.—The Administrator shall compile and publish a listing of each chemical substance which any manufacturer, processor or importer reports (under this section) is manufactured, processed or imported into the United States. A chemical substance shall be included in such listing as of the earliest date (as determined by the Administrator) on which such substance was manufactured in or imported into the United States.

(c) Submission.—Any test data or other information required to be developed pursuant to this Act shall be submitted to the Administrator promptly. The Administrator may require the submission of preliminary and other reports during the course of any monitoring or testing.

(d) RECORDS.—Any person who manufactures, processes, or distributes in commerce any chemical substance shall maintain records of adverse reactions to human health or the environment alleged to have been caused by the chemical substance. Such records may consist of, but not be limited to, consumer allegations of personal injury, and reports or complaints of injury to the environment submitted to the manufacturer, processor, or distributor in commerce by individuals or governmental agencies.

(e) HEALTH AND SAFETY STUDIES.—Any person who manufactures, processes, or distributes in commerce any chemical substance shall report to the Administrator—

(1) all health and safety studies in progress on or initiated after the date of enactment of this Act, conducted by or for the person; and

(2) a list of all health and safety studies conducted by or for such person 40 years prior to the date of enactment of this Act. Such list shall be submitted to the Administrator within 180 days after the date of enactment of this Act. The Administrator, on the basis of the lists submitted, may request submission of any study appearing on such list.

(f) COMMENTS.—Whenever the Administrator determines that such action would be necessary to assist him to carry out his responsibilities and authorities under this Act, he may, by publishing a notice in the Federal Register, invite and afford all interested persons an opportunity to provide information and comment in writing respecting the health or environmental effects of a chemical substance. Such an invitation and opportunity shall not be deemed a proceeding for purposes of section 15(a)(2) of this Act.

EXEMPTIONS AND RELATIONSHIP TO OTHER FEDERAL LAWS

SEC. 9. (a) EXEMPTIONS.—This Act shall not apply to—

(1) any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured or distributed in commerce for use as a pesticide; or

(2) drugs (as such term is defined in section 201(g) of the Federal Food, Drug, and Cosmetic Act) and food (as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act, including poultry and poultry products (as defined in section 4 (e) and (f) of the Poultry Products Inspection Act), meat and meat food products (as defined in section 1(j) of the Federal Meat Inspection Act) and egg and egg products (as defined in section 4 of the Egg Products Inspection Act)).

(b) ABSENCE OF AUTHORITY.—The Administrator shall have no authority under section 6 and 7 of this Act to take action to prevent or reduce an unreasonable risk to health or the environment associated with the manufacture, processing, or distribution in commerce of a chemical substance or an article containing such substance—

(1) to the extent that the Administrator in his discretion determines the risk associated with such substance or article may be prevented or reduced to a sufficient extent under any Federal law administered, in whole or in part by the Administrator, unless he finds that the risk associated with such substance or such article cannot be prevented or reduced as effectively by his action under such other Federal law;

(2)(A) if the entirety of risk to human health and the environment associated with such substance or article is designed to be protected against under other Federal law (other than the National Environmental Policy Act of 1969) not administered in whole or in part, by the Administrator; and

(B) if the entirety of such risk could be prevented or reduced to a sufficient extent by action taken under such other Federal law as determined by the Administrator in his discretion.

(c) NOTICE.—If it appears to the Administrator that any chemical substance may pose an unreasonable risk to human health or the environment which could be prevented or reduced to a sufficient extent by actions taken under other Federal laws, he shall transmit, and give public notice thereof, any data received from manufacturers, importers, or processors, or data otherwise in his possession which is relevant to such risk to the Federal executive department or agency, independent regulatory agency or other authority of the Federal Government with authority to take legal action.

(d) COORDINATION.—In administering the provisions of this Act, the Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of any other appropriate Federal executive department or agency, any relevant independent regulatory agency, and any applicable instrumentality of the Federal Government. The Administrator shall report annually to the Congress on actions taken to coordinate with such other Federal agencies, and on actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in subsection (b) of this section.

OTHER PROVISIONS

SEC. 10. (a) ASSISTANT ADMINISTRATOR.—The President, by and with the advice and consent of the Senate, shall appoint an Assistant Administrator for Toxic Substances from among individuals who, by reason of their background and experience, are especially qualified to direct a program concerning the effects of chemicals on human health and the environment. Such person shall be responsible for collection of data, preparation of studies, and recommendations to the Administrator for regulatory and other actions to carry out the purposes of this Act.

(b) ANNUAL REPORT.—Each January 1st, an annual report shall be transmitted to Congress by the Administrator describing his activities under this Act. Such report shall include detailed short- and long-range plans for future activities by the Administrator to further the purposes of this Act.

(c) CATEGORIES.—Any action which may be taken, by the Administrator under any provision of this Act, with respect to a chemical substance, may be taken with respect to a category of chemical substances or to classes of uses of chemical substances. Whenever the Administrator takes an action with respect to a category of chemical substances or to under any provision of this Act, any reference in this Act to a chemical substance (insofar as such reference relates to such action) shall be deemed to be a reference to each chemical substance in any such category.

RESEARCH, COLLECTION, DISSEMINATION AND UTILIZATION OF DATA

SEC. 11. (a) AUTHORITY.—The Administrator shall, in consultation and cooperation with the Secretary of Health, Education, and Welfare, and other agency or agencies, conduct such research and monitoring as is necessary to carry out the purposes of this Act. Responsibility for conduct of research shall be assigned to the Environmental Protection Agency, agencies of the Department of Health, Education, and Welfare, or such other agencies as would be appropriate, as determined by the Administrator and the Secretary of Health, Education, and Welfare. The Administrator, in consultation with the Secretary of Health, Education, and Welfare,

is authorized to make contracts and grants for research and monitoring as necessary to carry out the purposes of this Act.

(b) INTERAGENCY COMMITTEE.—(1) The Administrator shall establish and be responsible for the continuing activities of an interagency committee which will design and coordinate an efficient and effective system, within the Environmental Protection Agency, for the collection, dissemination to other Federal agencies, and utilization of data submitted to the Environmental Protection Agency under the terms of this Act.

(2) The Administrator shall, in consultation with the Secretary of Health, Education, and Welfare and other appropriate agencies, design and coordinate an efficient and effective system for the retrieval of toxicological and other scientific data which could be useful to the Administrator in carrying out the purposes of this Act. Systematized retrieval shall be developed for use by all Federal and other agencies with responsibilities in the area of regulation or study of toxic substances, including chemicals, on the health of human beings or the environment.

(3) The Administrator is authorized to make contracts and grants for the development of a data renewal system suitable for carrying out the purposes of this Act, as described above, in consultation with the Secretary of Health, Education, and Welfare.

ADMINISTRATIVE INSPECTIONS

SEC. 12. The Administrator may authorize any officer, employee, or agent to enter upon, inspect, and examine at reasonable times and in a reasonable manner the records and properties of persons to the extent that such records and properties relate to the manufacture, processing, or distribution in commerce of chemical substances subject to this Act. Any such officer, employee, or agent shall, upon request, display proper credentials. Unless the owner, operator, or agent in charge of such records and properties so consents in writing, no inspection authorized by this section shall extend to (1) financial data; (2) sales data other than shipments data; (3) pricing data; (4) personnel data; (5) research data (other than data required by this Act); or (6) process technology (other than those data related to the chemical composition, synthesis information, or the industrial use of a chemical substance).

EXPORTS

SEC. 13. (a) GENERAL.—This Act shall not apply to any chemical substance, or to any article containing such substance, if (1) it can be shown that such substance or article is manufactured, processed, sold, or held for sale for export from the United States (or that such substance was imported for export), unless such substance or article is, in fact, manufactured, processed, or distributed in commerce for use in the United States, and (2) such chemical substance or article containing such substance when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such chemical substance or article is intended for export; except that (A) any manufacturer, processor, or exporter of such chemical substance who, but for this section, would be subject to section 8 of this Act shall be subject to the reporting requirements of such section 8; and (B) this subsection shall not apply to any such substance or article if the Administrator finds that it will, directly or indirectly, pose an unreasonable risk to health within the United States or to the environment of the United States and such chemical shall be subject to section 5 of this Act.

(b) FOREIGN GOVERNMENT.—If the submission of test data is required for a chemical substance under section 4 or 5 of this Act, or if rules applicable to such substance or an article containing such substance have been prescribed or proposed under section 5 or 6 of this Act, the Administrator shall (except as otherwise provided in section 15 of this Act) furnish to the governments of the foreign nations to which he knows such chemical substance is exported, or is intended to be exported, notice of the availability of the data submitted to the Administrator under section 4 or 5 concerning such chemical substance and may require warning labels to be affixed to any package containing such chemical substance; and shall make available to such government upon request, notice of any rule applicable to such substance or an article containing such substance which has been prescribed or proposed by the Administrator under this Act.

ENTRY INTO CUSTOMS TERRITORY OF THE UNITED STATES

SEC. 14. The Secretary of the Treasury shall refuse entry into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) of any chemical substances, or any article containing such substance, offered for entry if it fails to conform with rules in effect under this Act, or if it is otherwise prohibited pursuant to this Act from being distributed in commerce. If a chemical substance or article is refused entry, hereunder, the Secretary of the Treasury shall (1) refuse delivery to the consignee and (2) cause the disposal or storage thereof if it is not exported by the consignee within three months from the date of receipt of notice of such refusal, under such regulations as the Secretary of the Treasury may prescribe. Notwithstanding the foregoing the Secretary of the Treasury may deliver such substance or article to the consignee pending examination and decision in the matter, upon execution by the consignee of a bond for the amount of the full invoice value of such substance or article, together with the duty thereon, and providing for forfeiture of the full amount of such bond by the consignee on refusal to return such substance or article to the custody of such Secretary, when demanded for any cause, or for any other purpose. All charges for storage, cartage, and labor on substances or articles which are refused admission or delivery under this section shall be paid by the owner or consignee. In default of payment of such charges, then shall constitute a lien against any future entry into the United States made by such owner or consignee. The Secretary of the Treasury, after consultation with the Administrator, shall issue regulations for the administration and enforcement of subsection (a) of this section.

CONFIDENTIALITY

SEC. 15. (a) GENERAL.—All information reported to, or otherwise obtained by, the Administrator or his representative under this Act, which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential and shall not be disclosed; except that such information may be disclosed—

(1) to officers or employees of the United States;

(2) when relevant in any proceeding under this Act, except that disclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding, or

(3) to the extent that the Administrator determines it is necessary to protect health or the environment.

(b) ACCESS BY QUALIFIED SCIENTISTS.—Notwithstanding any limitations contained in subsection (a) or any other provision of law, all information reported to or otherwise obtained by the Administrator or his representative shall be made available, upon request of qualified scientists to the extent that release of such information will not result in significant competitive damage to the originator of the information.

(c) ACCESS BY CONGRESS.—Notwithstanding any limitation contained in subsection (a) or any other provision of law, all information reported to or otherwise obtained by the Administrator or his representative shall be made available upon request of any duly authorized committee of the Congress.

(d) NAMES OF INDIVIDUALS.—Names of individuals maintained in records pertaining to health and safety data shall only be made public after written permission is obtained by the Administrator from the individuals in question. The confidentiality of medical records shall be maintained insofar as is reasonable and appropriate for the purposes of this Act.

PROHIBITED ACTS

SEC. 16. It shall be unlawful for any person to—

(1) fail or refuse to comply with any provision of sections 4, 5, or 6 of this Act, any rule or order prescribed under any of those sections;

(2) fail or refuse to comply with section 8 of this Act or any rule or order under that section;

(3) fail or refuse to permit access to or copying of records, fail or refuse to permit entry or inspection, or fail to take any other action required under section 12 of this Act;

(4) fail or refuse to comply with instructions with respect to the use or disposal of a chemical substance where such instructions are required by rule prescribed under section 6(a)(3) of this Act; or

(5) distribute in commerce or use for commercial purpose a chemical substance which such person knew or had reason to know was manufactured or distributed in commerce in violation of section 5 or 6 of this Act.

PENALTIES

SEC. 17. (a) CIVIL.—(1) Any person who violates a provision of section 16 of this Act shall be liable to the United States for a civil penalty. Each day of a continuing violation is a separate violation for purposes of this subsection. The amount of such civil penalty shall be assessed by the Administrator by written notice. In determining the amount of such penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require: *Provided*, That the amount of each penalty shall not exceed $25,000 for each such violation.

(2) Any person who is aggrieved by the assessment of a civil penalty under this subsection may appeal such decision of the Administrator by bringing a civil action against the Administrator for rescission or modification of such penalty, in the district court of the United States for the District of Columbia or for any judicial district in which he resides or transacts business, within 30 days from the date on which he is notified of such decision by certified mail. In any such judicial proceeding, the factual findings of the Administrator shall be sustained if supported by substantial evidence on the record considered as a whole.

(3) The Administrator may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty imposed or subject to imposition under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(4) If any person fails to pay as assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Administrator, the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from such date) in any appropriate district court of the United States. In such action, the validity, amount, and

appropriateness of such penalty shall not be subject to review.

(b) CRIMINAL.—Any person who knowingly or willfully violates any provision of section 16 shall, in addition to or in lieu of a civil penalty imposed under subsection (a) of this section, be liable, upon conviction, to a fine of not more than $25,000 for each day of violation, or to imprisonment for not more than one year, or both.

(c) The term "knowingly" means (1) having actual knowledge, or (2) the presumed knowledge based upon knowledge a reasonable man would have in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

SPECIFIC ENFORCEMENT

SEC. 18. (a) INJUNCTIONS.—Upon application by the Administrator or the Attorney General, the district courts of the United States shall have jurisdiction to restrain any violation of section 17 of this Act or to compel the taking of any action required by this Act or any rule issued thereunder. In any action under this subsection, process may be served on a defendant in any other judicial district in which the defendant resides or may be found, and subpenas for witnesses may run into any other district.

(b) RELIEF AUTHORIZED.—(1) The district court in which an action under subsection (a) of this section, or under section 7 of this Act, is filed to grant such temporary or permanent relief as may be necessary to protect health or the environment from an unreasonable risk associated with the substance or article involved in such action. Such relief may require (in the case of an action under subsection (a) of this section or under section 7 of this Act a mandatory order requiring (A) notification of such risk to those purchasers of such substance or article who are known to the defendant; (B) public notice; (C) recall; and (D) the replacement or refund of such substance or article. An order issued under this subsection may require any person who is a manufacturer, processor, or distributor in commerce of such substance or article to reimburse any other person for such other person's expenses in connection with carrying out the order, if the court determines such reimbursement to be in the public interest.

(2) An action under subsection (a) of this section, or under section 7 of this Act may be brought in the United States District Court for the District of Columbia or in the district court of the United States for any judicial district in which any of the defendants is found, resides, or transacts business. In any such action, process may be served on a defendant in any other district in which such defendant resides or may be found. Subpenas requiring attendance of witnesses in such an action may run into any other judicial district. The court shall take into account the convenience of the parties in determining the appropriate judicial district for an action under this subsection which may otherwise be brought in more than one judicial district.

(c) SEIZURE.—Any chemical substance or article containing such substance which was manufactured or distributed in commerce in violation of this Act, or which is the subject of an action under section 7 of this Act, shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such substance or such article in any United States district court within the jurisdiction of which such substance or article is found. Such proceedings shall conform as nearly as possible to proceedings in rem in admiralty.

COOPERATION OF FEDERAL AGENCIES

SEC. 19. Upon request by the Administrator, each Federal agency is authorized—

(1) to make its services, personnel, and facilities available (with or without reimbursement) to the Administrator to assist him in the performance of his function; and

(2) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession as the Administrator may reasonably determine to be necessary for the performance of his functions as provided by this Act.

STATE REGULATION

SEC. 20. (a) EFFECT ON STATE LAW.—Nothing in this Act shall affect the authority of any State or local government to regulate any chemical substance, or to establish and enforce standards for test protocols for chemical substances to protect health or the environment, except that—

(1) if the Administrator prescribes a rule under section 6 of this Act applicable to a chemical substance, a State or local government may not, after the effective date of such rule, establish or continue to enforce any different restriction of its own on manufacture, processing or distribution in commerce of such substance for purposes similar to those set forth in such rule, other than a total prohibition on the use or distribution of such substance within the territorial jurisdiction of such government; and

(2) if the Administrator prescribes a rule under section 4 of this Act applicable to a chemical substance, a State or local government may not, after the effective date of such rule impose requirements of its own applicable to such substance for purposes similar to those set forth in a rule under section 4 of this Act.

(b) EXEMPTION.—The Administrator may, by rule, upon the petition of any State or local government or upon his own initiative, exempt any State or local government from a prohibition in subsection (a) of this section with respect to a chemical substance, if such exemption will not, through difficulties in marketing, distribution, or other factors, result in placing an unreasonable burden upon commerce or lessen the protection accorded human health and the environment.

JUDICIAL REVIEW

SEC. 21. (a) GENERAL.—Not later than 60 days following the promulgation of a rule under section 4, 5, or 6 of this Act, any person adversely affected by such rule, or any interested person, may file a petition for judicial review of such rule with the United States Court of Appeals for the District of Columbia, or for the circuit in which such person resides or has his principal place of business. Copies of the petition shall be forthwith transmitted by the clerk of such court to the Administrator and to the Attorney General. The Administrator shall transmit to the Attorney General, who shall file in the court, the record of the proceedings on which the Administrator based his rule as provided in section 2112 of title 28, United States Code, and shall include the transcript of any oral presentation of data, views, or arguments required under the applicable provision of this Act. For purposes of this section, the term "record" means such rule; any transcript required of any oral presentation; any written submission of interested parties; and any other information which the Administrator considers relevant to such rule.

(b) ADDITIONAL DATA.—If the petitioner applies to the court for leave to adduce additional data, views, or arguments, and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there are reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Administrator, the court may order the Administrator to provide additional opportunity for oral presentation of data, views, or arguments and for written submissions. The Administrator may modify his findings, or make new findings by reason of the additional data, views, or arguments so taken and shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original rule, with the return of such additional data, views, or arguments.

(c) AUTHORITY AND REVIEW STANDARD.—(1) Upon the filing of a petition under subsection (a), the court shall have jurisdiction (i) to review the rule involved, in accordance with chapter 7 of title 5, United States Code, and (ii) to grant appropriate relief, including interim relief, as provided in such chapter. Any rule promulgated by the Administrator under section 4, 5, or 6 of this Act and reviewed under this section shall be affirmed, unless the findings required to be made under the applicable section are not supported by substantial evidence on the record as required to be developed in this Act.

(2) The judgment of the court affirming or setting aside, in whole or in part, any rule reviewed in accordance with this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, the United States Code.

CITIZEN'S CIVIL ACTION

SEC. 22. (a) GENERAL.—Except as provided in subsection (b), any interested person may commence a civil action for injunctive relief on his own behalf—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any rule, order, or restriction prescribed under section 4, 5, or 6 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act whether or not discretionary and a likelihood as determined by the court that such allegation can be supported by a preponderance of the evidence in the judicial proceeding.

Any action under paragraph (1) shall be brought in the district court of the United States for the district in which the alleged violation occurred. Any action brought under paragraph (2) shall be brought in such district court for the District of Columbia, or in such district court for the judicial district in which the plaintiff domiciled. The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) LIMITATION.—No civil action may be commenced—

(1) under subsection (a)(1)—

(A) prior to 60 days after the plaintiff has given notice of the violation (i) to the Administrator, and (ii) to any alleged violator of the rule, or

(B) if the Administrator (or Attorney General on his behalf) has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the rule, but if such action is commenced after the giving of notice any such person giving such notice may intervene as a matter of right in such action; or

(2) under subsection (a)(2) prior to 60 days after the plaintiff has given notice of such action to the Administrator, except that such action may be brought 10 days after such notification in the case of an action under this section for the failure of the Administrator to act under section 7 of this Act.

Notice under this subsection shall be given in such manner as the Administrator shall prescribe by rule.

(c) GENERAL.—(1) In any action under this section, the Administrator, if not a party, may intervene as a matter of right.

(2) the court, in issuing any final order in any action brought pursuant to subsection (a), may award reasonable fees for attorneys and expert witnesses, whenever the court determines that such an award is appropriate.

(3) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any rule or order or to seek any other relief.

(4) For purposes of this section, the term "person" means an individual, corporation, partnership, association, State, municipality, or political subdivision of a State.

(d) CONSOLIDATION.—When actions brought under subsection (a)(1) involving the same defendant and the same issues or violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

NATIONAL DEFENSE WAIVER

SEC. 23. The Administrator shall waive compliance with any provision of this Act upon request of the Secretary of Defense, and upon a determination by the President that the requested waiver is necessary in the interest of national defense. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this Act. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national defense purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national defense, in which event the Administrator shall submit notice thereof to the Armed Services Committees of the Senate and the House of Representatives.

EMPLOYEE PROTECTION

SEC. 24. (a) GENERAL.—No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) has—

(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act;

(2) testified or is about to testify in any such proceeding; or

(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.

(b) REMEDY.—(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 30 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this paragraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(B) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of subsection (a) of this section has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complainant upon which the order was issued.

(c) REVIEW.—(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(2) An order of the Secretary, with respect to which review could have been obtained under paragraph (1), shall not be subject to judicial review in any criminal or other civil proceeding.

(d) ENFORCEMENT.—(1) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages. Civil actions filed under this subsection shall be heard and decided expeditiously.

(2) Any nondiscretionary duty imposed by this section is enforceable in mandamus proceeding brought under section 1361 of title 28, the United States Code.

(e) EXCLUSION.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from his employer (or the employer's agent), deliberately caused a violation of any requirement of this Act.

STUDY

SEC. 25. Notwithstanding the provisions of section 9 of this Act, the Administrator shall, by contract or other arrangement, commission a study of all Federal laws administered by the Environmental Protection Agency for the purpose of determining whether and under what conditions, if any, indemnification should be accorded any person as a result of any action taken by the Administrator under any law administered by such agency. This study shall—

(1) be conducted outside of the Environmental Protection Agency under the direction of a university or recognized research center by an interdisciplinary group, none of the members of which may have a financial interest or conflict of interest (other than any fee paid by the Administrator for serving as a member of such group) with respect to the findings and conclusions of such study;

(2) include an estimate of the probable cost of any indemnification programs which may be recommended;

(3) include an examination of all viable means of financing the cost of any recommended indemnification;

(4) be completed no less than two years from the date of enactment of this Act; and

(5) be submitted, upon completion, simultaneously to the Administrator and to the appropriate committees of the Congress without prior clearance or review by the executive branch.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 26. (a) There is authorized to be appropriated to the Administrator, for purposes of carrying out this Act, not to exceed $11,100,000 for the fiscal year ending June 30, 1976, not to exceed $2,600,000 for the transitional quarter ending September 30, 1976, and not to exceed $10,100,000 for the fiscal year ending September 30, 1977. No part of the funds so authorized to be appropriated shall be used to construct any research laboratories.

(b) The Administrator may, by rule, require the payment of a reasonable fee from any person required to submit test data under sections 4 and 5 of this Act to defray the cost of administering this Act. Such rules shall not provide for any fee in excess of $2,500. In setting such a fee, the Administrator shall take into account the ability to pay of the person required to submit the data and the cost of the Administrator of reviewing such data. Such rules may provide for sharing such a fee, in any case in which the expenses of testing are shared under section 4(d) of this Act.

(c) Whenever the Administrator submits, in connection with this Act, any budget requests, supplemental budget estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to the President or to the Office of Management and Budget, he shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Administrator to submit budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation relating to this Act 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.

Mr. MAGNUSON. Mr. President, I am very happy to join my distinguished colleagues on the Committee on Commerce, Senators HART and TUNNEY, in introducing the Toxic Substances Control Act.

The time has never been more appropriate to enact legislation of this sort. In the last 4 years, the Committee on Commerce has conducted 11 days of hearings on similar legislation. Those hearings have demonstrated time and time again that the threats associated with chemicals in consumer products and

in industrial processes must not be allowed to continue. The hazards of vinyl chloride, mercury, freon, PCB's and a wealth of other chemicals have all demonstrated that we must have a better means of regulating chemicals and determining what kinds of threats are in store for us prior to their first manufacture.

On February 16, the Washington Post carried a story describing the results of a National Cancer Institute study on the extent to which environmental factors cause cancer. The study indicates that 60 to 90 percent of all human cancers are caused by environmental factors, including many organic chemicals. It is these types of hazards which are designed to be controlled by the Toxic Substances Control Act.

Existing statutory authorities do not fully cover the types of hazards presented by these chemicals. We have the authority to control air pollution emissions and water pollution effluents. But we have no authority to prevent the use of chemicals before they get to the effluent or emission stage or before they present environmental hazards when used in products. The bill we introduce today would provide that needed authority.

The Committee on Commerce has placed a high priority on moving the Toxic Substances Control Act. Hearings will be scheduled in the very near future and it is my hope that the committee will act favorably very soon thereafter.

By Mr. MOSS:

S. 778. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to individuals with respect to high mortgage interest rates. Referred to the Committee on Finance.

S. 779. A bill to amend the Internal Revenue Code of 1954 to allow rapid amortization of certain new multiple dwelling units. Referred to the Committee on Finance.

Mr. MOSS. Mr. President, I am introducing today two bills to help stimulate the very depressed housing sales and construction industry. I ask that they be printed in the RECORD at the conclusion of my remarks.

These bills separate the housing market into two divisions: the single family residential dwelling, which is the owner's principal residence, and the commercial multiple unit rental market.

The bill which will stimulate single family residential dwelling construction and sales provides that the Internal Revenue Code be amended to provide a tax deduction for the annual interest paid to the lending institution by a mortgagee, as the code presently allows, but in addition all mortgagees who hold a mortgage contract with an interest rate higher than 7 percent will take a dollar for dollar credit on all interest above 7 percent. The credit can be taken only for that amount from 7 percent to an amount of interest 1 percent above the prime rate at the time the buyer entered into the mortgage contract. This last provision will prevent usurious interest being charged as a result of this legislation.

The Nation has suffered a reduction in housing starts from 2.4 million to less than 1 million during the last 18 months. The principal reason for the reduction in starts can be credited more to the rapid rise in interest rates than to the rise in the cost of housing itself. The increase in interest rates ultimately requires a larger monthly payment than many homeowners can afford. This legislation will provide a rebate to the homeowner through his taxes to be paid annually.

A homeowner has two major concerns when he is anticipating the purchase of a home. The first is the base price of the home which he can qualify for and the second is the amount of monthly payment which is determined by base price plus the interest rate. Of course, when the interest rate is excessively high the base price of the home must be lower in order for a purchaser to qualify with modest annual income. The legislation will provide significant stimulus by allowing those people who have been waiting for interest to come down to purchase now. It will also have a second economic stimulus by providing greater monetary flow through the market.

Mr. President, the second bill will allow owners of newly constructed multiple unit rental dwellings to amortize a straight-line depreciation over a 5-year period; in other words to write off the entire cost of construction and purchase in 5 years when interest on the contract is above 7.5 percent. This will be allowed only on newly constructed first trust dwelling units. The attraction of the housing market to investors will be multiplied manifold. These investors will divert funds which are presently stagnant to the construction of new housing because of its attractiveness. The stimulus to the economy and to the sale and construction of multiple-unit dwellings should be immediately noticeable by allowing for short-term recapitalization.

These two bills will cost the Federal Government an estimated $800 million per year. However, the generated revenue could be as much as $25 billion per year. Tax revenue from this would greatly offset the Treasury loss. The revenue would, of course, be generated by restimulating the housing industry.

Mr. President, this bill has the additional effect of stimulating other industries and should help lead us out of the recession by providing stimulus to an economy which presently has the highest unemployment since the depression of the thirties.

By Mr. BENTSEN:

S. 780. A bill to provide education equalization incentive grants to the States. Referred to the Committee on Labor and Public Welfare.

THE EDUCATION EQUALIZATION ACT OF 1975

Mr. BENTSEN. Mr. President, I am today reintroducing the Education Equalization Act of 1975, a measure I introduced last year as an amendment to the Elementary and Secondary Education Act and later as a separate measure. It is being introduced simultaneously in the House today by Congressman AUGUSTUS HAWKINS of California.

In my view, the paramount issue confronting American education today is the question of school finance. Indeed, there is no more fundamental question in education than the right of a child to have a quality education, wherever he may happen to live.

As long as our school systems depend primarily on the local property tax for their support, there will be more money to educate children in wealthy school districts and less money to educate children in poor districts, where the need is far greater.

The Supreme Court handed down a landmark ruling on school finance in the Rodriguez case, which affected my own State of Texas. And while I agree with that part of the Court's decision declaring that education is primarily a State function, I must also agree with Justice Potter Stewart, that "the method of financing public schools in Texas, as in almost every other State, has resulted in a system of public education that can best be described as chaotic and unjust."

There are those who say the Rodriguez decision only guarantees that the system will continue to be "chaotic and unjust," and that a child's education will be determined by how many wealthy taxpayers there are in his school district.

But it is my belief that the Rodriguez decision is not a cause for despair. It is an incentive to seek justice and equality through new avenues—to wage the battle with creative legislation.

As a result of the wide publicity given to the Rodriguez case in Texas, the Serrano case in California, and cases in New Jersey and other States, public consciousness has been awakened to the issue of equality in the financing of public education.

Several States are now wrestling with the problem, which has been aggravated by increasing school costs in a period of unparalleled inflation, decreasing revenues for education, and fluctuations and delays in Federal support.

The purpose of this legislation is to provide incentives and rewards for those States which either proceed with equalization plans or maintain the plans they presently have.

I do not believe that movements to equalization can be provided by Federal subsidy alone.

But I do believe that it is a Federal responsibility to assist the States who make the effort to adopt workable plans to improve educational opportunities for children in poorer school districts, through a more equitable method of school finance.

It is quite simply unfair to the children in poorer school districts, which cannot match their wealthy sister districts in teachers' salaries, quality of material, and the freedom which adequate funds can provide to experiment in education. The problem is a severe one; in my own State of Texas the variations in taxing ability between the richest and the poorest district ranges as high as 84 to 1; in Louisiana, 52 to 1; in Michigan 30 to 1. The problem is not limited to one section of the country, or to the heavily urbanized or rural States; it is a national problem.

Essentially, this legislation would provide reward incentives to States which move to adopt statewide plans for pub-

lic school financing. To qualify, a State would have to demonstrate to the Commissioner of Education that it has a strategy to insure that State wealth, not local school district wealth, will determine educational quality; that children with greater educational needs, such as the handicapped, receive funds commensurate with their needs; that it will take into account the higher costs of educating children in areas with higher living costs and other factors contributing to increased educational expenditures.

The bill purposefully does not mandate a single method of achieving equalization. That would be counterproductive, since several of the States are now moving in different ways to achieve the same result. Moreover, the Serrano decision in California specifically indicates that there may be several means to achieve the same end. The important factor will be whether there is a statewide strategy and whether that strategy makes a serious effort to upgrade support for the poorer school districts and takes into account the specific criteria listed in the bill.

For too long, we have penalized the child who happens to have been born in a poor school district by giving him an unequal chance for a quality education. The buildings he studies in may be dilapidated and run down; the teaching he receives, despite exceptions, tends to be of lower quality than that in wealthier school districts; the textbooks and supplemental materials he uses may be meager and outdated. All of these inequities must be corrected.

It is a job at which all levels of government—State, Federal, and local—must direct their best efforts.

At this point, I ask unanimous consent to have printed in the RECORD the text of the Educational Equalization Opportunities Act of 1975.

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

S. 780

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that the Federal Government has an obligation to provide incentives for each State to assist them in equalizing the resources available within that State so that an opportunity to obtain an education appropriate to individual need will be available to all children regardless of their place of residence within the State. It is, therefore, the purpose of this Act to provide financial assistance in the form of incentives to the States to encourage them to equalize educational opportunity.

SEC. 2. (a) The Commissioner is authorized to make grants to States in accordance with the provisions of this Act. Incentive grants received under this Act may be used to improve the quality of elementary and secondary education among the local educational agencies within each State, in such areas as the State deems vital.

(b) A State is eligible to receive a grant under this Act only if the State educational agency provides assurance that—

(1) the quality of education provided to a child within that State is not the result of the wealth of the school district of the local educational agency in which the child attends school, but reflects the wealth of the State as a whole;

(2) amounts commensurate with their needs are expended on children with greater educational needs, including, but not limited to, educationally disadvantaged, gifted, talented, handicapped, and vocational educational education students; and

(3) amounts commensurate with the education costs are expended in local educational agencies within the State with greater costs, including cost attributable to sparsity of population, high density of population, and high living costs.

(c) The Commissioner is authorized to establish general guidelines for defining the principles set forth in subsection (b) of this section. No guidelines established under this subsection shall be based upon a formula requiring a mathematical equality of educational expenditures among school districts.

SEC. 3. (a) Any State desiring to receive a grant under this Act shall submit an application to the Commissioner at such time, in such manner, and accompanied by such information as the Commissioner may reasonably require. Each such application shall—

(1)(A) describe the State equalization program that meets the requirements of section 2;

(B) describe, in the case of a State equalization program already in effect, a description of that program which meets the requirements of section 2;

(2) provide assurances that the State will make substantial progress to carry out the State equalization program or will maintain its present equalization program; and

(3) provide for making periodic reports to the Commissioner evaluating the effectiveness of the State equalization program assisted under this Act and such other reports as the Commissioner may reasonably require to perform his functions under this Act.

(b) The Commissioner shall approve an application which meets the requirements of subsection (a). The Commissioner shall not finally disapprove an application of a State except after reasonable notice and opportunity for a hearing to a State.

(c) Whenever the Commission, after reasonable notice and opportunity for a hearing to any State, finds that there is a failure to meet the requirements of this Act, the Commissioner shall notify the State that further payments will not be made to the State until he is satisfied that the requirements have been met.

SEC. 4. Unless inconsistent with the purposes of this Act, the General Education Provisions Act shall apply to the equalization incentive grant program authorized by this Act.

SEC. 5. (a) There are authorized to be appropriated to carry out the provisions of this Act $50,000,000 for the fiscal year ending June 30, 1976, $75,000,000 for the fiscal year ending June 30, 1977, and $100,000,000 for the fiscal year ending June 30, 1978.

(b)(1) No State may receive more than 10 per centum of the funds available for making grants under this Act for any fiscal year. In making distributions under this Act the Commissioner shall consider an equitable geographical distribution.

(2) Funds appropriated to carry out the provisions of this Act shall remain available for the succeeding fiscal year after the year in which they were appropriated.

By Mr. SYMINGTON (for himself and Mr. RANDOLPH):

S. 781. A bill to reduce the salaries of Senators, Members of the House of Representatives, and other Federal officers and employees. Referred to the Committee on Post Office and Civil Service.

Mr. SYMINGTON. Mr. President, I am today proposing legislation providing salary reductions for Senators, Representatives, and other top Government officials to set an example as the Nation focuses on the economic problems of inflation and recession.

This measure, similar to a bill I introduced in the last session, provides that the salaries of all Government officers and employees of the legislative and executive branches earning $40,000 or more be reduced by 10 percent.

To give the President an opportunity to join other officials in setting this example, without violating the Constitution, the bill includes a section calling on him to return a portion of his salary voluntarily to the Treasury. A 10 percent reduction in Presidential pay would become mandatory January 20, 1977, when the next term begins.

The Congress has been presented with the largest budget in the Nation's history, with the second highest projected deficit. On this floor, we have done a lot of talking about reducing Federal expenditures. Here would seem a place we might well begin.

The American people are looking to their representatives for leadership. This proposal can point up our recognition of the increasingly grave economic problems we face today and constitutes a symbol of our determination to act on these problems.

I ask unanimous consent that this bill be printed in full at this point in the RECORD and referred to the proper committee.

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

S. 781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective on the first day of the first pay period beginning after the date of enactment of this Act, the annual rate of basic pay or compensation for Senators, Representatives in Congress, Delegates to Congress, the Resident Commissioner from Puerto Rico, and all other elected or appointed officers and employees of the legislative and executive branches of the United States Government whose annual basic pay or compensation is $40,000 or more, is reduced by 10 percent. This section does not apply to the President.

SEC. 2. (a) It is the sense of the Congress that the President should voluntarily return 10 percent of his annual salary to the Treasury of the United States.

(b) The Secretary of the Treasury is authorized to receive from the President such remittances of his salary as he may return to the Treasury.

SEC. 3. (a) Section 102 of title 3, United States Code, is amended by striking out "$200,000" and inserting in lieu thereof "$180,000".

(b) The amendment made by subsection (a) of this section shall take effect on noon on January 20, 1977.

By Mr. BAYH:

S. 782. A bill to provide for the establishment of a Foreign Service grievance procedure. Referred to the Committee on Foreign Relations.

THE FOREIGN SERVICE GRIEVANCE BILL

Mr. BAYH. Mr. President, I am today introducing a bill to provide a grievance system for all employees of the Foreign Service. This bill is nearly identical to a bill I introduced in the 92d Congress, and I would like to take a moment, Mr. President, to explain its history.

In 1971, I became aware of the longstanding practice of the State Department to deny due process to employees in employee-management disputes.

There was no recourse, no chance for a hearing or appeal, for an employee who had been injured by arbitrary personnel action. The tragic case of Charles Thomas, a brilliant Foreign Service Officer from Indiana, who was dismissed from the Foreign Service for too much time in grade and later committed suicide, underscored the need to provide a regularized appeals process in the State Department for complaints concerning personnel decisions just as in every other agency.

On June 8, 1971, I introduced a bill to provide basic rights for Foreign Service employees. From the start, the attitude of the State Department toward this legislation was delay. After waiting months for an alternative proposal from the State Department which never came, our highly respected former colleague, Senator John Sherman Cooper, and I drafted a new bill to reflect the interests of all parties involved. Our staffs met with representatives of the State Department, representatives of all employee groups, lawyers working on pending grievance cases, and the chairman of the Department's Interim Grievance Board, a temporary panel which had been established as a result of our prodding.

The compromise measure was then incorporated into the State Department authorization bill and passed by the Senate only to be lost in conference. We then reintroduced our proposal as a separate bill, and that bill was passed overwhelmingly in the Senate, but it died in committee in the House due to the opposition of Congressman WAYNE HAYS.

I reintroduced the bill in the 93d Congress where it was again overwhelmingly passed as an amendment to the State Department authorization bill, but unfortunately it was again dropped by a House-Senate conference committee.

Throughout this period, the State Department has asked Congress to wait for the Department's own legislative proposal or to wait until it negotiated a grievance procedure with the employees' association. But after nearly 4 years, Mr. President, there is still no permanent procedure to provide Foreign Service employees with right of due process of law.

The need for such a process was pointed out for us again in late 1973 by Judge Gerhard Gesell in the case of Lindsay against Kissinger. In that case, Judge Gesell ruled that the Department of State's "selection-out" process violates the basic guarantee of due process to which all Americans are entitled. The issue was not, ruled the Judge, whether an agency of Government had a right to dismiss unwanted or unneeded employees. The issue, rather, was whether the agency could dismiss employees without any hearing or right of appeal or even access to the facts on which the decision was based.

It is indicative of the Department's obstinance that despite the Gesell ruling, there remains no permanent appeals procedure in the Department. In fact, the special panel appointed to hear Lindsay's appeal subsequent to the Court's decision performed its task so improperly that the Department's own Office of Legal Adviser counseled that the panel's review could not be considered impartial and should be overturned.

There is no question, Mr. President, that the time has come for a Foreign Service grievance law. There is no longer any excuse for delay.

The bill I introduce today is nearly identical to the bill that Senator Cooper and I drafted in 1972 and which has passed the Senate three times. It does not propose a rigid system for grievances, but a framework to guarantee certain basic rights. It provides ample room for flexibility.

Let me briefly explain what this legislation would do.

The bill would institute a method for convening an impartial Grievance Board to hear and to act upon a grievance brought to it by an employee of the Department. There would be a three-member board, one member appointed by the Secretary of State, one by the employees' bargaining unit, the American Foreign Service Association, and the third appointed by agreement of the first two from a slate of 12 previously selected by the Secretary and the AFSA. No officer or employee of the Department, the Foreign Service, the Agency for International Development, or the U.S. Information Agency would be eligible for membership on the Board.

The Board would be required to conduct a hearing on any case filed with it, and such hearings would be open unless the Board determined otherwise.

Any grievant, witness or other person involved in a proceeding before the Board would, in the bill's language, "be free from any restraint, interference, coercion, discrimination or reprisal." Grievants would be assured hearings, the right to be represented at such hearings, access to necessary information and other fundamental rights to guarantee the equity of the proceedings.

In considering a grievance, the Board would have access to "any document or information considered by the Board to be relevant," including security records "under appropriate security measures."

In cases not relating to promotion, duty assignment, or selection-out of an officer or employee, the Board's determination would be final and binding on all parties. In cases directly involving promotion, assignment, or selection-out, the Board would certify its resolution to the Secretary of State together with its recommendations for relief.

Those recommendations would then be final and binding on all parties, except that the Secretary would retain the power to reject a recommendation "if he determines that the foreign policy or security of the United States will be adversely affected" and fully documents his reasons for that determination.

Any action taken by the Secretary or the Board would be subject to judicial review. The Secretary would be required to promulgate and to put into effect implementing regulations and to establish and to appoint members of the Board not later than 90 days after enactment of the pending bill.

Mr. President, those are the major provisions of the bill I introduce. As every member of this body will recognize, they are largely a compilation of basic rights tions, including separation for cause, denial of due process: the right to a hearing, to be represented at all stages of the proceeding, to have access to relevant documents, to be able to subpoena and cross-examine witnesses, to be free from interference or coercion while presenting a grievance, and finally, to have confidence that after a fair hearing the Board's recommendations will be carried out.

These are by no means unusual or unprecedented rights for Federal employees who have serious grievances. The wonder is that any Americans are still denied them. And indeed it is noteworthy that the employees of State, USIA, and AID are the only civilian career employees who do not now have such rights. Surely the time has come to correct that deficiency.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title VI of the Foreign Service Act of 1946 (22 U.S.C. 981) is amended by adding at the end thereof the following new part:

"PART J—FOREIGN SERVICE GRIEVANCES

"STATEMENT OF PURPOSE

"SEC. 691. It is the purpose of this part to provide officers and employees of the Service and their survivors, a grievance procedure to insure the fullest measure of due process, and to provide for the just consideration and resolution of grievances of such officers, employees, and survivors.

"REGULATIONS OF THE SECRETARY

"SEC. 692. The Secretary shall, consistent with the purposes stated in section 691 of this Act, implement this part by promulgating regulations, and revising those regulations when necessary, to provide for the consideration and resolution of grievances by a board. No such regulation promulgated by the Secretary shall in any manner alter or amend the provisions for due process established by this section for grievants. The regulations shall include, but not be limited to, the following:

"(1) Informal procedures for the resolution of grievances in accordance with the purposes of this part shall be established by agreement between the Secretary and the organization accorded recognition as the exclusive representative of the officers and employees of the Service. If a grievance is not resolved under such procedures within sixty days, a grievant shall be entitled to file a grievance with the board for its consideration and resolution. For the purposes of the regulations—

"(A) 'grievant' shall mean any officer or employe of the Service, or any such officer or employee separated from the Service, who is a citizen of the United States, or in the case of death of the officer or employee, a surviving spouse or dependent family member of the officer or employee; and

"(B) 'grievance' shall mean a complaint against any claim of injustice or unfair treatment of such officer or employee arising from his employment or career status, or from any actions, documents, or records, which could result in career impairment or damage, monetary loss to the officer or employee, or deprivation of basic due process, and shall include, but not be limited to, actions in the nature of reprisals and discrimination, actions related to promotion or selection out, the contents of any efficiency report, related records, or security records, and actions in the nature of adverse personel ac-

of a salary increase within a class, written reprimand placed in a personnel file, or denial of allowances.

"(2)(A) The board considering and resolving grievances shall be composed of independent, distinguished citizens of the United States well known for their integrity, who are not officers or employees of the Department, the Service, the Agency for International Development, or the United States Information Agency. The board shall consist of a panel of three members, one of whom shall be appointed by the Secretary, one of whom shall be appointed by the organization accorded recognition as the exclusive representative of the officers and employees of the Service, and one who shall be appointed by the other two members from a roster of twelve independent, distinguished citizens of the United States well known for their integrity who are not officers or employees of the Department, the Service, or either such agency, agreed to by the Secretary and such organization. Such roster shall be maintained and kept current at all times. If no organization is accorded such recognition at any time during which there is a position on the board to be filled by appointment by such organization or when there is no such roster since no such organization has been so recognized, the Secretary shall make any such appointment in agreement with organizations representing officers and employees of the Service. If members of the board (including members of additional panels, if any) find that additional panels of three members are necessary to consider and resolve expeditiously grievances filed with the board, the board shall determine the number of such additional panels necessary, and appointments to each such panel shall be made in the same manner as the original panel. Members shall (i) serve for two-year terms, and (ii) receive compensation, for each day they are performing their duties as members of the board (including travel time), at the daily rate paid an individual at GS–18 of the General Schedule under section 5332 of title 5, United States Code. Whenever there are two or more panels, grievances shall be referred to the panels on a rotating basis. Except in the case of duties, powers, and responsibilities under this paragraph (2), each panel is authorized to exercise all duties, powers, and responsibilities of the board. The members of the board shall elect, by a majority of those members present and voting, a chairman from among the members for a term of two years.

"(B) In accordance with this part, the board may adopt regulations governing the organization of the board and such regulations as may be necessary to govern its proceedings. The board may obtain such facilities and supplies through the general administrative services of the Department, and appoint and fix the compensation of such officers and employees as the board considers necessary to carry out its functions. The officers and employees so appointed shall be responsible solely to the board. All expenses of the board shall be paid out of funds appropriated to the Department for obligation and expenditure by the board. The records of the board shall be maintained by the board and shall be separate from all other records of the Department.

"(3) A grievance under such regulations is forever barred, and the board shall not consider or resolve the grievance, unless the grievance is filed within a period of three years after the occurrence or occurrences giving rise to the grievance, except that if the grievance arose prior to the date the regulations are first promulgated or placed into effect, the grievance shall be so barred, and not so considered and resolved, unless it is filed within a period of five years after the date of enactment of this part. There shall be excluded from the computation of any such period any time during which the grievant was unaware of the grounds which are the basis of the grievance and could not have discovered such grounds if it had exercised, as determined by the board, reasonable diligence.

"(4) The board shall conduct a hearing in any case filed with it. A hearing shall be open unless the board for good cause determines otherwise. The grievant and, as the grievant may determine, his representative or representatives are entitled to be present at the hearing. Testimony at a hearing shall be given by oath or affirmation, which any board member shall have authority to administer (and this paragraph so authorizes). Each party (A) shall be entitled to examine and cross-examine witnesses at the hearing or by deposition, and (B) shall be entitled to serve interrogatories upon another party and have such interrogatories answered by the other party unless the board finds such interrogatory irrelevant or immaterial. Upon request of the board or grievant, the Department shall promptly make available at the hearing or by deposition any witness under the control, supervision, or responsibility of the Department, except that if the board determines that the presence of such witness at the hearing would be of material importance, then the witness shall be made available at the hearing. If the witness is not made available in person or by deposition within a reasonable time as determined by the board, the facts at issue shall be construed in favor of the grievant. Depositions of witnesses (which are hereby authorized, and may be taken before any official of the United States authorized to administer an oath or affirmation, or, in the case of witnesses overseas, by deposition on notice before an American consular officer) and hearings shall be recorded and transcribed verbatim.

"(5) Any grievant filing a grievance, and any witness or other person involved in a proceeding before the board, shall be free from any restraint, interference, coercion, discrimination, or reprisal. The grievant has the right to a representative of his own choosing at every stage of the proceedings. The grievant and his representatives who are under the control, supervision, or responsibility of the Department shall be granted reasonable periods of administrative leave to prepare, to be present, and to present the grievance of such grievant. Any witness under the control, supervision, or responsibility of the Department shall be granted reasonable periods of administrative leave to appear and testify at any such proceeding.

"(6) In considering the validity of a grievance, the board shall have access to any document or information considered by the board to be relevant, including, but not limited to, the personnel and, under appropriate security measures, security records of such officer or employee, and of any rating or reviewing officer (if the subject matter of the grievance relates to that rating or reviewing officer). Any document or information requested shall be provided promptly by the Department. A rating officer or reviewing officer shall be informed by the board if any report for which he is responsible is being examined.

"(7) The Department shall promptly furnish the grievant any such document or information (other than any security record or the personnel or security records of any other officer or employee of the Government) which the grievant requests to substantiate his grievance and which the board determines is relevant and material to the proceeding.

"(8) The Department shall expedite any security clearance whenever necessary to insure a fair and prompt investigation and hearing.

"(9) The board may consider any relevant evidence or information coming to its attention and which shall be made a part of the records of the proceeding.

"(10) If the board determines that (A) the Department is considering any action (including, but not limited to, separation or termination) which is related to, or may affect, a grievance pending before the board, and (B) the action should be suspended, the Department shall suspend such action until the board has ruled upon such grievance.

"(11) Upon completion of the proceedings, if the board resolves that the grievance is meritorious—

"(A) and determines that relief should be provided that does not directly relate to the promotion, assignment, or selection out of such officer or employee, it shall direct the Secretary to grant such relief as the board deems proper under the circumstances, and the resolution and relief granted by the board shall be final and binding upon all parties; or

"(B) and determines that relief should be granted that directly relates to any such promotion, assignment, or selection out, it shall certify such resolution to the Secretary, together with such recommendations for relief as it deems appropriate and the entire record of the board's proceedings, including the transcript of the hearing, if any. The board's recommendations are final and binding on all parties, except that the Secretary may reject any such recommendation only if he determines that the foreign policy or security of the United States will be adversely affected. Any such determination shall be fully documented with the reasons therefor and shall be signed personally by the Secretary, with a copy thereof furnished the grievant. After completing his review of the resolution, recommendation, and record of proceedings of the board, the Secretary shall return the entire record of the case to the board for its retention. No officer or employee of the Department participating in a proceeding on behalf of the Department shall, in any manner, prepare, assist in preparing, advise, inform, or otherwise participate in, any review or determination of the Secretary with respect to that proceeding.

"(12) The board shall have authority to insure that no copy of the Secretary's determination to reject a board's recommendation, no notation of the failure of the board to find for the grievant, and no notation that a proceeding is pending or has been held, shall be entered in the personnel records of such officer or employee to whom the grievance relates or anywhere else in the records of the Department, other than in the records of the board.

"(13) A grievant whose grievance is found not to be meritorious by the board may obtain reconsideration by the board only upon presenting newly discovered relevant evidence not previously considered by the board and then only upon approval of the board.

"(14) The board shall promptly notify the Secretary, with recommendations for appropriate disciplinary action, of any contravention by any person of any of the rights, remedies, or procedures contained in this part or in regulations promulgated under this part.

"RELATIONSHIP TO OTHER REMEDIES

"SEC. 693. If a grievant files a grievance under this part, and if, prior to filing such grievance, he has not formally requested that the matter or matters which are the basis of the grievance be considered and resolved, and relief provided, under a provision of law, regulation, or order, other than under this part, then such matter or matters may only be considered and resolved, and relief provided, under this part. A grievant may not file a grievance under this part if he has formally requested, prior to filing a grievance, that the matter or matters which are the basis of the grievance be considered and resolved, and relief provided, under a provision of law, regulation, or order, other than under this part, and the matter has been carried to final adjudication thereunder on its merits.

"JUDICIAL REVIEW

"SEC. 694. Notwithstanding any other provision of law, regulations promulgated by the Secretary under section 692 of this Act, revisions of such regulations, and actions of the Secretary or the board pursuant to such section, may be judicially reviewed in accordance with the provisions of chapter 7 of title 5, United States Code."

(b) The Secretary of State shall promulgate and place into effect the regulations provided by section 692 of the Foreign Service Act of 1946 (as added by subsection (a) of this section), and establish the board and appoint the member of the board which he is authorized to appoint under, as provided by such section 692, not later than 90 days after the date of enactment of this Act.

By Mr. DOMENICI (for himself, Mr. BAKER, and Mr. GLENN):

S. 783. A bill to authorize a Federal program of research, and demonstration in connection with ground propulsion systems. Referred to the Committee on Commerce.

Mr. DOMENICI. Mr. President, today I am introducing legislation entitled the "Ground Propulsion Systems Research and Demonstration Act of 1975." This bill would authorize the creation of a Division within the Energy Research and Development Administration to research means for the improvement and verifying of both existing and alternative ground propulsion systems with emphasis on efficiency, performance, and usefulness.

Our Nation is facing a grave energy crisis which, if examined as to the energy requirements of the transportation sector, clearly shows a need to improve the existing system and to develop a more efficient ground propulsion system in general, and the automobile in particular.

Let me briefly point out some very important factors regarding our present automotive transportation system:

First. The transportation sector accounts for 25 percent of the total U.S. energy consumption. Motor vehicles consume about 77 percent of the transportation energy, or almost one-fifth of all U.S. energy consumption. Passenger cars alone use almost 14 percent of this energy, 4.7 million barrels per day. This figure represents an increase of 50 percent since 1950.

Second. There were approximately 90 million cars in operation in 1974. Eight of every ten households in the United States owns an automobile and one of every three owns two or more. This comes out to well over a 140-percent increase in the size of the passenger car population since 1950.

Third. The use of today's automobile has exceeded the 1950 model by 170 percent. This same automobile has decreased by 10 percent in fuel economy compared to those manufactured in 1950.

In essence, therefore, we have dramatically increased our dependence on the automobile, manufacturing cars that consume more energy and that operate less efficiently than those in 1950.

I am not here to attempt to place the blame for this on any one sector but instead to offer a comprehensive solution to the problem. If, as we must, accept the premise that the American public has and will continue to be dependent on the automobile for his mode of transportation, then it is vital that we address the problems involved in improving the efficiency of this or alternative systems.

I do not think many people would argue that the auto manufactures have the resources or desire to substantially improve the design of the combustion engine. The facts exist that for a variety of reasons, including the economy and Government imposed standards, the auto manufactures are not spending the time or money for research and development for alternative propulsion systems. My recent conversations with representatives of auto manufactures indicate that their primary concentration is that of meeting emission and energy consumption standards as prescribed by the Federal Government.

As for the energy consumption objectives; this will be accomplished by decreasing the total weight and size of the car, improving transmissions and eliminating some undesirable accessories.

In other words, these goals are to be met not by improving the propulsion system but by less costly and time consuming means as mentioned above. We have reached the impasse where industries efforts are designed to meet short-term Government goals with the least possible cost factor.

In conjunction with this, I must refer to a very informative article written by Dr. John R. Pierce in the most recent article of the Scientific American. As pointed out by Dr. Pierce:

The biggest target for energy conservation is the poor fuel economy of American cars.

Included in his article are various recommendations as to how the efficiency of the American automobile can be increased at least 40 percent by 1980.

Mr. President, I am convinced that the remarks of Dr. Pierce are most noteworthy and illustrate the need for an increase in the level of research on the ground propulsion system.

Let us now briefly examine the role of the Federal Government in ground propulsion systems. It is very apparent that up until the energy crisis, automotive research and development by the Government was carried out at a very low level. In 1973, the first sign of change appeared with the increased budget for energy R. & D. requested by the White House. At that time, President Nixon proposed a $10 billion energy R.& D. program, with $6 million allocated for identifying new automotive power systems with an emphasis on developing a more efficient energy consumption system.

In checking the most recent role of the Federal Government in ground propulsion R. & D. there appear to be five agencies participating.

First. The Environmental Protection Agency established an alternative automotive power systems program. This project which was so able headed by John Bragon has since been transferred to ERDA with a budget of approximately $6 million for fiscal year 1975.

Second. The National Aeronautics and Space Administration at the Lewis Research Center has done supportive work for EPA under an automotive turbine program with a $2.5 million budget for fiscal year 1975.

Third. The National Science Foundation was being authorized $1.7 million for various R. & D. projects including advanced battery system during the fiscal year 1974 period.

Fourth. The Department of Transportation with a budget of approximately $3 million is currently exploring the technology required to achieve a 30-percent improvement in automotive fuel consumption.

Fifth. The Department of Defense under its Army tank-automotive command program is exploring new engines and vehicle systems to meet DOD military requirements. Funding for fiscal year 1975 is projected to be $4.2 million.

Mr. President, in the comprehensive report submitted to President Nixon entitled "The Nations Energy Future," Dr. Dixy Lee Ray, Chairman of the Atomic Energy Commission recommended $53 million in fiscal year 1975 and a total of $300 million for fiscal years 1975–79 for R. & D. in advanced auto propulsion systems. In her recommendations a consolidation of all R. & D. programs under the direction of ERDA was considered vital in meeting our future transportation needs.

As you can plainly see from adding the total expenditures under separate existing programs the 17 million is for less than the recommended 50 million for fiscal year 1975. It is also important to note that this 17 million is spread over five agencies and is the case of DOD, the goals of the military vehicle are not consistent with the general public needs. The point I wish to make very clear is that Congress and the White House have not given the proper priority to the need for improving our ground propulsion systems.

The purpose of my bill is quite simple in that it would consolidate existing R. & D. programs, under the direction of the Administrator of ERDA, at the required funding levels to meet the demand for a more efficient ground propulsion system. Funding for this program shall be based on a bell curve allowing for initial expenditures to be quite low with the later program years at a higher level. Using estimates for both R. & D. on the present combustion engine and alternative systems the funding shall be 20 million fiscal year 1976, 40 million fiscal year 1977, 100 million fiscal year 1978, 100 million fiscal year 1979, and 100 million for fiscal year 1980.

A good illustration of how such a division would perform can be taken from the joint efforts of private industry and NASA in developing new and improved aeronautical systems. NASA has shown an outstanding record of achievement in offering a central R. & D. center where both private industry and Government officials examine aeronautical problems. Many of my colleagues will recall the benefits of being able to turn to NASA and get the necessary technical expertise prior to enacting noise abatement legislation.

I think many of us today would have gotten a clearer picture of the effects of the present auto emission standards had we had the technical expertise necessary to project the production problems.

This new division will have no regulatory powers but will for the first time afford the legislative and administrative branches of Government a central body of technical expertise. I would hope that the auto manufacturers would also support this measure because of the potential benefits to be gained by such a R. & D. program and the possibility of a more appreciative ear as to the technical problems involved in meeting new legislative goals.

It is my sincerest belief that had such a division been created 5 years ago the auto manufacturers would not be in the position of being forced to improve energy efficiency, while at the same time meeting the present emission standards.

Mr. President, I call upon all branches of Government and the private sector to support this measure because now more than ever the investments of today will dictate our future. If we are to have the necessary transportation systems of the future it will require a comprehensive R. & D. program of today. Let us not allow ourselves to be the victims of our own shortsightedness but instead, let us build tomorrow's future on the research and development of today.

Mr. President, I ask unanimous consent that the full text of my remarks and bill be printed in the RECORD along with the text of Dr. Pierce's article.

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

S. 783

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 "Ground Propulsion Systems Research, Development, and Demonstration Act of 1975".

SEC. 2. The Congress hereby declares that it is the policy of the United States to carry out a program of research, development, and demonstration directed toward ground propulsion systems.

SEC. 3. (a) There is hereby created in the Energy Research and Development Administration (hereinafter referred to in this Act as the "Administration") a Division of Ground Propulsion Systems, and the Administration shall carry out all the research, development, and demonstration activities regarding ground propulsion systems through such Division.

(b) Such activities shall be conducted so as to contribute to the following objectives—

1. the improvement of and verifying of ground propulsion systems with emphasis on efficiency, performance, and usefulness.

2. the development of energy conserving ground propulsion systems;

3. the development of ground propulsion systems with clean emission characteristics, economical per unit cost, and low per mile energy consumption;

4. the most effective utilization of the scientific and engineering resources of the United States already in existence, with close cooperation among all interested agencies of the United States in order to avoid unnecessary duplication and waste of effort, facilities, and equipment.

SEC. 4. (a) The Administrator of Energy Research and Development (hereinafter referred to as the "Administrator") shall have the overall responsibility for providing effective management and coordination in connection with ground propulsion systems research, development, and demonstration, including the initiation and carrying out of research, development, and demonstration programs for the purpose of developing ground propulsion systems which are energy conserving, have clean emission characteristics, and are capable of being produced in large numbers at a reasonable mass production per unit cost. Such ground propulsion systems shall be required to meet or better all air quality standards set by or under the National Emission Standards Act, the Clean Air Act, and the Air Quality Act of 1967, which substantially reduce per mile energy consumption.

(b) The Administrator shall conduct research in alternative energy sources for use in the ground propulsion systems developed pursuant to subsection (a) and shall develop such alternative energy sources for use in those systems.

(c) In carrying out his functions under this Act and the Energy Reorganization Act of 1974, the Administrator shall evaluate and make a continuing comparative assessment of all ground propulsion systems presently in use, or in a conceptual or development stage.

SEC. 5. The Administrator is authorized to enter into contracts and other agreements or arrangements, and to make such grants, as he may determine necessary and appropriate in carrying out his functions under this Act. The Administrator shall, in carrying out such functions, utilize, to the maximum extent, the resources and cooperation of the private sector.

SEC. 6. The Administrator shall, on or before January 31 of each year, report to the President and the Congress with respect to all actions taken under the provisions of this Act during the prior calendar year, and all action planned for the ensuing year.

SEC. 7. The Administrator, utilizing his authority under section 106(g) of the Energy Reorganization Act of 1974, shall establish an advisory board for the purpose, among others, of encouraging the private sector to participate in the research, development, and demonstration carried out pursuant to this Act.

SEC. 8. As used in this Act, the term "ground propulsion systems" means the engine, transmission, or drive, and associated controls, necessary to power automobiles, trucks, trains, buses, and selected light marine vehicles.

SEC. 9. For the purpose of carrying out the provisions of this Act, there are authorized to be appropriated for the fiscal year ending June 30, 1976, the sum of $20,000,000; for the fiscal year ending September 30, 1977, the sum of $40,000,000; for the fiscal year ending September 30, 1978, the sum of $100,000,000; for the fiscal year ending September 30, 1979, the sum of $100,000,000; and for the fiscal year ending September 30, 1980, the sum of $100,000,000.

THE FUEL CONSUMPTION OF AUTOMOBILES

(By John R. Pierce)

(Charts and graphs mentioned in text not printed in RECORD)

A fourth of all the energy used in the U.S. is devoted to transportation, and of that fraction close to 60 percent is supplied in the form of gasoline to roughly 100 million automobiles and small personal trucks. Americans use more energy to fuel their cars than they do for any other single purpose. At the current price of some 55 cents per gallon, the average family is obliged to spend more than $600 a year just on gasoline. The fuel used by American cars and personal trucks would approximately fill all the energy needs of Japan, a nation of 108 million and the world's largest consumer of energy after the U.S. and the U.S.S.R. In the urgent effort to reduce U.S. consumption of an increasingly costly fuel whose chief reserves lie overseas, the American automobile and current habits of its utilization are a prime target.

One does not have to be a partisan of the automobile to recognize that virtually every aspect of American life—industrial, commercial, cultural and recreational—is now organized around the existence of motor vehicles. Whether or not they provide the most rational means of transportation in an advanced technological society is, of course, a matter of debate. In order to illuminate that debate a colleague and I organized a series of six two-day seminars on the subject "Energy Consumption in private Transportation." The series, supported by the U.S. Department of Transportation, was held at the California Institute of Technology between December, 1973, and April, 1974, a period that coincided with the Arab oil embargo, with President Nixon's call for "Project Independence 1980" ("To ensure that by the end of this decade Americans will not have to rely on any source of energy beyond our own") and with the quadrupling of oil prices after the embargo was lifted.

The seminar participants addressed themselves to the following questions (among others): In any rational energy program what role will the private automobile play? Can it be replaced by more economical forms of transportation? To what extent can communication replace transportation? Will our pattern of life change in such a manner that we simply do not travel as much?

Although many fascinating and even plausible alternatives to the gasoline-powered automobile were discussed, it became evident to the participants that no dramatic change in transportation methods or habits can be expected or effectuated in the short run, say before 1990. In this article, therefore, I shall deal only with existing or readily foreseeable technologies for improving the fuel economy of automobiles as we know them.

In President Ford's address before a joint session of Congress last fall he announced his determination to obtain "either by agreement or by law a firm program aimed at achieving a 40 percent increase in [automobile] gasoline mileage within a four-year development deadline." Subsequently, in late October, the Department of Transportation (DOT) and the Environmental Protection Agency (EPA) submitted a report to Congress ("Potential for Motor Vehicle Fuel Economy Improvement") that provided a careful review of feasible engineering changes that should make it possible for 1980-model cars to go 40 percent farther on a gallon of gasoline than the average 1974 model did.

According to the DOT-EPA report, the average 1974 model, adjusted for the sales of different brands and models, achieved 14 miles per gallon on a "composite" fuel-economy cycle based on EPA dynamometer tests that simulate city driving conditions and highway driving conditions in a 55:45 ratio (a ratio chosen as being typical of American car use). The new 1975 models, on a projected sales-weighted basis, achieve 15.9 m.p.g., an improvement of 13.5 percent. The improvement is chiefly attributable to engineering changes that regained much of the efficiency previously lost in adjusting engines to meet Federal exhaust-emission standards. Many of the 1975 models have catalytic converters to clean up exhaust emissions, making it possible for the engine to be returned for higher efficiency. Partly because of emission controls and partly because of vehicle weight and other factors, the fuel economy of American cars dropped about 12 percent between 1967 and 1974, climaxing a long, steady decline that began as early as 1951.

If the performance of 1974 models is taken as the base line, as the DOT-EPA report recommends, the industry has already moved a third of the way to the 40 percent improvement asked by President Ford. A 40 percent improvement would mean that the average car built in the 1980-model year would have to achieve a minimum fuel economy of 19.6 m.p.g. (Bills that are now being drafted for presentation to Congress will undoubtedly pick a round number for minimum 1980 performance, probably 20 or 21 m.p.g.)

Manufacturer	Fuel economy (miles per gallon) 1974	1975	Change (percent)
General motors	10.60	13.30	+25.5
Ford	12.16	11.92	−2.0
Chrysler	11.56	12.45	+7.7
American motors	14.64	17.05	+16.5
Volkswagen	22.11	21.95	−.7
Toyota	16.89	16.37	−3.1
Nissan	20.63	22.04	+6.8
volvo	16.55	15.61	−5.7
Audi	19.14	20.17	+5.3
Peugeot	17.33	19.09	+10.2
Saab	17.28	21.41	+23.9
Daimler-Benz	10.93	11.80	+8.0
BMW	17.44	15.47	−11.3
Fleet	11.95	13.33	+11.5

Note: Fuel-economy results by manufacturer for 1974 and 1975 automobiles, assuming the 1974 sales-weighting for various models for both years, appear in a paper by Thomas C. Austin and Karl H. Hellman of the EPA. The mpg values are for the suburban-urban cycle only and reflect the changes in the 2 model years that can be attributed solely to engineering "system" changes (for example changes due to engine emission-control-system calibrations and changes in transmission and axle ratios). The table thus omits the effect of new engine sizes and new engine-vehicle combinations that contributed to a total improvement of 13.8 percent in the performance of the 1975 fleet over the 1974 fleet in the suburban-urban test cycle. (The gain is 13.5 percent when the highway cycle is included.)

According to the DOT-EPA report, the 40 percent improvement by 1980 should be attainable with the present Otto-cycle (four-stroke) gasoline engine, in combination with improved transmissions, reduced weight and aerodynamic drag and improved accessories. If the composition of sales can also be altered to include a much higher proportion of compact and subcompact models than it does at present, it may even be possible for the 1980 "fleet" of new cars to exceed 22 m.p.g., an improvement of nearly 60 percent over 1974.

To achieve still greater advances in fuel economy for 1985 and beyond, it will probably be necessary to introduce new types of engines. The DOT-EPA report suggests the use of diesel engines in medium-size and large cars and, for smaller cars, gasoline engines designed to operate on a "stratified charge," engines in which the air-fuel mixture is made intentionally nonhomogeneous to provide an average lean mixture, with a consequent improvement in efficiency.

The present Otto-cycle automobile engine typically achieves a thermal efficiency of between 22 and 27 percent. Under the normal range of driving conditions, however, the net efficiency of power delivered to the wheels is only about 10 percent. Gasoline-fueled aircraft engines attain efficiencies of about 30 percent. The efficiencies of diesel engines range from 35 percent to as high as 38 percent. (In EPA tests the 1975 Mercedes-Benz 300D, which has a five-cylinder, 77-horsepower diesel engine, gets 24 m.p.g. in the simulated city-driving cycle and 31 m.p.g. in the highway-driving cycle, yielding a composite fuel economy of 27.2 m.p.g. These values are 50 percent higher than those of the comparable gasoline-engine model of the Mercedes: the four-cylinder, 93 horsepower Model 230. It should be noted, however, that diesel fuel contains about 10 percent more energy than ordinary gasoline.)

Those who are as old as I am can remember a time when mass transit dominated urban life in the U.S. In St. Paul toward the end of World War I my parents did not own an automobile. The roads between towns were unmarked and often badly rutted, making travel unattractive for those who did drive. Everything was within easy walking distance of the streetcar or interurban line, even the cottage at White Bear Lake where we stayed during the summer. Small stores and shops were within easy walking distance of our home, and in St. Paul itself the stores and offices in the central business district were accessible by streetcar.

Between 1920 and 1930 the number of passenger cars registered in the U.S. nearly tripled, from eight million to 23 million. In spite of the Great Depression the public desire for private transportation continued to grow (even though most streetcar lines were still running), until by 1940 there were more than 27 million automobiles registered in the U.S., or one car for every 1.3 families. When the production of automobiles resumed after World War II, automobile registrations climbed swiftly to 40 million in 1950, to 61.7 million in 1960 (approaching 1.2 per family), to 89 million in 1970 (1.4 per family) and to an estimated 105 million in 1974 (1.5 per family). Today more than eight families in 10 own automobiles, and one family in three has two or more vehicles, if small personal trucks are included.

Nationwide studies show that automobiles are used primarily for short trips: about half of all trips are five miles or less and three-fourths are less than 10 miles. These short trips account for nearly a third of all vehicle miles traveled and for a substantially larger fraction of the total gasoline consumption. Moreover, about 40 percent of all automobile travel is work-related, chiefly commuting trips (with an average occupancy of 1.2 per car) at hours of high traffic density and resulting low efficiency of operation.

Except for the special case of Manhattan Island, where 79 percent of all workers reach their jobs by public transit, the automobile provides the principal means for getting to work. According to the 1970 census, 60 million Americans commute by private automobiles (51 million travel alone and nine million in car pools); 4.2 million use a bus or streetcar; 1.8 million use a subway or an elevated-railway line; 500,000 use railroads; 300,000 use taxis and 5.7 million live close enough to their jobs to walk to them.

Clearly an enormous national effort, extending over several decades and costing many billions of dollars, would be required to provide public-transit facilities attractive, convenient and extensive enough to persuade a large number of Americans to leave their cars at home. In the absence of such a commitment any substantial reduction of gasoline in automobile usage can come only through changing the efficiency of the use of private automobiles or changing the efficiency of the automobiles themselves. National statistics show that if automobiles could achieve 25 to 30 miles per gallon, they would be about as efficient in moving people, at least thermodynamically, as present-day bus transit systems are.

The efficiency of the use of automobiles of a given construction and state of repair is chiefly affected by freeways and traffic-control systems. Our suburban pattern of living preceded the construction of freeways and it exists where freeways are few or absent. Once freeways have been built, however, they frequently lead to the creation of new locations of work and residence. Thus it is not clear weather in the long run freeways increase distances to and from work or decrease them.

Apart from (usually) reducing the travel time between two points, freeways have other important consequences. They have lower accident rates than country roads or city streets. The number of fatal accidents per million vehicle miles are: city streets, 2.47; country roads, 1.64; urban streets, 1.63, and urban freeways, .44. In addition the stop-and-go character of city-street traffic causes high gasoline consumption. For an equivalent trip it is usually more economical of gasoline to travel by freeway. It is doubtful, however, that construction of freeways can be justified as a way of reducing the energy demand. Such construction should be decided on other grounds.

Like freeways, traffic control can affect energy consumption as well as safety and convenience. Repeated starting and stopping wastes fuel. Although traffic lights are old, computer-controlled signal systems designed to facilitate the flow of traffic are fairly new. Computerized traffic control can reduce the number of starts and stops. Clogged freeways are wasteful of energy. Ramp control can reduce the congestion and increase the traffic flow on freeways. Indeed, it is estimated that fuel consumption can be reduced by about 10 percent in the controlled area.

The cost of computerized traffic control is considerable. Its principal benefits are reductions in travel time, increased traffic flow without the construction of additional roads and reduction in accidents. Fuel savings are an attractive added benefit. The fact remains that computer control of traffic must be justified by its overall benefits and not solely as a means of saving fuel.

Apart from a reduction in automobile usage (and a strict enforcement of the 55-mile-per-hour speed limit), more efficient automobiles seem the only sure way to achieve substantial savings in petroleum consumption in any future we can now foresee and make plans for. Fortunately there are many opportunities for making the private car more efficient.

