Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (3) of section 303(a) of the Social Security Act (42 U.S.C. 503(a)) is amended to read as follows:

"(3)(A) Opportunity for a fair hearing, before an impartial tribunal, for all individuals, whose claims for unemployment compensation are denied; and

"(B) In the case of an individual who initially was determined to be eligible for unemployment compensation for a period of unemployment, no denial of compensation to such individual during such period of unemployment unless—

"(i) before the denial there was a hearing which meets the requirements of subsection (d) before an impartial tribunal, and the denial is pursuant to a written decision by such tribunal after such hearing;

"(ii) the individual knowingly and voluntarily waives his right to such a hearing; or

"(iii) the denial is because the individual is no longer unemployed (within the meaning of the law of such State) or the individual has exhausted all of the compensation available to him under the law of such State; and".

(b) Section 303 of such Act is amended by adding at the end thereof the following new subsection:

"(d) A hearing with respect to the claim of any individual for unemployment compensation shall meet the requirements of this subsection if—

"(1) such individual has been given timely written notice of the hearing;

"(2) such individual may be represented by counsel at the hearing,

"(3) such individual may present evidence at the hearing and cross-examine witnesses presented by the State; and

"(4) the decision by the tribunal before which the hearing is conducted is in writing and based only on evidence presented at the hearing."

(c) The amendment made by this section shall apply with respect to certifications under section 302 of the Social Security Act after December 31, 1975.

JUSTICE DEPARTMENT RIDES THE BACKS OF DAIRY CO-OPS

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1975

Mr. STEIGER of Wisconsin. Mr. Speaker, farm cooperatives, if one were to believe some reports, are little more than an evil marketing tool designed to rip-off consumers. Some critics would even have us believe Americans are paying a higher price for their table necessities simply because cooperatives are allowed to exist.

On the contrary, co-ops have been a prime factor in the great American phenomenon which sees U.S. consumers expending a much smaller portion of their take home pay for the commodities they eat than their counterparts in any other nation in the world. It is time for cooperative members to take some credit for their hard work rather than the continuous, poorly thought out barbs that have been indiscriminately tossed about of late.

Hoard's Dairyman in its August 1975, lead editorial proffered an excellent analysis of what American cooperatives are all about, while pointing out some of the more popular misconceptions put forth by those who refuse to examine all the facts. This well-documented piece is one that I commend to your attention:

JUSTICE DEPARTMENT RIDES THE BACKS OF DAIRY CO-OPS

The voices of the anticooperatives are becoming louder. Unless certain Justice Department spokesmen change their attitude on the value of farmer-owned cooperatives, the Capper-Volstead Act, which permits individual farmers to join together to market a product, could be in serious jeopardy.

Some high-ranking Justice officials believe that this law, which has been tested for over half a century, permits farmers to achieve harmful monopoly power through their co-ops and, thus, causes undue food price increases.

The fallacy of this argument is evidenced by the fact that farm prices have dropped in 7 of the last 12 months while food prices have continued to rise. Any first-year student of economics knows that it's necessary to control the national output of a commodity to develop substantial market power. Farmers simply don't have such control. Dairy farmers can't turn off milk production when sales drop like a car manufacturer can shut down an assembly line.

Justice has made several proposals for amending the Capper-Volstead Act. One would eliminate the provision that the Secretary of Agriculture be the authority to determine the presence of monopoly power among co-ops, as well as the one to determine that the existence of this power has led to undue price enhancement. Apparently, the Justice lawyers have been irritated by the fact that the Agriculture Secretary has ruled in favor of cooperatives on five formal charges brought under Capper-Volstead, plus numerous other complaints in which co-ops were accused of "using monopoly power."

Obviously, the Justice proposals have ignored the findings of the National Commission on Food Marketing which, after a two-year comprehensive study, concluded that cooperatives enhance competition and have a constructive effect in food marketing for consumers as well as farmers.

Although the finger is constantly being pointed at the dairy industry, Kenneth Naden, president of the National Council of Farmer Cooperatives, suggests that if Justice is sincerely interested in attacking food monopoly power, it would do well to investigate some obvious areas of concentration in the food industry. Naden points out that no mention is made of the fact that the volume of the four largest dairy cooperatives is less than one-third the volume of the four largest non-cooperative dairy marketing firms.

Or that in such key food areas as meat processing, cooperatives have only a 3 percent share of the market. Or that the four largest manufacturers of breakfast cereals control about 90 percent of the market.

Or that the four largest firms, all non-cooperative, control the following share of these markets: Soup, 92 percent; baby foods, 95 percent; tomato products and catsup, 81 percent; soft drinks, 89 percent; instant coffee, 81 percent; baking powder and yeast, 86 percent; dessert mixes, 86 percent; and grain mill products and refrigerated dough, 81 percent. By contrast, the four largest firms selling butter have control of only 14 percent of the market.

There's no question but what a concerted effort is being made to make farmer cooperatives the scapegoat for rising food prices. The situation has been summarized well by the Agribusiness Accountability Project, a public interest group which has been critical, at times, of some cooperative activities. It stated, "Cooperatives are everybody's easy target today, but overall they don't make much of a difference in the price of food on the shelf. The political scandal over milk prices has put cooperatives in the public mind, and going after them has become a way of looking good without getting at the real problem of domination of food processing and retailing by the giant corporations."

SENATE—*Thursday, September 4, 1975*

The Senate met at 12 noon and was called to order by Hon. HENRY BELLMON, a Senator from the State of Oklahoma.

PRAYER

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

Eternal Father, giver of every good and perfect gift, we pray that the inner quality of our hearts and the outer conduct of our lives may match the high challenge of the tasks committed to us. Equip us in mind and spirit that we may be part of the answer and not part of the problem of our social order. We pray for all who shape the destiny of the world in our time, for all who administer the affairs of government, for all who legislate in the people's name, for all who shape policy by work and speech and vote, for all who write what other people read and for all who hold aloft the torch of truth and justice in the world. And, above all, we pray for clean hands and pure hearts worthy of the trust the Nation has committed to our keeping.

We pray in the Great Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 4, 1975.

To the Senate:

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

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

the Journal of the proceedings of Wednesday, September 3, 1975, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 350 and 351.

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

RIVER BASIN MONETARY AUTHORIZATION ACT OF 1975

The bill (S. 2270) to authorize an increase in the monetary authorization for certain comprehensive river basin plans previously approved by the Congress, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in addition to previous authorizations, there is hereby authorized to be appropriated for the prosecution of the comprehensive plan of development of each river basin under the jurisdiction of the Secretary of the Army referred to in the first column below, which was basically authorized by the Act referred to by date of enactment in the second column below, an amount not to exceed that shown opposite such river basin in the third column below:

Basin	Date	Amount
Arkansas River Basin	June 28, 1938	$4,000,000
Mississippi River and Tributaries	May 15, 1928	158,000,000
North Branch Susquehana River Basin	July 3, 1958	22,000,000
Santa Ana River Basin	June 22, 1936	2,000,000

(b) The total amount authorized to be apropriated by this section shall not exceed $186,000,000.

ALASKA HIGHWAY

The bill (S. 1245) to amend section 218 of title 23, United States Code, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (1) of subsection (a) of section 218 of title 23, United States Code is amended to read as follows:

"(1) will provide, without participation of funds authorized under this title, all necessary right-of-way for the reconstruction of such highways;".

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock tomorrow morning.

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

ORDER FOR CONSIDERATION OF S. 2195 AND FOR ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the two leaders have been recognized, the Senate turn immediately to the consideration of Calendar No. 326, S. 2195, National Productivity and Quality of Working Life Act of 1975, on which there is a time limitation; that following the disposal of that bill, the period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 10 minutes each, be operative.

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

THE DEMOCRATIC CONVENTION

Mr. HUGH SCOTT. Mr. President, I see in the newspapers that our friends of the Democratic Party have decided to hold their convention in New York City. They have yielded to the temptation of Adam in reaching for the Big Apple. I do hope, bearing in mind the problems of New York, that they will arrange to bring their own garbage.

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of legislative business today, I be authorized to speak for not to exceed 1 hour with respect to my observations as a member of the delegation that was invited by the Chinese People's Institute of Foreign Affairs, extended through the President of the United States.

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

Mr. PERCY. Mr. President——

NATIONAL PRODUCTIVITY AND QUALITY OF WORKING LIFE ACT OF 1975

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 2195, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2195) to establish a National Center for Productivity and Quality of Working Life; to provide for a review of the activities of all Federal agencies including implementation of all Federal laws, regulations, and policies which impede the productive performance and efficiency of the American economy; to encourage joint labor, industry, and Government efforts to improve national productivity and the character of working conditions; to establish a Federal policy with respect to continued productivity growth and improved utilization of human resources in the United States; and for other purposes.

The Senate proceeded to consider the bill.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there was to be a brief period for the transaction of routine morning business.

Mr. HUGH SCOTT. Mr. President, I think the Senator from Illinois is seeking recognition in the morning hour.

The ACTING PRESIDENT pro tempore. The Senator from Montana has varied the order of business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, with statements therein limited to 3 minutes each, the period not to extend beyond 12:15 p.m. today.

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

Mr. PERCY. I thank the acting majority leader very much.

THE MIDDLE EAST AGREEMENT

Mr. PERCY. Mr. President, the interim agreement in the Middle East was ingeniously designed to accommodate the legitimate concerns of both Israel and Egypt. It eases the tensions, improves the climate for further negotiation, and enhances the possibility for an overall peace agreement.

President Ford and Secretary Kissinger have used American diplomacy to advance the cause of peace, and they deserve our congratulations. Prime Minister Rabin and President Sadat merit praise for their flexibility and realism in making the agreement possible.

Mr. President, I fully support this interim agreement. From what I have seen in the newspapers and heard on other forms of news media, obviously the Committee on Foreign Relations, which will be briefed this afternoon at 3 o'clock by Secretary Kissinger, will have many, many questions to put to him. We will probe very deeply into any agreements—open, secret, whatever they may be—that have been taken in this regard. But based on what I have seen today, I fully support the interim agreement.

It does involve some risks by the United States. It does involve the possibility of 200 volunteers, American personnel, going into this area in connection with the electronic listening equipment. But, after all, we now have 24 Americans as a part of the United Nations force. Though this is a risk we do not seek, we certainly do not shirk taking risks ourselves, inasmuch as we have asked Israel to take risks and we have asked the Arab world—certainly Egypt—to take certain risks. Egypt has taken certain risks in connection with the understanding that its Arab brethren will have as to why Egypt feels it is so necessary to take this interim step.

Having talked with President Sadat, I know he has not given up for one mo-

ment the strong feeling on his part that there must be an overall agreement and that there must be movement on three fronts, not just one front. But we must take this first step.

Israel certainly is taking risks. It is giving up territory. Those are measured risks that Israel has now supported overwhelmingly, both at its executive and its parliamentary levels.

Therefore, after full and deliberate debate, I trust and hope that the Congress of the United States will take some measured risk in this regard, so that we can take this step toward peace.

The alternative is awesome. The alternative of a fifth war, of another oil embargo, with its economic consequences, would be very great, indeed.

This morning, in the Washington Post, Joseph Kraft gives an excellent analysis of the agreement. 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:

[From the Washington Post, Sept. 4, 1975]

REMAINING MIDEAST QUESTIONS

(By Joseph Kraft)

There are good questions to be asked about the accord negotiated between Israel and Egypt by Secretary Kissinger. But they go to matters of fine detail, not to cosmic, Vietnam-inspired doubts about the role of America in the world.

On that general level, indeed, the accord is an undoubted success. It advances at relatively small risk and cost to this country the interests of Israel, of the moderate Arabs and perhaps of peace itself.

The starting point for analysis is something many people apparently find very hard. That is to acknowledge the many gains achieved by Dr. Kissinger's efforts.

The big gainers are the moderate Arabs. President Sadat, without giving anything, receives a big slice of territory claimed by Egypt in the Sinai Desert. He put the Suez Canal and its cities out of reach of the Israeli guns. He achieves favor in Washington, with assurances of more economic assistance and the prestige conferred by an early visit to this country.

Other Arab leaders prepared to negotiate with Israel are equally strengthened. President Assad of Syria has gone along with the Egyptian-Israeli accord in silence—a sure sign he expects to be in on the next round of Mideast peace talks. King Hussein of Jordan has a new lease on life. The oil countries, notably Saudi Arabia, no longer have to apologize for doing business with the United States.

The Israelis also come off reasonably well. Though they have yielded territory, they have set in motion an ongoing process of negotiation and resumed the tenor of even ways with the United States.

At best they will get what they have always most desired—a peace. At worst they will have to fight another war. But they will be several billion dollars richer in economic and military assistance from the United States. They will be on good terms—not indifferent or hostile ones—with their only reliable friend.

The United States does most of the paying. It has to ante up some $3-billion in military and economic aid to Israel. It also agrees to furnish some 200 civilians to man an early-warning station situated between Israeli and Egyptian lines in the Sinai Desert.

Weighed against these debts are clear American gains. At a minimum the United States has averted a war between now and the election.

Moreover, this country emerges as the only significant power in the Near East. It is there not as an adversary but as the friend—the only friend—of both Israel and the Arabs who count. It has shown that the Soviet Union is not around when it comes to constructive effort. It has, as Dr. Kissinger's latest visit to Saudi Arabia indicates, developed some arguments for urging the Arab states to follow a moderate policy on oil prices.

In weighing up the risks and gains for the United States, the main question is: what next? More specifically, what understanding does Dr. Kissinger have with the Israelis and the Syrians about the next step in the settlement talks? What is the exact pledge he has from President Sadat that Egypt will not take its territorial gains and then open a new war against Israel?

The answer to these questions would help to determine the exact nature of the Egyptian-Israeli accord. They would show whether Dr. Kissinger has merely bought a little time, or set in motion, as I tend to believe, a process for making peace.

Unfortunately, these are not the questions being asked in the Congress and the press. The questions being asked have to do with whether the 200 American monitors in the early-warning stations will not be the nucleus of a new Vietnam.

That line of questioning is an intellectual embarrassment. It confuses intercession with intervention on one side. It mixes up what the United States did in Vietnam with the contributions made regularly to peace-keeping by, say, Sweden.

But I suppose we must take this bogus line of questioning philosophically. It is no new thing for people to imagine the past and remember the future. It was clear long ago that the lessons learned from Vietnam would be no small part of the tragedy.

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 Acting President pro tempore (Mr. BELLMON) 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.)

MESSAGE FROM THE HOUSE

At 12:05 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (S. 907) to authorize the Smithsonian Institution to plan museum support facilities, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (H.R. 4415) to amend the Intergovernment Personnel Act of 1970 and subchapter VI of chapter 33 of title 5, United States Code, to provide more effective means to improve personnel administration in State and local governments, to correct certain inequities in such laws, to extend coverage under such laws to the Trust Territory of the Pacific Islands, and for other purposes, in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

UPSTREAM WATER PROTECTION

A letter from the Director of the Office of Management and Budget transmitting, pursuant to law, eight work plans for upstream watershed protection (with accompanying papers); to the Committee on Agriculture and Forestry.

EXTENSION OF TIME FOR REPORT BY THE DEPARTMENT OF AGRICULTURE

A letter from the Assistant Secretary of Agriculture requesting an extension of time for the final report containing conclusions and recommendations about the WIC program; to the Committee on Agriculture and Forestry.

PROPOSED LEGISLATION BY THE DEPARTMENT OF AGRICULTURE

A letter from the Under Secretary of Agriculture transmitting a draft of proposed legislation to provide for the acquisition of additional lands, and for other purposes (with accompanying papers); to the Committee on Agriculture and Forestry.

REPORT BY THE DEPARTMENT OF AGRICULTURE

A letter from the Assistant Secretary of Agriculture transmitting, pursuant to law, an additional report including evaluation material on the Food Stamp Program (with accompanying papers); to the Committee on Agriculture and Forestry.

REPORT BY THE DEPARTMENT OF AGRICULTURE

A letter from the Secretary of Agriculture transmitting, pursuant to law, the 1975 annual report on the location of new offices and other facilities (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF AGRICULTURE

A letter from the Secretary of Housing and Urban Development and the Secretary of Agriculture transmitting, pursuant to law, the sixth annual report on financial and technical assistance provided by the Department of Agriculture and the Department of Housing and Urban Development (with an accompanying report); to the Committee on Agriculture and Forestry.

APPROVAL OF LOANS BY THE RURAL ELECTRIFICATION ADMINISTRATION

Four letters from the Administrator of the Rural Electrification Administration reporting, pursuant to law, on the approval of insured loans for certain facilities (with accompanying papers); to the Committee on Appropriations.

REPORT BY THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Acting Assistant Secretary of Defense reporting, pursuant to law, on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under German Offset Agreement for the quarter April 1, 1975 through June 30, 1975; to the Committee on Appropriations.

REPORT BY THE INDIAN CLAIMS COMMISSION

A letter from the chairman of the Indian Claims Commission transmitting, pursuant to law, a copy of its report on the final determination of the claims of the Seminole In-

dians of Florida v. United States (with accompanying papers); to the Committee on Appropriations.

REPORTS BY THE DEPARTMENT OF THE INTERIOR

Three letters from the Acting Secretary of the Interior transmitting, pursuant to law, reports on soil surveys taken by the Department on certain irrigation projects (with accompanying reports); to the Committee on Appropriations.

REPORT BY THE SECRETARY OF DEFENSE

A letter from the Deputy Secretary of Defense transmitting, pursuant to law, the semiannual report on funds obligated in the chemical warfare and biological defense research programs during the second half of fiscal year 1975 (with an accompanying report); to the Committee on Armed Services.

PROPOSED LEGISLATION BY THE DEPARTMENT OF DEFENSE

A letter from the General Counsel of the Department of Defense transmitting a draft of proposed legislation to limit the tital cumulative entitlement of payment for unused accrued leave to 60 days, and for other purposes (with accompanying papers); to the Committee on Armed Services.

PROPOSED LEGISLATION BY THE DEPARTMENT OF THE ARMY

A letter from Acting Secretary of the Army transmitting a draft of proposed legislation to authorize the Secretary of Defense to dispose by sale within the United States the Defense Department's entire inventory of the chemical substance carbonyl chloride (with accompanying papers); to the Committee on Armed Services.

PROPOSED LEGISLATION BY THE DEPARTMENT OF THE NAVY

A letter from the Secretary of the Navy transmitting a draft of proposed legislation to approve the sale of certain naval vessels and for other purposes (with accompanying papers); to the Committee on Armed Services.

REPORT BY THE DEPARTMENT OF THE NAVY

A letter from the Acting Commander of the Naval Facilities Engineering Command transmitting, pursuant to law, a report covering the period July 1, 1974 to June 30, 1975 indicating the military construction contracts awarded on other than competitive bid basis (with an accompanying report); to the Committee on Armed Services.

REPORTS BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Three letters from the Secretary of Housing and Urban Development transmitting three reports on (1) condominium and cooperative housing; (2) mobile homes; and (3) the Emergency Homeowners' Relief Act (with accompanying reports); to the Committee on Banking, Housing and Urban Affairs.

REPORT BY THE EXPORT-IMPORT BANK

A letter from the president and chairman of the Export-Import Bank transmitting, pursuant to law, a report of the actions taken by the Export-Import Bank during the quarter ended June 30, 1975 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE SECURITIES AND EXCHANGE COMMISSION

A letter from the Chairman of the Securities and Exchange Commission transmitting, pursuant to law, the fourth annual report of the Securities Investor Protection Corporation for the year 1974 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORTS BY THE SMALL BUSINESS ADMINISTRATION

Two letters from the Administrator of the Small Business Administration transmitting, pursuant to law, a report on the 1974 activities and accomplishments of the Small Business Administration, and a report on the Small Business Administration/Surety Bond Guaranty Program (with accompanying reports); to the Committee on Banking, Housing and Urban Affairs.

REPORT BY THE SECRETARY OF COMMERCE

A letter from the Secretary of Commerce transmitting, pursuant to law, the nineteenth program report of the U.S. Travel Service for the calendar year 1974 (with an accompanying report); to the Committee on Commerce.

REPORT BY THE FEDERAL TRADE COMMISSION

A letter from the Chairman of the Federal Trade Commission transmitting, pursuant to law, a statistical supplement to the report on cigarette labeling and advertising dated December 31, 1974 (with accompanying papers); to the Committee on Commerce.

REPORT BY THE NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the Director of the National Railroad Passenger Corporation transmitting, pursuant to law, a report on the activities of Amtrak during the month of June 1975 (with an accompanying report); to the Committee on Commerce.

REPORT OF THE NATIONAL TRANSPORTATION SAFETY BOARD

A letter from the Chairman of the National Transportation Safety Board transmitting, pursuant to law, the report of the Board for the year 1974 with an accompanying report); to the Committee on Commerce.

PROPOSED LEGISLATION BY THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting, a draft of proposed legislation to extend the authorization of appropriations for financial assistance for State boating safety programs (with accompanying papers); to the Committee on Commerce.

REPORT BY THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting, pursuant to law, a report on the Central Railroad Company of New Jersey (with an accompanying report); to the Committee on Commerce.

PROPOSED ACTS BY THE COUNCIL OF THE DISTRICT OF COLUMBIA

Four letters from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, copies of four proposed acts passed by the Council of the District of Columbia (with accompanying papers); to the Committee on the District of Columbia.

REPORT BY THE SECRETARY OF COMMERCE AND THE CHAIRMAN OF THE INTERNATIONAL TRADE COMMISSION

A letter from the Secretary of Commerce and the Chairman of the International Trade Commission transmitting, pursuant to law, a report on the principles and concepts which should guide the organization and development of an enumeration of articles which would result in comparability of U.S. import, production, and export data (with an accompanying report); to the Committee on Finance.

PROPOSED LEGISLATION BY THE DEPARTMENT OF DEFENSE

A letter from the General Council of the Department of Defense transmitting a draft of proposed legislation to amend the Internal Revenue Code with respect to the deduction for moving expenses (with accompanying papers); to the Committee on Finance.

PROPOSED LEGISLATION BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to modify requirements for coordination between the Medicare program and the Federal Employees Health Benefits program (with accompanying papers); to the Committee on Finance.

REPORT BY THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, the third annual report of the National Professional Standards Review Council (with an accompanying report); to the Committee on Finance.

PROPOSED FEDERAL PROCUREMENT ACT OF 1975

A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to provide policies and procedures for the procurement of property and services by Federal agencies (with accompanying papers); to the Committee on Government Operations.

PROPOSED LEGISLATION BY THE DEPARTMENT OF STATE

A letter from the Assistant Secretary of State transmitting a draft of proposed legislation to implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property (with accompanying papers); to the Committee on Finance.

PROPOSED LEGISLATION BY THE SECRETARY OF THE TREASURY

A letter from the Acting Secretary of the Treasury transmitting a draft of proposed legislation to provide incentivies for the expansion of electric power facilities other than petroleum-fueled generating facilities (with accompanying papers); to the Committee on Finance.

REPORT OF THE BOARD OF FOREIGN SCHOLARSHIPS

A letter from the Chairman of the Board of Foreign Scholarships transmitting, pursuant to law, the annual report of the Board of Foreign Scholarships (with an accompanying report); to the Committee on Foreign Relations.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

Two letters from the Acting Assistant Legal Advisor for Treaty Affairs and one letter from the Assistant Legal Advisor for Treaty Affairs transmitting, pursuant to law, copies of international agreements other than treaties entered into by the United States (with accompanying papers); to the Committee on Foreign Relations.

REPORT OF PROPERTY DONATED TO PUBLIC HEALTH AND EDUCATIONAL INSTITUTIONS AND CIVIL DEFENSE ORGANIZATIONS

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of personal property donated to public health and educational institutions and civil defense organizations and real property conveyed to public health and educational institutions, July 1, 1974 through June 30, 1975 (with an accompanying report); to the Committee on Government Operations.

REPORT OF DISPOSAL OF SURPLUS PROPERTY FOR PARK AND RECREATION PURPOSES

A letter from the Deputy Under Secretary of the Interior, transmitting, pursuant to law, a report covering the disposal of surplus Federal real property for park and recreation purposes for fiscal year 1975 (with an accompanying report); to the Committee on Government Operations.

REPORT ON PRODUCTIVITY PROGRAMS IN THE FEDERAL GOVERNMENT

A letter from the Executive Director, Joint Financial Management Improvement Program, transmitting, pursuant to law, a report on productivity programs in the Federal Government, Volume Two: Case Studies (with an accompanying report); to the Committee on Government Operations.

NATIONAL SOLAR ENERGY R.D. & D. PROGRAM DEFINITION REPORT

A letter from the Administrator, Energy Research and Development Administration, transmitting, pursuant to law, a report on National Solar Energy R.D. & D. Program Definition (with an accompanying report); to the Committee on Interior and Insular Affairs.