As the Federal figures show, there are already large differences in gas mileage among current automobiles, ranging in economy tests of 1975 models from 27 m.p.g. in simulated city driving for the subcompact Datsun B–210 in the 2,250-pound inertia-weight class to 12 m.p.g. for typical American cars in the 4,500-pound inertia-weight class down to 10 m.p.g. or less for the largest models in the 5,500-pound inertia-weight class. ("Inertia weight" is curb weight plus an allowance of 300 pounds for occupants.) In simulated highway driving the performance in the three weight categories rises to between 33 and 39 m.p.g., 15 and 18 m.p.g. and 14 and 16 m.p.g.

If one compares the average fuel economy of the lighest cars with that of the heaviest, one finds that each additional 100 pounds of car weight requires an extra 15 to 17 gallons of gasoline per year of average driving (10,000 miles). This does not mean, however, that simply by removing 100 pounds of weight from a heavy car one can achieve a comparable fuel saving. What it does mean is that the owner of one of the smaller, more economical cars will need to buy 500 to 550 fewer gallons of gasoline in the course of a year than the driver of a big car. Looked at another way, if all the automobiles now on the road averaged 23.5 m.p.g. instead of the estimated 13.5, U.S. gasoline consumption would drop more than 40 percent, or some two million barrels of gasoline per day below the current demand of about five million barrels. With crude oil at $11 per barrel, this would translate into an annual saving of more than $8 billion.

The most obvious way, therefore, to save energy is to cut the weight of the average car sold. At low speeds, where aerodynamic drag is not a major factor, rolling resistance and the energy needed to overcome it are proportional to weight. On the EPA composite cycle of city and highway driving, rolling resistance and aerodynamic drag each absorb 24.7 percent of the useful power delivered by the engine of the typical American car. Existing cars, American as well as foreign, show that lighter cars can be as quiet, easy-riding, roomy and comfortable as heavier cars, but to attain these qualities in a lighter car requires good engineering.

Although lighter cars tend to have less rolling resistance per unit of weight than heavier cars, the rolling resistance depends on the nature of the tire and its pressure. The energy loss in rubber tires is caused by the flexing of rubber; because of hysteresis the tire does not give back all the energy that went into deforming it. At the same pressure radial tires offer significantly less rolling resistance than conventional bias-ply tires. In mixed city and highway driving existing cars equipped with steel-belted radials will go about 2.5 percent farther on a gallon of gasoline than a car with bias-ply tires. In a car with less air resistance than current cars, the percentage gain in going to radial tires would be even larger. With either kind of tire the rolling resistance can be cut about a

fourth by raising the tire pressure from 20 pounds per square inch to 40 pounds.

Beyond that a worn tire toward the end of its life has only a little more than half the rolling resistance of the same tire when it was new. Perhaps we have incorporated too much rubber in tires in seeking long tire life rather than good gasoline mileage.

Shock absorbers absorb energy only in going over bumps. Tires absorb energy in rolling on a smooth surface. Lighter wheels combined with suspension systems carrying less unsprung weight would make it possible to mount harder, lower-loss tires. Thus it appears that substantial energy savings could be attained through better suspensions and smaller, harder tires, particularly if a rubber could be developed with lower hysteresis at ambient temperatures than present rubbers have.

Next to building (and persuading Americans to buy) smaller and lighter cars, important gains in fuel economy can be made in cars of every size category by improving the performance of present engines, by reducing transmission losses, by reducing weight (without sacrificing safety or passenger comfort) and, not least important, by reducing aerodynamic drag. With 1974 car performance as a base line, the DOT-EPA report to Congress estimates that engine improvements should yield economy gains of between 15 and 25 percent, depending on car size.

The adoption of four-speed transmissions that would eliminate slippage losses at cruising speed by "locking up" at high gear ratios should yield gains of about 9 percent in each size class. Reductions in curb weight, air resistance, rolling resistance and the power required by accessories would provide another fuel-economy gain of at least 12 percent for large and medium-size cars and 5 percent for small vehicles. In addition the fuel economy of medium-size and large cars could be raised another 10 to 15 percent by reducing engine size so that their power-to-weight ratio is brought into line with the ratio of current small cars.

It is somewhat surprising that the single factor of aerodynamic drag has received so little attention from American automobile makers. As we have seen, overcoming air resistance absorbs about 25 percent of the engine's output in present-day cars in city-highway driving. Between the late 1920's, when most cars were still shaped like boxes, and the late 1940's the drag coefficient of American cars was reduced about 25 percent, from .70 to .52. (A drag-coefficient of 1 corresponds roughly to the air resistance of a rectangular block.) Twenty-five years later the drag coefficient of the typical American car has declined only another 10 percent, to .47. The Citroën, perhaps the most highly streamlined car in large-scale production, has a drag coefficient of about .33.

Since air drag increases as the square of vehicle speed, it has substantial importance at speeds above 45 m.p.h. In the speed range between 45 and 65 m.p.h. each additional 10 m.p.h. above 45 m.p.h. subtracts between 1.5 and two miles per gallon from fuel economy. We can look at a reduction in air drag either as saving energy or as enabling us to go faster with the same expenditure of energy.

It should be possible to reduce the air resistance of present-day large cars by 40 to 50 percent and of compacts by about a third. Such reductions can be achieved by designing cars to have a sloping front, smooth contours, a fairly flat back and a "dam" extending below the front bumper. For cars of roughly the current weight, size and construction but with an engine appropriately reduced in size to hold performance constant, a one-third reduction in aerodynamic drag should yield an improvement of about 10 percent in fuel economy under typical city-highway driving conditions. The percent improvement could be larger in a car with reduced rolling resistance.

There are various power drains in addition to the energy required to propel the car. Air conditioning, now installed in about 75 percent of all new cars, takes about six horsepower in a car traveling at 55 m.p.h. when the air temperature is 100 degrees F. Other accessories such as the engine fan, water pump, air pump and power steering will collectively absorb another five to 15 horsepower, depending on engine speed. Such accesories have to be designed to operate satisfactorily when the automobile is operating at low speeds, and commonly no provision is made to avoid unnecessary power consumption when it is operating at high speeds. A few cars now have electrically driven fans that operate only when the coolant temperature is high. Avoidance of unnecessary power loss at high speeds would cost something in design and complexity but would save energy.

One matter brought up during our Cal Tech seminars is the surprising inefficiency of cars for short trips without warm-up. Starting from an ambient temperature of 70 degrees F., a car gets an average of only 50 percent of its warmed-up gasoline mileage in a one-mile trip and only about 60 percent in a two-mile trip. In very cold weather the efficiency is much worse. For full gasoline mileage the tires, the grease in the differential-gear box and the oil in the transmission system as well as in the engine must all be warmed up.

Thus substantial savings in fuel consumption could be achieved by reducing vehicle weight and air resistance, by using better and harder tires together with better suspensions, by cutting the waste of energy by accessories at high speeds, by designing better transmissions and, if possible, by achieving efficient operation with a shorter warm-up period. Beyond these possibilities we must consider engine efficiency.

In the past engines have been chosen on the basis of cost and performance rather than efficiency. The diesel engine, as we have seen, is at least 40 percent more efficient than comparable gasoline engines and gives proportionately better fuel economy. Diesel engines, however, are heavy, costly and tend to be somewhat noisy. Moreover, the acceleration of diesel cars is below that of gasoline cars in the same price range. Thus for all their advantages diesel cars have not been notably popular.

The diesel engine is efficient partly because of its high compression ratio (21:1 in the Mercedes-Benz diesel) and partly because it operates with a lean fuel mixture (that is, with an excess of air). Power is controlled not by throttling, as it is in most gasoline engines, but by varying the amount of fuel injected into the combustion chambers. When a diesel engine is idling, it consumes only about 15 percent as much fuel as an idling gasoline engine. Operation with a lean mixture has the added advantage of reducing the emissions of hydrocarbons and carbon monoxide. Indeed, if the mixture is lean enough, the oxides of nitrogen are reduced as well. Ideally one could meet emission standards without costly emission-control devices and with high engine efficiency.

The advantages of lean burning have been sought in a modified form of the present gasoline engine that is receiving much attention. This is the stratified-charge engine in which the air-fuel mixture is made intentionally nonhomogeneous. Near the spark plug it is initially rich enough for ignition, but on the average the mixture is lean, with a resulting improvement in efficiency and reduction in emissions. The charge can be stratified in a single combustion chamber by injection of the fuel, as in a diesel. In the Honda engine it is stratified by using an auxiliary combustion chamber in which the mixture is rich. Ignition by means of a special spark plug allows operation at a lower compression ratio than in a diesel engine and gives good starting in cold weather.

One form of stratified-charge engine, developed by Texaco, employs what is called the Texaco controlled-combustion system. A converted 1950 Plymouth using the Texaco system showed a 37 percent improvement in miles per gallon, as compared with the original engine, at speeds between 40 and 60 m.p.h.

More recently a converted four-cylinder engine for a military jeep has shown improvements in fuel economy ranging between 40 and 70 percent in road tests. Texaco is now trying to see how much of this gain can be retained while meeting the 1977 emission standards. The Texaco engines operate equally well on gasoline, diesel fuel or jet fuel. Potential disadvantages of the Texaco system include the need for specially shaped pistons and a fuel injector and the tendency of the engine to produce particulate emissions under some conditions.

Another form of stratified-charge engine, the PROCO engine (for programmed combustion process), has been under development by the Ford Motor Company. It is stated that the PROCO engine would improve fuel economy about 25 percent in medium-size and large cars and 15 percent in small cars.

Although very lean nonstratified mixtures of gasoline and air cannot be ignited, mixtures of hydrogen and air can be ignited even at an air-hydrogen ratio of 40:1, which is about twice as lean as the leanest air-gasoline ratio. Such ratios suggest the addition of hydrogen to the fuel mixture as a way of achieving lean burning both to raise efficiency and reduce emissions. This strategem has been demonstrated in a Chevrolet V-8 engine in work at the Jet Propulsion Laboratory of Cal Tech. In dynamometer tests, using a fuel consisting of gasoline and bottled hydrogen, the equivalent miles per gallon increased from 9.4 for the unmodified engine to 12 for the modified engine, or more than 27 percent. A generator to produce hydrogen from gasoline has been built and operated, but not in an automobile.

All three approaches—diesel, stratified charge, hydrogen admixture—achieve higher efficiency through use of a leaner air-fuel mixture. As we have seen, they also reduce emissions of hydrocarbons and carbon monoxide in the exhaust, perhaps to the point of meeting present emission standards: Proposed standards on emission of oxides of nitrogen, however, are difficult to meet. The production of oxides of nitrogen can be reduced only if the mixture is made lean enough to lower the temperature of combustion substantially. It may be that the proposed standards on emission of oxides of nitrogen are unrealistically stringent.

To sum up, reductions in fuel consumption ranging from 20 to 40 percent have been claimed for lean-mixture engines under the most efficient operating conditions. Much of the improvement in the past has been lost, however, in adjustments for meeting emission standards. One can hope that further development will lead to a lean-mixture engine with both high efficiency and low exhaust emissions.

Federal emission standards have indirectly had the effect of blocking efficiency improvements that could be achieved with conventional automobile engines simply by raising their compression ratio. Before 1970, when the first Federal standards went into effect, the engines in many American cars had compression ratios as high as 10:1 and in a few cases even 10.5:1. For efficient antiknock performance an engine with a 10:1 compression ratio needs a gasoline with a research octane number of about 100. Oil companies have traditionally added lead alkyl compounds (such as tetraethyl lead) to raise by some five to seven points the octane number of gasoline as it is produced at the refinery; thus a gasoline of 93 to 95 research octane can be raised to 100 octane by adding "lead."

With the adoption several years ago of emission standards that would probably require the use of catalytic converters on 1975-model cars it was recognized that gasoline

containing lead would poison the catalyst. As a result car makers began to lower compression ratios to between 8:1 and 8.5:1 in order to make it possible for 1975 models to run on unleaded fuel of 91 research octane.

Exxon engineers have calculated that for a typical engine of 350 cubic inches displacement in a 4,000-pound automobile traveling at 40 m.p.h., raising the compression ratio from 8:1 to 10:1 would yield a 10 percent improvement in fuel economy; at a ratio of 12:1 the improvement would be about 18 percent. The Exxon study shows, however, that since the cost of producing unleaded gasoline rises steeply with octane number (about three cents per gallon to go from 95 octane to 100 at the time the study was made in 1971), the lowest transportation cost to the consumer is achieved with a research octane number of 97, which corresponds to an engine compression ratio of about 9.75:1. (The Exxon study assumes that three grades of gasoline, with an average octane number of 97, would be made available at the pumps.)

Although cars with power plants other than the internal-combustion engine have often been suggested, most of the power plants proposed (steam, gas-turbine, Stirling-cycle) would still need fuel from petroleum. In principle an electric car could get its energy from central power stations running on coal or on nuclear fuels. Electric vans powered by conventional lead-acid batteries have been operated in the U.S. and in other countries for many years. As a private car, however, an electric vehicle with lead-acid batteries seems only marginally promising. A Datsun converted by a Los Angeles engineer, Wally Rippel, gives some idea of the attainable performance.

The car has a range of 70 miles and a top speed of 61 m.p.h. The original transmission is retained, and acceleration is reasonable at the lower gear ratios. By using regenerative braking to recharge the batteries when the vehicle is slowing down or going downhill, electric consumption is reduced 15 percent for a mixture of city-street and freeway driving and as much as 25 percent when the route is a hilly one. The car will travel 3.5 miles per kilowatt-hour of charging power. When this performance is converted to equivalent miles per gallon, it is seen to be quite remarkable: about 52 m.p.g., assuming an efficiency of conversion of fuel to electricity of 40 percent at the power plant. (The energy in a gallon of gasoline is about 125,000 British thermal units, or 37 times the energy in a kilowatt hour; 37 times 3.5 times .40 is 52.)

Even though energy in the form of electricity is considerably more expensive than energy in the form of gasoline, the Rippel car still gets about 38.5 miles for the price of a gallon of gasoline, assuming five cents per kilowatt-hour and 55 cents a gallon for gasoline. (It is true, of course, that gasoline carries Federal and state taxes ranging from nine cents to 14 cents per gallon, which should be taken into account in such a calculation, either by subtracting the tax from the price of gasoline or by adding an equivalent tax to the price of electricity.

Fundamentally the efficiency of an electric automobile will depend on the efficiency of electric generating plants (about 40 percent for the best present fossil-fuel plants) minus losses involved in power distribution and the charging of batteries. The batteries in the Rippel car weigh about 1,400 pounds and have a retail value of about $1,200.

An improvement of 2:1 in power-to-weight ratio of batteries would make electric cars more attractive. The nickel-zinc battery or some other kind of battery may provide such an improvement. A more revolutionary regime that might do even better is to store energy in a composite flywheel made of lightweight materials, as has been proposed by Richard F. Post and Stephen F. Post [see "Flywheels," by Richard F. Post and Stephen F. Post; SCIENTIFIC AMERICAN, December, 1973].

There is a formidable obstacle to the production of a satisfactory electric car. Any gasoline-driven vehicle can be given acceptable performance by putting in a big enough engine. Fuel economy can then be improved gradually by reducing rolling resistance through low weight, hard tires and low unsprung weight, low-friction bearings and good streamlining. If an electric car is to perform satisfactorily, the engineering must be first-class right from the start; a low-loss control system, perhaps with regenerative braking and a high-efficiency motor, must be used.

Such sophisticated engineering design is contrary to the tradition of American automobile manufacturing. Commercial success is not assured even if the engineering is good. Who will take the chance? If we do have electric cars, they may come first as government-purchased vehicles, as high-cost novelties (such as sports cars) or as low-performance vehicles for special uses.

If we continue to use internal-combustion engines rather than electric power, we are faced with an inherent but remediable inefficiency. Cars are overpowered for driving on the level in order to provide satisfactory acceleration. Thus the engine operates far below its most efficient power level most of the time. The remedy for this inefficiency is to provide some way of storing energy for use during acceleration. If this were done, a very modest engine could provide a lively performance, at least on a level road. Early steam cars attained such performance with steam stored in a boiler.

In the 1930's Robert C. Burt installed a pneumatic transmission in a Plymouth. The gasoline engine pumped air into a tank; the compressed air drove the wheels by means of a converted steam engine. Energy stored in the air tank provided acceleration; the gasoline engine provided steady power. Such a drive system allows regenerative braking (through use of the air engine to compress air in deceleration) and the utilization of waste (exhaust) heat in heating the compressed air.

Recently tests have been made on vans where a small gasoline engine serves to charge batteries. The batteries provide extra power for acceleration; the gasoline engine provides sufficient power to propel the van on the level. A group at the Technical University at Aachen in Germany has constructed a power system in which energy for acceleration is stored in a flywheel; a small gasoline engine drives the flywheel and propels the van during constant-speed driving. The system has been installed in a Volkswagen Microbus. Acceleration better than that of a standard Microbus and a 60 percent fuel saving have been reported.

Vehicles combining a low-power internal-combustion engine and some means for storing energy are generally called hybrid vehicles. Perhaps they are the wave of the future. Perhaps they are too complex for private cars. Perhaps effective means for storing energy, either improved batteries or flywheels, will take us all the way to vehicles driven by electric power. It is sometimes overlooked, however, that all-electric private transportation would impose an enormous new load on the electric-utility industry. Today the nation's 100-odd-million private cars and small trucks consume nearly 60 percent as many energy units as all the nation's electric-power plants. To increase the capacity of the electric-power system between now and, say, the year 2000, to provide power for a national fleet of vehicles swollen to perhaps 160 million—in addition to expanding generating capacity 5 or 6 percent per year for all other purposes—would be an immensely costly undertaking.

Our view of the future is full of perhapses. What we do know with certainty is that in the near future private cars will continue to consume a great deal of gasoline and that there are many ways in which they could be made more efficient. Plausible projections by the Department of Transportation indicate that automobile fuel consumption could be stopped from growing before 1980 and thereafter even reduced. Whether or not cars become more efficient will depend not only on technical ingenuity and enterprise but also on the economic pressure of the price of gasoline, and on any other pressure that may come into being.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 5

At the request of Mr. CHILES, the Senator from South Dakota (Mr. ABOUREZK), the Senator from New Jersey (Mr. CASE), the Senator from Vermont (Mr. LEAHY), and the Senator from Idaho (Mr. CHURCH) were added as cosponsors of S. 5, the Federal Government in the Sunshine Act.

S. 216

At the request of Mr. DOMENICI, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 216, a bill to amend the Gun Control Act of 1963.

S. 227

At the request of Mr. BAYH, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from New Mexico (Mr. DOMENICI), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Wyoming (Mr. HANSEN), the Senator from Colorado (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Oregon (Mr. HATFIELD), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Florida (Mr. STONE), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of the bill (S. 227) to amend the Internal Revenue Code to encourage the continuation of family farms, and for other purposes.

At the request of Mr. BAYH, the Senator from Arkansas (Mr. BUMPERS), the Senator from New Jersey (Mr. CASE), the Senator from Oregon (Mr. HATFIELD), the Senator from Vermont (Mr. LEAHY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of the bill (S. 357) to amend title II of the Social Security Act to increase to $4,800 the amount of outside earnings permitted each year without deductions from benefits thereunder.

S. 362

At the request of Mr. BAYH, the Senator from California (Mr. TUNNEY) and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of

S. 362, a bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to discharge obligations under the Convention of Psychotropic Substances relating to regulatory controls on manufacture, distribution, importation, and exportation of psychotropic substances in order to curb illicit international traffic and abuse of such dangerous drugs, and for other purposes.

S. 388

At the request of Mr. CHURCH, the Senator from Oregon (Mr. HATFIELD) and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of S. 388, a bill to amend titles II, VII, XVI, XVIII, and XIX of the Social Security Act to provide for the administration of the old age, survivors, and disability insurance program, the supplemental security income program, and the medicare program by a newly established independent Social Security Administration, to separate social security trust fund items from the general Federal budget, to prohibit the mailing of certain notices with social security and supplemental security income benefit checks, and for other purposes.

S. 389

At the request of Mr. CHURCH, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 389, a bill to amend the Internal Revenue Code of 1954 to revise the retirement income credit and to increase the amount of such credit.

S. 390

At the request of Mr. CHURCH, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 390, a bill to provide a program of income tax counseling for elderly individuals.

S. 445

At the request of Mr. HUGH SCOTT, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 445, a bill to assure that an individual or family, whose income is increased by reason of a general increase in monthly social security benefits, will not, because of such general increase, suffer a loss of or a reduction in the benefits the individual or family has been receiving under certain Federal or federally assisted programs.

S. 451

At the request of Mr. BAYH, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. CULVER), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New York (Mr. JAVITS), the Senator from Vermont (Mr. LEAHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. Moss), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from California (Mr. TUNNEY) were added as cosponsors of the bill (S. 451) to amend title XVIII of the Social Security Act to provide for the coverage under part B of medicare for routine exfoliative cytology tests for diagnosis of uterine cancer.

S. 551

At the request of Mr. DOMENICI, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 551, a bill to provide for the recycling of used oil, and for other purposes.

S. 568

At the request of Mr. CHURCH, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 568, to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax.

S. 560

At the request of Mr. CHURCH, the Senator from North Dakota (Mr. BURDICK) and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of S. 560, a bill to amend title II of the Social Security Act to increase the amount which individuals may earn without suffering deductions from benefits on account of excess earnings, and for other purposes.

S. 585

At the request of Mr. CHILES, the Senator from Maine (Mr. HATHAWAY), the Senator from Wyoming (Mr. HANSEN), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Vermont (Mr. STAFFORD), the Senator from Delaware (Mr. BIDEN), the Senator from Illinois (Mr. PERCY), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. GARN), and the Senator from New York (Mr. BUCKLEY) were added as cosponsors of S. 585, a bill to prohibit travel at Government expense outside the United States by Members of Congress who are not reelected to the succeeding Congress.

S. 699

At the request of Mr. DOLE, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 699, a bill to permit Senators to use mobile offices in their home States.

S. 765

At the request of Mr. HUGH SCOTT (for Mr. PERCY), the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 765, a bill to reorganize the executive branch to establish a National Center for Productivity and Quality of Working Life.

SENATE JOINT RESOLUTION 1

At the request of Mr. BAYH, the Senator from Missouri (Mr. SYMINGTON), and the Senator from Ohio (Mr. TAFT) were added as cosponsors of (S.J. Res. 1) proposing an amendment to the Constitution to provide for the direct election of the President and Vice President of the United States.

SENATE JOINT RESOLUTION 35

At the request of Mr. RANDOLPH, the Senator from North Dakota (Mr. BURDICK), the Senator from Florida (Mr. CHILES), the Senator from Illinois (Mr. PERCY) the Senator from Maine (Mr. MUSKIE), and the Senator from California (Mr. CRANSTON) were added as cosponsors of Senate Joint Resolution 35, a joint resolution to provide for the designation of the second full calendar week in March 1975 as "National Employ the Older Workers Week."

SENATE RESOLUTION 20

At the request of Mr. KENNEDY, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. GRIFFIN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of Senate Resolution 20, relating to the negotiation of a final treaty, based on the Vladivostok agreement, and promoting further arms control measures.

SENATE CONCURRENT RESOLUTION 10

At the request of Mr. HUMPHREY, the Senator from Pennsylvania (Mr. HUGH SCOTT) and the Senator from Rhode Island (Mr. PELL) were added as cosponsor, of Senate Concurrent Resolution 10, to provide for the selection of members of minority groups who have made significant contributions to the United States, and to obtain their likenesses for placement in the Capitol.

SENATE CONCURRENT RESOLUTION 18

At the request of Mr. PROXMIRE, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of Senate Concurrent Resolution 18, to direct the Federal Reserve to follow certain money supply guidelines in conducting monetary policy and providing for semiannual hearings on monetary policy targets.

SENATE RESOLUTION 84—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

(Referred to the Committee on Rules and Administration.)

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following resolution:

S. RES. 84

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Foreign Relations, or any subcommittee thereof, is authorized from March 1, 1975, through February 29, 1976, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The Committee on Foreign Relations is authorized from March 1, 1975,

through February 29, 1976, (1) to expend not to exceed $60,000 for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The Committee on Foreign Relations, or any subcommittee thereof, is authorized from March 1, 1975, through February 29, 1976, to expend not to exceed $1,522,000 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries and to the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended) in accordance with such succeeding sections of this resolution.

SEC. 4. Not to exceed $885,000 shall be available for a study of matters pertaining to the foreign policy of the United States, of which amount not to exceed $25,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 5. Not to exceed $390,000 shall be available for a study or investigation of multinational corporations and their effect on United States foreign policy, of which amount not to exceed $20,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 6. Not to exceed $247,000 shall be available for a study or investigation of foreign assistance and economic policy, of which amount not to exceed $15,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 7. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 29, 1976.

SEC. 8. Expenses of the committee under this resolution, which shall not exceed in the aggregate $1,522,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

AMENDMENTS SUBMITTED FOR PRINTING

TRAVEL EXPENSES TO AND FROM VETERANS' ADMINISTRATION FACILITIES—S. 490

AMENDMENT NO. 17

(Ordered to be printed and referred to the Committee on Veterans' Affairs.)

Mr. ABOUREZK (for himself, Mr. CRANSTON, Mr. HARTKE, Mr. MCGOVERN, Mr. MCGEE, Mr. YOUNG, Mr. HASKELL, Mr. HUMPHREY, Mr. RANDOLPH, Mr. STONE, and Mr. STAFFORD) submitted the following amendment in the nature of a substitute intended to be proposed by them to the bill (S. 490) to amend section 111(a) of title 38, United States Code, relating to the payment of travel expenses for persons traveling to and from Veterans' Administration facilities.

Mr. ABOUREZK. Mr. President, today I am joining with Senator CRANSTON, the distinguished chairman of the Health and Hospitals Subcommittee of the Committee on Veterans' Affairs, to introduce a substitute amendment to the veterans travel per diem bill, S. 490.

Senator CRANSTON has given me his personal assurance that the amended bill will move along expeditiously in the Senate committees and that positive and final action will be taken on the measure before the end of this session of the Congress.

I know the Senator to be a man of high personal integrity and one who shares my concern over the serious deficiency which now exists in reimbursement rates for veterans travel. I am sure that he is as adamant as I in our resolve to rectify this problem in the very near future.

Before discussing the specifics of this amendment, however, I would like to address the position of the Veterans' Administration on the original version of S. 490. The VA claims that the total cost of the proposed reimbursement rates would run into a figure of over $25 million. I do not believe that this figure is accurate and I would challenge the VA to come up with the substantial statistical data needed to support their estimate. They also claim that the Office of Management and Budget will direct that any increases in the mileage and per diem reimbursement rates must be absorbed by the VA.

If this is true, I find this a most peculiar and inconsistent order. Why has not OMB ordered the Air Force to absorb the expense of the massive cost overruns in the B–1 if this is the order of the day? Instead of requesting a $300 million supplemental aid bonanza for South Vietnam, why have they not told that Government to absorb the cost of running their own Government for the next couple of months until the United States doles out additional billions during the next fiscal year? Why has not OMB told the Government employees that the new hike in travel allowances, something which is sorely needed I might add, not be absorbed by the different agencies of Government? My feeling is that if the VA is made to absorb the cost of an important program, then every other agency, including the Pentagon, ought to be required to do the same.

I was particularly interested in many of the VA's arguments in its opposition to the original version travel and per diem bill. They state:

> To determine the adequacy of beneficiary travel allowance, we periodically make studies into the matter.

This method provides the flexibility needed to permit rapid adjustment in the mileage reimbursement rate if found warranted and, we believe, represents a sound procedure.

I am interested in that statement, because it was only after 30 long years and a 75-percent increase in the cost of gasoline did the VA find the need for "rapid adjustment"—to the mileage reimbursement rate. And at a time when most experts estimate the cost of driving an automobile at 25 cents a mile, the VA generously agreed to increasing the rate from 6 to 8 cents a mile—a mere third of the actual cost.

The VA also stated that there are "vast differences" in the travel situations of Veterans' Administration beneficiaries and Government employees. They claim, for instance, that the average distance traveled by veterans is around 50 miles. I would like to see their statistics on that claim, Mr. President, because I am convinced that whatever they are, they could not possibly include any consideration for States west of the Mississippi. With the two VA facilities over 350 miles apart, the average distance traveled in South Dakota is far greater than that. In Wyoming, in Colorado, in Alaska, in Montana, in North Dakota, in Minnesota, and in numerous other States of the West, the VA position that there is a VA facility just around the corner is totally inaccurate.

While I would agree with the VA that differences between Government employees and veterans traveling on governmental business exist, I would add that differences also exist between veterans and Government employees when it comes to their present status. By definition, Government employees have jobs. They also have a sense of security knowing that the Government will provide the necessary funds for them to accomplish their tasks. A veteran, however, especially a disabled veteran, may not have a job or an ample income to make ends meet. While they may not have to travel far in relation to Government employees, the distance they do have to travel may require far more sacrifice. Furthermore, when they do have jobs they are ofttimes forced to lose a day's pay to travel to the VA facility.

One letter which I received last year from a man in Yankton, S. Dak., explains the problem far more graphically than I ever could. He writes:

> We are expected to report to the VA Regional Medical Center by 8:00 a.m. on a given date. This entails leaving by 4:00 a.m. in the early morning hours where, if an emergency arose, there would be no travelers to assist the disabled Veteran. Because of the financial burden, with only 6 cents a mile, no per diem and only eight dollars for a night's lodging, this veteran is forced to return home, often times without a new prosthetic device. He has lost a day's pay.

There is one other point to be made in regard to the differences and similarities between Government employees and veterans. The VA claims that—

> The per diem rate of $12 is to cover any necessary meals and lodgings the beneficiary may need enroute for treatment or care and return.

This statement renewed my earlier interest in the most recent per diem costs of lodging and meals around the country. In its report to accompany H.R. 2302, the House Committee on Government Operations included a study which sheds a great deal of light on how far the $12 actually goes. Mr. President, I ask unanimous consent that the table be inserted into the RECORD.

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

Most recent per diem costs of lodging and meals

Over 1 million population type cities:	
1. Atlanta, Ga	$28.60
2. Baltimore, Md	29.35
3. Boston, Mass	36.45
4. Buffalo, N.Y	26.90
5. Chicago, Ill	36.50
6. Cincinnati, Ohio	28.30

Most recent per diem costs of lodging and meals—Continued

Over 1 million population—Continued	
7. Cleveland, Ohio	$30.05
8. Dallas, Tex	30.55
9. Denver, Colo	28.05
10. Detroit, Mich	31.20
11. Houston, Tex	30.05
12. Kansas City, Mo	27.55
13. Los Angeles, Calif	33.90
14. Miami, Fla	32.70
15. Milwaukee, Wis	25.60
16. Minneapolis, Minn	32.80
17. Newark, N.J	33.00
18. New York, N.Y	48.50
19. Philadelphia, Pa	33.40
20. Pittsburgh, Pa	28.55
21. St. Louis, Mo	29.45
22. San Diego, Calif	29.30
23. San Francisco, Calif	37.70
24. Seattle, Wash	29.85
25. Washington, D.C	40.05
From 500,000 to 1 million type cities:	
1. Akron, Ohio	25.25
2. Albany, N.Y	28.50
3. Birmingham, Ala	23.30
4. Bridgeport, Conn	31.75
5. Columbus, Ohio	26.50
6. Dayton, Ohio	24.10
7. Hartford, Conn	28.75
8. Honolulu, Hawaii	34.25
9. Indianapolis, Ind	26.65
10. Jacksonville, Fla	22.00
11. Louisville, Ky	27.25
12. Memphis, Tenn	29.20
13. New Haven, Conn	28.20
14. New Orleans, La	32.90
15. Norfolk, Va	25.50
16. Oklahoma City, Okla	25.20
17. Omaha, Nebr	24.90
18. Phoenix, Ariz	27.30
19. Portland, Oreg	25.35
20. Providence, R.I	26.45
21. Richmond, Va	24.90
22. Rochester, N.Y	27.25
23. Sacramento, Calif	24.80
24. San Antonio, Tex	24.40
25. San Jose, Calif	26.70
26. Springfield, Mass	26.65
27. Syracuse, N.Y	26.75
28. Tampa, Fla	26.55
29. Worcester, Mass	27.15
From 100,000 to 500,000 type cities:	
1. Albuquerque, N. Mex	23.50
2. Amarillo, Tex	20.15
3. Asheville, N.C	30.35
4. Atlantic City, N.J	35.50
5. Austin, Tex	23.90
6. Baton Rouge, La	22.05
7. Charleston, S.C	22.00
8. Charlotte, N.C	22.55
9. Des Moines, Iowa	24.40
10. El Paso, Tex	22.45
11. Fort Wayne, Ind	23.30
12. Fresno, Calif	26.75
13. Harrisburg, Pa	25.55
14. Huntsville, Ala	23.55
15. Jackson, Miss	26.50
16. Kalamazoo, Mich	25.15
17. Las Vegas, Nev	32.25
18. Lexington, Ky	24.60
19. Little Rock, Ark	23.25
20. Madison, Wis	27.45
21. Nashville, Tenn	23.15
22. Orlando, Fla	25.25
23. Pittsfield, Mass	29.70
24. Portland, Maine	27.30
25. Raleigh, N.C	24.80
26. Rockford, Ill	21.60
27. Salt Lake City, Utah	27.35
28. Santa Barbara, Calif	29.80
29. Spokane, Wash	27.05
30. Springfield, Ill	22.50
31. Springfield, Mo	19.00
32. Toledo, Ohio	19.60
33. Tucson, Ariz	26.20
34. Wichita, Kans	21.55
35. Wilmington, Del	24.30
36. York, Pa	23.65
Under 100,000 population type cities:	
1. Albany, Ga	$20.40
2. Anchorage, Alaska	35.70
3. Boise, Idaho	23.20
4. Burlington, Vt	25.95
5. Charleston, W. Va	25.75
6. Cheyenne, Wyo	23.55
7. Great Falls, Mont	23.10
8. Manchester, N.H	21.45
9. Roanoke, Va	25.05
10. Sioux Falls, S. Dak	23.00

Mr. ABOUREZK. Mr. President, our purpose today is not to dwell on points of disagreement, because it is precisely because of disagreements—not on the need but on the implementation—of more practical reimbursement rates, that progress has been impeded thus far.

After working with the distinguished chairman of the Veterans' Affairs Subcommittees on Health and Hospitals and Government Operation's Budgeting and Management, we have decided that the most acceptable way to insure that this legislation becomes law is to forgo an attempt to attach it to S. 172, the Government employees per diem bill and to offer a substitute amendment to S. 490, the veterans travel and per diem bill, currently pending action in the Veterans' Affairs Committee.

The amendment would require that the VA Administrator conduct at least an annual investigation of the cost of travel and the operation of privately owned vehicles to veterans while traveling to or from a VA facility. Specifically, the Administrator will be required to analyze depreciation costs, gasoline and oil costs, automobile maintenance, insurance, State and Federal taxes, and the per diem rates and expenses of travel authorized for Government employees.

Before determining rates of allowances or reimbursements, the Administrator will submit to the Veterans' Affairs Committee in both Houses of Congress a report containing the rates he proposes to establish.

I have two clarifications I would like to make on this provision:

My interpretation of this provision is that if the Veterans' Affairs Committee disagrees with the proposal made by the Administrator, they have the right and the responsibility to confer with the Administrator on the points of disagreement and offer constructive suggestions.

It is also my belief that the information provided the distinguished members of the Veterans' Affairs Committee on this matter should be made available to all Members upon their request. Since it is possible that the VA Administrator would suggest differing rates for different States, based on the hardship placed upon the veteran in a particular area, it would behoove the Members of the respective States to know what the rates are and what the proposed changes would be.

I would appreciate having the view of the distinguished chairman of the Veterans' Affairs Subcommittee on these two points.

Mr. President, I am encouraged by the show of unity on this particular problem. It is significant to note the determination on the part of so many Senators, including the distinguished Senators participating in this exchange today, to bring more equitable and practical treatment to veterans needing to travel to receive care or examinations at VA medical facilities.

I am delighted to be joined in this amendment by the distinguished chairman of the Committee on Veterans' Affairs, Mr. HARTKE, and other members of that committee, Senators RANDOLPH, STONE, and STAFFORD, as well as the original cosponsors of S. 490, Senators MCGOVERN, MCGEE, YOUNG, HASKELL, and HUMPHREY.

I am also encouraged by the action of the leadership of the House Veterans' Affairs Committee which recently introduced similar legislation in the House of Representatives. This action, paired with our action today, ought to insure that rapid progress toward enactment of this measure is made.

Perhaps most encouraging of all, however, is the knowledge that the distinguished Senator from California (Mr. CRANSTON), the chairman of the Veterans' Affairs Subcommittee on Health and Hospitals, has demonstrated the same conviction and determination to see that action on this problem is taken. He is a man of remarkable legislative skill and accomplishment. His support and cooperation has greatly expedited what I trust will be a successful legislative resolution of this matter.

Mr. President, I ask unanimous consent that the text of the amendment be inserted in the RECORD.

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

AMENDMENT No. 17

Strike out all after the enacting clause and insert in lieu thereof the following: "That section 111(a) of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(e)(1) In carrying out the purposes of this section, the Administrator, in consultation with the Administrator of General Services, the Secretary of Transportation, the Comptroller General of the United States, and representatives of organizations of veterans, shall conduct periodic investigations of the cost of travel (including lodging and subsistence) and the operation of privately-owned vehicles to beneficiaries while traveling to or from a Veterans' Administration facility or other place pursuant to the provisions of this section. He shall conduct such investigations not less often than annually and immediately following any alteration in the rates described in clause (F) of this paragraph, and, based thereon, shall determine rates of allowances or reimbursement to be paid under this section. In conducting these investigations and determining such rates, the Administrator shall promptly review and analyze among other factors—

"(A) depreciation of original vehicle costs;

"(B) gasoline and oil costs;

"(C) maintenance, accessories, parts, and tires;

"(D) insurance;

"(E) State and Federal taxes; and

"(F) the per diem rates, mileage allowances, and expenses of travel authorized under sections 5702 and 5704 of title 5, for employees of the United States traveling on official business.

"(2) Before determining rates of allowances or reimbursement provided for in this

section, and not later than 60 days after any alteration in the rates described in clause (F) of paragraph (1) of this subsection, the Administrator shall—

"(A) submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing the rates he proposes to establish or continue with a full justification therefor in terms of the factors set forth in paragraph (1) of this subsection; and

"(B) proceed with a notice of proposed rulemaking in accordance with the procedures set forth in section 553 of title 5, without regard to the exceptions set forth in subsection (d) of such section, including publication in the Federal Register of the proposed rates and the full justification therefor required under clause (A) of this paragraph.

The justification provided under this paragraph shall specify the extent to which and the full reasons why the proposed rates would differ from the rates then in effect under sections 5702 and 5704 of title 5 for employees of the United States traveling on official business."

Mr. CRANSTON. Mr. President, I have listened with great interest to the remarks of the able Senator from South Dakota (Mr. ABOUREZK) in explanation of the substitute amendment which we are joining in submitting to his bill, S. 490, to improve veterans' beneficiary travel and per diem reimbursement rates. I am delighted to be joining with Senator ABOUREZK and other sponsors of his bill, as well as the chairman of the Committee on Veterans' Affairs, Mr. HARTKE, and three other members of that committee, in cosponsoring this substitute amendment. It has been a great pleasure to work with the Senator from South Dakota and his staff on this matter, and I believe that the resulting measure will bring about a significant improvement in the provisions for reimbursing veterans for their travel to VA medical facilities for care or examinations.

Mr. President, I greatly appreciate, the leadership and cooperation of the Senator in agreeing not to proceed to attach the veterans' beneficiary travel amendment to S. 172, the Government employees per diem bill, as he did at the close of the last Congress. His decision instead to work closely with the committee members to develop a suitable legislative proposal in this area to be dealt with within the committee with jurisdiction over veterans' affairs and title 38 of the United States Code generally, should bring about two very desirable results. First, it should facilitate the passage and presidential signature of S. 172 since the President stated in his pocket-veto message on the predecessor measure that the reason for his veto was the veterans beneficiary provision which had been added to that bill. Second, it will insure prompt consideration and effective action on an amendment to title 38 to bring about an overall improvement in the rates of travel and per diem reimbursement presently paid by the Veterans' Administration to veteran beneficiaries under section 111 of title 38.

Before proceeding further, I also want to express my deep appreciation to the chairman of the Senate committee, the distinguished Senator from Indiana (Mr. HARTKE), for his support and contributions throughout our discussions and negotiations on this question. Also, I am most grateful to the leadership of the Committee on Veterans' Affairs in the other body, particularly the gentleman from Texas (Mr. ROBERTS), the chairman of that committee, and the gentleman from Virginia (Mr. SATTERFIELD), the chairman of the companion subcommittee to the Subcommittee on Health and Hospitals which I am privileged to chair in the Senate. As always, they have exhibited the utmost cooperation and made a most substantial contribution to our ability to move forward as we are today. Their discussions and work with the Committee on Government Operations in the House were instrumental throughout this process.

Finally, I am grateful to the chairman of the Senate Committee on Government Operations, Mr. RIBICOFF, and the appropriate subcommittee chairman on that committee, Mr. METCALF, for their help and insight.

Mr. President, throughout this process, various staff members were most helpful to me and my staff, and I particularly want to thank the following: in the Senate, Dick Wegman, Eli Nobleman, Tom Daschle, and Guy McMichael; and in the House, Oliver Meadows, Gene Howard, and Mac Fleming.

Mr. President, in the course of his remarks, the Senator from South Dakota indicated he would like my reaction to two matters he raised. I am in agreement with him on both. First, there is no question that if the Committee on Veterans' Affairs in either body is dissatisfied with the proposal for continuing or changing travel and per diem reimbursement rates as submitted by the Administrator, it is their clear responsibility to discuss this with the Administrator and to present recommendations for improvements.

Second, Mr. President, it would certainly be the intention of the committee to make available immediately to any Member who requests it the information which is submitted by the Administrator in justification of his rate proposals.

Mr. President, I do not intend to discuss in substance at this time the legislative provisions which we are submitting. As the Senator from South Dakota has indicated, we have given him our assurances that this matter will be considered expeditiously in the subcommittee and full committee in connection with some comprehensive VA health legislation which are now preparing, and that we certainly foresee final action on beneficiary travel provisions in this first session of the 94th Congress. I certainly am in agreement with the sponsor of this measure that there is a serious deficiency in the present VA rate schedule which needs to be rectified in the near future.

I am also hopeful, Mr. President, that the Veterans' Administration will reconsider its prior position of opposition to the provisions of Senator ABOUREZK's original bill, and will find it possible to support the more flexible, but yet responsive provisions in the substitute amendment submitted today.

Mr. President, I thank the Senator from South Dakota for his generous remarks and for his spirit of conciliation and cooperation throughout our discussions on this legislation. I congratulate him for the outstanding contribution he has made to mobilizing legislative action in this field and for his characteristic dedication and compassion in pursuing just and equitable treatment and services for individuals. I look forward to continuing to work with him and his staff very closely as the committee deals with the veterans beneficiary travel and per diem question.

AMENDMENT OF RULE XXII—SENATE RESOLUTION 4

AMENDMENT NO. 18

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

Mr. CRANSTON (for Mr. PROXMIRE) submitted an amendment intended to be proposed to the resolution (S. Res. 4) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

NOTICE OF POSTPONEMENT OF HEARINGS ON FEDERAL COAL AMENDMENTS ACT OF 1975, S. 391

Mr. METCALF. Mr. President, I wish to announce that the hearings scheduled by the Subcommittee on Minerals, Materials and Fuels for February 25, 27, and 28 on S. 391, the Federal Coal Leasing Amendments Act of 1975, have been postponed until further notice.

This postponement will enable the committee to continue and complete markup on S. 622, the Standby Energy Authorities Act, and S. 7, the Surface Mining Control and Reclamation Act of 1975.

I will announce the new dates for the coal leasing policy hearings when they have been rescheduled.

NOTICE OF NOMINATION HEARING

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Public Welfare has scheduled a hearing on Tuesday, February 25, at 9:30 a.m., in room 4232, Dirksen Senate Office Building, on the nomination of John T. Dunlop, of Massachusetts, to be Secretary of Labor.

NOTICE OF HEARING

Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Senate Committee on Interior and Insular Affairs.

The hearing will begin at 2 p.m. on February 26, 1975, regarding S. 621, a bill to prohibit for a period of 90 days the lifting of all price controls on domestic oil and to thereafter require the submission to, and the right of review and disapproval of the Congress of such action within 30 days. The hearing will be held in room 3110, Dirksen Senate Office Building.

ANNOUNCEMENT OF A PUBLIC HEARING BEFORE THE ENERGY RESEARCH AND WATER RESOURCES SUBCOMMITTEE OF THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. CHURCH. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Energy Research and Water Resources Subcommittee of the Senate Interior and Insular Affairs Committee.

The hearing is scheduled for April 17, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding one bill, which is presently before the subcommittee. The measure is S. 151, legislation to authorize the Secretary of the Interior to construct, operate, and maintain the Polecat Bench area of the Shoshone extension unit, Pick-Sloan Missouri Basin program, Wyoming.

For further information regarding the hearing, you may wish to contact Mr. Russell Brown of the subcommittee staff on extension 41076. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Energy Research and Water Resources Subcommittee, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Ralph B. Guy, Jr., of Michigan, to be U.S. attorney for the eastern district of Michigan for the term of 4 years—reappointment.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, February 27, 1975, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATMENTS

THE DIFFICULT ISSUE OF ABORTION

Mr. BARTLETT. Mr. President, as a result of recent events, it is important that the attention of the Senate again be directed toward the difficult issue of abortion.

On Saturday, February 15, a jury in Boston, Mass., found a young doctor guilty of "wanton and reckless conduct resulting in the death of a person;" after having performed a supposedly "legal" abortion.

The important thing about this case, Mr. President, is that the "person" in this manslaughter case was a 6-month-old fetus.

A jury of 9 men and 3 women found unanimously and beyond a reasonable doubt that the life of a person, a human being, was extinguished.

Surprisingly, much of the debate concerning the propriety of abortion has centered on the issue of "when life begins." As a matter of fact, shortly after the decision in Boston, Dr. Henry Fineberg, vice chairman of the American Medical Association's Judicial Council, said:

> The whole question is when does life begin?

The Supreme Court in their landmark decision approving of abortion sidestepped this issue by saying:

> When those trained in the respective disciplines of medicine, philosophy and theology are unable to arrive at any concensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer . . . we need not resolve the difficult question of when life begins.

Now, although the Supreme Court may have originally found that question difficult to answer, as a matter of fact there is virtual unanimous agreement among scientists, biologists, philosophers, and theologians as to when life does begin. Life begins at the moment of conception, when the ovum is fertilized by the sperm, forming that unique genetic organism called the zygote or the fetus. From that moment forward, new life, the product of the two human beings, is in existence.

A biological illustration is perhaps the best example of the beginning of that life cycle.

There now exists a process called the "bovine embryo implant," whereby female cattle in one country, Canada, for example, are impregnated. The fertilized eggs are then removed from the cow and are placed in the womb of a rabbit and are transported into the United States where they are removed from the rabbit and implanted in several cows. Nine months later, these cows will give birth to a baby calf. Obviously, the calves' lives "began" in Canada, continued in the rabbit, and ultimately in their adopted mothers.

The same thesis holds true for the successful experiments which have been concluded with test tube babies. They are called test tube babies because that is where their lives began.

The point is, Mr. President, we do know when life begins. The real question in this great debate is whether the life of the smallest of human beings—the human fetus—will continue to be dependent upon the whim, comfort, or well-being of the mother in consultation with her doctor or will the human fetus receive the same Supreme Court guarantee and protection of life enjoyed by all other human beings. Because the word "human being" and "person" are synonomous, the Court has already answered this question when it said in Roe against Wade:

> If this suggestion of personhood is established, the appellant's case, of course, collapses, for the fetus' right to life is then guaranteed specifically by the Fourteenth Amendment.

The question of personhood and when life begins are clearly established. The Supreme Court should find that the human fetus is also entitled to the equal protection provisions of the 14th amendment.

I find myself feeling compassion for the doctor convicted in the Boston manslaughter case. Apparently, and unfortunately, he was acting in reliance on the wisdom of the majority of the U.S. Supreme Court.

However, I feel more compassion for the thousands of unborn lives which are now daily extinguished in the United States.

Those responsible for the majority opinion should accept the blame for setting a legal booby trap for the medical profession. The Supreme Court should remove that trap by correcting this gross injustice to the smallest of human beings at the earliest possible moment.

However, I am given new spirit and encouragement by the 12 Americans sitting in a jury box in Boston, Mass., who looked at pictures of a 6-month-old fetus and concluded that this tiny infant was worthy of protection by our legal process.

Their decision reaffirms the confidence which I have in the American people—confidence I regrettably cannot bestow on the majority members of our U.S. Supreme Court, who refused to be so venturesome or courageous as to say when life begins.

Mr. President, the decision should mandate this body to early action to place clearly in our law protection of human life at every stage of its development so that one human being no longer has the legal control over the life of the smallest human being—the human fetus.

Despite the decision of the 12 jurors in Boston, if we do not take action, abortion and related activities will continue to proliferate. As late as last Sunday, the Washington Post was reporting that research on living aborted fetuses has taken a "quantum jump" in recent years. The newspaper reports that in one study, the heads of eight fetuses were separated and injected with radioactive compounds to study brain metabolism. The study used "fresh, live fetuses less than 12 weeks old."

Mr. President, I am convinced our country morally believes in the sanctity and inviolability of human life. But this is not enough; we must declare legislatively that life is not the gift of a State, a Supreme Court or any other organization or individual. I believe that life comes from God and the right to life is innate in the nature of man.

We must reaffirm what our forefathers said in the Declaration of Independence when they state in the most powerful terms that the individual is supreme and above the State—not secondary to it.

As President Lincoln said, our ultimate defense is "the preservation of the spirit which prizes life as the heritage of all men."

FPC STAFF SUPPORTS NATURAL GAS RELIEF FOR ALABAMA FERTILIZER PLANT

Mr. ALLEN. Mr. President, the staff of the Federal Power Commission in the last few weeks has issued two briefs relating to the petition filed with the Commission by the North Alabama Gas District and United States Steel to obtain emergency natural gas relief for United States Steel's Cherokee, Ala., nitrogen fertilizer plant.

Both of these briefs, Mr. President, strongly support North Alabama and United States Steel's petition for obtaining emergency supplies of natural gas from Texas Eastern Transmission Corp.—TETCO. In their February 3, 1975, brief, the Federal Power Commission staff came to the following general conclusions:

1. The Commission should require TETCO to supply North Alabama with sufficient volumes to enable USS to meet its Feedstock requirements.

2. USS should be required to convert the Cherokee plant to allow the use of No. 2 fuel oil as process fuel.

3. The Commission should provide temporary relief to USS for its process requirements pending the completion of the plant's conversion.

4. Relief should be limited to reflect the volumes USS has failed to seek from its other suppliers.

5. USS should be required to pay back relief volumes taken whenever it can otherwise meet its minimum requirements for natural gas.

6. The Commission should frame relief in such a manner as will protect priority one requirements and will, at the same time permit relief to continue until Texas Eastern is actually curtailing into priority one.

And then in its February 10, 1975, brief the Commission staff made the following additional points with respect to the general availability of fertilizer for the coming year—the importance of the Commission considering the social utility of an end product in making its relief decisions—and, other points concerning providing relief to United States Steel's Cherokee, Ala. fertilizer plant:

1. The record demonstrates that there will be a shortage of fertilizer for at least the coming year.

2. Staff believes, that in the context of an extraordinary relief proceeding, the Commission should consider the social utility of the end product.

3. The record clearly demonstrates that the USS Cherokee plant can be converted to permit the use of No. 2 fuel oil as process fuel.

4. North Alabama and USS should not be penalized for the failure of their suppliers to make long term projections of curtailments.

And in both of these briefs, the Commission staff recommends that the Commission grant relief to North Alabama and United States Steel, for use in United States Steel's fertilizer plant at Cherokee.

In view of these two FPC staff briefs and recommendations, Mr. President, I would hope that the Commission would waste no further time in granting the relief requested by these particular petitioning parties. Every day lost in granting such relief, means further losses of needed nitrogen fertilizer.

Farmers in Alabama, Georgia, and throughout the Southeast are now beginning to prepare their ground for spring planting of food and fiber crops. And as Mr. Dawson Ahalt of the U.S. Department of Agriculture pointed out in hearings before the Commission with respect to these petitions, a 100,000-ton loss of fertilizer production in the Southeast represents 10 percent of that region's use of fertilizer, which would in turn, result in a 23-percent reduction in corn production and a 2-percent reduction in both cotton and tobacco in that region. Under current levels of natural gas curtailment, the United States Steel Cherokee plant expects to lose about 44,000 more tons of ammonia for nitrogen production than they lost last year.

Mr. President. I wish to urge the Federal Power Commission to act promptly in granting the natural gas relief required by this particular fertilizer plant to get back into full production. I hope my Senate colleagues will join with me in this request. The future food and fiber supply of all of our constituents, whether rural or urban, is very much involved.

Mr. President, I ask unanimous consent that the FPC staff briefs I have referred to be printed in the RECORD.

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

INITIAL BRIEF OF THE COMMISSION STAFF FOLLOWING REHEARING

ABSTRACT OF THE EVIDENCE

North Alabama presented six witnesses to prove its need for relief. One witness appeared on behalf of the Department of Agriculture. The testimony of these witnesses is summarized below:

The fertilizer shortage

Three of the witnesses, Ahalt, Douglas and Henderson testified that there is a shortage in this country and in the world of nitrogen fertilizers. Mr. Ahalt, representing the United States Department of Agriculture, testified that in fiscal year 1974 (12 months ending June 30, 1974), demand probably exceeded supply in this country by more than five percent, the shortfall projected by USDA last Spring (Tr. 525). USDA does not know the exact magnitude of last year's shortfall because it does not know how the unavailability of fertilizer affected farmers' demand (Tr. 524). USDA has not yet made an official projection on the magnitude of the shortfall for * * * Mr. Ahalt declined to * * * prediction of the shortfall for 1975 because of the as yet uncertain impact of natural gas curtailment (Tr. 525). He does believe that it will be as severe in 1975 as it was in 1974 (Tr. 540).

Mr. Ahalt's uncertainty about the magnitude of this coming year's shortage stems from the fact that many variable factors influence the supply of and demand for fertilizer (Tr. 526, 527). These uncertainties were shared by Dr. John Douglas, of the Tennessee Valley Authority, appearing on behalf of North Alabama, Dr. Douglas stated that TVA does not know, and never will know, the exact magnitude of the fertilizer shortage in fiscal 1974 (Tr. 569). He estimates that in corn and wheat alone, demand for fertilizer exceeded supply by 578,000 tons nationwide (Tr. 569). Dr. Douglas also expects that the shortage in fiscal 1975 will exceed that of fiscal 1974 (Tr. 570).

Mr. C. M. Henderson of USS appeared for North Alabama. In earlier hearings last May Mr. Henderson had predicted a shortage three or four times as severe as Mr. Ahalt, who at that time had appeared as a Staff witness. Mr. Henderson outlined three reasons for the differences in his latest prepared testimony:

(1) USDA's forecast was based only on the shortage of Ammonia for Agriculture uses; Mr. Henderson's on the shortage of ammonia for all uses, including industrial applications (Tr. 665).

(2) Mr. Henderson considered current inventories on hand as well as current production; USDA did not consider the decrease in inventories (Tr. 665).

(3) USDA based its projections on crop acres harvested; Mr. Henderson on crop acres planted (Tr. 666).

Mr. Henderson did not attempt an independent projection of shortfall for 1975, but is relying on TVA's estimated figures (Tr. 666).

Cross examination of Witnesses Ahalt and Douglas explored the reasons for their uncertainties of the magnitude of past and future shortages and uncovered many factors which make accurate prediction difficult. Several reasons are given below:

(1) The severity of future natural gas curtailments is unknown. Curtailments may dramatically lower supply of fertilizers (Tr. 528, 541, 571, 581, 493), but production capacity has otherwise increased (Tr. 495, 670).

(2) Application rates for fertilizers have tended to rise as farmers have become more knowledgeable in their use (Tr. 569, 572) and because national policies have favored increased food production (Tr. 570). The application rates are also affected by the price of grains (Tr. 498), the specific crops grown (Tr. 618–19, 877, 537), grain inventories (Tr. 876), the price of fertilizer (Tr. 527), and the type of soil (Tr. 500).

(3) Acres of food planted have increased (Tr. 670).

(4) Exports of fertilizer have decreased (Tr. 495).

It appears that many of the factors listed above tend to cancel each other out. For example, nitrogen fertilizers are used on cotton. Cotton acreage will be lower in 1975, than in 1974, but farmers will shift to more profitable crops instead. In the South many farmers will grow soybeans which use little nitrogen (Tr. 618–19), and other farmers in other areas will switch to corn, wheat (Tr. 507) and sorghum, a crop which uses twice as much nitrogen as cotton (Tr. 537).

Extensive cross examination was aimed at Witness Douglas to explore the effects on fertilizer demand of price fluctuations in grains and ammonia. Mr. Ahalt stated that although the prices of wheat and corn have declined from their highs of several months ago (Tr. 499, Exhibit No. 7) to lower prices today, they are still high enough for farmers to cover their variable costs (Tr. 500). Dr. Douglas cited a study he made to show the relationship in the price of grains and the price of fertilizers (Tr. 585). In the 1950's and early 60's farmers were trading the value of 70 to 80 bushels of corn for one ton of fertilizer (Tr. 585). In this period, during the late 60's, fertilizer manufacturers were making little or no profits (Tr. 587,599), and many producers had to close down their plants because inventories were piling up (Tr. 601). With the price relationship, as it existed in 1974, the farmer was trading 60 bushels of corn and was still in a better position than he had been in the early 60's. Dr. Douglas stated that if farmers had to pay a price equivalent to 70–80 bushels of corn for one ton of ammonia, application rates would decline, but he could not state quantitatively how large the decline would be. (Tr. 586, 592).

Fertilizer prices have more than doubled since price controls were removed in October, 1973 (Exhibit No. 7). USS sells ammonia produced at Cherokee to distributors for $185 per ton (Tr. 670). USDA shows that the farmer pays an average of $229 per ton (Exhibit No. 7).

Prices of grains on the Chicago Commodity

Exchange were quoted from the January 21, 1975, edition of The Wall Street Journal. On January 20 prices were as follows:

No. 2 Kansas City wheat: March futures $3.77½ per Bu.; cash price $3.94 per Bu.

No. 2 Dark Northern (14 percent wheat); price $4.32 per Bu.

No. 2 Soft Red wheat: ? price $3.74 per Bu.; March corn $3.02 per Bu.; Chicago No. 2 corn $2.87½ per Bu. (Tr. 546).

Both Mr. Ahalt and Dr. Douglas agreed that the fertilizer shortage would be more severe in the South than in many other areas of the country (Tr. 494, 571), and both witnesses attribute this to the fact that there are fewer ammonia plants in that region than in other areas (Tr. 571) and to deepening curtailments of natural gas (Tr. 528, 571–72).

The United States was a net importer of fertilizer in 1974 (Tr. 572), and this trend is likely to continue (Tr. 495).

Mr. Ahalt testified that many of our exports of fertilizer are, in reality, only exchanges with Canada. Traditionally Eastern Canada buys fertilizer from the U.S. and Western Canada sells to the U.S. (Tr. 536). The U.S. is a net importer of potash fertilizers from Canada (Tr. 536).

Dr. Douglas states that 98 or 99% of this country's ammonia is manufactured from natural gas (Tr. 568). Ninety-five percent of the nitrogenous fertilizer used in this country is manufactured from anhydrous ammonia (Tr. 4–2).

Mr. Ahalt stated he does not believe that the U.S. should attempt to make up for domestic fertilizer shortages by increasing fertilizer imports (Tr. 531–2). He states that this country is already being criticized for not exporting more fertilizer to the world market (Tr. 532–3). By increasing imports, we would take fertilizer from other, less developed countries, and might cause serious worldwide dislocations (Tr. 532). Dr. Douglas believes that if there is a reduction in U.S. fertilizer output, U.S. farmers may be unable to purchase fertilizer at any price (Tr. 573).

Finally, a great deal of concern was expressed by several of the participants about the non-agricultural uses of fertilizer and their use on fiber crops and tobacco. Mr. Ahalt stated that approximately 5 to 7 per cent of fertilizers are used in non-agricultural applications, and that on a nutrient basis, that amount is lower because non-agricultural fertilizers are not high analysis fertilizers (Tr. 509).

Many non-agricultural uses of fertilizer are highly essential. Major users of non-agricultural fertilizers are airports and the interstate highway system where grass is used to prevent erosion (Tr. 535). These demands are inelastic with respect to price (Tr. 535). On the other hand, home lawn and garden products are price elastic (Tr. 535), and Mr. Ahalt suspects that there will be a decrease in homeowner consumption causing manufacturers to produce more agricultural grade products and less of the low analysis product (Tr. 535).

Mr. Ahalt believes that if a policy decision were made to limit production of non-agricultural fertilizers in order to make more nitrogen available to farmers, it would not solve the farmers problems, but would cause frustration (Tr. 523).

In fiscal 1974, 4.7% of the total U.S. nitrogen fertilizer use was for cotton. 0.5% was for tobacco (Exhibit No. 7). Mr. Ahalt projects a 32% drop in cotton acreage for fiscal 1975 (Tr. 506). Mr. Ahalt further testified that he understood the principal sources of nitrogen fertilizer in tobacco were sodium and calcium nitrate, two imported products (Tr. 538).

The effect of the fertilizer shortage

Both Mr. Ahalt and Dr. Douglas stated that there is a shortage of fertilizer (Tr. 525, 635). Mr. Ahalt states that, barring bad weather in 1975, America's needs for food will be met in the coming year in spite of the fertilizer shortage (Tr. 529), although the twenty percent reduction in feed supplies last year (caused largely by bad weather) have raised prices of feed and have caused people in the livestock business to liquidate (Tr. 528). Any additional losses in food production could lead to rising food prices (Tr. 572).

Under current levels of curtailment, USS–Cherokee expects to lose 44,000 more tons of ammonia production than they lost last year (Tr. 644). Mr. Ahalt states that a 100,000 ton loss of fertilizer production in the Southeast U.S. represents 10% of that region's use of fertilizer (Tr. 494), and would result in a 23% reduction in corn production in the region and a 2% reduction in both cotton and tobacco (Tr. 495). Nationally a loss of 100,000 tons of nitrogen translates into 50 to 75 million bushels of corn (Tr. 495), about one quarter of a billion dollars worth of corn at the price of $3.60 per Bu. (Tr. 495), or about one fifth of a billion dollars at current prices.

If the nationwide shortfall of fertilizer reaches 500,000 tons, the minimum projection of Witnesses Ahalt and Douglas, it could affect corn production nationwide by 5 percent (Tr. 495). Dr. Douglas states that one ton of anhydrous ammonia will lead to an increase yield of eight tons of grain (Tr. 568).

Mr. Ahalt pointed out that exports of fertilizer and of the crops they help to produce helped to reduce this country's trade deficit in 1974, by $10.9 to $2.7 billion (Tr. 497). He fears that a further loss of fertilizer production would exacerbate already difficult trade, inflation and energy problems which we are trying to solve (Tr. 497).

Distribution and end use of USS–Cherokee's end product

Mr. Henderson stated that in 1974 USS produced 163,800 tons of ammonia at Cherokee, which together with the 6570 tons of opening inventory meant that 170,370 tons were available for shipment (Tr. 663). Of that amount 165,015 tons of ammonia were used in end products or for direct shipments. The 165,015 tons of ammonia permitted USS–Cherokee to ship 487,096 tons of end product to market (Tr. 663, Exhibit No. 9, page 1).

The 165,015 tons of ammonia shipped from Cherokee as various end products wound up as follows:

End use	Tons	Percent of total
Turf and garden	715	0.4
Export (as diammonium phosphate)	5,300	3.2
Industrial sales	7,388	4.5
Fertilizer sales	151,612	91.9
Total	165,015	100.0

Breakdowns of the industrial and agricultural uses of ammonia produced at Cherokee were given in Exhibit No. 9 at pages 3 and 5 respectively. They are given below:

Ammonia industrial uses—Cherokee shipments

End use category	Tons
Curing Agent—Fiberglass and Rubber	103
Corrosion Resistant Additive	75
Refrigeration	1,776
Ph Control for Ore Processing	995
Waste Treatment	417
Develop Engineering Blueprints	224
Flameproofing	345
Metal Treating	1,185
Firing Ceramics for Auto Emission Divs	157
Nuclear Fuel Refining	336
Synthetic Textiles Production	300
Health Product Manufacturing	554
Municipal Water Treatment	13
Cable, Electronics Communications	908
Total	7,388

CHEROKEE AMMONIA: ESTIMATED NITROGEN FERTILIZER USE BY CROPS—1974

[Tons of anhydrous ammonia]

Crop	Amount	Percent of total
Corn	69,604	46
Cotton	9,730	6
Soybeans	5,108	3
Wheat	9,537	6
Tobacco	3,354	2
Peanuts	1,089	1
Pasture and hay	20,833	14
Potatoes	1,699	1
Small grains	6,561	4
Fruits and vegetables	5,458	4
Onions	176	0
Others	1,107	1
Rice	2,515	2
Sugar beets	923	1
Milo	6,350	4
Crops unknown (wholesale)	7,532	5
Total	151,612	100

Page 4 of Exhibit No. 9 contains a map of the Continental attached hereto as appendix A. Mr. Henderson testified that ammonia produced at Cherokee is sold in every sales district except Salt Lake City (all of the U.S. west of the Great Plains). He further stated that most of the agricultural products are sold in the nearby (to Cherokee) districts of Columbus, Albany, Columbia, Greensboro, Nashville, Memphis and Jeffersonville in the South, Southeastern and Midwestern United States (Tr. 664).

Curtailments of natural gas

USS has contracts for the following volumes of natural gas:

North Alabama (from TETCO): 14,800 Mcf/day firm.

North Alabama (from Tennessee Gas Pipeline Company): 2,000 Mcf/day firm.

Alabama-Tennessee Natural Gas Company: 1,500 Mcf/day firm.

Total firm contracts: 18,300 Mcf/day firm.

Alabama-Tennessee Natural Gas Company: 3,500 Mcf/day interruptible.

Total contract: 21,800 Mcf/day (Tr. 814).

On a daily basis USS is receiving and expects to receive the following volumes:

Month	North Alabama TGP MCF	North Alabama Tex. ea. MCF	Alabama-Tennessee Firm MCF	Alabama-Tennessee Int. MCF	Total MCF
January	2,000	2,784	1,123	0	5,907
February	2,000	2,915	1,139	0	6,054
March	0	7,222	1,259	0	8,481
April	2,000	9,590	1,500	731	13,821
May	2,000	12,588	1,500	805	16,893
June	2,000	12,688	1,500	784	16,972
July	2,000	13,220	1,500	810	17,530
August	2,000	13,488	1,500	821	17,729
September	2,000	------	1,500	780	------
October	2,000	------	1,500	746	------

USS-Cherokee requirements for natural gas

USS claims that it requires 17,623 Mcf per day for feedstock and process use to achieve the plant's maximum output of 530 tons per day of ammonia (Tr. 814, 856). Output is at its maximum during the Winter when ambient air and water temperatures are coldest (Tr. 857, 860). Thus peak production and peak requirements occur when gas is least available (Tr. 860). Witness Cramer claims the plant can operate at peak output about 30 days a year (Tr. 856). The rest of the time, the plant can operate with less than 17,623 Mcf per day (Tr. 857).

Mr. Cramer stated that average output of

the plant, assuming available natural gas, is between 515 and 520 Mcf per day (Tr. 857). The plant operates seven days a week and about 345 days per year (Tr. 859), allowing for 20 days of lost time for various reasons (Tr. 859).

The feasibility of constructing storage facilities or of obtaining alternate gas supply

Based on the projected natural gas supply to the plant, shown above, and on the requirements of the plant, Mr. Cramer stated that USS will receive virtually no gas which it could store for later use. Some excess gas would be available during May through August, but that excess would amount, in total, to only three days' supply (Tr. 817). USS has no natural gas available to it from any sources which it could store (Tr. 820), and knows of no gas available for purchase (Tr. 820). Mr. Cramer stated that if the company finds available storage, it will arrange to store any available quantities, and that if no storage is available, it will use whatever excess gas can be found and back off on its takes from TETCO (Tr. 820).

An LNG facility for Cherokee would cost several million dollars, and without an assured source of gas supply USS would not undertake to construct such facilities (Tr. 820). USS states that it has contacted many companies in the hopes of procuring LNG or SNG, but has been unable to contract for any supplies (Tr. 820). It would be impractical to store significant volumes of natural gas without a liquifaction plant (Tr. 820).

USS-Cherokee is supplied by both Tennessee Gas Pipeline Company and Alabama-Tennessee Natural Gas Company in addition to Texas Eastern, but it has only petitioned for relief from Texas Eastern even though it is being curtailed by all three of its suppliers. USS has not yet decided whether to petition Tennessee or Alabama-Tennessee (Tr. 698).

Conversion of process use to fuel oil

It is possible to convert the reformer section of the USS plant at Cherokee in order to burn No. 2 fuel oil instead of natural gas. Mr. James Finneran of M. W. Kellog Company, designers of the Cherokee plant, appearing on behalf of North Alabama, stated that the conversion would be more difficult than he had earlier anticipated, but that it could be done (Tr. 734). Mr. Finneran stated in his prepared direct testimony that only low sulfur oil having a sulfur content of less than .1% could be used (Tr. 733). He stated that if oil containing a higher concentration of sulfur were used, the SO_2 and SO_3 in the combustion gases would combine with water vapor in the combustion gases to form sulfurous and sulfuric acids, which would then condense on and corrode steel tubes (coils) in the convection banks where energy is transferred to other parts of the plant (Tr. 733–4). The acids condense on the steel coils because water, the heat transfer medium, inside the coils is at 200°F when it enters the reformer (Tr. 733–4).

On cross examination, Mr. Finneran stated that the condensation and corrosion problems could be eliminated if the temperature of the water in the convection coils were raised from 200° to 300°F (Tr. 736). This could be done by preheating the water in the coils with a supplemental source of energy which would require the Btu equivalent of 550 Mcf per day (Tr. 756, 765, 767). This would allow typical No. 2 fuel oil, as opposed to low sulfur oil, to be used for process requirements. The supplemental energy could be provided by No. 2 fuel oil (Tr. 767).

No. 2 fuel oil in the Southeastern U.S. has a sulfur content ranging between .15 and .49% (Tr. 930). Mr. Calvin Showalter, testifying for North Alabama, believes USS can probably obtain sufficient quantities of No. 2 fuel oil to operate at full capacity if a conversion of process use to fuel oil is made (Tr. 927).

Mr. Finneran stated that nickel and vanadium concentrations in No. 2 fuel oil would not cause problems should the Cherokee plant be converted. Concentrations of these metals are low in U.S. crude oil, and the process of manufacturing No. 2 fuel oil removes these metals even if they are present in the crude oil (Tr. 791–2).

In his prepared testimony, Mr. Finneran states that the feasibility of converting the plant at Cherokee to use fuel oil for process purposes was lessened by the fact that the plant had a remaining useful life of only six to seven years (Tr. 736). Based on cross examination it was learned that the life of the Cherokee plant was only a statistical estimate based on the life of similar plant (Tr. 788).

No studies have been made of the Cherokee plant to reach an estimate of remaining useful life (Tr. 788). Mr. Finneran stated that the lifetime of a plant is determined primarily by economic considerations, not because they fall apart (Tr. 790). It is "the general forces of competition" which eventually force a plant to close as newer and more efficient plants are designed (Tr. 788). Mr. Finneran stated that high fertilizer prices, such as presently exist, would tend to extend the life of a plant so long as the high prices were not simply the result of higher costs (Tr. 791).

Mr. Cramer presented as Exhibit No. 11 an estimate of increased operating costs USS would encounter if the process use at Cherokee were converted to oil. The exhibit indicated that the total increase in annual operating expenses would be $4,133,000.

Staff attempted to explore the impact of conversion on the profitability of the Cherokee plant with Witnesses Henderson and Cramer in order to see how burdensome the conversion would be, but the witnesses and their counsel declined to respond to any detailed questions along those lines. (Tr. 716–889), and the Presiding Judge did not direct the witnesses to answer (Tr. 720, 889). Mr. Henderson cheerfully volunteered that profits would be lowered by the amount of the increased costs (Tr. 720), but neither Mr. Henderson nor Mr. Cramer could say whether the Cherokee plant could operate at a profit if it converted process use from natural gas to No. 2 fuel oil (Tr. 722–23, 892). Mr. Henderson stated that the market situation one to two years from now, when conversion was completed, would determine the profitability of operating with oil, and that USS has not yet made an evaluation of the market prospects for 1977 (Tr. 722–23).

Mr. Cramer agreed that, using his figures for increased operating expenses, it would cost about $24 more to make one ton of ammonia using fuel oil for process fuel than it would cost using natural gas (Tr. 893). Mr. Cramer and Mr. Douglas had no opinion on whether USS could pass the extra costs on to its customers (Tr. 894, 636); Mr. Henderson stated that USS could not pass on those costs (Tr. 895). He said that although there is a shortage of fertilizer now, a company that raised its prices to non-competitive levels would, in the long term, lose its customers (Tr. 895).

Other ammonia plants may have to ultimately convert to oil, however, since interstate pipelines supply 45.1% of the firm gas used by ammonia plants and 74.8% of their interruptible volumes (Tr. 896).

Mr. Ahalt stated that the price of fertilizer both domestically and on the world market, would probably not drop over the next several years (Tr. 878). Mr. Douglas believes that the price may continue to rise, at least for the next year, but at a slower rate than in the past (Tr. 635).

Texas Eastern's curtailment plan

Counsel for North Alabama and Texas Eastern stipulated that the total volumes shown in end use data on which Texas Eastern relies to implement its curtailment plan are 94,766,630 dekatherms less than the total annual entitlements shown in Texas Eastern's tariff (Tr. 555). Thus on an annual basis, 94,766,630 dekatherms are not listed under any of Texas Eastern's 9 priorities (Tr. 555).

DISCUSSION AND CONCLUSIONS OF FACT

It is clear that demand for fertilizer in the United States and in the world exceeds supply. Mr. Ahalt and Dr. Douglas are two of the leading experts in Government on the fertilizer situation. Although both men confess that the many complicated factors of supply and demand make accurate estimates of the shortfall for fiscal 1975 difficult, they both agree that the shortage will be severe. Cross examination of both men illuminated the many interrelated factors which could alleviate or exacerbate the shortage, and it seems clear to Staff that the best projection which can be made at this time is for a continued shortage of fertilizer.

The fertilizer shortage will probably not result in starvation for the American people, but it will result in higher prices for grain and beef, aggravating inflation at home and hurting producers of livestock. The fertilizer shortage also means that America will have to import more fertilizer than it now does while it exports less. Exports of grains will also decrease, worsening this country's trade deficit.

Almost 92 percent of the ammonia produced at Cherokee is used in agriculture, and more than 90 per cent of that amount is used on food crops.

In order to operate at peak capacity, the Cherokee plant requires up to 17,623 Mcf per day for feedstock and process use alone. This figure is slightly lower in warm weather when the plant's capacity is reduced.

The current projections of natural gas supply furnished by Texas Eastern, Tennessee and Alabama-Tennessee indicate that, at least for the coming year, USS will not receive, at any time, significantly more gas than it needs to meet full feedstock and process requirements. Only during the period May through August will the plant receive enough to operate at full capacity. There is no reason to believe, based on the record in this proceeding, that the natural gas supply situation will improve in the next several years.[3] Texas Eastern did not present a witness at the hearing.

There is no doubt that the Cherokee plant can be converted to use No. 2 oil for process fuel. There is no technical bar to this conversion, and No. 2 oil should be available in sufficient quantities to permit the plant to operate at capacity.

The Commission should focus on two issues regarding conversion. First, it involves a rather large initial expenditure, and high operating expenses thereafter, for a plant which may be nearing the end of its useful life. Second, it probably requires that the plant use additional energy to preheat the water in the convection coils. The increase required would represent about 3 percent of the energy presently consumed at the plant.

On the first point, Staff believes that USS should be required to convert its Cherokee plant to use No. 2 fuel oil as process fuel because the present high price for fertilizer (2½ times what it was 15 months ago)

[3] Mr. Cramer indicated that in December, 1974, he was told by officials of TETCO that the gas supply situation next year would probably not be much worse than this year, but he couldn't be sure what TETCO may have told him about the next several years (Tr. 866).

would easily support such a conversion. If USS installs dual fuel burners when it converts the plant, operating costs should be less than those estimated by Mr. Cramer, since natural gas could be used when it was available (Tr. 846). USS presented no evidence to show that it could not operate profitably even using Mr. Cramer's estimate of expenses. In addition, the high price of fertilizer should operate to extend the useful life of the plant.

With regard to the second point raised above, conversion of the process use should be required even though it may lead to an increase in the energy consumed at the plant. Staff reaches this conclusion because the supply situation of Texas Eastern, USS-Cherokee's major supplier is very bad.

Texas Eastern calculates its level of curtailment from end-use data submitted by its customers between May and September, 1973, for the 12 months ending April, 1973. These data are compiled in Exhibit No. 5–G in Docket Nos. RP71–130, *et al.*, which is Item A by Reference in this proceeding.

Texas Eastern is currently curtailing at a rate of 700,000 Dth per day. To calculate the level of end-use curtailment on its system, TETCO goes to Item by Reference A. Looking at January, 1975, we would turn to page 22 of 56 of that document. TETCO adds the volumes on the last line of the page, starting with priority 9 until it reaches 21,700,000 Dth (31×700,000 Dth). This takes TETCO into 3.95% of priority one. If all of the sales made by TETCO's customers during the base year were listed in Item by Reference A, TETCO's calculated curtailment might actually represent its true curtailment, but that is not the case. TETCO was curtailing during the base period, and, therefore, not all of its customers' requirements are reflected in the end use data, because many customers passed on TETCO's curtailment. TETCO curtails its customers by subtracting its calculated daily curtailments from the contract Maximum Daily Quantity (MDQ) of each customer. The MDQ level of service exceeds, on a monthly basis, the level of sales reported in the end-use data by the amount of curtailment passed on to customers during the base year.

One effect of TETCO's curtailment implementation is easy to see. Even though TETCO is calculating curtailment into priority one, North Alabama, which reports only priority two volumes, is still receving 2784 Mcf per day from TETCO. This is because the sales reported by North Alabama on Item by Reference A do not represent its requirements. North Alabama was curtailed by 2784 Mcf per day by TETCO in January, 1973. Now TETCO deducts all of North Alabama's *reported* sales for January, 1973 from North Alabama's MDQ and it leaves North Alabama with 2784 Mcf per day. This is not only true of North Alabama, but of many other customers on the system who may serve any of the lower priorities.[4]

Because TETCO calculates curtailment from incomplete data, and because volumes are available for lower priorities, TETCO is calculating curtailment deeper than it has to. TETCO has enough gas to serve all priority one, and some lower priority gas even though it is calculating curtailment into priority one.

This leaves the Commission with a serious problem of drafting relief in such a fashion as to avoid cutting off relief unnecessarily when *calculated, but not actual,* curtailment reaches priority one.

Staff tried to point out these problems for the Commission in its briefs of May 20 and June 28, 1974, filed in Docket Nos. RP71–130, *et al.*, but in its Opinion No. 714, the Commission took no steps to remedy the situation. Staff now requests the Commission to give renewed consideration to its suggestions made in those briefs.

North Alabama has altered its position from that stated in its initial pleadings. It now requests that the Commission order Texas Eastern to deliver sufficient volumes to allow NAGD to serve USS with up to 17,623 Mcf per day, but in no event should TETCO be required to deliver more than 14,800 Mcf per day, its contract volumes, to NAGD. USS requests the relief for an indefinite length of time.

ARGUMENT

1. *The Commission Should Require TETCO to Supply North Alabama With Sufficient Volumes to Enable USS to Meet its Feedstock Requirements.*

North Alabama, USS and Mr. Ahalt have shown that fertilizer is in short supply and that it is in the national interest to alleviate the shortage to the fullest extent possible. Since it has been shown, in the earlier hearings, that the plant cannot be converted to use any feedstock other than propane, USS should receive sufficient gas to meet its feedstock requirements for the production of ammonia.

2. *USS Should Be Required to Convert the Cherokee Plant to Allow the Use of No. 2 Fuel Oil as Process Fuel.*

The record shows that converting the Cherokee Plant to use oil as a process fuel is feasible, and that sufficient No. 2 fuel oil is probably available.

Only economic considerations have prevented USS from making these conversions until now. USS has failed to prove that the economic burden of conversion is too heavy. It withheld evidence which might have permitted that conclusion to be reached. In view of the supply situation of TETCO's system, USS should be required to convert within 13 months of a Commission order.[5] The Commission should require North Alabama to file monthly reports describing the progress made in converting the plant.

3. *The Commission Should Provide Temporary Relief to USS for its Process Requirements Pending the Completion of the Plant's Conversion.*

The need for fertilizer is great enough to warrant this temporary relief for USS, so that they can produce fertilizer at full capacity while the conversion of the plant is being carried out. Of course, once the plant is converted, relief for process requirements should be halted, and USS should receive relief volumes only for its feedstock requirements.

4. *Relief Should Be Limited to Reflect the Volumes USS Has Failed to Seek From its Other Suppliers.*

In order to reduce Texas Eastern's exposure and protect its customers, the Commission should reduce the maximum relief available to USS by the volumes which USS' other pipeline suppliers are curtailing USS. This reduction should be made from North Alabama's contract level of service with TETCO. Thus the maximum relief TETCO should supply would not be 14,800 Mcf per day, but a lower figure whenever USS' other suppliers are curtailing.

5. *USS Should Be Required to Pay Back Relief Volumes Taken Whenever it Can Otherwise Meet its Minimum Requirements for Natural Gas*

USS should be required to pay back to TETCO all relief volumes taken whenever it obtains, from all its suppliers, volumes of natural gas in excess of its minimum requirements. For these purposes, minimum requirements should be defined as feedstock requirements and, prior to conversion process requirements also. Of course, all relief should be halted when the plant is not operating.

6. *The Commission Should Frame Relief in Such a Manner as Will Protect Priority One Requirements and Will, at the Same Time Permit Relief to Continue until Texas Eastern Is Actually Curtailing into Priority One.*

As we noted above, inherent flaws in Texas Eastern's implementation of curtailment make framing relief difficult. Texas Eastern calculates curtailment into priority one even though lower priority loads are definitely being served. To cut off relief whenever Texas Eastern calculates curtailment into priority one is to cut off relief unnecessarily (Texas Eastern has calculated curtailment into priority one during December, 1974, and January, 1975. It is now doing so in February, 1975) and nullify the relief granted on an arbitrary basis. The Commission should place the burden on TETCO to show when it is actually curtailing into priority one on a daily basis before relief is cut off.

Staff suggests, in the alternative, that the Commission order TETCO to implement its curtailment on the basis of the new data collected in the proceedings in Docket Nos. RP71–130, *et al.* which should fill the data gap, that is, those volumes actually curtailed during the base period. As a further alternative, the Commission may wish to reconsider Staff's suggestion to order TETCO to file a study showing the impact of implementing curtailment in the manner suggested by Columbia Gas Transmission Corporation in its motion of November 9, 1973 filed in Docket Nos. RP71–130, *et al.*

CONCLUSION

For the reasons stated above, the Commission should grant North Alabama's petition with the limitations and conditions suggested by Staff.

Respectfully submited.

LOREN I. GLASSMAN,
Commission Staff Counsel.

WASHINGTON, D.C., *February 3, 1975.*

[Before the Federal Power Commission, Docket No. RP74–39–8]

TEXAS EASTERN TRANSMISSION CORPORATION (NORTH ALABAMA GAS DISTRICT)—REPLY BRIEF OF THE COMMISSION STAFF FOLLOWING REHEARING

INTRODUCTION

This brief is submitted pursuant to Ordering Paragraph G of the Commission's order, issued in these proceedings on December 20, 1974. In that order, the Commission directed that reply briefs be filed within seventeen days of the completion of the hearing.

Staff replies, herein, to the arguments advanced by the other parties in the proceeding.

ARGUMENT

(1) *The Record Demonstrates That There Will Be a Shortage of Fertilizer for at Least the Coming Year.*

Con Edison focuses in its initial brief on North Alabama Gas District's (North Alabama) claim that fertilizer is in short supply, and that it is in the national interest to maximize fertilizer production.

Witnesses Ahalt and Douglas both stated that the fertilizer shortage would be as severe or more severe in fiscal year 1975 than it was in fiscal 1974. (Tr. 540, 570) Con Edison attacks the testimony of both men by choosing carefully among the facts developed in the hearing record, stating only those which support its position and, at the same time, ignoring many of the relevant facts which must be considered.

Con Edison cites Mr. Ahalt's testimony (Tr. 495) that fertilizer production was expected to rise by 6% this year. It ignores the witness' later testimony that the 6% figure was reached assuming no curtailments of natural gas, and that curtailments would lower his projection. (Tr. 541) Mr. Ahalt testified that at least three ammonia plants were operating

[4] Carnegie Natural Gas Company is experiencing similar problems in Docket No. RP74–39–3.

[5] Witness Showalter testified that an oil storage tank could be installed in thirteen months (Tr. 914). This is the longest lead time involved in the conversion.

at reduced loads or were entirely inoperative due to curtailments. (Tr. 490, 493) Con Edison also ignores Mr. Ahalt's projection that acres in agricultural production in 1975 are expected to increase by 2.5–3% over last year.

Con Edison stated that a discussion of the relationship between fertilizer application rates and the prices of fertilizer and crops was "strikingly absent" from the direct testimony of Mr. Ahalt and Dr. Douglas. Con Edison fails to state that both men underwent extensive cross examination on the subject (largely at the hands of its own attorney). What emerged from that cross examination is not fully represented in Con Edison's brief. Mr. Ahalt stated that a fall in the price of grain, assuming no change in the price of fertilizer, would represent a weakening in demand. (Tr. 498) Two pages later he stated that grain prices have declined (from past highs), but are still high enough to cover variable costs in 1975. He went on to state that "In the short run, farmers will plant these commodities as long as they can cover their variable costs." (Tr. 500)

Con Edison next discusses Dr. Douglas' testimony in order to show that fertilizer application rates will drop in 1975. Dr. Douglas stated that in 1974, farmers had to trade 60 bushels of corn for one ton of fertilizer. (Tr. 585) He stated that application rates would decline if the farmer had to pay 70–80 bushels of corn per ton of ammonium nitrate fertilizer. (Tr. 586) At current prices, $3.00 per bushel for corn (Tr. 546) and about $195 per ton of ammonium nitrate to the farmer (TR. 587), the farmer is currently trading 65 bushels of corn for one ton of ammonium nitrate. This is not likely to cause a serious decline in application rates according to Dr. Douglas.

Con Edison next addresses the elasticity of demand for fertilizer as a function of the nation's economy. It shows that fertilizer application rates dipped slightly (about 4%) in 1971, during a mild recession, and then increased in 1972, during better times. What these figures show is uncertain, at best. In 1971, this country had a large surplus of grains. Now reserves are the lowest since World War II. In 1971, farmers were still being encouraged not to grow crops. The Russian wheat deal in 1972 changed this nation's policies on agricultural production. Now farmers are encouraged to grow as much as they can, to reach full production.

Finally Con Edison asks the Commission to take judicial notice of the "Heard on the Street" column in The Wall Street Journal of January 31, 1975. Con Edison is hereby making a last-minute attempt to introduce evidence that demand for fertilizer may decline.

Staff vigorously objects to Con Edison's request that judicial notice of the "Heard on the Street" column be taken by this Commission. Con Edison's assertion that "This concern is a matter of general knowledge," clearly misses the mark. Conceding, arguendo, that the "concern" is general, it can be safely stated that the contents of the article and the conclusions reached therein are not even arguably general knowledge. In *U.S.* v. *Ricciardi*, 357 F. 2d 91, 97 (2d Cir. 1966), cited by Con Edison, the court stated that judges, as a matter of law, may take notice of matters which are "obvious and indisputable." Clearly a reporter's speculation about future fertilizer shortfall is neither obvious nor indisputable.

If Con Edison wanted to present evidence that fertilizer will be in short supply in 1975, they should have presented a witness to testify to that effect so that he, like Mr. Ahalt and Dr. Douglas could be cross examined by the parties. Staff urges the Commission to ignore the article tendered by Con Edison.

Con Edison shows that if relief is denied, and if USS-Agri-Chemicals (USS) closes its Cherokee plant for its annual turnaround in March, it will only lose 15,000 tons of ammonia production this Spring. It fails to account for the lost production suffered since November 26, 1974, when temporary relief ended. Nor does Con Edison mention that losses in production will occur again next year.

Staff agrees with Con Edison that the financial integrity of the country may not hinge on the USS operations at Cherokee. We think, however, that Con Edison's arguments, however long and elaborate they may be, are unconvincing with regard to the nature of the fertilizer shortage. Staff repeats its own argument that, while accurate projections are difficult, the record indicates that fertilizer will continue to be in short supply.

Algonquin Gas Transmission Company (Algonquin) argues that the fertilizer shortage could be cured, or at least alleviated, if only Americans wouldn't waste fertilizers on non-agricultural applications. Algonquin states:

"If the Commission is concerned that the curtailment of natural gas may have a detrimental effect on food production in this country, as such curtailment affects the production of nitrogen fertilizer, it should be concerned with the fact that 5 to 7 per cent of that fertilizer is used, not for food production, but for lawn and turf care." (Br. 11)

Algonquin goes on to characterize the "lawn and turf care" as a "cosmetic" use of fertilizer. (Br. 12)

Staff is incredulous that Algonquin could make this utterly nonsensical argument after having attended the same hearing we did. Algonquin took the 5 to 7 per cent figure from Mr. Ahalt and then, apparently, ignored everything else he said while on the witness stand. Algonquin ignored Mr. Ahalt's explanation that fertilizers used for lawn care were low analysis fertilizers, containing much less nitrogen than agricultural fertilizers. (Tr. 509) So while 5 to 7 per cent of the nation's fertilizers may be used on non-agricultural products, a much smaller amount of the nation's nitrogen is so used.

Algonquin's assertion that lawn care is merely cosmetic is misleading and false. Many non-agricultural uses are highly essential. Large amounts of non-agricultural fertilizers are used in highway median strips and between airport runways to prevent erosion. (Tr. 535) Can Algonquin mean to suggest that we should permit our interstate highway system to erode away or that we should turn our airports into dust bowls? (Tr. 535) As further evidence of how essential these uses are, Mr. Ahalt cited that demand for these products is inelastic with respect to price. (Tr. 535). He stated that "you cannot cut back on [highway] usage for very long."

Mr. Ahalt stated on several occasions that if a policy decision were made to divert fertilizer from non-agricultural uses to agricultural uses, it would not cure the fertilizer shortage, but would probably cause frustration. (Tr. 523)

Bay State, *et al.*, tells the Commission that "North Alabama's almost total reliance on the additional testimony on the social utility of Ag-Chem's product as a basis for extraordinary relief is misplaced and of little value in this proceeding." Bay State relies, for its conclusion, on the text of the last full paragraph on page 4 of the Commission's order of December 20, 1974, in these proceedings. If Bay State had read just two paragraphs further down the page (page 5) it would have seen that the Commission directed North Alabama to produce evidence on five issues. The second and third issues are, respectively, "The use of Ag-Chem's end product . . ." and "available evidence on the current and projected fertilizer shortage." See also Ordering Paragraph D of the same order.

(2) *Staff Believes, That In The Context Of An Extraordinary Relief Proceeding, The Commission Should Consider The Social Utility Of The End Product.*

Bay State and General Motors both argue that the Commission should not consider the social utility of end products, e.g., fertilizer, in considering a petition for extraordinary relief. Staff believes that Bay State and GM are asking the Commission to blind itself to an important factor in deciding whether or not to grant relief. Furthermore, the Commission has recognized, in many cases, that the social utility of a product is a major factor in a relief proceeding.[1]

Staff recognizes that the social utility of the end product should not be a consideration in the design of a pipeline's curtailment program. The Commission has, of course, adopted this position in its Statements of Policy issued in Docket No. R–469. It did so once again in its "Findings and Order After Rule Making" issued in Docket No. RM74–14 on July 16, 1974, in which it declined to create a special priority for fertilizer producers. If special priorities were created in pipelines' curtailment plans on the basis of the social utility of end products, the Commission would have to sit in judgment on every product produced in this country.

In the context of an extraordinary relief proceeding, however, the Commission should not ignore social utility considerations. Staff is not saying that social utility of the end product is necessarily the most important factor, or the only factor, but it is a major element to be considered. In these cases, where the Commission may exercise a great deal of discretion, it need not entangle itself in a mass evaluation of American industrial production. But it may take notice of an acute shortage of a particular product, and act to remedy that shortage where it appears that failure to do so would have severe social or economic impact. Insofar as the Natural Gas Act requires the Commission to regulate in the public interest, the Commission should not ignore social utility considerations.

(3) *The Record Clearly Demonstrates That The USS Cherokee Plant Can Be Converted To Permit The Use of No. 2 Fuel Oil As Process Fuel*

North Alabama and USS continue to take the position, wholly contrary to the record, that it is infeasible to convert the Cherokee Plant to permit the use of No. 2 fuel oil as process fuel. Staff has discussed this issue extensively in its Initial Brief Following Rehearing (Br. 12–14) and will discuss this point only briefly at this time.

The record shows that the reformer section of the plant can be converted to use No. 2 fuel oil as process fuel. (Tr. 734) If the plant is further modified to raise the temperature of water in the convection coils, the use of regular No. 2 fuel oil, as opposed to low sulfur oil, is permissible for process fuel. (Tr. 736) The water could be heated with No. 2 fuel oil, and would require that an additional amount of energy (equivalent to 550 Mcf per day) be consumed at the plant. (Tr. 756, 765, 767)

Frankly, Staff is not sure what North Ala-

[1] See *Florida Gas Transmission Company*, Docket No. RP74–50–1 *et al.*, Order on Petitions for Relief from Curtailment, issued December 9, 1974; *Panhandle Eastern Pipe Line Company*, Docket Nos. RP71–119 and RP74–31–22, Order Denying Motion to Amend Order, issued January 10, 1975; *Alabama-Tennessee Natural Gas Company (Tennessee Valley Authorty)*, Docket No. RP75–44–2, orders of January 17, 1975 and February 3, 1975; *United Gas Pipeline Company (Vicksburg Chemical Company)*, Docket No. RP74–37–2, order issued October 17, 1974.

bama and USS mean when they say that conversion is infeasible. Certainly conversion is possible, and though conversion may reduce USS' profits, *there is no evidence on this record to indicate that USS could not operate profitably following conversion.* USS was asked to produce evidence of profitability, but declined, on at least three occasions, to do so. (Tr. 671, 716, 889).

Staff concedes that preheating water in the convection banks may require the consumption of 3% additional energy at the plant. But this modification will permit the plant to reduce its takes of natural gas by about 40%, its full process requirements. Staff believes that the serious and ever deepening curtailments by Texas Eastern require that the conversion be made.

GM argues (at Br. 16) that USS should receive no relief volumes other than those required for feedstock because of USS' "unreasonable delay" in converting the plant. Staff disagrees with GM. North Alabama has a right to seek relief from this Commission, and has a right to have the Commission determine whether conversion of the plant will be required as a condition of that relief. Based on the record, Staff does not believe that North Alabama or USS have been frivolous or unreasonably dilatory. USS should not be penalized for seeking its "day in court."

(4) *North Alabama And USS Should Not Be Penalized For The Failure Of Their Suppliers To Make Long Term Projections Of Curtailments*

Bay State asserts that because USS and North Alabama failed to show projections of natural gas deliveries beyond August 1975, relief beyond that date cannot be considered. Texas Eastern's current Form 16 includes projections only through August 31, 1975. It would not be proper to penalize USS for its failure to show figures that it cannot obtain.

The Commission may wish to provide that the record be reopened periodically to receive information relating to future gas supply.

GM questions the wisdom of granting relief for periods of more than one year. They claim that the supply situation of the TETCO system is so uncertain that relief should terminate at 12:01 a.m., on November 16, 1975, the beginning of the 1975–1976 winter heating season.

Staff believes that relief for feedstock volumes should be permanent, *i.e.*, for the life of the plant. Relief for process use should be terminated upon conversion of the primary reformer. The Commission can guard against the hazards noted by GM periodically reopening the record to receive gas supply information.

CONCLUSION

For the reasons stated above, the Commission should adopt the positions taken by Staff in its Initial Brief Following Rehearing. North Alabama's petition for extraordinary relief should be conditionally granted as proposed by the Staff.

Respectfully submitted.

LOREN I. GLASSMAN,
Commission Staff Counsel.

WASHINGTON, D.C., *February 10, 1975.*

ESTABLISHING A TWO-PARTY SYSTEM

Mr. McCLURE. Mr. President, February 14 was Valentine's Day, and the senior Senator from North Carolina (Mr. HELMS) had something special to give the Nation. It came in the form of a speech that night before the Conservative Political Action Conference.

His theme was an old one—freedom, responsibility, and the two-party system—but his thoughts were refreshingly new. It is Senator HELMS' contention that the two major parties no longer stand for well-defined principles as they once did. Of the Republicans, he remarks:

The Party is out of tune with the rank and file membership and out of tune with the growing conservative majority.

That is really a very important point and I think it is a far better explanation than Watergate for the continual decline in the number of those who go to the polls. As I recall, we were told that the 27 million who supported Senator GOLDWATER in 1964 constituted "a disaster," whereas 10 years later the 24 million who supported liberal Democrat candidates are considered a mandate.

The explanation more logically lies in the fact those those who believe in less Government interference in their lives feel they have no real political home anymore. There is a strong need for reaffirmation of those conservative principles within the Republican Party. Or, as Senator HELMS put it:

Let's go back to the two-party system.

I guess both parties have been going through some soul-searching in recent weeks. For all of us, regardless of the philosophy that guides us, Senator HELMS' speech cuts through all of the rhetoric and goes to the heart of the matter. The scholarly analysis of political trends should be studied carefully by every person interested in our body politic. His statement is as timely as any news story of the day, and as timeless as any political document in recent memory. It is a privilege to ask unanimous consent that it be printed in the RECORD.

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

LET'S GO BACK TO THE TWO-PARTY SYSTEM

Almost a year ago, I had the privilege of speaking at a gathering similar to this—a gathering of men and women dedicated to the future of this nation and the principles that made it great. Some of you, I know, were at that meeting to join in paying tribute to the distinguished American patriot, Dean Clarence Manion. At that time, I raised a question—I raised it in a tentative way for comment and discussion. I asked whether it was not time for a realignment of our political parties into a liberal party and a conservative party.

I was, of course, using a lower case "l" and a lower case "c," I do not know—in fact, it is not of primary importance—what these parties would be called. They might continue to be called Republican and Democrat, or new names might arise. But what I was talking about was the injection of new life into our political system through the realignment of political action into philosophically consistent parties.

Some people have inferred that I was proposing the organization of a third party—or, at least, an additional party inasmuch as the American Party is very much a political force in our nation today. Certainly, I am not one to discount the dedicated efforts and remarkable impact of those who march under that banner.

My view of political parties, and how many there are, raises the question of whether they should not be constructed around principles and philosophies. In that light, I think that what I am am really proposing is that we go back to the two-party system.

Historically, it has always been considered that the Republican Party began as a third party movement. But we know that changing conditions had already brought about the demise of the Whig Party long before the Whigs had ceased to elect candidates to office. The Whig Party was dead, even though it was still winning elections. When the Republican Party arrived on the scene, the Whig Party disappeared. Most of the Whig politicians who remained active, became Republicans.

I am reminded of the accounts we received some years ago of the archeologists who opened an ancient tomb in Outer Mongolia to find a body, thousands of years old, in an apparent perfect state of preservation. But as they stood there around the richly gilded corpse, the fresh air poured into the open tomb and they watched in horror as the mummy disintegrated into dust before their very eyes.

As we look back at the 1974 elections, I think it's a fair question to consider honestly and objectively: Is it time to open the tomb and let in some fresh air?

I acknowledge that the metaphor is perhaps overdrawn. On the other hand, what if it isn't? In any event, let us look at some truths about American politics.

Traditionally, our parties were based on sectional interests—interests that were not merely economic, but philosophical as well. The party candidates which a voter selected were more often correlated with the voter's geographic location than with any other factor. Because of this homogeneity of the social systems in the various sections, the voters did not have to think about issues very deeply to get a man and a party generally representative of their interests.

But as we know, economic issues became a major factor with the advent of the great depression. Franklin Delano Roosevelt, by using the economic issue in the north and the West, and combining it with the geographic tradition of the South, was able to put together a social coalition that has had a profound impact upon modern life ever since.

The success of the philosophy of offering a helping hand to those who deserved help quickly led politicians to see the potential of also giving hand-outs to those who didn't need help. The result was to pull the Democratic Party further and further to the left. Naturally, the competition also drew the Republican Party to the left, almost always keeping a respectful distance.

But in 1964, the geographic element in the coalition began to break up. People began to be aware that their personal interests and the interests promoted by the politicians were beginning to diverge. People began to get interested in issues. They looked around for a candidate who was speaking the things that were in their hearts. We know that 27 million people found him, but it was not enough.

In 1968, an overwhelmingly conservative Republican Convention nominated Richard Nixon. The Democrats nominated an old-fashioned candidate depending upon the social coalition. Between the combined onslaught of Nixon and Wallace, the old-fashioned social coalition began to disintegrate. Both Nixon and Wallace attracted voters because of their stands on specific issues; the Democratic candidate was a creature of party structure and organization, and that structure could no longer deliver. I am therefore putting forth what may seem to be a novel thesis. Although Nixon was nominated by party machinery, he was elected not because he was a Republican but because he articulated views that appealed to a majority of voters without reference to party affiliation. What I am saying is that neither party, Republican or Democrat, was able to

elect a President through party loyalty and organization. The national party, as an umbrella for state organizations, was becoming meaningless.

The ineffectualness of both parties was further revealed in 1972. The President abandoned the Republican Party for all practical purposes and ran as the candidate of the Committee to Re-elect the President, with separate funding, separate strategy, and, to say the least, some rather unorthodox campaign practices. The President ran as a national candidate who was pleased to accept support from any source, including Republicans. In the end, he got 61% of the vote, even though polls early in 1972 had showed that the majority of the electorate considered the Democratic Party better equipped to handle the problems facing the nation.

But the Democrats, as we know, had fractured badly. The liberal Democrats seized the national party structure and adopted rules guaranteeing that the convention would be unrepresentative of the local party structure. They nominated a candidate who was perceived as adhering to a radical ideological platform, thus destroying the social-geographical coalition. All that the Republican candidate had to do—or perhaps I should say all that the candidate of the Committee to Re-elect the President had to do—was to adopt the positions on social issues held by the majority of the people. He was thus perceived as the conservative candidate. His views were not perceived as Republican views, although, as a matter of fact, they were the views held by most Republicans.

In point of fact, the ideological gap between the right-wing and left-wing Democrats was far greater than between right-wing Democrats and Republicans. A very elaborate study was done on the 72 elections by a group of political scientists using modern tools of survey research and statistical analysis. One conclusion of the study was that the more conservative a voter was on issues, the more apt he was to vote for Nixon. This does not appear to be a remarkable conclusion until you reflect that it confirms the thesis that issues emerged as more important than party, in 1972. It proves that the voters were voting for something in 1972, and were not merely anti-McGovern.

Then in 1974, the voters stayed home. They stayed home in droves—Republicans, Democrats, and independents. Only 38% came out to vote, and they were angry. The hopes of 1972 had not been vindicated. The image of rectitude had been shattered and the issues which had influenced the voters to vote for Nixon in 1972 never found fulfillment. They felt twice-cheated—and they either became disillusioned and stayed home, or they took revenge by voting with those who never wanted Nixon anyway.

Does this not indicate the final collapse of the two-party system? With no "issues-candidate" in a national forum, the voters stayed away in droves, disappointed with both parties, with broken promises, and with broken illusions. Only the left-wing Democrats came out in substantial numbers, confirming that the Democratic Party, by and large, was operating largely as a cohesive liberal faction—a liberal party, as it were—while the regular Democrats, the Democrats by geography, joined the Republicans and independents in apathy. The national control by the minority liberal faction was again demonstrated in Kansas City, and by the inability of the Democrats in Congress to come up with a coherent set of policies.

The Republicans, however, are in no shape to rejoice over Democratic difficulties.

In a survey taken after the election for the Republican National Committee, 70% said they favored the party system, but 50% could find no difference between the two parties.

There was a dramatic increase in alienation from the political system for the past 10 years.

For the first time, a majority felt that the average person didn't have any say about what the government does.

For the first time, the feeling that the people running the government didn't know what they were doing exactly equaled the feeling that they did.

For the first time, the feeling that quite a lot of the people running the government were crooked surpassed the feeling that not many were crooked, and the belief that a few big interests were running the government went as high as 70%.

In fact, nearly 60% of the sample thought that public officials didn't care what the people thought, and that the government could not be trusted.

Indeed, all of this is very discouraging to those of us who are Republicans, and who want to think of the Republican Party as the party of principle.

Who are Republicans, anyway?

Well, they are 18% of the voters, for one thing.

The Democrats are 42%, and the independents 40%.

Is the Republican Party the party of the rich, the middle-aged, and the special interests?

It definitely is not. The scientific survey showed a fairly unvarying percentage of Republicans in every age group and every income bracket.

But while Republicans are a constant and small percentage, the same survey showed that the older you are, the more apt you are to be a Democrat. Conversely, the younger you are, the more apt you are to be an independent. And, of course, there are many, many more Democrats and independents.

And as for wealth, if your income is over $35,000, the more apt you are to be an independent or a Democrat. Indeed, among the wealthy, Republicans are outnumbered over 2 to 1.

The Republican National Committee's survey is dark enough. But I have seen some other figures that are more disturbing yet. According to this study, 61% of the people think that the Republican Party favors the rich.

I joined the Republican Party, after 28 years of being a registered Democrat, because I believed that it stood most clearly for our heritage of individual freedom and national strength.

Yet only 12% of the people think the Republican Party is patriotic.

I joined the Republican Party because I felt that it stood for free enterprise, competition, and hard work.

Yet only 17% of the people think the Republican Party stands for hard work.

I joined the Republican Party because I believed in fiscal responsibility and honesty; yet, as I already indicated, 60% of the people look on the Republican administrations and see nothing but waste and corruption.

Was I wrong in joining the Republican Party? I do not think so, because I look around and I see the rank and file of my fellow Republicans who believe as I do. The vast majority of Republicans are conservative. They are not rich. They are not unpatriotic. They believe in honesty, frugality and hard work.

If the Republican Party cannot stand for these principles, then it stands for nothing at all, and cannot long survive. Its members will desert or simply stay home, or they will look for those who do articulate those principles. The party which is based on geographic or social division is dead.

The Republican Party today carries with it the burden of a total misunderstanding of the feelings of its members by the majority of the American people. And the Republicans cannot blame all this misunderstanding upon the press or a lack of communication. The people all too often correctly understand what the leadership of the Republican Party is doing.

No amount of communication specialists can hide the soaring Federal deficit, or the failure of the Republican administration to respond to the social issues upon which we were elected.

We cannot preach honest economics, and then bring forth a budget proposal calling for a $52 billion deficit, that optimistically assumes spending cuts of $17 billion that a Democrat-controlled Congress will never approve—a budget that fails to mention another $10.6 billion in agencies that are separately funded—for a total deficit of $75.5 billion.

We cannot hide what is going to happen when the government goes into the money market to borrow this money—a sum that is greater than will be raised by all borrowers, public and private, in the current year.

We cannot counteract the public's distrust of the government and suspicion of mismanagement when we fail to point out that the social security system is bankrupt, even though at present more than half of the wage-earners are paying more in social security taxes than in income taxes.

We cannot build confidence in our national leadership when we continue headlong in our national giveaway policy that threatens our strategic security, that undermines our dollar, and destroys our international leadership.

Is there any reason why, under a Republican Administration, foreign aid is projected to rise from $3.6 billion in FY 74 to $6.3 billion in FY 76? If ever foreign aid had validity, the United States should be receiving foreign aid in our present economic crisis, not giving it.

Is there any reason why, under a Republican Administration, food stamps are presently costing $4 billion a year and are projected to go up to $8 billion a year?

Is there any reason why, under a Republican Administration, we should be negotiating to give away strategic U.S. territory in the Canal Zone to a country that has less population than metropolitan Washington?

Is there any reason why we should be proposing billions to develop energy resources in Siberia when we cannot even agree on unleashing private enterprise to develop our own resources?

I know that we have a Congress that is opposed to the President's program. But too often the President's program is so bad that even Republicans have difficulty supporting it.

Under the Republican Party's present course, the Party is out of tune with its own rank and file membership, and out of tune with the growing conservative majority. It is out of tune with the majority that is fed up with both parties, and is looking for politicians who will stand on issues and deliver what they promise.

Is there such a majority?

Of course there is.

Polls show that 31% of the people would support a conservative party. We have half those people already in the Republican Party.

19% of the people would support a liberal party. They have their party already. Let them have their mini-conventions and let them have their mini-impact upon the country.

The rest of our majority must be put together from the 16% who reported that their support would depend on future decisions, the 19% who reported that they were fed up with parties, and the 14% who just didn't know. If we get just half these three undecided categories we have an overwhelming majority approaching the 61% who voted for the image of a conservative candidate in 1972.

We will not convince them that our con-

servative party, by whatever name, is not the party of the rich, by putting up candidates whose very names are associated with unsavory privilege, monopoly, and manipulation of wealth.

We will not get them by promising more handouts when inflation is taking the handouts back faster than we can give them out.

We will not overcome their fear of government waste, mismanagement and control of their lives by promising more government regulation and bureaucracy.

It is no coincidence that the 60 or 61% of the voters who have lost faith in government is exactly equal to the percentage of the voters who supported Richard Nixon in 1972.

I think we will find our majority by presenting our views in terms that are easily understood by persons who are worried about what is happening to them, but are outside of active political participation.

We will find them in families where parents are worried about state interference in their right to educate their children according to their own values, whether it be the values of their own community, their own neighborhood, their own religious beliefs.

We will find them among the people who can no longer make ends meet because government interference with the economy and ideological vendettas in the name of the environment have robbed their localities of economic growth.

We will find them among people who are disturbed because they no longer have the freedom to arrange their own lives according to their own means, who are alarmed over governmental interference with their own privacy, and the privacy of their families.

Yes, even the right to life itself has been called into question by an uncontrolled judiciary that has constantly asserted more and more control over people's lives.

I have studied the polls which show the deepest concerns of people. They are worried most about money, about their health, and about their relationship with God. Conservatives don't need polls to tell us that. Economic, physical, and spiritual security are needs that are innate in human nature. Too often we fail to think of the spiritual dimension in politics, yet it is from the spiritual dimension that our concept of freedom comes. Politics can't establish programs to improve man's relationship with God, but we can make sure that we maintain the moral freedom to choose that brings about spiritual growth.

If we do not have a majority for a program of freedom, then this nation is faced with very dark days indeed, and political organization is useless.

I have not answered the question of whether conservatives should organize another party or not. I say that we need two parties, a liberal party and a conservative party by whatever name. To get to that point, we need to organize conservatives into a more coherent structure—and I mean not only our trusty band of ideological conservatives, but non-political people who are grappling in their own communities with issues such as pornography, the right to life, school textbooks, community control of schools, as well as those who are affected by economy issues such as inflation, soaring social security taxes, and loss of jobs.

We must stop talking to ourselves in our own code words, and talk to people in language they understand.

Last year, I asked whether perhaps the time had come for issue-oriented conservatives to join together in a platform convention to articulate the issues in a way that will appeal to those who are distrustful of present politics and parties. Since then, we have seen our government fall, and an unelected government take its place.

Is not 1976, the bicentennial year of our national independence, an appropriate year to issue a second Declaration of Independence?

If we want such a convention, we must begin working now—and we must work in different ways, with different groups, with different constituencies. No one organization has the base that we need, and some of the organizations that will help us are not even in political action at present. We can ill afford the luxury of turning away any individual, any group of individuals—whether a State party organization or a national party organization—or any other body sharing the same basic principles that we believe in.

We must not forget that the most fertile grounds for political action lies with the millions who are completely disgusted with both major parties. We must give them a solid alternative.

What kind of alternative do I mean? I mean first of all a group that is organized on practical political grounds. It must be constructed State-by-State, Congressional district-by-Congressional district, county-by-county, precinct-by-precinct. Unless we organize on this basis, we have no viable political force, and we have no means of fulfilling the mandate of the people.

And there's more. We must develop a program of principle, so that the American people wil know what we stand for. They must know not only what we stand for, but that we will stand by our principles, without hesitation, without quibbling, without forgetting our promises. In the final analysis, we must place our trust in principle, not personality. I say to you tonight that the political structure of this nation has deteriorated far past the point where it can be saved by an empty personality conjured up by the image-makers.

And that is why we must have a platform convention—not only to lay out the program that we intend to present to the American people, bu also to demonstrate the soundness of our political organization.

Is this platform convention the convention of a new political party? It may be. Frankly, it is what we make of it. And what we make of it is only as limited as our vision.

I can foresee elected members of both political parties embracing this platform as their standard of action.

I can foresee independent candidates setting themselves up as forceful challengers to incumbents who refuse to embrace this platform.

It is entirely possible that the party conventions may not accept the challenge of this platform. But I believe that any party which ignores this platform will be foreordained to defeat at the polls.

I may be wrong in my belief. But every test of public opinion—either through candidates running for election on the issues, or through scientific public opinion surveys—gives convincing argument to the contrary.

Therefore, we must be prepared long before the filing dates have passed, long before it is too late for us to get on the ballot in each State, to have acceptable candidates ready and able to run for office, not excluding the Presidency itself, in the event that major parties continue in the direction they are now going.

Thus, there will be no new party—unless one is necessary. And if we see that a new party is necessary, then we will be ready.

This will be hard work. But independence was hard work for the patriots of 1776. If we leave this conference this weekend without a strong determination to create this concrete political structure, then we do not deserve the trust of the American people to which we now aspire.

The time for waiting is past. The time for action is now. Shall we stand together in this fight?

RULES FOR COMMITTEE PROCEDURE OF THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. McGEE. Mr. President, at its organizational meeting on January 29, 1975, the Committee on Post Office and Civil Service adopted its rules of procedure. In accordance with section 133B of the Legislative Reorganization Act of 1946, as amended, which requires the rules of each committee to be published in the CONGRESSIONAL RECORD no later than March 1 of each year, I ask unanimous consent that the rules of the committee be printed in the RECORD.

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

RULES FOR COMMITTEE PROCEDURE

Rule 1. Five members of the Committee shall constitute a quorum for the transaction of such business as may be considered at any regular or special meeting of the Committee, except that, for the sole purpose of taking testimony, sworn to or otherwise, a quorum of the Committee, or a subcommittee thereof, shall be one or more Senators. No members of the Committee shall, for the purpose of determining the existence of a quorum of the Committee, be deemed to be present unless he be personally present.

Rule 2. Unless otherwise ordered and notice given, the Committee shall meet for the transaction of its business while the Congress is in session as follows: The second and fourth Thursdays of the month at 10:00 a.m. Additional meetings may be called by the Chairman as he may deem necessary.

Rule 3. The Committee shall keep a complete record of all Committee actions. Such record shall include a record of the votes on any question on which a record vote is demanded.

Rule 4. It shall be the duty of the Chairman to report or cause to be reported promptly to the Senate any measure or recommendation approved by the Committee and to take or cause to be taken necessary steps to bring the matter to a vote.

Rule 5. The Committee shall, as far as practicable, require all witnesses appearing before it to file in advance written statements of their proposed testimony at least 24 hours before hearing, and to limit their oral presentations to brief summaries of their argument. The Committee staff shall prepare digests of such statements for the use of Committee members.

Rule 6. When a nomination for an appointment is referred to the Committee, the name of the nominee shall be referred to both Senators from the State in which the nominee resides. If no objection is made by either Senator within 30 days of the date of referral or if no response is received during that period, the nomination shall be considered as not having been contested.

Rule 7. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be reported to the whole Committee by a subcommittee, there shall be placed before the whole Committee a print of the statute to be amended or the part thereof to be repealed (together with the citation thereof), showing by stricken-through type the portion or parts to be omitted, and in italics the matter proposed to be added.

Rule 8. The Chairman may name standing or special subcommittees to which a bill, resolution, or nomination may be referred, which subcommittee shall consist of not less than three members, one of whom shall be of the minority; if the subcommittee consists of five members, two shall be of the minority; if the subcommittee con-

sists of seven members, three shall be of the minority.

Rule 9. Whenever a subcommittee delays in reporting more than 30 days (except when time is extended by the Committee), the matter may be withdrawn by the Chairman and submitted to another subcommittee, or considered by the whole Committee.

Rule 10. Subject to statutory requirements imposed on the Committee with respect to its procedure, the Rules of the Committee may be changed or suspended at any time; provided, however, that not less than two-thirds of the entire membership so determine, at a regular meeting with notice of the nature of the change proposed or meeting called for that purpose.

Rule 11. The Chairman of the Committee and the ranking minority member shall be ex-officio members of all subcommittees with full right to participate in all proceedings thereof, and shall be allowed to vote as members of any subcommittee.

Rule 12. No vote cast in the Committee or any subcommittee by proxy shall be counted; but a written communication from an absent member, giving a clear statement of position on the specific subject, shall be counted as a vote.

Rule 13. The Chairman shall be given authority to appoint the staff members and clerical assistants to assist the Committee in its work; provided, that the ranking minority member of the Committee shall be given authority to select one professional staff member and one clerical assistant. The Chairman shall select the official reporter or reporters to serve the Committee.

Rule 14. The Committee supports the principle of open meetings.

LANDON'S ENERGY CONSERVATION PROGRAM

Mr. PEARSON. Mr. President, Mr. Alf Landon has proposed a four-step program for reducing energy consumption. It seems to me that his proposal has considerable merit and I want to bring it to the attention of my colleagues. Therefore, I ask unanimous consent that a copy of the AP article describing Mr. Landon's program be printed in the RECORD.

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

LANDON LISTS ENERGY-SAVING STEPS

(By Lew Ferguson)

With President Ford and Congress at loggerheads over the best way to conserve energy and make this nation less dependent upon imported oil, Alf Landon believes he has a simple alternative solution.

"Perhaps this is the time to consider something else," said Landon, former Kansas governor and 1936 Republican presidential nominee.

Landon believes the U.S. could save more than a million barrels of oil a day by taking four steps he regards as less complicated than rationing, as the congressional majority appears to prefer, and potentially more effective than President Ford's tax proposals, which would send the cost of energy soaring.

Landon called in an interview for taking these steps:

Close all service stations from 6 p.m. Friday until 6 a.m. Monday. This will mean changing Americans' weekend driving habits, Landon said, but has the potential of conserving 400,000 barrels of crude oil daily;

Strictly enforce the present 55-mile-per-hour speed limit, which could save another 200,000 barrels daily;

Achieve better motor vehicle efficiency by requiring tires to carry greater air pressure than recommended, requiring improved engine tuning and getting people to drive with "energy consciousness." This could save another 400,000 barrels daily; and

Require airlines to consolidate some domestic airline flights to insure fuller passenger loads and avoid duplication of service, which could save another 80,000 barrels of oil daily. This would require changes in antitrust regulations, Landon conceded.

Landon has the support of one of the state's energy experts in his suggestions. Dr. Robert J. Robel, Kansas State University professor and chairman of the Governor's Advisory Council on Energy and Natural Resources, helped Landon compute the potential oil savings and endorses the proposals.

Robel will represent Gov. Robert Bennett at a Federal Energy Administration hearing Thursday in Washington on Ford's proposals. He said he feels Landon's estimates may be conservative on the potential savings.

"The President can be complimented for his vigorous policies to meet our critical fuel energy demands," Landon said. "But his plan has stalled.

"The Congress, so far, is opposed to the President's proposals. Congress' alternative is apparently the rationing of gasoline, or quotas on gasoline.

"Either way is costly to the people, or cumbersome to keep track of, both to the national administration and to the thousands of filling stations involved.

"I suggest this simpler way. It totally fulfills the goal of the President in cutting down on our purchase of foreign oil.

"It is an opportunity for the congressional Democrats who are not impressed with the glib talk of unworkable and costly rationing, allocating or quotas to accept a workable solution that fits the President's objectives."

Robel said he doesn't think Ford's plan will work, simply because people apparently will pay the cost for energy whatever it is.

"I feel very strongly on this," Robel said. "The increase in price is not going to reduce consumption at all. The President's program is more anti-recessionary than an energy conservation program."

Robel said U.S. importation of crude oil increased 1 per cent after the Arab oil embargo of 1973–74 than what it was before the embargo was imposed. He said this means people are prepared to pay the price for energy.

"Unless we get increased domestic production, we're not going to be able to reduce our imports," he said. "Our domestic production has been going down."

Robel said he doesn't think the public will buy Landon's proposed Saturday-Sunday closing of service stations, but agrees if it could be accomplished it would produce a significant oil savings.

He said a major potential saving of oil in this country involves home heating, which accounts for 26 percent of the U.S. oil consumption.

Getting people to keep their thermostats at 68 degrees and improving insulation, especially in the Northeast U.S. which relies heavily on heating oil, would effect a great saving, Robel believes.

He says it might be possible to impose savings in the home heating area by allotting heating oil users so much per month and making adjustments for unusually cold weather. Kansans should turn their thermostats down, he added.

"But the emphasis should be on what the average citizen can do to reduce the home consumption of oil," Robel said.

WYOMING BUSINESSMAN COMMENTS ON THE FUTURE

Mr. HANSEN. Mr. President, a longtime friend of mine, Don Thorson of Newcastle, Wyo., was in Washington recently for a meeting on the energy situation, and upon returning to Wyoming wrote me with some impressions that are so compelling that I wanted to share them with my colleagues.

Mr. President, I have the feeling that Don Thorson's comments reflect the feelings of a great many people. What he has to say is down to earth and to the point.

Therefore, I ask unanimous consent that his comments be printed in the RECORD.

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

COMMENTS

(By Don Thorson)

There are so many problems facing Americans that it becomes discouraging even to think about them.

I think the most disastrous thing to have happened is the nearly uniform lack of respect for and confidence in our government. Our representatives and politicians, with notable exceptions, are classed as a "bunch of crooks". This is a frightening indictment for our leaders by the people, but much of it is earned. We hear of many things such as three-workday weeks in Congress, junkets, pork-barreling, and general waste of our money. We see incompetent government officials enforcing regulations which are authorized by acts written by bureaucrats who strive to fit all industry into a uniform pattern. I am probably more aware of the political process; but when I see a study of aborigine armpit odor, I began to doubt some people's intelligence.

The Senate, in particular, seems to have become a breeding ground for Presidential aspirants. Surely these men could do the country more good by running their office than running for President while being paid by the taxpayers.

Why can Congress react with such blinding speed to a blackout of pro football or social security and federal wage increases and vacillate for a whole year on crucial issues? It seems that many representatives become infected with a thought that their re-election is more important than serving the country. There are many issues which come up that the wishes of the people should not be granted—just as children are not always given what they want. But how many people have the guts to vote against a popular measure even if they know it is wrong. Some do and some have lost; but some remain, and their stature is increased. Barry Goldwater is a good example.

Crime has become increasingly important because of its direct effect on people. Our laws have been so watered down by concern for the criminal that the victims are forgotten. If a person violates another's rights, the violator should lose his privileges. Penologists admit they do not know how to reform criminals, so the courts seem to be releasing them instead of even trying to restrain them. The pattern of criminals out on bail being rearrested for successive crimes becomes very discouraging for the police and public. Leniency has been tried and crime has gone up, so maybe it is time for more severity—including enactment of the death penalty even to the extent of purposeful intent to murder.

Our increasing population can no doubt be blamed for many of our shortages and our moral decline. We have long contended that energy is cheap and manpower is dear; but we may have to revert until technology provides new energy sources. Even then we are faced with increasing material shortages which makes us even more dependent on foreign countries. We have been imbued with the idea that our standard of living must be

continually increased, and are now afraid to stand still. We should think about it while there is still time. Our tax laws have been written so that continual expansion is the only way a business can retain any earnings.

I hope that someday responsible people will stand up and tell the people that there may be some dark days ahead.

We have built the greatest country on earth, but it would be tragic if we are consumed by our own excesses as past empires have been. Someday man must start learning from history instead of merely studying it.

This is not intended as a personal indictment, but is mostly a compilation of comments I have heard with some of my own ideas.

LITHUANIAN INDEPENDENCE

Mr. BAYH. Mr. President, February 16 marked the 57th anniversary of Lithuanian independence. It is most appropriate that we take a moment now to review the struggles of a gallant people, whose quest for independence, human dignity, and the basic right of self-determination goes on today, in the face of tremendous odds.

As possessors of uniquely rich literary, linguistic, and cultural traditions, the Lithuanian people have had a great and meaningful history. Lithuania dates from the 11th century, and was once an expansive and powerful state in the Baltic region. Invasions by Germans, Mongols, and Tartars, attempting to gain strategic advantage, were frequent. Yet the Lithuanian people repelled all attempts at subjugation, until Tsarist Russia finally gained control of the territory in the 19th century. Still, these noble people would not bend to Tsarist pressures for cultural assimilation, and managed through never-ending struggle to preserve their religion, language, and culture. Finally freed from economic and political repression at the close of the First World War, Lithuanian independence was again triumphantly proclaimed on February 16, 1918. When, on July 19, 1920, the Soviet Government announced it "voluntarily and forever renounces all sovereign rights possessed by Russia over the Lithuanian people and their territory," it seemed that overweening Russian ambition for control of Lithuania was finally thwarted. Time, however, would prove these words insufficient to meet the challenge of the long-standing historical animosity between these two peoples.

During the period between the wars, Lithuania underwent a great cultural reawakening. But peace was to be short-lived, and the political maneuvers preparatory to the Second World War conspired to steal from the Lithuanians the independence that they had fought so hard to regain. Eight months after an initial Soviet demand for bases for her troops, a full-scale Soviet intervention robbed Lithuania of her sovereignty. Following a period of Nazi occupation, Lithuania was incorporated into the Soviet Union in 1944.

Today, it is easy to see in geopolitical terms the tragic result of the Soviet takeover of Lithuania—a free state has been reduced to a Baltic Republic of the Soviet Union. We have reports, as well, which attest to the enormous cost in human terms of the Soviet policies. Acts of desperation by Lithuanian citizens, willing to make the ultimate sacrifice to rid their country of Soviet overlordship, are symbolic of the continuing demand of the Lithuanian people for the freedom they once knew. Free men around the world take heart in knowing that these people will continue to resist pressures to abandon their language and religion, despite ever-increasing hardships. Through their conviction to the principles of liberty and justice, the Lithuanian people will remain forever free, in spite of the outward bondage of their homeland.

Mr. President, the Lithuanian people are truly indomitable. They will never surrender to Soviet rule. They will never give up the fight to return freedom to their nation. They have endured, and will endure until they are once again able to express their feelings and views without fear of reprisal. Those of us in this great country must accept the responsibility to speak out against the blatant violation of the fundamental rights of the Lithuanian people by the Soviets, as we admire the example this nation has provided for us. We must never license by silence the dehumanizing and repressive policies of the Soviet Government. We must maintain our commitment to a free Lithuania.

HELP IN EMERGENCIES FOR THE HEARING IMPAIRED

Mr. PERCY. Mr. President, 804 persons were killed and 12,000 persons were injured in 962 weather, fire, explosion, and transportation disasters that involved 5 families or more in the United States in fiscal 1974. Nearly 90,000 families suffered property losses in these disasters.

When disaster threatens or strikes a community, radio and television stations often broadcast emergency warnings to assist people in their efforts to protect themselves and their property. Emergency warnings broadcast by radio are of little or no value to the 13.4 million Americans who suffer from some degree of hearing loss. Warnings broadcast by television also are relatively worthless, because most television stations use only audio announcements. We must do more to urge television stations to broadcast visual as well as audio emergency warning announcements.

Of the 13.4 million Americans who suffer from some degree of hearing loss, nearly 2 million are totally deaf. The incidence of hearing loss has increased at such a rate that hearing impairment is now a more widespread affliction than heart disease, cancer, blindness, tuberculosis, and kidney disease combined. And over 70 percent of the hearing-impaired population do not use hearing aids, because of severe hearing loss, dissatisfaction with hearing aids, or low-income status.

Many broadcasters contend that hearing-impaired individuals do not watch television. But this contention has been refuted by a recent survey that showed that 71 percent of hearing-impaired persons who responded said they usually watch television.

In 1970 the Federal Communications Commission issued a public notice suggesting the use of visual emergency messages by all television stations. But a recent survey of 700 commercial television stations revealed that only 38 percent of those that responded indicated that they provide either "captioned" or "interpreted" emergency bulletins. It is apparent, Mr. President, that the FCC's public notice, which does not have the weight of law, is inadequate.

On January 20, 1975, four organizations petitioned the FCC to initiate rulemaking proceedings for the adoption of standards to require visual emergency warnings on television. Those organizations are Deafwatch—Demanding Equal Access to Facts and Warnings Aired on Television for Citizens Who Are Hearing-Impaired; the National Association for the Deaf; Deaf-Pride, Inc.; and the Alexander Graham Bell Association for the Deaf.

I endorse this petition and urge my colleagues to join me. Statistical tables indicate that each Member of the Senate has a sizable constituency that needs visual television emergency bulletins. Few States are free of disasters that necessitate such warnings.

Mr. President, I have written the FCC to urge adoption of the rule proposed in the petition and to urge extension of the 30-day comment period which ends February 24. I encourage my colleagues to do the same.

I ask unanimous consent that the tables I have mentioned, as well as the text of rulemaking petition RM 2502, be printed in the RECORD. Further information on the petition can be obtained from Deafwatch, 2000 H Street NW., Washington, D.C. 20006.

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

PREVALENCE AND PREVALENCE RATES FOR HEARING IMPAIRMENTS IN THE CIVILIAN NONINSTITUTIONALIZED POPULATION, BY DEGREE AND AGE AT ONSET: UNITED STATES 1971

Degree	Age at onset	Number	Rate per 100 000
All hearing impairment	(1)	13, 362, 842	6, 603
Significant bilateral	(1)	6, 548, 842	3, 236
Deafness	(1)	1, 767, 046	873
	(2)	410, 522	203
	(3)	201, 626	100

[1] All ages.
[2] Prevocational prior to 19 years of age.
[3] Prelingual prior to 3 years of age.

DISTRIBUTION OF THE HEARING IMPAIRED POPULATION BY STATES: UNITED STATES, 1971

State	Hearing impaired	Deaf	Prevocationally deaf
Alabama	234, 498	30, 832	6, 750
Alaska	20, 480	2, 664	553
Arizona	130, 613	16, 986	3, 533
Arkansas	131, 577	17, 299	3, 789
California	1, 427, 928	185, 708	38, 595
Colorado	160, 902	20, 926	4, 349
Connecticut	179, 486	20, 921	5, 209
Delaware	37, 506	4, 931	1, 080
District of Columbia	49, 350	6, 489	1, 421
Florida	472, 263	62, 093	13, 600
Georgia	312, 096	41, 035	8, 988

State	Hearing impaired	Deaf	Prevocationally deaf
Hawaii	52,990	6,891	1,432
Idaho	52,274	6,798	1,413
Illinois	719,792	105,815	26,510
Indiana	340,011	49,985	12,522
Iowa	184,017	27,052	6,778
Kansas	143,395	21,080	5,281
Kentucky	220,203	28,952	6,342
Louisiana	247,499	32,541	7,128
Maine	58,036	6,765	1,685
Maryland	267,783	35,208	7,712
Massachusetts	335,432	39,097	9,734
Michigan	579,614	85,208	21,347
Minnesota	250,234	36,786	9,216
Mississippi	150,024	19,725	4,320
Missouri	303,982	44,688	11,196
Montana	53,706	6,566	1,364
Nebraska	96,799	14,231	3,565
Nevada	35,732	4,647	966
New Hampshire	44,408	5,177	1,288
New Jersey	423,821	49,401	12,299
New Mexico	72,753	9,462	1,966
New York	1,074,764	125,275	31,190
North Carolina	343,204	45,124	9,883
North Dakota	39,507	5,808	1,455
Ohio	694,198	102,053	25,567
Oklahoma	175,209	23,036	5,046
Oregon	154,815	20,174	4,184
Pennsylvania	694,455	80,946	20,153
Rhode Island	54,151	6,312	1,571
South Carolina	173,440	22,804	4,995
South Dakota	42,854	6,299	1,579
Tennessee	269,825	35,477	7,770
Texas	767,887	100,961	22,113
Utah	78,626	10,225	2,126
Vermont	26,836	3,128	780
Virginia	308,692	40,587	8,890
Washington	243,036	31,608	6,568
West Virginia	119,121	15,662	3,430
Wisconsin	288,823	42,460	10,637
Wyoming	24,204	3,148	654

THE AMERICAN NATIONAL RED CROSS, SELECTED DATA FOR DISASTER RELIEF OPERATIONS INVOLVING MORE THAN 5 FAMILIES, FISCAL YEAR 1973–74

State	Number of disaster operations		All disaster operations [2]		
	Weather caused	All other [1]	Families suffering loss	Persons killed	Persons injured
Alabama	7	2	3,919	88	1,015
Alaska	1	1	96		1
Arizona	1	2	154	2	32
Arkansas	11	3	2,928	19	188
California	3	18	1,948	34	103
Colorado		2	111	4	12
Connecticut	1	15	535	2	8
Delaware					
District of Columbia					
Florida	6	9	518	10	142
Georgia	7		838	22	210
Hawaii	2		369	10	12
Idaho	1	2	870	1	20
Illinois	11	50	3,516	13	81
Indiana	8	2	5,637	47	935
Iowa	5	1	3,791	3	91
Kansas	6	2	2,207	13	294
Kentucky	12	1	6,393	80	932
Louisiana	6	1	2,217	2	28
Maine	2	7	109	4	8
Maryland		20	216		15
Massachusetts	1	47	757	30	110
Michigan	3	11	1,071	14	50
Minnesota	2	2	382	4	25
Mississippi	12	3	6,091	3	33
Missouri	6	6	1,726	4	37
Montana	2	1	330		1
Nebraska	4	3	829		152
Nevada	1		56		
New Hampshire		4	57		5
New Jersey	1	60	4,443	22	75
New Mexico	2	2	139		1
New York	1	332	3,329	133	391
North Carolina	5	3	418	7	54
North Dakota	1	2	806		6
Ohio	13	11	11,428	47	5,432
Oklahoma	10	2	7,129	41	490
Oregon	1	3	1,507	18	179
Pennsylvania	4	94	624	34	51
Rhode Island					
South Carolina	4	1	398	3	41
South Dakota	5		413		13
Tennessee	13	2	3,074	54	673
Texas	13	8	1,840	22	74
Utah					
Vermont	1	1	81		1
Virginia	2	3	389	2	18
Washington	2	10	1,639	5	15
West Virginia	6	1	1,890	5	44
Wisconsin	1	4	440	2	45
Wyoming	1	1	232		1
Total	207	755	87,890	804	12,144

[1] "All other" include: fires, explosions, transportation mishaps, et cetera.

[2] State by State data for families suffering loss, persons killed and persons injured are consolidated for all types of disasters, i.e. "weather caused" and "all other."

DEAFWATCH PETITION FOR RULEMAKING

I. INTRODUCTION

During a particularly devastating week in 1970, California was struck by wideranging fires. Scores of people died. Hundreds of thousands of dollars' worth of property was destroyed. Local officials attempted to reach and evacuate the residents of the area through the use of loudspeakers and radio and television announcements. As a result of these efforts many potential casualties escaped with their lives even though they lost their homes.

Others never had a chance. Many hearing impaired persons residing in the area between San Francisco and Los Angeles perished in the blazing fires. Of course, they had been oblivious to the loudspeakers and radio announcements. And the television announcements were not visual and were therefore useless in notifying the large numbers of hearing impaired Californians of the impending disaster.

That such deaths occurred is a sobering commentary on the failure of some public officials and television broadcasters to recognize and confront the special problems of the hearing impaired. That televised visual messages could have quickly reached those persons with minimal effort by a few persons, and that no such effort was made, is a blot on the public service record of the television industry.

The hearing impaired themselves, decades ago, hailed television as a miraculous invention. Finally, they thought, those who had been denied access to the benefits of the telephone, radio, and talkies could have access to mass communication through television.

But television did not remain teleVISION very long. Television today is little more visual, and no more accessible, to this nation's 13.4 million hearing impaired than radio. Instead, it is characterized by a heavy dependence on dialogue and as a result is simply "radio with pictures."

While this visual deficiency is often disappointing to the hearing impaired community craving news and entertainment, it may prove disastrous for them in the eventuality of certain types of emergencies requiring the immediate and complete notification of all citizens, including the hearing impaired.

The California fire is only one blistering example of a daily occurrence in this country: emergencies threatening thousands of persons and striking the hearing impaired with little or no warning. While these thousands rely on television to warn them of impending danger, television has, for the most part, breached its precautionary duties to the hearing impaired.

The two following situations provide additional examples of how the inaction of television broadcasters can produce devastating results.

On March 31, 1973, the citizens of Atlanta, Georgia, were suddenly confronted with a tornado and severe weather alert. Television stations in the area presented no emergency warnings in visual form. Hearing impaired people in the area " . . . had no way of knowing the extent or severity of the warnings, or the exact location of the sighted tornadoes." That there was a "Severe Weather Warning," was the extent of their awareness, since this was all that was presented visually by television broadcasters. Most of the citizens of Atlanta were fully informed about, and prepared for, the devastation that was to strike. All that the hearing impaired citizens of Atlanta really knew, however, was the presence of some unknown danger, and the terror and pains such ignorance can cause.

The insensitivity of some broadcasters was demonstrated by another, all too true, situation. Atlanta, Georgia, was threatened by a tornado, by torrential rains and flood warnings, plus massive man-hunt for an escaped and dangerous convict. Panicked viewers were cautioned by a weatherman on one television station to listen to their transistor radios in order to stay informed of fast-break developments on all these crisis fronts. They were told that no one had any excuse for not keeping informed on the facts. Did this weatherman or his station stop to consider the needs of the thousands of hearing impaired people in his audience? The answer is self-evident—as is the frustration and fear that the hearing impaired endure when confronted by an emergency in the absence of visual emergency bulletins.

Imagine the fright of a person who cannot hear, when confronted with a printed message on the television screen which reads only: Emergency Bulletin! The message remains on the screen for what seems to be an interminable period of time while an off-camera announcer reads the details to the hearing audience. No visual information follows for the hearing impaired person. He panics, frantically wondering what the emergency is and what he should do to save his life, his family, and his property.

Television broadcasters could end this needless panic by simply adding visual messages to their aural emergency notifications.

It is submitted that broadcasters who have abdicated by their inaction any entitlement to regulatory abstention, must be required by the Commission to act affirmatively to relieve this terrible situation.

The technology for visual emergency notifications has long been available. Now this technology must be implemented to serve the needs and to preserve the emotional and physiological security, of millions of hearing impaired viewers. In light of the potential for saving lives and the simplicity and low cost with which the petitioners' proposals can be implemented, there is no excuse for Federal Communications Commission (hereinafter, "Commission") inaction in this matter.

A 1970 Public Notice (FCC 70–1328) issued by the Commission, entitled "The Use of Telecasts to Inform and Alert Viewers with Impaired Hearing," suggested to television stations that when broadcasting emergency information which concerns the safety of life or property they might present such notices visually as well as aurally. The Commission noted that "there can be little argument about the need of all citizens *including the deaf and hard of hearing*, for information concerning *emergency situations*."

Yet, after four years, this need still has not been fulfilled and, consequently, the lives, property, and psychological security of the hearing impaired remain jeopardized. Those who are hearing impaired should have the same chances of survival in an emergency as those without this handicap, and only the Commission by its regulation of television broadcasters can even the odds.

The Commission warned in its Public Notice that if broadcasters failed to take appropriate steps in this direction it might be necessary to begin rule making procedures to adopt minimum requirements. Broadcasters have unfortunately failed to so act, and there is now no question about the appropriateness or timeliness of the Commission initiating rule making proceedings. The time is now ripe to use the medium of television to its fullest extent both aurally and visually. To do this, the Commission must establish rules requiring all television stations to present visual emergency bulletins. The petitioners respectfully submit that the Commission must fulfill its promise of four years ago. It is the hope of the petitioners and deaf individuals and organizations across the country that the necessary rule making proceedings will be instituted in order to solve one of the major problems confronting the deaf and hearing impaired in today's world.

II. THE LIVES AND PROPERTY OF MILLIONS OF HEARING IMPAIRED AMERICANS ARE BEING JEOPARDIZED

A. Hearing impairedness is the most common physical disability in the United States

The numbers of hearing impaired who may be threatened in natural or man-made disasters are astounding. One out of every fifteen persons in the United States suffers some degree of hearing loss. Of the at least 13.4 million Americans afflicted with a hearing loss, 1.8 million are suffering from total deafness.

The incidence of hearing loss in the general population is increasing yearly, due to two factors. First, improved medical care and scientific discoveries have allowed those with hearing impairments to survive other major disabilities and diseases and therefore live longer. Second, the gradual urbanization of our population, and the resulting exposure to greatly increased noise levels, inflicts many urban dwellings with hearing impairments.

Hearing impairedness is the most common, yet least recognized, physical disability in the United States. The incidence of impaired hearing is greater than that of heart disease, cancer, blindness, tuberculosis and kidney disease combined. For example, the ratio of hearing impaired to blind Americans is thirty to one. Those Americans totally deaf outnumber blind persons by more than three to one. Yet, hearing impairedness is a disability which has been largely neglected by both public and private sectors of our society.

Not only is the affliction of hearing impairedness of wide-ranging and increasing frequency, but the affliction presents several unique problems and misconceptions which compound its seriousness. Contrary to popular belief, for example, the adverse consequences of hearing impairments outweigh those of visual impairments, since hearing, the main avenue of communication, is the foundation of learning. Helen Keller, afflicted by both deafness and blindness, made the following assessment of the relative burdens of both of these disabilities:

"The problems of deafness are more complex, if not more important, than those of blindness. Deafness is a much worse misfortune because of the loss of the most vital stimulus—the sound of the voice that brings language, sets thought astir, and helps us in the intellectual company of man."

Like Helen Keller, many individuals suffer from other handicaps in addition to their hearing loss. The number of multiple handcapped has been placed at one out of three deaf persons, by the recent National Survey of the Deaf. These handicaps include asthma, arthritis, heart trouble and cerebral palsy. Because of their deafness and these other afflictions, many of the multiple handicapped are forced to be homebound. They become even more dependent on their limited sources of communication, relying on television as the prime means of receiving communication from the outside world.

Another common misconception is that most deafness may be corrected through the use of hearing aids. In fact, only limited types of deafness may be corrected in this manner. Over seventy percent of the hearing impaired population is unable to use hearing aids as a result of severe hearing loss, dissatisfaction with hearing aids, or low income status. The result of this disability is an increasing dependence on visual stimuli, such as television.

Many of those who are hearing impaired are elderly citizens, and would certainly benefit from visual warnings. Their helplessness is aggravated by increased age, fear, inability to drive, run, or move quickly, along with the fact that many have additional handicaps. Thus the sooner they obtain emergency information, the better their chances of survival. They should not have to depend on others to inform them of an emergency.

It is obvious that even in normal times, the disabilities resulting from hearing impairments are burdensome, but in emergency situations these disabilities become especially onerous.

Emergencies pose a deadly threat to the hearing impaired because of their unique handicap. Compounding the seriousness of communicating warnings to the hearing impaired is the frequency and variety of emergencies.

B. Widespread emergencies threaten the hearing impaired

Natural emergencies may result from earthquakes, tidal waves, hurricanes, tornadoes, ice storms, heavy snows, widespread fires, and a host of other disasters. Other emergency situations are man-made, arising from the discharge of toxic gases, air pollution, power failures, industrial explosions, and civil disorders.

No area of the country is immune from these disasters, which every day threaten the safety and life of thousands of individuals. In 1973, a natural disaster hit one out of every four counties in the United States. The occurrence of flash floods, tornadoes, hurricanes, and earthquakes resulted in 46 presidential disaster declarations in 31 states. A major disaster struck some part of America almost once a week, resulting in hundreds of deaths and over a billion dollars in property damage. In 1972, the United States was ravaged by 48 major disasters. Two hundred people were killed by flash floods in South Dakota, while Hurricane Agnes left hundreds dead, and inflicted damage estimated at over three billion dollars. In 1974, there were a record number of disasters. On April 3, more than 300 people were killed and over a thousand hospitalized by tornadoes that caused over 500 million dollars worth of property damage to the southern and midwestern United States.

In 1973–1974, 963 disasters involving more than five families resulted in 330,471 persons being given mass care by the Red Cross. This figure does not include the 28,890 disasters affecting a relatively small number of families. In 1971–1972, 722,947 people were given mass care as a result of 633 disasters involving more than five families.

These figures are at once horrifying and compelling. That such a large number of disasters occurs annually is frightening. That they strike with no warning to the hearing impaired compounds the horror. Seconds of advance notice and preparation can often mean the difference between life and death. With adequate warning there are a number of safety precautions which a person may follow to avoid the danger, death and destruction that lurks behind every disaster. Such warnings are presently unavailble to the hearing impaired.

In light of the number of these disasters and the enormity of their effects, especially upon the hearing impaired, the need for governmental action is self-evident. The question remaining is how can the hearing impaired best be aided in preparing for such emergencies? How can they be informed so that they can escape the imminent danger?