NATIONAL PLAN FOR ENERGY RESEARCH, DEVELOPMENT AND DEMONSTRATION: CREATING ENERGY CHOICES FOR THE FUTURE

A letter from the Administrator, Energy Research and Development Administration, transmitting, pursuant to law, a report entitled "A National Plan for Energy Research, Development and Demonstration: Creating Energy Choices for the Future" (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORT ON AGGREGATE MARKET SHARES OF PETROLEUM PRODUCTS

A letter from the Administrator, Federal Energy Administration, transmitting, pursuant to law, a report with respect to any change in market shares for petroleum products (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORT ON IMPORTS OF CRUDE OIL, RESIDUAL FUEL OIL, REFINED PETROLEUM PRODUCTS, NATURAL GAS AND COAL, DOMESTIC RESERVES AND PRODUCTION OF CRUDE OIL, NATURAL GAS AND COAL, REFINERY ACTIVITIES, AND INVENTORIES

A letter from the Administrator, Federal Energy Administration, transmitting, pursuant to law, a report for the period of April through June 1975 concerning imports of crude oil, residual fuel oil, refined petroleum products, natural gas and coal, domestic reserves and production of crude oil, natural gas and coal, refinery activities, and inventories (with an accompanying report); to the Committee on Interior and Insular Affairs.

QUARTERLY REPORT ON PRIVATE GRIEVANCES AND REDRESS

A letter from the Administrator, Federal Energy Administration, transmitting, pursuant to law, a quarterly report on private grievances and redress, January 1, 1975 to March 31, 1975 (with an accompanying report); to the Committee on Interior and Insular Affairs.

PROPOSED PLAN FOR USE AND DISTRIBUTION OF THE NAVAJO JUDGMENT FUNDS

A letter from the Acting Secretary of the Interior, transmitting, pursuant to law, a proposed plan for the use and distribution of the Navajo judgment funds awarded in U.S. Court of Claims Case 49692 (with accompanying documents); to the Committee on Interior and Insular Affairs.

PROPOSED AMENDMENT TO CONCESSION CONTRACT, CEDAR PASS LODGE, BADLANDS NATIONAL MONUMENT

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed amendment to Concession Contract No. 14-10-9-900-209 authorizing the Oglala Sioux Tribe to continue to provide accommodations, facilities, and services for the public visiting Cedar Pass Lodge within Badlands National Monument, N. Dak., for a term of 1 year from January 1, 1975 through December 31, 1975 (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED AMENDMENT CONTRACT BETWEEN THE UNITED STATES AND THE WESTLANDS WATER DISTRICT OF THE CENTRAL VALLEY PROJECT, CALIFORNIA

A letter from the Deputy Assistant Secretary of the Interior, transmitting a new **contract article 16(a), page 31, proposed amendatory contract between** the United States and the Westlands Water District of the Central Valley Project, California, which has been revised to increase the contract obligation from $227,905,000 to $305,220,000 to cover the current total cost estimate (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON PETROLEUM STORAGE FOR NATIONAL SECURITY

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report on petroleum storage for national security (with an accompanying report); to the Committee on Interior and Insular Affairs.

APPLICATIONS FOR CONDITIONAL ENTRIES OF ALIENS

Nine letters from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice transmitting, pursuant to law, reports of applications for conditional entry under Section 203(a)(7) of the Immigration and Nationality Act, submitted by aliens in Austria, Belgium, France, Germany, Greece, Hong Kong, Italy and Lebanon (with accompanying papers); to the Committee on the Judiciary.

ANNUAL REPORT OF THE BOARD FOR FUNDAMENTAL EDUCATION

A letter from the Executive Director, Board for Fundamental Education, transmitting, pursuant to law, a report of the Board for Fundamental Education for 1974 (with an accompanying report); to the Committee on the Judiciary.

REPORT OF THE NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the Director, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report under the Freedom of Information Act (with an accompanying report); to the Committee on the Judiciary.

REPORT OF THE AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

A letter from the Administrator, American Revolution Bicentennial Administration, transmitting, pursuant to law, the first annual report (with an accompanying report); to the Committee on the Judiciary.

REPORTS RELATING TO AID-IN-EDUCATION PROGRAMS

Four letters from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting pursuant to law, reports of published regulations relating to various aid-to-education programs (with accompanying reports); to the Committee on Labor and Public Welfare.

REPORT OF THE NATIONAL ADVISORY COUNCIL ON SUPPLEMENTARY CENTERS AND SERVICES

A letter from the Chairman, National Advisory Council on Supplementary Centers and Services, transmitting, pursuant to law, the eighth annual report on Title III of the Elementary and Secondary Education Act (with an accompanying report); to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION TO CHANGE THE MEMBERSHIP OF THE NATIONAL ARCHIVES TRUST FUND BOARD

A letter from the Administrator, General Services Administration, transmitting a draft of proposed legislation to amend section 2301 of title 44, United States Code, to change the membership of the National Archives Trust Fund Board (with accompanying papers); to the Committee on Post Office and Civil Service.

REPORT OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administration, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on positions established during fiscal year ending June 30, 1975 (with an accompanying report); to the Committee on Post Office and Civil Service.

REPORT BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Director of Legislative Services of the Department of Health, Education, and Welfare transmitting a report on S. 1692 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF THE COMMISSION ON CIVIL RIGHTS

A letter from the Chairman and members of the Commission on Civil Rights transmitting, pursuant to law, a report on the implementation of court-ordered school desegregation in Boston, Mass. (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF THE COMMISSION ON CIVIL RIGHTS

A letter from the Staff Director of the Commission on Civil Rights transmitting, pursuant to law, a report entitled "Twenty Years After Brown: Equality of Economic Opportunity" (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORTS BY THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Four letters from the Secretary of Health, Education, and Welfare each transmitting, pursuant to law, a report on certain educational programs (with accompanying reports); to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION BY THE DEPARTMENT OF LABOR

A letter from the Secretary of Labor transmitting a draft of proposed legislation to assure an adequate authorization of appropriations for the President's Committee on Employment of the Handicapped (with accompanying papers); to the Committee on Labor and Public Welfare.

WORK PLANS FOR UPSTREAM WATERSHED PROTECTION

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, four work plans for upstream watershed protection (with accompanying papers); to the Committee on Public Works.

PROSPECTUS FOR ALTERATIONS AT THE CHICAGO, ILL., EVERETT MCKINLEY DIRKSEN BUILDING

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the Chicago, Ill., Everett McKinley Dirksen Building (with acompanying papers); to the Committee on Public Works.

RECREATION ACCESS STUDY

A letter from the Secretary of Transportation, transmitting, pursuant to law, a study of the problems of user access to recreation areas (with an accompanying document); to the Committee on Public Works.

PROPOSED LEGISLATION BY THE DEPARTMENT OF TRANSPORTATION

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Act of August 18, 1894, the Act of March 3, 1899, the Bridge Act of 1906 and the General Bridge Act of 1946, to provide for civil penalties in certain circumstances, and for other purposes (with accompanying papers); to the Committee on Public Works.

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Act of June 21, 1940, as amended, to remove the ninety day requirement for the submission of general plans and specifications for altering a bridge in accordance with an order of the Secretary of Transportation (with accompanying papers); to the Committee on Public Works.

REPORT OF THE LIBRARY OF CONGRESS

A letter from the Acting Librarian of Congress, transmitting, pursuant to law, a report on the activities of the Library of Congress, including the Copyright Office, fiscal year ending June 30, 1974 (with an accom-

panying report); to the Committee on Rules and Administration.

REPORT ON DISPOSAL OF FOREIGN EXCESS PROPERTY

A letter from the Administrator, Veterans' Administration, transmitting, pursuant to law, a report on disposal of foreign excess property, July 1, 1974 through June 30, 1975 (with an accompanying report); to the Committee on Veterans' Affairs.

REPORTS CONCERNING SHARING OF MEDICAL RESOURCES AND EXCHANGE OF MEDICAL INFORMATION PROGRAMS

A letter from the Associate Deputy Administrator, Veterans' Administration, transmitting, pursuant to law, reports concerning sharing of medical resources and exchange of medical information programs of the Veterans' Administration (with accompanying reports); to the Committee on Veterans' Affairs.

REPORT OF THE ARCHITECT OF THE CAPITOL (S. Doc. No. 94–97)

A letter from the Architect of the Capitol, transmitting, pursuant to law, a report of all expenditures during the period January 1, 1975 through June 30, 1975 (with an accompanying report); ordered to lie on the table and be printed.

REPORTS FROM THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the audit of the Saint Lawrence Seaway Development Corporation financial statements for the year ended December 31, 1974, Department of Transportation (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Millions Could Be Saved Annually and Productivity Increased If Military Support Functions In The Pacific Were Consolidated," Department of Defense (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Extending The Government's Policy Of Self-Insurance In Certain Instances Could Result In Great Savings," Department of Defense, National Aeronautics and Space Administration, Energy Research and Development Administration (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Need To Reexamine Some Support Costs Which The U.S. Provides To NATO," Departments of Defense and State (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Better Overall Planning Needed To Improve The Standard Of Living Of White Mountain Apaches Of Arizona," Department of the Interior, Bureau of Indian Affairs (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on improvements needed in training evaluation, Federal Executive Departments, Civil Service Commission (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Aviation Administration's Airport Certification Program: Has It Resulted In Safe Airports?", Department of Transportation (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on why the Federal Aviation Administration is having difficulty in developing and implementing several management information systems, Federal Aviation Administration, Department of Transportation (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Technology Transfer And Innovation Can Help Cities Identify Problems And Solutions," National Science Foundation, National Aeronautics and Space Administration (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report discussing some of the problems impeding the economic improvement of small-farm operations and what the Department of Agriculture could do to fully exploit the potential national and individual benefits of extension and research programs to encourage and help small-farm operators to improve their farming operations; (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on ways the Congress and the executive branch can improve the delivery of Federal assistance to State and local governments, Office of Management and Budget and Other Federal Agencies (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office of the previous month (with an accompanying list); to the Committee on Government Operations.

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report concerning the large savings that can be obtained by improving the management and operation of the spectrometric oil analysis program, Department of Defense (with an accompanying report); to the Committee on Government Operations.

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report discussing the Department of Agriculture's performance and difficulty in the past few years in forecasting the outlook for wheat and corn supplies, demands, and prices (with an accompanying report); to the Committee on Government Operations.

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on problems in coordinating multilateral assistance to Thailand, Departments of State and the Treasury, Agency for International Development (with an accompanying report); to the Committee on Government Operations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. BELLMON):

A petition seeking a redress of grievances from a citizen of Maryland; to the Committee on Government Operations.

A resolution adopted by the County Legislature of the County of Suffolk, New York, in support of H.R. 6841, to outlaw age discrimination in employment; to the Committee on Labor and Public Welfare.

HOUSE BILL REFERRED

The bill (H.R. 4415) to amend the Intergovernment Personnel Act of 1970 and subchapter VI of chapter 33 of title 5, United States Code, to provide more effective means to improve personnel administration in State and local governments, to correct certain inequities in such laws, to extend coverage under such laws to the Trust Territory of the Pacific Islands, and for other purposes, was read twice by its title and referred to the Committee on Government Operations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Public Works:

S. Con. Res. 62. An original concurrent resolution making apportionment of the funds for the National System of Interstate and Defense Highways (Rept. No. 94–364).

Mr. RANDOLPH. Mr. President, I ask the privilege of reporting from the Committee on Public Works an original Senate concurrent resolution (S. Con. Res. 62) approving the 1975 estimate of cost of completing the National System of Interstate and Defense Highways and specifying factors apportioning funds authorized for the fiscal year 1977, and I ask unanimous consent that the committee have until midnight to file its report.

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

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. HUGH SCOTT:

S. 2288. A bill to raise the limitation on appropriations for the United States Commission on Civil Rights. Referred to the Committee on the Judiciary.

By Mr. FORD:

S. 2289. A bill to amend the Tennessee Valley Authority Act of 1933 in order to increase the number of members on the board of directors of such Authority to five. Referred to the Committee on Public Works.

By Mr. TAFT:

S. 2290. A bill to establish Consumer Protection Study Commission in order to study the desirability and feasibility of establishing various administrative courts and transferring to such courts the adjudicatory, licensing, and rulemaking functions of various regulatory agencies, and for other purposes. Referred to the Committee on Government Operations.

By Mr. PELL:

S. 2291. A bill to amend title II of the Social Security Act to provide that a beneficiary shall (if otherwise qualified) be entitled to a prorated benefit for the month in which he (or the insured individual) dies. Referred to the Committee on Finance.

By Mr. GRIFFIN:

S. 2292. A bill to amend title 10 of the United States Code to provide that persons may qualify for nonregular retirement pay before age 60 if totally and permanently disabled. Referred to the Committee on Armed Services.

By Mr. HELMS:

S. 2293. A bill to amend section 402 of title 23, United States Code, relating to highway safety programs. Referred to the Committee on Public Works.

By Mr. FONG:

S. 2294. A bill for the relief of Leslie R.

Allen and Penelope Eve Allen. Referred to the Committee on the Judiciary.

By Mr. CANNON:

S. 2295. A bill to promote public confidence in the legislative, executive, and judicial branches of the Government of the United States. Referred to the Committee on Government Operations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUGH SCOTT:

S. 2288. A bill to raise the limitation on appropriations for the United States Commission on Civil Rights. Referred to the Committee on the Judiciary.

Mr. HUGH SCOTT. Mr. President, I am pleased to introduce today a bill to increase the limit on appropriations for the U.S. Commission on Civil Rights. This is the second such bill I have introduced this year. My first bill (S. 1834), cosponsored by Senators PHILIP HART, TUNNEY, and MATHIAS, contained several inaccuracies which needed to be changed. For example, S. 1834 was worded to indicate that the fiscal year ended on September 20, 1976, when, in fact, the fiscal year, because of the new Budget Reform Act, now ends June 30, 1976. This bill consequently failed to provide a separate authorization for this 3-month period.

The bill I introduce today therefore, increases the amount authorized to be appropriated to the U.S. Commission on Civil Rights to compensate for this 3-month period. Under this bill, $7.843 million is authorized for the fiscal year ending June 30, 1976; $1.975 million for the period beginning July 1, 1976 and ending September 30, 1976; and for each fiscal year thereafter through the fiscal year ending September 30, 1978, the sum of $10.276 million is authorized.

For more than 15 years the U.S. Commission on Civil Rights has been a strong and effective force in fighting discrimination. It has quietly waged many campaigns to correct abuses against minority groups and has rung up many successes.

We have all witnessed the work done by the Commission in conjunction with the 1964 Civil Rights Act and the Voting Rights Act of 1965. While the original focus of the Commission was discrimination against blacks, its scope has recently broadened to include all minorities.

It is essential that this outstanding organization be allowed to continue to operate at peak proficiency. This legislation I introduce today will provide the authority for funding for the Commission. I hope early and favorable consideration is given to this vital bill.

By Mr. TAFT:

S. 2290. A bill to establish Consumer Protection Study Commission in order to study the desirability and feasibility of establishing various administrative courts and transferring to such courts the adjudicatory, licensing, and rulemaking functions of various regulatory agencies, and for other purposes. Referred to the Committee on Government Operations.

REGULATORY AGENCY REVISION ACT OF 1975

Mr. TAFT. Mr. President, today I introduce the Regulatory Agency Revision Act of 1975. In my view, this bill would bring substantial reform to the regulatory process. It would help make our regulatory agencies the effective and vigorous watchdogs which the American consuming public deserves and expects.

Never in our history has regulatory reform been a more necessary undertaking. The state of many of our regulatory agencies is near collapse. As the Congress has seen in its consideration of the proposed agency for consumer advocacy, many regulatory agencies have betrayed not only consumers, but they have also wasted the taxpayers' money and constituted a bureaucratic nightmare for American industry.

I do not believe that anyone today, other than those who for parochial reasons may want to keep things the way they are, questions the need for prompt and comprehensive regulatory reform. We are witnessing President Ford driving more diligently for such reform than any other President in recent history. He has called for relaxation of all kinds of economic, safety, and environmental regulations in an attempt to obtain reform, and obtain it now. Accordingly, he has called a "regulatory summit" with the chairmen of 10 Federal agencies to discuss what he describes as "excessive Government regulations that stifle productivity, eliminate compensation, increase consumer costs, and contribute to inflation." As he has so aptly stated:

> I want small businesses released from the shackles of Federal red tape. I want to end unnecessary, unfair, and unclear regulations—and needless paperwork.

I could not agree with the President more. However, I feel that regulatory reform is a massive undertaking which should not be left solely to the executive branch. The Congress and the courts must become aggressively involved in this area, and each body must contribute constructively to this immense job.

I believe developments in recent weeks are positive signs that the Congress and the courts are moving in this direction. For example:

First, Congress has moved toward the repeal of the Miller-Tydings and McGuire Acts that for nearly 40 years have allowed manufacturers to fix retail prices under State fair trade laws.

Second, the Federal Trade Commission has also proposed to override State or local laws or professional codes of ethics that prevent druggists from advertising prescription drug prices.

Third, the Securites and Exchange Commission has ended the New York Stock Exchange's fixed commission rate system that dated back to 1792, when stockbrokers simplistically agreed to charge the same prices.

Fourth, the Supreme Court has held that lawyers cannot agree on minimum fee schedules under the guise of regulating professional ethics in the Goldfarb case.

As I have stated, my bill would bring needed reform to the regulatory process. It would establish a consumer protection study commission for the sole purpose of making revised and updated recommendations relative to the desirability and feasibility of transferring the adjudicatory, licensing, and rulemaking functions of our regulatory agencies to newly created administrative law courts.

My bill builds upon the results of the 1955 report of the second Hoover Commission. That report in pertinent part stated:

> The Administrative Procedure Act thought to achieve an internal separation of functions at the hearing level. The theory of separation was based on the principle that the person who investigates and prosecutes a case should not also serve as a judge. We propose that such an internal separation of functions be applied to agencies themselves as well as to hearing officers. We further propose to include in the requirement for separation of functions, certain proceedings now exempt from this requirement, such as the determination of applications for initial licenses and the validity or applications of rates, facilities, or practices of public utilities or carriers, whenever a hearing is required by law.

Mr. President, at the conclusion of my statement I will ask unanimous consent to include in the RECORD the recommendations of the second Hoover Commission relative to the transfer of adjudicatory functions of regulatory agencies to new administrative courts.

Unlike the earlier Hoover Commission, the study group created by this bill would have a very limited task. It would be charged with restudying part IV of the 1955 report only. It would reexamine, modify, particularize, and resubmit recommendations numbered 50 and 51 from the earlier report. In addition, it would be the function of this new commission to make recommendations with respect to maintaining within the agencies studied a prime responsibility for protecting the interests of consumers as they relate to the functions performed by such agencies and administrative courts. The Congress could then intelligently proceed with legislation to accomplish this fundamental reform to protect the public and consumer interests.

Of importance is the requirement that the new commission report back to the Congress within 6 months of the confirmation of all members of the commission.

We in the Congress can attest to the fact that all too frequently, executive reorganization has amounted to little more than a reshuffling of executive organization charts.

Experience at prior reform has taught us that the number of bureaucrats and the amount of paperwork has not diminished. Although I believe that the President is earnestly serious about achieving reform, the reforms envisioned by my bill would strike a fundamental blow for consumers who are interested in effective regulation and would provide greater procedural fairness to all interested parties.

The reform mandated by my bill would enable and force those regulatory agencies which have broken down to become effective because they would be turned into advocates before impartial law courts. Stripped of its adjudicatory functions, regulatory agencies would have the sole responsibility of investigation and prosecution. Consumer advocacy would be at the core of their efforts as they vigorously pursue their mandate to protect the public welfare. Instead of one agency for consumer advocacy which would be spread thinly over every function of every agency each agency would be a consumer advocate in its specialty

field of regulation. My proposal would assure consumer protection through specialized agencies not merely advocated by an outside generalist.

Moreover, my bill would eliminate the unfairness in the present system of having a commission which orders the issuance of a complaint and later passes upon the merits of the case. Inherent to the present regulatory system is a conflict of interest within the agency between its responsibilities as a prosecutor and a judge. This conflict of interest offends even the most basic notion of fairness and justice with the consumer being the ultimate loser.

The time has come for those of us in the Congress who are interested in consumers to cease proliferating ideas that more bureaucrats in Washington will make everything better. Nothing could be further from the truth. If we are interested in consumers, which I feel we must be, we should be honest enough with ourselves and with the American people to say that if the present system is not working, it will not be helped with addition of more lawyers to file more briefs and ask for more delays. By creating a new Hoover-type commission, we can quickly call upon the best administrative law scholars in our country and find solutions to the vexing problems of all consumers.

Mr. President, I ask unanimous consent that the recommendations of the second Hoover Commission relative to the transfer of adjudicatory functions of regulatory agencies to new administrative courts be included in the RECORD at this point. I also ask unanimous consent that two articles entitled, "Where Overregulation Can Lead," appearing in the June 1975 edition of Nation's Business and "Regulatory Report—Ford Building Framework for Attempt to Change Policy," appearing in the June 26 edition of National Journal Reports, be printed in the RECORD, together with the text of the bill.

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

PART IV. TRANSFER OF JUDICIAL FUNCTIONS OF ADMINISTRATIVE AGENCIES TO THE COURTS

The development of the administrative process has led to a substantial modification of the traditional doctrine of the separation of powers. In special areas of regulation, executive, legislative and judicial powers have been combined in a single instrumentality, but such a commingling of functions is justified only where the Congress finds that it is necessary to the effective performance of the regulatory responsibilities of the Federal Government. Our task force believes that wherever practicable there should be a complete separation of the judicial functions of administrative agencies from their other functions.

Where the proceeding before the administrative agency is strictly judicial in nature, and the remedy afforded by the agency is one characteristically granted by courts, there can be no effective protection of private rights unless there is a complete separation of the prosecuting functions from the functions of decision. The latter should be transferred either to persons who do not participate in the administrative processes or to the courts. As an example, the imposition, remission, or compromise of money penalties, the award of reparations or damages, and the issuance of cease and desist orders, all of which are typical judicial remedies, should be transferred from the administrative agencies to the courts wherever this can be done without harm to the regulatory process. We feel that the Interstate Commerce Commission and the Secretary of Agriculture should be divested of authority to enter orders for reparations and damages, and we suggest that further study be made of this general problem with a view to removing typically judicial functions from the agencies in the executive branch.

RECOMMENDATION NO. 50

Congress should look into the feasibility of transferring to the courts certain judicial functions of administrative agencies, such as the imposition of money penalties, the remission or compromise of money penalties, the award of reparations or damages, and the issuance of injunctive orders, wherever it may be done without harm to the regulatory process.

Where functions performed by administrative agencies may not be readily imposed upon the existing courts of general jurisdiction, but should nevertheless be removed from administrative control, we propose that they be placed in a court of special jurisdiction, to be known as the Administrative Court of the United States. The concept of the task force was that it would serve as a trial court for such matters of special adjudication.

Our task force examined the whole field of adjudicatory functions now performed by administrative agencies and Executive tribunals for the purpose of determining which of those functions not covered by our preceding recommendation might properly be transferred to a court or courts of special jurisdiction. It concluded that there are several areas in which such transfer of functions might be made without endangering the administrative processes.

The first area is that of taxation. The Tax Court of the United States is the only strictly executive tribunal in the United States. We believe that this Court should be removed from the executive branch. It would be a legislative court comparable to the United States Court of Claims.

The second area is that of trade regulation. At present a number of agencies and executive departments attempt to enforce, through injunctive orders, statutes declaring unlawful unfair methods of competition and unfair or deceptive trade practices. Considerable confusion exists as to the jurisdiction of the various agencies and departments in this field. More uniform and effective enforcement of these laws will be gained by transferring this function to a special court.

The third area is that of labor relations where, under the National Labor Relations Act, control is presently vested in the National Labor Relations Board of five members and an independent General Counsel. The Board has investigation powers over unfair labor practices, jurisdictional disputes, and certification of collective bargaining units. It also conducts elections to determine whether a union represents a majority of employees in an appropriate unit, passes upon and determines the certification of employee representatives, and adjudicates unfair labor practice cases. The General Counsel has final authority, on behalf of the Board, with respect to the investigation of charges of unfair labor practices, the issuance of complaints thereon, and the prosecution of such complaints before the Board.

It is not proposed that the new Administrative Court have general jurisdiction over the judicial functions of administrative agencies in any areas other than the three mentioned. We believe, however, that once it is established the Administrative Court will provide an instrumentality to which, from time to time in the future, additional adjudicatory functions in special areas might be transferred. Additional Sections of the Court could readily be established. The Administrative Court thus would serve as an intermediate stage in the evolution of administrative adjudication and the transfer of judicial activities from the agencies to courts of general jurisdiction.

RECOMMENDATION NO. 51

An Administrative Court of the United States should be established with three sections as follows—

(a) A Tax Section which should have the limited jurisdiction in the field of taxation now vested in the Tax Court of the United States;

(b) A Trade Section which should have the limited jurisdiction in the trade regulation field now vested in the Federal Trade Commission, the Interstate Commerce Commission, the Federal Communications Commission, the Civil Aeronautics Board, the Federal Reserve Board, the United States Tariff Commission, the Federal Power Commission, the Department of the Interior, and the Department of Agriculture; and

(c) A Labor Section which should have the jurisdiction now vested in the National Labor Relations Board by the National Labor Relations Act over the adjudication of cases involving unfair labor practices.

It is further recommended that the Congress study and determine whether the Trade Section and the Labor Section of the Administrative Court should have original or appellate jurisdiction.

WHERE OVERREGULATION CAN LEAD

(An interview with Dr. Murray L. Weidenbaum)

This specialist in government regulation, a former federal official himself, tells how more and more firms are threatened by the new federal seizure of management's right to decide profit-and-loss questions.

Government power to control and influence the decisions of business threatens the very existence of many business firms and the financial health of many thousands more.