III. THE HEARING IMPAIRED CAN BE AIDED BY TELEVISION

A. Only television can adequately warn viewers of impending danger

The medium of television is uniquely suited to warn citizens of impending emergencies. Its immediacy causes it to be more effective than the reading of a newspaper. Televisions' combination of both visual and aural means of communication allows it to reach a larger segment of the population than either radio or any other mass medium. Tele*VISION*, by its very name, implies the use of visual means of communication. It must live up not only to its name, but to its potential as well, when transmitting emergency information to the public.

The nation's 1.8 million viewers who are totally deaf cannot receive any information given orally—including emergency information. The 11.6 million people with lesser degrees of hearing loss often cannot understand such messages clearly. Indeed, even persons with normal hearing often misinterpret the spoken word on television. Thus visual emergency notifications will benefit not only the minority of hearing impaired, but also many of the normal hearing population.

Several members of the broadcasting industry have attempted to justify their failure to transmit visual warnings with the claim that such messages would not reach the hearing impaired since they do not watch television. This analysis has been proven unfounded on many occasions, most recently in a survey of deaf individuals. Seventy-one per cent of the respondents stated that they "usually watch television." Sixty-five per cent of the total said they watch "six or more hours on weekends."

With television's unique capabilities established, along with the fact that it has been

conclusively established that the hearing impaired do watch television, what is the response of the industry at large to the needs of the hearing impaired?

B. Television broadcasters have failed to follow the suggestions of the Federal Communications Commission

The responsiveness of the television industry to the needs of the hearing impaired must be considered in light of the past actions of the Commission. After the concerted effort of concerned individuals, the Federal Communications Commission took notice of the problems of the deaf and hearing impaired four years ago. On December 17, 1970, the Commission issued a Public Notice (FCC 70–1328) entitled "The Use of Telecasts to Inform and Alert Viewers with Impaired Hearing."

The Commission observed,

"As AM and FM radio are ideally suited to bring news, informational material and entertainment to the blind, so the video segment of telecasts are ideally suited to alert, assist and entertain persons with impaired hearing. Therefore, the capability of television to present visual material should be used to its fullest extent, i.e., while oral announcements of news bulletins, sports scores, weather conditions, etc., are being made on a telecast that the same material be presented, when feasible, visually . . . In respect to the need of all citizens *including the deaf and hard of hearing* for information concerning *emergency situations*, we are convinced there can be little argument. We suggest to TV broadcasters that they make use of visual announcements along with oral announcements when presenting bulletins of an emergency nature, such as approaching tornadoes, accidents, health hazards and other community dangers. These visual announcements would not only provide an alert to persons with impaired hearing, but would also emphasize the importance of the announcement to all viewers." (Emphasis in original)

The notice was purely advisory, in that no formal legal requirements were imposed on broadcasters. Although the Commission made no threats of license non-renewal should broadcasters fail to comply with the Commission's suggestions, the Commission concluded:

"We hope that this Public Notice will alert licensees to the importance of making television a truly valuable medium for the hard of hearing, and of our concern about the matter. We will observe developments in the future, and if the situation does not develop satisfactorily it may be necessary to begin rule making looking toward the adoption of minimum requirements."

While the 1970 Public Notice was a progressive and commendable step forward, the lack of any force or sanction power behind it rendered it ineffective. The majority of television stations act as if no such Notice had ever been issued. The whim of each station determines its policy in visually broadcasting emergency messages.

Notwithstanding the Commission's statement with respect to the need for visual emergency notification on television for the benefit of the hearing impaired, only a small minority of stations have complied with the suggestion, and even their compliance has been largely marginal. A recent survey of 700 commercial television stations across the country attempted to ascertain the number of stations which have programming directed toward the hearing impaired. Only 269 or 38 per cent said they provided either "captioned" or "interpreted" emergency bulletins. Captioned bulletins present the written words on the television screen at the same time the oral announcement is being made, while interpreted bulletins feature a person or camera using sign language.

Yet, even this 38% figure is not a true indication of the number of stations presenting visual emergency notifications. Upon contacting one of the stations which responded affirmatively in the survey, petitioners were told that no such captioning practice was in existence at that station. If this discrepancy applies to other television stations as well, the true figure of the number of stations which caption might even be lower than 38 per cent. Even the most optimistic estimates demonstrate that the majority of stations are shirking their responsibilities to the hearing impaired population. Human lives are continually jeopardized by this inaction. Obviously, television broadcasters will not present visual messages voluntarily.

The burden for individual action should not be placed on deaf persons who are at such a great disadvantage with respect to communication skills. Several persons who have sought to have the Commission require that television stations present visual warnings have been told by the Commission "to consider dealing directly with television stations in their communities concerning their needs for emergency information . . ." Because the hearing impaired often lack the self-organization necessary to bring about such action, and because they are not familiar with the broadcasting industry, they should not have to be the ones to attempt regulation or reconstruction of the television industry. Television stations should be required by the Commission, the most appropriate governmental regulator, to present this service to the hearing impaired, with standardized regulations in the case of all emergencies. It is respectfully submitted that the Commission must fulfill its affirmative obligation to the hearing impaired community by requiring appropriate steps by broadcasters.

C. Federal Communication Commission regulation of emergency notifications is necessary

The prevalence of hearing impaired individuals, their peculiar nature of their disabilities, the frequency and severity of natural disasters and civil disorders, the potential effectiveness of television as a communication source, and the television industry's continued footdragging, all compel one conclusion: Television broadcasters must be required to utilize their unique medium in order to protect the lives and property of the hearing impaired by presenting visual emergency warnings.

The National Association of Broadcasters has claimed, "People depend on broadcasters. And because broadcasters have an excellent record of public service in times of emergency, people trust them." The hearing impaired should be able to rely on television in emergencies as do other people. For television to fulfill this trust, it is incumbent upon individual stations to provide their *entire* audience with reliable, visual information in times of emergencies. Since the sobering lesson of the past four years is that individual stations will not provide this emergency information on their own initiative, the Commission must promulgate regulations prescribing such visual notices.

IV. PROPOSED AMENDMENTS FOR THE REQUIREMENT OF VISUAL EMERGENCY NOTIFICATIONS

A. Emergency information transmission originating from broadcast stations

Petitioners propose an addition of a new subsection (b) to the Federal Communications Commission Rules and Regulations, 47 C.F.R. § 73.675. Section (a) and the proposed new section (b) would then read as follows (with subsequent sections being relettered):

(a) When necessary to the safety of life and property and in response to dangerous conditions of a general nature, television broadcast stations may, at the discretion of the licensee and without further Commission authority, transmit emergency weather warnings and other emergency information. Examples of emergency situations which may warrant either an immediate or delayed response by the licensee are: Tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, and civil disorders. Transmission of information concerning school closings and changes in schoolbus schedules resulting from any of these conditions, is appropriate. In addition, and if requested by responsible public officials, emergency point-to-point messages may be transmitted for the purpose of requesting or dispatching aid and assisting in rescue operations.

(b) Any emergency information transmitted in accordance with this section shall be transmitted both aurally and visually. The broadcast station may use any method which results in a message being easily readable on the receiver's television screen and conveying the same essential information contained in the aural bulletin. Illustrative, but not exhaustive of, methods which may be used are the following: teletypewriter, titling camera, captions, slides, scroll of paper with typed words, typewritten messages on index cards, previously prepared charts to be filled out with data at the time of notification, chalk on blackboard, white writing on black vinyl backing, or a felt marker on oak tag.

Broadcast stations shall at all times be prepared to utilize one suitable method and at least one back-up method. The methods and procedures to be used shall be predetermined, included in the operator's manual, and available for public inspection. They shall be posted prominently, both in the control room and in at least one newsroom, and all persons authorized to transmit emergency bulletins shall be informed of these procedures. An emergency drill of these procedures shall be held periodically to insure technical operability.

All emergency notifications shall include the following announcement, both aurally and visually: "If you have a hearing impaired or blind friend or neighbor, please pass this information on to him or her."

B. Transmissions pursuant to emergency broadcasting system procedures

The following changes are proposed as amendments to 47 C.F.R. § 73.933, Emergency Broadcast System (EBS) Operation During a National-Level Emergency:

1. 47 C.F.R. § 73.933(a)(4): After the word "announcement" insert the following: "in both aural and visual form."

Thus, 47 C.F.R. § 73.933(a)(4) will read as follows:

"Discontinue normal program and broadcast the following announcement *in both aural and visual form:* We interrupt this program. This is a National Emergency. Important Instructions will follow." (Italicized portion indicates proposed amendment).

2. 47 C.F.R. § 73.933(b)(8)(i): After "Standby Script" in line 2, insert the following: "and appropriate visual messages."

Thus, 47 C.F.R. § 73.933(b)(8)(i) will read as follows:

"Upon completion of the EAN message the Standby Script *and appropriate visual messages* shall be used only by Primary Stations (or stations required to assume that responsibility) until program material is available. The text of the Standby Script is contained in the EBS Checklists for Primary and Alternate Stations and for Primary Relay and Alternate Relay Stations."

3. Such further amendments to Title 47 of C.F.R. as may be appropriate and necessary to effect the policy of visual notification of emergencies.

C. Additional actions requested of the Commission

It is further proposed that the Commission should initiate the following measures to allow the Emergency Broadcast System to conform to these proposed regulations:

1. Preparation of slides containing in printed form the announcement required by 47 C.F.R. § 73.933(a)(4). Reference should be made to these slides in the EBS Checklist, which contains simplified instructions for every station to follow in various situations. All stations should be required to use these slides.

2. Preparation of appropriate means for transmitting visually the same information contained in the "Standby Script" referred to in 47 C.F.R. § 73.933(b)(8)(i). The Standby Script consists of general information provided by the individual television station until emergency programming becomes available. The EBS Checklist should include reference to this visual information, and there should be a requirement of its use by all EBS stations.

3. Immediate initiation of a means of transmitting visually all information transmitted aurally through EBS.

In addition, the Commission should direct all state and local EBS authorities to initiate similar procedures for state and local emergencies.

V. EXPLANATION OF PROPOSED AMENDMENTS

A. Emergency information transmission originating from broadcast stations

Most emergencies do not have a nationwide impact. Natural and man-made emergencies are usually local and, as previously mentioned, strike one out of every four counties in the United States each year. Thus, the responsibility for warning the public about emergencies lies primarily with individual local television stations, and the amendment to 47 C.F.R. § 73.675 is directed towards them.

B. Requirement of printed messages as opposed to other means of communication with the hearing impaired

The printed word has been chosen as the best method to be used in communicating to the hearing impaired because it reaches the largest number of people. A significantly smaller proportion of the hearing impaired population reads lips or understands the language of signs.

Although there are no precise statistics available on what percentage of the hearing impaired would prefer and benefit from printed messages, there are a few indicators. In a recent study by the New York University Deafness and Research Training Center, which attempted to ascertain the reactions of hearing impaired individuals to a certain captioned and signed television program, 84 percent said they "always understood captions" while only 34 percent "always understood signs." When the participants were asked whether they would like future programs to be captioned, signed, or both, a majority, 53 percent, requested both captioned and signed, while 44 percent preferred captioned, and only 3 percent asked for signed. While this survey may not accurately depict the desires of the entire hearing impaired population, it does indicate their preferences as to what means of communication television should utilize. The conclusion that may be logically drawn from these studies is that more of the hearing impaired population prefer and understand captions than signs.

One must also keep in mind the distinction between the hearing impaired and the deaf. The understanding of signs is generally limited to people who became deaf or severely hearing impaired early in life and have had special training in signing. The leaves a substantial number of people who are hearing impaired but not deaf or who became so late in life, have not learned sign language, and would not benefit from signs. The logical means of reaching all, then, is the printed word.

Although the number of those who can understand lips and signs is limited, it may be assumed that the hearing impaired's reading ability approximates that of the rest of the population. Overall, the deaf population of the United States is only one year below the national educational level in highest grade obtained. Therefore, printed messages would be of benefit to a much higher percentage of the hearing impaired population than other methods of communication.

There are several other serious limitations precluding the use of lipreading and signs. Lipreading has limited value as a means of communication. Even for those individuals who primarily rely on lipreading, only 25 per cent of spoken English can be ascertained from the lips; the other 75 per cent must be guessed from the context of the conversation. A practical problem of signing is that it is highly unlikely that a station would be able to obtain a signer quickly in an emergency. In addition, signing is hard to understand when reduced to the size of a normal television screen. Because the language of signs is three dimensional, it is not well suited to the two dimensional television screen. Therefore, it is obvious that the printed word is the most effective and expedient means of reaching the hearing impaired in an emergency.

C. Explanation of various methods of presenting visual messages

Suggested methods which may be used to transmit a printed message are listed in the proposed rule. The purpose of the list is to suggest specific ways of meeting the required standards, while at the same time allowing for flexibility according to the needs and capabilities of individual stations. Some stations will be able to produce simple and effective messages quickly and easily with a teletypewriter. Others, who may not have even this relatively inexpensive equipment, will be able to easily meet the specifications with minimum effort by hand printing or typing a message on an index card and focusing a camera on the card. It does not matter which method is used in broadcasting the visual message, so long as the message is easily readable and understood by the viewer.

D. Suggestions for implementation

Individual stations are urged to use the most suitable method of transmitting the essential information in printed form in the shortest amount of time possible.

As an aid to broadcasters, the National Weather Service, through its Council on Community Preparedness, has offered to make low-cost slides available to broadcasters. These slides would not include sufficient information to cover specific emergency situations but would, instead, inform the public of the general nature of natural emergencies, e.g., tornado, hurricane, flood. It is suggested that broadcasters use these slides, or similar ones which they might produce, for initial notification, and then follow this up with a more specific printed message. This method would permit the public to be alerted immediately, giving the broadcaster time to transmit the specific details a short time later.

Another method of saving time when disaster strikes is to have on hand previously prepared charts which could be filled in with the essential details at the time of an emergency, for example:

Channel 10 WOWW
Tornado Warning
Area ----------
Duration ----------
Specific information----------

Stations might also choose to broadcast a map of their coverage area with the warning. One station reported to the National Association of Broadcasters that to make identification of particular trouble spots easier, it uses a map with detachable counties in different colors which is then filmed by a preset studio camera.

The use of a preset camera is a technique which would be advantageous for all stations to adopt. A camera might be focused on an easel with a black vinyl backing, for example, on which a message could easily be written in white, or upon which a previously prepared printed poster could be placed. This allows for simple visual notification of emergencies as well as the notification of technical difficulties at the station.

Stations should keep materials for the transmission of visual emergency notifications in a clearly marked container. The location of these materials and procedures for using them should be made known to all employees who might potentially be responsible for broadcasting an emergency notification. One way of insuring this knowledge would be to hold an emergency drill periodically. In addition, broadcasters are urged to consult the National Association of *Broadcaster's A Guide to Planning for a Natural Disaster* (NAB 1974) for general suggestions for dealing with emergencies. The above methods are only suggestions which the Commission might choose to require by rule.

E. Requirement of audio tag

The purpose of requiring the audio tag (oral request for viewers to inform any deaf or blind persons about an emergency) with all notifications is to reach hearing impaired or blind individuals who might not be watching television, when an emergency strikes and therefore would be unable to receive a warning message. Hearing persons are often alerted to potential emergencies by the sound of sirens, wind, or rain pounding on the roof, and they are then prompted to turn on a television or radio to get additional information. But deaf people are completely oblivious to such clues, being informed only through the sense of sight. They must therefore depend on other persons to initially alert them to threatening conditions.

F. Transmissions pursuant to Emergency Broadcast System—EBS—Procedures

1. Emergency Broadcast System—EBS

The Emergency Broadcast System is an operation through which the public is informed of national emergencies and instructed as to what actions to take. The EBS permits selected television stations to broadcast at normal power on their assigned frequencies during national emergencies, in order that the President may address the nation and that Federal, state, and local agencies may provide supplementary information. The EBS stations are required to follow the procedures set forth in 47 C.F.R. § 73.675 through 47 C.F.R. § 73.962. An EBS Checklist (see 47 C.F.R. § 73.910) summarizes the actions that must be taken by EBS stations in a national emergency upon receipt of an Emergency Action Notification (EAN), Termination or Test Message.

Three steps of the EBS procedure concern us as petitioners on behalf of the hearing impaired:

1. The initial public announcement of a national emergency (EAN Message; 47 C.F.R. § 73.933(b)(4) and 47 C.F.R. § 73.933(b)(6)).

2. The Standby Script used between the completion of the EAN message and the program material from EBS (47 C.F.R. § 73.933(7))

3. The common emergency program originating from the EBS control point.

2. Current procedures and proposed changes

(a) *EAN Message:* Upon receipt of an EAN message, the EBS stations are currently directed to broadcast the following announcement:

"We interrupt this program. This is a National Emergency. Important instructions will follow."

The EBS Checklist then requires that the following announcement be broadcast on primary stations:

"This is an Emergency Action Notification. All stations shall broadcast this Emergency Action Notification Message. This station has interrupted its regular program at the request of the White House to participate in the Emergency Broadcast System. During this emergency, some stations will remain on the air broadcasting news and official information to the public in assigned areas. This is station (call letters). We will remain on the air to serve the (operational area name) area. If you are not in this area, you should tune to other stations until you hear one broadcasting news and information for your area. You are listening to the Emergency Broadcast System serving the (operational area name) area. Do not use your telephone. The telephone lines should be kept open for emergency use. The Emergency Broadcast System has been activated to keep you informed. I repeat . . ." (Repeat announcement)

Other stations are required to broadcast a similar announcement stating their role in the emergency. The proposed amendment would require the display of a slide with the identical message in printed form being presented at the same time as the audiotransmission of the message required by 47 C.F.R. § 73.933(b)(4). The EBS should prepare a slide to be distributed to all EBS stations and filled in with the station's call letters and operational area name.

(b) *Standby Script:* Upon completion of the EAM message, EBS primary stations use a Standby Script, the text of which is contained in the EBS Checklist and which is broadcast until the program material is available. The Standby Script in current use reads as follows:

"We interrupt our program at the request of the White House. This is the Emergency Broadcast System. All normal broadcasting has been discontinued during this emergency. This is station (call letters). This station will continue to broadcast, furnishing news, official information and instructions, as soon as possible, for the (operational area name) area. If you are not in the (operational area name) area, tune to a station furnishing information for your area. I repeat—We interrupt our program at the request of the White House. This is the Emergency Broadcast System. All normal broadcasting has been discontinued during this emergency. This station will continue to broadcast furnishing news, official information and instructions, as soon as possible, for the (operational area name) area. If you are not in the (operational area name) area, tune to a station furnishing information for your area. Do not use your telephone. The telephone lines should be kept open for official use. The Emergency Broadcast System has been activated to keep you informed. To repeat—This is station (call letters). This station will broadcast news, official information and instruction for the (operational area name) area. If you are in the (operational area name) area, keep tuned to this station for further emergency information. It is important that you listen carefully to announcements only on the station broadcasting information for your area." (Repeat as needed)

The proposed amendments would require the transmission of prepared slides containing in visual form the material content of the Standby Script.

(c) *Common Emergency Program*: Many EBS broadcasts originate from a central control point rather than from individual stations, and therefore the content and form is beyond the control of local stations. Any visual message must, accordingly, be transmitted by EBS officials. The proposal directs the EBS to immediately initiate procedures for transmitting visually the same information that is transmitted aurally. The Emergency Communications Division of the Commission is currently developing, in cooperation with the National Industry Advisory Committee, a "crawl" device (whereby printed information runs across the screen) to be used on all EBS broadcasts. The Commission should stress the immediacy of the need for such a device and call for its use as soon as possible.

(d) *Local and state emergencies:* The proposal directs state and local EBS officials to also broadcast in visual form all information that is transmitted aurally, whether as a result of rule making or internal decision of the EBS.

VI. ECONOMIC AND TECHNICAL FEASIBILITY

There are no theoretical or technical reasons for the exclusion of the hearing impaired from the many benefits of television. Some television stations are making use of captioning equipment without any apparent difficulty. Possible techniques range from the use of a teletype machine providing a running crawl to typewritten index cards propped up on an easel. Whether large or small, a television station has many options to choose from, according to its capabilities. Since most television stations already have the appropriate equipment to provide for visual warnings, the various techniques previously mentioned can be utilized without any great expense.

Video titlers, or character generators, are one simple yet effective technique for captioning on television. Some models may be obtained for under $2,000. (e.g. DATAVISION, INC., Model D–1032), a relatively minimal amount in comparison to a television station's total production costs. Titling cameras, which almost every station owns, cost from $1,000 to $1,500, and are another basic method of captioning. Rather than being required to buy the most expensive equipment if such regulations were to be placed upon them, television stations would only have to use the means already available to them. They should realize that these and more basic methods are of relatively low cost, and will present no major burden on their budget.

Stations can utilize extremely simple and inexpensive methods for the transmission of visual emergency notifications. Blackboards may be purchased for only $2.50 while poster board retails for 39¢ a sheet. These costs are insignificant when compared to over-all television station operating budgets. If one life is saved through the use of visual emergency warnings on television, then there can be no question as to the necessity and feasibility of making visual notifications mandatory.

VII. AUTHORITY AND PRECEDENT

A. *The petitioners are interested persons*

Petitioners present this petition as interested persons, pursuant to statutory and Commission authority.

The statutory authority, 5 U.S.C. § 553(e), the Administrative Procedures Act, provides that "Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule."

The petitioners are D.E.A.F.W.A.T.C.H. (Demanding Equal Access to Facts and Warnings Aired on Television for Citizens who are Hearing Impaired); the National Association of the Deaf (N.A.D.); the Alexander Graham Bell Association for the Deaf; and DEAF-PRIDE, Inc.

D.E.A.F.W.A.T.C.H. is a legal action group composed of students attending the National Law Center at the George Washington University in Washington, D.C. They are persons interested in the problems of the hearing impaired and are presently attempting to establish a Center for Law and the Deaf/Hearing Impaired which would deal in a coordinated and concentrated manner with the unique problems of the deaf and hearing impaired through legal and law related means. DEAFWATCH's close association with members of the hearing impaired community and its continuing interest in the problems of the hearing impaired, particularly with regard to telecommunications, brings it to the Commission to seek relief.

N.A.D. is one of the leading organizations of and for the deaf in the United States. Its general objectives are to unite deaf Americans and to open channels of communication between them; to deliberate on the needs of the deaf as a class; and to take such action as is necessary to fulfill these needs: to promote the unique needs of the deaf by legislation, education, communication, research, and rehabilitation. N.A.D. will host the next World Congress of the Deaf in Washington, D.C. in the summer of 1975.

The Alexander Graham Bell Association for the Deaf is a national and international organization which has been dedicated, since 1890, to promoting the interests of the hearing impaired and to promoting excellence in the education of deaf children.

DEAF-PRIDE, Inc., is a local organization of deaf persons, parents of deaf persons and interested members of the community.

B. Authority for the Commission to act is provided by statute

The Communications Act of 1934 (47 U.S.C. §§ 151 et seq.) (herein-after, "The Act") established the Federal Communications Commission and gave it sweeping rulemaking authority to regulate and control radio communications. This grant of authority has been held to include the authority to regulate television, since 47 U.S.C. §§ 303 defines "radio communication" as "the transmission by radio of writing, signs, signals, pictures and sounds of all kinds."

Section 303(r) of the Act authorizes the Commission to adopt rules to effectuate the provisions of the Act. Section 303(g) of the Act gives the Commission the power to "encourage the larger and more effective use of radio in the public interest. Section 303(b) specifically requires the Commission to "prescribe the nature of the services to be rendered" by stations. Congress intended by this section to encourage and empower the Commission to take the initiative in exploring the public interest service possibilities of radio. In complying with this mandate the Commission has wide discretion in determining questions both of public and procedural policy, and in making and applying appropriate rules.

Given the specific powers granted to the Commission by section 303 of the Act, petitioners contend that it is clearly within the Commission's power to require more effective use of television emergency broadcasts by the addition of visual messages to aural bulletins.

The Commission is granted specific authority to deal with the subject matter of this petition, the safety of life and property. One of the purposes of the creation of the Commission is stated as "the purpose of promoting safety of life and property through the use of wire and radio communication. (47 USC § 151). More specifically, 47 USC § 154 (a) states: "For the purpose of obtaining maximum effectiveness from the use of radio and wire communications in connection with the safety of life and property, the Commission shall investigate and study all phases of the problem and the best methods of obtaining the cooperation and coordination of these systems.

The Commission has in fact exercised its power to promote the safety of life and property by authorizing individual broadcast stations to depart from standardized procedures in order to transmit emergency information. Prescribing specific regulations, 47 C.F.R. § 73.675 informs broadcasters of the types of situations under which they shall be authorized to present an emergency format.

The Commission also provides for and regulates the Emergency Broadcast System (EBS) (47 C.F.R. §§ 73–98–73.962) described on page 19, *supra*. EBS is composed of AM,

FM, and TV broadcast stations and non-government industry entities operating on voluntary, organized basis during emergencies of National, State or Operational (Local) levels. (§§73.903).

It is under the specific authority of 47 C.F.R. § 73.675 and 47 C.F.R. § 73.933 (EBS) that petitioners contend the Commission has the power to initiate rule making proceedings. By the amendment of these two sections to require television broadcasters to present visual messages along with their aural bulletins, the Commission would increase the effectiveness of radio communications by promoting the safety of life and property of even more millions of Americans—those who are hearing impaired.

That the Commission has the power to serve specific classes of people has been demonstrated by their mandated responsibility to serve minorities. Title 47 USC § 202 imposes an affirmative responsibility on the Commission to provide for these minorities:

"It shall be unlawful for any common carrier to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage."

While this provision applies to common carriers, which does not include broadcasters, there is an obligation to apply this practice to the hearing impaired. The present practice by the majority of television stations of presenting emergency notifications which can only be received by the hearing majority of their viewers gives an unreasonable preference to those persons and subjects the nonhearing viewers, who could only benefit from visual messages, to an unreasonable disadvantage. The Commission's statutory responsibility to provide for the safety of life and property, coupled with its affirmative obligation to insure relief to the substantial minority of hearing impaired, means, petitioners respectfully submit, that the Commission must take positive steps to insure equal access to warnings for the deaf and hearing impaired through rule making proceedings.

The Commission's responsibility to serve minorities is especially evident when it is in the public interest to provide for them. The D.C. Court of Appeals in 1970 found discrimination against a certain minority class (those who prefer classical music) in regard to radio programming balance in a community. The court reversed the Commission's refusal to hold a hearing on the question of whether a proposed assignment which would eliminate the only classical music station in Atlanta served the public interest. The court stated:

"It is surely in the public interest, as that was conceived of by a Congress representative of all the people, for all major aspects of contemporary culture to be accommodated by the commonly-owned public resources whenever that is technically and economically feasible . . . devotees of classical music . . . (are) a not insignificant portion of the people who make up Atlanta, and their minority position does not exclude them from consideration in such matters as the allocation of radio channels for the greatest good of the greatest number."

If classical music is in the public interest, then what about the preservation of life itself? Surely, life, above all else, should be held sacred. Anything which can be done to save this precious resource should be done now, with no further delay. The "greatest good" now is to give the hearing impaired what they need, and thus put them on the positive side of the balance between life and death.

In the *Citizens Committee* case, *infra*, the court clarified the meaning of "serving the public interest," which the Commission has been directed to do by Congress. The Commission itself has also recognized the necessity of considering all aspects of a community by requiring that each commercial licensee keep in touch with the needs and interests of the community it serves. Each license application requires a description of the needs and interests which the station will serve in the license period under consideration.

Two types of programming which the Commission has recognized as necessary to meet the "public interest" of the community are weather reports and service to minority groups. With this in mind, it is obvious that the proposals for rule making fit exactly in this framework. The hearing impaired are clearly a minority group, and weather information is the major material being requested. Thus, providing visual emergency bulletins to the hearing impaired is exactly along the lines of serving the public interest which the Commission has already recognized. Almost all communities contain hearing impaired persons, and no community is immune from emergencies. The requirements which petitioners seek to have imposed by the Commission would be at least a first step in insuring consideration of the minority interests of the various communities.

The Commission has already recognized the interests of the hearing impaired minority in other ways. For example, 47 C.F.R. § 15.331 allows for the operation of an auditory training system in instituting programs for auricular instruction of persons having speech or hearing handicaps. Also, the Commission has granted approval for a Public Broadcasting System experimental program of captioning the ABC News for rebroadcast several hours later and for captioning entertainment programs. These provisions, along with the 1970 Public Notice, show not only the Commission's authority to act but also its previous recognition of the need for action in this area.

The blind, as well, have been identified by the Commission as a minority in need of special services. Most recently, radio station WETA–FM in Washington, D.C., was granted a Subsidiary Communications Authorization for special programming to serve the blind. The Washington Ear, Radio Service for the Blind and Physically Handicapped, Inc., a nonprofit organization, provides a special sub-carrier radio receiver for blind persons so that they may hear special WETA–FM broadcasts. The broadcasts are readings of articles, feature stories, editorials, and advertisements from selected newspapers.

Clearly, the proposed amendments are in the "public interest" as meeting the needs of a minority group—the hearing impaired.

VIII. BROADCASTERS' FIRST AMENDMENT FREEDOMS WILL NOT BE ABRIDGED BY THE PROPOSED REGULATIONS

Although requiring visual emergency messages would serve the public interest, by fulfilling the needs of handicapped minorities, some observers have suggested that this would entail unwarranted government regulation in the precious arena of First Amendment freedoms. The Communications Act provides that "no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication." However, such a regulation as the petitioners propose does not at all interfere with *what* information or ideas are transmitted by broadcasters, but concerns only *how* they are transmitted. The proposed regulation does not require the transmission of any messages originating at the local level, nor does it limit what may be transmitted. Rather, it simply requires that once a station chooses to aurally transmit an emergency notification, it must transmit the same message visually. The EBS regulations already prescribe the content of aural EBS messages; the proposed regulation of EBS would simply require the same messages to be presented visually. There would be no chilling effect upon the artistic value of the programming, nor any regulation of the broadcaster's judgment.

Moreover, despite the prohibition of government censorship by both the First Amendment and the Communications Act, there are already a variety of Commission actions which constrain the broadcaster's freedoms and flexibility in utilizing a station for communications. For example, the Commission requires that the programming of a licensee be in the "public interest" and has indicated a preference for certain types of programming. The Commission also regulates network domination of television programming by restricting prime time access.

When television stations fail to serve the needs of the public by not voluntarily implementing techniques which can save many human lives, the Commission is not only permitted, but obliged, to impose such techniques on the stations.

IX. THERE HAVE BEEN MANY REQUESTS FOR COMMISSION ACTION

Other government agencies have also recognized the needs of the hearing impaired. One early call for improvements in television for the hearing impaired was voiced in December 1971, at the first National Conference on Television for the Hearing Impaired, sponsored by HEW. In attendance were representatives of the deaf and hard of hearing, television stations, broadcasters, engineers, educators, advertisers, and the Federal Government. The Conference entailed a pooling of resources in order to bring about the development of captioned television programs to serve the needs of the hearing impaired population. Participants highlighted existing problems and recommended numerous remedial strategies. The Conference ended on a hope for "a new dimension in the lives of the hearing impaired."

At the National Conference, Capt. L. R. Raish, of the Office of Telecommunications Policy (hereinafter OTP) in the executive branch, offered the following words: "There is interest and encouragement on the part of persons high in the Administration in seeing that technology, particularly telecommunications technology, is applied to aid the handicapped.

The former director of OTP himself, Clay T. Whitehead, encouraged the Commission on December 2, 1971, to expand the use of captions in television broadcasting, stating, "the Administration strongly supports . . . actions which foster the interest of the broadcast industry, such as was done by the Commission's Public Notice (FCC 70–1328), in offering telecasts that provide a means whereby warnings and emergency bulletins and other services could be made available to viewers with impaired hearing.

An August 1, 1973, letter from former Commission Chairman Dean Burch to Mr. Whitehead discussed the comparative advantages of two types of captioning methods which present printed words on the television screen in addition to the information provided aurally. One of these methods is closed captioning, which can only be seen on a television screen if there is a special decoding device attached to the television set. The other is open captioning, which is received by all television sets turned on to a particular station which employs a captioning device. Chairman Burch closed his letter to Mr. Whitehead by stating that closed captioning was not feasible for emergency notification:

"It seems apparent that *captions* providing such information *should be available to all persons of impaired hearing*—not just to those whose receivers are especially equipped to display encoded captions." (emphasis added)

Yet, four years after the Commission's Notice, and despite these various statements of

support, no substantial progress has been made toward presenting visual emergency notifications. More than encouragement appears necessary to meet the pressing needs of a substantial segment of the population.

Many deaf organizations have been actively involved in efforts to change the existing procedures which most television stations follow in broadcasting emergency notifications. The Council of Organizations Serving the Deaf (COSD) in August, 1972, wrote to the National Association of Broadcasters, asking that they include in their standards a requirement that aural Emergency Broadcasting System messages be accompanied by visual messages. Although NAB failed to institute such standards, EBS is now developing a "crawl," where words cross the screen at the same time the oral announcements are being made.

Because of the failure of television stations to regulate themselves in the manner called for by the Commission, other government agencies, and deaf organizations, the hearing impaired continue to be deprived of the right to emergency notifications. This blatant disregard to the Commission's Notice has prompted numerous letters from individuals and organizations to the Commission urging the adoption of more stringent regulations. The response has been that the situation has been under active consideration by the Broadcast Services Subcommittee, National Industry Advisory Committee.

Still, no action has been taken by this Committee. Therefore, in view of the unsatisfactory developments in this area, it is now the Commission's obligation to "begin rule making looking toward the adoption of minimum requirements."

X. THE COMMISSION SHOULD FOLLOW OTHER GOVERNMENT ACTIONS IN SERVING THE NEEDS OF HEARING IMPAIRED

By requiring visual emergency bulletins to serve the needs of the hearing impaired, the Commission would be following the example set by other bodies of the Federal Government in providing for the special needs of the handicapped. Congress has shown its concern with these needs by establishing a comprehensive program for the handicapped through the Vocational Rehabilitation Act (87 Stat. 355). The purpose of the act is to:

"Provide a statutory basis for the Rehabilitation Services Administration and to authorize programs to develop new and innovative methods of providing rehabilitation services to handicapped individuals through research, special projects, and demonstrations; . . . conduct various studies and experiments to focus on long neglected problem areas; . . . enforce statutory and regulatory standards and requirements regarding barrier-free construction of public facilities and study and develop solutions to existing architectural and transportation barriers impeding handicapped individuals."

The Act also establishes a National Center for Deaf-Blind Youths and Adults to, among other purposes, "aid in the conduct of . . . activities which will expand or improve public understanding of the problems of deaf-blind individuals."

Title 45 USC part 150, under the authority of HEW. provides for the production and distribution of captioned films for the deaf, to provide them with enriched experiences so that they may be brought in better touch with the realities of their environment.

In addition, Congress funds Gallaudet College, in Washington, D.C., the only accredited four year college for the deaf in the world.

Although not specifically directed towards providing visual emergency messages, concentrated efforts are being made by the Bureau of Rehabilitation Services of HEW, Public Broadcasting System and the National Bureau of Standards, to perfect a closed captioning system. Such commendable efforts demonstrate a growing awareness of a dedication to the potentialities of television for the hearing impaired. But, the Commission cannot wait for these methods to be developed before it acts. It has the authority, and television stations have the ability, to immediately offer relief to the hearing impaired population by providing them with the necessary visual information in times of emergencies.

It is respectfully submitted that the Commission has had adequate time to consider the situation. The moment is ripe for the Commission to impose standards on television stations to insure all hearing impaired individuals their right to receive visual emergency notifications on television.

XI. CONCLUSION

The shocking failure of television to perform its duty to the hearing impaired population is self-evident. These millions of Americans are denied a life of security while television's neglect continues. The multitude of hearing impaired, the array of potential emergencies, and the culpability of television broadcasters are presently producing profoundly devastating results. Unless broadcasters provide the missing link—visual emergency bulletins—the hearing impaired will remain physically and psychologically vulnerable to disasters.

The time for talk has passed. The Commission must now act on its promises and help the hearing impaired, who in this case cannot help themselves. The simple procedures and low cost involved in implementing the petitioner's proposals for visual notifications in emergencies, require only minimal effort by broadcasters. In view of the lives that visual notifications would save, is there any question as to the proper path of action? Must the hearing impaired continually be discriminated against in the field of telecommunications?

The sacrifice of lives must stop now. Since television broadcasters will not voluntarily do their part, the Commission must, we submit, step in and initiate rule making proceedings requiring television stations to add visual messages to their emergency notifications.

For these reasons, the petitioners respectfully request the Federal Communications Commission to adopt, as part of its Rules and Regulations, the proposed standards for the visual transmission of emergency notifications.

ENERGY SURVEY

Mr. DOLE. Mr. President, recently I received an energy use survey conducted by the eighth grade science class of Burr Oak, Kans. I believe it is a useful indicator of feeling about the energy problem in Kansas.

Burr Oak is a community of 473 people, most of whom are engaged in farming or farm-related business. As such, it is representative of a large portion of my constituency in Kansas.

I find this survey to be useful in two respects. In the first place, it demonstrates the concern which Kansans of all ages feel about our current energy problem. Certainly, the many hours which these students spent in gathering and compiling this data indicate Kansas youth's desire to take positive action toward meeting the problems of our day. I find it encouraging to note that students are thinking seriously about our energy supply.

CONCERNED ABOUT ENERGY

Second, this survey reflects the comments I have been hearing from many Kansans on the energy problem. I note the serious doubt about the President's energy program.

The sentiment against gasoline rationing—73.9 percent—is even stronger and I have strongly advocated alternative measures to save fuel resources so that rationing will not be necessary.

My own efforts in the Senate—particularly in the Senate Finance Committee—have been directed toward meeting these concerns. But I am more and more convinced after hearing testimony in the committee that no meaningful program to reduce energy consumption can be painless.

DISCRIMINATION UNWANTED

The discriminatory 55-mile-per-hour speed limit registers strong opposition, as I would expect. In Kansas and other Western and Midwestern States, we are expected to reduce our speed by about 20 percent while new Englanders and other easterners by and large have not been required to reduce their speed at all. The Congress and administration seem to be saying to Westerners and Midwesterners, "you slow down and save gasoline so that Easterners can drive at the speed they have been in the past."

That is why I have attempted to make the 55-mile-per-hour speed limit more equitable, keeping in mind both the needs and desires of Kansans who must travel much longer distances in order to carry on their businesses than those living in urban areas.

Not surprisingly we now see New England officials and representatives protesting about discrimination against them because of the oil import duty program. This seems especially ironic to the junior Senator from Kansas since testimony in the Finance Committee clearly shows that the New England area would suffer less from the oil tariff than other parts of the Nation. That is because New England imports mostly refined petroleum products for which there is no tariff and because the Federal Energy Administration has previously had a subsidy for imported refined product under the entitlement program which has now been ended.

And all these protests are even harder to understand when easterners have been getting natural gas from Kansas and other Midwestern States that has been held at artificially low prices for the past 20 years.

But the dialog going on in Congress now is good and I hope we will be successful in finding a program to reduce our dependence on imported oil as soon as possible at the minimum level of economic pain.

Because I feel that the work of the Burr Oak science class has a meaningful significance, I ask unanimous consent that their survey be printed in the RECORD.

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

REPORT ON BURR OAK ENERGY USE SURVEY

Conducted by the eighth grade science class, winter 1975.

Number of people surveyed 110.

Burr Oak Population 473, Occupation: Farm or farm related.

Age: Under 13 (21), 19.1 percent; 13–21 (56), 50.9 percent; 22–45 (21), 19.1 percent; 46–65 (12), 10.9 percent; over 65 (0).

Sex: (50), 46.3%, male; (58) 53.7% female.

Average number of vehicles per family (includes cars, trucks, and tractors): 7.

How home is heated:

	Percent
Wood (17)	13.0
Coal (1)	0.1
Natural gas (51)	39.2
Propane (38)	29.2
Electricity (19)	14.6
Fuel oil (4)	3.1

QUESTIONS ASKED

[Percent]

3. Are you favorable to President Ford's energy proposal?

Yes (36)	33.6
No (71)	66.4

4. Do you think the 55 mph speed limit should remain in effect?

Yes (40)	36.7
No (69)	63.3

5. Are you favorable to gas rationing to save energy?

Yes (28)	26.1
No (79)	73.9

6. Do you think they should store atomic waste in Kansas?

Yes (10)	9.1
No (100)	90.9

7. Who do you think should have energy priority in winter?

	Percent
Home (74)	63.8
Industry (8)	6.9
Transportation (12)	10.3
Agriculture (21)	18.1
Government (1)	0.9

8. Should the use of spacecraft and aircraft be limited to save energy?

	Percent
Yes (89)	82.4
No (19)	17.6

9. Would you still drive the same distances if gas was $1 per gallon or more?

	Percent
Yes (48)	44.4
No (60)	55.6

10. Are you favorable to the use of lead-free gas?

	Percent
Yes (45)	40.1
No (67)	59.9

11. Do you think we should have day-light saving time 12 months a year?

	Percent
Yes (41)	38.3
No (66)	61.7

Not all samples answered all questions and some, a few more than once.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the United States record of ratification of human rights treaties is appalling. There are a number of treaties awaiting action by the Senate: 14 United Nations Conventions, 6 International Labor Organization Conventions, 1 UNESCO Convention, and 9 Conventions of the Organization of American States. In fact, the United States has only ratified 3 United Nations conventions and 4 OAS treaties in the area of human rights.

In examining this dismal record, Congressman FRASER's Subcommittee on International Organization and Movements commented:

> 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.

Mr. President, we cannot permit this tragic anomaly to continue. This country has long been recognized as a leader in the area of civil and human rights within its own borders. It is time that we apply the same high standards to international affairs.

The Senate has the opportunity to reverse this policy of malign neglect by acting affirmatively on the human rights conventions now before the Committee on Foreign Relations. Foremost among these is the Genocide Convention, which has languished before the Senate for 25 years.

Prompt action in this 94th Congress will clearly demonstrate the tenor that the Senate expects our foreign policy to reflect.

Mr. President, I urge my colleagues to join me and encourage the Foreign Relations Committee to report this treaty to the floor once again.

HONOR AND PRESTIGE IN VIETNAM

Mr. MOSS. Mr. President, for more than a score of years, the United States has been involved in the conflict in Vietnam. That involvement was generally passive until the decade of the 1960's; at that time we became physically engaged in the war until our withdrawal, which began in 1973 and is still continuing. For some time now, it has been the express desire of a vast majority of the people of this Nation that the United States disassociate itself as rapidly as possible from a conflict which seems never ending. The turmoil of the war in Vietnam almost tore our Nation apart.

After more than 350,000 American casualties and the expenditure of $140 billion, along with many thousands of Asians who have lost their lives during these many years, it is strange that the administration continues to insist on increased U.S. involvement through additional appropriations. How can more than 20 years of tragic involvement fail to impress upon the administration and upon this Congress the futility of again increasing involvement in the Vietnam conflict?

It was my impression that in the last session of Congress, during the appropriations debate on assistance for continuing that war effort, Congress made itself clearly heard and represented the feeling of the people of this Nation. The vote of Congress during that session was to reduce aid to Vietnam from more than $1 billion requested to $700 million, and now the administration has asked for supplemental military assistance to bring that amount almost equal to the original request.

Mr. President, I should think that we would have learned by now that you do not uphold American honor and prestige by financing a futile war and a corrupt regime. Our past involvement in Vietnam has done more serious damage to the honor and prestige of this Nation than any other act in our history. The administration seems to have failed to recognize this fact by asking for additional aid to Vietnam which is an indirect act of continuing or again increasing our involvement there, and which will only inflict further damage to U.S. honor and prestige.

Mr. President, the United States, at the direction of Congress, has entered into a planned withdrawal of active involvement in the Vietnam conflict and we must continue with that plan. We must reaffirm in unequivocal terms our legislative prohibition against any combatant role of Americans in that conflict and, in addition, continue planned reduction of military assistance until our only involvement in Vietnam is once again passive. The request by the administration for additional appropriations must be rejected.

THE VLADIVOSTOK RESOLUTION

Mr. KENNEDY. Mr. President, on January 17, I joined with the distinguished Senators from Maryland (Mr. MATHIAS) and Minnesota (Mr. MONDALE) in submitting the Vladivostok resolution, Senate Resolution 20. If passed, this resolution would put the Senate on record in three main areas:

First, it accepts the broad outlines of the agreement reached at Vladivostok last November 24, between President Ford and General Secretary Brezhnev. This agreement, still to be worked out in detail, would establish the principle of parity between the United States and the Soviet Union in numbers of missiles and long-range bombers, and in numbers of missiles with multiple independently targetable, re-entry vehicles, MIRV's: 2,400 missiles and long-range bombers for each side, with a sublimit of 1,320 MIRV's.

Second, the resolution expresses the understanding of the Senate that the Vladivostok numbers are ceilings, but that U.S. decisions about deploying strategic weapons systems should be based solely on the grounds of national security. Thus there is no commitment implicit in the Vladivostok agreement to build up to the numbers specified for either category.

Third, the resolution expresses the advice of the Senate—not just the sense of the Senate—that further negotiations with the Soviet Union should begin "as soon as possible" in three distinct areas: Securing mutual restraints on the pace and character of both development and deployment of strategic weapons systems; securing agreement to negotiate lower numbers than those contained in the Vladivostok agreement; and securing agreement to negotiate arms control on other systems not yet covered by the 1972 or the 1974 strategic arms control agreements.

In submitting the Vladivostok resolution to the Senate for its consideration, we indicated that we expected some negotiations to these ends would begin during the current phase of talks at Geneva; but in any event, negotiations on all these areas should begin no later than ratification of the final Vladivostok accords.

In addition, the resolution expresses the sense of the Senate that the final Vladivostok accords should be submitted to the Senate for its advice and consent.

In this way, we believe that we are firmly relating the current negotiations on the Vladivostok agreement to further negotiations on strategic arms control. I strongly believe that this agreement will have merit only if it is but one step in efforts to bring the nuclear arms race under control, not the end of such efforts.

Mr. President, this resolution was drafted after long and thorough consultation with the Department of State, and with Secretary Kissinger himself. We believe that this was an important course to take, on a matter of such grave consequence for the future of the Nation. Furthermore, by expressing the advice of the Senate in the critical passage of the resolution, we believe that the Senate would be exercising its proper constitutional role in treatymaking, in setting guidelines for the administration even before a treaty is submitted to the Senate for ratification.

We are pleased that the Secretary of State has indicated his support for the Vladivostok resolution, and I ask unanimous consent that the text of Secretary Kissinger's statement of January 17 be printed in the RECORD.

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

STATE DEPARTMENT RELEASE

Secretary of State Kissinger welcomes the statements of Senators Kennedy, Mathias, and Mondale, and the resolution issued by these three Senators. He believes that this constructive action will help achieve the provisions and purposes of the Vladivostok Agreement, and that upon completion of that agreement, it will serve as a guideline for further negotiations on arms control.

This is an excellent example of how cooperation between the Congress and the executive branch can further the national interest without touching on each other's prerogatives.

Mr. KENNEDY. Mr. President, in Los Angeles recently, Dr. Kissinger challenged the Congress to work effectively with him in a new partnership designed to build American foreign policy for the future. We believe that the Vladivostok resolution demonstrates the Senate's willingness to play a constructive role. And we welcome the Secretary of State's positive response to our initiative.

At the same time, I believe that it is important for the Senate to be firmly on record in support of the need to improve relations with the Soviet Union in the critical area of strategic arms control. There should be no doubt in Soviet minds that our Vladivostok resolution is designed to promote the attainment of this goal.

To be sure, there are real difficulties in overall United States-Soviet relations, as indicated most clearly by the Soviet abrogation of the 1972 Trade Agreement. There are many areas in which United States and Soviet interests are not compatible. That will undoubtedly continue to be so.

But the essence of détente is not the resolution of all problems, but rather the seeking of areas of common interest, where the alternative would be to jeopardize the security of both countries.

Most clearly, this relates to the nuclear arms race, where there is no escape from the need of the two superpowers to work together to prevent mankind's final war.

Accordingly, after consulting with the State Department, I wrote to the Soviet Ambassador, His Excellency Anatoly F. Dobrynin, expressing the intent of the Vladivostok resolution. I ask unanimous consent that the texts of my letter, and of Ambassador Dobrynin's reply, be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., January 17, 1975.

His Excellency ANATOLY F. DOBRYNIN,
Ambassador of the Union of Soviet Socialist Republics, Washington, D.C.

DEAR MR. AMBASSADOR: This morning, Senators Mathias, Mondale and I introduced a Senate Resolution, relating to further arms control efforts based on the Vladivostok Agreement. I am enclosing a copy of that Resolution for your information.

We are very much concerned in this resolution to express our support, and that of the Senate, for *detente* and the continued development of relations between our two countries. Particularly, at this uncertain time, we believe it is important to put the Senate of the United States firmly on record in support of better U.S.-Soviet relations, and particularly further arms control agreements.

The Resolution commends the Vladivostok Agreement, and urges the President to join with your government in concluding final accords based upon it.

Furthermore, it looks to the future, in seeking to promote further arms control negotiations, in areas of our two countries' mutual interest. In particular, we believe there could usefully be negotiations to achieve mutual restraints on the pace and character of development and deployments of strategic arms; to gain lower limits than those provided for in the Vladivostok Agreement; and to seek further mutual limitations with regard to forces and armaments not presently limited.

When negotiations along these lines should take place is, of course, a matter of judgment that can best be decided by leaders of the two governments involved. It is our hope, however, that both countries will make an early demonstration of their commitment to pursue further arms control efforts to the ends foreseen by the resolution.

We understand that your government shares our concern that what has been achieved so far in arms control be the basis for further constructive efforts, so that the threat of nuclear war will be ended for all time.

Again, please be assured of our desire to promote mutual understanding between our two governments and peoples, and to contribute to progress in *detente*.

With best regards,
Sincerely,

EDWARD M. KENNEDY.

EMBASSY OF THE UNION OF SOVIET SOCIALIST REPUBLICS,
Washington, D.C., January 21, 1975.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Thank you for your letter of January 17, 1975, concerning a Senate Resolution introduced by you, Senators Mathias and Mondale. You indicated that the Resolution was intended to further arms control efforts based on the Vladivostok Agreement.

I share your opinion, that the support of the U.S. Senate for better U.S.-Soviet relations would be very important. I wish you and your colleagues all success in such endeavour. Indeed, the Congress, if so desired, can play a more constructive part in promoting understanding and cooperation between our two countries. And this is an important factor in keeping peace on the globe.

We, in the Soviet Union, know that you, Senator, are genuinely interested in contributing to progress in relaxation of tensions in Soviet-American relations. Please, be assured that your efforts are highly appreciated because they are in the interests of our both peoples and peace in the world. We all are hopeful that the threat of nuclear war will be ended in our days, in the foreseeable future. We are working in that direction.

With best regards,
Sincerely,

ANATOLY F. DOBRYNIN,
Ambassador.

Mr. KENNEDY. Mr. President, it is my fervent hope that the Vladivostok agreement, and the steps proposed by Senator MATHIAS, Senator MONDALE, and me, will help us to achieve the critical goal of ending the nuclear arms race once and for all. There is no greater legacy that we could leave to future generations of Americans—and to people of other lands—than to reduce the threat of nuclear war and, hopefully, to end it for all time.

I request that the following Senators be added as cosponsors of Senate Resolution 20, bringing the total number of cosponsors to 31: The Senator from Connecticut (Mr. RIBICOFF); the Senator from Michigan (Mr. GRIFFIN); the Senator from South Dakota (Mr. ABOUREZK); the Senator from Texas (Mr. BENTSEN); and the Senator from West Virginia (Mr. RANDOLPH).

RULES OF PROCEDURE OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. EAGLETON. Mr. President, as required by the Legislative Reorganization Act of 1970, I ask unanimous consent to have printed in the RECORD the rules of procedure adopted by the Committee on the District of Columbia.

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

RULES AND PROCEDURES OF THE SENATE COMMITTEE ON THE DISTRICT OF COLUMBIA

Rule 1. Unless the Senate is meeting at the time, or it is otherwise ordered, and notice given the Committee shall meet regularly at 10:30 a.m. on the second Friday of each month. The Chairman may, upon proper notice, call such additional

meetings as he may deem necessary, or at such time as a quorum of the Committee may request in writing, with adequate advance notice provided to all members of the Committee. Subcommittee meetings shall not be held when the full Committee is meeting.

Rule 2. The rules of the Senate and the provisions of the Legislative Reorganization Act of 1970, insofar as they are applicable, shall govern the Committee and its Subcommittees. The rules of the Committee shall be the rules of any Subcommittee of the Committee.

Rule 3. The Chairman of the Committee, or if the Chairman is not present, the ranking majority member present, shall preside at all meetings. A majority of the members of the Committee shall constitute a quorum of the Committee. However, the Committee may authorize a quorum of one Senator for the purpose of taking testimony.

Rule 4. Unless otherwise determined by a majority of the Committee, written proxies may be used for all Committee business, except that proxies shall not be permitted for the purpose of obtaining a quorum to do business. Committee business may be conducted by a written poll of the Committee, unless a member requests that a meeting of the Committee be held on the matter.

Rule 5. There shall be kept a complete record of all Committee action. Such records shall contain the vote cast by each member of the Committee on any question on which a yea and nay vote is demanded. The record of each yea and nay vote shall be released by the Committee either at the end of the executive session on a bill or upon the filing of the report on that bill as a majority of the Committee shall determine. The clerk of the Committee, or his assistant, shall act as recording secretary on all proceedings before the Committee.

Rule 6. All hearings conducted by the Committee or its Subcommittee shall be open to the public, except where the Committee or the Subcommittee, as the case may be, by a majority vote, orders an executive session.

Rule 7. The Committee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 72 hours before a hearing and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee.

Rule 8. Should a Subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such Subcommittee and report that fact to the full Committee for further disposition.

Rule 9. Attendance at executive sessions of the Committee shall be limited to members of the Committee and of the Committee staff. Other persons whose presence is requested or consented to by the Committee may be admitted to such sessions.

Rule 10. The Chairman of the Committee shall be empowered to adjourn any meeting of the Committee if a quorum is not present within 15 minutes of the time scheduled for such meeting.

Rule. 11. Subpoenas for attendance of witnesses and for the production of memoranda, documents, and records may be issued by the Chairman or by any other member designated by him. The subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced. All witnesses subpoenaed before the Committee who are to testify as to matters of fact shall be sworn by the Chairman or another member.

Rule 12. Accurate stenographic records shall be kept of the testimony of all witnesses in executive and public hearings. The record of a witness' own testimony, whether in public or executive session, shall be made available for inspection by witnesses or by their counsel under Committee supervision; a copy of any testimony given in public session or that part of the testimony given by a witness in executive session and subsequently quoted or made part of the record of a public session shall be made available to any witness at his expense, if he so requests. Witnesses not testifying under oath may be given a transcript of their testimony for the purpose of making minor grammatical corrections and editing, but not for the purpose of changing the substance of the testimony. Any question arising with respect to such editing shall be decided by the Chairman.

Rule 13. Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended, or suspended at any time, provided, however, that not less than a quorum of the Committee so determines in a regular meeting with due notice, or at a meeting specifically called for that purpose.

REACTION OF BUSINESS AND LABOR TO THE PRESIDENT'S STATE OF THE UNION MESSAGE

Mr. NUNN. Mr. President, on January 15, 1975, Mr. Robert S. Hatfield, chairman of the board of the Continental Can Co., was part of a three-member panel representing the U.S. business community in a far-ranking television discussion of the President's state of the Union message. The program was produced by the National Public Affairs Center for Television and gave the American people a good opportunity to hear the reaction of some major business and labor leaders, leading economists as well as ordinary consumer to the President's proposals.

I ask unanimous consent that the comments which he made on this television program, "Public Affairs Television," be printed in the RECORD for the review of my colleagues.

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

HATFIELD DISCUSSES AMERICA'S BUSINESS SYSTEM, ECONOMY ON NATIONAL TELEVISION

FREE ENTERPRISE

The private enterprise, free market system has proved itself to be the most effective of any known to man at any time in history. I would ask those who would change our system of operating to perhaps publicly-regulated industries or publicly-managed industries to simply look at the experience that is before us.

The regulated industries—utilities and transportation—have been mentioned as being in very serious difficulties in terms of trying to accumulate the money to expand, because the rates which they have been permitted (to charge) under regulation are not adequate to form capital.

A good deal of our railroad system is in severe difficulty. It's regulated. And so are our airlines. They're coming into difficulty. So that public regulation certainly isn't the answer and we have those examples before us.

When you come to public management of business, all we have to do is look at the test tube that is the United Kingdom. There, we see the coal and steel industries in a state of disarray. Their plants are not modern and their products are unable to compete in the world market.

The thing that worries us all is, that while most people do not wish to change our system, we're going to lose it by default if we don't fight for it. Planning at the government level has been proposed and I think that's necessary. But when it comes to a centrally-planned economy, I'm sure most Americans will be quick to realize that this is precisely the system that is used in the Communist countries.

There is also the issue of whether we wish to retain in America the freedom to choose. I feel that is one of the fundamental freedoms of the individual. You want to choose what products you buy. You want to choose where you work. But, if you have a totally centrally-planned economy you won't have these privileges.

Speaking in the broader sense: if the American people cherish freedom, as I think they do, then they will be very jealous of any encroachment on the private enterprise, free market system, because the fundamental of that, is the freedom to choose.

PROFITS AND LAYOFFS

There is a popular misconception about the profits of American business. It is thought, by survey, by a great many Americans that the profits made by corporations is in the area of 25–28 cents on every doller of sales. The fact of the matter is that the profit per dollar of sales for American business is something less than 5 cents for every dollar of sales. And so the extent of profits is really not fully understood.

An example of this is the American steel industry which has been said to have made exorbitant profits. Perhaps the impression that this is so comes from seeing increases in profits from year to year.

What perhaps is not apparent, is that the profit level in the steel industry was, as recently as 1972, so low that it could not generate enough capital to keep plants modern and be competitive with the other steel industries in the world. It thus had to raise prices in order to accumulate the capital to keep its plants modern and to expand. American steel industry profits, by any measure, at this point, are not exorbitant. They are higher than they were, but that is relative to a very low base.

On the statement that business would rather lay off people than take a cut in profits, I might make the point that it is this very income which provides funds for a reserve which most businesses set aside to sustain people that are laid off.

These benefits, called supplemental unemployment benefits, in a good many cases, last for a year or, depending upon the length of service, as long as two years. In other words, most businesses are not simply laying off people with the idea that they have no sustenance whatsoever.

Also profits allow business to protect jobs that might otherwise be cut and to grow, creating new ones.

FUNDS FOR EXPANSION

Mr. Hatfield was asked whether a provision in the President's message increasing the corporate investment tax credit would actually help business.

I am confident it will. One of our real problems in the United States economy is the availability of capital with which to expand our facilities and keep our plants modern.

It is very difficult with today's equity markets being as low as they are—the New York Stock Exchange, for example—to gain capital by selling shares of stock. That market is in

such a depressed situation at the moment that it is really no place for a corporation to go to try to raise capital.

Also business is fairly highly leveraged today—and when I say highly leveraged I mean, that it has borrowed to the extent that prudence would say it should.

So where else can business go for capital accumulation but to raise prices in order to keep companies strong, provide jobs for people, supply re-investment capital and to grow with the markets, not only of this country, but the world.

With this very difficult situation in raising capital, the proposed increased investment tax credit, which gives you a quicker capital recovery on the money that is spent and thus generates additional capital funds, will help greatly.

OIL AND PRICING

One of our problems today is that we have been operating on the premise that oil was completely available and it was sold to us at a price that was very low in comparison to its value and the state of the reserves.

I think it's important that the oil market govern the day. I think it's important that the price of petroleum and in fact, all materials, reflect true cost (with an appropriate profit).

STATE OF THE ECONOMY

There's no question about the President's assessment of the economy being valid. We had negative real growth in the year 1974 and most of the economists that you listen to these days are forecasting a negative growth again in 1975.

When unemployment goes through 7 percent, I think you have to say, that taking these two things alone, that you are in a recession. I think the situation is such that the recession could deepen into a depression. The President was very forthright in facing up to the issues. I think he was right in calling upon the support not only of Congress, but of the American people themselves. I believe in the tremendous strength of this country and its resiliency, but he correctly highlighted the situation in the country now as being a critical one. And I think his objectives are absolutely sound.

NASA AERONAUTICAL RESEARCH AND DEVELOPMENT—A BIG RETURN ON INVESTMENT

Mr. MOSS. Mr. President, it seems to me that those who tend to wring their hands about economics and/or energy problems should stand back and take a look at the decline that has been taking place in our Nation's expenditures for research and development. The facts are that, in constant dollars, the research and development expenditures of U.S. industry and Government combined have declined over 10 percent since 1968. I strongly suspect that there is a relationship between some of our problems of today and the erosion that has been permitted to take place in our Nation's advanced technology base. I know, and it should be apparent to all, that we are now suffering the consequences of our long-term lack of research into and development of alternative sources of energy.

Government must assume a significant role not only in technology policy and the encouragement of technological advance but also in sponsorship and funding of critical research and development. In a number of areas Government has done just that, but in one field—aeronautical research and development—it would appear that successive administrations and Congress may have been far too miserly.

To be specific, on March 11, the Senate Committee on Aeronautical and Space Sciences will be considering the NASA fiscal year 1976 budget request for aeronautical research and development. The request is for $175.7 million, and I cannot help but relate and compare this 1-year Federal investment to the dynamic economic performance last year in the U.S. aerospace industry. I refer to commercial aerospace sales—heavily in jet transports—of $7.5 billion, 43 times the 1976 NASA investment in aeronautics R. & D. Total U.S. aerospace exports last year were $6.8 billion, a year when the United States suffered a trade deficit of $3.1 billion. When one realizes that these records were made almost wholly on yesterday's technology, he logically begins to speculate on the state of tomorrow's technology. In terms of that $175 million NASA request for next year's research and development, one has to ask if this is a sufficient Federal investment in a field so vital to our economy and our posture in the world arena.

This 1-year comparison led me to make an identical one over a longer term. NASA's outlays for aeronautical R. & D. from fiscal year 1970 through fiscal year 1975 total approximately $707 million; the U.S. aerospace industry's contribution to the economy through the sales of commercial aviation products from calendar years 1969 through 1974 totals $31.3 billion. U.S. total aerospace exports for these same years were valued at $26.5 billion of which $19.4 billion were civil aviation products.

The objective of NASA in aeronautics is the preservation of the United States as a leader in aeronautical science and technology. The point of my remarks is that money to support this objective translates into jobs and other economic benefits for a large number of our people.

CHANGE OF ANNOUNCEMENT ON VOTES ON H.R. 2634

Mr. TUNNEY. Mr. President, on Tuesday, February 18, it was my sad duty to attend the funeral of my friend and colleague Jerry Pettis. Under the provisions of Senate Resolution 81, I was appointed the Senate's official representative at the funeral.

There were two votes on H.R. 2634, the debt ceiling bill, in my absence. The RECORD states that I was necessarily absent for those votes. I would like the RECORD to show that I was absent on official business of the Senate when the roll was called for those votes.

UTILIZATION OF FUNDS FOR DEVELOPMENT OF HYDROELECTRIC RESOURCES IN PACIFIC NORTHWEST—SENATE RESOLUTION 82

Mr. CHURCH. Mr. President, I am pleased to cosponsor, with the distinguished Senator from Washington (Mr. JACKSON), a Senate resolution (S. Res. 82) to require the President to utilize funds appropriated by Congress for the timely development of hydroelectric resources in the Pacific Northwest.

The President has proposed the deferral until fiscal year 1976 of $1,000,000 for the Teton Basin project in Idaho. These moneys were appropriated to the Bureau of Reclamation for this fiscal year 1975. While the administration has claimed that deferral of these funds would not jeopardize anticipated on-line target dates, the unstable economy, accompanied by few prospects for immediate improvement, lead me to believe that target dates will be missed unless the commitment to use these funds is maintained.

Construction of the Teton Basin project is well underday with initial storage of water behind Teton Dam scheduled to begin in October 1975. Project plans call for the installation of two 10,000-kilowatt generating units; the first unit is expected to go on-line in June 1976. Ultimately, the project could supply 30,000 kilowatts to the electrical energy supply for Idaho. Further, these moneys could be used to complete early acquisition for right-of-ways, to assure uninterrupted construction on fish and wildlife mitigation facilities, and to initiate the drilling of water replacement wells and the installation of pumps, motors, and recreation facilities.

The proposal to defer $1,000,000 from the Teton Basin project may be just enough to prevent this additional generating capacity from going on-line in this coming year. The dam is there, the storage capacity is there, and now the administration proposes a funding cutback which would prevent the generation of the power. Such a step would be untimely.

SOCIAL SECURITY: A SOUND AND DURABLE INSTITUTION OF GREAT VALUE

Mr. CHURCH. Mr. President, in recent months critics of the social security system have launched attacks on many fronts.

These charges, unfortunately, have cast serious doubts about the value and worth of social security, a program which now affects almost every American family in one way or another.

This is not to suggest—and I want to underscore this point—that social security cannot be improved.

Quite clearly, there are several features which merit immediate and close attention, such as improving the financing, the treatment of women, and others.

But charges which are based upon misleading, false, or inaccurate information serve only to undermine public confidence in this vital institution.

And, these groundless attacks constitute a serious disservice for today's retirees and workers.

Many of these arguments have surfaced in the past and have proved to be baseless. And they have no more ap-

plicability or creditability today than when they were dismissed years ago.

Recently, a bipartisan Ad Hoc Advisory Committee on Social Security—composed of five former Secretaries of the Department of Health, Education, and Welfare and the three surviving Social Security Commissioners—responded to the attacks challenging the soundness of the system.

Their paper—entitled "Social Security: A Sound and Durable Institution of Great Value"—is the product of several of the most knowledgeable authorities in our entire Nation.

This publication, it seems to me, is must reading for every Member in the Senate. And, it deserves the close scrutiny of citizens from all walks of life.

Mr. President, I ask unanimous consent that this publication, "Social Security: A Sound and Durable Institution of Great Value," be printed in the RECORD.

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

SOCIAL SECURITY: A SOUND AND DURABLE INSTITUTION OF GREAT VALUE

Nearly every American has a personal stake in the social security system. Many millions rely on it to safeguard themselves and their families against economic catastrophe when earnings stop because of old age, disability, or death. Attacks on the system designed to create doubts of its soundness and durability are a disservice to the nation.

Several elements of the system, to be sure—the level of benefits, for example, the test of retirement, the benefit rights accorded to women, the adequacy and equity of financing—are quite properly subjects of continuing public debate. Social security has not been and should not be a static structure, for it best serves its purpose if it is adapted to changing times and changing conditions. Public discussion addressed to improvement of the system is both necessary and helpful. But discussion of that kind is very different from assertions that the system is basically unsound, that it is bankrupt, or for some other reason doomed to collapse, or that it is a deception foisted on the American public. Charges similar to these have recurrently been made in the past, and as often have been found baseless. They have no more foundation now than they had when first made nearly forty years ago.

Social security has been probably the most thoroughly and continuously studied, both within and outside government circles, of any program ever enacted by Congress. On five occasions, from 1938 to 1971, the system has been exhaustively reviewed by advisory councils established under congressional auspices and composed of economists and other social scientists and leaders of labor and business, including distinguished actuaries and leaders of the insurance industry. In each instance, the integrity of the system has been vigorously reaffirmed. This history, if it does nothing more, should foster a healthy skepticism toward the current destructive attacks.

The conclusions of these councils have carried much weight and have been an influential factor in bringing about the improvements that have been made in the system over the years. The current statutory advisory council will soon issue a report. Like its predecessors, it has a broad assignment—to review the entire social security program and advise how to make it best serve the public interest. We may well await the recommendations of this council and ensuing congressional hearings on substantive changes in the system which are being widely debated. But we should not wait to deal with irresponsible attacks on the soundness of the structure.

THE ASSURANCE OF FUTURE BENEFIT PAYMENTS

The most vicious of these attacks is the one charging that promised social security benefits may not be paid when they fall due twenty or thirty or forty years hence. To the worker who is compelled to contribute from his earnings every payday, who is counting on these benefits for his security in retirement and for the protection of his family in the meantime, planting seeds of unwarranted doubt is a cruelty.

What are the facts?

The first fact is that the payment of benefits is mandated by the law of the land. A claim to social security benefits is a legal right enforceable in court, and many claims are in fact so enforced when eligibility is unclear. However one may define a "legal right", it certainly embraces a payment commanded by law and judicially enforceable.

The second fact is that Congress has gone far—probably as far as any Congress can go in binding its successors—to assure that future legislators will not, by changing the law, weaken the obligation to pay these benefits. By earmarking the proceeds of social security taxes for the payment of benefits and depositing them in a trust fund for this purpose, by entitling the system insurance, by continuing actions to assure its financial soundness, and by innumerable pronouncements of congressional committees and individual spokesmen, Congress has made clear beyond question its pledge to the American people that the social security commitment will be honored.

The social security system is, in effect, a compact between the people of the United States and their government. Congress, it is true, retains the legal power to violate this compact, which would be a highly irresponsible act, altogether inconsistent with the Congress's 40-year record of responsible action on social security. If there are doubters among us, they should be reminded that a member of Congress who hopes for reelection will not vote to repudiate a promise to virtually his entire constituency. It is inconceivable that a majority of the members of each House of Congress will ever do so.

THE NATURE OF THE CONGRESSIONAL COMMITMENT TO CONTRIBUTORS

The social security commitment differs in an important respect from that of a private insurance company, which in writing a policy fixes its terms in every detail for the life of the policy. Congress, by contrast, has of necessity built an element of flexibility into the national social insurance system. Thus, when Congress has amended the law to improve the benefit structure it has generally given the advantage of the change to those already on the benefit rolls as well as to those who are still contributing. Occasionally, improvement of the structure involves substitution of one benefit for another, as when a provision in the original Act for refund of certain contributions was replaced by the far more valuable provision of dependents' and survivors' benefits. One cannot say that under no circumstances will any individual in this massive system suffer some loss in some future contingency as a result of overall improvements in the system. Such adjustments must, of necessity, fall within the range of flexibility that has been reserved to Congress. What one can say with confidence is that the congressional sense of fair play, reflecting that of the public, gives assurance that the power of amendment will not be abused.

SOCIAL SECURITY IS PROPERLY DESCRIBED AS INSURANCE

It is occasionally asserted that social security is not in fact insurance, that so describing it is misleading, and that its trust funds are grossly inadequate. These assertions have been used by some to foster doubt that the promised benefits will be paid. All these assertions are unfounded.

Although the propriety of its use is a semantic question, the term "insurance" is not without significance to either the congressional or the public perception of social security. Social insurance is a concept long and well recognized across the world, and is one into which social security fits neatly. For good reasons, social insurance differs in important respects from private insurance, but it embodies the central element of financial protection against defined hazards, through a pooling of contributions and a sharing of risks, with benefits payable as a matter of legal right on the happening of stated events. It is fallacious to argue, as some persons do, that the workers' payments are not insurance contributions because they are taxes—all taxes are compulsory contributions, either for the general support of government or for some particular governmental activity, and these payments are none the less contributions to an insurance system because they are also taxes. Congress used the word "insurance" in the statute as one indication of the character of the commitment it was undertaking, and the Supreme Court of the United States has stated that the term "social insurance" accurately describes the program. While anyone has the privilege of dissent, the Court's approval should have put an end to charges that the nomenclature is deceptive.

THE ADEQUACY AND INTEGRITY OF THE TRUST FUNDS

The matter of reserves has been a topic of confused debate almost since the ink dried on the original enactment of social security. In the early days it was said that the contemplated "reserve account" would be unmanageably large; now it is being charged that the social security trust funds are far too small. It was also said in 1936, and is occasionally even said today, that the funds are fictitious because they are invested in government bonds. Charges that social security reserves have been grossly inadequate and charges that they are fictitious have been emphatically rejected by every one of the advisory councils, and they were rejected unanimously as early as 1945 by the social security committee of the insurance industry. A government insurance system which has its future income assured by the taxing power has no need to build up the huge funds that a private insurer would require if it underwrote similar liabilities, and indeed, it would be unwise to the point of irresponsibility to accumulate such sums. The only need for a trust fund is as a contingency reserve large enough to tide the system over any temporary change in income and outgo; if an increase in revenues should be necessary, the trust fund would enable Congress to delay such action during a period of economic recession. As for the worth of the assets in the funds, one need only consider that if a private trustee held these government bonds they would be gilt-edged securities, and then ask oneself how their value disappears when the same bonds are held by government officers as trustees.

The funds reflect the fact that, now, with a substantially mature system, annual contribution income and annual outgo are roughly in balance. This is another way of saying what critics harp on as though it were a demerit, that the benefits paid this year to the aged, the disabled and their dependents, and to survivors of the deceased

derive in the main from this year's contributions by workers and their employers. As long as his benefits are adequately assured by the government's ability to obtain future income, today's young worker need have no concern because his contributions are used to pay today's beneficiaries, or because his future benefits will be paid from future contributions.