Washington, warns Dr. Murray L. Weidenbaum, a former government official himself, is snatching much of the vital decision-making power away from businessmen and handing it over to a growing federal bureaucracy. The result, he says, is a revolutionary change in our national economic system.

The big problem, he points out, is that more and more of the decisions of business management that affect profit and loss are being controlled and influenced by government agencies which are insulated from the pressures of management responsibility. Businessmen who are responsible for profit and loss no longer have full freedom to make the profit-and-loss decisions.

Dr. Weidenbaum, a distinguished economist and author, is an expert on government and its impact on the economy. That is the theme of his recent book, "Government-Mandated Price Increases," a study of government regulation published by the American Enterprise Institute for Public Policy Research.

Because of his expertise, Dr. Weidenbaum was asked to elaborate on what he calls "the second managerial revolution." In this interview with NATION'S BUSINESS, he says there has been not merely a loss of managerial freedom, but an enormous cost to the public. Unless the nation changes course, he adds, our economic system is threatened with stagnation and continuous high inflation.

Dr. Weidenbaum is Director of the Center for the Study of American Business, established at Washington University, St. Louis, Mo., last January with a grant from the John Olin Foundation. The center's purpose is the study of the role of private enterprise in the development of American society and the relationship between a market economy and a free society.

Its Director has had an outstanding career in government as well as business. He was

Assistant Secretary of the Treasury for Economic Policy during 1969–71 and served earlier as a fiscal economist in the U.S. Bureau of the Budget.

From 1958 to 1963, he was the Corporate Economist at the Boeing Co. and is now a consulting economist to Mallinckrodt, Inc., and the First National Bank in St. Louis.

He is the author of "The Economics of Peacetime Defense" and "The Modern Public Sector." With Dr. Paul McCracken, former Chairman of the President's Council of Economic Advisers, he also wrote "Fiscal Responsibility," a study of national economic policy.

Dr. Weidenbaum was interviewed in St. Louis by an editor of Nation's Business.

Is business in the United States facing a threat it never faced before?

Yes, this country is going through a second managerial revolution. The first occurred many years ago, with the divorce of corporate ownership from management. That revolution involved the rise of professional managers, as distinct from owners.

This new revolution is far more subtle. It involves the shift of decision-making from managers, who represent the shareholders, to a cadre of government officials, government inspectors, government regulators.

Increasingly, the power to make business decisions is being taken away from management and assumed by government. The problem is that these government officials and government agencies are not responsive to the pressures of profit and loss and, though their decisions affect management, they have no management responsibility.

In what areas do their decisions affect management?

How you hire people, what products you make, how you go about making them, personnel practices, production methods, marketing, financing. There isn't much, in terms of company decision-making, that isn't closely controlled or influenced by one or more federal agencies. And sometimes the control of one agency conflicts with the control of another.

Since the 1960's, there has been a massive expansion, not only in the number of laws, but in the areas of business under government's thumb.

Some of this is very costly, not only to business, but to the public as well.

The increase in the cost of producing consumer goods is the ultimate burden imposed by government regulation of business.

So this is part of the revolution you mentioned. What are some of the other vital business areas it affects?

It is most apparent, perhaps, in industries like transportation, where literally you can't go into business until government gives its approval. You can't even get started, unless government gives you the go-ahead.

That applies to communications—radio, television—as well as trucking, for example.

But it goes beyond that, doesn't it?

Yes. Obviously, you can't build a factory if it violates the standards of the Environmental Protection Agency. You have to make sure, of course, that in cleaning up air pollution you don't generate water pollution.

That's an example of a growing problem. There is such a proliferation of government regulations that, in trying to obey one, you run afoul of another.

For example, to desulfurize coal—and reduce air pollution—requires a combination with lime. But when you do that, you generate large quantities of solid waste, calcium sulfate. And disposing of calcium sulfate creates water pollution problems.

Let me give you another example.

Federal food standards require meat-packing plants to be kept clean and sanitary. Surfaces that are easiest to clean are usually tile or stainless steel.

But tile and stainless steel are highly reflective of noise and don't always meet Occupational Safety and Health Administration standards.

More is involved than the environment and health, isn't it?

Just go through the major departments of any company.

Let's take the personnel department. It's quite clear that before you can hire anyone, you have to make sure you follow the rules of the Equal Employment Opportunity Commission.

Certainly, once people are hired, you have to meet the requirements of the wage and hour law.

If you have landed a federal contract, you have to file an affirmative action program. Also, you will have to make sure you comply with the Davis-Bacon Act or the Walsh-Healy Act.

In all cases, you must make sure you don't violate the rules of the Occupational Safety and Health Administration. And sometimes those rules get in the way of the Equal Employment Opportunity Commission.

For example, both OSHA and EEOC have jurisdiction over toilets. OSHA once said women need special lounge facilities as part of their restrooms. But EEOC says, well, if you provide lounges for women, you have to provide them for men also.

Regulation, like justice, must be blind.

What if you clear hurdles like these?

You are not out of the woods yet.

Along comes the Consumer Product Safety Commission. It has the power to ban your product in the marketplace. In the commission's eyes, you are guilty until proven innocent.

That is a clear example of the shift of power.

The commission puts out a list of banned products. But it warns that, even if you aren't on the list, you should consider your products banned unless you can prove they meet the commission's standards. That's what I mean by guilty until proven innocent. They have shifted the whole burden of proof on you.

When you look at the power of the Consumer Product Saftey Commission, it is really scary. The commission has the ability, and has used it on occasion, to drive a company out of business—through the commission's own mistakes.

The commission put the Marlin Toy Co., a small firm in Wisconsin, out of the toy business by inadvertently putting its products on the banned list.

Later, the commission recognized its error, but it was too late.

As it turns out, this company was an employer of handicapped people in the little town where it is located. So we are talking about a socially responsible business.

By forcing it to lay off employees, the commission not only added to unemployment, but hurt a group of people who find it especially hard to get jobs—the handicapped.

Isn't it rare for Washington to put a company out of business and people out of work?

Not at all.

For example, about 350 foundries in this country have closed in the past three years because they couldn't meet EPA or OSHA requirements. Basically, these were smaller foundries.

As a result, the larger foundries are working to capacity. They're so busy that they can't take on a lot of military work, including castings for our big M–60 tank.

Now, we have a shortage of tank castings. It is so serious that the army has been investigating tank casting facilities in Britain and West Germany.

Meanwhile, of course, unemployment here continues to rise.

I wonder how much thought EPA or OSHA gave to the unemployment problem or to national defense.

Doesn't this run counter to creating full employment, a top national priority?

Precisely. The old breed of regulatory agencies, like the Interstate Commerce Commission, have been criticized for excessive concern with the health of industries they regulate.

No one has ever accused newer agencies like EPA or OSHA of that. All they're concerned about is their programs.

Somehow, we've got to get that broader idea of the total national interest across to OSHA, EPA, and the rest of the federal regulators Congress has created.

How many federal regulators get into the act?

It varies industry by industry.

We now have what I call a matrix form of regulation. Some agencies specialize by industry.

In other words, the Civil Aeronautics Board regulates the airline industry. The Federal Communications Commission regulates all aspects of radio and television. ICC regulates railroads.

Then we have a new kind of government regulatory agency, like OSHA. It regulates only one aspect of business activity—job safety—but its authority takes in all industries.

Or EEOC, which regulates personnel practices for all businesses.

And EPA. It deals with environmental impact only, but again for all industry.

Why aren't Americans aware of what's happening?

The change isn't visible or dramatic enough, except to the businessman under the gun. However, some symbols of the shift of power to government should be apparent to the man in the street.

For example, the consumer is paying for the new managerial revolution in a number of ways. One is his tax bill. It costs him $4 billion a year to support all the federal regulatory agencies that ride herd on business.

But that's only the tip of the iceberg. The real cost to the consumer is indirect, but much larger.

We are now deeply concerned about our economy's lack of increase in productivity. It is crystal-clear to me that much of our potential growth in productivity is eaten up by the proliferation of government controls.

Government regulation imposes a lot of burdens on business, like mountains of paperwork, that decrease productivity.

But I guess what worries me most is what happens to an industry when it really becomes controlled by government, as some are.

Look at the cost overruns, for instance, in so many Defense Department projects. Also, look at the time delays.

To me, there is a close relationship between them and the very close, day-to-day government regulation of the defense industry—the most closely regulated industry in our society.

More closely regulated than utilities?

Oh, yes. We think of utilities as our most tightly regulated industry. But they aren't regulated anything like the defense industry.

Look at the regulations issued by state utility commissions, and you are talking about a pamphlet. Look at the regulations given the defense contractor by the federal government and you are talking, literally, about volumes.

Government bureaus aren't set up to minimize cost. They have a different outlook on life.

Different in what way?

A smart bureaucrat knows how to say no.

I spent a lot of time in the federal government during the course of my career, and I know that the safest thing to say is no. That way, you won't get into trouble.

Don't stick your neck out.

Well, that runs counter to what happens in private industry, where you are sticking

your neck out all the time. When you bring out a new product, you stick your neck out. When you introduce a new production process, you stick your neck out.

But that's the way the system works.

What all this so-called government protection does is protect the consumer against new products, new processes, and lower costs.

The result could well be economic stagnation.

Why don't consumers and business resist more?

Business may be part of the problem. Many companies learn to live in a government-regulated environment and feel comfortable.

But if you expect the government to bail you out when you have losses, you're not going to have the freedom to earn the profits.

You mean government makes the decisions?

More and more every day—and not always wisely.

Look at the automobile industry and catalytic converters.

Big Brother, or Big Mother, however you prefer to think of Washington, got into the auto industry to put in the converters. Now Big Mother finds that she may have been hasty. The catalytic converters may cause worse pollution than they eliminate.

But the point is that the decision was shifted from business to government. The irony of it! Think of the outcry if Detroit, on its own, had gone ahead and installed catalytic converters without a full environmental impact statement.

Well, the agency in charge of these environmental impact statements, EPA, apparently went ahead on converters without checking the full impact on the environment.

That's part of the problem of dealing with government. It has a double standard. Business can be forced by government to follow rules and regulations. But the government itself is free to ignore them.

Doesn't that apply to the Consumer Product Safety Commission, too?

Yes, in a way. Last fall, it bought 80,000 toy-safety buttons to be worn on the lapel. The idea was to encourage people to be safety-minded about toys.

Well, it turned out that they used lead paint on the buttons. There was a danger of lead poisoning if they were licked by children. So the commission had to ban its own buttons.

It sounds funny.

But think about the taxpayers who had to foot the bill for producing 80,000 useless buttons.

Isn't that a drop in the bucket for Uncle Sam?

There are so many drops that even that bucket is overflowing.

Each agency is preoccupied with its own narrow interests and isn't concerned with what's happening to the company, an industry, or even to society as a whole.

EPA and the fire ants offer a good case history. EPA has told the Agriculture Department it is imposing severe restrictions on the use of pesticides to kill fire ants. The department had a major program under way to get rid of them. Now the department says EPA's ruling makes it impossible to carry out its eradication program.

So the department thinks fire ants may spread over a third of the United States—as far north as Philadelphia.

Fire ants may not harm the environment as much as EPA thinks pesticides harm it. But their bite is not only painful but can even cause death.

All EPA cares about is the environment. Apparently, the fact that these ants can kill you and me isn't EPA's problem.

I suggest, facetiously, that the Agriculture Department try to breed a special strain of fire ants that bite only people who make such EPA rules.

But much of the public apparently favors these new federal agencies.

Of course.

If you were told only of the benefits of government regulation—and not its costs—wouldn't it sound great?

That's a proverbial free lunch, something that will help you and won't cost you a dime. But there aren't any things in life that will benefit you with no cost.

And that's true of government regulation, as well as anything else.

Do you think public opinion will change?

I think so. I am an optimist. But a patient optimist.

To me, Congress's decision to reverse the federal regulators on the interlock, seat-belt system this year was encouraging. It's an example of what can happen when the public gets aroused.

It became obvious to Americans that they were paying through the nose for a complicated system they didn't want. It was extravagant nonsense.

Congress got the picture pretty fast. It threw the interlock out the window.

But only, of course, after the auto industry had spent millions to perfect and install it.

Any straws in the wind there?

Yes, I think so. Congress almost outlawed air bags at the same time.

I think this is a message those who are so much in favor of regulation should take to heart.

When the pendulum swings, it swings with a vengeance. You can get a reaction against all this regulatory cost—and waste—that will involve a wholesale liquidation of these police agencies.

If so, you'll see the end of the good, as well as the bad.

So not all regulation is bad?

No. Unless you are an anarchist you must believe that government should set the rules for society. The question is what kind of rules and how many.

Economics has an answer for that. It says, carry regulation to the point where the added benefits barely exceed the added costs. That's where you stop.

Overregulation is where the added costs exceed the added benefits.

Can you give an example of a useful role for a government regulator?

Take OSHA. It has a basic role in investigating lethal hazards. That's why Congress set it up. But it should not also be deciding questions like these:

How big is a hole?

What color to paint a door?

What is a ladder?

That's the kind of nonsense that should be eliminated.

What's the right way to promote job safety in your view?

I'd shift the whole emphasis to reducing accident rates and health hazards.

The objective is safer working conditions. Establish some goals, provide some incentives, then let the companies—individually or through trade associations—decide what they'll do to reach those goals.

There's no one royal road to safety. Some companies may find that it is most effective to redesign their equipment, others that a training program is best for them. Still others, more work on supervision.

Get away from the emphasis on detailed federal rules and regulations.

For one thing, from the data I've seen, there's no indication that these government regulators have cut accident rates in industry.

So, even if you follow them to the letter, that doesn't mean the place is safer. It just means you won't get in trouble.

That's the bureaucratic mentality.

We have to realize there are more effective ways of using the private sector to achieve national objectives.

Are more regulations inevitable?

In the short run, I am afraid we are in for more.

I have looked at the proposed new legislation in Congress—and I'm afraid that, for the next year, business must brace itself for another round of federal straitjackets.

In fact, at least 23 congressmen in the House literally believe you should have to get Washington's permission to go out of business. They introduced H.R. 76 last January. It would require a two-year prenotification to the Secretary of Labor to close or move a business—if that would result in 15 percent of the employees losing their jobs.

What can businessmen do if they don't like this trend?

Support something like the bill of Sen. J. Glenn Beall, Jr., of Maryland.

It would require each new law, including those that regulate business, to carry a price tag.

That would alert us to the cost—as well as the promised benefits—of each regulatory proposal put before Congress.

That's progress—a cost-benefit analysis. If we could limit new regulations only to those whose benefit to society exceeds the cost, there'd be a lot fewer of them.

Then we must see that the same yardstick is applied to existing regulations and regulatory agencies.

Anything else?

Take a leaf from the environmentalists. They pushed through a rule that before you do anything, anywhere, you must determine what impact this will have on the environment.

I would like to turn that around.

I'd like to see legislation which says that, before EPA or any other regulatory body does anything, it must file a statement describing what this will do to the economy—an economic impact statement.

Can business look for allies elsewhere?

Well, the thing that amazes me is that liberals, who attack the government when it infringes on civil liberties of individuals, couldn't care less when it does the same thing to businessmen.

You know of the outcry over no-knock searches for narcotics.

Well, OSHA inspectors all have no-knock power. They can come into your plant without warning anytime they please.

Liberals should wake up to the fact that there isn't a sharp cleavage between civil liberties in the personal sphere and civil liberties in the business sphere.

REGULATORY REPORT/FORD BUILDING FRAMEWORK FOR ATTEMPT TO CHANGE POLICY

(By Richard E. Cohen)

President Ford has begun to take "regulatory reform" out of the talking stage and is seeking to build a legislative and political framework to make significant changes in federal policy. But many parts of his program have not been completed and the congressional response so far still is primarily one of interest, not action.

Ford has set as one of his Administration's domestic priorities the modernization of regulatory rules and practices, both through agency actions and new laws.

Asked at a July 12 press conference in Chicago to list his accomplishments as President as he began his campaign for election, Ford answered, in part: "We have promoted what I think is very important—some constructive steps to deregulate the American economy, getting rid of those regulations that are no longer needed and necessary, and progress in this area, I think, will be more significant in the months ahead."

The responses generated during "summit" meetings June 25 with congressional leaders and July 10 with regulatory agency officials indicate that the initiative which he has taken on the issue has general support, but

that it will be a difficult process to translate his program into specific changes.

Roderick M. Hills, counsel to the President and Ford's chief adviser on regulatory reform issues, told *NJR* July 15: "We have not proved anything yet. Much that has been done is rhetoric." However, Hills said, the "umbrella of rhetoric" which followed the two meetings has resulted in the creation of "a mechanism for dealing with the agencies and the Hill and getting things done."

Hills heads a White House task force that has the responsibility to make that mechanism work and to reduce federal regulation. His agenda foresees enactment of "a couple of major reforms" by 1976, including changes in rail and, perhaps, other transportation regulatory laws and the repeal of the federal fair trade laws.

He said he also hopes there will be a "political constituency" for action after 1976 in "nine or 10" areas where he believes "the regulatory system has become bogged down and is not working well for anyone."

Among the potential areas of action on the agenda for the task force are antitrust reform, creating "incentives for industry" rather than imposing certain health, safety and environmental rules, and "genuinely rethinking whether some independent agencies should exist."

Paul W. MacAvoy, a member of the Council of Economic Advisers and a key member of the White House task force on regulation, identified the Federal Energy Administration as one agency slated for "a stripping away of its procedures to get the absolute minimum amount of regulatory activity," assuming Ford and Congress agree on a bill to extend its life, scheduled to expire Aug. 31.

Hills said that the recent performance of some of the regulatory agencies has been "less than inspired," but added, "We can do an awful lot administratively." Within a few months, it is likely that Ford appointees will be serving as chairmen of the Interstate Commerce Commission, Federal Power Commission and Federal Maritime Commission. John E. Robson was sworn in April 21 as the chairman of the Civil Aeronautics Board.

Issues: There are three separate sets of issues surrounding the debate on federal regulatory policy. At times, the issues have been meshed, sometimes because they are inextricably related and at other times for political purposes.

The long-term goal supported by Administration planners and some Members of Congress is overhaul of federal economic regulation, including the extent to which government sets rates and rules of entry for certain industries and the manner in which those rules are imposed.

In a second area, Ford has made several speeches before business groups in which he has called for a reevaluation of federal regulation of health and safety practices. While White House spokesmen have said recently they view this issue as separate from changes in economic regulation, congressional and consumer spokesmen said some Administration statements have not made clear the distinction.

The final piece of the regulatory debate deals with making the existing process work better. This goal has strong support among Members of Congress frustrated by what they consider are bureaucratic delays in implementing federal programs.

Agreement: Sen. Frank E. Moss, D-Utah, and chairman of the Senate Commerce Consumer Subcommittee, said there is "general agreement" between Ford and Congress about the need for regulators to take into account views in addition to those of the industry they regulate. He said the June 25 summit also showed a consensus calling for "quicker action and better procedures" in setting health and safety regulations.

Rep. Jim Wright, D-Texas, a key House figure in the enactment of environmental and transportation laws, praised Ford's efforts to streamline federal programs. "Programs are being over-implemented. There is a terrible congressional frustration in doing anything about it because we don't have the capacity to require administrators to carry out congressional intent," Wright said.

Wright expressed caution, however, over the likelihood of sweeping changes in economic or health regulation. "I've investigated many claims of overregulation of rates and entry and they have been grossly overstated and over-simplified in some cases."

Rep. Frank Horton, R-N.Y., senior GOP member of the House Government Operations Committee, said it is important that Ford has begun debate on these issues. "It will take some time to comprehend what is involved in these complex problems," Horton said. "In the past, regulatory problems have been addressed on a case-by-case basis; we need to look at the whole picture of the regulatory process and the multitude of problems affecting the ability of the agencies to work more efficiently."

WHITE HOUSE

Since October 1974, when he requested Congress to create a commission to examine regulatory practices, President Ford has taken several steps to outline his philosophy of federal regulation and submit proposed changes in the laws. According to Hills, White House efforts have gone in recent weeks from "study papers and analysis" to "creating a structure for decisions with Congress and the agencies and going with them."

Organization: The foundation for the White House structure was set during the two summit meetings as well as a Cabinet meeting July 17, at which Ford gave the department heads a similar message about the need to make the regulatory process work more smoothly and at a minimum expense to the consumer.

The coordination of these meetings and subsequent actions has been assigned to the task force—officially called the Domestic Council Review Group on Regulatory Reform—which includes Hills as executive director; MacAvoy of the Council of Economic Advisers; Paul C. Leach, associate director of the Domestic Council; F. Lynn May, a Domestic Council staff assistant; and Calvin J. Collier, associate director (economics and government) of the Office of Management and Budget.

The task force is receiving staff assistance from the offices of its members as well as aides from the Council on Wages and Price Stability, Council on International Economic Policy and the Justice Department's Antitrust Division. In addition, the task force will be aided by a separate White House task force studying antitrust immunuities chaired by Thomas E. Kauper, assistant attorney general (Antitrust Division). (For a report on the antitrust task force, see Vol. No. 20, p. 726.)

Hills said the task force has prepared an agenda detailing issues to be considered and how each proposal should be prepared and advocated by the White House, either in individual dealings with agency officials or with Members of Congress.

The agenda, which received general approval July 17 from the Economic Policy Board, likely will be expanded, Hills said, as the task force considers new issues. The subjects now on the agenda include lessening economic regulation of transportation and energy industries, amending the antitrust laws and the Robinson-Patman Act (49 Stat. 1526) dealing with price discrimination, changing health and safety regulations and considering the abolition of agencies that have outlived their usefulness.

Philosophy: During each of the three meetings Ford has convened to discuss regulatory reform, he has opened the session with a general statement of his views, MacAvoy has discussed some of the economic issues and Hills has served as moderator of the subsequent exchange.

During the July 10 meeting with the regulators, the only meeting not held in closed session, Ford stressed his belief that "the cost which regulation imposes on private citizens should be faced very squarely" and he called on the agencies to restore "inventiveness and growth" to the economy. He said the four major areas in need of action are identifying costs, reducing regulatory backlog and delays, legislative changes and examining procedures to protect consumers' interests.

MacAvoy, who was a professor of economics and management at the Massachusetts Institute of Technology from 1963 until his nomination in May 1975 as a member of the Council of Economic Advisers, said in an interview that he has spent much time during the past decade "looking for common threads" in federal regulations and has arrived at the following generalizations applicable to the existing regulatory process:

The burden of proof for changes in regulatory pricing and entry is on the person seeking to provide new service, who must use evidence of historical pricing practices, which are at least two years old. The result, said MacAvoy, is that "regulated prices are not in keeping with the original goal of replicating market conditions by regulating to produce the results of competition."

Rather than replicating the behavior of competition, "regulatory agencies have for the most part prevented competition," MacAvoy said. He said the result is that the regulatory commissions protect the well-being of the "established firm" in the industry.

Because they place the burden of proof on the applicant, the regulators have been "very effective in retarding technological progress," MacAvoy said. He cited the slow development of cable television and alternate forms of transportation and energy as casualties of lengthy federal certification proceedings.

In the health and safety area, the regulatory process has operated to "reward commissioners with public approval and promotion if they eliminate the occurrence of spectacular health and safety disasters," MacAvoy said, but the resulting tradeoff often has created a very high product cost and low health and safety risk. He said more economic analysis is needed so the public can understand the relative costs and benefits of health and safety rules.

Plans: Hills said that the reception Ford received at the summit meetings "makes it clear we've made this a non-partisan issue with a heavily Democratic Congress." Hills said the task force will take advantage of this spirit in order "to get things done."

He said his own role will be to bring together disagreeing parties in Congress, the Administration and the regulatory agencies to find points of agreement. Before Hills took this leadership position in April, there was no White House aide with ready access to Ford in a position to coordinate these efforts and attempt to break the logjams that developed in the formulation of an Administration position.

Legislation filed in Congress which White House officials list as a part of Ford's program to change regulatory laws include a bill (HR 6971, S 408) to repeal the federal law enabling states to pass "fair trade" statutes, which the House pased July 21 on a 380-11 vote and which the Senate Judiciary Subcommittee on Antitrust and Monopoly unanimously approved May 5, the Financial Institutions Act (HR 5291, S 1267), the Railroad Revitalization Act (S 1876, HR 7681), and the bill to deregulate the price of natural gas (HR 2650, S. 594). For reports on the rail and natural gas bills, see Vol. 7, No. 27, p. 993; Vol. 7, No. 28, p. 1021.)

As of mid-July, the task force had completed nearly all details on proposals to

change Interstate Commerce Commission (ICC) regulation of motor carriers and amend the Robinson-Patman Act. A task force aide said that the bill to modify Civil Aeronautics Board (CAB) regulation of air rates and routes would be ready in September and that a bill to set new rules for Federal Communications Commission (FCC) regulation of cable television will take a more extended time period. However, White House aides said in March and April, respectively, that the communications and aviation bills would be ready within a month.

CONGRESS

Congressional Democrats represent a broad variety of views on Ford's efforts to reduce federal regulatory practices. While most welcome his interest and are aware of the political need to show some response to his initiative, they do not express any need for quick action to cut back federal regulation nor is there any agreement on specific problems that should be addressed.