OFT-REFUTED CHARGES

The charges thus far considered are, in their main outlines, repetition of earlier efforts to discredit the social security program, and they are no more valid now than they have been in the past. Repeatedly and consistently, Congress, after extended study by its responsible committees as well as the distinguished advisory councils, has found these charges to be without merit.

Other charges, though not new in themselves, have acquired a new emphasis because of the steady rise over recent years in the contribution rate and in the ceiling on taxable earnings, and these charges deserve consideration. The increase in the amount of contributions, of course, must be heavily discounted if one thinks in terms of purchasing power rather than of dollars, and in terms of the increase in personal incomes. But whatever the value of the dollar, providing a decent measure of economic security to the retired, to the disabled, and to widows and orphans is a hugely expensive undertaking. The questions that demand serious thought relate not so much to the total sum which the system raises by taxation as they do to the manner in which the burden is distributed.

THE SOCIAL SECURITY SYSTEM IS NOT REGRESSIVE

It is said, for one thing, that social security taxes are regressive because the wealthy pay smaller percentages of their earned income than do the poor, in contrast to the general income tax, under which the wealthy pay higher percentages. If social security collections were taxes for general support of the government, this charge would be unanswerable; one can hardly imagine that Congress would ever have imposed these levies, or would now allow them to remain on the statute books, except as a part of a social insurance system. This charge illustrates, indeed, the fallacy of looking at the two parts of social security in isolation from each other, an approach which inevitably distorts the issues and loads the argument. The issue here is not whether social security taxes are regressive but whether the social security system, taking into account both benefits and contributions, is open to this charge. The answer to that question is "no." The benefit formula is so designed as to give a larger return for each dollar of contributions to the low-wage earner than to the high.

While there are other factors to be considered, some favoring the poor and some working against them, the net effect of the system is to transfer some income from the more affluent as a group to the less affluent. It is legitimate to argue that the system ought to be made more progressive than it is, as for instance by the introduction of a government contribution derived from general revenues, but it is not legitimate to argue, by disregarding the benefit payments, that the system as now structured is regressive.

Another contention which has gained in prominence with the increasing amount of contributions is that, regardless of the liberality of future returns, the present burden is simply more than people in low and moderate income brackets ought to bear out of current earnings. It is often pointed out that many of these people pay more in social security than in income taxes, though the significance of this comparison is not apparent. Many persons pay more for any number of things than they pay in income taxes, and there is nothing inherently inequitable in charging them more for the protections afforded by social security than they are charged for the general support of government. No one can be dogmatic about what burdens on various income groups are tolerable, or represent good social policy, but to say that the poor are too heavily taxed for social security is to say either that their protection should be reduced or that it should be more largely subsidized by the wealthier segments of society. Not many argue for the former alternative, but the latter is widely and properly a matter of debate.

SOCIAL SECURITY GIVES CONTRIBUTORS A GOOD BARGAIN

Statements have been broadly disseminated that social security gives the contributor a poor bargain, and that he could do far better by investing the amount of his contributions in the private markets. This is not true. If we exclude speculative investments (including investment in the erstwhile "ever-rising stock market"), which can always yield some individual a windfall but can also yield a terrible loss, the individual under the social security system receives better value from the government than he could obtain elsewhere. With the automatic escalation of workers' benefit rights as wages rise, and the automatic cost-of-living increase for those already on the benefit rolls, there is no question at all that the worker receives protection worth more than his total contributions with interest. This is true even if all or most of the employer contribution is assumed to rest on the employee in final incidence (either in the form of lower wages or in terms of higher prices to him as a consumer). As long as protection for current workers is kept up to date via automatic escalation provisions there is no way for the social security contributor to get better protection for his or her money.

IMPROVING SOCIAL SECURITY FINANCING

Congress keeps a watchful eye on the acturial balance of the social security system. It has sought, so far as knowledge available at any given time makes possible, to assure the system of adequate financing both for the short run and for the long run. Thus on the basis of all the information available at the time of the most recent amendments, it was thought that the system was adequately financed within a reasonable range for such estimates.

It now appears likely, however, that the system will require some additional financing. The current rate of inflation is so high that benefit increases tied to the cost of living are outrunning the additional income from higher wages. It is estimated that over the next 25 years income to support the cash benefit program will need to be increased by about 10% to 15%. Much less than this will be needed in the early part of this period and more in the latter part. The additional income could come, of course, in part from an increase in the maximum earnings base rather than entirely from the contribution rate or it could come from general revenues rather than from either. In any event, the size of the problem over the next 25 years is easily manageable and certainly does not constitute a financial crisis.

It is possible that in the very long run, say from 2010 on, the active labor force in the United States may be required to support relatively more retired people than was thought to be the case until recently. The fertility rate in the United States has been dropping steadily since 1957 and is now at a point slightly below the rate that would ultimately produce zero population growth. A continuation of fertility rates as low as those experienced in the last few years would mean that the population aged 20 to 65 would stabilize early in the next century but that the number of older people would continue to grow for some time. If this happens it is inevitable, of course, that a higher proportion of goods and services in the next century will need to go to older retired persons as compared with active workers. This is true quite aside from social security and applies equally to other devices for meeting the needs of older people such as private pensions, public assistance, or any other system that might be designed for that purpose.

Fortunately, the same assumptions that produce an increasing burden of support for older people reduce the burden of support for children. Thus active workers will not have to support any more non-workers than they do today as a result of these changed fertility rates, but under the assumptions they will be supporting more older people and fewer younger people.

There are many ways that the next generation may choose to deal with problems caused by an increasing proportion of older people in the population. One approach would be to increase the labor force participation rate for older people and thus reduce the burden of retirement benefits. And then, too, with smaller families more women might work, again reducing the ratio of retired people to active workers. It may be true, too, that over the long run productivity increases in the United States will help meet the problem of supporting an increasing number of older people.

The 1972 amendments provided for the automatic adjustment of benefits in accordance wtih increases in the cost of living. These amendments also provided that protection for current wage earners would be automatically upgraded as wages and prices changed. The way these provisions work can result in protection over the long run increasing at a rate either more or less than increases in wages, depending on the relative movement of prices and wages. Because of the specific wage and price assumptions used, current cost estimates project that, over the long run, benefit rates at the time individuals come on the rolls will have been increased more than increases in wages.

Congress may wish to consider substituting a formula which assures that protection will automatically keep up with increases in wages but will not exceed such increases. If in the future it seemed desirable for benefits to be increaesd even more, this could be done by legislation. Such a change in the formula would have two results: One, it would provide workers with a greater certainty that benefits would reflect their level of living at the time of retirement, or disability, or death; and, two, it would result in a substantially lower long-range cost than is shown by the current estimates.

WEIGHING THE ALTERNATIVES AND THEIR COSTS

Congress in the years ahead will by no means confine its attention to the problem of financing, but will examine a wide range of issues about particulars of the system. These particulars reflect past judgments of the best use to which available funds can be put, but those judgments have always been and are now open to reassessment. Some of these issues, however, have been seized upon by current critics of the system with the assertion that present provisions of the law are manifestly unjust and that this supposed injustice somehow affords a reason to abandon social security altogether or to change its basic characteristics as a contributory, earnings-related system. Neither part of this assertion holds water: each of these provisions is the product of a considered

weighing of the equities, the costs, and of the arguments pro and con; each of them is subject to change, without disruption of the present system, if change of conditions or change of opinion is found to make that desirable.

THE RETIREMENT TEST

One of the provisions most frequently under attack is the test of retirement. This test, indeed, has been a bone of contention for many years with much support for its abandonment and for the automatic payment of benefits upon attainment of age 65. Basically, social security has been designed as insurance against loss of earnings, and loss of earnings does not occur automatically at age 65. The retirement test is the mechanism that is used to determine whether such a loss has taken place, its effect being reduction or suspension of benefits for periods in which earnings are above stated amounts. The amounts will be increased to keep up to date with rising earnings by the automatic adjustment provisions in present law and, of course, as in the past they may be further increased by amendments to the law, but the present structure of the test is probably as fair a method as can be devised if we are not to abandon retirement altogether as a condition of eligibility.

Some people believe, however, that this condition of eligibility is basically unfair in depriving people of benefits for continuing to work after reaching 65, and that it is undesirable because it stands in the way of people on the benefit roll who wish to supplement their social security income as much as they can. Those who support the retirement test point out that its abolition would cost in the equivalent of a one-half-of-1% increase in the combined employer-employee contribution rate and would benefit less than one-tenth of the people over 65 who are otherwise eligible for benefits. They ask whether funds in this amount are better used to supplement the incomes of those who still have substantial earning power or by spreading the funds among the nine-tenths who do not, or cannot, earn enough to bring them within the ambit of the retirement test.

Arguments such as these have persisted over the years, but they have no bearing on the soundness or durability of the social security system; abolition of the retirement test would aggravate somewhat the problem of financing, but it would no more spell the doom of the program than does retention of the test. Congress has repeatedly considered this issue and has repeatedly concluded that adaptation of the test in response to rising levels of earnings is preferable to its repeal.

A different attack on the retirement test, however, does have destructive implications. This is the contention that if benefits are withheld on account of earnings, they should also be withheld on account of the receipt of private pension payments, dividends, interest, or other unearned income—in other words, that the payment of benefits should be conditioned on a means test. This change would deprive the program of one of its major strengths, its encouragement of people in their working years to supplement their social security protection through savings and private pension plans. The change, indeed, would in all likelihood mean the end of contributory social insurance, since the masses of self-supporting people would hardly put up with paying social security contributions if they knew they would get nothing in return unless they should ultimately fall into the ranks of the indigent.

SOCIAL INSURANCE—NOT A MEANS-TEST PROGRAM

Mechanisms for preventing destitution in old age or in the event of the death or disability of the family breadwinner are, broadly speaking, of two kinds, contributory and noncontributory. The nation has chosen contributory social insurance as the primary mechanism, and those who would abandon that system must be prepared to substitute some form of noncontributory aid to those groups in the population who are now eligible for social security benefits.

A 100-percent noncontributory system, lacking the compact between government and contributors that is built into social securtiy, could offer no comparable assurance to worikng people, or even to those already on the rolls, that the promised benefits would not be curtailed in times of budgetary stringency. Designing such a system, moreover, would raise many thorny questions in specifing who should receive benefits, how large they should be, and how, if at all, their amounts should be varied.

There is an almost infinite variety of theoretical answers to these questions but the hard reality is that a noncontributory system would almost inevitably come to rest upon a means test so that no one would receive benefits until after poverty had overtaken him. Why, the argument would run, should the general taxpayer support persons who can support themselves if they have made no contribution to their own insurance protection? The experience of public assistance (commonly known as "welfare") augurs ill for the willingness of taxpayers to help their fellow citizens who are thought, rightly or wrongly, to be able in one way or another to support themselves. It is not likely that taxpayers would be willing or that Congress would be willing to compel them to provide noncontributory benefits without a means test and at a comparable level of adequacy to the thirty million people who now receive social security benefits—the elderly, the disabled, and their dependents, the widows and the widowers, and the motherless or fatherless children.

The benefits these people now receive are earned rights based on their past work and contributions, or on those of family members, thus reflecting their previous standards of living and serving in some measure as a reward for diligence. The benefits are payable without scrutiny of individual means and needs and so permit supplementation by anything the recipients have been able to save. Because they are payable as an earned right, the benefits accord with the self-respect of people accustomed to providing for themselves. It is small wonder that Congress and the people have preferred contributory social insurance to a system benefiting only those who can show themselves to be destitute.

The working portion of our population must, in one way or another, support that portion that is not working and does not have enough resources to meet the cost of living. Most non-working wives and children are supported, in normal course, by family breadwinners. The retired and the disabled, the widows and orphans, on the other hand, commonly have neither family support nor savings sufficient to maintain them, and some governmental mechanism is essential if they are not to be allowed to go hungry.

The ultimate question posed by current attacks on social security is whether the American people should continue to support contributory social insurance which is designed to prevent poverty from occurring, or should place basic reliance on measures to relieve poverty after it has become a fact. Necessary as relief programs are, most of us think them a poor second to prevention.

Critics who say that social security is nothing but a "welfare" program probably intend the remark to be pejorative. If so, in using this word they speak more truly than they know. Social security is indeed "welfare" in the true sense of the word, which is the sense also in which the Constitution uses it. The system was created by an exercise of the power of Congress to raise and spend money to "provide for the . . . general welfare of the United States"—the welfare of all the millions of people who, though now self-supporting, would without social security quickly face destitution if or when earnings cease because of old age or disability, or support ceases because of death of a family breadwinner; as well, of course, as the welfare of the other millions who have already suffered one of these deprivations. "The hope behind this statute," said Mr. Justice Cardozo in 1937, "is to save men and women from the rigors of the poorhouse as well as from the haunting fear that such a lot awaits them when journey's end is near." That hope has been too largely fulfilled to make for tolerance of those who would now destroy it.

SENATOR FRANK CHURCH: A DISTINGUISHED RECORD OF ACHIEVEMENT FOR OLDER AMERICANS

Mr. MANSFIELD. Mr. President, the Senate Committee on Aging was created in 1961 to be a focal point and advocate in the Senate on behalf of the Nation's elderly.

Over the years the committee has provided valuable service to aged and aging Americans, as well as our Nation as a whole.

In large part, this is because of outstanding leadership during its 14 years of existence.

The present chairman—Senator FRANK CHURCH—exemplifies this quality.

During his 4 years as chairman, he has consistently been in the forefront on everyday issues of direct concern to the elderly.

Above all, he has been an extraordinarily effective advocate for older Americans, with numerous legislative accomplishments including:

Enactment of a 20-percent social security increase, the largest dollar raise by far in the history of the program;

Establishment of a cost-of-living adjustment mechanism to make social security benefits inflation-proof for the elderly;

Strengthening of the Age Discrimination in Employment Act to open the door to new job opportunities now denied older workers; and

Approval of last year's two-step, 11 percent social security increase.

Senator CHURCH has never lost a floor amendment on an issue affecting the elderly since being named committee chairman. And, most of his Senate-passed amendments have been enacted into law.

A few weeks ago he won the support of a clearcut majority for his proposal—Senate Concurrent Resolution 2—to express congressional opposition to any reduction is the July social security cost-of-living increase, such as the administration's proposed 5-percent ceiling. With such backing the Nation's elderly can be more confident that they will receive the full amount of the cost-of-living raise.

Now, he is also leading the way on other legislation of direct concern for the aged, including an independent, nonpolitical Social Security Administration; an Older Americans Tax Counseling Assistance Act; modernization of the retire-

ment income credit; and extension of medicare coverage to include essential out-of-hospital prescription drugs.

All of these proposals have generated strong bipartisan support.

The Senate is, indeed, fortunate to have an individual with his capabilities and integrity.

And, I wish to pay special tribute to his effective leadership on behalf of older Americans.

TIME TO GET OUT OF KOREA

Mr. CHURCH. Mr. President, for several years the United States has been struggling to aline its foreign policy with its real national interests. The Nixon doctrine was propounded to reduce our commitments in Asia while allowing friends and allies to provide for their own defense. And, while rhetoric has outstripped deeds, there has been progress—with two or three notable exceptions.

The most notable of these exceptions is South Korea where the United States still maintains 38,000 troops at a cost of $1 billion, more than 20 years after the Korean war. How can this commitment be squared with the fact that South Korea possesses the world's fifth largest army—625,000 men under arms—and some of the most sophisticated weaponry in existence? Retired Adm. Gene LaRocque, director of the Center for Defense Information in Washington, argues that our continued deployment of troops in Korea imperils our security rather than enhances it.

In an article printed in the December 18 edition of the Los Angeles Times, Admiral LaRocque points out that our troops are actually being used as hostages in order to require the reentry of a large American ground force in the event of future hostilities. Moreover, our weapons are vulnerable to capture by enemy forces and our presence helps to maintain in power an oppressive political regime.

President Ford has recently offered indefinite support for President Park in the form of our hostage troops, but the President does not alone make foreign policy. Congress should move this year to reduce our expensive involvement in South Korea and Admiral LaRocque's article should help us to understand the reasons why.

I ask unanimous consent that the article "United States Should Leave Korea—For Money, Security," be printed in the RECORD.

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

UNITED STATES SHOULD LEAVE KOREA—FOR MONEY, SECURITY

(By Gene LaRocque)

In between his recent visits to Japan and Vladivostok President Ford squeezed in a short stop in South Korea to perpetuate American support for the military dictatorship of that country. Specifically, Mr. Ford promised to keep 38,000 U.S. troops in South Korea indefinitely and to give more millions of dollars to support the Korean military.

As President Ford, faced with a worsening U.S. economy, seeks ways to ameliorate hardship at home without contributing to inflation, he would be wise to reverse signals about South Korea. That is one area of the world where our military budget could be cut—with positive advantages to U.S. national security. Savings and security could be combined—simply by withdrawing all American soldiers from South Korea.

Prompt withdrawal could save more than $1 billion in the Defense Department budget. Since the end of the Korean war, we have poured $11 billion into maintaining U.S. troops in South Korea. What we have bought for our money is the regime of Gen. Park Chung Hee whose despotism is embarrassing us diplomatically and hurting us strategically.

Militarily, we have done more than enough. The South Koreans simply don't need us any more. They have a powerful force of 625,000 men equipped with modern aircraft, tanks and surface-to-air missiles. South Korea, with a population twice that of North Korea and a gross national product three times greater, has the fifth-largest military force in the world. Even Secretary of Defense James R. Schlesinger conceded recently that "South Korea has the manpower, firepower and defensive position to repulse a North Korean attack without U.S. ground support."

In no way does our presence contribute to the defense of the United States. In fact, stationing troops in South Korea weakens our national security. Just by being there, they could cause our automatic involvement in another costly land war on the Asian mainland, whether triggered by President Park or the North Koreans. Our 38,000 troops, in short, would be hostages requiring help from other U.S. forces to prevent their capture.

The largest U.S. contingent now deployed there is the 2nd Infantry Division, which has been stationed near the North Korean border for more, than 20 years. If fighting flared, this division would certainly be the first unit to become involved regardless of who attacked first—and regardless, too, of military problems that might be arising elsewhere in the world. (Danger of this kind would become particularly acute as our oil stores diminish.)

The presence of a great number of U.S. weapons in South Korea—many of which can be armed with nuclear warheads—also presents a problem of enormous gravity. These weapons are vulnerable to capture by enemy forces in time of war or by various groups, perhaps terrorists, in South Korea itself. Beyond that, their withdrawal would save us the expense of storing and protecting them on Korean soil.

Given the potential for political turmoil in South Korea, U.S. nuclear weapons could become political weapons in efforts to involve this country in war against the north. Thus the withdrawal of such weapons—they are now deployed in forward areas—would enhance, not weaken, U.S. security. (Indeed, we should reexamine our general policy of stationing nuclear weapons in many parts of the world.)

The military rationale for U.S. troops in Korea no longer makes sense—and I am not alone in holding this view. Let me once again quote Secretary Schlesinger, who told a congressional committee this year that "The justification for those forces is no longer primarily a military one—the political purpose is primary now."

Yet, unless the United States recognizes the negative political consequence of its close identification with President Park's oppressive political regime, we may repeat in South Korea our experience in Greece where, in order to hold onto military bases, we supported a military dictatorship, lost the goodwill of the people—and, in the bargain, probably weakened our long-term security interests in the area.

A stepping down of our military involvement in Korea, accompanied by diminished support for Park's dictatorship, would permit the political situation in South Korea to evolve in a more democratic and stable direction, benefiting both that country and our own.

One specific benefit to the United States—in addition to a saving of about $1 billion—is that we would regain our option of whether to go to war again in Korea if war were to break out there. Our withdrawal, in fact, might well ameliorate hostility between North and South Korea, for once their forces have achieved relative parity, they might learn to live with one another.

Thus, if President Ford means what he says about budget reductions, one place to start is South Korea. It is, of course, in the best interest of the United States to maintain a strong national defense, but this does not mean that the proposed military budget should be swallowed whole. Far from contributing to our defense posture, the presence of U.S. troops and weaponry in South Korea is as counterproductive as it is wasteful.

FISCAL 1976 BUDGET: MORE "BAD NEWS" FOR THE ELDERLY

Mr. CHURCH. Mr. President, in recent weeks the administration has described the "bad news" for the American public on several fronts:

An 8.2 percent unemployment level, the highest since 1941;

A 12.2 percent inflationary rate in 1974, representing the greatest jump in prices since 1946; and

The ominous prospect of increased gasoline costs and fuel shortages in the months ahead.

A few days ago the President had more bad news—especially for older Americans—when he submitted his fiscal 1976 budget to the Congress.

His new budget calls for $349.4 billion in Federal spending and a $51.9 billion deficit, a peacetime record.

And the spending request for the Pentagon is also at an all time high—$106.34 billion, or $15.58 billion more than was appropriated for the present fiscal year.

But the recent budgetary recommendations provide a clear signal that the administration has given the elderly a low priority on the list of groups to be helped.

Such actions can only aggravate an already serious—and even critical—situation for persons struggling on limited incomes in a period of unacceptably high inflation.

In terms of discretionary spending for programs serving aged and aging Americans, the administration's budget reflects retrenchment and an almost total insensitivity to the needs of the elderly.

Perhaps even worse, the administration shows a willingness to tamper with the social security trust funds.

The administration has, for example, proposed a 5-percent ceiling for the July social security and supplemental security income cost-of-living raises.

However, 53 Senators have joined me in sponsoring Senate Concurrent Resolution 2 which puts the Congress on record in opposition to any reduction in the cost-of-living increase. With such strong bipartisan support, social security and supplementary security income benefici-

aries can hope that they will, in fact, receive the full automatic adjustment as provided by law.

The administration also proposes a cutback in the food stamp program.

One Department of Agriculture official informed the Community Nutrition Institute that conceivably one-half of all aged individuals and couples might be forced to leave the program because of the administration's proposed increased charges.

Fortunately, Congress has overwhelmingly approved legislation, H.R. 1589, to prohibit an increase in charges for food stamps for 1975. This action can provide welcome relief for low-income persons who find their purchasing power eroded with each passing day.

President Ford recently announced that he would allow H.R. 1589 to become law, although without his signature.

On other fronts, the administration has launched a systematic attack to reduce Federal expenditures for services for the aged, at a time when inflationary pressures are driving up the costs of these programs.

A $42.4 million cutback in funding for programs under the Older Americans Act is recommended in the new budget: the largest dollar and percentage reduction in the entire history of the act.

No funding is requested for the third consecutive year for the Older American Community Service Employment Act, although unemployment for persons 55 and above has increased by 52 percent since July 1974.

The administration has also requested no funding—again for the third consecutive year—for the senior opportunities and services program. Yet, 1 million low-income elderly persons receive valuable services which can help them to live independently in their own communities.

No additional lending authority is requested for the section 202 housing for the elderly and handicapped program, although many older Americans live in dilapidated, deteriorating, or unsuitable housing.

A $1.8 million reduction is also proposed for ACTION'S aging programs—Foster Grandparents, the Retired Senior Volunteer program, Service Corps of Retired Executives, and Active Corps of Executives.

There are, however, a few encouraging notes in the administration's budget.

First, a proposed funding increase for the National Institute on Aging would allow it to support 157 grants and projects relating to the biological, social, and behavioral aspects of the aging process. This compares with a projected level of 147 for the present fiscal year.

Second, the administration is calling for only $150,000 more in funding for enforcement activities under the Age Discrimination in Employment Act. This amount would support the same number of positions as projected for this year, even though more are dearly needed.

Third, about one-third of estimated expenditures for social services under title XX of the Social Security Act is projected for aged, blind, and disabled persons.

During the months ahead, each Member of Congress must give close attention to the Federal budget in terms of making difficult decisions about spending priorities.

As the chairman of the Senate Committee on Aging, I have called upon the staff to make an analysis of the impact of the new budget upon older Americans. A detailed summary should be available within the next few days.

In the interim, the staff has prepared a brief memorandum describing the highlights in the 1976 budget.

Mr. President, I commend this document to my colleagues, and ask unanimous consent that it be printed in the RECORD.

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

IMPACT OF FISCAL 1976 BUDGET UPON ELDERLY: A PRELIMINARY REPORT

President Ford's proposed $349.4 billion budget for fiscal 1976, submitted to the Congress on February 3, includes several recommendations of direct importance to older Americans.

A detailed analysis of these budget proposals will soon be mailed to those who regularly receive the memorandum.

In the interim, the Committee on Aging has prepared this brief summary of the budget highlights:

Older Americans Act: A $42.4 million cutback from the fiscal 1975 appropriation is proposed for AoA program. $202.6 million total: $96 million for Tilte III, $7 million for Title IV Research, and $99.6 million for Title VII Nutrition. Miscellaneous funding requests: (1) $10.2 million for AoA salaries and expenses, the National Information and Research Clearing House, and staff for the Federal Council on the Aging and (2) approximately $500,000 for the Federal Council on the Aging. (For further information, see "Rescissions for Fiscal 1975 Expenditures.")

Social security: Projected retirement, survivor, and disability benefit payments: $72 billion for 33.5 million persons (incorporates Administration proposed freeze of cost-of-living increase at 5 percent; see p. 2 for discussion of Congressional response).

Medicare: Estimated at $15.5 billion for hospitalization and medical protection for nearly 24 million aged and disabled beneficiaries.

Supplemental security income: Projected at $5.5 billion for fiscal 1976, about $600 million above the estimated fiscal 1975 level.

Housing: No additional lending authority requested for section 202 housing for the elderly and handicapped. No additional authority for conventional public housing. $662.3 million in contract authority requested for section 8 housing assistance payments.

ACTION'S aging programs: Fiscal 1976 request is about $1.8 million below the fiscal 1975 appropriations: $25.93 million for Foster Grandparents, $1.64 million for Senior Companions, $17.5 million for RSVP, and $400,000 for SCORE and ACE.

Food stamps: $3.85 billion requested for fiscal 1976, assuming Administration's proposal to raise the price of food stamps (see discussion below) becomes effective. If Congress blocks this measure, projected spending is $4.5 billion.

Nursing home care: Projected at $239 million under Medicare and $2 billion in Federal funds under Medicaid.

Home health care: Total Medicare home health reimbursement estimated at $148 million ($98 million under Part A and $50 million under Part B), or less than 1 percent of Medicare's projected outlays.

National Institute on Aging: Budget recommendation $16.19 million for fiscal 1976, compared with $15.74 million for fiscal 1975. Fiscal 1976 request expected to support 157 grants and projects, up slightly from the fiscal 1975 level of 147.

Aging research at NIMH: Only about 0.4 percent of the National Institute of Mental Health's funding request for fiscal 1976 ($306 million) would be specifically targeted for aging research ($1.32 million).

Age discrimination in employment: $2,168,000 for enforcement activities. Would support 81 positions, the same number assigned in fiscal 1975.

Senior opportunities and services: No appropriations requested for third consecutive year. SOS now operates under a continuing resolution. For fiscal 1975, $7.5 million is allocated to SOS to continue operations through March 31, 1975.

Social services for adults: $608 million for aged, blind, and disabled, or about one-third of proposed $1.95 billion total estimate for fiscal 1976. However, total Federal outlays would be reduced by $488 million if Administration's recommendation to reduce Federal match (from 75 to 65 percent in fiscal 1976 and to 50 percent in 1977) is adopted.

Older American Community Service Employment Act: No funding requested for the third consecutive year. Congress appropriated $12 million for current fiscal year.

Railroad retirement annuities: Payments for retirement, disability, spouse, and survivor benefits projected at $3.3 billion in fiscal 1976, nearly $300 million above fiscal 1975 estimate.

Community education: $4 million request—$13 million below $17 million fiscal 1976 authorization ($12 million for program grants and $5 million for training).

RESCISSIONS FOR FISCAL 1975 EXPENDITURES

On January 30 the Administration called for rescissions in appropriations already made by the Congress for fiscal 1975. Among the major rescissions for aging programs: (1) A $9 million cutback for the Title III State and Community Programs under the Older Americans Act, from the Congressional appropriation of $105 million to the Administration's budget request of $96 million; (2) Elimination of the $8 million appropriation for Title IV Training; (3) a $25.4 million funding reduction for the elderly nutrition program, from $125 million to $99.6 million; (4) Impoundment of the entire $12 million appropriation for the Older American Community Service Employment Act; and (5) A reduction in the budgeted amount for the National Institute on Aging, from $15.74 million to $14.1 million. Under the new Budget the Impoundment Control Act, both the House and Senate must pass a rescission bill within 45 days of the President's proposal to ratify the recommended reduction in funding. Otherwise, the funds must be spent by the Administration.

OPPOSITION TO 5 PERCENT CEILING ON COST-OF-LIVING INCREASE

Fifty-three Senators have joined Senator Church in sponsoring S. Con. Res. 2 which expresses Congressional opposition to any proposed reduction in Social Security benefits. In his State of the Union message, President Ford called for a 5 percent ceiling for the July cost-of-living raise. Based on present estimates, the cost-of-living increase is expected to be about 8.7 percent for nearly 31 million beneficiaries. The strong bipartisan

support for S. Con. Res. 2 virtually assures Social Security beneficiaries that they will receive the full amount of the cost-of-living adjustment, as authorized by law. S. Con. Res. 2 would also have the effect of nullifying the proposed 5 percent lid on increases in the Supplemental Security Income standards this July, since the SSI automatic escalator provision is pegged to the Social Security automatic adjustment mechanism. (For more information, see January 21, 1975 Cong. Rec., pp. 889–891.)

CONGRESS VOTES PROHIBITION ON INCREASED FOOD STAMP CHARGES

The House of Representatives (by 374 to 39 on February 4) and the Senate (by 76 to 8 on February 5) passed H.R. 1589, which would prohibit an increase in charges for food stamps for 1975. The Administration proposed to require nearly all Food Stamp households (except those not required to pay because they have little or no income) to pay 30 percent of their income to purchase food stamps. (For more detailed information about the Administration's proposal, see 12/20/74 MEMORANDUM.) President Ford announced on February 13 that he would allow H.R. 1589 to become law without his signature.

SPEAKER NAMES RANDALL CHAIRMAN OF HOUSE AGING COMMITTEE

House Speaker Carl Albert named Representative William J. Randall (Mo.) as the Chairman of the House Select Committee on Aging on February 6. Other new members of the Committee include Representatives Pepper (Fla.), Matsunaga (Ha.), Roybal (Ca.), Rooney (Pa.), Biaggi (N.Y.), Flowers (Ala.), Andrews (N.C.), John Burton (Ca.), Beard (R.I.), Blouin (Ia.), Bonker (Wash.), Downey (N.Y.), Florio (N.J.), Ford (Tenn.), Hughes (N.J.), Lloyd (Tenn.), Santini (Nev.), Wilson (Ca.), Wampler (Va.), Hammerschmidt (Ark.), Heinz (Pa.), Cohen (Me.), Sarasin (Conn.), Walsh (N.Y.), Grassley (Ia.).

CHURCH INTRODUCES INDEPENDENT SOCIAL SECURITY AGENCY BILL

Senator Frank Church, Chairman of the Senate Committee on Aging, introduced the Social Security Administration Act (S. 388) on January 27. S. 388 would (1) establish the Social Security Administration as an autonomous agency outside the Department of Health, Education, and Welfare and place it under the direction of a three-member governing board appointed by the President with the advice and consent of the Senate; (2) prohibit the mailing of notices with Social Security and Supplemental Security Income checks which make any reference to elected Federal officials; and (3) separate the transactions of the Social Security trust funds from the unified budget. Cosponsors of S. 388 include Senators Clark, Humphrey, Kennedy, Biden, Ribicoff, Williams, Hart of Michigan, Burdick, Tunney, Huddleston, Hatfield, and Schweiker.

HEARING: TRENDS IN LONG-TERM CARE

To continue at 9:30 a.m. Wednesday, February 19, in Room 1318.

RECENT COMMITTEE HEARINGS AND REPORTS

(Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.)

Nursing Home Care in the United States: Failure in Public Policy: Supporting Paper No. 2: Drugs in Nursing Homes: Misuse, High Costs, and Kickbacks, Stock No. 052–070–02701, $1.20.

Protecting Older Americans Against Overpayment of Income Taxes (A Checklist of Itemized Deductions), Committee Print, Stock No. 052–070–02228, 30¢.

Action on Aging Legislation in 93D Congress, Committee Print, Stock No. 052–070–02641, 30¢.

Future Directions in Social Security: Part 7, Stock No. 052–070–02731, $1.55. Part 8, Stock No. 052–070–02732, $1.55.

THE ENERGY CRISIS: A MUTUAL PROBLEM

Mr. BARTLETT. Mr. President, on February 9 and 10, I participated in a seminar in Lausanne, Switzerland which was attended by representatives of oil producing and oil consuming nations. Considering the current debate on our economy and energy, I am confident all Senators would be interested in the results of this meeting.

I ask unanimous consent to have the Georgetown University Center for Strategic and International Studies summary of this seminar printed in the RECORD.

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

CSIS HOLDS PRODUCERS-CONSUMERS SEMINAR

WASHINGTON. The Center for Strategic and International Studies of Georgetown University, Washington, D.C., organized a seminar in Lausanne, Switzerland, on February 9th and 10th, 1975, to discuss the problems facing oil-producing and oil-consuming states. This was part of an ongoing series of CSIS seminars.

Among those who attended the seminar were:

His Excellency Ambassador A. Dabbagh, Permanent Representative of Kuwait to the United Nations, Geneva; His Excellency Dr. Reza Fallah, Deputy Chairman of the National Iranian Oil Company; U.S. Senator William Roth; U.S. Senator Dewey Bartlett; U.S. Congressman Al Ullman; and U.S. Congressman Mike McCormack.

The major conclusion to emerge from the meetings was that preoccupations over the short-term effects of the energy crisis—issues such as the maintenance of international liquidity and the minimalization of balance of payment deficits—had obscured the communal nature of long-term problems.

Both producers and consumers are gradually becoming aware of the fact that they face mutual problems of how to develop new sources of energy in order to cope with the ultimate exhaustion of the world's petroleum reserves.

The industrialized states need energy as their very life blood. The current oil-producing states need revenues for their development and will need energy and revenues from other sources to maintain their economies when their petroleum reserves have been fully exploited.

The seminar felt that much more emphasis should be given to the shared nature of these problems—one participant from an oil-producing country expressed the feeling succinctly, when he remarked that "we are all in the same boat together." Under such circumstances, cooperation, not confrontation, is the key to success.

The seminar discussed problems associated with price levels and with the investment of oil surplus revenues, but no consensus of opinion was reached. These revenues were no longer believed to be as large as was once feared, but they remain a potential source of instability to the financial system of the free world. It was felt that the industrial countries should seek investment capital from the oil-producing countries. In order to foster this process, the industrialized countries should provide guidelines for potential investors and define those areas of economic activity in which investment would be welcome. The development of new forms of energy was indicated as one possible and fruitful area which merited further joint study.

The seminar gave much time to a review of the suggestion by H.E. Dr. Fallah for the creation of a special energy bank and the issuing of convertible energy bonds to deal with the surplus funds after other measures have been taken. While there was disagreement as to the particulars of the scheme, there was general agreement that the concept held out great promise. This proposed solution, which might put an end to the present crisis, could take the form of the deposit of some, or all, of the remaining surplus oil funds in a special energy bank which could be an entirely new and independent organization, or function under the auspices of the World Bank.

Against the funds deposited, the new bank would issue long-term convertible Energy Bonds, the normal value of which would be expressed in units of both energy and currency that would correspond with the cash value of the energy on the date of issue. To further assist the liquidity of the banking institutions of the West, all interest on these convertible energy bonds could be cumulative.

At maturity the bank would, at the discretion of the depositors, either arrange for the return of an increased amount of energy of a similar type adjusted in accordance with the appropriate money interest rates, or its prevailing market value: or just the nominal value of the bond plus interest. Such repayments would, of course, be extended over a period of time to be agreed.

Such an arrangement would remove the petroleum exporting countries' fear of inflation and encourage them to produce sufficent supplies for the world's energy needs during the transitional period. The seminar recognized that such a scheme would not be easy to implement, but it welcomed the plan as an imaginative, novel, and far-sighted approach to the problem of ensuring the correction of the imbalance which at present is dislocating the economies of the Western countries and as a means of safeguarding the value of the surpluses that are being accumulated by the producing nations. It was, however, agreed that the scheme needed further elaboration and studies of the working details to ascertain whether its implementation will achieve its desired objectives, but that further study is certainly merited.

The seminar felt that the frank exchange of views which had taken place was most valuable in revealing the true community of interests which exists between oil producers and consumers. The seminar felt that further investigation of these mutual problems was necessary and would reinforce the ability of each side to appreciate the difficulties faced by the other. The problems, the seminar recognized, are enormous; but they are not divergent, and solutions can be achieved only within the framework of a dialogue, and in the atmosphere of mutual understanding and cooperation.

OLDER AMERICANS VICTIMS OF INFLATION

Mr. CHURCH. Mr. President, the staff of the Senate Special Committee on Aging is now preparing a study of the administration's fiscal year 1976 budget request as it would affect older Americans.

The analysis of necessity must deal with huge numbers: billions of dollars

sought, or not sought, for the many programs and activities related to aging.

The committee will report that several of the assumptions on which the budget is based are bad news for the elderly. The administration, which requests new billions of dollars for military weapons, would increase the costs of medicare and food stamps. It would freeze a social security increase this July at 5 percent, even though Congress made a compact promising the elderly and other social security recipients an increase which would amount to about 8.7 percent in that month.

I am happy to report that Congress has readily recognized the inequities involved in many of the President's proposals. It has already voted against the increase in food stamp costs. In the Senate, more than a majority of members are cosponsoring my resolution in opposition to the proposed 5 percent freeze in social security benefits.

Congress will fight many of the so-called cost savings which have been tucked into the budget. For example, the administration is also seeking significant cutbacks in the Older Americans Act at just the time that agencies on aging—established under authority of 1973 amendments—are finally beginning to function. Here again the "saving" would be costly; it would triple programs and staffs at a crucial time.

While we in the Congress deal with the statistics of the budget request, the elderly citizens of our Nation must deal every day with the cruel realities of inflation. To them, the need is now; they need no economic theory to tell them that fixed income in a time of rising costs spells misery.

The U.S. News & World Report conducted interviews recently with scores of persons living on social security and other modest retirement income. In the February 10 issue, that magazine gave a gripping account of the daily struggle now going on among this Nation's retirees. I ask unanimous consent to have that article printed in the RECORD.

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

LIFE FOR THE ELDERLY IN 1975—MANY ARE HUNGRY AND AFRAID

SAN FRANCISCO.—For more and more of America's 21.8 million persons who are aged 65 and over, the current runaway inflation is turning life on a fixed income into a deepening nightmare.

In slum areas of big cities, elderly men and women who can no longer afford rentals elsewhere are congregating in "gray ghettos." Often, they are pinned to their shoddy hotel rooms by fear of thieves or muggers roaming the streets outside.

More-affluent retirees are giving up small luxuries, and cutting back on food and clothing purchases as they eye a newly uncertain future.

Here in San Francisco, which many Americans see as Dream City, an 82-year-old retired police officer watches his life's savings drain away as he awaits an increase in his meager pension.

In one blue-collar neighborhood, an elderly man who retired on what he thought was an ample pension has taken to going up and down the streets daily asking people if they want their lawns cut.

GOING WITHOUT SUPPER

In the "gray ghetto" north of Market Street, a 72-year-old man who once dealt cards in Nevada casinos fears another rent increase for his hotel room. He canvasses nearby restaurants daily, hoping to save a few pennies on meals.

"When the end of the month comes, I am usually down to my last few dollars. When that happens, I sometimes skip supper," he said.

Hundreds, if not thousands, of San Francisco's elderly live on the brink of the abyss—skimping on meals and agonizing over prospects of higher costs of food stamps, rentals and medicare.

One frightened woman told an interviewer at a free medical clinic offering subsidized meals:

"I haven't a penny for food. I can eat here tomorrow, but then what do I do until Tuesday?"

THE LUCKIER ONES

Not all retirees are that badly hit by inflation. A substantial minority of America's elderly enjoy retirement incomes of $10,000 a year or more, enough to provide most with a comfortable living for the time being.

Most secure of all, except for the rich, are middle and upper-bracket retirees from Government bureaucracy whose benefits are raised every six months to meet cost-of-living rises.

One Government retiree in the San Francisco area boasts that he is making two thirds more than he did at the time of his retirement in 1965. Within the past year alone, he has received two increases, and another is imminent. He said:

"I have more money and time now than I know what to do with."

For most of the elderly, however, high-flying inflation is becoming the harsh and governing fact of their remaining years—not only in San Francisco but across the nation.

Michigan's acting director of services to the aging says that one third of those aged 60 or older now are eating fewer than three meals a day, and that the situation may be worsening.

In New Orleans, where 59 per cent of those over 65 have incomes of $3,000 or less, an authority on aging noted:

"These people usually live alone and have to cover all their own expenses—which are higher because of the need for transportation and special needs for medical care.

"It's a bigger problem than for the impoverished younger person."

Director Alice M. Brophy of New York City's Office of the Aging reports that most of the aged "have no place to retreat to" as food staples of the poor—margarine and hamburger, for instance—soar in price.

In Miami, senior citizens are pushing for a State-run lottery to help older people survive inflation by providing free medical care for all.

Said a spokesman:

"Inflation is starving senior citizens—that's what it's done. Many times when they finish paying their rent they don't have the money for food stamps, even though they're entitled to them."

In Atlanta, an official of the Southeastern Council on Aging observed:

"These are people who went through the depression, World War I, World War II and then saw their sons and grandsons going off to war in Vietnam.

"They're sturdy people and they've come through all these things. If the economy gets bad enough, they may have to go through another one."

The full story of what today's soaring inflation is doing to the nation's elderly is not easy to obtain.

In San Francisco, where one out of five persons is aged 60 or more, about 5,000 of the elderly poor are getting at least one government-subsidized hot meal on weekdays.

Official estimates, however, are that at least 50,000 could benefit from this service—though rising food costs and proposed federal cutbacks threaten the limited programs now being offered.

SILENCE AND PRIDE

Furthermore, untold thousands of middle-class retirees are believed to be enduring the miseries of inflation in bitter silence and pride rather than seeking welfare of any kind.

At a clinic that serves older people in a rundown area of San Francisco—"The Tenderloin"—a social worker has this to say:

"Some who come in at mealtime will leave without eating because they don't want to let people know they are without the 50 cents paid by those who can afford it."

To get a reasonably broad picture of the situation—in microcosm, the story of what millions of elderly people are experiencing throughout the nation—a staff reporter of "U.S. News & World Report" spent many days and evenings talking with scores of men and women on fixed incomes. A few of the case histories:

Mrs. Jean Mellor, 74, who is separated from her husband in Rhode Island, came to San Francisco a year ago. For a time she lived on $81 a month from Social Security, getting by on one subsidized meal daily plus fruit.

"If I didn't have food stamps, I would never have been able to do it," she says. "I would have starved."

She now receives $255 a month—some in Social Security, but most in public assistance.

With that help, she is able to live in a shabby but spacious room in "The Tenderloin," amid its seedy hotels and cheap bars.

It is a section where more than 15,000 elderly poor live—for the most part in small rooms and without adequate medical care or attention. Some are getting only the minimum $81 a month, and a few complain that there has been no increase in their checks for the last 10 years.

Like other older persons, Mrs. Mellor worries about the high rate of crime, the prostitutes and drug pushers. Purse snatchings are common, especially when Social Security checks arrive and the elderly go out to cash them. Mrs. Mellor says:

"You can't protect yourself. Most older people stay off the streets after 3 o'clock."

Rising prices agitate her. She says:

"You know there are people out there starving in the street. There are people eating out of the garbage cans. Do you believe that? Right out of the garbage can! Do you know how rough it is when you have to pay so much for a loaf of bread?"

In recent months, Mrs. Mellor says, she has become involved with a group of senior citizens—the "North of Market Tenants Organization"—to demand better benefits and services from municipal, State and federal bureaucracies.

She explained:

"A lot of the old men and women around here can fight for themselves. But the huge majority can't They're too tired with life.

"I want to change that attitude. We may all be poor here, but we're going to fight back."

A TEACHER'S STORY

In another part of the city lives Miss Elsie Schou, a retired history teacher who is proud of the fact that former Governor Pat Brown was one of many well-known Californians who passed through her classroom at Lowell High School here in her 46-year career.

Miss Schou retired in 1954, and her present retirement income from two pension funds is close to $6,000, representing only a modest increase since then, though some prices have doubled in 20 years.

Two years ago she had to sell her car, she said, adding:

"Now I travel by Yellow Cab—but even that has gotten too expensive."

When Miss Schou moved into her two-bedroom, two-bath apartment 18 years ago, the rent came to $135 a month, including utilities. Today it is $240, and now she has to pay her own gas and electric bills.

Because of the accelerated pace of inflation, she said, she has had to cut back on food, clothing and household purchases. She observed:

"The cost-of-living increases have caused problems for me and other teachers. It's getting tough for many to survive."

Across the San Francisco Bay, in the town of Richmond, retired asbestos worker Art McClure and his wife consider themselves lucky. Because she helps manage a 12-unit apartment building, they don't have to pay rent on their two-bedroom apartment. Mr. McClure, now 63, retired in 1971 after asbestos particles collecting in his lungs brought on asbestosis and an operation for removal of a lung.

The McClures get two checks—a disability benefit from Social Security and his union pension. Together, the benefits add up to $556 a month, and both checks are covered by cost-of-living provisions.

UNCERTAIN FUTURE

Even so, Mrs. McClure says, life is becoming more of a struggle, so they no longer go out occasionally for dinner. They find it hard to plan for the future. She says:

"The building has been up for sale for more than a year, and when it's sold, probably we'll have to go. When that happens, I don't know how we're going to make it. We'll probably have to get out of this country."

Even if the building isn't sold, she added, she can't keep on cleaning and scrubbing floors much longer. Because of injuries received in an automobile accident 18 years ago, she is experiencing considerable leg swelling and pain. She complains that the cost of her group medical coverage has just gone up from $18.69 to $21.33 a month, but "I still have to wait for more than a month to see the doctor I want to see."

The McClures have a car, but they don't do any driving for pleasure because "with gasoline at 60 cents a gallon, we can't afford to go anywhere."

What of the future? Says Mr. McClure: "I don't think about tomorrow. We are poor and getting poorer, but we're growing old, so it doesn't matter as much."

PENSION INCREASES, BUT

As the squeeze on living costs tightens, it is bringing worry to many federal retirees in the lower brackets—despite the three boosts they have received in the past 13 months.

One example is Mrs. Cecilia Hochhauser of San Francisco. Now 70, she was a civilian employe of the U. S. Army at the Presidio until her retirement in 1966.

Today, her monthly annuity of $385 from the federal retirement system—plus the $265 in Social Security benefits to her husband, Marvin, a retired shoe salesman—looks smaller to them each month.

Says Mrs. Hochhauser, a member of the executive board of a local chapter of the National Association of Retired Federal Employes:

"We get by. We don't starve. But I'll tell you which retired federal employees are starving—the secretaries who never got paid much. We can have a meeting of the local NARFE chapter and more than 100 persons will show up above and beyond the regular number if we serve cake and coffee. They just come for the refreshments. It's a meal to some of the retired."

Out of the Hochhausers' combined income of less than $700 a month, including some interest on savings, they pay perhaps $65 in taxes and medical and hospital insurance. Rent comes to only $158—though the owners are seeking a 10 per cent rise—for a two-bedroom apartment in a development that the Department of Housing and Urban Development partially subsidized on behalf of the elderly as well as low and middle-income tenants.

But inflation is beginning to force them to cut back spending. Mr. Hochhauser says: "If we didn't have this apartment, we'd be in big trouble."

He and his wife no longer subscribe to "The San Francisco Chronicle." They scan ads in a "throwaway" shopping news for food bargains. But Mr. Hochhauser estimates that their food bill shot up 20 per cent in the last year despite economizing.

Both have reduced clothing purchases. Being music lovers, they now earn their way to the San Francisco Opera and Symphony concerts by ushering, then standing in the back during performances.

They have also cut down on use of their car, relying whenever possible on public transit at 5 cents a ride for the elderly. And visits to relatives on the East Coast now occur only once a year, instead of three times.

When another couple came to their apartment recently, the four went for a walk in Golden Gate Park—"and that was our entertainment," Mrs. Hochhauser said.

BLEAK HORIZONS

Over all, the new reality of America's elderly is this:

The population over 65 is growing in numbers. And the proportion of older Americans who are invaded by fear also is growing as inflation ravages fixed incomes.

At present, such people see little help on the horizon—and much evidence of more trouble to come.

Worry is spreading among older Americans over announced plans of the White House to boost the cost of food stamps on which many of them depend for sustenance.

These plans require the large majority of recipients to pay 30 per cent of their family net income—after taxes, health payments and essential job expenses—or the stamps which are used in stores to buy food worth more than the cost of the stamps. The change would mean, in a practical instance, that a widow getting $105 a month in Social Security benefits would have to pay $31 instead of $18 to guy $46 worth of food.

Meanwhile, the Department of Health, Education, and Welfare has raised the cost of hospital care for medicare beneficiaries in the first 60 days from $84 to $92. About 23.5 million people are enrolled in the hospital plan.

President Ford also is urging Congress to impose a 5 per cent limit on cost-of-living boosts in Social Security benefits and Government pensions this year—little more than half of what older people were expecting.

Among some of the nation's elderly, the result is growing despair and apathy. Says Mrs. Lillian McCall, director of San Francisco's Commission on Aging:

"Money alone won't help. It's a social and economic problem, but it's also a psychological problem. They are so alone and so isolated, and there are so many who are just dying because they have no hope."

THE MILITANTS

Yet fear also is generating, among many older people, a feeling of militancy.

One notable example occurred in Miami recently when the Dade County Council for Senior Citizens organized a protest meeting to dramatize inflation's impact on the elderly. Instead of the 450 participants expected, 800 showed up.

A leader of the Miami rally, retired jeweler Max Serchuk, 74, said that if something wasn't done to help senior citizens cope with inflation, "there's going to be more protest."

In Nevada, older people have been collecting thousands of signatures in support of proposed State legislation to make use of more than 6 million dollars in federal funds—so far unclaimed by Nevada—that could provide medical assistance to senior citizens who are unable to qualify for medicaid for the needy.

The new militancy of the elderly—some of whom call themselves "Gray Panthers"—is encouraging States and localities to offer some help in dealing with inflation.

In San Francisco, the Young Women's Christian Association is sponsoring "survival courses" to help old people keep within their slender incomes. Among the courses: basic sewing lessons and nutrition classes for people who may only have a hot plate on which to cook their food.

TAX RELIEF FOR SOME

California has enacted a Statewide law authorizing property-tax refunds on a sliding scale according to income for homeowners aged 62 and over who have incomes of less than $10,000 a year.

This is expected especially to benefit elderly persons who have been paying taxes they couldn't afford on homes that have doubled or tripled in assessed value—forcing them in many cases to sell their homes and move into less-desirable quarters.

Illinois and several other States are also offering old people relief on their property taxes.

New York City has instituted the nation's first comprehensive legal-aid office for the aged. It is staffed with five lawyers, five legal aides and a social worker to give advice or courtroom aid to the aged of low or moderate income.

Scores of cities now offer senior citizens reduced subway or bus fares, "meals on wheels" for invalids and "out-reach" centers to assist older persons who have such problems as cashing checks. Some provide them with free trips and other forms of recreation. A number are instituting programs of part-time employment for retirees.

Such efforts, State and local officials admit, are marginal—though they are often useful in helping older Americans survive inflation. Nonetheless, these moves underline an interest in the predicament of older Americans that is growing in today's hard times—and bringing them into the foreground of national attention.

Tom Booker, executive director of the Houston Housing Authority, says:

"The average person becoming elderly now is more politically conscious and savvy of what's going on in the world. The old are going to be more vocal—and they'll have to be, to keep from being left out."

PROFILE OF AMERICA'S ELDERLY

Among those 65 and over—NUMBER: 21,815,000—more than 10 percent of total population, and increasing at a rate faster than any other age group.

Race: More than 90 percent are white.
White: 19,883,000 or 91.1 percent.
Black: 1,732,000 or 7.9 percent.
Other: 199,000 or 0.9 percent.

Sex: Nearly 60 percent are women.
Women: 12,849,000 or 58.9 percent.
Men: 8,966,000 or 41.1 percent.

Marital status: A large number live alone.

(In percent)

Proportion in group who are—	Women	Men
Widowed	52.4	14.4
Married, spouse absent	1.4	2.1
Married, spouse present	37.3	76.7
Single	6.3	4.6
Divorced	2.6	2.2

Location: Unevenly spread across country.

States with largest proportion of population 65 and over—

	Percent
Florida	15.5
Arkansas	12.7
Iowa	12.3
Missouri	12.3
Nebraska	12.3
Kansas	12.2

States with largest numbers of people 65 and over—

New York	1,987,000
California	1,929,000
Pennsylvania	1,323,000
Florida	1,190,000
Illinois	1,125,000
Texas	1,084,000

Income: Far below rest of population.

	Median family income
In 1973:	
Age 65 and over	$6,426
All U.S. families	$12,051

Nearly 1 in 6 people 65 and over lives in poverty, compared with 1 in 10 people under age 65.

LEAVING THE FUTURE OPEN—JOB CORPS, THE FIRST DECADE

Mr. HUMPHREY. Mr. President, 10 years have passed since the legislation I authored created the Job Corps. These 10 years have been marked with success and controversy as the Job Corps has tried to open limitless futures to young men and women who, by others standards, were the dropouts, pushouts, and fallouts from our school system and our society.

As Secretary of Labor Peter J. Brennan said recently,

Every American can take pride and satisfaction in the 10th anniversary of the Job Corps.

I would like to take this opportunity to discuss some of the history of the Job Corps, its goals, its successes, and the challenges that face its corpsmen and administrators in the years ahead.

THE BEGINNINGS

When Congress passed the Economic Opportunity Act in 1964, it established a program that sought a future for young people who had none in a land where the future had always seemed to belong to the young. It was an attempt to borrow some ideas from the past while meeting the challenges of the present and future. Using the lessons learned from the Civilian Conservation Corps and the National Youth Foundation, those who worked to establish the Job Corps forged a program which would meet the needs of a changing America.

The name "Job Corps" places the emphasis where it should be: on work—ultimately jobs for the young men and women enrolled in the program; and on fellowship—active membership in a body of people sharing problems, interests, and prospects for the future.

This concept, coupled with the notion that the "cycle of poverty" could be broken, forms the basis for the Job Corps and its objective that young men and women could, with intensive programs of education, vocational training, work experience and counseling, join the mainstream of American economic and social life.

Over the first decade of its existence, Job Corps has changed continually as the result of more realistic understanding of its potential and as a response to new methods and programs for achieving that potential.

Two changes are particularly important because of their influence on Job Corps philosophy and operation—first, the transfer of the Job Corps from the Office of Economic Opportunity to the Department of Labor in 1969; and second, passage of the Comprehensive Employment and Training Act—CETA—in 1973.

The former provided for a close link between Job Corps and the manpower training activities of the Labor Department, as well as closer ties between the Job Corps and the State employment services. The Department's Bureau of Apprenticeship and Training, for example, worked with the Job Corps in developing the union-sponsored preapprenticeship programs which have proven so successful. Close ties with the employment service have also made it easier for Job Corps to use the job development and placement services of the State agencies.

When Congress passed CETA, which decentralized most manpower programs, it reaffirmed the mandate it had given to the Job Corps in 1964 by retaining it as a separate entity—title IV—in the act. It was the only national program so treated. Under CETA, Job Corps enrollees are being trained increasingly by existing local manpower programs and educational institutions, including local technical schools and skills centers. At the same time, enrollees in other manpower programs can benefit through the availability of Job Corps services and facilities under local agreements on a nonresidential basis.

JOB CORPS WHEREWITHAL—HUMAN AND PHYSICAL

Although the Job Corps established a number of centers in rural areas, vocational training in larger cities such as Atlanta, Pittsburgh, Detroit, Portland, and Los Angeles was also begun. The Forest Service in the U.S. Department of Agriculture, and the Park Service in the U.S. Department of Interior, were joined by private corporations in sponsoring Job Corps centers throughout the United States.

Cooperation extended to the Job Corps by organized labor has been an important factor in changing idleness and lack of hope into a productive and well-paying job.

Assistance of several school systems, the National Education Association, and the American Association of Colleges for Teacher Education has contributed not only to the objectives of the Job Corps, but it has also fostered in the teaching profession a better understanding of the problems of youths who do not normally meet with success in the public schools.

Centers have also had the services of VISTA workers, volunteers from surrounding communities, work-study students, student interns, health science students, foreign social workers, youth leaders and a host of other assistants.

A total of 477,990 young men and women have enrolled in the Job Corps program from all 50 States, the District of Columbia, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands. In all, 139 different centers have been in operation during the Job Corps' first 10 years.

However, I have been deeply concerned that as of June 1974, the number of active Job Corps centers had declined to 61. Lists of the currently active Job Corps centers and those which are now inactive are found in tables I and II, respectively, appended to my remarks.

Various facilities provide educational, vocational, and social experiences designed to train and get into the labor force, school, or armed forces, young people who were dropouts, came from broken homes, or were extremely poor. The following types of centers and their training specialties are currently in operation:

Civilian Conservation Centers (CCC's): residential centers located on Department of Agriculture, Forest Service, and Department of Interior lands. These centers concentrate on teaching skills such as heavy equipment operation and maintenance and the construction trades.

Men's Centers: residential centers operated by private and non-profit contractors.

Women's Centers: residential and nonresidential facilities operated by both private and non-profit corporations, located in cities and in small towns.

Residential Manpower Centers (RMC's): introduced in 1969, centers are located in or near urban areas and are operated by private and non-profit contractors, by state governments, or by local boards of education. Recruiting is done largely from the areas in which the centers are located.

Extension Centers (JCEC's): provide advanced vocational skills training, combined with on-the-job training, with close ties to job placement opportunities.

The location and the number of Job Corps training facilities by type is shown in table III. The total number of enrollees as of June 1974, is also shown.

PROFILE OF A JOB CORPS MEMBER

What is the average Job Corps member like?

Statistically speaking: 60 percent are black; 11 percent are Spanish speaking; 73 percent are young men; 27 percent are women; 80 percent are from urban areas, where social problems are concentrated; 69 percent, upon entry into the Job Corps, score below sixth grade reading level; 89 percent are school dropouts; 63 percent are from families of five or more persons; and 81 percent are from families whose annual incomes are $4,999 or less.

But each is an individual for whom the statistics are but a partial representation. Each has his own perceptions of the world of which he is a part and his own interests and abilities to achieve.

THE PROGRAM—AN INTEGRATED APPROACH

The Job Corps program comprises three primary elements: education, vocational training and experience, and residential living. Enrollees may participate in one or several of the programs. Comprehensive health services are provided to all enrollees at each center, through a coordinated health services delivery system with medical, dental, and mental health components.

EDUCATION

The education plus work training program combines remedial education, work-skill training, on-the-job work experience, and social redirection, if needed.

Reading, mathematics, language and study skills, consumer education, advanced general education, standard English, English as a second language, home and family living, health education, and orientation to the world of work are included in the general education program.

The advanced general education program prives Corps members with the information, concepts, and general knowledge needed to complete successfully the American Council on Education's high school general educational development—GED—test. Approximately 4,000 Corps members, or 90 percent of those entering the GED program, receive their GED's each year.

VOCATIONAL TRAINING PROGRAMS AND WORK EXPERIENCE

Vocational training programs prepare young men and women for specific jobs with known manpower shortages. Corps members are trained for jobs in automotive and machinery repair, food services, electronics assembly, electrical appliance repair, construction and metal trades, transportation and heavy equipment operation, health occupations, clerical and business skills, cosmetology, and other occupations currently in demand. The CCC's offer enrollees preapprenticeship training in heavy equipment and other construction trades—carpentry, painting, plastering, cement masonry and bricklaying—which is conducted by labor unions.

The Job Corps work experience program gives Corps members actual training on the job. Youths often work in nearby business firms, hospitals, and Government agencies or on conservation and building on public lands.

RESIDENTIAL LIVING

Residential living is the distinctive feature of the Job Corps. Alone among the Federal manpower programs, Job Corps serves its enrollees 7 days a week, 24 hours a day. In fact, the Job Corps may be one of the largest voluntary residential training programs for young people in the world. The residential program is conducted in a variety of settings, centers ranging in size from 25 to 2,000 Corps members, serving men or women, located in urban or rural settings. The program takes into account the needs of various racial and ethnic groups represented in the Job Corps.

AFTER THE JOB CORPS—WHAT?

The Job Corps program prepares its enrollees for placement in a job, in a school or other training program, or in the armed forces. The Job Corps overall placement rate for fiscal year 1974 was 94 percent. This was an increase of 9 percentage points over fiscal year 1973. The number of Corps members who accepted jobs increased 10 percentage points to 69 percent and the starting average wage per hour increased 17 cents to $2.26 in fiscal year 1974. The school placement rate in fiscal year 1974 was 19 percent; the Armed Forces placement rate, 6 percent. A summary of the Job Corps placements for fiscal year 1970 through fiscal year 1974 is in table IV.

THE COST—IS IT WORTH IT?

The cost per enrollee during fiscal year 1974 was $3,098. This amount includes travel, room and board, education, job training, comprehensive health care, counseling, and financial allowances.

The question of costs in relation to lifetime earnings of enrollees, using control-group comparisons, has been assessed in various studies of the Job Corps. Long-term followup data on enrollees showed that, overall, there was a probability of positive effects on lifetime earnings of enrollees that exceeds the Government's dollar investment.

But dollars and cents are not the total picture of costs and results. The Job Corps gives its Corpsmembers something that cannot be measured except, perhaps, in the hope in their eyes, the air of confidence in their step; a smile of accomplishment; an unwavering, sure voice. It revitalizes the spirit, and it is this particular ingredient which is so important to those who otherwise might lack hope in the future.

THE JOB CORPS HALL OF FAME

Ten young people who rose from the ranks of the disadvantaged by acquiring education and marketable skills through the Job Corps program have been recognized for their achievements and have been named to the Job Corps Hall of Fame.

Secretary of Labor Peter J. Brennan saluted these 10 young people as "exemplifying those qualities that have made America great" at the recent observance of the Jobs Corps' 10th anniversary here in Washington, D.C.

I fully endorse his statement that these outstanding young men and women are wonderful examples of how the Job Corps has helped hundreds of thousands of disadvantaged American youth improve their lives and I would like to share their success stories. Each is testimony to how this innovative program has helped Corpsmembers get fresh starts toward productive careers.

TEN OUTSTANDING CORPSMEMBERS

Jessie Al Lane of Austin, Texas, a 20-year-old graduate of apprentice plasterer's training at Timber Lake Job Corps Center, Oregon, joined the Job Corps in August, 1971, earned his high school diploma equivalency and enough skills to qualify as an apprentice plasterer.

Soon after beginning work, Lane was able to purchase a mobile home and now supports his mother, brother, and a nephew as a working member of Local 783 in Austin.

In addition to his work, which earns him approximately $12,000 yearly, he devotes much of his own free time to counseling potential and present Job Corps members, and to helping recent graduates adjust to their new jobs and life-styles.

Ms. Julie Connor of Kansas City, Missouri, a 20-year-old nursing trainee at Excelsior Springs Job Corps Center in Missouri, has earned praise for both her efficient actions in an emergency situation and for an excellent overall record in conduct and achievement in the training program.

One of the first persons to arrive at the scene of an accident, Julie Connor was credited with saving the life of an accident victim by putting her training to work. She made a preliminary test of the injured person's vital signs, then took steps to keep him from going into convulsions until further help arrived.

Miss Connor is now in more advanced training at St. Luke's Hospital in Kansas City, and hopes to earn a registered nurse's degree to eventually become a teacher of nursing.

Ms. Judith L. Chandler of Richmond, Virginia, joined Charleston Job Corps Center in 1968, stayed two years to learn business and clerical office occupations, then entered West Virginia State College where she earned a degree in law enforcement services. After serving as a residential advisor at her Job Corps alma mater, she obtained a job as probation and parole officer in the Richmond department, earning more than $10,000 annually.

She was the first black woman to be appointed to this post and last year received a special commendation from the Federal Bureau of Investigation for her assistance in apprehending a bank robber.

Walter Mitchell of West Haven, Connecticut, is one of 12 children from Mississippi, a high school dropout who enrolled at Jacobs Creek Job Corps Center in Tennesee to earn his high school diploma and also learn how to operate heavy construction equipment as an operating engineer. The 27-year-old Corpsman was graduated in 1968 and had the distinction of earning his journeyman's rating with the Operating Engineers Union, which takes four years to earn, within a short period. He is currently employed with a construction firm in Connecticut earning $8.85 an hour operating a finish grader, one of the most difficult pieces of equipment to run.

He has assisted newly graduated Job Corpsmen in obtaining their first job, providing transportation for some who don't have automobiles. He coaches a basketball team, is a retreat leader for his church, and each year returns to Jacobs Creek to encourage new enrollees.

Ken Stein of San Jose, California, is a 21-year-old graduate of the apprentice management training school of San Jose Job Corps Center. A native of London, England, who came to the United States as a child, he completed his training at the center and is now employed by Safeway stores at a salary in excess of $9,500 per year. He is a member of the Retail Clerks Union, Local 428, and is active in community affairs. He is enrolled in West Valley College in California and will begin his studies there early next month.

Ms. Rosa Isela Mendoza of Las Vegas, Nevada, is a 19-year-old accounting specialist in the U.S. Air Force at Nellis Air Force Base, daughter of a migrant farm worker who came to the United States from Mexico when she was 14 years old. She left the 7th grade to work with her family harvesting crops from Texas and Florida to Michigan until she enrolled in the Job Corps in 1971 at McKinney Job Corps Center for Women and later at the Los Angeles Center for Women, earning her high school diploma equivalency and learning to be a practical nurse.

She was placed with the Air Force by Job Corps where she learned her present skills and is permanently stationed at Nellis as a disbursement accounting specialist. She is buying her own home and is an enthusiastic recruiter for Jobs Corps on the side.

Richard Ponce DeLeon of Salt Lake City, Utah, is an honor graduate of Clearfield Job Corps Center, who received his training in plastics production and as a para-professional.

A native of Puerto Rico, he spoke no English when he arrived at the Clearfield center. He mastered the language and went on to become president of the student government, an effective staff and center management leader, and an excellent public speaker.

He is now employed by the Thiokol Chemical Company, the contractor, as a unit coordinator at Clearfield center.

Ms. H. Jean Henderson of Dallas, Texas, widowed mother of three children, who enrolled in Job Corps at McKinney Job Corps Center for Women in 1967 from her $25-a-week job as a motel maid. After earning her high school diploma equivalency and learning office occupations at McKinney, she started working at clerical jobs in late 1967 and today earns more than $10,000 a year as a secretary in the Dallas Regional Office of the Social Security Administration.

Ms. Henderson has become a public supporter of Job Corps, speaking at businessmen's luncheons and on television programs; has bought her own home, teaches Sunday School, and is attending Dallas Junior College to further her education.

Phillip Lee Smith of San Carlos, Arizona, a 26-year-old graduate of police and human relations training at San Carlos, Kilmer, and Clearfield Job Corps Centers, is now a member of the Gila County, Arizona, Sheriff's Department and also the department's training officer.

Smith, who was born on the Red Lake Indian Reservation in Northern Minnesota, first entered Job Corps at San Carlos to learn police work. He interrupted his training to complete high school in St. Paul, Minnesota. Smith was then admitted to the police training school at Kilmer Job Corps Center, followed by human relations training at the Clearfield Center.

He has been active in community affairs and serves on the board of directors for the alcohol program on the San Carlos Indian Reservation.

Ms. Brenda B. Hernandez of Alexandria, Virginia, is a high school graduate who was earning 42 cents an hour as a nursing home waitress when she enrolled at Cleveland Job Corps Center for Women to learn business and clerical vocations. She completed her courses with honors and was transferred to the Washington, D.C., center for outstanding Job Corps trainees. Today she is employed as an $11,000 contract assistant in Job Corps headquarters in the Manpower Administration in Washington, D.C., advising officials and contractor personnel on policies concerning cost and financial data for all centers. She began as a GS-2 clerk in the Labor Department and now develops cost standards to measure program performance effectiveness during contract negotiations.

THE FUTURE

The celebration of the 10th anniversary of the Job Corps conceals, perhaps, the gravest potential threat to its existence since its creation in 1964. With unemployment currently over 8 percent overall and nearly 23 percent in construction—for which many Job Corps graduates are trained—prospects for finding jobs are declining. And there will likely be increased pressure to spend funds on jobs for the employable rather than training the unemployed.

It will take the combined efforts of Congress, the Labor Department, unions, industry, and Job Corps staff and supporters to counter the impact that the current economic recession will have on the Job Corps and its graduates.

The Job Corps is under other pressures. Funding in the last fiscal year was $176 million, down nearly 50 percent from its initial appropriations 10 years ago. The number of centers has dwindled to 61 and the vocational training formerly accomplished through the Job Corps program must be absorbed by the States.

Although some may argue that money is being saved by these cuts and closings, it is the kind of short-term savings that eventually means little when compared with the losses: what the Nation must pay to meet the needs of those on welfare, in prison, and in the unemployment lines. With none of the skills or help the Job Corps provides, many young men and women may be destined for one or another of those fates.

The need for the Job Corps is far greater today than when it began. Our young people are our investment in the future. Taking action to leave the future open to the young who otherwise might be lacking in hope and the means to secure it is what the Job Corps is all about.

Mr. President, I ask unanimous consent that the five tables and the footnote, mentioned in my remarks, be printed in the RECORD.