Summit: A "Congressional Democratic policy statement on regulatory reform" was prepared by staff members of several of the 12 Democrats who attended Ford's June 25 summit meeting with Members of Congress. Michael Pertschuk, chief counsel of the Senate Commerce Committee, directed the drafting of the statement. However, none of the Members signed it because each did not subscribe to all of the positions.

Rep. John E. Moss, D-Calif., said the statement represents a "consensus of the views" of the 12 Democrats and was a "general statement of principles" issued in the context of the discussion stimulated by Ford. Rep. Wright said he first saw the statement the day before the meeting with Ford and "subscribed to it in part."

In the preamble, the statement said ". . . It is fitting that the President assign to regulation a position of the highest priority in domestic affairs. We share his appreciation of the profound impact which regulation has had upon the shaping of our economy and our society. In this time of economic stress, we believe that our regulatory machinery must be held accountable to the public for the costs it imposes as well as the benefits it conveys. . . . We are perhaps closest to common ground with the President in the shared judgment that much economic regulation has proved a poor substitute for competition."

Following the meeting, Sen. John O. Pastore, D-R.I., told White House reporters that the meeting was "very productive" and showed "a broad consensus that something needs to be done, and rather quickly."

James M. Cannon, director of the White House Domestic Council, said in an interview that the 24 Members of Congress were "unanimous" in their feeling that something should be done. "We didn't really think they would object," Cannon said, "but we were astonished at their enthusiasm."

Moss: Rep. Moss of California, who has been a principal author in the past three years of laws to establish the Consumer Product Safety Commission and strengthen the regulatory powers of the Federal Trade Commission and Securities and Exchange Commission, was more cautious on the extent of congressional agreement with Ford. "We concede a need for a critical examination of the functions of the CAB and ICC," Moss said, "although we may come up with a different answer than the President, perhaps 'more informed' regulation." On the other hand, Moss stressed at the meeting the agencies "set up to protect our health, safety and environment need more—not less—authority to do their jobs right."

Moss chairs the House Interstate and Foreign Commerce Subcommittee on Oversight and Investigations, which has begun an examination of the nine major regulatory agencies which are under the committee's jurisdiction.

He has sent a questionnaire with nearly 100 questions to each of the agencies and said he will conduct hearings and make recommendations to the full committee on the "effectiveness" of each agency and likely will propose administrative and legislative actions. He said that this will be a long-term project lasting beyond the 94th Congress, but that he will keep in close contact with the other subcommittee chairmen as the study proceeds.

Wright: Rep. Wright, second ranking member of the House Public Works and Transportation Committee, whose jurisdiction includes motor carrier, aviation and environmental regulation, echoed Moss's caution about details of the Ford program while voicing some support for the initiative.

Wright said the principal evil with government regulation has been "galloping guidelines." He said there seems to be "an almost inexhaustible tendency by every agency to stretch out the processing phase," and cited the implementation of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat 816) of which less than 10 per cent of the authorized money is now being spent for projects, he said.

"I think the President is sincere in wanting to cut the red tape and excessive bureaucracy throughout government," Wright said, but was less than sympathetic with Ford's call for reducing economic regulation.

Using the trucking industry as an example, he said "there is often more rhetoric than fact about overregulation." He said he was "enormously impressed" with testimony about ICC regulation of trucks given the Government Operations Committee, on which he serves, by ICC chairman George M. Stafford compared to the "glib, superficial" statement criticizing ICC regulations by John W. Snow, deputy undersecretary of Transportation.

Moss: Sen. Frank Moss of Utah, a leading consumer advocate in the Senate, said he is "delighted" with Ford's initiative to improve the regulatory process. He said Ford is addressing the twin problems of making sure that regulators consider the impact of rate making from a view other than that of the regulated industry and that manufacturers do not stall the implementation of health and safety regulations or other rules they dislike.

"There is an emerging consensus in Congress that something needs to be done both to improve economic regulation and the procedures themselves but that this process should keep from becoming one of 'dog eat dog' that might result if we took precipitate action," Moss said. "I don't expect any new statutes from this Congress. There is an element of caution before upsetting the apple cart."

To prepare the Senate for possible action to change the regulatory laws, the Commerce and Government Operations Committees each requested $375,000 for a special study to look at the functioning of the regulatory agencies. In considering the funding resolution (S. Res. 71) July 16, the Senate Rules and Administration Committee cut about one-third from each panel because the annual funding of Senate committees traditionally runs to March 1, a period more than one-third completed.

The two committees had planned to begin the studies by March 1 but the Rules Committee delayed consideration of all funding resolutions pending the Senate debate in June that resulted in additional funds for Senators to hire committee staff.

AGENCIES

The July 10 summit meeting of President Ford with commissioners from 10 independent regulatory agencies provided the agencies an opportunity to tell what they are doing to meet Ford's goal of expedited regulation and gave Ford an opportunity to advocate further steps. The meeting was believed to be the first in which a President met jointly with chiefs of the major regulatory agencies.

Cost-benefit: MacAvoy told the regulators they should consider whether their rate regulation is bringing regulated prices in line with current costs and whether the health and safety rules they set have resulted in consumer benefits and greater reliance on product quality that "are worth the additional costs of higher prices and in the institution of new technology."

In an interview after the meeting, MacAvoy said, "If I had a half-solid economist at the FCC or a number of other agencies, I could make the place work better, but that hasn't happened because economic analysis is not a part of the regulatory process; there is no justification of the process in the aggregate."

FCC—Richard E. Wiley, FCC chairman, said at the meeting that the regulatory process in the past has been "dominated" by legal, technical and sociological issues. He said the FCC has begun to consider the "economic ramifications of our decisions," citing the commission's investigation of the telephone industry. The FCC initiated in 1971 a comprehensive study of the American Telephone and Telegraph Co. Its special panel is not expected to complete its recommendations until 1976.

Glen O. Robinson, an FCC commissioner and a former professor of administrative law, said of the telephone study: "I fear that unless we get access to more and better economic skills than we have had in the past, the project may fail simply because we are in a class which is a very high-stepping class. . . . The Bell System commands resources so far in excess of ours there is no way, of course, that we can match them man for man. . . . But we do have to focus on the talent part of this."

CPSC—Barbara Hackman Franklin, a member of the Consumer Product Safety Commission, agreed with MacAvoy about the need for more cost-benefit analysis and suggested to improve the process.

Procedures: MacAvoy said the past decade has witnessed increasing delay in acting upon requests for rate changes as well as a duplication of certain procedures.

NRC—William A. Anders, chairman of the Nuclear Regulatory Commission, reported on his new agency's efforts to accelerate the licensing of nuclear power plants. The efforts have included upgrading the agency's management and review procedures, changing the rules to get public comment at an earlier point in the licensing process and proposing legislation (HR 7002, S. 1717) permitting earlier decisions on plant design. Anders said these actions would reduce to 7½ years a process that currently takes eight to 10 years.

ICC—A. Daniel O'Neal, ICC vice chairman, reported that the Interstate Commerce Commission is reviewing 61 recommendations from an internal staff study of its operations. He said one step that can be taken to reduce delay is "requiring a better case to be presented in the first instance by attorneys practicing before the agency and by eliminating perhaps one review level," saving several months.

Competition: The final issue discussed during the summit was how to encourage competition in regulated industries. MacAvoy said the justification for regulation in most cases has been that "competition failed to exist in the industry to a sufficient extent to allow the market to operate in an unregulated fashion." But, he said, "rather than being a substitute for poor competition, regulation has prevented what competition there is from working."

CAB—John Robson, chairman of the CAB, discussed its experiment announced July 7 to loosen regulatory constraints on selected air routes. Robson said the proposal will permit the testing of some concepts of flexible pricing and freer entry and exit.

In initiating its experiment, the CAB issued a statement which included a discussion of conflicting views on regulatory policy: "The debate is marked by strong assertions by both the deregulators and the pro-regulators as to the potential benefits or harm of deregulation. . . . Which side is right? Does the existing 'evidence' point conclusively to a path of substantial deregulation or to maintaining the status quo? We think the evidence is not sufficiently conclusive." The Board said that it will investigate the consequences of various proposals.

SEC—Ray J. Garrett Jr., chairman of the Securities and Exchange Commission, reviewed the history of the effort leading to the abolition as of May 1, 1975, of minimum rate schedules for brokerage services. Garrett said this action may provide a "useful example" for other regulatory agencies, adding: "In many areas, competitive regulatory shields have become so subtle an accepted part of life that reexamination of their justification requires a major intellectual effort."

OUTLOOK

White House and congressional policy makers agree that while there is much room for improvement, it is unlikely that a consensus can be reached in the next year, with the possible exception of the rail industry.

Representatives of each side of the issue agree, nevertheless, that there is a need for action and that they will be searching for answers to make sure the regulatory laws reflect modern economic and social conditions.

"A surprisingly large number of people 'out there' understand our fumbling articulation of what we're trying to do—to cut down on the burden that government places on ordinary citizens. People understand this better than we thought they would," said Cannon of the Domestic Council.

Thomas M. Susman, an aide to Sen. Kennedy, who has proposed substantial reduction of airline rate and entry regulation, said, "This will be a long process but Ford has made it an issue in the good sense. The Democrats have to keep in mind they are giving him an issue if they don't respond in some way."

REGULATORY FOCUS—MONITORING AGENCY NURTURES PRICE RULES

(By Louis M. Kohlmeier)

Even while President Ford clips and snips at the branches and boughs of old regulatory agencies, a new and sturdy breed of government regulation is growing in Ford's backyard.

The Council on Wage and Price Stability was established by Congress slightly less than a year ago to fight inflation. Inasmuch as recession, not inflation, has been the problem of the past year, nobody has paid much attention to the council. It has been called a "paper tiger" and other unkind names. It is not even known in the Washington alphabet soup by an acronym.

The wage and price council, however, has proved remarkably sturdy, even in a year of inflation. Now recession fears are easing and inflation fears are rising. Congress is renewing the council's mandate, the council is readying a new charge against inflation and a new council director soon will lead the charge.

Monitor: The council is not a traditional variety of regulatory agency. It has power only to monitor wage and price movements, while old agencies fix prices. The council, however, has certain compensating strengths.

Most older agencies regulate prices in one industry, but the council can monitor wages and prices in all industries. As the successor to former President Nixon's wage and price control program, the council is the potential predecessor of new wage and price controls, if double-digit inflation recurs. Whatever inflation's pace, the council is implicit acknowledgement of the permanence of inflation and of wage and price regulation.

Moreover, the wage and price council has the strength of the President. All the older agencies are independent of the White House. The council was created at President Ford's request and operates within the Executive Office of the President. The council's power is the President's prestige. The council relies on presidential persuasion to roll back wages and prices.

In sum, the council is the institutionalization of what used to be called presidential "jawboning."

Continued inflation: The council's strength has grown even in the past year because this recession is unique. Wages and prices never have stopped rising, although the recession has been the deepest since the Great Depression. Treasury Secretary William F. Simon, chairman of the wage and price council, recently told a group of journalists at a luncheon in his office that he is "concerned" about a renewal of inflationary pressures. Simon expects the rate of consumer price increases to rise to about 6 per cent by year's end. The new Congressional Budget Office estimates that the annual rate of inflation may rise to 9 per cent next year. Even at 6 per cent, the rate would be high by historic standards and political preferences.

Like the recession, regulation of wages and prices also is unusual. Never before in peacetime, except when Nixon's wage and price controls were in effect, has the government maintained surveillance over private industry and asked unions and corporations to justify wage and price increases.

Under Albert Rees, who will resign July 31 as director, the council with Ford's help persuaded major steel manufacturers to scale down a price increase by more than $100 million. The council investigated and probably helped reduce sugar prices. It probed tin can price increases and the increases did not hold. It petitioned old regulatory agencies in opposition to higher telephone rates and in support of lower airline fares.

Concentration: But the council's most significant investigation was least noticed. The council asked whether huge corporations in highly concentrated industries cause inflation. Its tentative answer is that prices in concentrated industries do not behave the same as prices in competitive industries. Its conclusion is that, in recession, concentrated industry prices rise more or fall less than competitive prices.

The council's pending investigation of aluminum price increases is a direct result of the concentration study. "This is the first general price increase this year in a highly concentrated industry," Rees has said. "If such industries make decisions to increase prices at the first stirrings of recovery, such actions could blunt the recovery."

The nation's three largest aluminum manufacturers, accounting for well over 60 per cent of U.S. aluminum production, did not cut prices during the recession but instead cut production and increased inventories. At the end of June, the companies announced price increases. The wage and price council members, headed by Simon, immediately asked the companies to delay the increases and the companies complied. At public hearings July 22–23, the companies tried to justify higher prices to the council and the council tried to persuade the companies to roll back the increases.

The council is watching pricing in the highly concentrated automobile and steel industries. Its staff is studying agricultural machinery prices, which have risen 22 per cent since May 1974. The council wants to know why coal prices have risen 80 per cent in two years. And it demands justification from Seattle plumbers for a 16.5 per cent wage increase.

Presidential "jawboning" thus has acquired form and substance. As inflation grows, wage and price regulation will grow more rapidly and become more institutionalized. Congress, in renewing the council's mandate, is strengthening the council's staff and formalizing the staff's leadership. Under the legislation, the director must be confirmed by the Senate.

To succeed Rees, Ford intends to nominate Michael H. Moskow, 37, an economist who has been at the Department of Housing and Urban Development as assistant secretary for policy development and planning. Moskow, highly regarded inside the Ford Administration, has worked also at the Council of Economic Advisers and the Labor Department.

Ford apparently sees no contradiction between nurturing the new wage and price regulation and cutting back the old regulatory agencies. And, in one way, there is no contradiction. The wage and price council fights inflation and Ford fights the old agencies because they allegedly are inflationary.

But in another way, there is a very large contradiction. Ford clips and snips at the old independent agencies, calling for "maximum freedom for private enterprise." But wage and price regulation, enforced by presidential power, is a large and potentially overwhelming threat to maximum freedom for private enterprise.

S. 2290.

REGULATORY AGENCY REVISION ACT OF 1975

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

ESTABLISHMENT OF COMMISSION

SECTION 1. There is established a Consumer Protection Study Commission (hereinafter referred to as the "Commission").

MEMBERSHIP OF THE COMMISSION

SEC. 2. (a) The Commission shall be composed of nine members who shall be appointed by the President, by and with the advice and consent of the Senate, as follows:

(1) two individuals shall be representatives of consumers;

(2) two individuals shall be representatives of regulatory agencies of the United States who at the time of their appointment are serving as members of the governing body of such a regulatory agency;

(3) three individuals who by reason of their scholarly achievements in the study of law are well qualified to serve on the Commission; and

(4) two individuals who are attorneys engaged in the private practice of law in the United States.

(b) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(c) The Commission shall elect a chairman from among its members.

(d) A quorum of the Commission shall consist of five members.

FUNCTIONS OF THE COMMISSION

SEC. 3. (a) The Commission shall make a full and complete study of the desirability and feasibility of establishing various administrative courts and transferring to such courts the adjudicatory, licensing, and rulemaking functions of the Federal Trade Commission, the Interstate Commerce Commission, the Federal Communications Commission, the Civil Aeronautics Board, the Federal Reserve Board, the United States Tariff Commission, the Securities and Exchange Commission, the National Labor Relations Board, and the Consumer Product Safety Commission, and such other agencies of the Federal Government as the Commission shall recommend. In addition, the Commission shall study the feasibility of transferring the functions of the United States Tax Court to such an administrative court.

(b) In carrying out the study required under subsection (a), the Commission shall—

(1) make recommendations with respect to maintaining within the agencies studied a prime responsibility for protecting the inter-

ests of consumers as they relate to the functions performed by such agencies and administrative courts; and

(2) review and update the report recommendations numbered 50 and numbered 51 with respect to legal services and procedures with or before such agencies or courts made by the Commission on Organization of the executive branch of the Government in 1955.

(c) The Commission shall submit its findings and recommendations to the President and the Congress not later than six months after the appointment and confirmation of all members of the Commission.

POWERS OF THE COMMISSION

SEC. 4. (a) The Commission may, in carrying out its duties under this Act, sit and act at such times and places, hold such hearings, take such testimony, require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, administer such oaths, have such printing and binding done, and make such expenditures as the Commission deems advisable. Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by him and shall be served by any person designated by the Chairman or any such member. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(b) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

COMPENSATION

SEC. 5. (a) Members of the Commission who are not otherwise full-time officers or employees of the United States shall receive $125 per diem when engaged in the active performance of the functions of the Commission.

(b) All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the functions vested in the Commission.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

EXPIRATION OF THE COMMISSION

SEC. 7. The Commission shall cease to exist thirty days after the submission of its final report.

By Mr. PELL:

S. 2291. A bill to amend title II of the Social Security Act to provide that a beneficiary shall (if otherwise qualified) be entitled to a pro-rated benefit for the month in which he (or the insured individual) dies. Referred to the Committee on Finance.

Mr. PELL. Mr. President, today I am introducing legislation which would amend that section of the Social Security Act, which prohibits benefit payments for the last month of a beneficiary's life from being paid to a beneficiary's survivor or estate.

Under present law, benefit payments for the last month of a beneficiary's life must be refunded to the Social Security Administration. The Social Security Administration then issues a lump sum death benefit, which is designed to help defray the expenses associated with funeral and mortuary expenses.

However, these death benefits do not cover the expenses which a beneficiary can be expected to have incurred, during that portion of the month he or she was alive.

Under present law, regardless of the date of month of the decedent's death, all of the due benefits for that month must be returned to the Social Security Administration. In these times of economic hardship, exceedingly high medical costs, and very tight budgets, I do not need to remind anyone of the importance of every dollar and each penny of a beneficiary's income.

Let me give as an example the case of an elderly couple who have lived most of their lives in Coventry, R.I. Mr. A died on March 20; when his widow received their March benefits in early April, she was told that she must return the benefits, and that she would eventually receive a replacement check equivalent only to her survivor's benefits. As a consequence, Mr. A's own monthly expenses were not covered by benefits and Mrs. A experienced real difficulty in paying the bills for that month. Statistics show us that the average retired couple has an annual income of $6,400. I should not have to emphasize here the smallness of this income, which at best barely covers food, housing, and medical expenses. Poverty among America's senior citizens is endemic. I do not believe that we should deny a person's survivors or estate due benefits for the last month in which they lived, and thus worsen their financial situation.

Today, I am introducing legislation to rectify this unjust situation. This bill would guarantee a proportional benefit payment to a survivor or to an estate, equal to the percentage of the month that the deceased had lived. His past monthly expenses would then be fairly covered by the social security benefit check. This would lift a fairer proportion of the heavy financial burden off the survivor's shoulders.

It is important to keep our complicated social security system up to date and adjusted to cope with today's problems, instead of yesterday's, and I believe that this legislation represents a step in that direction.

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

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

S. 2291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Prorated Benefit for Month of Death

"(x)(1)(A) Notwithstanding any provision of subsection (a), (b), (c), (d), (e), (f), (g), or (h) of this section, subsection (a) of section 223, or subsection (a) of section 228 which (but for this paragraph) would terminate an individual's entitlement to benefits with the month preceding the month in which he (or the person on the basis of whose wages and self-employment income such benefits are payable) dies, any individual who is entitled to a monthly benefit under any such subsection for the month preceding the month in which he (or such person) dies shall (unless another event terminating his entitlement occurs after such preceding month and before such death) be entitled for the month in which he (or such person) dies to a benefit in an amount determined under subparagraph (B).

"(B) The monthly benefit to which an individual is entitled by reason of subparagraph (A) for the month in which he (or the person on the basis of whose wages and self-employment income such benefit is payable) dies shall be in an amount which bears the same ratio to the benefit to which he would have been entitled for such month if he (or such person) had died in the following month as the number of days in such month through the date of such death bears to the total number of days in such month.

"(2) Notwithstanding any provision of subsection (e), (f), (g), or (h) of this section, the monthly benefit to which an individual may be entitled under any such subsection for the month in which the person on the basis of whose wages and self-employment income such benefit is payable dies shall be in an amount which bears the same ratio to the benefit to which such individual would have been entitled for such month if such person had died in the preceding month as the number of days in such month after the date of such person's death bears to the total number of days in such month. This paragraph shall not apply to any individual with respect to any month if the person on the basis of whose wages and self-employment income such individual's benefits are payable is not entitled to a benefit for such month under paragraph (1).".

SEC. 2. Section 202(d)(2) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this paragraph, such child's insurance benefit for the month in which such individual dies shall be equal to the sum of (A) one-half of the primary insurance amount of such individual for such month multiplied by a fraction having for its numerator the number of days in such month through the date of such individual's death and for its denominator the total number of days in such month, and (B) three-fourths of the primary insurance amount of such individual multiplied by a fraction having for its numerator the number of days in such month after the date of such individual's death and for its denominator the total number of days in such month (except that if such individual is not entitled to a benefit for such month by reason of subsection (x) the preceding sentence shall apply as though such individual had died prior to such month).".

SEC. 3. The amendments made by this Act shall apply only in the case of deaths occurring after the month in which this Act is enacted.

By Mr. HELMS:

S. 2293. A bill to amend section 402 of title 23, United States Code, relating to highway safety programs. Referred to the Committee on Public Works.

COMPULSORY HELMET LAWS RAISE CONSTITUTIONAL QUESTION

Mr. HELMS. Mr. President, the Highway Safety Act of 1966 is another example of Federal legislation encroaching upon the freedom of the American citizen and the reserved powers to the States. Section 402 of this statute authorizes the Secretary of Transportation to

establish highway safety program standards. In pursuance of this authority, the Secretary issued on June 27, 1967, the Motorcycle Safety Program Standard (23 C.F.R. Part 204), requiring every State in the Union to have a motorcycle safety program. In meeting the standards of this program, the States are required, among other things, to enact a compulsory helmet law, whereby every motorcycle operator and passenger is required to wear an approved safety helmet when the motorcycle is being operated on streets and highways.

State compliance through the enactment of compulsory helmet laws is practically guaranteed, by virtue of the fact the Secretary of Transportation has ruled that any State which refuses to follow the Secretary's commands is subject to severe economic penalties. These penalties include forfeiture by the State of all of its Federal highway safety funds and 10 percent of its Federal highway construction funds.

In my view, Mr. President, these compulsory helmet laws, which are forced upon the several States, are a violation of our constitutional liberties. There are others who share this view. The American Motorcycle Association, representing approximately 140,000 members, has challenged these laws since their very inception. The State of California has gallantly refused to sacrifice the liberty of its citizens for the sake of a Federal handout, and is one of two States having no compulsory helmet law. The other is the State of Illinois, whose legislature repealed the State's compulsory helmet law after the Illinois Supreme Court ruled that it was an unconstitutional denial of due process.

The widespread opposition to these laws is further indicated by the fact that there were 43 separate court challenges to State and municipal headgear legislation by January 1, 1970. In 31 instances, such legislation was upheld; but in 12 it was declared unconstitutional. More specifically, headgear legislation has been declared unconstitutional by one State supreme court—Illinois; by three appellate courts—Idaho, Arizona, Michigan; and eight trial courts—two in New York, and one each in Ohio, Florida, Missouri, Kentucky, Colorado, and Michigan. In addition, the attorney general of Oklahoma has issued an opinion that the State's compulsory headgear law is unconstitutional, and the attorney general of New Mexico has determined that a proposed city ordinance would be invalid if it applied to citizens over eighteen years of age.

STATE POLICE POWER VERSUS INDIVIDUAL LIBERTY

The supporters of compulsory helmet laws maintain that such legislation is a valid exercise of the State police power. Although it cannot be precisely defined, the State police power is a reserved power of the States, and includes the power to enact legislation to promote the public health, safety, morals, and welfare of its citizens. Traditionally, this power has been broadly construed by the Supreme Court, and some State courts have taken full advantage of this by relying on strained interpretations of the police power in upholding compulsory helmet laws. "Those decisions upholding the laws," reads a Case Note from the Wisconsin Law Review (1969), "rely on a strange mixture of catchphrases. The prevention of needless additions to the welfare rolls; the protection of 'the reckless citizen against himself'; and the promotion of a healthy citizenry 'capable of self-support, of bearing arms, and of adding to the resources of the country' have been stressed."

Conceivably, Mr. President, almost any law compelling an individual to protect himself from possible personal injury could be justified on grounds such as these. As the Supreme Court of Michigan pointed out in the case of American Motorcycle Association against Davids (1968), it could be argued that all automobile drivers should also be required "to wear helmets or buckle their seat belts for their own protection." Indeed, motorcycles themselves, or automobiles, or planes, or boats, or guns, or any number of items could be outlawed through this extension of the State police power, as their use clearly involves an element of personal risk.

Fortunately, there are well-established limitations to the State police power, which stand in opposition to the kind of benevolent paternalism that is inherent in the motorcycle safety program. The Supreme Court has held that a State law creating an unreasonable, arbitrary, or oppressive infringement of individual liberty, and of the right to the free use of one's property, is a violation of due process. To meet the test of constitutionality, the law must bear a real and substantial relation to an end which is public. In the case of Mugler against Kansas (1887), the Supreme Court explained that:

> While . . . the state may control the tastes, appetites, habits, dress, food, and drink of the people, our system of government, based upon the individuality and intelligence of the citizen, does not claim to control him, except as to his conduct to others, leaving him the sole judge as to all that only affects himself.

Because a compulsory helmet statute is directed toward the safety of the individual rather than the safety of the public, it can thus be seen that such a law represents a clear departure from established principles regulating the State police power. Mr. Bruce Kogan, writing in the Dickinson Law Review (1968), emphasizes this crucial consideration in his analysis of headgear legislation:

> The ancient maxim *sic utere tuo ut alienum no laedas* (so use your own that you do not injure that of another) has often been cited as one of the essential bases of the police power. In this regard, the protection of the public welfare through past applications of the police power has been limited to instances where one individual's conduct adversely affected others. The helmet statutes, if valid, represent an extension of the limits of the police power to include the regulation of an individual's conduct where he alone could be adversely affected.

The test of legitimacy of the exercise of the police power, then, is the existence of a direct and substantial relationship between the safety of the motorcyclist and the public health, safety, morals, or the general welfare. Clearly, as the Michigan Supreme Court observes, a compulsory helmet law "has a relationship to the protection of the individual motorcyclist from himself, but not the public health, safety, and welfare."

In my judgment, Mr. President, an individual has a fundamental right to determine for himself whether he wishes to increase his risks or reduce them—so long as he alone is endangered. Helmets may prevent injuries, but they do not prevent accidents, and the government has no business telling the individual when he can or cannot wear a helmet when only the individual's personal safety is involved. Even if it is true that helmets reduce traffic injuries and fatalities, the fact remains that the decision to wear a helmet should be left to the individual, using his own judgment and not having the government do his thinking for him. The individual has a right to be left alone when his actions do not affect the public health, safety, morals, and the general welfare. Justice Louis Brandeis stated this principle eloquently in his famous dissent in Olmstead against United States (1928).

He noted:

> The makers of our Constitution sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men . . . Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.

THE SAFETY OF SAFETY HELMETS

Although the statistics seem to indicate that helmet legislation has brought about a substantial reduction of highway injuries and deaths in motorcycle accidents, it should be noted that there are countervailing arguments which deny the effectiveness of such laws. The American Motorcycle Association insists that crash helmets may actually have little or no effect on reducing motorcycle fatalities, because their advantages are offset by the fact they impair sight and hearing, create a false sense of security, cause physical discomfort that can be distracting, and aggravate or possibly even cause neck injuries because of the extra weight of the helmet.

Responses to these arguments by the National Highway and Traffic Safety Administration have not been entirely satisfactory, and there seems to be a lack of scientific data supporting arguments for or against mandatory helmet laws. In 1969, for example, the New York State Department of Motor Vehicles made a study which indicated that the effects of helmets in reducing serious injuries to the head and face were counterbalanced by an increase in fatal neck injuries. By comparing the distribution of injuries to head, face, and neck before and after helmets were required, the study showed a 34-percent reduction in serious injuries to the head, a 27-percent reduction to serious face injuries, but a 75-percent increase in the proportion of serious injuries to the neck. On August 9, 1973, the National Transportation Safety Board adopted the recommendation that:

NHTSA take immediate steps to confirm or disconfirm the implications of the New York State report that the wearing of helments, as currently designed, increases the number of fatal neck injuries.

Thus far, the National Highway Traffic Safety Administration has failed to act upon this recommendation. To be sure, the National Highway Traffic Safety Administration has had 7 years to conduct research and compile data on the effectiveness of motorcycle helmets, and the only study that it has completed since 1968 is the Michigan-Illinois motorcycle safety helmet study, which concludes that compulsory helmet usage in Michigan reduced fatal or serious head injury by 63 percent.

In response to this study, Lloyd G. Turner, former chief of the California Office of Traffic Safety, makes the point that:

If one assumes the Michigan-Illinois Motorcycle Safety Helmet Study is valid and that it covers all aspects of the problem, then it would appear that States with compulsory helmet laws would have from 40 percent to 60 percent lower motorcycle fatality rates. The actual figures prove this is not the case. Therefore, California must be doing something that is just as effective as mandatory motorcycle helmets. California needs proof positive that helmet legislation will further reduce the fatalities.

Pointing to California's comprehensive motorcycle safety program, which includes motorcycle driver education in the public schools, Turner insists that:

Mandatory motorcycle helmet legislation is not indispensable to an effective comprehensive traffic safety program. Motorcycle helmet legislation is only one small unproven element in a comprehensive program desiring to ameliorate a complex multi-faceted program.

Indeed, California motorcycle accident statistics do not seem to support headgear legislation. According to Turner, California motorcycle fatalities per 10,000 registered motorcycles are approximately the same as the national average. Moreover, adds Turner:

California has better roadways and year round riding climate, which indicates more miles of travel at higher speeds, and thus a higher exposure rate. The death to injury ratio is approximately the same as the national average of the states with mandatory helmet legislation. The downward trend of death per 10,000 registered motorcycles and death per injury is approximately the same in California as for the States with mandatory motorcycle helmet legislation.

The conclusion is inescapable, Mr. President, that the scientific data on helmet usage is incomplete, and compulsory helmet legislation, on the grounds of safety alone, may be premature.

Whatever the effectiveness of crash helmets in reducing traffic fatalities, the fact remains that their mandatory use is a denial of due process. This is especially so inasmuch as there is even some doubt as to whether a direct and substantial relationship exists between headgear legislation and reduced motorcycle fatalities. "Most cyclists agree," asserts the author of the case note in the Wisconsin Law Review, "that wearing a helmet takes much of the enjoyment out of riding the motorcycle. Helmets are a nuisance when the cyclist reaches his destination, and their required use often prevents a cyclist from taking riders since they seldom have a helmet available. This result infringes on the cyclist's right to the use of his property. The law deprives the cyclist of his freedom to choose what risks he will take, and if and how he will guard himself from these risks. These infringements may seem trivial to the noncyclists, but if helmets were required for all motorists, these and other 'trivial' infringements would suddenly become very important."

During the last Congress, Mr. President, we abolished the National Highway Traffic Safety Administration's requirement that seat belt interlocks be installed in all new automobiles. We should now proceed to abolish the compulsory helmet provisions of the Highway Safety Act, in recognition of the fact that there are better ways to deal with the problem of motorcycle traffic fatalities. In the well-known case of Shelton against Tucker (1960), it was said that:

In a series of decisions this Court has held that, even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be narrowly achieved.

In my judgment, Mr. President, there are ways to protect the motorcyclist through a more traditional use of the police power. Motorcycle manufacturers and dealers, for example, could be required to include acceptable safety helmets as part of the original equipment of the motorcycle, in the same way that automobile manufacturers are required to provide safety seat belts. In this way, the motorcyclist would be encouraged, but not required, to wear a helmet and the decision to wear the helmet would be made by the individual rather than the Government.

The bill that I am introducing today to achieve these ends amends section 204 of title 23 of the United States Code, and provides that any highway safety program approved by the Secretary of Transportation shall not include any requirement that a State adopt a law requiring motorcycle operators or passengers 18 years of age or over to wear a safety helmet while riding on the streets and highways.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD. I also ask unanimous consent that the editorial titled "Fuzzy's Point," which appeared in the May 21, 1975, issue of the Richmond News Leader, and the letter of Mr. Bruce Davy to the editor of the Richmond News Leader, dated June 6, 1975, be printed in the RECORD.

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

S. 2293

THE FREE MOTORCYCLING ACT

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 402 of title 23, United States Code, is amended by inserting immediately following the ninth sentence thereof the following new sentence: "For the purpose of the seventh and eighth sentences of this subsection, a highway safety program approved by the Secretary shall not include any requirement that a State implement such a program by adopting or enforcing any law, rule, or regulation based on a standard promulgated by the Secretary under this section requiring any motorcycle operator 18 years of age or older or passenger 18 years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State.".

[From the Richmond News Leader, May 21, 1975]

FUZZY'S POINT

Frankly, we're not much for those mean machines that some people call motorcycles, and that aficionados call bikes. We have other names for them. But we might as well confess it: We're for Fuzzy Davy—a bike fancier of the first water. He has a case to make, and it is a good one.

Early this month, Fuzzy and about 150 bikers riding about 120 bikes varoomed into Capitol Square. They were members and supporters of A Brotherhood Against Totalitarian Enactments (ABATE). Their complaint? Virginia's law requiring riders of motorcycles to wear safety helmets.

Using a portable PA system, Fuzzy Davy—director and state co-ordinator of ABATE—told the crowd that safety helmets "restrict vision and hearing." He also said that helmets "hinder the ability to ride defensively," and that they often cause neck and whiplash injuries. "Most important," he said, the helmet law "is an infringement of our individual liberty." He contended that wear-a helmet should be a matter of personal choice.

In our opinion, Fuzzy and his fellow members of ABATE make a nice philosophical point. No government has any legitimate business in attempting to force individuals to be "safe" through statutes and laws. And the reason for that is as fundamental as it is clear: No government knows better than the individual, what is in the individual's best interest. Generally, government tends to be on its firmest ground when it seeks to protect the individual from others; similarly, government tends to be on its weakest ground when it seeks to protect the individual from himself.

For example, it is one thing to have traffic safety laws requiring vehicles to move in a certain direction on a certain side of the road; without such laws, roadways would be nightmares of chaos. It is something else entirely to compel the wearing of a safety helmet—or, in automobiles, the wearing of a safety belt—on the presumption that in the event of an accident, the driver is less likely to emerge looking like a crushed pretzel.

If a biker or the driver of a car believes that he is safer *not* wearing a helmet or *not* wearing a safety belt, then it ought to be his privilege in a free society to act on the basis of that belief. No government should succumb to the superficially seductive arguments of paternalistic protectionists forever declaiming their commitment to "safety." Taking care of one's self is the self's—not the government's—concern.

Fuzzy Davy and 35 of his supporters were ticketed by the police for not wearing safety helmets. That was on May 4. Fuzzy's case is scheduled to be heard in the traffic division of Richmond's General District Court on Friday. ABATE's intent is to challenge Virginia's compulsory helmet law in court, and to have the law overturned. Despite our sentiments regarding motorcycles, we hope that—come Friday—Fuzzy and his friends prevail.

We believe in the usefulness of safety helmets for bikers, as we believe in the usefulness of safety belts for drivers of automobiles. But we also believe that no individual

should be governmentally required to wear them. With Fuzzy and ABATE, we subscribe to the proposition that forcing individuals to be "safe" is not a matter justifiably subjectable to governmental decree.

[From the Richmond News Leader, June 6, 1975]

SPECIAL TO THE FORUM: MOTORCYCLIST EXPLAINS VIEWS ON HELMET LAW

GAINESVILLE.

EDITOR, THE NEWS LEADER: I was pleased by *The News Leader's* support of motorcyclists' opposition to compulsory helmet laws ["Fuzzy's Point," May 21].

It is significant that during discussions of the mandatory helmet law for motorcyclists, supporters of the law never ask where the idea of helmet laws originated. The common assumption is that motorcyclists saw the need for a safety device to protect them in case of accident. Then the motorcyclists suggested the idea to a legislator, who introduced a bill that eventually became law and spread across the country because the results were excellent.

The truth is that one ambitious man, who worked at the time for the Department of Health, Education, and Welfare, wrote a study of motorcycle safety. He sent that study to the National Highway Traffic Safety Administration, an agency of the Department of Transportation, claiming that helmets would reduce highway fatalities by 40 to 60 per cent.

Congress passed the Highway Safety Act in 1966. That law says that states which have not implemented a highway safety program will have their share of federal highway money cut by 10 per cent. The mandatory helmet law was part of that safety program. This is blackmail.

While this legislation was being debated, the bikers were on the road, having a good time riding their machines. Nobody asked their opinion. The next thing the bikers knew was that they had to buy $40 helmets that hinder the ability to ride defensively and could break a person's neck in the event of an accident. Bikers complained to their elected officials, but these officials did not want to jeopardize federal highway assistance.

Then bikers started doing some checking. They learned that statistics proved what they knew all along: helmets don't save lives. The average national fatality rate for bikers has *increased* 1.5 to 3.5 per cent since the national helmet law was passed. There were no statistics anywhere near the 40 per cent decrease predicted by the National Highway Traffic Safety Administration.

Some engineers who are also bikers decided to test the helmets. They found that helmets offer only a little protection in some sliding-type accidents which occur at speeds less than 15 miles an hour. They found that it would take a helmet seven inches thick to offer the same protection at 30 miles an hour.

Now comes the scary part.

We are told we are protecting all citizens because we will become tax burdens if we are injured, because of lost jobs, police investigation costs, and increased insurance premiums. But what of auto accidents? Many more persons are injured in car accidents than in motorcycle accidents. But drivers of cars are not required to wear helmets—or even seat belts. What of alcoholism? Isn't that a public burden? The government's answer to the question of alcoholism was to reduce the drinking age to 18.

If the government can pass a helmet law and claim that it is protecting everybody, how long will it be before pedestrians will be required to wear helmets? How long will it be before motorcycles and even cars are outlawed? Will we be required to ride subways because only then we will be safe?

Everyone knows that the Constitution of the United States was written to establish a government that would be controlled by the people. The men and women who founded this country revolted against an all-powerful king, over whose actions they had no control. The Founding Fathers produced a Bill of Rights to guarantee individual liberty. Liberty is what the bikers lost. All of us will continue to lose our liberty, unless we stand up and fight for our rights—now, before it is too late.

BRUCE R. DAVY.

By Mr. CANNON:

S. 2295. A bill to promote public confidence in the legislative, executive, and judicial branches of the Government of the United States. Referred to the Committee on Government Operations.

FEDERAL FINANCIAL DISCLOSURE ACT 1975

Mr. CANNON. Mr. President, for several years I have expressed my interest in and support of legislation requiring disclosure by public officials of income, assets, debts, and other transactions in securities, commodities, and real estate.

Previous proposals dealt only with the Congress—presumably because Congressmen are elected public officials who should be answerable to the citizens who elected them.

I have never had any quarrel with that position, but I have always believed that disclosure by Members of Congress covers only a very small percentage of the overall need for public information.

The Congress is but one of the three branches of the Federal Government which comprises the executive, judicial, and legislative arms, of which the executive is by far the largest.

In my opinion, a financial disclosure bill, to be of any value, must include public statements by policy-making officials of all three Government branches. Elected officials are answerable to their constituents, but to whom are appointed officials responsive?

For that reason, in 1973, I introduced S. 366 which would have required every Federal officer and employee of all branches of the Government to file annual statements of income, assets, liabilities, transactions in securities, and commodities. The cutoff for filing at that time was $15,000. Now, due to inflation and changes in attitude toward policy, it is believed that a more realistic limit should be $25,000.

My bill, which I introduce today, calls for the annual filing of a public statement by every candidate for election to Federal office, every Member of Congress, every member of a uniformed service, every officer and employee of the United States, including the President and Vice President, compensated at a rate in excess of $25,000 per annum, or in excess of pay grade O–6 of the uniformed service.

The bill calls for disclosure in general, of:

First. Each item of income, or gift in excess of $100.00;

Second. The identity of each asset valued in excess of $1,000.00;

Third. Each transaction in securities of any business in excess of $1,000.00 in value;

Fourth. Each transaction in commodities valued in excess of $1,000.00; and

Fifth. Each purchase or sale of real property—except for a personal residence—having a value in excess of $1,000.00.

All reports would be filed not later than May 15 in each year with the Comptroller General, and would be maintained as public records.

Mr. President, I believe that my bill for public financial disclosure is fair. It applies to every officer and employee of the U.S. Government fairly.

It seeks information relative to income, assets, gifts, et cetera, received during the preceding calendar year. It does not seek total information relative to inherited or acquired holdings prior to the holding of Federal office or to net worth.

The public is entitled to know the outside sources of income and the nature of investments in securities and commodities lest there be conflicts of interest during the period of holding public office. But beyond that there would be an invasion of privacy.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 19

At the request of Mr. DOLE, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 19, a bill to amend title XVI of the Social Security Act so as to provide for the referral, for appropriate services provided by other State agencies, of blind or disabled children who are receiving supplemental security income benefits.

S. 104

At the request of Mr. INOUYE, the Senator from Utah (Mr. Moss) was added as a cosponsor of the bill (S. 104) to amend the Social Security Act to provide for inclusion of the services of licensed registered nurses under medicare and medicaid.

S. 454

At the request of Mr. CHILES, the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Tennessee (Mr. BROCK) were added as cosponsors of S. 454, a bill to amend the Occupational Safety and Health Act of 1970.

S. 854

At the request of Mr. NELSON, the Senator from California (Mr. TUNNEY) was added as a cosponsor to S. 854, a bill to amend the Foreign Military Sales Act to require congressional approval for any sale, credit sale, or guaranty involving a major weapons system or major defense service, and to require congressional approval of the total amount of sales, credit sales, and guaranties made to any country or international organization.

S. 948

At the request of Mr. BROOKE, the Senator from Oklahoma (Mr. BELLMON) was added as a cosponsor of S. 948, the Home Purchase Incentive Act of 1975.

S. 1736

At the request of Mr. MCINTYRE, the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. MCGEE), the Senator from Hawaii (Mr. INOUYE), the Senator from Vermont (Mr. LEAHY), the Senator from Colorado (Mr. HASKELL), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Alaska (Mr. STEVENS), the Senator from Vermont (Mr. STAFFORD), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. Moss), the Sen-

ator from Minnesota (Mr. HUMPHREY), the Senator from Maine (Mr. HATHAWAY), the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. TAFT), and the Senator from Michigan (Mr. HART) were added as cosponsors of S. 1736, a bill granting the National Ski Patrol Association a Federal charter.

S. 1985

At his own request, the Senator from Michigan (Mr. GRIFFIN) was added as a cosponsor of the bill (S. 1985) authorizing and directing the Secretary of Agriculture to provide a continuing survey of existing methods of direct marketing from farmers to consumers in each State.

S. 2156

At the request of Mr. MCINTYRE, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2156, a bill to amend the provisions of the Social Security Act to consolidate the wages by employers for income tax withholding and old-age, survivors, and disability insurance purposes, and for other purposes.

S. 2157

At the request of Mr. JAVITS, the Senator from Washington (Mr. MAGNUSON), the Senator from New Mexico (Mr. DOMENICI), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. CULVER) and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of the bill (S. 2157) to amend title XX of the Social Security Act to provide that no State shall be required to administer individual means tests for provision of education, nutrition, transportation, recreation, socialization, or associated services provided thereunder to groups of low-income individuals aged 60 or older.

SENATE JOINT RESOLUTION 65

At the request of Mr. INOUYE, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of the joint resolution (S.J. Res. 65) to authorize and request the President to call a White House Conference on Women in 1976.

SENATE JOINT RESOLUTION 115

At the request of Mr. DOMENICI, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of the joint resolution (S.J. Res. 115) relating to the publication of economic and social statistics for Americans of Spanish origin or descent.

SENATE RESOLUTION 175

At the request of Mr. ROTH, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of the resolution (S. Res. 175) amending rule XLIV of the Standing Rules of the Senate to require that copies of confidential personal financial disclosure reports filed under such rule be furnished in response to subpenas issued in criminal cases.

SENATE RESOLUTION 239—SUBMISSION OF A RESOLUTION DISAPPROVING THE ALTERNATIVE PLAN FOR PAY ADJUSTMENTS FOR FEDERAL EMPLOYEES

(Referred to the Committee on Post Office and Civil Service.)

Mr. METCALF submitted the following resolution:

Resolved, That the Senate disapproves the alternative plan for pay adjustments for Federal employees under statutory pay systems recommended and submitted by the President to Congress on August 29, 1975, under section 5305(c) of title 5, United States Code.

SENATE RESOLUTION 240—SUBMISSION OF A RESOLUTION RELATING TO THE SALE OF GRAIN TO THE SOVIET UNION

(Referred to the Committee on Agriculture and Forestry.)

Mr. DOLE submitted the following resolution:

S. RES. 240

Whereas stability of grain prices is necessary to minimize inflation in the price of many foods, including meat; and

Whereas stability of grain prices is also necessary to avoid excessive fluctuation in the income of farmers; and

Whereas regular and more detailed information regarding grain export sales is needed to permit better planning in the agricultural sector of the United States; and

Whereas sporadic purchases of large quantities of United States grain by the Soviet Union are disruptive of the world grain market, are not in the best economic and political interests of either country, are detrimental to world food security, and may cause difficulties for our regular foreign customers: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should immediately attempt to negotiate an agreement with the Soviet Union under which the United States would agree to sell and the Soviet Union would agree to purchase annually, for the next three or more years, specified quantities of grain agreed upon by the governments of the two countries.

SEC. 2. It is further the sense of the Senate that the President should intensify efforts to obtain from the Soviet Union that information concerning crop prospects and grain import requirements of the Soviet Union which was to be supplied in accordance with the terms of the Cooperation in Agriculture Agreement entered into by the United States and the Soviet Union on June 19, 1973.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States.

BILATERAL GRAIN AGREEMENT WITH THE U.S.S.R.

Mr. DOLE. Mr. President, today I am submitting a resolution that would urge the President to negotiate with the Soviet Union a bilateral agreement whereby the Russians would annually buy a regular amount of grain from the United States. This resolution also urges the President to work more actively to obtain from the Soviet Union the import and short-term crop forecast information the Russians agreed to give us in 1973.

There are a great many reasons why the Senate should approve such a resolution and as far as I can see, the "pros" greatly outnumber the "cons." Any bilateral negotiation with the Soviet Union, of course, can only be negotiated if it is mutually advantageous. Such an agreement as outlined in the resolution would be mutually advantageous. First, I would like to discuss the reasons why it is advantageous to the United States.

BENEFITS FOR THE UNITED STATES

Grain sales to the Soviet Union, or any other country for that matter, are greatly beneficial to the United States for several reasons which I and many other advocates of grain exports have been speaking of in recent weeks. Grain sales made in a regular amount every year, as envisioned under this resolution, would have all those same advantages without the disadvantages that critics of the sales have been talking about ever since the most recent sales were announced.

Grain exports are important not just to farmers, but to consumers and taxpayers, and to the public and national interest as a whole. I would just like to underscore the main advantages at this point.

First, grain exports improve our balance of trade. That means the U.S. dollar is strengthened on the world market which in turn means that every American who buys foreign goods, and that is nearly everybody, is able to get more for his money. So grain exports are important to consumers. Grain exports also bring a great deal of wealth into this country which we might not have had otherwise. That wealth is an economic stimulus which is especially important now as our economy attempts to recover from the recession.

Third, grain exports keep the farm sector healthy. That means American taxpayers have less to worry about getting back into the Federal agricultural subsidies that cost the taxpayer roughly $4.5 billion as recently as 1972.

Finally, grain exports and other farm exports create a great number of jobs directly and indirectly. A great many more people would have been unemployed last year had we not exported $22 billion worth of farm products. Regular grain sales to the Soviet Union as envisioned under this resolution would contribute to all those benefits.

Most critics of the Russian grain sales recently have been talking in terms of the inflationary impact the sales would have on food prices for consumers. Many of us feel strongly that the inflationary impact on food prices of the most recent sales is negligible. However, we can judge from the experience of recent years that food prices rise most quickly when the farm commodities go up and down, or fluctuate, sharply. If the Soviet Union were to purchase regular amounts of grain every year, it would greatly stabilize the price of grain. Thus, it would also hopefully stabilize the price of food for consumers.

Regular grain purchases by the Soviet Union would help stabilize the income for farmers as well. In the 1974–75 wheat crop year, for example, farmers went all out to produce a bumper crop of grain. A good portion of their effort was directly in response to urging by the U.S. Government. Farmers in Kansas and other States have succeeded in producing a bumper wheat crop. Now they strenuously object to efforts by Congress or labor unions or consumer advocates or anybody else to restrict their access to world markets which they have worked so hard to produce for. I am very sympathetic with their concerns and I believe that a bilateral agreement with the Russions as envisioned by this resolution would help insure that our farmers would have access to sales to the Soviet Union. In this manner, farmers would be able to receive a more stable income that they have worked so hard for.

A regular sales agreement with the Soviet Union would allow farmers and the Department of Agriculture to more accurately plan what should be planted in order to meet the needs of our own market and the world market. It would allow farmers and fertilizer companies and equipment companies and other related industries to more accurately plan what amount of material to produce in order to meet the input needs of agriculture.

So, Mr. President, this resolution, if adopted and carried out, would have a great number of advantages for the United States. But as I mentioned earlier, in order to be successful, there must be mutual advantages for both the United States and the U.S.S.R.

BENEFITS TO THE U.S.S.R.

There are several advantages to be gained by the Russians from a bilateral agreement. The main advantage obviously should be the additional food security they would gain. For if the Russians buy a regular amount of grain every year, they should be able to accumulate some additional stocks which they would be able to use in their lean years. The concept of buying a regular amount of grain every year implies that the U.S.S.R. would buy more grain in some years than they need and buy less grain in other years than they need. In this manner, they would accumulate excess stocks in some years and use up those excess stocks in other years.

But the advantage would be that by buying regularly, the Russians would not be dependent upon the uncertainties of weather and crop production in our country and in other countries such as Canada and Australia. As has happened this year, the crops in Australia, Canada, and other countries have been reduced due to adverse weather conditions. We have been fortunate in the crop production in this country but it clearly would not be impossible for weather conditions to be bad in all the countries the Soviet Union normally buys from. Such a combination of events could put the Soviet Union in a position of not being able to obtain the grain they need from any source. By purchasing regular amounts of grain from us every year, the Russians would be less vulnerable to uncertainties in the weather worldwide and to crop conditions that can change from year to year.