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

TABLE I.—JOB CORPS CENTERS BY REGION (AT END OF FISCAL YEAR 1974)

Region and center	Number	Type [1]	Design capacity	Location	Operator	Activation Date
REGION I (BOSTON)						
REGION II (NEW YORK)						
Arecibo	1	SR	175	Arebico, P.R.	P.R. Department of Education	Jan. 4, 1967
Rio Grande	2	SR	135	Rio Grande, P.R.	do	Jan. 4, 1967
New York	3	RMC	275	Flushing, N.Y.	ATAC	Apr. 28, 1971
New Jersey	4	RMC	300	Edison, N.J.	N.J. Department of Education	Aug. 1, 1969
Total region II			885			
REGION III (PHILADELPHIA)						
Flatwoods	5	CCC	168	Coeburn, Va.	Forest Service (USDA)	Sept. 15, 1965
Harpers Ferry	6	CCC	200	Harpers Ferry, W. Va.	Park Service (USDI)	Apr. 15, 1966
Keystone	7	W	500	Drums, Pa.	RCA Service Co.	Mar. 2, 1967
Blue Ridge	8	W	180	Marion, Va.	RCA	Nov. 29, 1967
Charleston	9	W	345	Charleston, W. Va.	Teledyne Packard-Bell	June 9, 1965
Residential		(f)	(320)			
Nonresidential		(m, f)	(25)			
Pittsburgh	10	RMC	200	Pittsburgh, Pa.	Teledyne Packard-Bell	Mar. 2, 1967
Maryland	11	RMC	250	Woodstock, Md.	Youth Opportunities Foundation	Feb. 23, 1972
Total region III			1,843			
REGION IV (ATLANTA)						
Pine Knot	12	CCC	224	Pine Knot, Ky.	Forest Service (USDA)	Nov. 22, 1965
Jacobs Creek	13	CCC	168	Bristol, Tenn.	do	June 21, 1965
Lyndon B. Johnson [2]	14	CCC	168	Franklin, N.C.	do	Feb. 1, 1965
Schenck	15	CCC	204	Pisgah Forest, N.C.	do	May 18, 1965
Great Onyx	16	CCC	214	Mammoth Cave, Ky.	Park Service (USDI)	June 15, 1965
Oconaluftee	17	CCC	180	Oconaluftee, N.C.	do	Oct. 15, 1965
Breckinridge	18	M	2,000	Morganfield, Ky.	Graflex (Singer Corp.)	June 15, 1965
Atlanta	19	RMC	350	Atlanta, Ga.	Thiokol Corp.	Dec. 28, 1970
Whitney Young	20	RMC	193	Simpsonville, Ky.	Louisville Board Education	June 6, 1972
Total region IV			3,701			
REGION V (CHICAGO)						
Blackwell	21	CCC	200	Laona, Wis.	Forest Service (USDA)	Nov. 30, 1965
Golconda	22	CCC	224	Golconda, Ill.	do	June 15, 1965
Cleveland	23	W	440	Cleveland, Ohio	Alpha Kappa Alpha Sorority	Apr. 29, 1965
Atterbury	24	M	1,600/1,000	Edinburg, Ind.	AVCO	Apr. 26, 1965
Cincinnati	25	RMC	200	Cincinnati, Ohio	AVCO Corp.	Sept. 30, 1970
Detroit	26	RMC	275	Detroit, Mich.	Singer Corp.	June 9, 1971
Male			(200)			
Female			(75)			
Total region V			2,339			

Region and center	Number	Type [1]	Design capacity	Location	Operator	Activation Date
REGION VI (DALLAS)						
Cass	27	CCC	168	Ozark, Ark	Forest Service (USDA)	June 15, 1965
Ouachita	28	CCC	176	Royal Oak, Ark	do	Feb. 6, 1965
Treasure Lake	29	CCC	168	Indiahoma, Okla	Bur. Sport Fisheries (USDI)	Nov. 15, 1965
Guthrie	30	W	600	Guthrie, Okla	E. G. & G., Inc	Oct. 22, 1966
McKinney	31	W	620	McKinney, Tex	Texas Educational Foundation	Mar. 1, 1967
Albuquerque	32	W	395	Albuquerque, N. Mex	Teledyne Packard-Bell	May 17, 1966
Gary	33	M	3,300/2,200	San Marcos, Tex	Texas Educational Foundation	Mar. 3, 1965
Tulsa	34	RMC	144	Tulsa, Okla	RCA	Mar. 3, 1971
El Paso	35	RMC	250	El Paso, Tex	Texas Educational Foundation	Sept. 28, 1970
Total region VI			4,721			
REGION VII (KANSAS CITY)						
Pine Ridge	36	CCC	168	Chadron, Nebr	Forest Service (USDA)	Dec. 6, 1965
Mingo	37	CCC	168	Puxico, Mo	Bur. Sport Fisheries (USDI)	Nov. 1, 1965
Excelsior Springs	38	W	405	Excelsior Springs, Mo	Singer	Mar. 1, 1966
Total region VII			741			
REGION VIII (DENVER)						
Anaconda	39	CCC	216	Anaconda, Mont	Forest Service (USDA)	Mar. 15, 1966
Trapper Creek	40	CCC	216	Darby, Mont	do	Jan. 1, 1966
Boxelder	41	CCC	208	Nemo, S. Dak	do	Dec. 6, 1965
Weber Basin	42	CCC	224	Ogden, Utah	Bur. Reclamation (USDI)	Dec. 11, 1965
Collbran	43	CCC	168	Collbran, Colo	do	May 15, 1965
Clearfield	44	M	1,420/1,100	Clearfield, Utah	Thiokol Corp	Oct. 4, 1960
Kicking Horse (Regional)		RMC	200	Ronan, Mont	Salish and Kootenai Tribes	Feb. 3, 1971
Total region VIII			2,332			
REGION IX (SAN FRANCISCO)						
Los Angeles	46	W	495	Los Angeles, Calif	Los Angeles YWCA	June 11, 1965
Residential			(320)			
Nonresidential (m, f)			(175)			
Phoenix	47	RMC	350	Phoenix, Ariz	Teledyne Econom. Devel. Co	Oct. 27, 1969
Male			(210)			
Female			(140)			
Hawaii	48	RMC	250	Honolulu, Hawaii	Hawaii Dept. of Labor	July 1, 1969
San Jose	49	RMC	240	San Jose, Calif	Singer-Graflex	May 2, 1972
Male			(174)			
Female			(66)			
Total region IX			1,335			
REGION X (SEATTLE)						
Curlew	50	CCC	180	Wauconda, Wash	Forest Service (USDA)	June 1, 1965
Angell	51	CCC	184	Yachats, Oreg	do	Apr. 28, 1965
Timber Lake	52	CCC	224	Estacada, Oreg	do	Aug. 20, 1965
Wolf Creek	53	CCC	224	Glide, Oreg	do	Apr. 13, 1965
Columbia Basin [3]	54	CCC	200	Moses Lake, Wash	Bur. Reclamation (USDI)	Nov. 1, 1965
Fort Simcoe	55	CCC	200	White Swan, Wash	BIA (USDI)	Apr. 15, 1966
Marsing	56	CCC	168	Marsing, Idaho	Bur. Reclamation (USDI)	Oct. 30, 1965
Tongue Point	57	W	730/440	Astoria, Oreg	University of Oregon	Mar. 15, 1967
Portland	58	RMC	275	Portland, Oreg	Portland public schools	Mar. 9, 1970
Male			(153)			
Female			(122)			
Total region X			2,095			
EXTENSION CENTERS						
Santa Rosa (m, f)	59	EXT	40	Santa Rosa, Calif	Marine Cooks and Stewards	
Shaw [4]	60	EXT	50	Raleigh, N.C	Shaw University	
Male			(25)			
Female			(25)			
JCYW	61	EXT	160	New York, N.Y. (HQ)	National YWCA	
Total extension centers			250			

[1] Abbreviation key for center type abbreviations: CCC—Civilian Conservation; RMC—Residential Manpower; M—Men's Centers; W—Women's Centers; SR—State Related.
[2] Formerly called Arrowood.
[3] Inactive in 4th quarter of fiscal year 1974.
[4] To close at end of 1st quarter of fiscal year 1975.

TABLE II.—CLOSED JOB CORPS CENTERS; CLOSED CIVILIAN CONSERVATION CENTERS

[Agency and State Related]

Center, location	Design capacity	Operator	Date of activation	Date of closure announcement
Neah Bay, Wash	96	USDI (BIA)	June 15, 1965	Apr. 1, 1967
Isabella, Minn	224	USDA (FS)	Nov. 30, 1965	Jan. 29, 1968
Ripton, Vt	128	USDA (FS)	July 7, 1966	Do.
Lewiston, Calif	220	USDI (BR)	Apr. 13, 1965	Do.
McCook, Nebr	224	USDI (BR)	Dec. 6, 1965	Do.
Liberty Park, N.J	224	USDI (NPS)	Jan. 9, 1967	Do.
Fort Vannoy, Oreg	224	USDI (BLM)	Aug. 10, 1965	Do.
Iroquois, N.Y	168	USDI (FWS)	May 18, 1966	Do.
Chippewa Ranch, Minn	124	USDI (BIA)	Jan. 31, 1967	Do.
Mexican Springs, N. Mex	224	USDI (BIA)	Aug. 10, 1965	Do.
Poston, Ariz	200	USDI (BIA)	Feb. 15, 1965	Do.
Swiftbird, S. Dak	100	USDI (BIA)	Sept. 1, 1967	Do.
Lewis & Clark, S. Dak	200	State related	Aug. 15, 1966	Jan. 29, 1968
Alder Springs, Calif	210	USDA (FS)	June 10, 1965	Apr. 11, 1969
Alpine, Ariz	120	USDA (FS)	Aug. 7, 1965	Do.
Anthony, W. Va	168	USDA (FS)	Aug. 10, 1965	Do.
Blue Jay, Pa	120	USDA (FS)	Apr. 20, 1965	April 11, 1969
Cedar Flats, Idaho	224	USDA (FS)	Sept. 10, 1965	Do.
Cispus, Wash	224	USDA (FS)	June 15, 1965	Do.
Clam Lake, Wis	224	USDA (FS)	Nov. 1, 1965	Co.
Clear Creek, Nev	210	USDA (FS)	Sept. 15, 1965	Do.
Dickinson, N. Dak	197	USDA (FS)	June 15, 1965	Do.
Fenner Canyon, Calif	128	USDA (FS)	June 10, 1965	Do.
Five Mile, Calif	160	USDA (FS)	Aug. 25, 1965	Do.
Frenchburg, Ky	112	USDA (FS)	Sept. 10, 1965	Do.
Grants, N. Mex	178	USDA (FS)	Apr. 29, 1965	Do.
Hodgens, Okla	158	USDA (FS)	Apr. 20, 1965	Do.
Hoxey, Mich	112	USDA (FS)	Oct. 15, 1965	Do.
Los Pinos, Calif	224	USDA (FS)	July 26, 1965	Do.

Footnotes at end of table.

TABLE II.—CLOSED JOB CORPS CENTERS; CLOSED CIVILIAN CONSERVATION CENTERS—Continued

[Agency and State Related]

Center, location	Design capacity	Operator	Date of activation	Date of closure announcement
Luna, N. Mex	224	USDA (FS)	Sept. 27, 1966	Apr. 11, 1969
Lydick Lake, Minn	224	USDA (FS)	Jan. 12, 1966	Do.
Mountainair, N. Mex	210	USDA (FS)	Apr. 13, 1965	Do.
New Waverly, Tex	224	USDA (FS)	Aug. 16, 1965	Do.
Ojibway, Mich	224	USDA (FS)	Dec. 6, 1965	Do.
Pagosa Springs, Colo	112	USDA (FS)	Dec. 15, 1965	Do.
Poplar Bluff, Mo	224	USDA (FS)	June 15, 1965	Do.
Sly Park, Calif	128	USDA (FS)	do	Do.
Vesuvius, Ohio	112	USDA (FS)	do	Do.
Arbuckle, Okla	112	USDI (BR)	Dec. 6, 1965	Do.
Casper, Wyo	200	USDI (BR)	Apr. 15, 1965	Do.
Toyon, Calif	163	USDI (BR)	Apr. 27, 1965	Do.
Acadia, Maine	124	USDI (NPS)	Apr. 1, 1966	Do.
Catoctin, Md	108	USDI (NPS)	Jan. 6, 1965	Do.
Cumberland Gap, Ky	138	USDI (NPS)	June 20, 1965	Do.
Tremont, Tenn	112	USDI (NPS)	Dec. 13, 1965	Do.
Wellfleet, Mass	100	USDI (NPS)	Apr. 30, 1965	Do.
Castle Valley, Utah	200	USDI (BLM)	July 22, 1965	Do.
Kingman, Ariz	224	USDI (BLM)	Dec. 20, 1965	Apr. 11, 1969
Mountain Home, Idaho	200	USDI (BLM)	Oct. 1, 1965	Do.
Tillamook, Oreg	200	USDI (BLM)	Feb. 1, 1965	Do.
Crab Orchard, Ill	102	USDI (FWS)	June 21, 1965	Do.
Malheur, Oreg	224	USDI (FWS)	June 14, 1965	Do.
Ottawa, Ohio	168	USDI (FWS)	Jan. 24, 1966	Do.
Tamarac, Minn	224	USDI (FWS)	Mar. 1, 1966	Do.
Eight Canyon, N. Mex	200	USDI (BIA)	do	Do.
San Carlos, Ariz	200	USDI (BIA)	Sept. 30, 1965	Do.
Winslow, Ariz	205	USDI (BIA)	Feb. 6, 1965	Do.
Oak Glen, Calif	170	State related	June 1, 1965	Do.
Guayama, P.R	200	do	June 15, 1966	Do.
Juana Diaz, P.R	150	do	Mar. 15, 1966	Do.
Vieques, P.R	150	do	Jan. 24, 1966	Do.
Branchville, Ind	168	USDA (FS)	June 15, 1965	Apr. 8, 1974
Cottonwood, Idaho	206	USDA (FS)	do	Mar. 12, 1974
Heber, Ariz	210	USDA (FS)	Aug. 7, 1965	Apr. 8, 1974

Note.—Total of 64 civilian conservation centers closed (59 federally operated and 5 State related) with design capacity of 11,265 enrollee spaces.

Note.—Hawaii, State related, 250 capacity, May 15, 1966, and Kicking Horse, USDI (BIA), 200 capacity, Jan. 17, 1966, reorganized as Residential Manpower Center subsequent to Apr. 11, 1969.

Source: Department of Labor.

TABLE II.—CLOSED CONTRACTOR OPERATED CENTERS

Region/Center	Type	Capacity	Location	Operator	Activation date	Closing date
Region I Boston:						
Poland Springs	W	1,130	Poland Springs, Maine.	Econ. Sys. (AVCO)	Apr. 28, 1966	June 30, 1969
Rodman	M	750	New Bedford, Mass	Science Research Association	Aug. 5, 1965	Mar. 31, 1968
Region II, N.Y., Kilmer	M	1,800	Edison, N.J	Federal Electric Corp	Feb. 11, 1965	June 30, 1969
Region III Philadelphia, Huntington	W	345	Huntington, W.V	Xerox, Inc	Nov. 1, 1966	Do.
Region V Chicago:						
Custer	M	1,400	Battle Creek, Mich	U.S. Industries	June 22, 1965	Mar. 31, 1968
Marquette	W	300	Marquette, Mich	Northern Michigan University	June 26, 1966	June 30, 1969
McCoy	M	1,250	Sparta, Wis	RCA Service Co	Oct. 4, 1966	Mar. 31, 1968
Chicago	W	200	Chicago, Ill	Brunswick Corp	Sept. 12, 1966	Do.
Region VII Kansas City:						
Clinton	W	925	Clinton, Iowa	General Learning, Inc	June 24, 1966	June 30, 1969
Lincoln	M	1,150	Lincoln, Nebr	Management Systems Co	Sept. 20, 1966	Mar. 31, 1968
St. Louis	W	615	St. Louis, Mo	Delta Education Corp	Nov. 16, 1966	June 30, 1969
Omaha	W	865	Omaha, Nebr	Burroughs Corp	June 29, 1965	Do.
Region IX San Francisco, Parks	M	2,300	Parks, Calif	Litton Systems, Inc	Apr. 26, 1965	Do.
Region X Seattle, Moses Lake	W	515	Moses Lake, Wash	Econ. Sys. (AVCO)	Nov. 11, 1967	Do.

Note: Total of 14 contractor operated centers closed with design capacity of 13,545.

TABLE III.—JOB CORPS CENTER DISTRIBUTION END OF FISCAL YEAR 1974

Region	Office	Type of center: RMC	Women's	Men's	CCC: USDA	CCC: USDI	SR	JCEC	Total
I	Boston								0
II	New York	2					2		4
III	Philadelphia	2	3		1	1			7
IV	Atlanta	2		1	4	2			9
V	Chicago	2	1	1	2				6
VI	Kansas City	2	3	1	2	1			9
VII	Dallas		1		1	1			3
VIII	Denver	1		1	3	2			7
IX	San Francisco	3	1						4
X	Seattle	1	1		4	3			9
	National							3	3
	Total centers	15	10	4	17	10	2	3	61
	Total trainees	3,752	4,420	6,300	5,012		310	250	20,044

Source: Department of Labor.

TABLE IV.—JOB CORPS PLACEMENTS (FISCAL YEARS 1970–74)

[Definitions: Available for placement: Total number of Job Corps Placement and Assistance Records, Form MA6-78 (formerly Form JC-72), received, less the number who reentered the program; the number who cannot be located to determine status, and the number who are not available for placement. Placement rate: The percentage of those available for placement who are placed in employment, in school or another training program, or in the military service.]

	Fiscal years— 1970	1971	1972	1973	1974
Total available	37,993	31,088	32,392	36,804	34,803
Total placed	30,788	23,656	25,382	31,331	32,589
Percentage	81.0	76.0	78.3	85.1	93.6
Employed and wages per hour:					
Total	24,638	16,184	17,412	21,569	23,947
Percentage	64.8	52.0	53.7	58.6	68.8
Wage per hour	$1.84	$1.87	$1.95	$2.09	$2.26
School:					
Total	4,110	6,140	6,328	7,233	6,530
Percentage	10.8	19.7	19.5	19.6	18.7
Armed Forces:					
Total	2,040	1,332	1,642	2,529	2,112
Percentage	5.4	4.2	5.0	6.8	6.0

Source: Department of Labor.

TABLE V.—JOB CORPS BY FISCAL YEAR

[All figures approximately from best available data]

	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974 down 50 percent
Budget (NOA—Million)	183.0	303.7	210.1	282.3	278.4	169.8	170.4	202.4	193.4	151.3
Center capacity (total)	19,073	41,924	43,159	37,041	38,964	20,400	22,400	22,560	21,617	20,496
Female	(982)	(7,911)	(8,116)	(6,016)	(6,539)	(5,475)	(6,375)	(6,415)	(5,872)	(5,527)
Male	(18,091)	(34,013)	(35,043)	(31,025)	(32,425)	(14,925)	(16,025)	(16,145)	(15,745)	(14,969)
Percent male in CCC's	44.8	44.5	46.0	47.2	50.7	38.9	41.0	41.3	43.1	46.3
On-board strength (High Point)	10,241	28,533	42,032	33,013	35,834	20,840	22,394	23,808	23,126	21,287
Number centers (total)	48	106	123	109	53	54	65	72	72	61
CCC's	36	86	91	82	32	32	32	32	32	29
Men's	7	11	10	6	4	4	4	4	4	4
Women's	5	8	18	18	11	12	12	12	11	10
RMC's						5	8	17	16	15
RSC's						1	5	8	6	0
Extension						0	0	0	3	3
Demonstration		1	4	3						
Center output		30,879	57,075	73,515	67,242	41,191	47,257	48,610	48,371	43,857
Placements [1] (based on Corps members available for placement): Totals		[2][3] 19,453	[2][4] 35,957	[2][3] 46,314	[6] 42,368	[7] 30,788	[8] 23,656	[9] 25,382	[10] 31,331	[11] 32,589
Job Corps staff level (authorized/on-board)		429	573	554	572	411	390	418	379	292
Job Corps national staff		285				202	179	164	163	98
Job Corps regional staff						208	211	254	216	194

[1] Placements include jobs, school/other training programs and military.
[2] Based on estimates of manually compiled records, prior to fiscal year 1970 inception of computerized management information system for placements.
[3] 62.3 percent.
[4] 75.2 percent.
[5] 64.1 percent.
[6] 76.9 percent.
[7] 81 percent.
[8] 76 percent.
[9] 78.3 percent.
[10] 85.1 percent.
[11] 93.6 percent.

Source: Department of Labor.

1. The Glen Cain Study—1967.*
2. Assessment and Research Report No. 11—a study by the Plans and Evaluation Division of Job Corps—1968.
3. "An Economic Analysis of the Job Corps (Men's Centers)" by Steve Engleman—1971.
4. Study: "The Federal Government and Manpower—A Critical Look at the MDTA-Institutional and Job Corps Programs," by Dave M. O'Neill, Director of Human Resources Studies at the American Enterprise Institute for Public Policy Research, Washington, D.C., published August 1973 (Library of Congress Catalog No. L.C. 73-86286).

CONCLUSION OF MORNING BUSINESS

The VICE PRESIDENT. Is there further morning business? If not, morning business is closed.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate resumed the consideration of the motion to proceed to consider the resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The VICE PRESIDENT. Under the previous order, the Senator from Kansas (Mr. PEARSON) is recognized.

Mr. PEARSON. Mr. President, I will not further burden the RECORD nor enlarge upon those comments made by my distinguished colleagues from Minnesota and Maryland. All who are concerned with the Senate know the time element involved, the days and the weeks that we have been considering this matter. What I should like to do, very briefly, is indicate my intention in the matter of the motions to be offered at this time.

It will be my intention to presently and very quickly offer a motion to consider, to bring up, to have the Senate have as its pending business Calendar Order No. 1, Senate Resolution 4, and that under the Constitution, article I, section 5, debate cease on the consideration of that matter, it being the position of those who support this motion that the power flows from the Constitution, from article I, section 5, and permits and indeed instructs the Senate, by a majority of those here, in the first session of this 94th Congress, to make a change of the rules unimpaired by the provisions of the rules, and that when the Constitution and the Senate rules conflict, the rules yield.

Mr. President, let me only say that this is not a precedent that so many fear. It is not a precedent for majority cloture. As a matter of fact, it is that position that the sponsors of this resolution seek to prevent, and that is to change rule XXII to three-fifths rather than two-thirds to get on with the orderly and vitally necessary business before Congress and before this Senate. It is not a precedent for future majority clotures; but only as it applies to the right of the Senate under the Constitution to change its rules.

I shall not ask for a time period in this motion. It is my understanding that the distinguished majority leader will raise a point of order, and that in connection with that point of order there will be ample time for Members of the Senate, as is proper, to give full expression to their views as to the nature of this particular motion.

MOTION TO PROCEED TO CONSIDERATION TO SENATE RESOLUTION 4

So, Mr. President, I move that the Senate proceed to the consideration of Calendar item No. 1, Senate Resolution 4, amending rule XXII of the Standing Rules of the Senate with respect to limitation of debate; and that under article I, section 5, of the U.S. Constitution, I move that debate upon the pending motion to proceed to the consideration of Senate Resolution 4 be brought to a close by the Chair immediately putting this motion to end debate to the Senate for a year-and-nay vote; and, upon the adoption thereof by a majority of those Senators present and voting, a quorum being present, the Chair shall immediately thereafter put to the Senate, without further debate, the question on the adoption of the pending motion to proceed to the consideration of Senate Resolution 4.

Mr. President, I send a copy of that motion to the desk.

Mr. MANSFIELD. Mr. President, the motion before the Senate again raises the question that has confronted each Congress for nearly two decades. It is whether the Senate of the United States is a continuing body. One would suppose that the character of the Senate as a continuing entity has long been established; that two-thirds of its membership of the Senate carries forward from one Congress to the next would appear to underscore that fact. Following each sine die adjournment the committees of the Senate continue to meet, seats are filled and, as has been highlighted in recent months, the Senate could even proceed with the trial of an impeachment originating in an earlier Congress. To say at the same time that somehow the Senate rules expire tests the most basic assumptions and procedures and responsibilities of this institution as prescribed by the Constitution.

That clearly was the view of the Senate in 1959 when Senate Resolution 5 was overwhelmingly adopted to amend rule XXII so as to enable two-thirds of the Senate present and voting to close debate on any matter including proposals for rules changes. That resolution also amended rule XXXII by adding this implicit language: "The Rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules."

In spite of the history of the Senate as a continuing body with continuing rules, the issue of cloture by a majority is again before us and must again be resolved.

The Senate of the United States is unique among parliamentary bodies. Because of the tradition of unlimited debate in the Senate, even though that principle has been diminished by rule XXXII, the rights of the minority have always been secure in this Chamber. That is what gives the Senate of the United States a unique stature among parliamentary institutions.

What the motion before us seeks to do is to destroy—let me repeat, is to destroy—the very uniqueness of this body; to relegate it to the status of any other legislative body, and to diminish the Senate as an institution of this Government.

The proposition now under discussion to move to consideration of Senate Resolution 4 clearly envisions the invoking of cloture by a simple majority—let me repeat, by a simple majority—and I want the Members to weigh that very, very carefully, and to understand that if this is agreed to, one, two, or three Senators, who can be prevailed upon to change their minds, to loosen their consciences, can be the determining factor in a matter of moment that is important to this Nation and to the world.

Pressures have been exerted, as we all know. Senators have changed their minds, not because of conscience, on some occasions, but because of pressures exerted, and that is why I ask the Senators to weigh very, very, very carefully what a simple majority as to invoking cloture can mean.

The Members of this body should fully understand the implications of that course of action.

In the past, I have favored proposals to change rule XXII, to require three-fifths of those present and voting instead of the present two-thirds required to invoke cloture. In all candor, however, I must say that with the passage by the Senate of the landmark Civil Rights Acts since 1964, I do not feel the sense of urgency for the change of rule XXII I once did. Even so, I still support the three-fifths concept embraced by Senate Resolution 4 because I think it would be an appropriate compromise between those who prefer the present rule and those who would prefer a simple majority rule.

I favor a three-fifths principle, too, because I believe it does not destroy the essential character of the institution of the Senate. But I will not, and I cannot, and I shall not, go below three-fifths because I think of the inherent dangers in a proposal which is embarked upon imposing a majority rule in the case of a cloture, and I fear for the future of this unique institution and this Republic if such a factor becomes indeed a fact.

A three-fifths rule, if adopted, would be an equitable way to balance the interest while, at the same time, preserving the principle of protecting the minority positions in this body, and that is extremely important, and that is one of the unique features of this institution. That, too, I would hope would be kept in mind because, while I have been disconcerted, while I have not been pleased with filibusters which have been carried on, while I have had my embarrassing moments, I still believe that the rights of the minority must be protected.

I also believe that if we adopted Senate Resolution 4 it might bring to an end the biennial struggle over the changing of the Senate rules which has occupied so much of our time and our energies at the beginning of each Congress.

But the fact that I can and do support the content of Senate Resolution 4 does not mean that I condone or support the route taken or the methods being used to reach the objective of Senate rule XXII.

The present motion to invoke cloture by a simple majority vote, if it succeeds, would alter the concept of the Senate so drastically that I cannot under any circumstances find any justification for it.

The proponents of this motion would desregard the rules which have governed the Senate over the years, over the decades, simply by stating that the rules do not exist. They insist that their position is right and any means used are, therefore, proper.

I cannot agree.

Therefore, Mr. President, in order to question the propriety, under the U.S. Constitution, of the motion to end debate offered by the distinguished Senator from Kansas (Mr. PEARSON), I will make a point of order at the proper time that the motion is out of order.

That motion could be made now, but if it were made it would be subject to a tabling proposition and that would mean there would be no debate. So with that understanding, that it is my intention at an appropriate time to make that motion, I will now be in a position to answer questions or to yield any time which a Senator might desire for elucidation and knowledge, and I yield to the Senator from Alabama.

QUORUM CALL

Mr. MANSFIELD. First, if the Senator will yield, I think this question is so important that we ought to have a live quorum at this case.

Mr. ALLEN. Would the Senator yield to me at the conclusion of the live quorum?

Mr. MANSFIELD. And I will make the point of order, but I will not push it, and I hope that no Member of this body would expect me to push it until a reasonable time has developed.

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

Mr. MANSFIELD. Would the Senator allow me——

Mr. ALLEN. Yes, if the Senator will then yield to me.

Mr. MANSFIELD. Yes, indeed.

Mr. JAVITS. Will the Senator yield to me, also?

Mr. MANSFIELD. I would like to make a point of order that a quorum is not present, in order to achieve a live quorum, and with the proviso that I maintain my right to the floor and that I will then yield to the distinguished Senator from Alabama and then to the distinguished Senator from New York.

Mr. JAVITS. I thank the Senator.

QUORUM CALL

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

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 4 Leg.]

Allen	Griffin	Morgan
Biden	Hart, Gary W.	Pearson
Byrd, Harry F., Jr.	Hollings	Percy
Byrd, Robert C.	Javits	Scott, Hugh
Clark	Kennedy	Stafford
Cranston	Mansfield	Stone
Goldwater	Mathias	
	Mondale	

The VICE PRESIDENT. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The VICE PRESIDENT. 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	Hansen	Nelson
Baker	Hartke	Nunn
Bartlett	Haskell	Packwood
Bayh	Hatfield	Pastore
Beall	Hathaway	Pell
Bentsen	Helms	Proxmire
Brock	Hruska	Randolph
Brooke	Huddleston	Ribicoff
Buckley	Humphrey	Roth
Bumpers	Inouye	Schweiker
Burdick	Jackson	Scott, William L.
Cannon	Johnston	Sparkman
Case	Laxalt	Stennis
Chiles	Leahy	Stevens
Church	Long	Symington
Culver	Magnuson	Talmadge
Curtis	McClellan	Thurmond
Dole	McClure	Tower
Domenici	McGee	Tunney
Eagleton	McGovern	Weicker
Eastland	McIntyre	Williams
Fong	Metcalf	Young
Ford	Montoya	
Garn	Moss	
Glenn	Muskie	

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. HART) and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is necessarily absent.

I further announce that the Senator from Arizona (Mr. FANNIN) and the Senator from Ohio (Mr. TAFT) are absent due to illness.

The VICE PRESIDENT. A quorum is present.

Mr. MANSFIELD. Mr. President, with the concurrence with the distinguished Senator from Alabama, to whom I had

agreed to yield, I yield briefly to the distinguished Senator from Vermont.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Victor Maerki, of my staff, may have the privilege of the floor during consideration of Senate Resolution 4.

The VICE PRESIDENT. Without objection, it is so ordered.

PROPOSED AMENDMENT OF RULE XXII

Mr. MANSFIELD. Mr. President, I yield to the distinguished Senator from Alabama (Mr. ALLEN).

Mr. ALLEN. I thank the majority leader. I wish more Members of the Senate had been in the Chamber when he made his sledge hammer blows against this motion. A little later, I will read the heaviest blows he delivered against the motion.

Mr. President, when I first came to the Senate in 1969, I did not know the measure of the man who is the majority leader of the Senate. I first formed my conclusions about the measure of this great man in a similar fight on the Senate floor, when an effort was made to get to the consideration of a resolution amending Senate rule XXII, and a motion was filed to invoke cloture. It came to a vote. A majority, less than a two-thirds majority, voted to invoke cloture.

The distinguished Vice President then serving, the present Senator from Minnesota (Mr. HUMPHREY), ruled that cloture had been invoked with a simple majority.

An appeal was taken to the full Senate, and the vote was very close. With the titular head of the Democratic Party presiding over the Senate, the majority leader of the Senate, Mr. MANSFIELD, voted to override, to overrule, the ruling of the Chair that a simple majority could invoke cloture.

I stated at that time that my admiration for the majority leader had grown by leaps and bounds as a result of his stand for principle. Now, Mr. President, we see him acting in exactly the same pattern.

An effort is being made to cut off debate, to invoke cloture in the Senate by a simple majority, and the majority leader denounces that effort. Let us hear what he said. I read three paragraphs from his statement:

> But the fact that I can and do support the contents of S. Res. 4 does not mean that I condone or support the route taken or the methods being used to reach the objective of changing Senate rule XXII. The present motion——

That is the motion made by the distinguished Senator from Kansas (Mr. PEARSON). What I am reading was not said by the Senator from Alabama. I am quoting the distinguished majority leader.

> The present motion to invoke cloture by a simple majority vote if it succeeds would alter the concept of the Senate so drastically that I cannot find any justification for it.
>
> The proponents of this motion would disregard the Rules which have governed the Senate over the years simply by stating that the Rules do not exist.

Another phrase for that would be seeking to invoke cloture by a majority vote by throwing the rule book out the window. The majority leader words it a little bit differently. "They insist that their position is right and any means used are therefore proper. I cannot agree," says the distinguished majority leader.

I wish again to pay tribute to our distinguished majority leader and state that I certainly support his position in the matter. I am certainly not going to prolong this debate. He has spoken more eloquently than I can with respect to the issue involved. So the distinguished majority leader says he is for the contents of Senate Resolution 4; he is not in favor of getting to a vote on it by improper means. That is what he says.

Mr. LONG. Will the Senator yield at that point?

Mr. ALLEN. I am glad to.

Mr. LONG. Is it not true that the statement of the majority leader could, in some respects, be viewed as a statement against one's immediate interests, because if one looked at it from a selfish point of view, there is nothing that plagues a majority leader more in trying to move a debate along than the right of free debate.

Mr. ALLEN. That is almost against the interests of the Senate, is it not?

I thank the distinguished Senator from Louisiana.

Mr. President, I understand that a little bit later on, the distinguished majority leader is going to make a point of order that this motion is out of order. I see the two sponsors of this resolution, Senate Resolution 4, and this present resolution seated in the Senate chamber. I hope they will reassess and reconsider their position. I hope that they will acquiesce in the point of order being made by the distinguished majority leader and not make a motion to table the point of order and try to win by sheer force of numbers, by sheer brute force, a question that is clearly covered by the Senate rules.

The distinguished majority leader made a very interesting point about the Senate being a continuing body. He suggested that had a trial of impeachment been under way at the time of the expiration of a Congress, the incoming Senate, being a continuing body, with only a third of the Senate coming in, the next Senate would be able to carry on the impeachment, since it is a continuing body. I daresay that had the Senate been engaged in a trial of impeachment here some months ago, we would not have heard voices raised by the proponents of Senate Resolution 4 and of this motion that the Senate is not a continuing body and therefore, it would have to start over on that trial. I suspect that they would have felt that the Senate is a continuing body so that that proceeding could have continued.

The question here today is, are we going to throw the rule book out the window or are we going to sustain the point of order, which was not made by the Senator from Alabama—his point of order would have no chance of being sustained—but a point of order, no matter on which side it is made. The point of order made by the distinguished majority leader is a point well taken. I sincerely do hope and trust that the distinguished Senator from Minnesota (Mr. MONDALE), following the leadership of our party leader, will maintain the unity that we need here in this body, at this time, acquiescing in the point of order and not pressing further this motion, which is clearly out of order.

I yield the floor.

Mr. MANSFIELD. Mr. President, if the distinguished Senator from New York will allow me, it is my understanding that our Presiding Officer, the distinguished Vice President, desires to make a statement which he had considered making prior to the recognition of the distinguished Senator from Alabama. I ask unanimous consent that at this time, without the Senator from New York losing his right to recognition, our distinguished Presiding Officer be allowed to make that statement at this point.

The VICE PRESIDENT. Without objection, it is so ordered.

The point of order having been made by the Senator from Montana and recognizing that the Senator from Montana maintains the floor, the Chair would like to make a statement in response.

The Chair believes deeply in the separation of powers and the coequal responsibility of the legislative and executive branches of Government under our Constitution.

It has been the Chair's practice and privilege, both in representing various administrations here in Washington and as Governor of the State of New York for 15 years, to work closely with the legislative bodies within the framework of the rules and regulations established by them. The Chair feels very deeply about this principle.

However, the Chair must carry out his duties as President of the Senate. Toward that end, the Chair has reviewed the history of this matter so that he might be guided by the precedents established heretofore.

Under the precedents, the question of the continuation of the rules of the Senate from one Congress to the next and, more particularly, the procedure by which those rules may be amended, has been considered a constitutional question. With but one exception, every President of the Senate who has faced this question has submitted it, or stated that he would submit it, to the membership of the Senate for debate and determination. In the one instance where the President of the Senate undertook to determine the question himself, his determination was reversed. Thus, the Members of the Senate, by their vote, maintained the precedent.

For these reasons, therefore, the Chair submits to the Senate the question: Is the point of order made by the Senator from Montana well taken? That question is debatable.

Does the Senator yield to the Senator from New York?

Mr. MANSFIELD. Yes, I yield.

Mr. JAVITS. Mr. President, I intend to propound a number of parliamentary

inquiries to the Chair. Before doing that, I should like to give my own view of the law and the Constitution here so that both the Chair and the Senate may understand the frame of reference from which I speak, and I hope not to take any more time than the distinguished Senator from Alabama has taken in presenting another point of view.

Mr. President, if there is one proposition which is uncontroverted in our society, and it is, indeed, literally the vertebrae on which our Nation is built, it is the sanctity of the Constitution. Mr. President, that is superior to everything—what is written in the Senate rules, what laws we pass. We have given unbelievable power to a group of men who we feel can be trusted with that power, finally—and it is the one place where a decision is absolutely final—to decide whether what we feel should be done is or is not in accordance with the Constitution, so prized is this document to us.

The Constitution states that at the beginning of every Congress, each House shall be able to determine its own rules. Now, that stands on the landscape bigger, more solidly than any other declaration of any kind, whether contained in the rules or whether contained in our fears or our prejudices.

The Founding Fathers certainly expected that succeeding generations would find a way to assert their rights. This is what we have been contending for in this body since 1957—that is the year that I came here—to find a way to assert our rights, our rights to change the rules by the same body which made the rules.

Mr. President, this has been constantly frustrated by importing into the argument fears and concerns about the fact that a majority could do this, do that, or do the other. Well, Mr. President, it would take but a majority, if the President did not veto it, to expropriate property of great size, just by the tax laws. Franklin D. Roosevelt had an idea that he would like to tax away everything over $25,000 in income, and he had it very, very seriously in mind. Another President might say $10,000, or $8,000, or $6,000, or $4,000. What is to stop him? But that is the essence of this Government and the essence of this Constitution, and the fact that our people have confidence in the way in which the form has been declared.

Yet for practical purposes it is contended that we must forever labor under the proposition that in any matter not otherwise provided for by the Constitution, to wit, ratification of treaties, overriding a Presidential veto, et cetera, we are forever condemned to the ability of one-third of the Senate to frustrate any action which needs to be translated into law on the part of the United States. That is what it comes down to.

Mr. CURTIS. Mr. President, will the distinguished Senator yield for a question?

Mr. JAVITS. If I may finish first.

It is very comparable to the idea which preceded the Civil War that you had to have a concurrent majority before you could do anything here, a majority from the South and a majority from the rest of the country.

My feeling and my constant contention here now for many years, joined by many distinguished Members and many distinguished legal scholars, has been that we have to find a way to observe the Constitution. I think the Chair is absolutely right in submitting these matters to the Senate, but I do not believe that the Senate, at the initiation of a session, can find itself absolutely frustrated from being able to carry out the Constitution because of something which it has put in its rules which is itself unconstitutional.

I remember very well the situation in 1959, when the compromise was offered by a Senator who later became President, Lyndon Johnson, of two-thirds present and voting as against an absolute two-thirds of the whole Senate. I remember very well when section 2 of rule XXXII was written into the rules. That section, if it is valid, would inhibit exactly what we are trying to do today, but it is not valid, and the Senate is just as good a judge, under the Constitution, as the Supreme Court, when it comes to its own actions.

The fact is that I voted for that compromise in the final analysis, and I said at the time that I was able to so vote because I did not consider section 2 valid under the Constitution, and, therefore, a nullity, which indeed it is.

I yield to the Senator from Nebraska.

Mr. CURTIS. I thank my distinguished friend, and I appreciate his scholarly argument, but I wanted to make sure I understood what he said.

The junior Senator from Nebraska understood that the Senator from New York stated that the Constitution provided that at the beginning of each session of Congress, each House shall determine its own rules. Will the Senator give us the citation for that?

Mr. JAVITS. Yes. I had it before me.

Mr. CURTIS. The only one I can find is in the second paragraph of section 5 of article I, which says:

> Each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member.

Mr. JAVITS. The Senator is correct.

Mr. CURTIS. I understood the distinguished Senator from New York to say—and if I am in error I want to be corrected—that the Constitution provided that at the beginning of each session, each House may determine the rules of its proceedings.

Mr. JAVITS. The import of this provision of the Constitution, and I will explain why, in my opinion, means at the beginning of each Congress each House may determine its own rules, because the practice has been in the other body, never challenged, that at the beginning of each Congress they adopt their rules. The Presiding Officers of the Senate have interpreted that same precedent to mean that the Senate was either a continuing body or tacitly adopted its rules by not changing them at the time when the Senate became part of a new Congress.

That is why I say what I do. If the Senator were correct, by the way, and that view could be exercised at any time, then this motion could be made at any time, and this finding of constitutionality could be made at any time.

So we have sort of subjected ourselves to the discipline of trying to do what we believe should be done at the beginning of each Congress, because that is the way the other body has pursued it, and that has been the traditional practice there. But if the Senator were correct, the traditional point would be more strongly against that view than it is even now, because if this is correct as a statement of policy, it has no qualification, the beginning of each Congress or anything else. It could be made at any time.

Mr. CURTIS. The Senator from New York is a distinguished lawyer, and I concede to him the right to place his interpretation on it. He does so very forcibly. I am not questioning that.

But the fact remains that the Constitution does not specifically say that at the beginning of each session, each House shall determine the rules of its proceedings.

Mr. JAVITS. That is true.

Mr. CURTIS. I thank the Senator.

Mr. JAVITS. But the Constitution does very closely say that each House shall determine the rules of its proceedings, and therefore that may come about at any time, at the beginning of each Congress, at the end, or in the middle, and it cannot be inhibited by a rule of that House; and that is what I am arguing.

In other words, my fundamental point is not the time of doing it, because that has just been a traditional practice, following that of the House of Representatives. My fundamental point is that the Constitution is paramount to any rule that we adopt in the Senate, and it is that paramountcy which is sought to be carried out by Senator PEARSON'S motion.

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

Mr. JAVITS. I yield.

Mr. PASTORE. Is the Senator from Nebraska implying that the constitutional provision was satisfied when the Senate, over a hundred years ago, first made its rules, and now, when we attempt to make this rule now in 1975, the constitutional provision is no longer applicable? Would that not be a ridiculous conclusion?

Mr. CURTIS. I did not make any implication. I understood that the Senator from New York made a quotation from the Constitution, and I did not find any such language. That is the reason why I rose to ask him.

Mr. PASTORE. I know. I could not find it, either, and that is the reason I picked up my book as well. But there is an element of reason in every rule, and there is an element of reason in the Constitution. If we assume that under this constitutional provision each body can make its rules, let alone whether it is at the beginning of the session, if we are implying or inferring at this time that that constitutional provision was satisfied when the rules were made over 100 years ago, then I am afraid we have become an old-fashioned body, and maybe that is just the trouble; we have just become old-fashioned, and we are not living up to the realities of today.

Mr. CURTIS. Will the Senator yield further just for a brief observation?

Mr. JAVITS. I yield.

Mr. CURTIS. I believe it is correct at the beginning of every session of the House of Representatives they have a motion to adopt as the rules of a particular Congress, the 94th, for instance, that the rules of the 93d Congress shall prevail. I believe I am correct in stating that the Senate has never followed any such procedure.

I think that that procedure in the House has established a law by usage. I think that is a doctrine well supported by all the law in this country and in England.

Likewise, I believe the fact that the Senate has not adopted rules when they have convened has become a law, by usage, that it is a continuing body.

Mr. PASTORE. Mr. President, if the Senator will yield and permit——

Mr. CURTIS. I do not have the floor.

Mr. JAVITS. Yes.

Mr. PASTORE. If the Senator will yield and permit, it is absolutely true that in the past, as long as I have been here, that we have been compelled to proceed under the old rules. But that is not because the majority did not want to change the rule; it is not because the majority did not want to initiate new rules; it is because the old rules created this monstrosity of filibuster that stopped us from doing it.

It was not a practice in which we acquiesced. It was a practice that was forced down our throats by the minority.

The Senator from Alabama said a short while ago that this was brute force, that this was the monstrous force of the majority.

I am afraid we are coming down to the monstrosity of the brute force of the minority that controls the workings of the Senate, and that has been the trouble in the delay. We have had people stand up on the floor and say, "Why don't you do something?" "Why don't you do something?" "Why don't you do something?" And every time we want to do it, somebody who has a personal interest or a parochial interest will stand up and block it. All he needs to do is to marshal the forces of one-third of the body, and you are dead. That is the trouble. The efficacy of the Senate will die, if we continue in the way that we have been going.

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

Mr. JAVITS. I yield.

Mr. MONDALE. I wish to put a question to the Senator from Rhode Island. As I understand it, the Senator from Rhode Island has chaired, and is chairing, the crucial ad hoc committee of the Senate which is seeking to develop a comprehensive plan to deal with the profound economic crisis in this country. The crisis of unemployment, of inflation, of energy, and the rest.

Does not the Senator believe that, if the present two-thirds rule obtains, there is a good chance that, no matter what the majority of the Senate wishes to do, much of our plan can be frustrated to the disadvantage and injury of this economy by the use of the filibuster?

Mr. PASTORE. Well, wait and see what happens when we try to resist the decontrol of old oil, and we will see the filibuster in full swing. We will see the beauty of the filibuster in full bloom when we try to decontrol old oil, and we try to do something about the oil depletion allowance. That is the answer to the Senator's question.

Mr. CHURCH. Mr. President, will the Senator yield for me to make a brief observation?

Mr. JAVITS. Very briefly, because I promised not to take any more time.

Mr. CHURCH. I thank the Senator very much.

Mr. President, it has always been my view that it lies within the power of the majority in the Senate, at the commencement of a new session, to determine what the rules of the Senate shall be. Any contrary interpretation of the existing Senate rules would deny to the majority what I deem to be its constitutional right. Therefore, I will vote with those who propose to make it possible for a majority to pass judgment on the rules that will apply in the coming session.

In saying this, I want to make it clear that although I have supported changes in rule XXII and, indeed, have led the effort in years past, along with the distinguished Senator from Kansas (Mr. PEARSON), to modify rule XXII so as to require merely a three-fifths vote to invoke cloture, I came to the conclusion some months ago, expressed at the time, that this would be a mistake.

Since then, it has been my considered judgment that rule XXII ought not to be modified. Therefore, if and when we come to a vote on the merits, I will vote to uphold the present rule. But, consistent with my view that it is the constitutional right of the majority to adopt new rules at the beginning of a session, I will vote for the tabling motion offered by the Senator from Kansas.

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

Mr. JAVITS. Yes, very briefly, because I really have promised not to take too long.

Mr. PASTORE. I want to applaud the Senator for his view. What he is actually saying is he does not deny us the right to invoke the new rules even though he would like to see the rule with a two-thirds majority, and I think that is everybody's privilege. We are not trying to stuff anything down anybody's throat. All we are saying is give us a chance to work at it. If the majority wants a two-thirds rule, OK. If they want the three-fifths rule, OK. No one questions that. but give us the authority to do it.

Mr. JAVITS. I join with Senator PASTORE in feeling the same way about what Senator CHURCH has just said.

Now, Mr. President, the fact is that the Constitution provides each House may determine the rules of its proceedings and, therefore, theoretically at least this action could be taken at any time. Practically it should be, and has been, taken now because we are having a third of our Members who are new, we are having new bills introduced, the old bills having gone out the window with the close of the last Congress, and they should be guided by a set of rules which represents the determination of this body, plus its new Members and, hence, it is not only legally proper to raise this issue because of the even broader provision of the Constitution, but is pragmatically essential to raise the question now so that all may be guided appropriately in the work to be undertaken but which has not yet been undertaken.

Now, Mr. President, one other significant fact, and then I should like to propound the parliamentary inquiry. This is a question of first impression. May I repeat that, it is a question of first impression, because the Senate has at no time by a majority acted to decide this constitutional question.

It had two opportunities to do so. It had an opportunity in 1969 to do so. On January 16, 1969, the Senate voted 51 to 47 to invoke cloture. The Vice President ruled that that was enough. The Senate overruled that determination, and that related specifically to the narrow question of what does rule XXII say and is rule XXII itself unconstitutional. The Senate, therefore, refused to go along with the ruling of the Vice President.

Subsequently, I raised the same issue on another occasion and in another year, in 1971, and on that issue I appealed from a decision of the Chair who had announced that a cloture move on the change in the rule had failed because two-thirds had not voted in the affirmative. I appealed from that ruling on the ground that it was a constitutional ruling. The majority leader moved to table my motion, and that motion was carried.

So, on neither occasion has the Senate ruled in favor of allowing the Presiding Officer to carry out a mandate which the Senate held was constitutional and, therefore, it is fruitless to argue now that it is throwing the rule book away.

On the contrary, Mr. President, it is asserting the Constitution, and the Constitution is paramount to the rule book, and I do not think anybody challenges that.

Now, Mr. President, I propound the following parliamentary inquiry: Is the point of order raised by the Senator from Montana or to be raised—I am not clear whether he has actually raised it as yet—has he raised it as yet?

The VICE PRESIDENT. Yes, he has.

Mr. JAVITS. Yes. Is the point of order raised by the Senator from Montana debatable?

The VICE PRESIDENT. The answer is "Yes," it was raised and it is debatable since it was submitted to the Senate.

Mr. JAVITS. May the Senator move to table the point of order, and if that tabling motion prevails, would it be a decision by the Senate to affirm the propriety of the motion to end debate which has been offered by Senator PEARSON?

The VICE PRESIDENT. Yes. And if the motion prevails, the Chair would have to interpret that as an expression by the Senate of its judgment that the motion to end debate is in all respects a proper motion; that this procedure is the

proper one, and that the motion would then be the pending question.

Mr. JAVITS. Is it a fact——

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

Mr. JAVITS. Yes.

Mr. ROBERT C. BYRD. What motion would then be the pending question?

The VICE PRESIDENT. The one that was previously made by Senator PEARSON.

Mr. ROBERT C. BYRD. There would be no debate on that one?

The VICE PRESIDENT. No debate.

Mr. ROBERT C. BYRD. It would be immediately put to a vote?

Mr. ALLEN. He did not say that.

Mr. ROBERT C. BYRD. That is what I am trying to find out.

The VICE PRESIDENT. His motion would not include debate; a direct vote.

Mr. JAVITS. Mr. President, does the motion to table require only the usual majority of the Senate?

The VICE PRESIDENT. Yes, the Senator is correct, under the rules and precedents.

Mr. JAVITS. The Chair has already answered the question. As the motion contains that provision, the Chair's duty would be to put the Pearson motion to the Senate immediately that the motion to table occurs.

Mr. ALLEN. Will the Senator yield? I believe the Senator is stating—putting words in the Vice President's mouth.

Mr. JAVITS. Well, Mr. President, I would ask unanimous consent that that be stricken. It is not necessary to repeat something I have not asked.

Mr. ALLEN. When the Senator gets through, I wish to ask a clarifying question.

Mr. JAVITS. Now, Mr. President, if the motion to end debate prevails, may the Chair immediately put to the Senate without further debate the question on the adoption of the motion to proceed to the consideration of Senate Resolution 4?

Mr. ALLEN. If the Vice President would yield.

[Laughter.]

Mr. JAVITS. Mr. President, I have not yielded and I believe I have the floor.

Mr. ALLEN. Very well.

The VICE PRESIDENT. The Senator from New York still has the floor.

The answer to the question propounded by the Senator from New York is "yes."

Mr. JAVITS. Finally, Mr. President——

The VICE PRESIDENT. But there is one other action that would have to take place first, and that would be action on Senator PEARSON's motion; then, if that is agreed to, then it would go to the original motion to proceed to the consideration of Senate Resolution 4 and that would be by a simple majority.

Mr. JAVITS. Finally, Mr. President, if the motion to proceed to the consideration of Senate Resolution 4 is adopted by the Senate, will Senate Resolution 4 be the pending business before the Senate?

The VICE PRESIDENT. The answer is "yes."

Mr. JAVITS. Mr. President, I thank the Chair, and I am prepared, if the majority leader wishes, to either yield the floor to him or to Senator ALLEN, whatever he wishes.

Mr. ALLEN. A further parliamentary inquiry then.

The VICE PRESIDENT. The Senator will state it.

Mr. ALLEN. May I make a parliamentary inquiry of the Chair?

The VICE PRESIDENT. The Senator will state his inquiry.

Mr. ALLEN. As I understand the situation, a point of order has been raised by the majority leader and it would seem to me a motion is going to be made to table the point of order.

If the point of order is tabled, would not the effect of that vote by the Senate be to rule that the Pearson motion is properly before the Senate, but it will have no force and effect, as is the case of all motions, until it has been adopted by the Senate itself, and prior to the vote on that motion would not then, as is the case of all motions other than motions to table that motion be subject to debate?

The VICE PRESIDENT. The Senator is correct as to his first question, but the second question is covered by the motion itself which precludes debate.

Mr. ALLEN. Still, that motion, Mr. President, does not have any force and effect until it is adopted by the Senate, and obviously——

The VICE PRESIDENT. The Senator is correct.

Mr. ALLEN. A mere motion could not say that it is not going to be debatable; it would not have any effect until it has been ratified by a vote of the Senate, would it?

The VICE PRESIDENT. The second and third parts of that motion would have to be put immediately to the Senate for the vote.

Mr. ALLEN. And the Senate—is the Chair going to invoke cloture ex mero motu?

Is the Chair going to invoke cloture on his own motion?

The VICE PRESIDENT. Will the Senator put that in English for me?

[Laughter.]

Mr. ALLEN. In other words, is the Chair ruling that the Senate would have no opportunity to vote on the motion prior to hearing in the U.S. Senate; that there would be no debate on such a motion?

The VICE PRESIDENT. On the point of order that has been made against the motion, and the point of order is debatable, that is the point of order.

Mr. ALLEN. Yes.

The VICE PRESIDENT. That is debatable.

Mr. ALLEN. The Senator from New York—of course, it is a tortuous course—was aided, however, by answers of the Presiding Officer that were numbered, as he called off one number. I am wondering if the Presiding Officer is going to say that the Senate does not have a right to debate a motion filed here in the Senate?

The VICE PRESIDENT. The point that the Chair was trying to make is that the Senate has the opportunity in the vote to table the motion to determine whether a proper motion has been made.

Mr. ALLEN. Is the Chair ruling then—stating it is going to rule that a question decided on one point is going to be decisive of an entirely different matter; that there is going to be a vote on an entirely different matter?

That is what the effect of the Chair's ruling is.

The VICE PRESIDENT. If the Senate, by its own action, declares the motion a valid motion, then it is a valid motion, and the Chair would have to put it to the Senate for a vote.

Mr. ALLEN. The Chair is going to cut off debate on a motion filed here in the Senate, is that right?

The VICE PRESIDENT. We would have to put it to the Senate on the terms of the motion.

Mr. ALLEN. Well, the motion is not effective until it is adopted, is it?

The VICE PRESIDENT. The Senate has the opportunity in tabling to make that decision as to what they would like to do, and they would do that by majority vote.

Mr. ALLEN. Well, the motion to table is not decisive of another, it is an entirely different point, I would think.

I thank the Chair for his information.

The VICE PRESIDENT. The Senator from Minnesota.

Mr. MONDALE. As I understand the ruling of the Presiding Officer, it is his ruling that it is for the Senate to determine the constitutional question when the Senate votes on the motion to table. I hope we will be able to do this shortly. After proper discussion and debate on this matter, the Senate will have an opportunity to decide the constitutional question. It will not be the Presiding Officer, it will be the Senate that decides.

What he is doing here is, in effect, turning the question back to the Senate. We will decide the question on the motion to table, after appropriate debate has taken place.

It is not the Presiding Officer ending debate. It will be a decision by the Senate that it wishes to assert its clear powers under the Constitution. I would remind Senators that we are not dealing with the merits of rule XXII today. We are, after a month of filibuster, simply trying to get it before the Senate as the pending business.

All the Senate would be doing is saying that a month should be enough time to decide whether they want to decide something.

If it takes us as long to deal with other matters as it does with this question, it will be January 1984 before we see the first action on Senator PASTORE's bill to deal with our economic problems.

I think the Vice President has ruled wisely. The question is for the Senate. We can do as we please, I hope we will do the responsible thing and put rule XXII before the Senate as the pending business.

Mr. TOWER. Mr. President, the Senator from Rhode Island made a very interesting observation a moment ago when he said that a rule that was enacted a hundred years ago is no longer consonant with the realities of the time.

In other words, it is an anachronism. I submit that if we are to pursue that line of reasoning, we must note that the U.S. Senate, itself, is an anachronism. It was the intention of the Founding Fathers that the Senate would represent the States as corporate entities. It is an anachronism, I suppose, in the context of this time, that the Senator from Texas represents 12 million people and has one vote in the Senate, and the Senator from Rhode Island represents 1.5 million people and has one vote in the Senate. I submit that that in itself is an anachronism.

But there was a very good reason why this bicameral legislature was created by the Founding Fathers. The Senate has fulfilled the historic function of protecting the minority from the precipitant and emotional tyranny of the majority. If we are going to talk about anachronisms, if we want a little bit slicker machine to run the people's business, we should go to the parliamentary executive system. Then they would not have the confrontation between the Chief Executive of this country and the Congress of the United States.

So if our Government is, indeed, too rooted in the past and is indeed an anachronism, why do we not call a constitutional convention and revise the document, as Thomas Jefferson thought each generation would have to do?

Mr. PASTORE. Will the Senator yield?

Mr. TOWER. I yield.

Mr. PASTORE. It is true that the Senator has a lot more people in Texas than we have in Rhode Island, but is it not remarkable and marvelous that the Senator and I are about the same size?

[Laughter.]

Mr. TOWER. I agree.

Mr. President, I was only making the observation that I am atypical, and that Senator PASTORE is not because he is a Rhode Island-size Rhode Islander and I am a Rhode Island-size Texan.

[Laughter.]

The VICE PRESIDENT. The Senator from Nebraska.

Mr. CURTIS. Mr. President, I wish to call this to the attention of the Chair: rule XXI says:

1. All motions shall be reduced to writing, if desired by the Presiding Officer or by any Senator, and shall be read before the same shall be debated.

2. Any motion or resolution may be withdrawn or modified by the mover at any time before a decision, amendment, or ordering of the yeas and nays, except a motion to reconsider, which shall not be withdrawn without leave.

The rules provide that motions shall be debated.

No. 2 relates to withdrawing or modifying amendments.

Then rule XXII says:

1. When a question is pending, no motion shall be received but—

To adjourn.

To adjourn to a day certain, or that when the Senate adjourn it shall be to a day certain.

To take a recess.

To proceed to the consideration of executive business.

To lay on the table.

To postpone indefinitely.

To postpone to a day certain.

To commit.

To amend.

Then the rule says:

Which several motions shall have precedence as they stand arranged; and the motions relating to adjournment, to take a recess, to proceed to the consideration of executive business, to lay on the table, shall be decided without debate.

The rules clearly state that only motions to be decided without debate are motions relating to adjournment, to adjourn to a day certain, to take a recess, to proceed to the consideration of executive business, to lay on the table shall be decided without debate.

I submit that that read in connection with the very first sentence, which said: "All motions shall be reduced to writing and shall be read before the same shall be debated," clearly establishes a rule of the Senate that no motion, other than those specifically enumerated, can be put without debate. I thank the Chair.

The VICE PRESIDENT. May the Chair state his position? The point of order has been raised on this question. If that point of order, which was raised by the Senator from Montana who objected because of the reasons you have stated, is tabled by a majority vote, then the Senate, by its own majority vote, has expressed itself on the motion. So the Chair then has to go back to the motion, because the Senate has expressed itself.

Mr. CURTIS. A parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. CURTIS. Let us suppose that an amendment would be offered to increase an appropriation and a point of order is made. Then there follows a motion to table the point of order and the motion prevails. Would it follow that the amendment then must be voted upon without debate?

The VICE PRESIDENT. If it is contained in the motion because this is a parallel case.

Mr. CURTIS. In other words, a Member of the Senate can insert language in his motion and the very insertion denies all other Senators the right to speak on it?

The VICE PRESIDENT. The Parliamentarian advises that that is a hypothetical question.

Mr. CURTIS. But it is a good one.

The VICE PRESIDENT. It does not relate to this question before the Senate at this time.

The Senator from Florida.

Mr. STONE. Mr. President, in the last general session of the United Nations the Presiding Officer utilized the process of the appeal of the Chair, and other parliamentary processes, to emasculate the rules of procedure of the General Assembly of the United Nations, demeaning that body to practically a worthless body.

I can visualize another hypothetical parliamentary inquiry in which the same process being followed today could be attempted with regard to the two-thirds constitutional requirement to approve treaties, or any other two-thirds requirement in the Constitution as well as in the rules. Although admittedly unlikely all that has to happen is this same motion procedure leading to a motion to table, the Chair to turn it over to the majority ratification of such a point of order, and the two-thirds requirement to be destroyed. If we do not live by the spirit of the rules as carried forward, yes, for over 190 years, then we will not be any kind of a deliberative body, much less the greatest in the world.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I would hope that the Senate would support and sustain the point of order that has been made by the distinguished majority leader, and that if a motion to table that point of order is made, as we are told it will be made, that that tabling motion will not prevail.

Mr. President, without attempting in any way to be repetitious of the excellent statement that the distinguished majority leader has made in connection with the fact that the Senate has been recognized by the Senate and by the courts as a continuing body, and that under the Constitution each House shall make its own rules of proceedings, and that the Senate in the past has formulated its own rule to the effect that these rules shall remain in effect until changed in accordance with the rules, may I shift the Senate's attention to the motion that is before the Senate.

The distinguished Senator from Kansas has made a motion to proceed to the consideration of Senate Resolution 4. In connection with that motion, he has moved, also, to shut off debate immediately on that motion. If the Senate should vote to support that procedure, that debate be closed immediately, then it would be the duty of the Chair immediately to put the question on proceeding to the consideration of Senate Resolution 4. This is a divisible motion.

Various parliamentary inquiries have been made. The Chair, in responding to those parliamentary inquiries, has indicated that if the point of order by the distinguished majority leader is tabled, the question before the Senate then will be the motion which contains a provision to shut off debate, and that the Senate must then vote immediately on the motion.

Let me say it this way. I do not think I have stated it clearly.

Ordinarily, if a motion is made, and a point of order is made against such motion and the Chair submits the point of order to the Senate and the Senate rejects the point of order, the motion—to which the point of order was addressed—is still before the Senate, and that motion is debatable. In this instance, by virtue of the unique way in which this motion is written, and in view of the Chair's having responded as he has to hypothetical parliamentary inquiries, the self-executing motion would not be debatable. The distinguished Presiding Officer has indicated that he would not respond to hypothetical situations, but he indeed has responded to a hypothetical situation by indicating that if the Senate tables the point of order by Mr. MANSFIELD, the Chair would then, without further debate, immediately put the question to the Senate as to whether debate shall be closed.

I know that those who have submitted this motion act in the highest of good faith, but I consider this motion an extremely dangerous approach. Aside from the fact that the Senate is a continuing body, forgetting that for a moment, we should take a close look at what precisely we are about to do here.

We are about to set a bad precedent, if we table the point of order raised by Mr. MANSFIELD. In view of the Chair's having said that that will be interpreted as the Senate's having exercised its will that the motion to which that point of order is addressed cannot be debatable and must be put immediately for a vote.

We are going to rue this day. It will be a very simple matter for a Senator in the future to send a motion to the desk, such motion being to the effect that we immediately proceed to the consideration of something or that we immediately adopt a certain measure which is already pending before the Senate, and include in that motion a direction that the Chair immediately put the question before the Senate to close off debate on such motion.

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

Mr. ROBERT C. BYRD. I will yield presently.

And that if the Senate, by majority vote, agrees to that provision in the overall motion to close debate, the Senate will then proceed immediately, without debate, to the consideration of the measure; or, if the measure is already before the Senate, the Senate will proceed immediately, without debate, to vote on the measure itself.

If a point of order were raised against that motion and a tabling motion were made immediately, there could be no debate. The vote would occur on that tabling motion.

Mr. PEARSON. Mr. President, will the Senator yield on that point?

Mr. ROBERT C. BYRD. Will the Senator allow me to finish? I am trying to develop what I think is a very difficult point to explain, and then I will be delighted to yield.

Mr. PEARSON. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? I am having difficulty expressing my own thoughts.

The VICE PRESIDENT. The Senate will be in order, please.

Mr. ROBERT C. BYRD. Let me begin again.

I say to Senators that if the point of order by the Senator from Montana is tabled, we will set a bad precedent; and in the future, any Senator may contrive a similar motion, a motion in many parts, which of course can be divided.

Nobody has addressed himself to this motion yet. The Senator from Nebraska (Mr. CURTIS) was getting into it. I want us to consider the motion that is before the Senate and the danger of setting a precedent here which those on the Senator's side and those on my side one day will rue.

If a motion to table such a point of order is adopted, we will need only 51 Senators on this side of the aisle to shut off debate immediately on those on the other side, as a party—any time we want to, in the future.

May I say to those of us on our side that the day may come—although I hope it will not be in my time—when we will be in the minority, and it will take only 51 Senators from the other side of the aisle to stop debate immediately, without one word, on some matter which we may consider vital to our States or to the Nation. Let me show the Senate how this would work.

I would send a motion to the desk. That motion would be to the effect that we proceed immediately to the consideration of a certain matter; or, if the matter were already before the Senate, that motion would be to the effect that we proceed immediately to the adoption of that matter before the Senate. Coupled with this motion which I would send to the desk, I would add a motion that the Chair immediately put the question, to shut off debate, and that if that motion is agreed to by a majority vote, the Chair then immediately, without debate, put the question as to proceeding to the consideration of the matter; or, if the matter is already before the Senate, the Chair immediately would put the question on the adoption of the matter before the Senate.

The next thing needed to trigger this into a situation which gags every Senator on this floor, not giving him 1 minute for debate, is that a Senator who would share my view and who would be working with me in that particular situation, if he could get recognized by a cooperative presiding officer, could immediately raise a point of order that my motion is not in order. Whereupon, another Member or I, myself, or the Senator who raised the point of order, if he again could get recognition immediately, could move to table that point of order. On a tabling motion, under the rules of the Senate there is no debate.

Thereupon, the vote would occur immediately upon the motion to table the point of order. If that point of order were tabled the Chair—under the interpretation which the very distinguished Presiding Officer today has rendered to the Senate—would immediately put the question to shut off debate. There could be no debate on that motion to shut off debate. If there were a majority vote to shut off debate, then the Chair would immediately go to an immediate vote on the other motion to proceed to consider, or, if the matter is already before the Senate, immediately go to an immediate vote on the adoption of the matter before the Senate and there could be no debate on that question.

Mr. CURTIS. Will the distinguished Senator yield?

Mr. ROBERT C. BYRD. Not yet, if I may. I beg the Senator's indulgence.

In other words, this motion is self-executing, and the Chair is interpreting the motion of the Senator from Kansas (Mr. PEARSON) to mean that if this point of order which has been made by the distinguished majority leader is tabled the motion to shut off debate is self-executing, and the motion, which would, in any other instance, be debatable once the point of order is laid to rest, is, indeed, not debatable by virtue of the action of the Senate in tabling the point of order in this instance.

I must say that I have to disagree, respectfully with the Chair. We are today operating by the rules of the Senate, which rules and precedents provide that a motion before the Senate, against which a point of order has been made and tabled, remains before the Senate and is debatable. I cannot for the life of me understand how, in this instance, the motion, if the point of order is tabled, will not still be before the Senate and will not be debatable. I cannot understand that. I cannot understand how the Chair can logically state that the Senate, by this motion, and by virtue of its tabling a point of order, which is a separate matter, ipso facto shuts off debate on the motion of the Senator from Kansas to close debate by a majority vote.

Now, if we go down this road, I can guarantee that every Senator in this body will rue this day. I have long revered the rules of the Senate. I, personally, in the last few years, have come to the view that I would support a motion to invoke cloture by three-fifths. Like the majority leader, I think that would preserve the integrity and the uniqueness of this institution while, at the same time, it would be balanced and equitable. But I would achieve that end by working within the Senate rules.

I have changed my mind over the years. And I may change my mind again. But as I have worked here with the majority leader for 9 years, I feel that a three-fifths cloture vote would protect the minority, protect the uniqueness of this institution, and preserve a fair and equitable way to close debate. But I am not for destroying the Senate as a unique institution in an effort to reach that end.

I say this with apologies to those who have presented this motion. They are not for destroying the Senate, either. They love the Senate as much as I do. I have taken the floor today with some hesitation. I did not want to get into this issue. I made no preparation to do so. Others have made excellent arguments as to the continuing body principle and all of that. But I think this is an extremely unique motion and such a motion has only been offered to the Senate on one previous occasion.

Let me say further that if Mr. MANSFIELD's point of order is tabled, we will not only not be allowed to debate the motion to shut off debate, we will also not be allowed to amend it. We will not be allowed to make a motion to postpone it. We will not even be allowed to make a motion to table it. Because this motion says that if the Senate votes, by majority vote, to shut off debate, the question then will immediately recur on the motion of the Senator from Kansas to proceed to shut off debate.

When the vote is to occur specifically on a motion, it cannot be tabled. How can we vote on a motion if we table it? Once cloture is invoked, the same thing occurs with regard to the motion to proceed, which the Chair must put immediately, if the point of order is tabled. Under the Chair's interpretation, the Chair would immediately put that question to

the Senate. It cannot be tabled, it cannot be amended, it cannot be postponed.

Senators, do we want to do it this way? If this is done today, it can be done any day. If it can be done on this constitutional question, it can be done on another constitutional question.

It can be done on any other point of order the Chair wishes to refer to the Senate for decision.

Suppose it were the Bay of Tonkin resolution, which involved a declaration of war by the Congress of the United States. Any Senator could contrive his own—and I do not use that word disrespectfully—any Senator could write a similarly phrased divisible motion, a multiple motion, send it to the Chair, and all someone else would have to do is raise a point of order, another Senator would move to table the point of order; if the point of order were tabled, the matter, without debate, would be immediately put to a vote. If a majority were to sustain that vote, the debate would be closed on the basic motion to move to the consideration of the matter, or if the matter were already before the Senate, to proceed to vote immediately on the matter and without further debate.

You know, it is only by the sufferance of the Senate here today that we are talking even now, out of respect for the majority leader. I have been in the Senate at times heretofore when some Senators would not have felt compelled to so respect the majority leader. It is only by the sufferance, also, of those Senators like Senator MONDALE and Senator PEARSON, who are allowing us to debate this point of order before moving to table.

Let us put ourselves at another time, on another day, when we may not have Senators who are willing to let us debate a point of order before they move to table. In the light of the Chair's answer to the parliamentary inquiries, and in the light of the provisions of this particular motion we are debating it, together with the point of order, right here and now, by the sufferance of Senator PEARSON and Senator MONDALE. They have permitted us to talk before they move to table.

They did not have to do that. Another day, another Senator could raise the point of order and immediately, if he can get recognition again, he can move, himself, to table his own point of order—he does not have to have any help from anyone else—and the question would recur immediately, without debate, to table the point of order.

So I say most respectfully to my colleagues, those who differ with my viewpoint, that I respect their viewpoint. I respect what they are trying to do. I want to achieve the same end that they are trying to achieve. But I believe that there is a danger here that, if Senators will reflect upon it for but a little while, they can foresee a time when we would say that we went the wrong way to achieve an otherwise very notable purpose.

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

Mr. ROBERT C. BYRD. I yield.

Mr. PEARSON. Mr. President, if there is a danger in this motion, then there is a danger in the Constitution, I submit. The Senator has painted a very frightening picture of a great precedent being set here by majority cloture. A motion is submitted, and in that motion there is incorporated a provision to cut off debate. It was along in his dissertation and most able argument that he made reference to the constitutional issue.

That is what is at stake here. And how is the issue joined? It is by a motion, citing a section of the Constitution that pertains to the Senate's power to make its rules, and that is challenged by a point of order, where the majority leader said, "No, that is not proper, because the Senate rules say something else, that you cannot cut off debate except as you do it by rule XXII."

So the constitutional issue is joined, and it is joined as it is submitted to the Chair, and he rules. He rules that there is a constitutional question, and it ought to go back to the Senate.

The precedent here is where you make a determination as to whether a majority may go to a new rule—not a majority rule, but a three-fifths rule. Much of the debate today centers around a lot of conflicts, rules and procedures, and parliamentary inquiries.

We talk about disregarding rules; I submit that we could very well disregard the provisions of the Constitution. It is said that we diminish the rules. We could very well diminish the Constitution. It is said that the rights of the majority are sacred, and they are, but if there is anything fundamental and a seed of genius in our system, it is that someday a majority gets to vote.

This is not a precedent for a majority vote to go to majority cloture. It is a precedent, under the Constitution, so that some day we can get a rule which will not say a majority, but will say three-fifths. Some of us judge, including the assistant majority leader, that that may be proper at some times.

Mr. President, this does not set a precedent for anything new. It is a precedent borne within the Constitution. It is a precedent utilized within the Constitution.

How do we join the issue? If you think that section 1, article V, says that the majority of the Senate, at the opening of a Congress, has the power to make its rules, then this is the way you join it. It is not a dangerous precedent. It is a logical way to join issues and have the matter submitted to the Senate; and I submit that that is what is at issue here this afternoon.

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

Mr. PEARSON. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, I do not want to hold the floor overly long. I have no problem with the submission of the point of order to the Senate by the distinguished Presiding Officer, saying it is a constitutional question. I have no problem with that.

If the Chair had elected to rule on this question, the Senate could have appealed the ruling. That appeal would have been debatable. Of course, if there had been a motion to table the appeal, that would have shut off debate. That motion might have failed, and the Senate could then have debated the appeal. But the Chair has elected to submit this point of order to the Senate as a constitutional question.

The distinguished Senator from Kansas has said that this is a constitutional question. He has said that under the Constitution, each House may establish its own rules. No one quarrels with that.

The Senate has established its own rules, and one of those rules say that the rules of the Senate shall be changed only in conformity with the rules of the Senate.

So the Senate is following the dictates of the Constitution. It has established its rules, and one of those rules says that those rules shall continue in force from one Congress to the next until they are changed in accordance with the rules presently established; and one of the rules that is presently established is to the effect that debate can be shut off only by a vote of two-thirds.

We are not talking about majority rule here, Mr. President. The majority of the Senate can change any rule it wishes by a majority vote. What we are talking about is shutting off debate by a majority. That is what we are talking about.

But the motion by the distinguished Senator from Kansas goes even beyond that. By tabling the point of order the Senate will be acting on something entirely distinct and separate from this motion. The Senate will be voting to table something separate and apart from this motion by the Senator from Kansas. If the point of order is tabled, Senators will not have any opportunity to debate the motion to close debate.

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

Mr. ROBERT C. BYRD. I will yield shortly. If the Senator will allow me, and I beg his pardon, I want to say this: I guess there have been times when I have approached every Senator in this body on both sides of the aisle in an effort to get a unanimous-consent agreement under the present rules, and any one Senator could object to the request, and debate would go on and on and on, if it be the will of the Senate.

But if we go down this road, if I were so minded, and I sought a unanimous-consent agreement, and got one objection, do Senators know what I could do if I had the backing of 51 Senators? I could say, "You can just go to Sheol. I do not have to have your consent. I will send my motion to the desk," especially if it pertained to a constitutional question. It might pertain to any of the rules in that book of rules. I would just say, "OK, I will send a motion to the desk," and that motion would be self-executing, and if my 51 Members would back me up, I do not need the unanimous consent of anyone. A point of order could be made to my motion, the point of order could be tabled and we would vote immediately to shut off debate, and then we would

vote immediately on the question that I came to you to get your consent about. And all of this without any debate.

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

Mr. ROBERT C. BYRD. Put this power in the hands of a tyrannical leadership, and a tyrannical majority of 51 Senators, and we are going to be sorry on both sides of the aisle.

I yield to the able Senator from Nebraska and then to the distinguished Senator from Minnesota.

Mr. CURTIS. I thank the distinguished assistant majority leader for his discussion on this subject.