In addition, the Russians presumably would obtain some economic advantage by buying grain regularly. In other words, if the Russians purchase grain here during times of surplus, they obviously would be able to obtain it at a better price. In addition to stabilizing our own market, it would help the Russians since by only purchasing what they need from year to year they run the risk of being forced to make large purchases at times when our own supply is short and prices are high. So the economic benefit to the U.S.S.R. is another reason for negotiating such an agreement.

The political factor for the Soviet Union is important and should be considered as one that supports such an agreement. It is undoubtedly extremely politically embarrassing for the Soviet Union to come to the center of the capitalist world, the United States, and purchase the grain their country needs. Such huge purchases by the U.S.S.R. are blatant demonstrations that the Soviet agricultural system is not capable of feeding its own country. Large purchases by the Soviet Union underscore the fact that 31 percent of the Russian population is engaged in agriculture while only 4 percent of the U.S. population is necessary to produce food for our entire country. On the other hand, regular purchases every year by the Soviet Government would probably largely go unnoticed throughout the world, just as purchases by our regular customers, like Japan, normally do. Rather than have headlines splashed across newspapers throughout the world, it would unquestionably be more acceptable to the Soviet Union to quietly make the purchases they need every year.

Regular purchases of grain every year would also allow the Soviet leaders to meet their commitments and promises to the Soviet people more easily. Soviet leaders have promised the Russian people a better standard of living. The Russian people have been promised a better diet with more protein. That means the U.S.S.R. must maintain large livestock herds. And as I understand, the Department of Agriculture has estimated that the Soviet Union is presently feeding over 100 million tons of grain every year to livestock. Regular grain purchases in this country would give the Soviet leaders the assurance they need to be able to provide the grain and food they have promised. The absence of the food security that could be provided under this resolution could mean that the Russians would be forced to devastate a great portion of their livestock herds in lean years. In 1963, that resulted in a reduction of the number of pigs from 70 million to 40 million in a matter of months.

So there are a great many advantages in this resolution for the Soviet Union and the United States as well. But a bilateral agreement between the two countries would be important for the rest of the world as well.

IMPORTANCE TO THE WORLD

USDA and international grain officials estimate that 80 percent of the world fluctuation in food prices is due to shortfalls in grain production by the Russians and their subsequent purchases on the world market. Last year, we held the World Food Conference to attempt the creation of a food reserve system that would guard the world food security against such purchases. But the world food reserve concept is difficult and loaded with political and practical problems that have not been overcome yet.

However, the world food security problem could be greatly reduced by the bilateral agreement envisioned under this resolution. Regular purchases by the Soviet Union would allow the United States and other producing nations to regularly plan the production necessary to meet those needs. And it would end the periodic drawdowns and volatile price swings that have caused such problems for importing countries.

Regular sales to the Soviet Union would also better protect our regular customers. The Europeans and the Japanese for example, have been concerned with and affected by supply drawdowns and volatile price swings in our market. The supply and price stability that could be achieved with regular sales to the Russians would undoubtedly be of great benefit to all those nations that buy in our market.

So for all these reasons, Mr. President, I would hope the Senate would approve this resolution and the President act promptly on it. For, as I have indicated, the benefits are numerous

FORM OF THE AGREEMENT

As indicated in the text of my resolution, the precise form of the agreement would have to be negotiated between the Governments of the United States and the U.S.S.R. Presumably, the agreement should be for a period of at least 3 years, but would be better for a period of 5 or more years.

The quantity of grain to be purchased by the Russians every year would also have to be negotiated. The Department of Agriculture has estimated that the Soviet Union will probably need about 60 million tons in the next 5 years. On an average, that would be about 12 million tons per year. In all likelihood, the Russians would not need nearly as much as 12 million tons in some years but would need substantially more than that in others.

It would be my expectation that some flexibility should be permitted in the amount of grain to be purchased every year. That would be to our advantage as well as to the Russians. In other words, if 12 million tons were agreed upon as the average amount to be sold it might be agreed that the annual amount could be as little as 8 to 10 million tons or as much as 14 to 16 million tons. That would be mutually advantageous. For in our own case, obviously, we might find ourselves with a relatively short crop and want to sell only the minimum amount to the Russians. The Russians, on the other hand, might find in some years where their storage capacity is limited or shipping capacity is reduced, where they in turn might want to only purchase the minimum amount.

In other years of surplus, of course, with the domestic prices here lower, we might find it mutually advantageous to sell the maximum amount. But if the minimum and maximum variations in the annual amounts could be set, the supply and price variation could be greatly reduced which, as I have already indicated, would be greatly beneficial to all parties concerned.

The agreement should further specify that the Soviets would buy on a regular month-to-month basis just as our normal customers do, rather than buying sporadically in huge amounts as we have seen in recent years which has caused volatile price swings and great concern among consumers in this country and others.

Month-by-month sales would allow our market to adjust and would allow farmers to sell in a uniform manner. This is something that should not be an unusual request since it is the method of purchase followed by our normal customers. The Soviet Union should be willing to do

nothing less than our regular customers do.

FORCE OF AGREEMENT

Critics of this concept and this resolution will probably immediately ask "What force does this agreement have?" They may ask, "How will we compel the Russians to abide by such an agreement even if we are able to negotiate it?"

There are several answers to these questions. And I might start with another question. "What assurances do the Russians have that we will stand by our own part of the agreement?" The answer to this question must be considered with the answer to the previous questions. That is, it must be advantageous to both the Russians and to us. The Russians will purchase a regular amount of grain every year because it is advantageous to them. We, in turn, will sell them a regular amount of grain every year because it is advantageous to us. And by doing this regularly, both countries should be better able to hold up their ends of the bargain. In other words, with a better expectation of what will be needed, American farmers will be better able to produce it. For their part, the Russians, by being able to better plan what they can obtain, will be able to better plan the size of their herds and domestic production.

Another reason why the Russians should abide by an agreement is that the assurance of supply is becoming more and more important. Officials in the Department of Agriculture can testify to the fact that foreign countries are constantly seeking stronger assurances that they can obtain in this country the amount of grain they need. The Soviet Union is undoubtedly aware of that pressure and they must be conscious that if they cannot show themselves to be regular customers, they may find at some point that they cannot purchase what they need in our market. The recent agreement with the Japanese on a purchase of 42 million tons over a period of 3 years is an excellent example. Foreign buyers are becoming more and more aware that it is to their advantage to be regular customers in the interest of having a regular supply.

The importance of abiding by an agreement certainly would not be lost upon the Russians either. And this would be another reason why they should stand by their part of the bargain. A good example occurred earlier this year when the Turkish Government decided that the price they had contracted for earlier on grain here in the United States was too high and refused to stand by their end of the bargain. As those in the trade well know, the Turks have consequently had difficulty in making the purchases they need this year. The importance of that lesson surely has not been lost on the Russians.

So I expect that the Soviet Union, if this agreement can be negotiated, will stand by its end of the bargain. And the United States, with the incentives these sales provide to our agricultural sector with the ingenuity and hard work of American farmers, will be able to stand by its end of the bargain.

POSSIBLE PROBLEMS

If the President begins negotiations on an agreement as envisioned under this resolution, problems will undoubtedly arise. One such problem is potentially the limited storage capacity in the Soviet Union. It is my understanding that the Russians only have a storage capacity of about 130 million tons. That compares with a normal crop annually of about 200 million tons. Reportedly, the spoilage of grain and food stocks has been a substantial problem for them. Obviously, the purchase and storage of additional grain stocks creates a problem for the Russians.

In response, I would say there are two possible solutions underway already. First, the Russians are building additional storage capacity. It is my understanding that they are constructing about 8 million tons of additional storage capacity every year and will continue this for several years to come.

Even the construction of this additional storage capacity will leave the Russians short for years to come. Therefore, I would like to mention at this time a bill I have introduced that would greatly reduce this problem. This bill, S. 1354, would assure foreign countries that reserve stocks of agriculture commodities which they purchase and store in the United States under certain conditions shall not be subject to export controls.

The conditions that must be met are: First, the buyers must certify the stocks to be part of their national reserve; second, the stocks must be stored in this country for a minimum period of 1 year; and third, they could not be resold into our domestic market or into the international market. By meeting these conditions, the Russians could thus use the vast storage capacity we have in this country to store the food stocks they purchase here regularly.

It is my understanding that we have in this country about 6 billion bushels worth of storage capacity and that only about half of this capacity is presently being utilized. In addition, we have another 6 billion bushels of onfarm storage that could be used if necessary. Putting this surplus grain storage capacity to use would be beneficial to both the Russians and to us.

We have had hearings in the Senate Agriculture Committee on this bill and the concept was generally endorsed by all those testifying although practical problems may exist with the implementation of such legislation. This Senator is not strongly wedded to the particular form of S. 1354 but it is my hope that some form of this type of legislation, whether it be my own or some other Senator's bill, could be enacted. The main point here is that problems will potentially arise with the implementation of a bilateral agreement envisioned under this resolution. However, I am confident that just as with the grain storage problem, these difficulties can be worked out and resolved in a manner mutually beneficial to both countries.

CROP AND IMPORT INFORMATION

The second section of this resolution would urge the President to intensify efforts to obtain from the Soviet Union information concerning crop prospects and grain import requirements for the current crop year as agreed to in 1973. It is my understanding that the Department of Agriculture has repeatedly made its request to the Soviet Union to provide information on crop forecasts and import needs so that we in turn can make better plans for crop production and export needs.

The Soviets steadfastly have refused to provide this information and it is my feeling that we are in a position to more strongly demand that that information be provided. As I pointed out previously, grain sales to the Soviet Union are beneficial to farmers, consumers, taxpayers and the entire Nation as a whole. But I believe it would also be in the interest of all Americans to have more precise and specific details from the Soviet Government on their own current crop year outlook and import needs. So I hope the Senate will agree with me on the merit of this resolution and adopt it promptly.

SENATE RESOLUTION 241—SUBMISSION OF A RESOLUTION TO HONOR MEN LISTED AS MISSING IN ACTION IN SOUTHEAST ASIA

(Referred to the Committee on the Judiciary.)

Mr. BUCKLEY submitted the following resolution:

S. RES. 241

Whereas there are one thousand three hundred men captured and missing in action in Southeast Asia; and

Whereas the Paris Peace Agreement dated January 27, 1973 in articles 8a and 8b of the Paris Agreement or the Laotian Protocol set forth the provisions in accounting for our missing in action; and

Whereas the demands of North Vietnam relative to the Saigon government have now been complied with; and

Whereas the war in Vietnam has come to an end and the President of the United States has stated that our military involvement has ceased; and

Whereas the search teams and other means of locating our captured and missing in action are no longer in existence; and

Whereas the families of our captured and missing men are still suffering the torment of their loss and uncertainty; and

Whereas proper and fitting tribute should be paid to these valiant men: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President of the United States shall request the heads of all executive departments and agencies to take steps to require all buildings under their jurisdiction to fly the national flag at half-staff on the last day of each month until the captured and missing in action are properly accounted for; and

(2) the President pro tempore of the Senate shall transmit this resolution to the President who is requested to report to the Senate in sixty days on steps taken to implement this resolution.

Mr. BUCKLEY. Mr. President, I submit a resolution, as suggested by the East Rockaway, N.Y., American Legion Post No. 958, which proposes that our national flag on all Federal buildings be flown at half-mast on the last day of each month in honor of the men listed as missing in action in Southeast Asia until such time as we have received definite word of their status.

Despite their solemn commitment to do so under the Paris Accords, the North Vietnamese persist in refusing to help us locate the bodies of American

war dead, to return the remains to their families, or to release any information about men who might still be alive as was required by the Paris Accords. I have strongly urged and continue to urge, that all available pressures be employed to secure information about these men. The only language the North Vietnamese appear to understand is force, but our Government—through the Congress—has made it clear that it will not apply the necessary pressures which might have insured a complete accounting.

What the future holds for these men and their families, I do not know. But I do know that we have a continuing duty to the MIA's and their families that we must find some way to honor. Adoption of my resolution will at least constitute a continuing reminder of the great humanitarian task that still lies before us, while doing fitting honor to these men.

SENATE CONCURRENT RESOLUTION 61—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE 75TH ANNIVERSARY OF THE WORKMEN'S CIRCLE

(Referred to the Committee on the Judiciary.)

Mr. JAVITS submitted the following concurrent resolution:

S. CON. RES. 61

Whereas the Workmen's Circle has since its founding given leadership and inspiration in the striving for the elimination of all forms of discrimination and political inequality, and

Whereas it has vigorously and wholeheartedly participated in all efforts toward an America that will provide needed social welfare services, an economy of full employment, and a comfortable livelihood for all Americans, and

Whereas it has inscribed in the minds and hearts of many Americans the need to pursue the cause of social progress and live by the principles of mutual understanding among all peoples, and

Whereas it has set high standards of cultural living and education in Jewish life and in the broader American community, and

Whereas this renowned fraternal society has achieved its 75th anniversary and still continues to perform the commendable tasks which have earned it the esteem of our community, therefore be it

Resolved by the Senate of the United States (the House concurring) that 1975 is hereby designated as "Workmen's Circle Anniversary Year," and the citizens of our States are urged to share in the meaning and spirit of this occasion and join in greeting the Workmen's Circle on its 75th Jubilee.

SENATE CONCURRENT RESOLUTION 62—ORIGINAL CONCURRENT RESOLUTION REPORTED RELATING TO APPORTIONMENT OF FUNDS FOR THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Mr. RANDOLPH, from the Committee on Public Works, reported the following concurrent resolution:

S. CON. RES. 62

Resolved by the Senate (the House of Representatives concurring), That the Secretary of Transportation shall apportion the sums authorized to be apportioned for the fiscal year 1977 for immediate expenditure on the National System of Interstate and Defense Highways, using the apportionment factors contained in Table 5, House Committee Print Numbered 94–14.

AMENDMENTS SUBMITTED FOR PRINTING

DEFENSE PRODUCTION ACT AMENDMENTS OF 1975—S. 1537

AMENDMENT NO. 869

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

Mr. PROXMIRE submitted an amendment intended to be proposed by him to the bill (S. 1537) to amend the Defense Production Act of 1950, as amended.

DEPARTMENT OF STATE AUTHORIZATIONS, 1976—S. 1517

AMENDMENTS NOS. 870 AND 871

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

Mr. BENTSEN submitted two amendments intended to be proposed by him to the bill (S. 1517) to authorize appropriations for the administration of foreign affairs; international organizations, conferences, and commissions; information and cultural exchange; and for other purposes.

Mr. BENTSEN. Mr. President, on May 6, 1975, I introduced S. 1667 to prohibit one person from simultaneously holding the positions of Secretary of State and Assistant to the President for National Security Affairs. I am today submitting this bill as an amendment to S. 1517, the State Department authorization bill which will come before the Senate in the coming days.

Mr. President, I am certain that many of my colleagues in this body share my own concern over the unprecedented concentration of machinery of this country in the hands of one person—one person who wears two official hats and unofficially wears a third: that of roving ambassador. It is time to restructure the foreign policy decisionmaking apparatus in this country.

My amendment would begin that job. I am seeking to prohibit future Secretaries of State from serving as the President's National Security Adviser, Executive Secretary of the National Security Council, or any other position directing or controlling the National Security Council.

I view this as an important first step to diversify and strengthen the process by which the foreign policy of this country is developed and implemented.

I was struck recently by an article in the New York Times by John Hersey, who described several days he spent with President Ford.

In the article, Mr. Hersey pointed out that a sizable group of aides and Cabinet officers met regularly with the President to debate, discuss, and advise him as he shapes domestic policy.

But on foreign policy questions, the President meets with the Secretary of State alone. Just the two of them. No outside views. No differing perspectives.

Mr. Hersey wrote:

In the formulation of settled policy, this President, who had a minimal exposure to foreign affairs before he came to office, hears, I am told, only one voice, and a mercurial voice it is, Henry Kissinger's.

He continued:

Yes, this is the most alarming thought I have had all week.

Mr. President, this thought alarms me too.

Mr. President, the Senate may be interested to know that the President's Commission on the Organization of the Government for the Conduct of Foreign Policy, the so-called Murphy Commission, whose comprehensive study of the foreign policy decisionmaking process and recommendations for changes in that structure were published in June of this year, also supports my contention that future Secretaries of State should not also exercise the function of Assistant to the President for National Security Affairs. Let me quote from the pertinent section of the Commission's study:

The Assistant for National Security Affairs. It is eloquent testimony to the extraordinary abilities of the present Assistant to the President for National Security Affairs that he has met the requirements of that post while simultaneously serving as an active and effective Secretary of State. His holding of both positions has arisen from quite special circumstances, it is well established, and we make no recommendation concerning it. As we have stressed earlier, we seek not to address matters of topical interest, but the enduring and longer-term problems of Government organization.

Having reviewed the responsibilities the Assistant for National Security Affairs must meet over the long term, we conclude that these responsibilities, involving essential personal assistance to the President, management of issues for Presidential decision, and the direction of the National Security Council staff, should normally in future be performed by an individual with no other official responsibilities. The actual choice would of course rest with the President.

The reasons for this are two. The first is simply that the responsibilities of that Assistant are heavy and important enough to require the undivided attention of even the ablest public servant. The second is that an Assistant to the President must be a facilitator of decision, a conduit to the President, a force for balance and even-handedness in the presentation and consideration of issues. These are staff functions. They are not easily made compatible with the responsibilities of a Cabinet officer, a line official who must necessarily act as the chief of a great department.

Mr. President, the issue is a clear one and I urge the Senate's support of my amendment.

SENATE BUDGET COMMITTEE TASK FORCE SEMINARS ANNOUNCED

Mr. CHILES. Mr. President, the Budget Committee's task force on capital needs and monetary policy, which I chair, will hold a series of seminars in September. While these are designed primarily to improve the task force members' understanding of the major issues and policy options in the areas of capital formation and money supply, we invite the attendance of our colleagues in the Senate or any interested members of the public.

In this first series of seminars we will concentrate on the issues of relevance to the second concurrent resolution of the budget which will be introduced this fall.

Later on we will schedule seminars and hearings on a more extensive set of long-term issues of capital formation. The schedule of hearings follows:

SCHEDULE

September 10. 10 a.m., Room 357RSOB, "The Money Supply as a Policy Instrument". We will focus on the workings of various monetary variables in the economy. Panelists will explain from both an analytic and practical viewpoint, the monetary policy levers, what time lag is required for their effect, and how monetary policy interacts with the federal deficit to affect the private sectors of the economy. Panelists: Professor Allen Meltzer, Carnegie Mellon University, and Dr. Edgar R. Fiedler, Vice President for Economic Research, the Conference Board, and former Assistant Secretary of the Treasury for Economic Policy.

September 11. 10 a.m., Room 357RSOB, "Crowding Out in 1975 and 1976". This seminar will explain the various dimensions of "crowding out" in the credit markets. Panelists will discuss under what conditions crowding out may or may not occur in the next two years. We will consider both the total effects of federal borrowing and monetary policy, and the effects of federal policies on particular industries. Panelists: Professor William White, Harvard Business School, and one other person to be designated.

September 17. 9:30 a.m., Room 357RSOB, "Long-Run Capital Needs of Public and Private Sectors". We will attempt to set this year's budgetary decisions into the context of long-term trends in the economy. Major issues are the relative needs and growth of government and private borrowers; the factors affecting capital formation and household savings; the changing needs of leading sectors such as energy, housing, transportation and manufacturing; the anticipated growth and composition of the labor force. Panelists: Mr. Allen Sinai, Data Resources, Inc.; Mr. Barry Bosworth, Brookings Institution.

On September 18 at 9:30 a.m. and September 19 at 10 a.m. in room 357RSOB, the capital needs task force will conduct seminars jointly with the tax policy task force which is chaired by Senator MONDALE. These seminars will examine the effects of present tax policies in encouraging or discouraging capital investment and various proposals for new incentives.

NOTICE OF HEARING

Mr. BURDICK. Mr. President, as chairman of the Judiciary Committee's Subcommittee on National Penitentiaries, I wish to announce that the hearings for consideration of S. 1243, legislation providing for the relocation of certain District of Columbia correctional facilities will reconvene on September 9, 1975, at 10 a.m. in room 2228, Dirksen Office Building.

Any person who wishes to testify or submit a statement for inclusion in the record of the hearings should communicate as soon as possible with the Subcommittee on National Penitentiaries, room A-404, Senate Annex, telephone 224-5461.

ADDITIONAL STATEMENTS

RALPH F. WALDROP AND HIS DAUGHTER SUSAN

Mr. THURMOND. Mr. President, I recently received a very heart-warming letter from a young woman in my home city of Aiken, S.C., which illustrates so well the fact that we have such fine young people in this country. It also illustrates most clearly the invaluable worth of a good parent and the need each person has for steady parental guidance during formative years.

The letter I received was from Miss Susan Waldrop who is a 19-year-old student at the Aiken Branch of the University of South Carolina. Her correspondence to me was a glowing tribute to her father, Ralph F. Waldrop. In words which left no doubt of the self-sacrifice and devotion that her father had displayed through the years, Miss Waldrop wanted only to honor him. She told of her mother's death 13 years ago and her father's shouldering the dual roles of parenthood. Her letter is abundant evidence that his sense of family responsibility and parental love was genuine and that the intangible rewards will be his for a lifetime.

Furthermore, the harvest of such devoted care and concern can be reaped by everyone. It is an example for all to follow and, if heeded, could benefit our entire Nation. One of the crying needs in America today is a total commitment by parents to set the highest example, to bear willingly the burdens of responsibility, and to hew to the principles of morality. If parents will do these things throughout the years, their children will generally act accordingly. There is a deep wellspring of decency and dependability among youth. It only takes a little inspiration and example to keep it intact for generations to come.

I commend Miss Waldrop for her tribute to her father and I am particularly pleased to commend him for the selfless dedication which has evidently characterized his life.

Mr. President, in order that my colleagues may also have the opportunity to read this thoughtful letter, I ask unanimous consent that it be printed in the RECORD.

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

AIKEN, S.C.,
August 5, 1975.

Senator STROM THURMOND,
Aiken, S.C.

DEAR MR. THURMOND: I realize you are most busy as a Senator and have little time to spend reading mail. However, I feel that I share with you a common interest—that is, Aiken, and more importantly, South Carolina. I'm sure we would both agree that perhaps the most important resource of a state is its people—concerned citizens like you and I. For this reason, Mr. Thurmond, I ask a favor of you. I feel very strongly about people who truly care for their country, fellow man, and life itself. I honestly know of no one who better fits this description than my father.

Please, Mr. Thurmond, help me. I am nineteen years old and attend the University of S.C. here in Aiken. For as long as I can remember I have wanted to do something special for my father, but have not been able to afford the gift I want to give him. My father has always shown me the best things in life. No, not those which cost, but the beauty life offers to those who desire it. He has unselfishly given me everything that is dear to him. Many times he has sacrificed his wants for mine. He has truly overreached the boundaries of fatherhood for me. My mother died when I was six—which made his burden a heavy one. Not once did he pity himself or us, but worked to give me what others had. Being both father and mother wasn't easy for him, but he did not let this interfere with our relationship.

Sacrificing his hobbies and vacations for me, he took me places where I wanted to go—did things that would make me happy. My father has worked hard all his life but has never had a chance to enjoy his efforts. Mr. Thurmond, I am writing to you because I know you understand these things. Is there any agency, etc. which honors such people? My father has never been too tired or too busy to help anyone who asked him for help. Now I want to help him. He works so hard every day. Even after he gets home from the Savannah River Plant he works at least seven more hours on his farm. Why? Not to earn money for a new boat or car, but to help make my life easier.

Mr. Thurmond, I would so much like to send my father on a nice trip, somewhere where he could rest and enjoy life, just for a few days. He would never take a trip himself—he stays home and works. As a student with little money I cannot afford this and don't know when I might be able to. He is not an important man to many, he isn't a "big wheel." He simply works in Health Physics at S.R.P. Mr. Thurmond I am not asking for charity, but only for the chance to reward a wonderful citizen for being just that.

Honestly, no one knows how much I do appreciate him and I want them to. I want to thank him in a special way where others can see how much South Carolina benefits from such persons. Please, please, help me if possible, Mr. Thurmond. I am powerless to make this a reality without help. Life is so short and so few deserving people are rewarded. Could you please check into this in any way you can and help me to give my father this one experience. Just a few short days' trip or some sort of well-deserved recognition. You understand.

I thank you for your time, I really do. If I can do just this one thing for my father, my life will be much happier for me. Thank you. Please reply.

Most sincerely,

SUSAN WALDROP.

P.S. My father is Mr. Ralph F. Waldrop.

"FIRST ASSEMBLY DAY" ADDRESS BY AMBASSADOR MORETON

Mr. HARRY F. BYRD, JR. Mr. President, on July 30, 1619—356 years ago—the first representative legislature in North America met in the church at the tiny Virginia settlement of Jamestown. Each year, the Virginia General Assembly commemorates that historic meeting with great pride.

This year's program was brought to my attention by the Honorable Lewis A. McMurran, Jr. Mr. McMurran is a member of the House of Delegates from Virginia's 49th Legislative District, the city of Newport News. He has distinguished himself as chairman and one of the most active members of the Virginia Independence Bicentennial Commission, the 18-member panel charged with development and coordination of the Commonwealth's Bicentennial activities.