It seems to me that there ought to be a pause to think this thing over. If I have understood hypothetical questions and hypothetical rulings made, we could find ourselves in this situation: Let us assume that there is a motion pending and a point of order is made that by no stretch of the imagination could be valid; that the point of order raised a separate issue that did not go to the merits of the pending motion, and a motion was made to table the point of order, and it prevailed. We have a right to assume that the Senators voted their convictions on the validity of the point of order.

Then, if it follows, as the Chair suggests, that that is a ruling of the Senate in favor of no debate on the other motion, we have delegated not to 51 percent of the Senate, not to a majority, but to one Senator the right to cut off debate.

Mr. President, I submit that, according to the questions propounded and the answers made by the Chair, the result would be, assuming that the vote on the motion to table was determined on the merits of that motion, then we would vest in one Senator, not a majority but in one Senator, the right to end debate.

I do not believe there is any provision for that. This proposed change of rule comes in here not on the opening of a Congress where they submit the issue of adopting a set of rules; this resolution is introduced on the assumption that the Senate has a set of rules.

It reiterates on page 2 that only motions relating to adjournment, to take a recess, to proceed to the consideration of executive business, to lay on the table shall be decided without debate.

It not only comes in here on the assumption that we have rules, it comes in here, it reiterates, that motions shall be debated on their merits unless there is a motion to lay on the table or to recess or these other things that are very specifically provided for.

I thank the distinguished Senator.

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

Mr. ROBERT C. BYRD. Yes.

Mr. MONDALE. I thank the assistant majority leader.

Mr. President, let us have clearly in mind what is at stake here. In my opinion, the nature of what is being sought here has been grossly exaggerated by those who oppose the motion and those who oppose the ruling by the Presiding Officer.

In no sense are the proponents of Senate Resolution 4 seeking to impose majority cloture on the Senate. Both the chief sponsors of this resolution, Mr. PEARSON and myself, oppose majority cloture. We believe in a three-fifths cloture of those present and voting. That is what we favor.

What is at stake here is whether, under the Constitution of the United States, the Senate has the authority, by a majority vote, to establish its own rules at the beginning of a session, uninhibited by rules of previous Congresses. Every one of those words is a word of art. It is only motions that come within them that come within the ruling of the Presiding Officer and the precedent we establish today.

The many, generalized examples that we have heard, about so-called majority cloture flowing from our motion, are irrelevant. Unless they involve motions to change the rules at the beginning of the Congress they do not come within the constitutional right to which we are referring. Article I, section 5 says what? It says that each House shall determine its own rules. In the first 20 years of the U.S. Senate the rule was that you could close off debate by a majority vote. In 1917 the Senate decided they could close off debate by a two-thirds vote.

What I understand our opponents to be arguing here today is this: If you were a Senator in 1917, you could decide what rules you wanted. But, since the Senate of 1917 determined that debate should only be closed by two-thirds, the Senate of 1917 binds the Senate of 1975.

I do not believe it. I think we are just as powerful as they were. We are Senators in our right. Our appeal is not to the rules in this case; it is to the Constitution of the United States, article I, section 5. That is all we are doing today. We are not creating any new precedent. We are not making any new law. We are drawing our authority from the Constitution of the United States.

Now, former Vice President Nixon, on three occasions, said that the Senate has this right. Vice President HUMPHREY, on two occasions, ruled that this was the right of the U.S. Senate. And, this afternoon, the current Vice President of the United States ruled that the Constitution of the United States gives the Senate that power by majority vote.

Our opponents say, "But you are moving to table and the motion to table is nondebatable." They say, "You are allowing a motion to table to shut off debate." Well, that is a rule of the Senate. A motion to table is always nondebatable.

What are we seeking to do here? We are not asking the Senate today to rule on what rule XXII should be. After 5 weeks of the Senate's time, we are simply asking for a vote to bring Senate Resolution 4 before the Senate for consideration.

It will be available for amendment; it will be available for referral; it will be available for debate. What we would like to do, after 5 weeks, is to bring it before the body as the pending business. That is all. It does not seem to me that we are establishing any precedent. If we cannot do it in this way, the constitutional remedy that is ours is a farce, a nullity, a sham, useless. Tear it up and throw it away.

So we have to ask ourselves, what is more important to us: the Senators who met in this body in 1917 and decided that two-thirds would be required to close off debate, or the Constitution of the United States that states each House shall determine its own rules?

Now, there was one other argument here, and that involves rule XXXII. There is a phrase that, some would argue, means that rules adopted in previous Senates shall govern us here during the 94th Congress.

Why did the Senate of 1959 have the power to decide what rules we would have? What is the basis of their constitutional authority to bind future generations of public representatives elected by the American people?

Clause 2 of rule XXXII is strictly bootstrap language. It cannot bind future Senates; the Constitution prohibits it.

What we are faced with here is a very practical problem. Is there a way to make the Constitution live in the U.S. Senate at the beginning of a Congress, and allow us to establish our own rules.

There is tremendous significance to this. It bears upon the question of whether the Senate is going to be able to conduct the essential business of this country.

Coming before the Senate are matters of tax reform, matters of basic economic policy, matters of controlling our tremendous energy problem. Every one of those problems is a brutal one. They will divide us, embitter us, set section against section. But we must act, or this country will lose its vitality and strength.

If we fail to table the point of order, if we fail to assert our powers under the Constitution and adopt a modern rule—three-fifths rather than two-thirds—I think we will have severely crippled the role of this current Congress.

This will become the "Filibuster Congress." We will be standing here wrangling, delaying, and frustrated throughout the next 2 years, when the public has a right to ask us to act.

We ask for nothing that is not ours, not ask for any new precedents. We point to the Constitution of the United States and our right as Senators to vote on the rules. This is all we do.

Mr. ROBERT C. BYRD. Mr. President, I do not intend to hold the floor and farm out time. I have said I would yield to the distinguished Senator.

May I make these closing comments. We are not operating today under the cloture rule of 1917. That rule was altered in 1949 and it has been altered, to some extent, since.

Now, Senators cannot point to rule XX, rule XXXII, and to rule XXXIII and base part of their case on those rules unless they are also willing to recognize rule XXII, which says that cloture can only be invoked by two-thirds of those present and voting. We cannot say one rule is not in effect if we invoke other rules to support our case.

I am not afraid that this Congress will be called a filibuster Congress, may I say with all due respect to the distinguished Senator, and I am going to be one Senator who many times, I am sure, will come up against a situation in which

I will say I wish we could stop this debate.

But we have stopped debates many times in recent years by going the route of rule XXII.

The longest debate that ever occurred in this Senate—a filibuster—was 83 days, on the 1964 Civil Rights Act. It was to the credit of the Senate, I think, that it took 83 days on that act. I think that by virtue of that long debate over a period of 83 days, there were correcting amendments made, and I think the people of the country supported that act once it was finally enacted.

If that act had been rammed through in 10 days, or in 1 day, or in 20 days, I do not think it would have had the support finally of the American people that it needed and, that it had to have for its enforcement. I think it was to the credit of the Senate that the debate went on for 8 days before it invoked cloture. It can do it again on any matter of merit and which is vital to this country and which the American people will support.

I do not mean to be argumentative or to get into a debate with the Senator, but the distinguished Senator from Minnesota said that there is already a rule of the Senate whereby a motion must be brought before the Senate immediately for a vote and without debate and that is the motion to table.

I am glad that the Senator said that that is a rule of the Senate, and it is. If the motion to table is made, there is no debate, but that is a rule of the Senate. But it is not a rule of the Senate that a motion to close debate must be immediately put to a vote, without debate. Beyond that, which is even more dangerous, it is not the rule of the Senate that 1 Senator can dictate his own terms by which the Senate will close debate and if he has got 51 Members to back him up, immediately gag the other 49.

I thank all Senators for their courtesy and patience.

Mr. ALLEN. Mr. President, I was very much interested in the further comment made by the distinguished Senator from Minnesota. He said all we are trying to do is to get to the consideration of rule XXII, that when we got there it would be amendable, it would be referable, it would be debatable, and I hope the distinguished Presiding Officer made a note of that comment because if that is the correct status of affairs, we just get to discuss rule XXII and waive all of these proceedings.

I had understood possibly the distinguished Presiding Officer by his rhetorical response to questions was leaning a different way. He has not as yet ruled.

I was also interested in the comment made by the distinguished Senator from New York that the Senate, I believe he said, had never decided the question of whether a majority could act in amending its rules at the start of a session. He cited, I believe, the 1971 ruling by Senator Ellender where he ruled that the two-thirds majority not having voted to invoke cloture, that cloture was not invoked even though a majority had so voted, and the distinguished Senator from New York appealed that ruling and there was a motion by the distinguished Senator from Montana to table the appeal.

I believe another instance was cited having to do with Vice President HUMPHREY's ruling where the Senate reversed his holding that a majority could invoke cloture even though it was not a two-thirds majority. Yet the Presiding Officer apparently feels that if a decision is made on a collateral issue, not submitting the real issue, an issue on the motion to table the point of order, that if that is made, that is decisive of still another question, an entirely new question.

So I hope that the distinguished Presiding Officer has not reached a definite decision, not having made one because it has not been before him, that the motion by the distinguished Senator from Kansas is not debatable in the event the motion to table the point of order is carried, because clearly, as the distinguished Senator from West Virginia said, to rule otherwise would rule that the provisions of the Pearson motion—they are in court, they have not come into being yet and will not come into being until the Senate votes for the Pearson motion.

Now, prior to that time, under precedents, the Senate should be given an opportunity to debate that motion, but if the distinguished Senator from Minnesota has the right idea that we are going to be given an opportunity to amend, to refer, or to debate rule XXII, I think these other questions are probably moot.

Another thing occurs to the Senator from Alabama, Mr. President. Once the Pearson motion is ruled to be before the Senate, that is, assuming that the point of order is tabled, surely, Mr. President, that motion is not as unchangeable as the biblical laws of the Medes and Persians, which could not be changed. Surely, the Senate would have an opportunity to shape that motion as it saw fit. Surely, it would not be bound by whatever somebody may have thought up around midnight some night thinking maybe, "Gee, let us pull this on the Vice President when the time comes."

Surely, that is not an unchangeable motion that the Senate would not have an opportunity to discuss.

Suppose it said it will be debated for 6 months and then there will be a vote. Would that not be changeable? Why would the Vice President rule that it would not be subject to amendment? I do not believe he has yet ruled, by saying that it would be voted on without further debate. Surely, he would not rule out the filing of amendments. And then relying on the statement of the Senator from Minnesota, if we ever get to that point, it is likely that an amendment would be filed for true majority cloture, not 60 percent. Why not 50 percent cloture? Why not 40 percent cloture, if we are going to be pulling numbers out of a hat? Surely, that will be subject to amendment if we ever get to that point.

Mr. President, when the point of order has been made—and I understand it has been—when the motion to table is made, if it should carry, I hope the Vice President, before putting the question on the motion, will give us an opportunity to shape it to the will of the Senate. It is just the product right now of one or two Senators. Surely the other 98 would have an opportunity to give their input into the motion. Why would we assume that it would not be subject to some sort of amendment, some sort of shaping? Something as important as this should be debated.

Mr. President, on the idea of no debate, if the Presiding Officer has bothered to read the Federalist Papers or the proceedings of the Constitutional Convention of 1787, he will find that debate took place there in the Constitutional Convention time and time again. They would decide some question sometime and come back 2 or 3 days later and change it.

If we are going to give somebody a constitutional right, that does not mean that he has to have instant action. If it means anything, as contended by the other side, all it would mean is that when it finally got down to a vote a majority would have a right to make the decision.

Of course, if it would ever get down to the point of voting on Senate Resolution 4, it can be decided by a majority vote. The majority leader said that while he favored the three-fifths vote, he did not favor this method of getting to the vote. He did not endorse the idea that the end justified the means, whatever they were. He could not agree on that. If it does come to that point, I am hopeful the decision is the motion or the point of order of the distinguished majority leader will be recognized, and that the motion to table will be defeated.

I hate to see the distinguished Senator from Minnesota, a loyal Democrat, a former candidate for the Presidency, unwilling to follow the recommendation of the majority leader of the U.S. Senate. I am also sorry to see the Presiding Officer of the Senate following the leadership of the then Vice President (Mr. HUMPHREY), who, on two occasions on this very same question, was rebuffed by the Senate on this very same question.

I am sorry to see the distinguished Presiding Officer of the Senate following down that dead end trail that the Vice President of the United States (Mr. HUMPHREY) followed on two occasions.

The VICE PRESIDENT. The Senator from Minnesota.

Mr. MONDALE. Mr. President, I wish to announce to my colleagues that I intend shortly to make a motion to table. But before I do, I will be glad to yield the floor briefly for some statements. I ask unanimous consent that I be able to hold the floor for the purpose of making the motion to table.

The VICE PRESIDENT. Is there objection?

If not, it is so ordered.

Mr. MONDALE. I yield to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator from Minnesota yielding. I did not intend to speak on this matter, but after hearing the distinguished assistant majority leader and his thoughtful comments, I

would like to commend him on the position that he took, siding with the majority leader, the two principal leaders on the other side of the aisle being concerned about the possibility of the tyranny of the majority. I would hope that those of us on this side, with 38 Senators at the present time, would be somewhat cohesive on this matter because it is for our protection.

Apparently the distinguished Senator from West Virginia realizes that even though he does not want to see a Republican Party in control of the Senate while he is here, he recognizes that in 1976, 22 Democrats will be facing the electorate. So the possibility exists.

Mr. ROBERT C. BYRD. Mr. President, I did not intend that my statement be interpreted in any way as a prophecy.

Mr. WILLIAM L. SCOTT. I realize that, but the possibility exists. It could be improbable, but we could have 61 of these Senate seats if all of the 22 Democrats were defeated in 1976.

So it is possible that the other side of the aisle could be in the minority. I think it is extremely probable that the other side at some time in the future, whether it is 1976, 1978, or far into the future, at some time will be in the minority.

Mr. ROBERT C. BYRD. I hope the Senator will not adulterate the fine argument he is making by such a fatal flaw.

[Laughter.]

Mr. WILLIAM L. SCOTT. That being the case, it does seem reasonable that the rights of the minority, whether the Democrats are in control at a particular time or the Republican Party is in control, should be protected.

I was impressed by the argument made by the distinguished Senator from West Virginia. This is a deliberative body. I think we all recognize this. We would not want to see something rushed through this body without adequate thought, without adequate debate.

I heard the statement made by our colleague from Rhode Island, in which he referred to something akin to the dead hand of the past, the rules being promulgated many years ago. Yet if we just thumbed through the rules, on the first page we see some amendments. As we go through the rules of the Senate we see amendment after amendment, many of them made in the 19th century, but more of them made in the 20th century.

This is a live set of rules that we have here. It is something that has been promulgated over the years in a very thoughtful way. It is not the Constitution, but it is somewhat akin, insofar as this body is concerned, to the Constitution of the United States.

I think that having a two-thirds vote to change the rules of the Senate is in the interest of each Senator. It is in the interest of our States, representing the States as we do, and I believe it is in the interest of the people. I hope that ultimately rule XXII will be retained.

I thank the Senator.

Mr. MONDALE. Mr. President, I yield to the distinguished Senator from Idaho.

Mr. McCLURE. I thank the Senator.

Mr. President, I think the very fact that the Senator from Minnesota controls the floor and yields to us indicates the kind of problem we are getting into, in which debate is a matter of sufferance, not a matter of right. It underscores the fundamental problem we are dealing with here.

Earlier, the Senator from Minnesota said:

> We are not trying to change things; what we are trying to do is under the rules of the Senate.

That underscores, again, the proposition which I think is before the Senate—that we have some rules.

All we are seeking to do is to have the rule changed to proceed under the present body of rules as they were adopted earlier. The Senator from Minnesota, himself, made reference to those rules which are in effect now.

Beyond that, I underscore the point that the Senator from West Virginia, the distinguished majority whip, made earlier, that this is a precedent, that the procedure being followed here is not restricted to the constitutional question of the adoption of rules, because the question of the effect of the motion to table is applicable to any such motion that is made, whether or not it is related to a constitutional question. Therefore, it becomes applicable to every such situation that may be constructed on the floor of the Senate in the future.

The Senator from Alabama and the Senator from West Virginia, I believe, are two of the most knowledgeable men in the Senate with respect to the parliamentary procedures and the rules of the Senate. They are in agreement on this point, and I think the rest of us should listen to them.

Fundamentally, I think that what we see is that any two Members of the Senate can, in a given situation, create the parliamentary situation in which they, supported by 49 others, can cut off debate instantly on any given question.

I suggest that the scenario might go somewhat this way: A Senator, on a given question, at a given time, when the question is pending before the Senate, would be recognized. He would make a motion similar to the one pending before the Senate. He could then yield to his friend, who had already been clued into the procedure that was being sought to be followed, for the purpose of making a point of order against his motion. Of course, under the rules of the Senate, if someone wanted to object to his yielding for that purpose, he could not yield for that purpose. But if nobody made the objection, he could yield for that purpose, and the point of order could be made against his motion.

Then, having yielded to his friend, who would immediately sit down, he would move to table the point of order which had just been made against his own motion, and no one else in the Senate would have the right or the power to utter one word before there was a vote. If 49 other Members of the Senate were in agreement on that subject, that they should move forward toward a vote on it and stifle debate in the Senate, there would be an immediate vote; and under the suggested ruling of the Chair, there would be no further debate on the fundamental question that is involved.

I commend the Senator from West Virginia for having raised this issue. I commend him for his statesmanship. I learned very soon after joining this body of his concern and his very high regard for the Senate as an institution. I think he has again exercised that statesmanship in his statements here today on this question.

I hope the Senate will not take the route which has been suggested might be done, no matter how expedient it may seem to those who would like to change rule XXII. The Senate of the United States would be a far different body. This would be a fundamental and far-reaching and radical change, at a time when the people of the United States demand some kind of stability in Government, not radicalism.

I thank the Senator from Minnesota for yielding.

Mr. MONDALE. Mr. President, I promised to yield briefly to the Senator from South Carolina and, then, to the Senator from Illinois. I have had so many requests, that at that point I will move to table.

Mr. THURMOND. I will try not to take too long.

Mr. President, I think it is clear that the majority of the Senate can change a rule. But it is not clear that one Senator can make a motion and embody in that motion provisions that cut off debate.

The provisions for cutting off debate are found in rule XXII. They are set out in detail. What is the use of having this rule for cutting off debate, if one Senator can prepare a motion and put in it a provision that will automatically terminate debate.

Mr. President, it violates all the rules, it violates traditions, it violates the precedents of the Senate, and it is an unheard of request.

Mr. President, I wish to commend, too, the distinguished and able Senator from West Virginia, Mr. BYRD, for taking the stand he has taken. He favors three-fifths of the Senate being able to cut off debate, as do some others here. However, he has stated he is not going to destroy the Senate to do it. The Senator from West Virginia has stated he does not want to reverse the traditions and rulings of the presiding officers in the past. He wants rule XXII changed, but he is going to follow the precedents and rules of the Senate. The rules of the U.S. Senate provide, in rule XXII, the procedure for cutting off debate. If one Senator can offer a motion and incorporate in it a provision that will cut off debate, then rule XXII is a nullity.

Why have rule XXII? Why have any other rule concerning this question?

Mr. President, listen to what this motion says.

> * * * under Article I, Section 5 of the United States Constitution, I move that debate upon the pending motion to proceed to the consideration of Senate Resolution 4 be brought to a close by the Chair immediately putting this motion to end debate to the Senate for a yea-and-nay vote:

This is a motion. We are entitled to debate this motion.

Mr. President, I think a terrible precedent would be set if this motion prevails. I am surprised that any Senator would make such a motion as this, regardless of whether he wants three-fifths cloture, or whether he wants two-thirds cloture, as the rules now provide. Let us follow the rules, and let us not make the Senate rulebook a nullity. The rules mean nothing if a Senator can send up a motion that, in itself cuts off debate, and that is what is being done here.

I hope that the distinguished Presiding Officer will think over this matter before he makes a final ruling. There were some questions propounded here by the distinguished Senator from New York. At the time the questions were asked, I imagine the Presiding Officer felt that one followed the other and he answered them rather hastily. However, when he finally rules on this matter, after due consideration and after hearing both sides of this question, after hearing the assistant majority leader, who favors three-fifths in changing the rule, and after hearing the distinguished Senator from Nebraska and others I hope the able and distinguished Presiding Officer, the Vice President, will see fit to follow the traditions of the Senate, which have been followed ever since the Senate was founded.

Are we going to destroy the Senate as a deliberative body? If this action is taken today, that is exactly what we will do.

Mr. MONDALE. I yield very briefly to the distinguished Senator from Illinois.

The VICE PRESIDENT. Will the Senator from Minnesota yield to the Chair to make a clarification?

Mr. MONDALE. I yield to the Chair.

The VICE PRESIDENT. Thank you very much.

It is unusual for me to request that.

The Chair wishes to clarify the answer to a previous parliamentary inquiry by the Senator from New York.

The point of order raised by the Senator from Montana challenges the propriety of the motion offered by the Senator from Kansas. The Chair has stated that if the point of order raised by the Senator from Montana is tabled, the Chair would be compelled to interpret that action as an expression by the Senate of its judgment that the motion offered by the Senator from Kansas to end debate is a proper motion. Therefore, since the motion offered by the Senator from Kansas to end debate provides that it shall be immediately put to the Senate for a yea-and-nay vote the Chair would be compelled to abide by such requirement, the Senate having determined the requirement to be a valid one.

I thank the Senator from Minnesota.

Mr. MONDALE. I yield to the Senator from Illinois.

Mr. PERCY. I am sure we all thank the Chair for that clarification. I shall consider myself to be rendering a service to the Senate now, while I speak, for them to be able to contemplate that clarification and fully understand its significance.

Mr. President, I appreciate very much the Senator from Minnesota yielding very briefly. I should like the privilege of explaining why I intend to vote as I will, simply because I feel that the Congress of the United States, particularly the Senate of the United States, is literally on trial today to see whether or not this body can respond rapidly enough, with due deliberation, to achieve certain desirable goals and objectives. I believe that we are on trial right now and that the procedures that have been established in the past have not proven really effective. I cite only one simple example.

The consumers of this country are tremendously frustrated as a result of many grievances that were freely admitted this morning in candid comments by the distinguished Senator from Alabama. We do not disagree at all on objectives or goals, but we disagree on how to achieve the rectification of some of these problems. Yet, the Senate opened hearings today on a Consumer Protection Agency bill that the Senate approved by a vote of 74 to 4, 4 years ago, and it is virtually identical legislation now being considered once again. We have not been able to get off dead center simply because of a very narrow margin on this filibuster rule.

Mr. President, I want to make it clear that my support of the motion offered by the Senator from Kansas (Mr. PEARSON) today does not indicate that I support the ending of Senate debate by majority rule.

I believe it is fundamentally wise to guard against hasty or intemperate action by a majority of the moment and firmly support the proposition that more than a simple majority should be necessary to end debate and move to an immediate vote.

My difference with those who have supported retention of rule XXII as it was adopted by previous Congresses is one of degree. I believe that a requirement of a three-fifths vote of the Senate—a position I have consistently maintained since I entered the Senate 8 years ago, and which was reiterated time after time on the floor of the Senate today as a desirable objective and goal—to close debate will fully protect us from the potentiality of intemperate action of which I have just spoken. But just as I believe a three-fifths vote affords sufficient protection against the excesses of the majority, I also believe that the two-thirds vote requirement adopted by previous Congresses has too often subjected us to the intransigence of a too small minority.

This is, however, a different question from the one raised by the motion proposed by the Senator from Kansas today. The principle which this motion seeks to establish is that the Senate and Senators elected to serve in 1975 should not be bound by the rules established by the Senate elected in 1917.

Article I, section 5 of the Constitution requires each house of Congress to determine its own rules of procedure. I do not believe it was the intent of the Founding Fathers that either body be bound in perpetuity by the rules established by the first Congress, or by any Congress. Each Congress must be able to determine its rules of procedures anew by majority vote in order to carry out its constitutional powers and its mandate from the electorate. For this reason, I fully support the motion of the Senator from Kansas, and will be guided so in voting.

I think we all owe a debt of gratitude to the distinguished sponsors of this particular motion for the enlightened debate that we have had today. We are not apart on goals or objectives. We differ in procedure, but I think we have reached a time when we can vote.

Mr. BEALL. Will the Senator yield?

Mr. MONDALE. I yield to the Senator from Maryland.

Mr. BEALL. The assistant majority leader commented that it is a very difficult question to understand for nonlegal minds as mine certainly is. I came here this afternoon, although opposed to a change from two-thirds to three-fifths, believing that it should be the right of the majority of the Senate to establish their own rules. I came ready to vote in support of the motion the Senator is about to make to table.

However, after listening to the assistant majority leader, I came to understand that we might be establishing a precedent that would apply to other situations.

Am I to understand from the Senator from Minnesota that it is his contention that we are not establishing a precedent except as it may apply to constitutional questions that arise in this kind of situation, and that the reason it only applies to constitutional questions is because the Pearson motion itself alludes to a provision of the Constitution?

Mr. MONDALE. The reason goes deeper than that. I know of no precedent, and the Vice President has not sought to declare any, that would give a Presiding Officer the authority to rule as he did except where article I, section 5, is involved.

In all other instances the Senate would have debatable topics. Article I, section 5, in effect says—and there is a lot of precedent for this—that at the beginning of a Congress, and on questions affecting the rules alone, the majority has the right to determine its own rules.

That is all it means. Beyond that, on all other issues, the general rules of the Senate prevail.

Mr. BEALL. I thank the Senator.

Mr. MONDALE. I yield briefly to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I hope the position of the Senator from Minnesota and the Senator from Kansas will prevail. I have listened to the debate this afternoon. There has been a great deal of discussion about the rights of the minority, and very little about the rights of the majority.

Members of Congress and Senators are sent here by the people to address themselves to the people's business yet what we have seen in the time I have been in the Senate is instance after instance where rule XXII has been used to water-down legislation, to avoid even taking

up legislation, or to frustrate the interests of a very substantial majority of the Members of the Senate.

I think the majority has rights, too. I think the eyes of the country are on this body, to see whether we can put our own house in order, while we will be able to address ourselves to the people's business.

I am pleased to give my full support to the current Senate effort to reform the filibuster rule by allowing a three-fifths majority of the Senate to halt debate and require a vote on any measure.

In my view, we now have the best opportunity we have had in many years to end the reign of the filibuster and eliminate the obstructive and destructive effect it has on the Senate's business and on the vital interests of the Nation.

In the past, the filibuster rule has often made a mockery of the view that the Senate is the "world's greatest deliberative body." On many occasions, because of the filibuster rule, the world's greatest deliberative body has become the world's least decisive body.

Again and again on extremely vital and important questions, the filibuster rule has prevented urgently needed action on legislation by the Senate. In the past Congress alone, it was the filibuster that killed the Consumer Protection Agency; killed a tax cut that might have slowed or even averted the current serious recession; killed repeal of the oil depletion allowance; killed public financing of elections in the first session.

That sorry record is only the beginning of the problem. For every bill that actually dies at the hands of a filibuster, many more bills carry deep scars from their encounter with the filibuster. These filibuster scars are a result of the fact that the majority supporters of legislation are often forced into debilitating compromises and concessions, in return for the acquiescence of those who would otherwise maintain a filibuster. Often, the sponsors of an important bill face the Hobson's choice of no bill at all, or a half-hearted and anemic bill that may fail to do its job.

And, finally, the toll of the filibuster rule is also measured in the number of bills that never see the light of floor debate at all. Especially in the waning days of a Congress, when time is critical, the whispered threat of a filibuster is often enough to block a bill from even being called before the Senate.

Thus, the filibuster kills three ways—it can block any action at all; it can emasculate a bill as the price of further action; and it can prevent a bill from even seeing the light of day.

Again and again in recent years, the filibuster has been the shame of the Senate and the last resort of special interest groups. Too often, it has enabled a small minority of the Senate to prevent a strong majority from working its will and serving the public interest.

The simple fact is that the two-thirds majority required under rule XXII, the present cloture rule, is too difficult to obtain. Too much Senate business is too often obstructed. The will of the majority is too easily thwarted. And it is not the Senate, but the Nation's people who suffer the consequences.

Perhaps the most instructive argument against the two-thirds requirement of cloture is the comparison with the rare cases in which the Constitution specifically demands a two-thirds vote by the Senate. Thus, in five types of action, the Constitution demands a two-thirds vote:

To override a veto, each House must approve the override by a two-thirds vote;

To ratify a treaty, the Senate must approve the ratification by a two-thirds vote;

To amend the Constitution, each House must approve the amendment by a two-thirds vote;

To convict a President of impeachment, the Senate must approve the impeachment by a two-thirds vote; and

To expel a member of the House or Senate, the chamber must approve the expulsion by a two-thirds vote.

There is no substantial objection to the requirement of a two-thirds majority for these five far-reaching actions specified by the Constitution. The requirement works to the advantage of the Nation, by insuring that such important steps are not taken except with the support of a large majority of the Senate. They are among the most critical steps that any House or Senate can take. The two-thirds majority requirement is obviously appropriate and desirable as a protection against the shifting passions and partisan efforts of a transient mere majority on such issues.

In addition, the Constitution also specifies numerous actions that Congress cannot take at all, whatever the size of the majority. The most obvious example is the first amendment, which specifies that Congress shall pass no law—no law—abridging freedom of speech or freedom of the press. The Constitution and its amendments contain numerous other examples of actions prohibited to Congress. Together, these prohibitions are the "wise restraints that make us free," the source of our fundamental American freedoms, and the guarantee of the rights of the individual against the tyranny of the majority.

But the Constitution enshrines no prohibition on action by the people's representatives in Congress that may be construed as justifying the filibuster rule. Under our fundamental constitutional scheme, the rights of the minority are protected by a series of specific provisions, none of which has any relevance to the general rules by which the House and Senate perform their legislative functions.

As the examples I have cited make clear, the Founding Fathers knew how to say "two-thirds." But they wisely left the choice of rules in other areas to the Senate and House, without tying the hands of future generations.

Thus, the filibuster rule is not enshrined in the Constitution. Instead, it is a rule that was made by the Senate, and it is a rule that can be unmade by the Senate.

The only test is the balance the Senate chooses to strike between the needs of the Nation's legislative business and the desirability of accommodating a substantial Senate minority.

A balance that was "right" for one Senate and one era in American life may not be "right" for another Senate and another era. A Senate that, a generation ago, chose not to act unless a two-thirds vote of approval could be obtained was responding to the legislative needs of that period in our history. But I submit the balance is different today. The need for legislative business to proceed is greater now, and the consequences of our inaction are more crippling to the Nation and its citizens.

To some extent, past factors justifying a two-thirds cloture rule were "external" to the Senate, in the sense that they reflected the desire for a greater degree of consensus before major legislation could be passed, especially in areas where, in the 1920's and 1930's, the Congress was enacting pioneering legislation that transformed the laissez-faire role of the Federal Government and launched it on the more pervasive course of domestic social legislation we know today.

To some extent as well, the past factors justifying the two-thirds cloture rule were "internal" to the Senate. In the past, there appears to have been a greater reluctance by the minority to press an issue to a filibuster than exists today. Thus, a two-thirds rule that was tolerable when the filibuster rule was sparingly used becomes intolerable when the filibuster is used expansively as a frequent obstructionist tactic.

The frequency of cloture votes under rule XXII makes the point dramatically. Omitting three cloture votes in December 1974, in which cloture was sought to prevent nongermane amendments to a pending bill rather than to shut off a filibuster, the following table shows the pattern of the 97 antifilibuster cloture votes since rule XXII was enacted:

1917	0	1946	4
1918	0	1947	0
1919	1	1948	0
1920	0	1949	0
1921	1	1950	2
1922	1	1951	0
1923	0	1952	0
1924	0	1953	0
1925	0	1954	1
1926	2	1955	0
1927	5	1956	0
1928	0	1957	0
1929	0	1958	0
1930	0	1959	0
1931	0	1960	1
1932	0	1961	1
1933	1	1962	3
1934	0	1963	1
1935	0	1964	2
1936	0	1965	2
1937	0	1966	5
1938	2	1967	1
1939	0	1968	5
1940	0	1969	2
1941	0	1970	4
1942	1	1971	10
1943	0	1972	10
1944	1	1973	10
1945	0	1974	18

Thus, half of all the cloture votes since 1917 have taken place in the past 5 years.

Often, especially in the early years of rule XXII, but even as late as the

1950's, whole years passed, sometimes 3 to 5 years in a row, without a single cloture vote. Contrast that record of restraint with the experience of the 1970's, in which use of the filibuster and the cloture vote have suddenly mushroomed, rising almost as fast as the price of Arab oil.

On their face, these figures make the case that the indiscriminate use of the filibuster in recent years has reached an intolerable level as an unnecessarily divisive and delaying tactic.

The time has come for change. Surely, when both the disease and cure are clear, the Senate cannot fail to apply the proper medicine and end its present crippled state.

Half a century ago, rule XXII may have ben a "liberal" reform, in the sense that it was born as a result of the frustration over the then existing Senate rule that allowed no cloture at all.

But although the two-thirds cloture rule may have been a progressive Senate step in 1917, when it was first enacted, it is a reactionary device today that prevents the modern Senate from acting on the Nations' vital business.

Over the years, a number of efforts have been made to limit or even abolish the cloture rule. In 1949, cloture was allowed for all Senate floor procedures, not just the pending business. But, as a part of the compromise that achieved this reform, the two-thirds requirement was applied to the full Senate, not just the number of Senators present and voting.

In 1959, the cloture rule was eased, by again applying the two-thirds requirements to the number of Senators present and voting.

Now, a quarter century after the 1949 reform, 16 years after the 1959 reform, it is time to take a further step to ameliorate the obstructive impact of rule XXII. By reducing the cloture majority from two-thirds to three-fifths, we can achieve a better balance of the four most important factors involved in our consideration—the needs of the modern legislative process, the need for full debate, the rights of the majority and the rights of the minority.

Frequently, in past debates, the balance has been obscured. The principle of full debate has been especially misunderstood. No one objects to full debate. No legislation should be rushed through the Senate without ample opportunity for any Senator to discuss the measure, express his views, and persuade his colleagues. Committee hearings and executive sessions are no substitute for floor debate. Often, in my own experience, extended floor debate has illuminated and crystallized the most difficult issues of our time.

But too often, extended debate has been a euphemism for obstruction. Frequently, opponents of a measure use the shelter of rule XXII to block Senate action, long after all relevant arguments have been made, long after all meaningful discussion has taken place, long after any reasonable debate should have been brought to a close.

I yield to none in my view that the Senate has an obligation to guarantee full debate. But the Senate has no obligation to guarantee that debates will never end. Yet the latter position is the position in which the Senate often finds itself today, under the restrictive operation of rule XXII.

In recognition of the need for full debate, a number of compromise reform proposals in the past have sought to apply a shifting cloture formula, to allow cloture by progressively smaller majorities as the length of the debate continues. I have supported such proposals in the past. They have helped to highlight the importance of the dividing line at which opportunity for full debate shades off into opportunity for obstruction.

But the crucial question in any filibuster reform proposal is, should a minority of the Senate ever be entitled to obstruct the majority? As a matter of logic, I would answer that question in the negative. I believe that the Senate should operate under the principle of majority rule, except as the Constitution otherwise provides. Majority rule is the heart of our democratic system of government and it must necessarily be the backbone of our parliamentary procedure in the Senate.

But the issue cannot be settled by logic or by abstract debate on fundamental principles. As Oliver Wendell Holmes so eloquently put it, the life of the law has not been logic, it has been experience. And nearly two centuries of Senate experience have put a gloss of practice on the principle of majority rule in the Senate. The Senate has always operated under the rule that, in effect, a majority is not entitled to override the views of a substantial minority.

Although some would argue we should adopt "majority" cloture now, I do not support that position. In the experience of the Senate, generous respect has always been given to the rights of the minority. Even when the obstructive tactics of the minority have hobbled Senate business so badly that reform was essential, the Senate has moved only by incremental steps toward change, as it did in 1917, in 1949, and in 1959.

Today, at a time when the two-thirds cloture rule is proving too restrictive for modern Senate business, the most proper step, in line with the precedents of the past, is a modest reduction from two-thirds to three-fifths in the majority required to end debate.

Such a step would have had a significant—but not overwhelming—effect on filibusters in the past. Of the 10 cloture votes since the first enactment of the cloture rule in 1917, 20 have been successful in ending debate. Under a three-fifths cloture rule, that number would have risen to 44. In other words, twice as many cloture efforts would have been successful. But in an even larger number of cases—56—cloture would still have failed under a three-fifths rule.

These statistics are hardly evidence that the present reform proposals involve revolutionary change, or that they ride roughshod over the minority. Rather, they demonstrate a careful reform by the Senate of the proper balance between the public's business and the rights of the minority. It is a reform the Senate should not hesitate to adopt at the beginning of this session.

Apart from the substantive issue of the appropriate majority that should be required for cloture, there is also the important question of how a change in rule XXII may be accomplished. The issue here is whether a simple majority of the Senate is entitled to change the Senate rules.

My own view of the relevant constitutional provision is that the Senate is entitled to enact new rules and amend its existing rules by majority vote at the beginning of each Congress.

Article I, section 5, of the Constitution states unequivocally that "each House may determine the rules of its proceedings." The necessary inference is that each House in each new Congress is entitled to set its own rules. Nothing in the Constitution or commonsense suggests that either House may act in a way that binds a future House. Any other position would let the dead hand of the past unconstitutionally govern the present.

By what logic can the Senate of 1917 or 1949 or 1959 bind the Senate of 1975? As Senator Walsh of Montana said during the Senate debate in 1917 on the enactment of the original rule XXII:

> A majority may adopt the rules in the first place. It is preposterous to assert that they may deny to future majorities the right to change them.

Surely, no one would claim that a rule adopted by one Senate, prohibiting changes in the rules except by unanimous consent, could be binding on future Senates. If not, then why should one Senate be able to bind future Senates to a rule that such change can be made only by a two-thirds vote?

The view that a simple majority can change the Senate rules also finds strong support in the precedents set during a number of recent debates on rule XXII. On several occasions in the past, Vice Presidents, both Republican and Democratic, acting as the presiding officer of the Senate, have declared the view that a majority of the Senate has the constitutional power to change its rules.

The distinguished Senator from Alabama, the leading opponent of the view that a simple majority of the Senate can change the rules, attempts to dispose of these precedents by arguing that in the past, the Senate has overruled the Chair and reversed such rulings of the Vice President on this point.

But the logical flaw in Senator ALLEN's position is that although a Vice President's ruling may have been reversed, the reversal was accomplished by a majority of the Senate. In other words, majority rule prevailed on the issue of the Senate's power to change its rules, because, in effect, a majority of the Senate decided that a two-thirds vote should be required to end debate on proposals to change the cloture rule.

Thus, Senator ALLEN's argument, upon analysis, actually proves to be support for the very ruling he opposes, and the precedent stands that a simple majority

of the Senate can change its rules at the beginning of a Congress.

The notion that a filibuster can be used to defeat an attempt to change the filibuster rule cannot withstand analysis. It would impose an unconstitutional prior restraint on the parliamentary procedure on the Senate. It would turn rule XXII into a Catch XXII. It would give the two-thirds filibuster rule itself an undesirable and undeserved new lease on life.

Mr. President, the immediate issue is whether a simple majority of the Senate is entitled to change the Senate rules. Although the procedural issues are complex, it is clear that this question should be settled by a majority vote. I urge the Senate to support the position of the Senator from Minnesota and the Senator from Kansas.

Mr. PACKWOOD. Mr. President, I wish today to give my support to my distinguished colleagues who are so ably leading the effort to amend Senate Rule XXII. In the 6 years I have been privileged to serve in this body, I have been struck again and again by the pernicious effect of unlimited debate in hampering our efforts to get on with the Nation's business.

The Senate, from its founding until 1917, enjoyed the privilege of unlimited debate. Of course, through many of those years the Congress only met for a month or two, and there was far less legislation to consider. Unlimited debate in those days was a luxury we could afford. By the early 1900's, however, this country and the world were changing. Everywhere the pace began to quicken. Transportation was irrevocably altered by the automobile and the airplane. Communication, once a matter of days and weeks, could suddenly be done almost instantaneously through the telephone and telegraph.

Finally, in 1917, the Senate came face to face with changing realities. In that year, President Wilson called on the Congress to pass legislation permitting the arming of American merchant vessels so that they could defend themselves against German raiders on the high seas. A tiny group of men in the Senate balked, and they managed to thwart the will of the President, the Congress, and the people by talking the legislation to death. Their action, tragically, also talked some American sailors to death. An angry popular reaction set in against the Senate and what President Wilson termed "a little group of willful men" who had "rendered the great Government of the United States helpless and contemptible." Within a very short time this reaction forced the Senate to move with the times—specifically, to adopt a rule permitting two-thirds of the Members to vote to cut off debate.

Mr. President, 58 years have now passed, and I submit that it is time for the Senate to move forward with the times and to again recognize changing realities. We no longer meet for 1 month a year. We meet 12 months a year. We no longer handle a few bills and issues in our debates—we cover hundreds. And the plain fact of the matter is that we just are not getting our work done.

And a major reason that we do not get our work done is that we like to talk too much. I pray, Mr. President, that no genuine national crisis that demands fast action arises before we move to modernize our rules and procedures; because if it does, and we find our ability to act blocked by a determined talkathon, I fear that public reaction this time would be even stronger than it was in 1917. Remember that the American people have heard for years that reform of this body is vital for progress. They understand these issues. Surely in this time of many crises they will no longer placidly accept a Senate paralyzed by its own rules and traditions. They recognize the filibuster for what it is, essentially a negative instrument used to obstruct legislation. I maintain that it is time for the Senate to act positively, not negatively. It is time to exercise the positive powers given to us by the Constitution and to take another step to give the Senate freedom to exercise its power.

I am particularly disturbed over the increasing use of the filibuster to shackle our debates. It is getting easier and easier to find controversial issues that invite extended debate because we have so many important things to decide. But our record indicates that we would rather talk than decide.

My colleagues on both sides of the aisle and of all political persuasions are employing the filibuster at an ever increasing rate. Since rule XXII was adopted in 1917, there have been exactly 100 cloture votes. However, in the 51 years between 1917 and 1968, there were only 43 cloture votes. In the 4 years 1969 to 1972, there were 26 cloture votes. In just 2 years, 1973 and 1974, there were 31 cloture votes. It can thus be seen that of all the cloture votes that have been held since rule XXII was passed in 1917, over 50 percent have come in the last 6 years, and over 30 percent in the last 2 years. I ask unanimous consent that at this point in my remarks in the RECORD, there be printed a chart appearing in the December 7, 1974, issue of Congressional Quarterly, summarizing the complete list of cloture votes since the adoption of rule XXII in 1917 through December 4, 1974. In addition, I have added 6 cloture votes that occurred after December 4, 1974, the last vote listed by the December 7, 1974, Congressional Quarterly.

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

LIST OF CLOTURE VOTES SINCE ADOPTION OF RULE 22

Following is a complete list through Dec. 4, 1974, of the 94 cloture votes taken since Rule 22 was adopted in 1917. Only 17 of these (shown in dark type) were successful. In the right-hand column is shown the vote necessary to invoke cloture under a proposed 3/5-majority vote. Twenty-three additional cloture votes (shown in *italics*) would have been successful using the proposed change.

Issue	Date	Vote	Yea 2/3 majority	Votes needed 3/5 majority
Versailles' Treaty	Nov. 15, 1919	78–16	63	57
Emergency tariff	Feb. 2, 1921	36–35	48	43
Tariff bill	July 7, 1922	45–35	54	48
World Court	Jan. 25, 1926	68–26	63	57
Migratory birds	June 1, 1926	46–33	53	47
Branch banking	Feb. 15, 1927	65–18	56	50
Disabled officers	Feb. 26, 1927	51–36	58	52
Colorado River	Feb. 26, 1927	32–59	61	55
District of Columbia buildings	Feb. 28, 1927	52–31	56	50
Prohibition Bureau	Feb. 28, 1927	55–27	55	49
Banking Act	Jan. 19, 1933	58–30	59	53
Antilynching	Jan. 27, 1938	37–51	59	53
Do	Feb. 16, 1938	42–46	59	53
Antipoll tax	Nov. 23, 1942	37–41	52	47
Do	May 15, 1944	36–44	54	48
Fair Employment Practices Commission	Feb. 9, 1946	48–36	56	50
British loan	May 7, 1946	41–41	55	49
Labor disputes	May 25, 1946	3–77	54	48
Antipoll tax	July 31, 1946	39–33	48	43
FEPC	May 19, 1950	52–32	1 64	1 58
FEPC	July 12, 1950	55–33	1 64	1 58
Atomic Energy Act	July 26, 1954	44–42	1 64	1 58
Civil Rights Act	Mar. 10, 1960	42–53	64	57
Amend rule 22	Sept. 19, 1961	37–43	54	48
Literacy tests	May 9, 1962	43–53	64	58
Do	May 14, 1962	42–52	63	57
Comsat Act	Aug. 14, 1962	63–27	60	54
Amend rule 22	Feb. 7, 1963	54–42	64	58
Civil Rights Act	June 10, 1964	71–29	67	60
Legislative reapportionment	Sept. 10, 1964	30–63	62	56
Voting Rights Act	May 25, 1965	70–30	67	60
Right-to-work repeal	Oct. 11, 1965	45–47	62	55
Do	Feb. 8, 1966	51–48	66	59
Do	Feb. 10, 1966	50–49	66	59
Civil Rights Act	Sept. 14, 1966	54–42	64	58
Do	Sept. 19, 1966	52–41	62	56
District of Columbia home rule	Oct. 10, 1966	41–37	52	47
Amend rule 22	Jan. 24, 1967	53–46	66	59
Open housing	Feb. 20, 1968	55–37	62	55
Do	Feb. 26, 1968	56–36	62	55
Do	Mar. 1, 1968	59–35	63	57
Do	Mar. 4, 1968	65–32	65	58
Fortas nomination	Oct. 1, 1968	45–43	59	53
Amend rule 22	Jan. 16, 1969	51–47	66	59
Do	Jan. 28, 1969	50–42	62	55
Electoral College	Sept. 17, 1970	54–36	60	54
Do	Sept. 29, 1970	53–34	58	53
Supersonic transport	Dec. 19, 1970	43–48	61	55
Do	Dec. 22, 1970	42–44	58	52
Amend rule 22	Feb. 18, 1971	48–37	57	51
Do	Feb. 23, 1971	50–36	58	52
Do	Mar. 2, 1971	48–36	56	50
Do	Mar. 9, 1971	55–39	63	57
Military draft	June 23, 1971	65–27	62	55
Lockheed loan	July 26, 1971	42–47	60	54
Do	July 28, 1971	59–39	66	59
Do	July 30, 1971	53–37	60	54
Military draft	Sept. 21, 1971	61–30	61	55
Rehnquist nomination	Dec. 10, 1971	52–42	63	57
Equal job opportunity	Feb. 1, 1972	48–37	57	51
Do	Feb. 3, 1972	53–35	59	53
Do	Feb. 22, 1972	71–23	63	57

Issue	Date	Vote	Yea ⅗ majority	Votes needed ⅗ majority
United States-Soviet arms pact	Sept. 14, 1972	76–15	61	55
Consumer agency	Sept. 29, 1972	47–29	51	46
Do	Oct. 3, 1972	55–32	58	53
Do	Oct. 5, 1972	52–30	55	49
School busing	Oct. 10, 1972	45–37	55	49
Do	Oct. 11, 1972	49–39	59	53
Do	Oct. 12, 1972	49–38	58	53
Voter registration	April 30, 1973	56–31	58	53
Do	May 3, 1973	60–34	63	57
Do	May 9, 1973	67–32	66	59
Public campaign financing	Dec. 2, 1973	47–33	54	48
Do	Dec. 3, 1973	49–39	59	53
Rhodesian chrome ore	Dec. 11, 1973	59–35	63	57
Do	Dec. 13, 1973	62–33	64	57
Legal services program	Dec. 13, 1973	60–36	64	58
Do	Dec. 14, 1973	56–29	57	51
Rhodesian chrome ore	Dec. 18, 1973	63–26	60	54
Legal services program	Jan. 30, 1974	68–29	65	58
Genocide treaty	Feb. 5, 1974	55–36	61	55
Do	Feb. 6, 1974	55–38	62	56
Government pay raise	Mar. 6, 1974	67–31	66	59
Public campaign financing	Apr. 4, 1974	60–36	64	58
Do	Apr. 9, 1974	64–30	63	57
Public debt ceiling	June 19, 1974	50–43	62	56
Do	June 19, 1974	45–48	62	56
Do	June 26, 1974	48–50	66	59
Consumer agency	July 30, 1974	56–42	66	59
Do	Aug. 1, 1974	59–39	66	59
Do	Aug. 20, 1974	59–35	63	52
Do	Sept. 19, 1974	64–34	66	59
Export-Import Bank	Dec. 3, 1974	51–39	60	54
Do	Dec. 4, 1974	48–44	62	55

[1] Between 1949 and 1959 the cloture rule required the affirmative vote of two-thirds of Senate membership rather than two-thirds of Senators who voted.

VOTES REQUIRED TO INVOKE CLOTURE

	Two-thirds	Three-fifths
Trade Reform Act—Dec. 13, 1974, 71 to 19 succeeded	60	54
Supplemental Appropriations (busing amendment) Dec. 14, 1974, 56 to 27 succeeded	56	50
Eximbank—Dec. 14, 1974, 49 to 35 failed	56	51
Eximbank—Dec. 16, 1974, 54 to 34 failed	59	53
Social Services Act—Dec. 17, 1974, 70 to 23 succeeded	62	56
Upholstering Duty (with tax amendments)—Dec. 17, 1974, 67 to 25 succeeded	62	56

Mr. PACKWOOD. Mr. President, the reason for the increasing use of the cloture petition is the increasing use of the filibuster. Many contend that the purpose of these long debates is to educate. In the 6 years that I have been privileged to be in the Senate, let me give you just a random sampling of the issues on which I have been "educated."

First. Amending rule XXII: Does that sound familiar? Here we are, just like history, repeating ourselves. Actually, this is the fourth time I have heard this debate, and of course, some of my colleagues have heard it so often that they must by now be able to recite each and every argument from memory. At latest estimate it costs something like $278 to print each page of the CONGRESSIONAL RECORD. Could we not save money by simply rereading our debates from 1973, 1971, 1969, and 1967, and so forth? Does anyone seriously contend that after all these years of debate the Senate is being educated by those who refuse to let this issue come to a vote? Some of my distinguished colleagues must have earned a Ph. D. in rule XXII if that is the case.

Second. Reforming the electoral process: The Congress and the people of the United States have been studying and debating the issue of directly electing the President and abolishing the electoral college for some 150 years. Did another 4 weeks of debate in the Senate shed any more light? No, it served only to obstruct any progress at all on an issue on which the American people expect us to act.

Third. Approving a Government loan to the Lockheed Corp.: This issue was highly publicized, our opinions were formed, yet that debate took another 2 weeks. It was not very educational.

Fourth. Granting cease-and-desist powers to the Equal Employment Opportunities Commission: We debated this one for 5 weeks in 1972, and I would submit that no votes were changed or minds altered by the length of the debate. Again, the object was to obstruct, not to educate.

Fifth. Establishing a Consumer Protection Agency: This has to be the granddaddy of all filibuster efforts. In 1973 and 1974, we have spent totally almost 2 months talking about the Consumer Protection Agency. What can there be left to say about this issue? There were seven, count them, seven, cloture votes to shut off debates on this issue. All failed. By this time the American public doubtless has found our discussion anything but enlightening. In fact, they must find it incomprehensible that, on a significant issue clearly of major importance to most Americans, we could not even manage to come to a vote. Surely the people must have hoped for a lot more action, either for or against the Consumer Protection Agency.

Many more issues that were filibustered could be mentioned. Each of these items represents days, and in many cases weeks, of delay and foot-dragging on matters of vital importance to this Nation.

I am not arguing that debate, and discussion, and refinement, and amendment are not important. Indeed, I believe that they are crucial to the legislative process, and I would never support or propose any step that I felt would threaten the right of everyone in this body to state his position fully.

We have, however, wasted years of valuable time talking when we should have been deciding on measures. We are now again debating the issue of limiting debate. We have often remarked that no other legislative body in the world "enjoys" such extended debate as does the U.S. Senate. That statement is true beyond belief. Perhaps a few examples of how other democratic governments deal with this problem might give us some helpful insights and perspectives.

First. The House of Commons in the United Kingdom: The procedure for cutting off debate and compelling the House to decide upon the matter under discussion was first authorized by the urgency rule of February 3, 1881 and permanently established by a standing order in 1882. Mr. Gladstone sponsored this change when it became obvious that there would have to be some means to limit debate if the House were to be able to deal with the issues of the day.

Members of Commons who wish to end debate may move "that the question now be put." The motion on putting the question must then be voted on at once, without amendment or debate—unless it appears to the Chair that the motion is an abuse of the rules of the House or an infringement of the rights of the minority, an infrequent occurrence. At least 100 Members must vote for the motion if it is to be declared approved. That does not mean that there must be a majority of 100, only that at least 100 Members must be present and voting with the majority. If the motion is carried, the question itself is then immediately voted up or down.

In the interests of efficiency, the British may also choose to employ an "Allocation of Time Order." This sets a limit to the length of debate before discussion has begun as opposed, of course, to cloture which limits debate after discussion has started. The Members of Commons may also choose to limit debate on certain sections of bills—a measure called rather quaintly a "Kangaroo" because it hops across certain sections of a bill to the debate on others for which a maximum time is set in advance.

Second. The Bundestag in West Germany: The Council of Elders—a group of some 25 men representing all parties in the Bundestag—allocates time to each member who wishes to speak on a given issue. No speech may exceed an hour or be less than 5 minutes unless a special exemption is granted. Closure of debate is declared by the President after all the speakers have taken the floor and no one else has requested to speak.

Third. The Diet in Japan: Members who wish to speak on an issue notify the speaker or President, stating whether they wish to speak for or against, with those opposing the issue customarily speaking first. The speaker or President sets a time limit for debate at his discretion, or the house, by resolution, may do so. If one-fifth or more of the members should object to this limit, the speaker or President must immediately seek "the opinion of the house" in a vote on the limits. The time limits—which often limit speeches to 10 or 15 minutes—have never been overturned, according to the Japanese "Practice Manual." If a member speaks beyond the

agreed limits, he is first warned and then sent to his seat. Twenty or more members may move to end debate at any time after two or more speakers have given their position if no one wishes to present an opposing view. In practice, debate is often limited by assigning specific blocks of time to each party for discussion of a given issue. Party leaders then designate which members are to use that time to present the party's views.

Mr. President, none of us questions that these are genuinely democratic nations with democratic procedures in their legislative bodies. The House of Commons is, in truth, the mother of us all. But the fact remains that in every one of these nations a procedure has been established to limit debate in the legislature so that the legislature can accomplish its task. The democracy of some of these bodies may vary, but it clearly does not depend upon free and unlimited debate in the legislature or else we would be flattering ourselves into believing that the U.S. Senate is the only democratic legislative body in the world.

Mr. President, there are two basic objections often voiced to easing our rules on limiting debate. One is the old argument that prolonged debate serves to protect the rights of the minority. A newer argument is that protracted debate is the best means for reining in and checking the executive branch. I would like to comment briefly on each of these arguments.

I believe in full and free-swinging debate. But debate is not a substitute for decisionmaking. No one ever said it better than Senator Henry Cabot Lodge of Massachusetts nearly 80 years ago. He said:

> If the courtesy of unlimited debate is granted, it must carry with it the reciprocal courtesy of permitting a vote after due discussion. If this is not the case, the system is impossible. Of the two rights, moreover, that of voting is the higher and more important. We ought to have both, and debate certainly in ample measure, but if we are forced to choose between them, the right of action must prevail over the right of discussion. To vote without debating is perilous, but to debate and never vote is imbecile.

Those who defend the rights of the minority have called past proposed amendments of rule XXII gag laws. Revising rule XXII would not gag anyone. It would allow for up to 100 hours of debate after cloture is invoked so that each and every Senator who wishes may present his views. All of this, mind you, after cloture is invoked—which surely would not occur until much debate had already gone by.

I find it hard to believe that my colleagues—able, articulate, and intelligent as they are—would not be able to put an issue into perspective in that amount of time. Indeed, I believe that those who call the amendment of rule XXII a gag rule are in error. It is instead the majority who are presently being both bound and gagged by every use of the filibuster.

The American people have always had a soft spot for the underdog, for the minority view. But the American people have traditionally gotten on with their business after the minority has had its say. We in the Senate appear to have jeopardized our reputations in the mind of the public, and one reason for that is because we have not gotten down to business after letting the minority express itself.

Opinion polls reflecting the public's "positive" rating of Congress show a dramtic decline in recent years. The press, too, have been highly vocal in expressing its dismay at congressional performance—or rather, lack of performance. Editorial after editorial has taken us to task, and in almost every case, the filibuster has been cited as one of the practices that contributes most to our difficulties. On January 7, 1971, the Washington Post said:

> In many respects the filibuster is the most intolerable carryover from an easy-going and uncomplicated past. As it now operates, it not only prevents Congress from getting its work done. Again and again it results in minority decisions because a few Senators can kill vital measures by long-windedness. Unlimited debate has become only another name for frustration and defeat of the will of the majority. It is an undemocratic practice which threatens to drag our entire systme into disrepute.

Just recently, the Washington Post again editorialized on January 16, 1975, as follows:

> As one of its first items of business, the new Senate will consider the perennial problem of striking a reasonable balance between the right of a minority of Senators to debate and the ability of a majority to decide. At issue once again is Rule 22, the cloture rule which requires the votes of two-thirds of those present and voting to limit floor debate and amendments. As experience has amply shown, this rule enables a stubborn minority to tie up a measure forever or force the majority to make major concessions to bring a bill to an up-or-down vote.
>
> Senators Walter F. Mondale (D.-Minn.) and James B. Pearson (R.-Kan.) are leading this year's attempt to modify Rule 22 by reducing the number needed for cloture to three-fifths of those present and voting.
>
> The point of the Mondale-Pearson effort is not to strip Senator minorities of all defense against majority tyranny, but rather to make one weapon, endless debate or the threat of it, somewhat harder to employ. Three-fifths, or up to 60 votes, would still be an impressive force to have to muster to curtail debate. At this point in the Senate's evolution, such a change seems timely and reasonable.

The San Diego Union on August 6, 1971, in an editorial entitled "Obstructive, not Constructive: Congress Short in Achievement" said:

> Unlimited debate up to an outright filibuster is a worthwhile tactic to protect the rights of the minority on crucial issues. Congress has traditionally treated it with cautious respect. Nevertheless, if abused, it can be a weapon of simple partisanship and obstructionism. A tendency to abuse it is becoming conspicious.

Such quotes are clearly available in abundance. But those I have mentioned here ought to suffice to let us see ourselves as the public appears to see us. Such an image must distress all of us who came to this body full of ideas and ideals.

I am often called upon, as I am sure are most of my distinguished colleagues, to address student groups on the topic of leadership. I have some heartfelt words to offer on the subject of the need for courageous, dedicated, and able men to lead this government. I have often wondered what some of these young people must think when they read the paper and discover that we, their elected leaders, apparently would rather engage in endless debate than make the hard choices required of us.

Some who defend the filibuster point to the so-called "two-track" which let us get on with some legislative business during the course of a filibuster. We are now using the filibuster so often, however, and on so many disparate issues that I fear we will soon have more tracks than the Southern Pacific.

The track system is in itself an admission that we are failing to meet our responsibilities. It is an admission that we have to adopt a system whereby we can fool ourselves into thinking that the United States Senate enjoys both unlimited debate and the ability to get its work done.

Mr. President, I am among the strongest supporters of the minority's right, and indeed duty, to make its position known. However, rule XXII does more than just protect the minority, it lets the minority rule this body. As we have repeatedly demonstrated, a small group of Senators can—and, in fact, will—frustrate the ability of the majority to vote an issue up or down.

This de facto veto power exercised by the minority is most assuredly not what the Founding Fathers intended. The Constitution clearly spells out those five instances in which a two-thirds majority is needed—specifically: to approve treaties and constitutional amendments, to impeach, to expel a Member, and to override a Presidential veto. Nowhere does it suggest that two-thirds of the members of the Senate must concur before an issue can be brought to a vote.

There is no assurance, of course, that the voice of the majority is the will of God. I see even less cause to believe, however, that the voice of a willful minority may be. Those who choose to exploit rule XXII are requiring us to have a two-thirds majority to bring an issue to a vote, and if that does not constitute a minority rule, I cannot imagine what would.

Let me turn next to a newer argument voiced by those who prefer rule XXII in its present form. It is said that the filibuster is the Senate's greatest weapon for holding a headstrong executive at bay. I believe this notion is mistaken. I believe that the continuing use and abuse of rule XXII to prevent this body from making decisions and taking votes is one of the major means by which the Congress may instead put more power into the hands of the President. If this body, after full and sufficient debate, is not permitted to come to a vote on an issue, we cannot look to the American people to criticize the President for bypassing or ignoring a querulous and garrulous Congress.

I am aware that some of my colleagues who previously supported efforts to

modify rule XXII have now changed their minds. Instead of taking the rule to task for keeping the Senate from voting on civil rights legislation, they have suddenly found it useful to stall decisions on whatever legislation they are opposed to. These Senators who have changed their minds—and they are my good friends—have now found all kinds of previously overlooked reasons why rule XXII, in its present form, is a splendid protector of democracy. They say it keeps the administration from riding roughshod over the Congress. What it really does, of course, is to keep the Congress itself from riding at all—roughshod or otherwise.

David Broder, in a column in the Washington Post on October 5, 1971, commented that—

When Senators as conscientious as some of those who have now changed their views on Rule XXII, can seriously suggest that under present circumstances that what we need now are a few more filibusters to delay or block action, it just shows how far we have gone toward despair at ever making government a positive force again.

Our resort to negative obstructionism instead of positive action clearly does not benefit the American people. Obstruction is no substitute for decisionmaking. The people have a right to expect more than delay and inaction from their elected representatives. If we fail to give them decisive leadership, their frustration may well boil over and lead to irresistible popular pressure for far more radical changes in our modes of doing business than any being suggested today.

Those who would indiscriminately use the filibuster would do well to remember that it is a two-edged sword. It could come to pass that we would have filibusters in progress on all sorts of issues, issues which any of us personally favor or oppose. But what those filibusters really do is block action. In essence, we are throwing up our hands and saying to the Executive, "Mr. President, you make these tough decisions. They are beyond our capabilities."

I say this is nonsense. We have the ability to make these decisions; what we need now is the will. Moreover, we have the responsibility to make these decisions, and we must not shirk that responsibility by hiding behind the supposedly sacred rules of this body. I doubt that the American people will long tolerate a Senate that says, "Well, fellow Americans, we have some great ideas on how this country should be run and how to order its priorities—but our rules just won't let us get down to business."

At our present rate of exploiting rule XXII—and as long as it is on the books it can and will be exploited—I can easily envision this body so handicapped by the unrestricted flow of words that it will be unable to act at all. We have walked a long way down the road of congressional irresponsibility. Our lack of discipline has led us to give away many of our most cherished and needed powers. It is not that the Executive is trying to steal these powers, it is that we have lacked the courage and the will to exercise them.

Mr. President, it is the responsibility of Congress to make decisions. When we ensnarl ourselves in words and find ourselves unable even to bring major issues to a vote, we abdicate that responsibility. We invite the very increase of executive prerogatives that we seek to halt.

I believe that it makes no difference what administration is in power or which party controls the Senate. We are talking about a matter of duty. And as the people's elected legislators, it is our duty to decide policy and set priorities. If we do not, we will have only ourselves to blame if the Executive chooses to exercise our powers for us. We must recognize the painful truth that the fact that we can use our rules to stop the Executive does not mean that we are doing something positive ourselves.

In closing, I would like again to point out that rule XXII is not sacrosanct. Like every other rule of this body, it can be amended. I believe Thomas Jefferson had this in mind when he said:

I know that laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered, and manners and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times.

The people of America deserve the best government we can provide, and a body that cannot act because it is enmeshed in a web of its own making is not the answer. Now is the moment to keep pace with the times and to move forward with reform of this great institution so that it can not only respond to our country's needs but can also provide the positive leadership and direction the Nation requires.

Mr. HANSEN. Mr. President, it is quite appropriate that I quote a passage attributed to Thomas Jefferson on the subject of freedom of debate in the Senate as this great deliberative body again questions Senate rule XXII:

The rules of the Senate which allow full freedom of debate are designed for the protection of the minority, and this design is part of the warp and woof of the Constitution. You cannot remove it without damaging the whole fabric. Therefore, before tampering with this right, we should assure ourselves that what is lost will not be greater than what is gained.

Mr. President, Senate rule XXII has always been and will be, a major bulwark against the erosion of our constitutional and democratic form of government in this great and bountiful country. Senate rule XXII constitutes a barrier to oppression by the majority and to the destruction of the rights and liberties of the minority. It would hardly be an exaggeration, therefore, to state that the present resolution offered against rule XXII threatens the heart of our constitutional system and threatens the rights and liberties of all minorities.

This proposal, this resolution, that has been offered in opposition to the freedom of debate goes much deeper than the right of an individual Senator or a group of Senators to engage in a lengthy discussion that some might label a filibuster. The real issue, the real point of the question before the Senate, is whether we are to alter the role and the position of this body in our great scheme of government.

It never ceases to amaze me and many of my distinguished colleagues that those who ambitiously seek, with persistence, to further the causes of minorities in this country are the very ones who vigorously strive to weaken rule XXII which, in the words of Thomas Jefferson is "designed for the protection of the minority."

Now, some of those who are advocating the weakening of this rule have not yet realized and have not become aware of the fact that they may be damaging one of their own future causes. Nevertheless, rule XXII has served to protect our Federal system of government and to preserve our States as sovereign entities. It has served to safeguard the liberties of our people and has afforded them the right to express their views through their chosen representatives in the Senate of the United States. Although slightly weakened in 1959, rule XXII still stands as a defender of liberty. If we undertake to weaken it further, the right of full expression and debate in the greatest legislative body in the world will be prohibited and denied. If we strike down the right of the Members of this body to freedom of expression and debate, we will have silenced the voice of the States and of the American people to be fully heard and adequately protected in the highest legislative forum in this Nation.

Mr. President, the Senate has had great prestige in this country despite the efforts of some Members to weaken or destroy that prestige by introducing legislation in the form of a gag rule. This type of ruling would destroy or impair the greatest element of checks and balances among the three divisions in our Government, the judicial, the legislative, and the executive. The U.S. Senate is the foundation of that division of powers. It is the balance wheel on which the division of powers in the system of checks and balances revolves.

Perhaps it is hard to get through to the people of this country what is involved in the very complex and complicated issues that pass through here in the form of legislation and why these issues call for freedom of debate. Perhaps the people of this country do not realize that if the proponents can just get a form of "gag rule" through, they can go forward and limit the right of amendment in the Senate of the United States. The proponents can then pass the economic and social legislation they want, legislation that will alter this country and destroy a system that has afforded men the opportunity to make progress and to go forward and to succeed in accordance with their abilities, in accordance with their talent and energies, the opportunity that has made this country great.

Mr. President, great men of the past, great statesmen of our Nation, recognized the dangers inherent in what is here being attempted today. They denounced it. They stood firm. Lest this generation forget, let them open the pages of history and learn from the dedi-

cated statesmen of the past. I quote from Senator Robert LaFollette's speech which was delivered just before the vote on cloture took place. He said:

Mr. President, believing that I stand for democracy, for the liberties of the people of this country, for the perpetuation of free institutions, I shall stand while I am a member of this body against any cloture that denies free and unlimited debate. Sir, the moment the majority imposes restrictions contained in the pending rule upon this body, that moment you shall have dealt a blow to liberty; you shall have broken down one of the greatest weapons against wrong and oppression that the members of this body possess. This Senate is the only place in our system where no matter what may be the organized power behind any measure to rush its consideration and to compel its adoption, there is a chance to be heard, where there is opportunity to speak at length and where, if need be, under the Constitution of our country and the rules as they stand today, the constitutional right is reposed in a Member of this body to halt a Congress or a session on a piece of legislation which may undermine the liberties of the people and be in violation of the Constitution which Senators have sworn to support. When you take that power away from the Members of this body, you let loose in a democracy forces that in the end will be heard elsewhere, if not here.

We of this distinguished body should recognize that in a democracy, free debate is a virtue, not a vice; it is a necessity, not a luxury, and is truly a fortress of a free society that is vital to the protection of freedom. Those who are waging this questioning of free debate in the Senate should pause and take heed of the Nation's position in the world today. I think it is clear that if ever there were a time when we should be examining with thorough deliberation the complex issues and economic problems, it should be now. Now when we are faced with such difficult problems on the domestic front. Now when our Nation is faced with such tough decisions it must make as a result of being a world's leader.

Mr. President, I further state that the majority is, simply, not always right. Down through the years, there are great monuments, tragic monuments to the failure of the majority to be right, the errors of a temporary majority such as it is proposed to subject the Senate to, a proposal to turn loose all the fires of partisanship to a mere majority, to close off debate and silence the opponents before they have a full and fair chance to make their case before the American people.

It is more difficult today than ever before to get both sides of the case before the American people. But it should be obvious that there are always two sides to every question that comes before this eloquent body.

It seems, Mr. President, that those who would destroy the right of free debate in the U.S. Senate contend that rule XXII is undemocratic in that it enables a minority to thwart the wishes of a majority. In their zeal, they deliberately or inadvertently overlook the fact that its very purpose is to provide a restraint upon the abuses of uninhibited and unrestrained majority rule.

It seems that the argument keeps coming up that a minority can obstruct. The overriding answer to that is that a majority can oppress. Again, we must make a choice. Our Founding Fathers made a choice. They sought to establish a government that would protect the people against oppression. They did not think it wise to limit debate in this body.

Through the years, the Senate has proved that it is the greatest safeguard of our federal system. For it is here, and here alone, that the voice of each State—large or small—can be heard.

I ask my distinguished colleagues, do we want to downgrade the Senate, and reduce its level of competency and effectiveness? Downgrade controversial issues of great principle that need be debated in full? I certainly hope not. Ponder the words of Alexander Hamilton, writing in the Federalist:

* * * There are particular moments in public affairs, when the people stimulated by some irregular passion, or some illicit advantage, or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn. In these critical moments, how salutary will be the interference of some temperate and respectable body of citizens, in order to check the misguided career, and to suspend the blow mediated by the people against themselves, until reason, justice, and truth can regain their authority over the public mind.

In concluding, Mr. President, it is apparent that hasty action is often possible under rule XXII, even as it is presently written. If further weakened, rule XXII will not only allow, but will undoubtedly precipitate, efforts to push more and more and more legislation through the Senate at an even faster pace than we witnessed in recent sessions of Congress.

The Senate was created to give a full chance to expose here the errors of other branches of Government. One of its main purposes was to permit a complete revision or canvass of the acts of the other body, to have full power to offer amendments, and to make speeches to point out those mistakes.

The U.S. Senate is the greatest lawmaking body in the world—we can keep or lose its power and prestige. The choice and responsibility is ours. For we have the duty and responsibility to preserve its greatness.

Mr. MONDALE. Mr. President, I move to lay on the table the point of order raised by the distinguished Senator from Montana (Mr. MANSFIELD), and I ask for the yeas and nays.

The VICE PRESIDENT. There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Minnesota (Mr. MONDALE) to lay on the table the point of order raised by the Senator from Montana (Mr. MANSFIELD). 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. BIDEN (When his name was called). President, on this vote I have a pair with the Senator from Michigan (Mr. PHILIP A. HART). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT BYRD. I announce that the Senator from Michigan (Mr. HART) is necessarily absent.

I also announce that the Senator from Alaska (Mr. GRAVEL) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is necessarily absent.

I further announce that the Senator from Arizona (Mr. FANNIN) and the Senator from Ohio (Mr. TAFT) are absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 51, nays 42, as follows:

[Rollcall Vote No. 14 Leg.]

YEAS—51

Abourezk	Hathaway	Nelson
Bayh	Huddleston	Packwood
Beall	Humphrey	Pastore
Bentsen	Inouye	Pearson
Brooke	Jackson	Pell
Burdick	Javits	Percy
Case	Kennedy	Proxmire
Church	Leahy	Randolph
Clark	Magnuson	Ribicoff
Cranston	Mathias	Schweiker
Culver	McGovern	Scott, Hugh
Eagleton	McIntyre	Stafford
Ford	Metcalf	Stevens
Glenn	Mondale	Stevenson
Hartke	Montoya	Symington
Haskell	Moss	Tunney
Hatfield	Muskie	Williams

NAYS—42

Allen	Fong	McGee
Baker	Garn	Morgan
Bartlett	Goldwater	Nunn
Brock	Griffin	Roth
Buckley	Hansen	Scott, William L.
Bumpers	Hart, Gary W.	Sparkman
Byrd, Harry F., Jr.	Helms	Stennis
Byrd, Robert C.	Hollings	Stone
Cannon	Hruska	Talmadge
Chiles	Johnston	Thurmond
Curtis	Laxalt	Tower
Dole	Long	Weicker
Domenici	Mansfield	Young
Eastland	McClellan	
	McClure	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Biden, against.