Those attending the First Assembly Day festivities were privileged to hear the address of the Honorable John O. Morton, CMG MC, the British Chargé d'Affaires in Washington, D.C. Ambassador Moreton's thoughtful remarks present a glimpse of Great Britain's future that has not received widespread recognition in this country. His observations

provide a hopeful and encouraging picture of the prospects for the British people during the next decade.

I ask unanimous consent that the address of the Honorable John O. Moreton, CMG MC, the British Chargé d'Affaires, delivered on First Assembly Day in Jamestown, Va., be printed in the RECORD.

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

TEXT OF THE ADDRESS BY THE BRITISH CHARGÉ D'AFFAIRES, MR. JOHN O MORETON, CMG MC, ON FIRST ASSEMBLY DAY, JAMESTOWN, VA., JULY 29, 1975

Mr. Chairman, Governor Godwin, Members of the Virginia General Assembly.

Over 350 years ago, at just about the time when the new Colony of Jamestown was taking root, an Englishman, Sir Nicholas Wotton, wrote:

"An Ambassador is an honest man sent to lie abroad for the good of his country".

Without commenting on the truth of either part of that proposition, it is certainly still the case that public speaking is an accepted hazard of a diplomatic career. As a representative of my country overseas, I have had my share of speechmaking; but I cannot remember any occasion when I have been more honoured by an invitation than the present one. Why do I say this? Because I am a Briton, with a deep sense of history, and proud of my country's achievements in opening up the world. I am therefore proud indeed to be invited to address the members of the General Assembly of the Commonwealth of Virginia, with its historic associations and enduring links with my own country. It is, after all, the oldest Parliamentary Assembly in the American continent, and one of its original members had formerly sat in Parliament in Westminster.

In addressing you today, I follow some distinguished predecessors and feel that I am part of a continuing tradition a tradition which looks back to the founding of America and looks forward to continued and close Anglo/American cooperation and friendship.

When Lord Lothian, the British Ambassador to the United States, addressed the House of Delegates and the Senate of Virginia in February, 1940, at the start of the dark days of the Second World War, he said:

"You in Virginia, like we in Britian, have long realized, like the Romans before you, how meet and right it is to respect and cherish the past. We yield to none in our faith in the future. But we think to look back constantly to the great figures of our earlier history, and to keep in good repair the house and halls and groves in which they fought out the principles of statesmanship and created the traditions of conduct upon which our Commonwealths still stand, is to feed once more at the sources which inspired and ennobled our ancestors."

I cannot better those words. That is what we are doing here today.

When King James granted a joint Charter to two companies to settle what was to become the United States of America, little was known of the land, the climate or the native inhabitants of where the settlers were hoping to found a new dominion. Nor were the earliest settlers perhaps the best equipped by background and upbringing to cope with this new environment. Nor did the London company have the long-term vision necessary to help and sustain the colonists. It was interested in quick profits: in precious metals and discovery of a new passage to the South Seas. John Smith, who had quickly, by force of personality, become leader of the colonists, delivered his riposte to the London company's demands in his letter known to day to historians as Smith's Rude Reply. He said:

"When you send supplies again, I entreat you rather send but thirty carpenters, husbandmen, gardners, fishermen, blacksmiths, masons, and diggers up of trees, than a thousand of such as we have; for except we be able both to lodge them and feed them, the most will consume with want of necessaries before they can be made good for anything."

In short, John Smith was showing an early sign of American commonsense and hardheaded practicality. And of course the colony did pull itself round and from its earliest days began to develop its independence of mind and a sturdy capacity for self-government.

Today we are celebrating the three hundred and fifty-sixth anniversary of First Day, and this year, in the United States, you are starting the celebrations of your Bicentennial. You in Virginia have much to celebrate, for many of the greatest figures of the Revolution were from this State, including of course George Washington, the resolute and decisive man of action, and Thomas Jefferson, the draftsman of the Declaration of Independence. (And might I note in passing that a namesake of mine, John Morton, was a signatory of the Declaration of Independence. Indeed, he cast the decisive ballot that swung Pennsylvania over to an affirmative vote in the Continental Congress. But I cannot claim any reflected credit for that—my researches show that he was of Finnish-Swedish descent).

The British will join in your celebrations with you. We have got used to the idea of your independence by now. The British Parliament's contribution will be to lend for one year one of the two original copies of the Magna Carta dated 1215. The principles which underlie the Magna Carta—trial by jury, *habeas corpus* and no taxation without representation—are the ultimate foundation of your liberties no less than ours. A showcase will be set up in the Capitol in Washington to display the document, which will later be replaced by the permanent gift of a specially made replica. A Bicentennial bell is also to be presented to the people of America from the people of Britain. This will be cast by the same Whitechapel Bell Foundry in London that cast the original Liberty Bell in 1752. It will hang in a new Bell Tower in Independence National Historical Park in Philadelphia. Another major contribution from Britain will be a programme of Fellowships in the creative and performing arts. And, of course, as you will know, Her Majesty Queen Elizabeth II is to pay a State Visit to the United States from 7–11 July.

The spirit of 1776, I suggest, should not only be one of celebration but also of appraisal. There is a lot of gloom and despondency these days about our ability to continue as democratic societies. Many people argue that today's problems are so complex, so sophisticated, that democracy, as it has developed, is unable to cope and will need to be "adapted". Now I believe that one thing we can learn from studying history, and the history particularly of two hundred years ago in this country, is that such problems can be overcome. While paying homage to the great men who founded your country, we should not allow ourselves to believe that the likes of Washington and Jefferson, Hamilton and Madison were super men. They were not. They were ordinary men imbued with a strong sense of equity and justice who set out to right what was wrong. They did not have superhuman capacities anymore than we do or our generation does today. We belittle ourselves if we believe that we cannot do today what they did then. We have an equal capacity to right the distortions and wrongs in our societies. That, I suggest, is one of the lessons we should draw from the Bicentennial.

In this Bicentennial Year a good deal of attention in America will be focused on Britain. And I think it is true to say that many Americans today regard the state of Britain with a particular interest and concern. Some experienced observers see serious social and political ills in Britain which might, in their view, one day affect this country. There is no point in denying that Britain is going through a peculiarly difficult phase in her long history. Prime Minister Wilson has said that if we do not, over the next twelve months, achieve a drastic reduction in the present disastrous rate of inflation, the British people will be engulfed in a general economic catastrophe of incalculable proportions. Now I believe that the moderation and sense of the British people will prevail. I do not anticipate that an economic catastrophe, in the event, will overtake us. There are already some pointers that Britain is weathering this crisis as she has successfully weathered other crises in her long history.

The first pointer is that the Trade Unions Movement in Britain, by and large, has responded positively to the Government's new pay policy which is designed to bring inflation down to ten per cent by the end of the year. Secondly, in the Referendum on Europe which was held about two months ago the overwhelming majority of British people voted to remain in Europe, and that vote was interpreted by all political commentators as a vote for moderation for commonsense and for forward-looking policies. Thirdly, there is North Sea oil. One of Britain's chronic problems over the years has been our lack of natural resources. We cannot feed ourselves. We have to import an enormous range of raw materials to produce the manufactured goods which we sell overseas to import the necessary food, clothing and other things to maintain our standard-of-living. And when raw materials rise in price as they did in 1973 by forty per cent, the British economy is bound to take a hard knock. Now we have found these immense resources of oil and we are exploiting them.

The first oil came ashore from the North Sea seven days after the Referendum. By 1977 half our oil requirements will be met from our North Seas reserves. By the end of the decade we will be self-sufficient in oil and by the early years of the 1980s we shall be exporting substantial amounts. *And* there are thought to be further reserves to the West and Southwest of Britain in the Celtic Sea and the Channel approaches. More than that, the largest coal deposit ever known in Britain has been discovered in the flat lands of South Yorkshire which is said to contain energy equivalent to all the oil resources in the North Sea. In short, with our oil, our coal, and our nuclear power stations which have been working successfully for twenty years, we shall be dependent on no one for energy by the end of the decade. Our North Sea oil, our new recourse, will in a sense, play the same role for us as tobacco did for the early colony of Virginia. And so instead of a bankrupt, ungovernable Britain emerging in the next years, as some prophets of gloom have predicted, I believe that in the coming months and years you will see a Britain reborn, of surprising strength and vitality.

One of the things that has happened to Britain in the last thirty years is that we have, in a sense, shrunk back into our tiny island. At the end of the last war, the British Empire covered large parts of the globe; 800 million people fell within its range. Since that time the British Empire has, largely by a process of voluntary withdrawal, been dissolved and replaced by the independent countries of the Commonwealth of whom there are now thirty-four. The latest is the West Indian Spice Island of Grenada, an island which has in its time been French, Spanish and British, and is now an independent member of the Commonwealth. We in Britain, are proud of the Commonwealth and are proud of what it has

achieved. Membership is, of course, entirely voluntary. We believe that the Commonwealth enables nations from the north and the south, the developed and the underdeveloped parts of the world, to come together, to talk together in a relaxed and rational manner, in the same language, understanding one another's points of view without the shrill rhetoric which often characterises more formal international gatherings. Britain's imperial and Commonwealth experience has given us an understanding of the Third World and an opportunity to provide a bridge between them and the developed world. For example, the Commonwealth meeting which took place in Kingston, Jamaica, in April and May of this year concentrated on hard economic questions of international equity and on practical ways in which the under-privileged areas of the world might be helped.

And so, even though we are physically back in our tiny island, we still have the habit and experience of taking a global view. Indeed, we still have quite substantial residual responsibilities overseas—for example, in Hong Kong and Cyprus. We still spend a greater proportion of our gross national product on defence than any other of your major European allies. Our naval contribution is very much greater than that of any of your other allies and we contribute rather more combat aircraft. Our army on the Continent is the only other professional all-volunteer army and for this reason we believe that its three divisions are particularly effective.

I mentioned just now the Referendum reaffirming our membership of the European Communities. The Communities are not just an economic arrangement to create greater prosperity. The vision is far greater than that. In two devastating wars this century the countries of Europe spilled and spent their blood and treasure. Many in Europe, and Winston Churchill was one of them, saw clearly that the future lay not in states divided and at each others' throats, but with a new unity into which they could sink their differences and work together for the common good. We believe that Britain can bring a major contribution to this new dynamic Europe—a Europe not turned in on itself, but active and interested in the world at large, putting more and more at the disposal of others its great resources and hard-won experience. And we see no incongruity between being Europeans and, at the same time, being close transatlantic friends and allies of America. We think that Europe and America between them can solve most of the difficult problems of the world today.

I have spoken at some length about Britain's present difficulties and prospects because I imagine that is what you wanted to hear from me. Perhaps you will allow me to make a brief reference to your own situation.

You have just passed through two traumatic experiences—the Watergate affair and the bitter *dénouement* in Vietnam.

In the wake of those experiences there were some who feared that America might turn isolationist—might wash her hands of other people's problems and concentrate exclusively on her own problems at home. But your leadership—and indeed the mood of the people—gave the lie to that. President Ford's reaffirmation of traditional alliances during his recent visit to Europe was an act of responsible statesmanship which came as a welcome tonic to all who still look to you as the sheet-anchor of their security. There is no escaping the fact that we live in an interdependent world, in which none can be self-sufficient.

So, on a day like today when we are celebrating an event of the past, in the year 1976 when we celebrate the birth of the most powerful nation the world has ever seen, we should not only cast back our minds down the years of history, but also see history as a continuing process: that what we are today is, in part, the creation of the past and what the future will bring for our children and grandchildren will, in large measure, be a result of what we do, or omit to do, today. So a celebration of the past must be a rededication for the future. The world has changed out of all recognition since the early days of Jamestown. It has changed since 1776. It has even changed fundamentally in its shape and possibilities in our own lifetimes. There seem few certainties: the old foundations of world order and prosperity seem to shift before our very eyes. But if we remain as firm in our self-confidence as did John Smith, there is no reason to falter or fail.

The leadership of the free world has passed to you. It is an awesome responsibility. But I ask you to believe that to the limits of our resources, we British will remain, as always, steadfast allies in defense of our joint heritage.

TRANSFER OF OLD FEDERAL COURTHOUSE IN PHILADELPHIA TO LOCAL GOVERNMENT

Mr. HUGH SCOTT. Mr. President, I am pleased that the American Bar Association and the Philadelphia Inquirer have both endorsed legislation introduced by Senator SCHWEIKER and myself to permit the transfer of the old Federal Courthouse at Ninth and Chestnut Streets in Philadelphia to the local government. This bill will help the Philadelphia court system by providing additional space.

Mr. President, I ask unanimous consent that an editorial from yesterday's Philadelphia Inquirer explaining this legislation be printed in the RECORD.

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

GOOD USE FOR THE COURTHOUSE

At its recent meeting in Montreal, the American Bar Association gave its support to a bill now before Congress which would meet the critical need—quickly and economically—for more courtroom space in Philadelphia.

The proposed legislation, sponsored by Sens. Scott and Schweiker, would permit the transfer of the old Federal Courthouse at 9th and Chestnut Sts. to the local government now that the new federal Courthouse at 6th and Arch Sts. is occupied.

Such legislation is necessary to make such a transfer possible because under present law property vacated by one federal agency must be made available to other federal agencies before any other use for it can be considered. The result is that some other federal agency usually claims it.

That makes sense as a general proposition, but because of its unique facilities, the Federal Courthouse could not be used by any other agency without extensive and expensive remodeling. The Philadelphia courts, on the other hand, should be able to move in and make immediate use of the space with little or no alterations.

That seems to make sense for the taxpayers, who otherwise would have to bear the expense both of remodeling the Federal Courthouse and providing new space elsewhere for the overcrowded Philadelphia courts.

"At least a portion of the problem" of the delays in Philadelphia's judicial system can be attributed to inadequate physical facilities, the presidents of the Philadelphia and Pennsylvania bar associations told the ABA. And while they are right in cautioning that the Scott-Schweiker bill would not be "a panacea for all current problems of judicial administration" here, they are also right in arguing that it would not only help solve those problems—at least on an interim basis—but would do so at minimal expense. The legislation should be enacted.

NATIONAL SKI PATROL ASSOCIATION CHAPTER

Mr. McINTYRE. Mr. President, I am pleased today to present to the Senate a lengthy list of cosponsors supporting legislation which I introduced granting the National Ski Patrol Association a Federal charter. The National Ski Patrol Association has, for many years, been educating the Nation's many skiers in safe skiing techniques. This nonprofit organization not only teaches skiers about safe skiing practices and safe ski equipment, but helps in protecting skiers while they are on the slopes.

Organizations like the Red Cross and the Boy Scouts of America have been granted Federal charters to aid these nonprofit organizations in dealing with the growing paperwork burden mandated by State chartering.

As the number of Americans enjoying this sport grows every year, the job of the National Ski Patrol Association grows as well. I hope more of my colleagues who come from States which depend on skiing as a revenue source or have constituents who enjoy skiing will join me in supporting this legislation.

GOVERNMENT ACTIONS WHICH HAVE HAD SERIOUS IMPACT ON VIABILITY OF SHEEP, CATTLE, AND POULTRY

Mr. GARN. Mr. President, in 1971, the Federal Government took two actions which have had serious impact on the viability of the sheep, cattle, and poultry industries of the United States. The two actions were the issuance of an Executive order banning the use of chemical toxicants for predator control on Federal land and in Federal programs and the suspension of the registrations of the three chemicals most widely used for this purpose: Sodium cyanide, strychnine, and sodium monofluoroacetate (1080). In the view of many observers, these two actions were taken as a result of political pressure and without any scientific justification. Between them they established a situation marked by rigidity and irrationality, and one which has prevented ranchers from defending their flocks against an increasing predator population.

Last July the President did issue some minor modifications to the Executive order, indicating a growing willingness to face reality in this question, although the modifications were, in my view, mainly cosmetic. At the same time, the Environmental Protection Agency announced hearings into applications for reregistration of sodium cyanide for use in the M-44 ejector device. Under the schedule announced by EPA, the Administrator must, before September 16, make a decision on those applications.

In the meantime, the hearings on the applications have now been completed, and the administrative law judge has

issued his opinion on the applications. The findings of the administrative law judge are thoughtful and well reasoned, and I sincerely hope that the Administrator of EPA, Mr. Russell Train, will act in accordance with them. Essentially, the hearings showed that "the conditions of use of the M-44 as embodied in actual practice avoid most if not all of the dangers mentioned in the 1972 order." In fact, Mr. President, the only witness called in opposition to the applications gave evidence which supported the applications.

In view of these facts, Mr. Train should move promptly to register the M-44 device. Such action would not involve a return to the sometimes indiscriminate poisoning which characterized earlier predator control programs. As I have noted before, the Environmental Protection Agency has ample authority to insist on severe restrictions on the application of chemical toxicants, and a number of restrictions are called for by the administrative law judge's findings. The important point is that, if the administrative law judge's recommendation is accepted, the States of Montana, Wyoming, Colorado, Oregon, Nevada, and Texas will be able to use cyanide under these restrictions, and under the supervision of the Bureau of Sport Fisheries and Wildlife, which will, itself, be a registrant.

I make one further point, Mr. President. The registration called for by the administrative law judge will require some modification in the Executive order which still basically bans the use of chemicals in predator control programs on Federal land. I urge the President, through his Domestic Counsel, to meet with representatives of the States, and with interested Senate offices, to discuss the way in which the modifications can best be accomplished to protect all the interests involved. It is good to see that inflexibility is disappearing in at least this one corner of the bureaucracy, and that progress can be made.

Mr. President, so that all Senators can have the benefit of his findings, I ask unanimous consent that the administrative law judge's findings be printed in the RECORD.

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

[Environmental Protection Agency Before the Administrator—FIFRA Docket No. 382]

INITIAL DECISION [1] OF FREDERICK W. DENNISTON, ADMINISTRATIVE LAW JUDGE

In the matter of: Applications to register sodium cyanide for use in the M-44 device to control predators.

This proceeding was initiated by the Administrator's order dated July 11, 1975, published in the Federal Register of July 15, 1975 (40 F.R. 29755). The proceeding is based on an application filed July 7, 1975, by the Fish and Wildlife Service of the U.S. Department of Interior, which seeks to register sodium cyanide M-44 capsules pursuant to Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (86 Stat. 979, 7 U.S.C. 136a). Pursuant to the provisions of subpart D of the EPA regulations (40 CFR 164.130-133), the application under Section 3 has been treated as a petition for reconsideration of an order issued March 9, 1972 (37 F.R. 5718).

The notice provided for an expedited hearing, which was specified to begin on August 12, 1975, and to last 4 days unless, pursuant to a recommendation of the presiding officer, it was further extended for an additional three days. The parties were allowed 4 days from the close of the hearing to file proposed findings and briefs. The presiding officer was allowed 6 days thereafter for the issuance of his initial decision, to which the parties could file exceptions 4 days thereafter.[2] Finally, it was provided that the Administrator's final order would be issued 21 days following the hearing, or 7 days after the filing of the exceptions. Saturdays, Sundays, and holidays were to be excluded from the foregoing count.

A prehearing conference was held on July 30, 1975, as a result of which Special Rules for the conduct of the proceedings were discussed, and were included in a Report of First Prehearing Conference issued July 31, 1975 (40 F.R. 33069). A second prehearing conference was held on August 7, 1975, at which some supplemental rules were adopted (Report of Second Prehearing Conference, August 11, 1975).

As permitted by the initiating order, certain interests filed applications which parallel that of the Fish and Wildlife Service, and by a second order, dated August 8, 1975, the following applications were, in effect, incorporated into this proceeding (40 F.R. 34455, August 15, 1975):

Montana Department of Livestock
Wyoming Department of Agriculture
Colorado Department of Agriculture
Oregon Department of Agriculture
Nevada State Department of Agriculture
Texas Department of Agriculture
M-44 Safety Predator Control Company, Midland, Texas

Also, as allowed by the order, the following interventions occurred:

Interventions in support of application:

Wyoming
Montana
Navajo Nation
National Turkey Federation
American National Cattlemen's Association
National Wool Growers' Association

Interventions in opposition to application:

Environmental Defense Fund
Defenders of Wildlife
Friends of the Earth
National Audubon Society
Natural Resources Defense Council
National Wildlife Federation
Sierra Club
Oregon Environmental Council [3]
Animal Protection Institute
Wildlife Management Institute
Humane Society of the United States

Amicus Curiae: As further provided by the initiating order, persons desiring to file briefs without becoming parties were permitted to do so and such *amicus* briefs were filed by the following:

American Farm Bureau Federation
Texas Department of Agriculture
California Department of Food and Agriculture
Montana Wool Growers' Association
Montana Stockgrowers' Association
Congressman W. R. Poage
Texas and Southwestern Cattle Raisers Association

HISTORY OF PROCEEDING

On March 9, 1972, the Administrator issued a notice of suspension of the registration of certain products containing sodium fluoroacetate (1080), strychnine, and sodium cyanide. That document was published in the Federal Register of March 18, 1972 (37 F.R. 5718). The document referred to a report prepared under the aegis of the Secretary of Interior by a committee of which Dr. Stanley Cain, Director, Institute for Environmental Quality and Professor of Botany and Conservation at the University of Michigan, was chairman. The text of that order and the accompanying findings of fact are incorporated herein by reference. The order cancelled and suspended all uses of sodium cyanide and the other chemicals mentioned.

On January 10, 1974, EPA issued a notice that it would consider applications for the use of a so-called M-44 device and sodium cyanide for coyote control (39 F.R. 2295, January 18, 1974). This was followed by an amendment to the EPA regulations dated January 29, 1974 and effective February 1, 1974 by which a new Section 162.19 was added to the Rules which provided for the filing of experimental use applications for the use of sodium cyanide in a spring-loaded ejector unit as a predator control.

Finally, on July 11, 1975, the Administrator issued the instant notice of hearing which commenced this proceeding. In that notice, it was recited that, pursuant to the foregoing regulations, experimental use permits had been issued as follows:

Texas Department of Agriculture
Montana Department of Agriculture
California Department of Food and Agriculture
Department of the Interior
South Dakota Department of Game, Fish, and Parks
Idaho State Department of Agriculture
Nebraska State Department of Agriculture
Kansas State University
Texas A & M

ISSUES

The issues for determination in this proceeding are whether the following three items constitute substantial new evidence:

1. Four of the seven specific findings concerning sodium cyanide in the 1972 Order were directly related to the issue of human safety. Based on the data gathered in accordance with the applicant's experimental use permit, sodium cyanide when used in the M-44 has been shown to be significantly less hazardous to man than sodium cyanide when used in the explosive device for which it was registered at the time of the 1972 Order and which was known to cause injuries to humans.

2. Based on data derived from studies conducted subsequent to the 1972 Order and submitted by the applicant, use of sodium cyanide in the M-44 device is more selective than use of the chemical in the explosive device and more selective than some other chemical and non-chemical predator control methods.

3. In view of the data submitted by the applicant with respect to significant reduced hazards to humans and the greater selectivity of sodium cyanide when used in the M-44, it is likely that proposed restrictions that might be developed, could be adopted and followed as a matter of practice by trained personnel subject to the supervision or control of the applicant.

These are followed by the following, which have been numbered for convenience:

4. Finally, if the above facts are determined to exist and to constitute substantial new evidence, the hearing must also determine whether such facts require modification of the 1972 Order to permit the regis-

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[1] Exceptions may be filed by the parties pursuant to 40 CFR 164.101 but must be received on or before September 5, 1975. *Note*: This is a correction of the date of September 4, 1975, announced on the record (Tr. 4-64) the fact that September 1 (Labor Day) is a holiday not having been considered.

[2] In the original notice, the exceptions were inadvertently referred to as "a reply brief."

[3] The precise status of the Council is not clear as notwithstanding intervention in opposition has been entered, the Council, by letter dated June 19, 1975, to the Assistant Director of the State Department of Agriculture, has indicated approval.

tration of sodium cyanide for use in the M-44 to control predators in accordance with FIFRA.

5. The determination of these issues shall be made taking into account the human and environmental risks found by the Administrator in the 1972 Order and the cumulative effect of all past and present uses, including the requested use, and uses which may reasonably be anticipated as a result of a modification of the 1972 Order.

Hearings were held on August 12, 13, 14, and 15, 1975, and it was not necessary to seek the three-day extension which was conditionally provided. While arrangements were made to extend the workday for an additional hour on August 13, 14, and 15, the additional time was not required, and the hearing concluded prior to 11:00 o'clock on August 15, 1975. The following appearances of counsel were entered:

David Fisher, Fish and Wildlife Service, U.S. Department of Interior.

Glenn Davis and John H. Midlen, Jr., States of Wyoming and Montana.

George S. Andrews, Special Counsel, State of Wyoming.

Arthur Lee Quinn and Jeffrey Petrash, National Wool Growers' Association, American National Cattlemen's Association, National Turkey Federation, Navajo Nation.

Harold Burke, Assistant Attorney General, State of Oregon.

Richard E. Gutting, Jr., Environmental Defense Fund, Defenders of Wildlife, Friends of the Earth, National Audubon Society, Natural Resources Defense Council, National Wildlife Federation, Oregon Environmental Council, Sierra Club, Animal Protection Institute, Wildlife Management Institute.

Murdaugh Stuart Madden and Roger A. Kindler, Humane Society of the United States.

Ronald McCallum and Colburn T. Cherney, U.S. Environmental Protection Agency.