NOT VOTING—5

Bellmon	Gravel	Taft
Fannin	Hart, Philip A.	

So the motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I understood the Chair was going to put the next question. I hope at a little later time he will allow us to offer an amendment to the motion. But, first, I would like to ask for a division of the question inasmuch as there are two separate questions involved. And, further, Mr. President, I would like to point out that the first section of the motion makes no reference to the constitutional question. The constitutional question is contained in the second portion and, Mr. President, in the judgment of the Senator from Alabama, that would leave, since the motion is clearly divisible, the first portion clearly debatable, and the Senator from Ala-

bama would like to suggest that the Presiding Officer request the opinion of the Senate on that issue.

The VICE PRESIDENT. The Presiding Officer is ready to rule under rule XVIII that the motion is divisible.

Mr. ALLEN. I thank the Chair.

The VICE PRESIDENT. Therefore, the question comes first on the first portion of the motion which is debatable.

Mr. ALLEN. Now, Mr. President, inasmuch as the Chair has ruled that the first portion of the motion is debatable, the Senator from Alabama would suggest that all Members who would not like to hear a further discourse on this subject may retire to their office [laughter]. The Senator from Illinois can go to Mandalay, where, I believe, the plane is waiting for him. The Senator from Oklahoma can go to Vietnam, because the Senator from Alabama will be discussing this motion, since the Chair, in its wisdom, has ruled that the first section of this motion is debatable.

Mr. MONDALE. Mr. President, point of order.

Mr. ALLEN. I will not yield for that purpose. [Laughter.] I believe we now see where——

The VICE PRESIDENT. The Senator from Alabama has the floor.

Mr. ALLEN. I thank the Chair.

Now, Mr. President, we get back to the basic point.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. There will be order in the Senate, please.

Mr. ALLEN. We get back to the basic point of whether a ruthless majority here in the U.S. Senate can cut off the right of a minority.

The distinguished Senator from Minnesota (Mr. HUMPHREY) has great——

Mr. NELSON. Mr. President, may we have order in the Senate?

I cannot hear the distinguished Senator from Alabama.

The VICE PRESIDENT. The Senator from Alabama has the floor.

Mr. NELSON. Mr. President, I would like to suggest that the Senate is not in order, Senators are conversing around the floor and in the aisles and in the well.

The VICE PRESIDENT. The Senators will please take their seats, or if they have conversations, please carry them on outside.

Mr. ALLEN. I thank the distinguished Senator from Wisconsin for getting order here in the Senate, and the Senator from Alabama treats that request as being an indication of the fact that the Senator from Wisconsin is subject to having his views changed by listening to the Senator from Alabama press his point.

[Laughter.]

I appreciate the Senator's interest and desire to hear the Senator from Alabama. I do appreciate that.

As I was stating, the distinguished Senator from Minnesota (Mr. HUMPHREY), who is interested in the rights of the minorities, just like all of us here in the Senate are, but he has shown no interest whatsoever in the rights for certain minorities here in the Senate, those he seeks to cut off, to apply the gag rule to their right to discuss issues here in the U.S. Senate.

I just hope the distinguished Senator from Minnesota, in his compassionate nature, will have compassion on the minority here in the Senate, which has few defenders among those who speak out so forcefully and eloquently for the rights of the minority.

Mr. HUMPHREY. Will the Senator yield?

Mr. ALLEN. I will yield for a question only.

Mr. HUMPHREY. The Senator, I am sure, is aware of the fact that for some better than 20 years I participated in every effort in this body to change what we call rule XXII, without any success, I should add.

I also, as the Vice President, handed down the ruling which I regret to say was overruled by the Senate itself.

I have great respect for the judgment of my colleagues. I also want the Senator to know that I have great sympathy, and not only sympathy but support, for the right of the minorities.

For example, I vigorously support the right of the distinguished Senator from Alabama now to even involve me in this conversation.

[Laughter.]

And I might also add, more importantly, I support his sense of compassion to tell our brothers of the Senate that they have time to do their office work.

May I say that this is one of the most, one of the really constructive developments that has taken place here in the Senate for some time.

[Laughter.]

Mr. ALLEN. I thank the distinguished Senator.

Mr. HUMPHREY. I will, however, come back to join the fray a little later. I want to hear what my distinguished colleague from Alabama has to say. I know he will say it well and I just hope he is not too persuasive on this occasion, I trust his persuasive power will be less than his eloquence.

Mr. ALLEN. It suits the Senator from Alabama that he never finds out how persuasive he was.

Mr. HUMPHREY. The Senator will find out soon.

Mr. ALLEN. I hope, but the issue coming to a vote soon, it suits the Senator from Alabama never to find out how persuasive he is in this matter.

Mr. President——

The PRESIDING OFFICER (Mr. HANSEN). Will the Senator suspend until the Senate is in order?

The Senator from Alabama.

Mr. ALLEN. Mr. President, I would have a lot more sympathy for this effort if all proponents of this motion—and I see they are over here discussing the matter and I hope they have a plan that will be effective—I would have a whole lot more sympathy for their effort if they had gone under the Senate rules in seeking this change of the Senate rules, rather than to throw the rule book out the window.

Mr. TALMADGE. Will the Senator yield for a question?

Mr. ALLEN. For a question only, yes, sir.

The PRESIDING OFFICER. Will the Senator suspend, and the Senators who are carrying on conversations please take them to the cloakroom?

Mr. TALMADGE. I ask the distinguished Senator from Alabama if rule XXXII, paragraph 2, does not read as follows:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

Mr. ALLEN. Yes, sir, that is correct.

Mr. TALMADGE. Is it not also a fact that no change in the Senate rules has been made by this Senate?

Mr. ALLEN. As to that particular matter, no.

Mr. TALMADGE. Or the rules of the Senate as they provide for cloture, in closing debate?

Mr. ALLEN. That is correct.

Mr. TALMADGE. I thank the Senator and he is on eminently firm ground.

Mr. ALLEN. I thank the distinguished Senator from Georgia.

I would like to point out to the Senator, also, that this addition to rule XXXII came about in 1959 at a time when the Members of the Senate, many of them, were not satisfied with the cloture requirements of rule XXII and there was a compromise reached there in 1959 which I call the compromise of '59.

There were three features of that compromise. One feature was that the rule that existed at that time provided that there could be no cloture on a motion to proceed to a change in the Senate rules. That was not covered by the rule, so it had to be a measure, not a motion, to proceed to consideration of a measure.

There was another feature that those who wanted to apply a gag rule in the Senate did not like and that was that it required a constitutional two-thirds, that is, two-thirds of the elected membership of the Senate to cut off debate. There was some question as to whether the rules of the Senate carried over from one session of Congress to another.

Now, those who opposed the gag rule wanted to nail down the fact that the Senate rules did carry over from Congress to Congress in a continuing body and the gag rule Senators—we have their successors here in the Senate today—wanted to provide that cloture could be invoked on a motion to proceed to the resolution providing for a rules change.

They also thought that the requirement of a constitutional majority—with a constitutional two-thirds was too great and they wanted that cut down just to two-thirds.

So that was the area of the compromise. There were two concessions made to the gag rule Senators and one concession made to the free-debate Senators. The majority leader back in that day was Senator Lyndon Johnson of Texas and he was a great compromiser and they worked out a compromse where they would have a settlement in these three areas. Two concessions were given to the gag rule Senators and one concession given to the free-debate Senators.

So that is the way this provision in rule XXXII came about. I hope the Senator from Georgia has not become tired at the prolixity of the statement of the Senator from Alabama in this matter, but I did have to go into the history to give a full picture to the Senator from Georgia as to where that provision in rule XXXII came from. I hope he will excuse me for going into such detail, but it was necessary to give the historical background in this area.

Now, Mr. President, this issue of the constitutionality has been injected into this matter based upon a false premise. The claim is made that some mystic type of rule applies at the so-called start of the session. How this could be called the start of a session, I do not know.

Mr. TALMADGE. Will the Senator yield for a question?

Mr. ALLEN. Yes.

Mr. TALMADGE. Is it not a fact that the Supreme Court has ruled repeatedly that the rules of the Senate carry over from one session to the other, that the Senate is a continuing body?

Mr. ALLEN. Yes, it sure has.

Mr. TALMADGE. And that the rules that we operate under in the U.S. Senate have existed, as amended from time to time, since the origin of the U.S. Senate?

Mr. ALLEN. Yes, that is correct.

Mr. JOHNSON. Will the Senator yield for a question?

Mr. ALLEN. For a question, yes.

Mr. JOHNSTON. If there is the start of the session, when does the start of the session end?

Mr. ALLEN. That is a good question. I thought it had already ended, yet they claim there is some different rule at the start of the session. I have looked in the Constitution and I have poured over the various sections looking for that particular provision that is alluded to in the Chamber so often. All it says in this area is that it takes a quorum in either House to transact business. Well, that is admitted. And that the respective Houses can make their own rules. It could set a different rule than obtains at the start of a session. So in compliance with that constitutional provision, the Senate, of course, made its rules.

I will say to the distinguished Senator from Louisiana he would be surprised how little the rules of the Senate have changed since the days of Thomas Jefferson.

Thomas Jefferson, of course, was an expert and authority in many, many fields. One was the field of parliamentary law. He compiled what is called Jefferson's Manual. The Senate rules are based on Jefferson's Manual. In many instances the wording is practically the same. So the rules have changed very little in that time. The rules provide for the amendment of the rules. There is nothing to prevent the Senate, any time it wants to, from amending its rules. It does not have to do it at the so-called start of the session, but it can amend the rules on the last day of the session, for that matter, if it so desires. It just takes a majority vote to amend the rules. The trouble is that it takes more than a majority vote to get to the point where you get an up-and-down vote on the amendment of the rules.

This document that was filed, that has been made the basis of my discussion, for a while looked like it was just going to be a steamroller, that we were just going to choke off debate. We would not have any debate. We would put one question right after the other.

I am glad the Presiding Officer correctly ruled that you can get a division of this question. It is a pretty elementary situation. When an amendment has more than one subject in it, you can call for a division.

This first part just moves that the Senate proceed to the consideration of calendar item No. 1, Senate Resolution 4, amending rule XXII of the Standing Rules of the Senate with respect to limitation of debate.

There is no constitutional question raised. The Senator from Alabama wanted to discuss this matter a little bit. There have not been too many Senators in the Chamber, I will say to the distinguished Senator from Wyoming (Mr. HANSEN) who is presiding in a very fine fashion over the Senate at this time. We have looked for occupants of the chairs here in the Senate Chamber. A number of good people are in the Chamber, pages and members of the staff, but very few Senators. I am delighted to see that some Senators have remained. There for a while we had a pretty good representation here in the Chamber. They were expecting to move in for the kill, I will say to the distinguished Senator from North Carolina (Mr. HELMS). They thought they were going to have votes in rapid succession. But it has not worked out that way, thanks to the fine ruling of the distinguished Presiding Officer, Vice President ROCKEFELLER.

Just a few minutes ago I was not so kind in talking to the Vice President. I might say that all of the remarks I have made on this whole issue have been made right here in the Senate Chamber. I have not called the Vice President off and said, "Look here, Mr. Vice President, I believe," thus and so, "about this rule, and right here in the book it says" thus and so. "Don't you think that is right?" I have not resorted to that, Mr. President. I have stated my construction of the rules right here in the Senate Chamber. I have not talked to the Vice President privately. I am sorry the Vice President is not here now, but he has gone on. I guess he feels now that the matter is subject to debate.

That was a great ruling, I will say to my distinguished colleague, the distinguished Senator from North Carolina (Mr. HELMS) and the distinguished Senator from Idaho (Mr. MCCLURE). It was a good ruling. But I was not so nice to the Vice President earlier in the day. I really ought to apologize for that. If he were here presiding over the Senate, I would apologize for what I said.

After he ruled that they were going to vote on these matters in rapid succession, with no further debate, I pointed out to him the error.

I am glad the distinguished Senator from Minnesota (Mr. HUMPHREY) is still here. I will say to my distinguished colleague from Minnesota I found the Vice President following the leadership of then Vice President HUMPHREY on these matters. For awhile he was following the leadership of the Senator from Minnesota. But he came to his senses, I will say to the distinguished former Vice President, and abandoned his discipleship of the distinguished Senator from Minnesota. He ruled that, yes, this matter is debatable, this item No. 1 is debatable. And that is right. It is debatable. I believe we are going to have an interesting debate on it.

Mr. President, I would have a great deal more sympathy for this effort if they had just gone about this matter as prescribed by the rules. That is wherein they failed. It is bad.

We are supposed to set some sort of example in the Senate, I suppose, being governed by a government of laws and not of men. Part of the law, to us, is our rules. There is nothing in the Constitution contrary to the Senate rules—not a thing in the world. They speak as if the Constitution is paramount to the Senate rules. Certainly it is. But show me anything in the Constitution that the Senate rules violate, and I will certainly admit my mistake in the matter.

The Constitution says that both Houses can make their own rules, and they have done it. If we were operating without rules, it would be one thing. We are operating under a very fine set of rules, and I do not believe they should be thrown out the window.

Mr. STONE. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I yield only for a question.

Mr. STONE. In the opinion of the Senator, what is the beginning of a session or the beginning of a Congress, for the purpose of adopting new rules, and when is it over?

Mr. ALLEN. I will say that, obviously, the beginning of a session would be the first day, and the end of the beginning of the session would come not many days thereafter.

Mr. STONE. The end of the beginning would come within a day or two after we organize?

Mr. ALLEN. That would be my judgment. I have nothing to point to other than commonsense in the area.

Mr. STONE. Is there any ruling or precedent, either of the Chair or of any court, that indicates that 4 weeks or more into a new Congress, we are still at the beginning of a Congress?

Mr. ALLEN. I will have to say to the distinguished Senator from Florida that there has been some leniency in that regard, that they would let them carry on into the session, possibly several weeks, even. That does not make it right. It has been waived to some extent.

The point involved, as I see it, is this. There is no validity to the argument that there is a different situation at the start of a new Congress. I say "new Congress" rather than "new Senate," because there is never a new Senate; it is the same Senate that is carrying on. I have never seen, since I have been in the Senate—just a very few years—the history of the adoption or re-adoption in

the Senate of the Senate rules, because they go under the theory and the actuality that the Senate is a continuing body. For that reason, there is no need to readopt the Senate rules. We have them. They are there all the time, as rule XXXII says, until amended by the Senate in accordance with the Senate rules. There is no difference, early in the session or late in the session.

As I suggested a moment ago, we could amend the Senate rules the last day of a session, but we would have to amend them under the Senate rules, just as we have to amend them, as I contend, under the Senate rules, even if it is on the first day, because they carry forward all the time.

Mr. STONE. The Senator from Florida heard the senior Senator from Minnesota discuss the dead hand of the Senate of 1917 in some fashion that seemed to distinguish it from, for example, the dead hand of the Senate on Monday of the first week in February of the Senate of 1975. What is the logical distinction between a rule that was passed by a previous Senate and a rule that was passed a previous day?

Mr. ALLEN. None. They still last on, ad infinitum, unless changed by the Senate. So, as the Senator suggests, that would be the dead hand of yesterday, if that were the case.

Mr. STONE. One final question: If, by parliamentary procedure, cloture can be invoked by a rules change supported, through parliamentary procedure, by 50 Senators plus 1, or a majority of whoever is in the Chamber, then would the Senators propounding this rules change in effect have a three-fifths rule if one were adopted through such a procedure? What would they have?

Mr. ALLEN. Actually, they would have a majority rule, that a majority can change it any time.

Even following the Senate rules on cutting off debate, debate can be cut off, under these exacting Senate rules, with as few as 34 Senators, if a bare quorum is present.

The way they are handling it now, under this terrific backdoor approach—I might say basement approach; I believe that would be a little better than "back door"—by this basement approach to the amendment, 26 Senators could call all the shots in the Chamber, if just a bare quorum were present. So it is very dangerous.

I say to the distinguished majority leader that I admire his position in this matter and the eloquence and logic of his debate. I know how reluctant he was, in his position, to make a speech on this issue because of the position of many in his party on one side and many on the other. But when the existence of this body was at stake, he had no hesitancy in getting up and making one of the most logical and eloquent speeches I have ever heard on this subject. I will say it is the most logical and eloquent speech I have heard on this subject, and I appreciate very much the action he has taken.

Mr. President, what is the procedure on amending the Senate rules? One day's notice must be given of one's intent to seek to amend the Senate rules.

Ordinarily, Mr. President, a resolution proposing an amendment to the Senate rules would go to the Committee on Rules and Administration. But in this effort and at every stage of the proceeding, there has been shortcut, shortcut, shortcut. Instead of going to the Committee on Rules and Administration, a stratagem was used, and in other matters I have used the same stratagem to avoid an unfriendly committee. I did it with respect to some antibusing legislation I introduced. I knew it would never see the light of day if it went to the HEW Committee. But by a stratagem, a bill can be prevented from going to the Committee on Rules and Administration. And it gets on the calendar.

Then it is motioned up and that issue is debated. That is the very thing that I am debating here today, that the Vice President has ruled is debatable.

Mr. McCLURE. Will the Senator from Alabama yield?

Mr. ALLEN. For a question.

Mr. McCLURE. Yes, for a question. I thank the Senator from Alabama for yielding.

Although the Senator from Alabama is quite correct that the Vice President, the Presiding Officer, did make the correct ruling ultimately, as we go down to the question of whether or not the motion was divisible and whether or not, having been divided, the first portion was debatable—for which rulings I commend the Chair and want publicly to commend the Senator from Alabama for having propounded as promptly as he did; again exhibiting the precise and very astute grasp of parliamentary procedure that he is so noted for, does this not also pose to us a future threat, not just on this matter but on all others, that when a motion, properly propounded, is presumed to be bottomed upon a constitutional question, which will not be divisible, under the ruling established by the Chair, then 51 Senators will prevail?

Mr. ALLEN. That is my judgment. If they posed a constitutional question and by their votes asserted that a constitutional question was involved, who is to say they are wrong? It is just a case of a ruthless majority being able to ram down the throats of a minority anything that it wants.

Too, I should like to suggest that if this effort succeeds—and I think there is less chance that it is going to succeed now than it seemed 30 or 40 minutes ago—if this effort to throw the rule book out the window succeeds, it will be impossible for a minority to slow down a steamroller here in the Senate, absolutely impossible.

Because, obviously, we are going to have 51 to pass a bill and then we can get a few more and it is just the equivalent of majority cloture, even if they do not resort to that actually. But we are moving in the direction of making the great U.S. Senate, with its traditions and its history and its remarkable and unique nature of allowing free debate, we are going to move this great body, the U.S. Senate which many of us revere, in the direction of being a Senate that we might expect to find in a banana republic.

Mr. McCLURE. Will the Senator from Alabama yield for a further comment?

Mr. ALLEN. For a question.

Mr. McCLURE. I thank the Senator for yielding further.

I agree precisely with what he just said. My purpose for propounding the question was simply to underscore the fact that while we on our side may feel good about the outcome at this precise moment, nevertheless, the ruling by the Chair on the constitutional question that was propounded, to many is a precedent which will haunt us at every step of the proceedings at any time some Senator may contrive a motion which presumes to be bottomed upon a constitutional question.

Mr. ALLEN. Yes; it was unfortunate that he made that ruling. However, I believe he is moving back in the proper direction toward a proper construction of the Senate rules.

Mr. CRANSTON. Will the Senator yield for a question?

Mr. ALLEN. Yes.

All the Senator from Alabama is trying to do is get an opportunity for those who oppose gag rule to make their views known here on the Senate floor. There, for a while, it looked like we were not going to be able to say hello to these resolutions—hello and goodbye, the Senator suggests. It would have been a really bad precedent.

I do not feel that it has gone so far that it cannot be rectified by further rulings.

I will state this: The Senator recalls the question that the distinguished Senator from Nebraska (Mr. CURTIS) propounded after the distinguished Senator from New York had asked some questions. It seemed they had the questions kind of correlated to the answers up at the rostrum there, so the Vice President said that he made a mistake in reading No. 5. It said "5," so and so. I wonder what would have happened if he had given answer 4 to question 5 or vice versa. It sort of looked to me as though we were in pretty bad shape right there at the start. So I am pleased that the Vice President has given us an opportunity to discuss this.

Mr. CRANSTON. Will the Senator yield?

Mr. ALLEN. I yield for a question.

Mr. CRANSTON. I wish to ask, in reference to the ruling by the Vice President that was referred to a moment ago by the Senator from Idaho, I believe that the Vice President was following precedent set by previous Vice Presidents. Vice President Nixon, Vice President HUMPHREY, and perhaps others made the same ruling under perhaps the same circumstances. So it was not a new precedent, not a new ruling.

Mr. ALLEN. I thank the Senator for his suggestions. I do not believe that Mr. Nixon ever made that ruling. I do know that the distinguished Senator from Minnesota did make that announcement, but was promptly rebuffed by the Senate

in their vote on the tabling motion. They refused to table the point of order.

Mr. CRANSTON. What is shown is progress in the Senate and stability in the Vice Presidency.

Mr. ALLEN. That may be and I am glad the Senator thinks that. But he may be in a minority on the floor right at this time in feeling that.

Mr. WILLIAM L. SCOTT. Will the Senator yield for a statement without losing his right to the floor?

Mr. ALLEN. Yes, I will be delighted to yield under those circumstances, that I not lose my right to the floor.

The PRESIDING OFFICER. The Senator from Virginia is so recognized.

Mr. ALLEN. Under those conditions.

Mr. WILLIAM L. SCOTT. I thank the distinguished Senator from Alabama for yielding.

Mr. President, any proposal for further limiting debate in the U.S. Senate is a very serious matter, for this body has the responsibility to legislate efficiently for the people of the country and any attempt to limit legislative effectiveness has grave consequences.

We are a deliberative body, an instrumentality of the States and their citizens. The Senate is the property of every American and does not belong to individuals who temporarily occupy seats in this Chamber. Those who would alter rule XXII may overlook this historical precedent and the extraordinary constitutional function of this body.

The Senate remains a balance wheel of the federal system and the single national institution that distinguishes our Government from most unitary forms of government. In the U.S. Senate Chamber, a voice from a small State has the same equal weight as the voice of a citizen from California or New York, our two most populous States.

Mr. President, one of the issues at stake, then, is that the vote and representation of a Senator elected from a small State is equal to the Senator who may be elected from a much more populous State. This is a concept of equality. Full and free debate in this body supports such a concept.

Another important issue at stake, in my opinion, is whether we are going to have rules in the Senate or whether we are going to have rule by the gavel. Certainly in the Senate, we should have rule by rules and not rule by men.

Those now attempting to make cloture easier, and thus further reduce freedom of debate in the Senate, complain that standing rule XXII in its application thwarts the wishes of the majority.

However, there are authoritative observers of the Senate process who hold that a majority of Senators can find ways to pass any measure without resorting to changing the very character of the Senate itself. Adequate means are available at present to overcome what a majority believe is an obstruction in debate. Whenever an issue of overriding importance to the welfare of the Nation arises, debate has been and can continue to be limited.

The newspapers and the critics of rule XXII complain that a minority of Senators have obstructed the majority voice of the people. However, I submit that a minority of the Senators can represent the views of a majority of the people of the country and, unlike the other body, where there exists the concept of one man, one vote, a majority of the Members of the House of Representatives do generally agree with a majority of the people, but in the Senate where only one-third are elected every 2 years it may not at a given time. Rule XXII of the Senate provides an additional safeguard against the tyranny of a majority which, of course, makes this body unique.

Mr. President, our Founding Fathers were aware that excesses of democracy can be dangerous. To safeguard against extremes they gave us a republican form of government, with its delicately contrived system of checks and balances of which freedom of debate in the Senate is at least an implied, if not actual, part. Through free debate, the Senate provides machinery by which all measures affecting the lives and fortunes of the American people can be tested by unhurried examination by the collective intelligence of a body created to be one of our governmental checks and balances.

President Woodrow Wilson once made a powerful and persuasive argument in behalf of the necessity for freedom of debate in the Senate when he stated:

> It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. It is meant to be the eyes and the voice, and to embody the wisdom and will of its constituents. Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agencies of the Government, the country must be helpless to learn how it is being served and unless Congress both scrutinizes 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.
>
> The informing function of Congress should be preferred even to its legislative function. The argument is not only that discussed and interrogated administration, is the only pure and efficient administration, but more than that, that the only really self-governing people is that people which discusses and interrogates its administration.

Mr. President, every piece of legislation enacted by Congress has tremendous impact upon the rights, properties, and daily lives of every man, woman, and child in America. Before any law is enacted it should be subject to free and extensive debate, to careful study and deliberation. The consequences of its enactment should be discussed freely, openly, and at length so that the people may be fully informed and given every opportunity to voice their protest before it is too late.

I would add, Mr. President, that we have a matter, I think, of the gravest importance that will be coming before Congress this year. We have the prospect of a deficit of a tremendous amount of money during the coming fiscal year. The administration is submitting a budget with a deficit of $52 billion. The chairman of the House Committee on Appropriations suggests that the deficit for this year and next might even reach the proportion of $166 billion—a staggering amount, without precedent in the history of our country.

It would seem ridiculous to me that we would enact legislation appropriating funds such as has been suggested and may be considered without having full, open, and detailed discussion.

We have other matters that come before us which should also be subject, when necessary, to extended debate.

A slight digression here should be made on what our Founding Fathers intended for us to pursue. It being very applicable, I would like to insert a quotation from the Federalist Papers. Either Madison or Hamilton wrote:

> The necessity of a senate is not less indicated by the propensity of all single and numerous assemblies to yield to the impulse of sudden and violent passions, and to be seduced by factious leaders into intemperate and pernicious resolutions. Examples on this subject might be cited without number; and from proceedings within the United States, as well as from the history of other nations. But a position that will not be contradicted, need not be proved. All that need be remarked is, that a body which is to correct this infirmity, ought itself to be free from it, and consequently ought to be less numerous. It ought, moreover, to possess great firmness and consequently ought to hold its authority by a tenure of considerable duration.
>
> The mutability in the public councils, arising from a rapid succession of new members, however qualified they may be, points out, in the strongest manner, the necessity of some stable institution in the government. Every new election in the states, is found to change one half of the representatives. From this change of men must proceed a change of opinion; and from a change of opinion, a even of good measures is inconsistent with change of measures. But a continual change every rule of prudence, and every prospect of success. The remark is verified in private life, and becomes more just as well as more important in national transactions.

An early Virginian, the revered Thomas Jefferson, wrote in his manual of parliamentary procedure:

> The rules of the Senate which allow full freedom of debate are designed for protection of the minority, and this design is a part of the Constitution. You cannot remove it without damaging the whole fabric. Therefore, before tampering with this right, we should assure ourselves that what is lost will not be greater than what is gained.
>
> Reference to our constitutional history discloses that the Founding Fathers envisioned the Senate as a legislative forum comprised of our most mature and experienced legislators. They intended that the Senate would be a deliberative body where freedom of debate and thorough consideration and evaluation of all pending business would serve the salutory purpose of safeguarding the nation and the American people against hasty and impetuous action by the House of Representatives.

Since coming to Congress a little over 8 years ago, I found that the two bodies have changed somewhat. It used to be, when sitting in the House of Representatives, we considered ourselves to be the conservative body of Congress. But I fear that, with the elections last fall, we may

not have changed any to the right, but the changes that took place in the House of Representatives may make the Senate the most conservative body of Congress.

In conclusion, Mr. President, we must not lose sight of a few simple facts about the origin and the composition of the Senate. It is impossible to compare the Senate, with any degree of accuracy, to the rule by a popular majority. The very composition of the Senate, where all States are equally represented, each having two votes, prevents such a comparison.

Have we forgotten that everyone at one time or another belongs to a minority? Have we lost sight of the unchanging truth that unbridled majority rule without restraint can be a form of mob rule?

Are our memories so short that we have forgotten the maxim that free government, by destroying dissenting opinion, thereby destroys itself?

With unlimited debate, subject as we are here in the Senate to a cloture vote upon a two-thirds vote of the Senate being able to cut off debate, all Americans have an assurance that no act jeopardizing their rights will ever be proposed without some Member of the Senate having the opportunity to resist it and to warn the Nation of its consequences.

Mr. President, I would like to commend the distinguished Senator from Alabama (Mr. ALLEN) for the thoughtfulness of the action that he has taken, the leadership position that he has taken, here in the Senate in discussing at great length the question of the amendment of rule XXII to change the percentage necessary to cut off debate from two-thirds to 60 percent.

I feel that we would not have the rights of the minority protected by reducing the number of votes necessary to close debate. The distinguished Senator, through his knowledge of parliamentary procedure, through his knowledge of the history of the country, and because of his devotion to the welfare of the people of the country, has taken this position of leadership, and I commend him for it. I just offer, when the need arises, to volunteer my own services in assisting him, as I know is true of many Members of this body, so that we can speak at length on the subject now before the Senate.

Mr. ALLEN. Mr. President, I thank the distinguished Senator from Virginia for the fine contribution he has made to this discussion. I thank him for the kind references he has made to me.

I will state that each time the rights of our people are involved, each time the Federal bureaucracy seeks to run a steamroller over the rights of our people, the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) is always present to give aid and assistance and to do battle for the principles that he believes are right and just, and in the interest of all the people.

Mr. President, the motion that we now have before us, which is the first half of the overall motion made by the distinguished Senator from Kansas (Mr. PEARSON), moves that the Senate proceed to the consideration of Calendar item No. 1, Senate Resolution 4, amending rule XXII of the Standing Rules of the Senate with respect to limitation of debate.

Mr. President, that is a proper motion. It is made in good faith, I know. It is subject to debate, and is being discussed at this time by a number of Senators.

It does not raise any constitutional question. Actually, Mr. President, there is no constitutional question. We hear on the floor orators on both sides talk about the supremacy of the Constitution over the Senate rules. Well, sure, the U.S. Constitution would take precedence over any rule of the Senate. The rule of the Senate with respect to limitation of debate, as embraced in rule XXII, is in no sense, in no degree, contrary to any provision of the Constitution, so there is not any constitutional question involved.

They say there is a great issue here about whether the Senate at the start of a session can amend its rules, conceding—I assume, that is, my majority vote at any time other than at the start of a session.

But I have searched the Constitution fairly carefully, and I have searched it very carefully on this particular point. There is not one single word in the Constitution indicating that there is a different constitutional rule or principle involved which would indicate that there is any difference in the manner and method of amending the Senate rules, whether made on the first day of the session or the last day of the session.

We hear so much about that, but never yet have they read that from the Constitution.

Oh, they give their interpretation of what the Constitution means, that there is some great distinction about the start of the session, it has got to be done without debate, apparently, they think now.

They do not usually contend that. They contend the majority can cut off debate and that it can be brought to a vote by a majority vote of the Senate. The Constitution requires that, so they say.

I make this challenge to any Member who is trying to come in through the basement door on the Senate Resolution 4, if it can be pointed out to me that the Constitution provides a different rule for amending the Senate rules at the start of a session from that that exists anywhere during the session, I will vote for the rules change, that is all it takes. Show me what they say is the rule, show it to me. If the Constitution says that, I will vote for the rules change, I will quit debating right this moment.

There is nothing in the Constitution that makes any distinction about the start of a session, in the middle of a session, at the end of a session.

All it says is that it takes a quorum to transact business and that both Houses can make their own rules.

Well, the Senate has done that, the Senate has made its own rules, and what are those rules?

Well, the rules are that Senate rules carry forward from one session of Congress to another session and that they cannot be changed unless they are amended as provided in the Senate rules.

That means all of the Senate rules, all provisions of the rules have got to apply to any attempted amendment of the Senate rules.

Well, what does it say about amending the rules? Under the rules, I might state, this is not in the Senate rules, it is sort of an anomalous situation, that the rules do not say that it takes two-thirds vote to suspend the rules, but yet by precedent, by ruling of the Chair, it does take a two-thirds vote to determine the Senate rules—to suspend the Senate rules, not amend them, but just to suspend them for a particular purpose.

Well, actually, that is on this document put in by the distinguished Senator from Kansas. I contend, in the first place, it is merely a unanimous-consent request.

Now, they talk about the burdensome nature of the two-thirds requirement to cut off debate. They say that is burdensome, hard to get.

Well, it is not hard to get. In this Congress, in the last 2 or 3 days, 3 or 4 days of the Congress, they invoked cloture three times by top-heavy votes, when there was not even a debate. They filed a cloture petition, voted on it a couple of days later and invoked cloture.

Now, cloture has got a double feature. One, it eliminates nongermane amendments; and, two, it sets a definite limit on how long the debate can go on before there is a vote.

One of the purposes of those cloture motions and votes was to eliminate the possibility of a nongermane amendment.

The trade bill, for instance, cloture was invoked on that without a single speech being made with reference to the bill. They could not say cloture was needed because nobody was debating. They moved and got cloture by a vote of 71 to 19.

So there is no difficulty in getting cloture if there is sufficient reason for the enactment of the measure as to which cloture is obtained. But whenever the Senate wants to act, this little two-thirds requirement does not prevent the Senate from moving rapidly, to work its will with respect to legislation.

They say two-thirds is burdensome, it ought to be 60 percent. Well, 60 percent would be fine, so some say. I prefer the two-thirds.

The Constitution sets the two-thirds requirement for a vote in the Senate on important and weighty matters. Thus, Mr. President, it takes a two-thirds vote to ratify a treaty, it takes a two-thirds vote to expel a Member, it takes a two-thirds vote to override a Presidential veto, it takes a two-thirds vote to submit a constitutional amendment, and perhaps there are other two-thirds vote requirements.

The matter of cutting off free debate in the U.S. Senate is a weighty matter, that is a matter of paramount importance, and the two-thirds vote is a reasonable requirement.

One other two-thirds vote requirement that I overlooked in trying to enumerate

them, it takes a two-thirds vote to convict on an impeachment proceeding.

Now, Mr. President, one of the arguments made by the proponents of this gag rule resolution is that each 2 years we have a new Senate and new rules have to be adopted or they can be amended by a majority vote.

The fact of the matter is that as far as I know they have never readopted in one Congress the rules of the Senate in the preceding Congress. Why? Because they do not need to. The rules say they can carry forward from Congress to Congress unless they are amended.

The question is raised by proponents of the gag rule about whether the Senate is a continuing body. To believe that you have no rules at the start of a new Congress and can adopt anything you want to by a majority vote is based upon the premise that we have a new Senate every 2 years.

Well, that is not right. I believe the distinguished majority leader, in the great speech he made—I am going to save that speech as I have a copy of it that he gave me—made an interesting observation with regard to the continuing nature of the Senate.

He said suppose we had been involved in the trial of an impeachment here in the Senate toward the end of a session. Could it have been contended that when the new Members came in following an election, and a new Congress, that they would have to start over on the impeachment trial?

The majority leader said we had already decided that point; that if that had come about the position was taken that the Senate was a continuing body; that it could continue to hear the evidence, and that it could continue with the proceeding even though there were new Members.

I daresay, Mr. President, that the sponsors of this gag rule would have been among the first to say "Under those circumstances, on the trial of impeachment, no, we do not have to start over. The Senate is a continuing body. Let us go on with the trial."

And they would have been right. They would have been right because the Senate is a continuing body.

It is interesting to note, I might say, that some of these desks go way back to the days of Webster, Clay, and Calhoun. I believe Senator THURMOND, of South Carolina, has John C. Calhoun's desk.

Senator Norris Cotton had Daniel Webster's desk.

There it is over there, where Senator Cotton used to sit. Senators can see it is a little bit different from the other desks. It is raised a little bit higher. That was Daniel Webster's desk.

That is just a little background information further indicating the continuing nature of the U.S. Senate.

Yes, rules were made by the Senate in the early days, and many of those rules are still the rules of the Senate. Senate rules are based largely on Jefferson's Manual, which he prepared when he was Vice President of the United States. It was in compliance with the constitutional provision when the Senate promulgated its rules and dropped them.

They did not always have a rule XXII. In the early days of our country, on about three or four occasions prior to 1807, the method of calling for the previous question was used some three or four times. It fell into disuse in 1807. From 1807 to 1917, 110 years, there was no way in the world to stop a Member of the U.S. Senate from talking as long as he wanted to on a debatable subject—110 years.

Mr. President, during that 110 years we have had some of the greatest of U.S. Senators—Clay, Calhoun and Webster, George Norris, Hiram Johnson, La Follette; from my own State John T. Morgan and Edmund W. Pettus served with great distinction in the U.S. Senate.

Then from 1917 down to the present time we have had rule XXII.

Mr. President, let me point out something about rule XXII that is not generally recognized. Rule XXII is not a license to engage in extended debate.

They talk about rule XXII, about how bad rule XXII is. If we did not have rule XXII there would not be any limitation at all on debate. We would go back to the condition that existed in the Senate from 1807 to 1917. It was in 1917 that rule XXII was adopted. If you kill rule XXII, you are going to end up with a Senator talking just as long as he wishes to talk.

Rule XXII puts a ceiling on extended debate by providing that two-thirds of the Senators can cut off debate. So rule XXII is a rule of restriction rather than one of license.

Mr. President, I started a moment ago—I digressed momentarily—to read this great statement by Senator MIKE MANSFIELD, Democrat of Montana, February 20, 1975. Senator MANSFIELD is one of the greatest Senators who has ever served in this body. When I came to the Senate in January of 1969, I had never had the pleasure of meeting Senator MANSFIELD. I did not know the measure of the man. I was open to being convinced as to his character, as to his leadership, as to his honor. The one circumstance more than any other that formed my estimate of the character and measure of this man took place when the same issue was under discussion in the Senate. There, the effort was being made not by going in the basement door, throwing the rulebook out the window, and resorting to this effort to have majority cloture. The effort was being made to invoke cloture, I thought, according to the rule.

When they had the cloture vote to cut off debate, I do not believe that at that time they had the motion to proceed to consideration of the measure. I believe the measure, itself, was before the Senate. I could be mistaken. The issue is the same. It is not important. Debate went on for several days. The cloture motion was filed. A majority of the Members of the Senate voted for cloture, but that majority constituted less than a two-thirds majority. It was very close. The vote was about 51 to 48. It was in that range, anyhow.

The Presiding Officer, Vice President HUMPHREY, had been a part of a stratagem 2 years before to try to get debate cut off by majority vote. It failed then, so they tried another vote.

In 1967, they tried the route they are trying now, and the Senate voted down the effort. They were looking around for various ways to accomplish that, and they went in the front door to try to get cloture.

Vice President HUMPHREY then pulled out his card and read his ruling, that since it was the start of a session and since a majority voted for cloture, not the two-thirds required by the rule, but a majority voted for cloture, cloture had been invoked. That ruling of the Vice President remained a precedent for 20 minutes, because Senator Holland of Florida appealed from that ruling.

The Vice President said that cloture had been invoked; and under the cloture rule, appeals from rulings of the Chair were not debatable. Therefore, he cut off Senator Holland, as well as others who wanted to debate, from debating the point of order on the appeal.

The vote was taken. It came to Senator MANSFIELD. Here was Senator MANSFIELD, the majority leader in the Senate, supportive of Democratic efforts, being called on to pass on a ruling by Vice President HUMPHREY, the titular head of the party. The question always is put: "Shall the ruling of the Chair stand as the ruling of the Senate?" To my pleasure—not so much on the issue, but the character of this man—Senator MANSFIELD voted "No"; that is, that the ruling by the Vice President should not stand as the ruling of the Senate. So the ruling by Vice President HUMPHREY that a majority, less than a two-thirds majority, could invoke cloture was reversed by the U.S. Senate.

I have admired Senator MANSFIELD more and more since that time—a man who will lay politics aside, vote against a vehicle or maneuver that would have accomplished what he wanted to accomplish, but voted against it because it was wrong. It takes character to do that.

That was January of 1969. Here it is 6 years later. Has Senator MANSFIELD's view changed on this issue? Let us see. Only three or four Senators were in the Chamber when Senator MANSFIELD delivered this address.

The motion was made by the distinguished Senator from Kansas (Mr. PEARSON) that we proceed to the consideration of Senate Resolution 4. Then was added this remarkable—I say that charitably—language, after saying that we should move to proceed to the consideration of the resolution:

> . . . and that under Article I, section 5 of the United States Constitution, I move that debate upon the pending motion to proceed to the consideration of Senate Resolution 4 be brought to a close by the Chair immediately putting this question to end debate to the Senate for a yea and nay vote.

In other words, the Chair should cut off debate.

> . . . and upon the adoption thereof by a majority of those Senators present and voting, a quorum being present, the Chair shall immediately thereafter put to the Senate without further debate, the question on the adoption of the pending motion to proceed to the consideration of Senate Resolution 4.

In other words, they had it prepared under the domino theory of the war in Southeast Asia, that where one country is going to topple and leans against the

next country, that will topple, too. The whole line of dominos was just going to topple, without further debate on this resolution.

What did Senator MANSFIELD say? This belongs to the people. It is in the RECORD. He did not insert it in the RECORD. He delivered it on the floor of the Senate.

The motion before the Senate—the Pearson motion I just described—again raises the question that has confronted each Congress for nearly two decades. It is whether the Senate of the United States is a continuing body.

I have been making these same points in a rather haphazard fashion. Senator MANSFIELD puts so much logic and reasoning and good commonsense into his few lines of comment that I do want to read it word for word.

One would suppose that the character of the Senate as a continuing body has long been established;

A little later on, if the session continues much longer, I shall read about the compromise of 1959. It laid to rest, supposedly, the matter of whether the Senate is a continuing body. I shall not do that for the time being.

Mr. President, as I have stated, Mr. MANSFIELD said as follows:

One would suppose that the character of the Senate as a continuing entity has long been established; that two-thirds of its membership of the Senate carries forward from one Congress to the next would appear to underscore that fact. Following each *sine die* adjournment the Committees of the Senate continue to meet, seats are filled and as has been highlighted in recent months, the Senate could even proceed with the trial of an impeachment originating in an earlier Congress. To say at the same time that somehow the Senate Rules expire tests the most basic assumptions and procedures and responsibilities of this institution as prescribed by the Constitution. That clearly was the view of the Senate in 1959 when S. Res. 5 was overwhelmingly adopted to amend Rule XXII so as to enable two-thirds of the Senate present and voting to close debate on any matter including proposals for rules changes. That resolution also amended Rule XXII by adding this implicit language: "The Rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules."

In spite of the history of the Senate as a continuing body with continuing rules, the issue of cloture by a majority is again before us and must again be resolved.

The Senate of the United States is unique among parliamentary bodies. Because of the tradition of unlimited debate in the Senate, even though that principle has been diminished by Rule XXII, the rights of the minority have always been secure in this Chamber. That is what gives the Senate of the United States a unique stature among parliamentary institutions.

What the motion before us seeks to do is to destroy the very uniqueness of this body; to relegate it to the status of any other legislative body, to diminish the Senate as an institution of this Government.

The proposition now under discussion to move the consideration of S. Res. 4 clearly envisions the invoking of cloture by a simple majority. The members of this body should fully understand the implications of that course of action.

In the past, I have favored proposals to change Rule XXII, to require three-fifths of those present and voting instead of the present two-thirds required to invoke cloture. In all candor, however, I must say that with the passage by the Senate of the landmark Civil Rights Acts since 1964, I do not feel the sense of ugency for the change of Rule XXII I once did. Even so, I still support the three-fifths concept embraced by Senate Resolution 4 because I think it would be an appropriate compromise between those who prefer the present rule and those who would prefer a simply majority rule.

I favor a three-fifths principle, too, because I believe it does not destroy the essential character of the institution of the Senate.

A three-fifths rule, if adopted, would be an equitable way to balance the interest while, at the same time, preserving the principle of protecting the minority positions in this body.

I also believe that if we adopted Senate Resolution 4 it might bring to an end the biennial struggle over the changing of the Senate rules which has occupied so much of our time and our energies at the beginning of each Congress.

Now, these are some sledge hammer blows by Senator MANSFIELD against this effort to gag the Senate. He continues:

But the fact that I can and do support the content of Senate Resolution 4 does not mean that I condone or support the route taken or the methods used to reach the objective of Senate Rule XXII.

The present motion to invoke cloture by a simple majority vote, if it succeeds, would alter the concept of the Senate so drastically that I cannot under any circumstances find any justification for it.

The proponents of this motion would disregard the rules which have governed the Senate over the years, over the decades, simply by stating that the rules do not exist. They insist that their position is right and any means used are, therefore, proper.

I cannot agree.

Therefore, Mr. President, in order to question the propriety, under the United States Constitution, of the motion to end debate offered by the distinguished Senator from Kansas (Mr. PEARSON), I will make a point of order at the proper time that the motion is out of order.

Now, Mr. President, that point of order was debated here, in the Senate, for possibly 2 hours or more, even though, at any time, the proponents of Senate Resolution 4 could have moved to table the point of order. That is a rather strange maneuver, but it is permitted by the Senate rules. When a point of order is made, we ordinarily think that a Presiding Officer will rule on that point and if any Senator on either side objects to that ruling, he can appeal. But it was agreed and understood that the motion to table would be made. The Vice President issued an opinion more or less stating that the point of order was debatable; and it was debatable, except that that debate could be cut off by a motion to table. So he did not really say very much when he said it was debatable.

Then the motion to table was made, and the Vice President followed Mr. HUMPHREY in his 1967 ruling.

That ruling was repudiated by the Senate in a matter of minutes after Vice President HUMPHREY stated what his plans were on his ruling, and it has been so repudiated that it was not tried again for 8 years. Then they got the notion that they would go this route rather than go the cloture route—the basement route rather than the front door route.

So the motion to table carried. The Vice President had indicated, in response to parliamentary inquiries by the distinguished Senator from New York (Mr. JAVITS), that if the motion to table had carried, he would then put the Pearson motion to a vote. But this motion has two parts: one respecting the constitutional question—that is the second part—and the first part, not raising any constitutional question. The Vice President then, very properly under the rules and precedents of the Senate, ruled that the motion was divisible, and that the first part of it was and is debatable. Hence the discussion at this time.

So, Mr. President, a method is being used that was repudiated by the Senate 8 years ago to avoid following the Senate rules. Senator MANSFIELD refers to that by saying—I forget his exact words—he said, "The proponents of the motion would disregard the rules which have governed the Senate over the years simply by stating that the rules do not exist."

Well, that is an interesting circumstance, to will the Senate rules out of existence and say they do not exist, therefore we will handle it any way we want to.

The Senate rules do exist, Mr. President, and I am hopeful that they will continue to exist until they are amended in accordance with the Senate rules. That is all it takes; just follow the Senate rules. We are governed by rules here in this Chamber. We expect the public to follow rules. We expect the people to be law-abiding, and these are our laws. We are governed by the laws of the land, and we are governed by the Senate rules.

Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Mississippi (Mr. STENNIS) for such time as he might care to use without losing my right to the floor.

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

Mr. STENNIS. Mr. President, I certainly thank the Senator from Alabama for his courtesy, and I thank the Senate for their courtesy also.

Mr. President, illustrating, here, now, in a very practical way, the point that the Senator from Alabama has been making, I refer back, in the precedents of the Senate, to a matter which happened before this rule was changed that is now the second part of rule XXXII. Even before it was spelled out in language that the rules of the Senate shall continue from one Congress to the next Congress unless they are changed in accordance with these rules, it was the precedent of the Senate, and was so recognized and acted on in some of the most serious affairs affecting the Senate and its Members, as is illustrated by a matter we had here in 1954. I remember it very vividly, because I was selected as one of the six members of a select committee that had to look into a matter concerning one of the Members of the Senate.

The situation at that time was that the second session of that Congress had already adjourned sine die, but had left this special committee here to look into the matter, and we got back into some charges against one of the Members of the Senate, concerning something he did

before a subcommittee of the Rules Committee.

We ran into the fact, there, that this subcommittee of the Rules Committee had had a vacancy filled during the recess of the Senate, and the question came up whether there was authority to fill that vacancy. If the vacancy had not been legally filled, then that was not a legal subcommittee and the Senator could not possibly have been in contempt of the subcommittee, because it did not have legal standing, legal substance, or legal anything.

Our subcommittee held, and the Senate upheld us, that the Senate was a continuing body and its powers were not cut off. The chairman of the Rules Committee at that time, under the rules, had the authority to fill vacancies, and he had filled that vacancy between the sessions, or after the regular session had expired, the second regular session of the Congress, but that was held to be a legal subcommittee and a legal appointment.

It turned out that charges were brought against this Senator in the form of a resolution that came to the Senate floor, and naturally was very vigorously fought and opposed to the very limit, but the Senate upheld the ruling of that subcommittee to the effect that that vacancy had been properly filled, because the Senate was a continuing body, and the Senate went on, then, and adopted that proposed resolution of censure. There could not have been a more vital matter in any way to the Senate, and more particularly to that particular Member.

That is just one illustration, among an overwhelming number of illustrations that have happened over the years, so well establishing this fact.

Then in 1969, I believe it was, this rule XXXII was written into stone, you might say, in black and white, and became a part of the written rules of the Senate.

I know it was generally conceded everywhere that it was already the rule of the Senate. But, as a part of a compromise settlement here with reference to debate on a charge in the rules, just as the Senator from Alabama says, even though it was before his tenure of service, these two and one-third lines were written in as a part of rule XXII—

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

Nothing could be plainer and clearer, and nothing could be better established by precedent. Here, as recently as December of 1974, we can all recall that a matter came before the Rules Committee of the Senate regarding an election in the State of New Hampshire, and the argument was made there that the old Senate had no jurisdiction of that election contest but would have to await the arrival of the so-called new Senate in January of 1975 and, therefore, the Committee on Rules of the Senate could not proceed with any orders or any action or anything in connection with this election contest matter from New Hampshire.

But a majority of the members of that committee, the Rules Committee, voted, in effect, that the Senate was a continuing body, that it had not expired when we adjourned sine die here last October, late in October, and that they nevertheless had jurisdiction to inquire into the election of November 1974 for an office the term of which did not start until January 1975.

That group continued beyond then and filed a resolution here, as everyone will recall, that came before the Senate in due time and, after debate, it was disposed of.

So there are two illustrations of the continuity of the Senate, and the operation of the rule, no question about it that it is a continuing body, and no question about the fact, too, according to the written, plainly spelled out words of the rules themselves, that they can be changed only as provided in those rules.

Mr. President, this is not a matter that just concerns some individual, and this is not a matter to be laughed about or smiled about. This is not a matter that some side won and some other side lost. The whole Senate loses when we defy or neglect or overrule our own rules.

I, too, commend the majortiy leader, whom I have heard argue here many, many times over the years past, for the so-called three-fifths majority rule to invoke cloture. He believes that, he lives what he believes, he is for it, and he stands for it, and he will vote for that change in the rule because of those beliefs. But he will not butcher the other rules or run by them or run over them or run through them or disregard them or misinterpret them. He is going to adhere to the plain language of the rule, and he will live with the rule requiring the two-thirds, even though he does not favor it, until it is changed according to our written rules.

Mr. President, with all due deference to anyone who voted the other way, I think he could well take another look at this entire picture. There is no victory here for anyone. We all lose when we run by the red light or when we run over that which is not just a red light. But, in a way, the principle of following our rules, except by unanimous consent, is much of the body and soul of this institution. Something has made this body unique in the history of nations and, particularly, self-governing nations, where the people do select their leaders who make their laws, and select their leaders who execute their laws.

Something has made this United States unique, and it was not the men who happened to be elected to it at any particular time. It was not the talent of anyone who might have been elected to this body at any particular time. Certainly the membership is no smarter than anyone else or more able than anyone else or have more character or principles or ideals that are any higher than any other person or group of persons. But the great determining factor, I think, is that this rule or a similar rule to one along that line—in the old days it was much more severe—has made this body different, and those rules have been respected and followed, including the rule back in the days when there was not any way to mandatorily cut off debate before there was a rule XXII.

But the custom became the rule, and it was respected. When the day came that there had to be some kind of limitation or some kind of an adjustment and regulation here, where matters had to be more promptly settled, some of them led to the writing of the original rule XXII, and everyone then submitted to, was restrained and restricted, and followed that rule XXII.

I remember the days when, by interpretation and by the plain language, too, rule XXII permitting a two-thirds majority to cut off debate did not apply to a motion to take up a measure, and there was a lot of complaining and all about it, but no one thought about not letting that rule control when it was invoked. We would have long debates here on a motion to take up which was an endurance contest sure enough, but there was not any rule to cut off debate mandatorily on a motion to take up.

So, in the course of the years, there was a spirit of adjustment and, I think, it was at the very same time that we wrote in this provision here in 1959—not 1969—when this provision was written in, January 12, 1959. We wrote in the provision there which was already the rule that I will read next for the benefit of those who have come in—I see the Senator from Louisiana is here, and he was a part of those debates—and quoting the rules of the Senate.

> . . . shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

That was a part of the settlement, the compromise. The other was that a motion to cut off debate would apply to a motion to take up a measure, a motion to let it become, to make it become, the pending order of business.

Those matters were settled here in an honorable way by men that were highly conscious of what they were doing and written out here in black and white and passed on by the Senate and have been prevailing and controlling here all these years.

I hope and pray that there will be a second thought and a second look, and I believe there will be—I believe there will be.

I have seen a second consideration, a second look at this very matter, and there are enough of those that want to change the rules, but at the same time are not willing to go out of bounds in order to cross the goal line. They are willing to stay on the playing field, if I may use that term, and reach the goal line as they conceive what the rules ought to be, according to the rules that now exist.

When this matter comes up again, when there has been more time to reflect and think about it, there could well be a change here in what is, after all, a rather close vote.

By the way, Mr. President, I want to observe, too, the habit or the pattern that we have fallen into here. It is partly necessity because there are so many other things to do, but the habit and pat-

tern that we have fallen into here of not having real debates here on the floor of the Senate where we can exchange views, and there is a chance to impress others, and there is a chance for those that have a yearning for more learning or light of commonsense on the subject, whichever you may call it.

There is a great need for reinstitution of those habits of debate, or patterns of debate, as I will call it, where men, acting under their responsibilities here, representatives of States in this great institution—and I do not use that word "great" lightly, for it is said it was unique—that are here as Members of this unique and truly great institution, where they can have a better chance to exchange ideas and weigh their own conclusions that they have had therefore and either reform them through their reasoning or see where they might have been in error in part and have a chance then to modify or even outright change their position.

I long for those days to come back and I would not appreciate anything now about the situation in the Senate, I am for the Senate, I love it, but the good that often comes from men meeting here and exchanging these views as I have described, much of that good has gone out, for one reason or another, and there were some laudable reasons why we cannot get to it that way again.

I believe if we could sit here, 50, 60, or 70 Members of this body, and have a real debate over this matter, a seasoning debate I call it, and an exchange of views back and forth, and a consideration and reconsideration of what the stakes are here, what is the consequence of a vote that went the way that did this afternoon, what change will that bring, not just a change from two-thirds to three-fifths, but we will have brought in the precedent here, a precedent of overriding our own rules and in a way not provided therein.

As a matter of fact, in a way that is prohibited by those rules, that is what we have done. When we did that, I think one of the better phases, one of the better virtues of this body went out and it would be different—it would be different.

So, I hope we reconsider and that we recover our contemplative and deliberative habits and patterns and I think that would be very helpful to all of us, including those that have been here over some several years, as well as those that got here within the last few weeks.

I do not know at this time that I can add any more to the points that I have made here, but I do long for a reconsideration of this matter before it is too late. Before it is too late, and wish we could have 2 or 3 days of real debate attended here, a minimum of the membership attending here to rehash and review this entire matter from beginning to end and try to weigh the consequences of not abiding by our own rules, try to weigh the wisdom of the words here given by our own leader.

As I have already said, he has fought here for years for the so-called three-fifths rule, but he is not willing to take it at this price, take it at the price of overruling and overrunning and pushing aside and breaching the rules that we already have.

I do not discount any of the pressing matters that are on us now about the energy crisis, and we must do something about it. I do not discount this very illuminating and grave discussion that we had at the White House this morning by our Secretary of State who just returned and gave us a report on matters, the graveness of which could not be overstated or overimagined. I think we are in as grave a time as I have ever known here, but we will find solutions to those things, I think, much quicker and more readily than we will find a solution here if we override our own rules and abuse them and ignore them just in an effort here to change from two-thirds to three-fifths, the so-called rule XXII.

I want to make one further observation and I will be through, for the time being, anyway.

I have seen, with considerable satisfaction, the change of mind, change of heart, change of outlook on behalf of numbers of our Members over the years with regard to the need to have some rule of restriction and some rule that curbs the membership in hastily acting some rule that would make this a unique body.

There have been many that I could call by name who, as they stayed here—and as the late Senator Hayden of Arizona used to say, as the years gave them more seasoning, was the way he expressed it—they would come to realize the wisdom of rule XXII.

Many of them who at one time fought for the change of the rule, to let us have just a majority settle these matters that had come up for consideration, switched over either to the three-fifths rule or maybe two-thirds, because of their realization of the need.

I do not know of anyone who has ever been able to really evaluate and give an illustration of real harm that came to the country because of the operation of this requirement of rule XXII.

I say harm to the country. The membership might have been inconvenienced, and some people might have been inconvenienced, some so-called needed changes might have been delayed just a little, some weeks, months, or maybe even a year or more. But as to real harm, I have never heard anyone who would get up and seriously claim that real harm to the Nation had come because of the use of taking more than a majority to cut off debate.

That being true, there must be something good in it besides just the uniqueness that I have referred to as making this body distinct and different. I did not say superior, or anything of that kind. I want to negate all that idea or concept that the membership here is superior, better, or more profound than any others. I say this body is unique in having these curbs and protections.

No harm has been done to the Nation because of it, but, to the contrary, great good has come. Sounder and better legislation has been finally enacted under the same rule because of this restart, trial and error, debate, and further examination of the facts.

Here in one vote, should this continue to stand, the whole idea in many ways would have been blown to smithereens and gone. You cannot capture the things that go away any more than you can pick up the color from a bottle of red ink spilled on this blue carpet.

So I hope, Mr. President, that we can deliberate in our own way with ourselves on this matter, and debate it some, at least.

I will come and listen to the other side argue their case. I want them to consider it in their own minds and not just listen to us speak, to have the benefit of the exchange of views and reconsideration of ideas.

I again thank the Senator from Alabama for yielding to me. The Senator from Alabama has the floor.

Mr. ALLEN. I thank the distinguished Senator from Mississippi.

Mr. MANSFIELD. Will the Senator yield to me without losing the right to the floor under any circumstances?

Mr. ALLEN. Yes, without it being another speech.

ORDER FOR RECESS TO 9 A.M. TOMORROW AND RECOGNITION OF SENATOR ALLEN

Mr. MANSFIELD. Mr. President, I am about to propound a two-pronged unanimous-consent request. I would like to have both prongs considered together.

First, I ask unanimous consent that when the Senate completes its business tonight it stand in recess until the hour of 9 o'clock tomorrow morning. If that request is granted there will be no morning hour. There are no special orders. After the courtesy extended to the two leaders, after that had been complied with, the Senate would go immediately into the pending business.

I ask unanimous consent that after the consideration given to the two leaders, the distinguished Senator from Alabama (Mr. ALLEN) be recognized to have the floor.

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

(The foregoing order was subsequently changed to provide for the adjournment of the Senate until 9 a.m. tomorrow.)

ORDER OF BUSINESS

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

Mr. ALLEN. May I have the floor for just a moment? I want to ask a question.

Mr. President, would it be in order for the Senator from Alabama to move to postpone the matter under consideration to the next legislative day and continue his remarks with reference to that motion?

The PRESIDING OFFICER. I am advised that such a motion would be in order.

Mr. MANSFIELD. Mr. President, if such a motion is made, I would have to

object out of courtesy to the others on the other side, until they had been consulted.

Mr. ALLEN. The Senator objects to what?

Mr. MANSFIELD. I said if the request was made to put it over to another legislative day.

Mr. ALLEN. I did not make a request. I wanted to make a motion and then discuss it. I will not let it come to a vote.

Mr. MANSFIELD. Today?

Mr. ALLEN, No, sir.

Mr. MANSFIELD. Or any other time, if you can help it, I understand.

Mr. ALLEN. I merely want to speak with reference to that rather than to have another speech.

Mr. MANSFIELD. Mr. President, if the Senator would allow me to suggest the absence of a quorum without his losing the floor, I would like to discuss the matter with him further.

Mr. ALLEN. Very well.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I speak now with the permission of the distinguished Senator from Alabama and without in any way abnegating his rights to the floor.

I ask unanimous consent that the previous unanimous-consent request be vitiated.

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

ORDER FOR ADJOURNMENT TO 9 A.M. TOMORROW AND FOR RECOGNITION OF SENATOR ALLEN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. tomorrow; that after the joint leadership has been recognized according to custom and courtesy, the distinguished Senator from Alabama be recognized at that time to have the floor.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, could we couple with that request, a request that when the Senate completes its business tomorrow, it stand in recess or adjournment until Monday? Otherwise, a live quorum tomorrow would force us to come in on Saturday, and we do not have any business for Saturday.

Mr. MANSFIELD. I add to that request, with the concurrence of the distinguished Senator from Alabama, that when the Senate completes its business tomorrow, it stand in adjournment until 11 a.m. on Monday next.

Mr. ALLEN. Mr. President, I would rather not agree to that. I think we should go at this 1 day at a time. I do not feel that we need to have unanimous-consent agreements on into next week. There will be plenty opportunity to reach an agreement during the day tomorrow.

Mr. STENNIS. Mr. President, reserving the right to object—and I shall not object—will the Senator yield for a parliamentary inquiry?

Mr. ALLEN. I yield.

Mr. STENNIS. Should we adjourn over until tomorrow, the same matter would be pending before the Senate, and this appearance I have made here this afternoon, briefly——

Mr. ALLEN. It will die.

Mr. STENNIS. It will not count against me?

Mr. MANSFIELD. That is correct.

Mr. President, will the Senator yield to the Senator from West Virginia?

Mr. ALLEN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I think it is rather imperative that the Senate act on the Penn Central measure. I voted against that measure, but I am advised that unless something is done pretty soon, somebody is going to be in a box with respect to salaries, and so forth.

I am told by the distinguished Senator from Indiana that it is imperative that the Senate act tomorrow, if possible—certainly, Saturday—or at some point soon, very soon, on the Penn Central matter, which the Senate passed the other day and sent to the House. It is my understanding that the House has amended the measure and has sent it back to the Senate and that further action now by the Senate is required.

May I ask the Chair if I am correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Would it be possible to get an agreement at this time that at some point tomorrow, 1 hour be set aside for debate on that measure, with the vote to occur immediately thereafter, without the Senator from Alabama losing his right to the floor?

Mr. ALLEN. Mr. President, I would like to accommodate the leadership in the matter, but I believe I would rather take a new look at it tomorrow. I believe that the way the matter stands now, under the agreement that has been reached, the Senator from Alabama would be recognized tomorrow to continue his informative discussion on the pending matter. I would just as soon not add anything else to it.

I think that somewhere along the line, a compromise can be reached to drop this effort to amend the rules and to go on with the Senate's business. I believe I would rather wait until tomorrow to reach that agreement.

Mr. ROBERT C. BYRD. As the Senator knows, I am on his side in respect to the motion by Mr. PEARSON.

Mr. ALLEN. I hope the Senator stays there.

Mr. ROBERT C. BYRD. The Senator from West Virginia will stay there.

Mr. ALLEN. I know that.

Mr. ROBERT C. BYRD. At the same time, the Senator from West Virginia and the distinguished majority leader do have some other responsibilities equally heavy.

Mr. ALLEN. Is the bill at the desk?

Mr. ROBERT C. BYRD. It is my understanding that it is at the desk.

Mr. ALLEN. Is the bill at the desk?

The PRESIDING OFFICER. Yes, it is.

Mr. ROBERT C. BYRD. Could we act today on it?

Mr. ALLEN. I do not believe we could, at this time.

Mr. ROBERT C. BYRD. Very well, I thank the Senator.

Mr. MANSFIELD. Mr. President, has the unanimous consent request been agreed to?

The PRESIDING OFFICER. Does the Senator mean just with respect to tomorrow, as he first stated?

Mr. MANSFIELD. Yes.

Mr. ALLEN. Mr. President, reserving the right to object, is it that there be an adjournment and that the Senator from Alabama be recognized? Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. ALLEN. I have no objection.

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

Mr. MANSFIELD. Mr. President, will the Senator yield, without losing his right to the floor, so that I may suggest the absence of a quorum?

Mr. ALLEN. I yield.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum called be rescinded.

Mr. ALLEN. Reserving the right to object, and I do not want to object. How long does the Senate plan to stay in session?

Mr. ROBERT C. BYRD. The Senator has to object or not object.

Mr. ALLEN. I reserve the right.

Mr. ROBERT C. BYRD. The Senator cannot reserve the right.

Mr. ALLEN. Then I object.

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 ordered.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO TAKE CERTAIN ACTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate may be authorized, during the adjournment of the Senate over until 9 a.m. tomorrow, to receive messages from the President of the United States and that they may be appropriately referred.

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

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and at 6:10 p.m. the Senate adjourned until tomorrow, Friday, February 21, 1975, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate, February 20, 1975:

DEPARTMENT OF DEFENSE

Donald G. Brotzman, of Colorado, to be an Assistant Secretary of the Army, vice M. David Lowe, resigned.

DEPARTMENT OF JUSTICE

William B. Cummings, of Virginia, to be U.S. attorney for the eastern district of Virginia for the term of 4 years, vice Brian P. Gettings, resigned.

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of major general:

Andrew W. O'Donnell
Adolph G. Schwenk
Herbert L. Wilkerson
Clarence H. Schmid
Arthur J. Poillon
Kenneth McLennan
Joseph Koler, Jr.

The following-named officers of the Marine Corps for temporary appointment to the grade of brigadier general:

Francis W. Tief
Calhoun J. Killeen
Edwardy J. Megarr
William B. Fleming
Charles G. Cooper
John K. Davis
Darrel E. Bjorklund
George L. Bartlett
Richard C. Schulze
William R. Maloney
Charles D. Roberts, Jr.

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a), title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Kenneth D. Anderson, xxx-xx-xxxx.
Maj. Ronald L. Beyers, xxx-xx-xxxx.
Maj. Douglas D. Bright, xxx-xx-xxxx.
Maj. Vincent D. Brown, xxx-xx-xxxx.
Maj. Andrew Cali III, xxx-xx-xxxx.
Maj. Vondell Carter, xxx-xx-xxxx.
Maj. Peter B. Cascio, xxx-xx-xxxx.
Maj. Hartwell F. Coke IV, xxx-xx-xxxx.
Maj. Joseph J. Doyle, xxx-xx-xxxx.
Maj. Clement F. Dubie, xxx-xx-xxxx.
Maj. John W. Easton, xxx-xx-xxxx.
Maj. Paul A. Ebiner, xxx-xx-xxxx.
Maj. Robert A. Flick, xxx-xx-xxxx.
Maj. Dewey D. Foster, Jr., xxx-xx-xxxx.
Maj. William D. Coddard, xxx-xx-xxxx.
Maj. Alan J. Goldman, xxx-xx-xxxx.
Maj. James F. Hanaway, Jr., xxx-xx-xxxx.
Maj. Bruce G. Hansen, xxx-xx-xxxx.
Maj. Robert J. Hodges, xxx-xx-xxxx.
Maj. Russell L. Hopf, xxx-xx-xxxx.
Maj. Stanley L. Hopperstead, xxx-xx-xxxx.
Maj. Raymond M. Leonard, Jr., xxx-xx-xxxx.
Maj. Joseph N. Lessard, xxx-xx-xxxx.
Maj. Erle Martin III, xxx-xx-xxxx.
Maj. Henry E. McKay, xxx-xx-xxxx.
Maj. Dean A. Meucci, xxx-xx-xxxx.
Maj. Henry J. Myers, xxx-xx-xxxx.
Maj. Joseph A. Ah New, Jr., xxx-xx-xxxx.
Maj. David P. Otten, xxx-xx-xxxx.
Maj. Ernest C. Park, xxx-xx-xxxx.
Maj. John W. Piplow, xxx-xx-xxxx.
Maj. John M. Robb, xxx-xx-xxxx.
Maj. James H. Sams III, xxx-xx-xxxx.
Maj. Julius S. Schweich, Jr., xxx-xx-xxxx.
Maj. John L. Smith, xxx-xx-xxxx.
Maj Charles J. Sullivan, Jr., xxx-xx-xxxx.
Maj. Charles N. Teach, xxx-xx-xxxx.
Maj. Robert L. Trella, xxx-xx-xxxx.
Maj. William A. Treu, xxx-xx-xxxx.
Maj. Richard A. Vaux, xxx-xx-xxxx.
Maj. Joseph A. Washington, xxx-xx-xxxx.
Maj. John W. Watts, xxx-xx-xxxx.
Maj. Norman J. Weeks, xxx-xx-xxxx.
Maj. James A. Weston, Jr., xxx-xx-xxxx.
Maj. Donald R. Whitman, xxx-xx-xxxx.
Maj. Donald M. Wilson, xxx-xx-xxxx.
Maj. Dell R. Wightman, xxx-xx-xxxx.
Maj. Herbert E. Williams III, xxx-xx-xxxx.
Maj. Frederick R. Wylie, xxx-xx-xxxx.

MEDICAL CORPS

Maj. Robert C. Bone, xxx-xx-xxxx.
Maj. Samuel L. Cooper, xxx-xx-xxxx.

DENTAL CORPS

Maj. Thomas L. Winans, xxx-xx-xxxx.

EXTENSIONS OF REMARKS

EMERGENCY HEALTH PROTECTION ACT OF 1975—HEALTH INSURANCE FOR UNEMPLOYED WORKERS

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 19, 1975

Mr. HEINZ. Mr. Speaker, today's unemployment rate stands at 8.2 percent, meaning that more than 7.5 million American men and women are now out of work. Increasingly, it appears that unemployment may go to 9 percent—or beyond—before economic recovery begins and joblessness declines.

The cost of unemployment is usually measured in macroeconomic terms such as millions of people out of work, decline in total work force, declining GNP, and sliding industrial production. But it is the personal human toll with which each unemployed worker must live and it is this personal toll which, though already staggering, still grows. What I refer to is the unemployed worker struggling with the fear and insecurity of not knowing when—or whether—work will again be available; scraping by on less than $70 per week; living with the certainty that in less than 26 or 52 weeks unemployment compensation benefits will end.

But there is also one more frightening cost of loss of work. Mr. Speaker, absurd as it may seem, in America loss of a job usually means loss of health insurance protection as well. When a worker loses his or her job, he or she must then decide whether to gamble with the family's health and economic security or to purchase individual family protection—if available—at monthly rates up to $100 per month.

At 8 percent unemployment, the estimate is that at least 3 million American workers with prior health insurance protection have lost or are in danger of losing coverage. We in Congress will be striving in the weeks and months ahead to bolster our sagging economy and to get workers back on the job. But in the meantime, we cannot allow the personal economic crisis of the newly unemployed worker to be compounded by a personal or family health crisis just because loss of job means loss of health insurance.

If we are to reduce the human suffering and insecurity from recession and unemployment while we struggle to right the economy, we must act now.

That is why I have introduced H.R. 3166, the Emergency Health Protection Act of 1975, to continue basic health insurance coverage of unemployed workers. The means and extent of coverage provided by my legislation would be exactly that which the person and his or her family had in effect previous to being laid off. Benefits would be provided through the program and insurance carrier under which the person was covered prior to being laid off.

Eligibility for coverage under my Emergency Health Protection Act of 1975 is simple and straight forward. First, the individual worker must be eligible for unemployment compensation benefits. Second, he or she must have been eligible for health benefits in the job just lost. Third, the unemployed worker must not be eligible for health insurance, because of previous employment or through the plan of an employed spouse or other family member.

Certainly we should not for a moment believe this program is a permanent problem. It is not national health insurance. Nor does it address the pressing need to control soaring health care costs or assure high quality health care to all Americans. Rather, it is an emergency, stopgap measure that will allow us to guard against additional human and economic suffering among those who are already casualties of recession and inflation. If we delay until we enact and implement national health insurance, it will be simply too late to avert tens of thousands of cases of needless additional human suffering at a time of serious economic dislocation.

I urge my colleagues to join me in pushing for immediate congressional enactment of my Emergency Health Protection Act of 1975.

JUSTICE FOR VETERAN WITH MULTIPLE SCLEROSIS

HON. JOE SKUBITZ

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 19, 1975

Mr. SKUBITZ. Mr. Speaker, today I have introduced a bill for the relief of Mr. Thomas Warren Ralston of El Dorado, Kans. This bill would provide that under chapter 11, title 38 of the United State Code relating to payment of compensation for service-connected disability or death, the multiple sclerosis of Mr. Ralston shall be deemed to be a service-connected disability incurred while he was serving on active duty in the U.S. Navy.

Mr. Speaker, it is my judgment that Thomas Warren Ralston is clearly entitled to service-connected disability by reason of the diagnosis of multiple sclerosis within 7 years of his discharge.