Proposed Findings of Fact and Conclusions, and Briefs in support, have been filed by Fish and Wildlife Service, Department of Interior, the States of Montana, Wyoming and Oregon, American Farm Bureau Federation, Environmental Defense Fund and the associated environmentalist groups, and Respondent (Assistant Administrator, U.S. Environmental Protection Agency).

FINDINGS OF FACT

1. The M-44 is a mechanical device used to eject sodium cyanide into the mouth of canids when they activate it. It was developed in response to a need to replace the explosive shell of the Coyote Getter. Although serious injuries (14 documented human injuries for 550,000 getter-years of Service use since 1959) were infrequent with the latter, the potential for serious accidents was sufficient to warrant development of an alternative device. The manner of placement, use of scents that are offensive to humans, and elimination of the explosive charge made the M-44 relatively safe for humans.

2. The M-44 is composed of four parts: (1) the case—a sealed, impermeable plastic capsule containing one gram of formulated toxicant (0.88 gram of NaCN); (2) the case holder—a short, hollow tube wrapped with absorbent material to retain olfactory attractant and into which the case is inserted; (3) the ejector—a spring loaded plunger and triggering mechanism which is seated in and fastened to the tube and to which the case holder is fastened; (4) the tube—a hollow metal tube which is driven into the ground to support and anchor the mechanism.

3. Placement in the field is as follows: The tube is driven into the ground; the ejector is cocked, seated into the tube and the trigger mechanism engaged; the case is placed in the case holder which is then fastened to the ejector mechanism previously placed; and last, the absorbent material on the case holder is saturated with an olfactory attractant. Canids drawn to the attractant grasp the case holder by their teeth and pull up, thus triggering the device, which then ejects the sodium cyanide into the animal's mouth.

4. The M-44 device will be used in accordance with formal policies and regulations established by the U.S. Fish and Wildlife Service. This use will conform to all applicable Federal, State, and local laws and regulations.

5. The U.S. Fish and Wildlife Service does not have authority over most lands on which the M-44 device will be used. To assure consideration, input, and approval from all responsible parties, M-44 use in programs on public lands will be controlled by cooperative agreement with appropriate jurisdictional agencies. Use of the device in programs on private lands would be controlled by written and signed cooperative agreement with the landowner or leasee.

6. Each individual M-44 use will be subject to careful analysis at the field level to assure that application is necessary, safe, and effective. Full documentation of livestock depredations, including evidence that such losses were caused by wild canids, or laboratory-confirmed verification that wild canids are, in fact, vectors of a communicable disease such as rabies, will be required before application is undertaken.

7. M-44 devices will be used only in areas specified under programs approved by U.S. Fish and Wildlife Service Regional Directors. They will not be used in: (1) National Parks or Monuments; (2) areas where threatened or endangered species might be adversely affected; or (3) areas where excessive exposure to public and family pets is probable.

8. M-44's or capsules will not be given to, or entrusted to the care of, any person not under the supervision of the Service or other cooperating Government agencies. Care will also be taken to prevent theft or loss and the possibility of subsequent use of the capsules by nonauthorized persons.

9. M-44's will be used in locations and at times that will minimize encounters by humans, pets, and nontarget species. Special concern will be given to hunting and other seasonal use areas.

10. On private lands, M-44's will be used in areas where fencing, topography, seasons, climatic conditions, or other factors normally limit human access, while on public lands, M-44's will be used during those times of the year when use of the particular public land by the general public is at a minimum, or on areas not generally frequented by the public. Specific locations and time periods of M-44 use will be established by the appropriate Bureau representative, based upon land-use information provided by the land administrator and with his concurrence.

11. Warning signs in English and Spanish will be used to provide warning of all areas containing M-44's. Individual unit sites also will be clearly identified to protect persons who might happen upon them.

12. All Service-supervised employees will be instructed in the safe use of M-44's before being entrusted with them, including caution to be exercised to prevent personal injury from accidental discharge of the device.

13. Cyanide antidote kits will be carried by all employees using M-44's.

14. Special precautions will be in effect for the storage and disposal of capsules.

15. M-44 devices will be maintained on a routine basis (at least weekly) in order to replace discharged capsules and damaged warning signs, and to check them for human interference or abnormal conditions. They will be removed when unsafe conditions develop (i.e., new human activity in the area), when livestock depredation losses are stopped, or when evidence of the target species can no longer be found in the area.

16. All accidents involving humans and domestic animals as well as reports of animals taken by the device, will be reported immediately in accordance with established procedures.

17. During the experimental permit period from June 1, 1974 to October 31, 1974 the livestock losses were 3.4 percent before M-44 use was initiated and 0.6 percent during and after their use, or a 2.8 percent reduction in losses (M-44 Efficacy report 1974). This shows the trend but is not an exact loss ratio or solely attributable to M-44's for several reasons: 1, in many cases other damage reduction methods were used simultaneously with M-44's; 2, funding does not allow for absolute search for kills; 3, time periods for collecting the "before" and "after" data are not equal.

18. Data taken from the same field reports, but limited to 2 months after initiation of M-44 use on each area, and including 13 months from June 1, 1974 to July 31, 1975 showed a reduction in sheep and goat losses of 2.9 percent from 3.3 percent before M-44 use to 0.4 percent after use began. The same data shows a reduction of cattle losses (mostly calves) of 3.0 percent from 3.3 percent before M-44 use to 0.3 percent after. Again this shows a trend, but not exact losses or exact loss ratios.

19. An important comparison should be pointed out, that these reductions of whatever size they are, were made where mechanical methods had been unsuccessful thus requiring the use of chemical methods.

20. The relative ratio by which M-44's take coyotes and fox as compared to nontarget species is indicated by data from the USFWS 1974 report which shows a target species take of 95 percent and nontarget species 5 percent. Data from the USFWS 1975 report indicates a take of 88 percent target species and 12 percent nontarget species.

21. The leader of the Predator Ecology and Behavior Project of the Fish and Wildlife Service, with credentials both academic and in research in the field of wild animal populations in general and predators in particular, testified as to the overall results of the FWS use of the M-44 device. In his opinion, the M-44 device is an effective device for achieving temporary reductions in canid populations; the device is selective for canids because of the nature of the attractant and manner of exposure; the risk to populations of nontarget species is minimal; and it is significantly safer for operating personnel than the Humane Coyote Getter. The risks associated with the Humane Coyote Getter, as used in the Federal program, were largely related to mechanical injuries caused by the top wad and sealant which effectively became a projectile. Those risks have been essentially eliminated in the M-44. The potential risk of Cyanide toxemia to operating personnel is present with either device, but evidence from the operational programs suggests that risk is extremely low.

22. Data compiled by the Fish and Wildlife Service indicate that the M-44 device is more selective for wild canids than are steel traps. A study covering the period 1970–1972, during which the M-44 and the Humane Coyote Getter were both used during part of the period, indicates that of the animals taken, 89 percent represented coyotes and foxes, and other species such as bear, bobcat, skunk, badger, raccoon, opossum and porcupine, represented very small percentages of the total. On the other hand, a study made in Mexico, Colorado, and Wyoming of carnivores taken on steel trap lines, indicated that coyotes and red foxes comprised only 27.6 percent of the total taken. Thus while some nontarget animals are taken by the M-44's, they represent a very small proportion and substantially less than the steel traps.

23. A research scientist from the Texas A&M University, testified with respect to certain studies of predator-prey relationships. From these studies, he drew the conclusion

that the M–44 is a selective device for capturing coyotes.

24. While in the 1972 Order the Administrator found that "There is no true effective antidote" with respect to the use of cyanide there considered, the record does not disclose on what that statement or finding was based. The evidence adduced herein indicates antidotes do exist and one of the requirements of the Fish and Wildlife Service will be that every person engaged in placing the devices must carry an antidote kit. There is question as to whether the antidote treatment could be self-administered by a person who might be suffering from the initial effects of poisoning by making an intravenous injection; however, antidotes do exist and the previous finding in 1972 is incorrect.

25. The States of Montana and Oregon offered copies of the rules governing the use of chemical toxicants for predator control in their states and similar rules for the State of Wyoming were submitted.

26. Currently a critical situation exists in the State of Montana due to serious losses to livestock producers caused by predatory animals, primarily coyotes. Present methods of trapping, denning, shooting and aerial hunting are being employed but livestock depredation continues to be a serious problem. Various alternate methods of control are being utilized.

27. On April 4, 1974, the Montana Department of Livestock was granted permission to use the M–44 device for experimental use purposes only. The expiration data on that permit is October 15, 1975. From July 1, 1974 to February 20, 1975, a total of 278 people from 22 counties and an Indian reservation were trained by the Montana Department of Livestock and licensed as government pesticide M–44 applicators. The training consists of techniques for the selection of placement sites, recordkeeping and reporting safety precautions, and various aspects of the use of the M–44 device. Special emphasis was given to environmental and human safety precautions to be observed when using the device and predacide.

28. During these training sessions, all participants were issued an amyl nitrite antidote kit and instructed in its proper use. All applicators were required to submit monthly reports on capsule usage, species taken, and the number of M–44 units in the field.

29. Between July 1, 1974 and June 30, 1975, a total of 608 coyotes, 148 foxes, and 23 skunks, 6 raccoons, 4 dogs, and 1 badger were taken by the licensed applicators in Montana. Coyotes and foxes are the target species for this program and account for 96 percent of the species taken. The Department of Livestock computes the cost of the program per coyote or fox taken as $19.32. This compares to the average cost to take a coyote or fox by the state helicopter, fixed-wing aircraft or state trapper using mechanical methods of $45.00, $25.00 and $200.00, respectively. Thus proving the M–44 to be economically feasible.

30. Montana considers the M–44 device using sodium cyanide to be a selective, efficient, humane, economically and environmentally-safe predatory control tool, and urges its registration.

31. The State of Oregon has adopted a comprehensive system of regulations to implement its application for registration. Those regulations become effective October 15, 1975. Under its program only registered or licensed governmental applicators will be authorized to utilize the toxicant and device, and then only for coyote control.

32. EDF and the opposing group of environmentalists offered the testimony of a field representative for Defenders of Wildlife, Richard L. Randall. Mr. Randall has had life-long experience in varying capacities with livestock and wildlife in the Western areas. He was formerly employed by the Fish and Wildlife Service, or its predecessor, until 1973 when he retired from government service because of injuries suffered in two aerial accidents which occurred while he was hunting coyotes in Wyoming.

33. He has had personal experience in both the Humane Coyote Getter and the M–44. In his experience, use of any predator control was not effective in significantly reducing losses due to predation. Randall believes that the M–44 presents a potential danger to children and others who may be attracted to the devices by the warning signs posted. He indicates that there is much vandalism of the devices by persons damaging them with rocks or running over them with vehicles and that many who disapprove of their use deliberately set them off and therefore they present a hazard to that group of people. Randall perceives no objection to the registration of the M–44 device provided adequate restrictions on its use are promulgated. While he did not specify the particular conditions he deemed appropriate, one of his principal criticisms was in opposition to placing the devices on or near roads. He does not believe that the M–44 is any more effective or selective than its predecessor the Humane Coyote Getter.

34. The foregoing facts constitute substantial new evidence which was not available to the Administrator when he issued his March 1972 order, and could not have been presented or discovered by parties to that matter in view of the lack of a proceeding.

35. Based on the data gathered in accordance with the applicant's experimental use permit, sodium cyanide when used in the M–44 has been shown to be significantly less hazardous to man than sodium cyanide when used in the explosive device for which it was registered at the time of the 1972 order and which was known to cause injuries to humans.

36. The use of sodium cyanide in the M–44 device is more selective than use of the chemical in the explosive device and more selective than some other chemical and nonchemical predator control methods.

37. It is also apparent that with appropriate restrictions as hereinafter discussed, the use of the M–44 should be approved and that the 1972 order should be modified accordingly.

CONCLUSIONS

The evidence is clear that the conditions of use of the M–44 as embodied in actual practice under the experimental use permits avoid most if not all of the dangers mentioned in the 1972 order. The testimony of the only witness in opposition tends to confirm this fact rather than controvert it. While apparently disagreeing that the M–44 is more selective than the former Humane Coyote Getter, that witness' statement was a general observation unsupported by data, and actual data of record establishes the contrary.

While the evidence presented might be considered lacking in the niceties of politico-economic analysis, when consideration is given to the subject-matter, i.e. wild animal predators, and the vast undeveloped areas in which these devices are utilized, the data presented indicate that the benefits of the proposed use greatly outweigh the risks which are shown to be minimal. A precise dollar evaluation of benefits versus risks, however, is not possible.

OPPOSITION CONTENTIONS

EDF contends it has been denied due process of law and a fair and proper hearing, and in support offers five contentions of procedural errors.

1. *Intervention by Oregon:* EDF points out that the initiating notice of July 11, 1975, provided that motions to intervene were to be filed no later than August 6, 1975. It also provided for states to file M–44 applications and allowed for their filing by July 31, 1975, to be reviewed and then made subject to a determination by the Administrator as to whether they qualified under Subpart D of the Rules. That determination was not made until the August 8, 1975 Notice, or after the date for filing interventions as such. As Oregon became an applicant on that date, it was appropriate that it become a party and offer evidence in support of its application. It should be noted that such evidence dealt with the manner in which the program would be administered within Oregon, but did include a letter of the Oregon Environmental Council expressing approval of these applications.

2. *Application dates:* EDF contends the August 8, 1975 Notice "ruled that applications received after this date [July 31, 1975] would be considered." No such language is contained in the Notice, which lists the applications received "on or before July 31, 1975." It therefore cannot be determined what the basis of this objection may be.

3. *Irrelevant material:* Throughout the hearings EDF objected to any evidence beyond the issues 1 and 2 above, dealing with human hazards and selectivity, and thus asserts that irrelevant material was received. In taking this position, EDF ignores issues 4 and 5 in the initiating order as summarized above and cites no testimony which is irrelevant to those issues.

4. *Special Rules:* EDF points out that the Special Rules issued by the Presiding Officer provided for submission of all testimony on applications in writing and the distribution to parties on August 7, 1975, but that it did not receive the Oregon and Montana exhibits until after that date. As noted above, the Order incorporating those applications was not issued until August 8, 1975, and being proper parties provision for their testimony was required. In any event, EDF received the testimony in advance of the witness taking the stand and had opportunity for prior review; there is no indication that EDF was in any way prejudiced by this procedure.

5. *Underlying data:* EDF correctly points out that the Special Rule (Report of First Prehearing Conference) provided that data must be made available by the proponents of exhibits or expert testimony, but alleges testimony was allowed where such was unavailable to EDF, citing two references to the transcript. Those references indicate that EDF did in fact have the underlying studies when questioning the witness, and afford no support for its contention. Further, the record indicates that where a witness had failed to supply the complete article from which he had quoted excerpts, the proposed testimony was stricken (Tr. 2–22). Moreover, with respect to the Special Rules which were discussed at the Prehearing Conference of July 30, 1975, various counsel, including EDF, urged that provision be made for special situations, and the Administrative Law Judge indicated that such would be entertained. (Tr. 1–28).

6. *Subpoena of EPA official:* A witness in the course of his testimony stated that an EPA official had told him the present applications would be granted. Later, EDF requested and was denied a subpoena requiring that official to testify and be cross-examined, on the grounds of relevancy. The decision-making process, in this instance, involves the Administrative Law Judge in the first instance and the Administrator, or his delegee, in the second. The views of staff members outside of this record are irrelevant unless it would appear to be related to the development of "secret law" as to which there is no indication here. Compare *Sterling Drug Inc. v. F.T.C.*, 4502d 698 (1971).

Applicability of Section 102 of the National Environmental Policy Act: On brief, EDF also contends that Section 102(2)(c) of the National Environmental Policy Act (NEPA) [83 Stat. 852; 42 U.S.C. 4332(2)(c)] requires that an environmental impact statement (EIS) is a prerequisite to the FWS application, and that its absence prevents any modification of the 1972 Order. In support, it offers a quotation from *Aberdeen and Rockfish Railroad et al. v. S.C.R.A.P.* (—— U.S. —— No. 73–

1966, June 24, 1975). The quotation is *dictum* in a case in which such a statement was held not to be required, and affords little guidance here. The issuance of the initiating notice herein, by the Administrator in the absence of an EIS, necessarily represented a determination by him that none was required. With regard to EPA itself, none is required and this proceeding does not fall within those as to which the Administrator has announced a voluntary program of preparing the EIS. See Statement of Policy and Procedures, 39 F.R. 16186 and 37119.

Effect of E.O. 11870: EDF contends the present FWS proposal is prohibited by Executive Order No. 11870 (July 18, 1975) (40 F.R. 30611) which amended Executive Order No. 11643 of February 8, 1972, by citing Section 3(c) thereof which deals with programs limited to one year. But this proceeding would be governed by Section 3(b), and no doubt represents the consultation with EPA which is required.

Section 3 of FIFRA: Finally, EDF contends the applications do not meet the requirements of Section 3 of FIFRA by asserting that the proposed use would have "unreasonable adverse effects on the environment." No attempt is made to justify the assertion, but reference is made to 40 CFR 162.11 of the recently issued Registration rules, effective August 4, 1975. But this proceeding is subject to Section 18 of FIFRA, as well as Section 3, and is governed by Subpart D of the Rules (40 CFR 164.130) and the statement of issues herein.

RESTRICTIONS

The Respondent in this proceeding (Assistant Administrator of EPA), on brief, urges the modification of the 1972 Order to permit the registration of sodium cyanide for use in the M-44 device to control canid predators subject to the 26 numbered conditions or restrictions set forth in the Appendix hereto.

These restrictions are based on the statements of intended use by the applicant witnesses herein or may reasonably be inferred from their testimony and appear to be appropriate in the light of the record. They also appear to meet the suggested restrictions offered by EDF in the alternative that their challenge of the proceeding is not accepted, and accordingly, the approval granted herein will be made subject to those restrictions.[4]

ULTIMATE FINDINGS AND CONCLUSIONS

In view of the foregoing, the 1972 Order should be modified to permit the registration of the M-44 device by the applicants herein subject to the conditions set forth in the Appendix hereto.

FREDERICK W. DENNISTON,
Administrative Law Judge.

August 29, 1975.

APPENDIX A—RESTRICTIONS

1. Use of the M-44 device shall conform to all applicable Federal, State, and local laws and regulations.

2. The M-44 device shall be used only to take wild canids suspected of preying upon livestock and poultry.

3. The M-44 device shall not be used solely to take animals for the value of their fur.

4. The M-44 device shall only be used in instances where actual livestock losses due to predation by wild canids are occurring. M-44 devices may also be used prior to recurrence of seasonal depredation, but *only* when a chronic problem exists in a specific area. In each case, full documentation of livestocks depredation, including evidence that such losses were caused by wild canids, will be required before application of the M-44 is undertaken.

5. The M-44 device shall not be used in: (1) National or State Parks; (2) National or State Monuments; (3) Federally designated Wilderness areas; (4) Wildlife refuge areas; (5) Prairie dog towns; (6) Areas where exposure to the public and family pets is probable.

6. The M-44 shall not be used in areas where threatened or endangered species might be adversely affected. Each applicator shall be issued a map which clearly indicates such areas.

7. The M-44 device shall not be placed within 200 feet of any lake, stream, or other body of water.

8. The M-44 device shall not be placed in areas where food crops are planted.

9. M-44 devices shall not be placed within 50 feet of public rights-of-way.

10. The maximum density of M-44's placed in any 100-acre pastureland area shall not exceed 10; and the density in any one square mile of open range shall not exceed 12.

11. The M-44 device may be placed in the vicinity of draw stations (livestock carcasses); provided, that no M-44 device shall be placed within 30 feet of a carcass; no more than 4 M-44 devices shall be placed per draw station; and no more than 3 draw stations shall be operated per square mile.

12. M-44 devices shall be inspected at least once a week to check for interference or unusual conditions and shall be serviced as required.

13. Used sodium cyanide capsules shall be disposed of by deep burial or at a proper landfill site.

14. An M-44 device shall be removed from an area if, after 30 days, there is no sign that a target predator has visited the site.

15. Damaged or non-functional M-44 devices shall be removed from the field.

16. In all areas where the use of the M-44 device is anticipated, local hospitals, doctors, and clinics shall be notified of the intended use, and informed of the antidotal and first-cyanide poisoning.

17. Bilingual warning signs in English and Spanish shall be used in all areas containing M-44 devices. All such signs shall be removed when M-44 devices are removed.

a. Main entrances or commonly used access points to areas in which M-44 devices are set shall be posted with warning signs to alert the public to the toxic nature of the cyanide and to the danger to pets. Signs shall be inspected weekly to insure their continued presence and insure that they are conspicuous and legible.

b. An elevated sign shall be placed within 6 feet of each individual M-44 device warning persons not to handle the device.

18. Registrations for sodium cyanide M-44 capsules may be granted to persons other than State and Federal agencies; provided, that such persons shall be authorized to sell said capsules only to State and Federal registrants. Only State and Federal registrants shall be permitted to sell, give, or otherwise distribute capsules to individual applicators. Such State or Federal registrants of sodium cyanide M-44 capsules shall be responsible for insuring that the restrictions set forth herein are observed by individual applicators to whom such registrants sell or distribute such capsules and/or M-44 devices. State and Federal registrants shall train applicators, and such training shall include, but need not be limited to: (1) Training in safe handling and placement of the device; (2) Training in the proper use of the antidote kit; (3) Instructions regarding proper placement of the device; and (4) Instructions in recordkeeping.

19. Each authorized M-44 applicator shall keep records dealing with the placement of the device and the results of each placement. Said records shall include, but need not be limited to:

1. The number of devices placed.

2. The location of each device placed.

3. The date of each placement, as well as the date of each inspection.

4. The number and location of devices which have been discharged and the apparent reason for each discharge.

5. The species of animal taken.

6. All accidents or injuries to humans or domestic animals.

20. M-44 devices and capsules shall not be sold or transferred to, or entrusted to the care of, any person not licensed by, or under the supervision of a State or Federal registrant.

21. All persons authorized to possess and use M-44 capsules and devices shall store said devices under lock and key.

22. Each authorized M-44 applicator shall carry an antidote kit on his person when placing and/or inspecting M-44 devices. The kit shall contain 12 pearls of amyl nitrite and instructions on their use. The kit may also contain sodium nitrite and sodium thiosulfate.

23. One person other than the individual applicator must have knowledge of the exact placement location of all M-44 devices in the field.

24. Supervisors shall periodically check the records, signs, and devices of each applicator to verify that all applicable restrictions, laws, and regulations are being strictly followed.

25. In areas where more than one governmental agency is authorized to place M-44 devices, the agencies shall exchange placement information and other relevant facts to insure that the maximum number of M-44's allowed is not exceeded.

26. Registrants and applicators shall also be subject to such other restrictions as may be prescribed from time to time by the U.S. Environmental Protection Agency.

[4] It is noted that by letter of August 27, 1975, counsel for the State of Montana takes exception to proposed restrictions No. 2, 14 and 22. No provision was made for such a filing, which is essentially a reply brief, and time does not permit provision therefor, and they have not been considered. They may, of course, be renewed on exceptions.

THE 1975 CROP DISASTER PROGRAM

Mr. McGOVERN. Mr. President, during my travels in South Dakota over the congressional recess, one of the persistent complaints I received was the manner in which the U.S. Department of Agriculture was administering the current crop disaster program. Prolonged drought and hot weather severely damaged our South Dakota corn crop. Similar conditions prevailed in 1974. However, this year the Department's administration of the program has had the net effect of costing farmers in my State almost $10 million. Crop disaster payments of about 46 cents per bushel is little enough to assist a farmer with little or no corn in his fields. The Department's formula of docking the producer 7 bushels of corn for each ton of silage he can salvage has about cut the program in half.

Robert N. Duxbury, the secretary of the South Dakota Department of Agriculture has sent me a copy of a well-reasoned letter to Secretary Butz on this question. For the information of my colleagues, I ask unanimous consent that the text of this letter be printed in the RECORD.

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

SOUTH DAKOTA
DEPARTMENT OF AGRICULTURE,
Pierre, S. Dak., August 28, 1975.

Hon. EARL L. BUTZ,
Secretary of Agriculture,
U.S. Department of Agriculture,
Washington, D.C.

MY DEAR MR. SECRETARY: I am sure you agree with me that if we are to have a disaster program, it should be administered as

efficiently as possible and be designed, as nearly as possible, to help those who need it most. I believe that the changes you have made in this year's program, primarily that all silage produced will count against production when determining the producer's disaster payment, is counterproductive to that intent.

It is difficult to understand, for example, why we should further penalize the grain producer, who has seen his total crop wiped out by drought, by requiring any silage he may salvage be used to reduce his disaster payment.

Some of my reasonings are as follows:

1. The payment of 46c per bushel is very small in comparison to his production costs and can only be considered a token amount to help him survive until next year. To take any part of that away is unfair, especially from those hardest hit.

2. If he raised the crop for grain only and has no way of utilizing the silage, he must sell it. However, in many areas in this state there will be little or no market for the silage because of the excess supplies available due to the drought.

3. Selling silage is a marketing method unfamiliar to him and the humus lost to the soil because the stalks are not plowed down becomes another cost to his operation.

The above illustration relates some of the hardship endured by one type of producer but similar justification can be made for others. I recognize that it is very difficult to administer a national program that treats everyone fairly but I would argue that last year's program was a great deal more fair to our drought-stricken producer than the present one. *I urge you to return to the practice of making disaster payments to the grain producer on the basis of his grain production and to the silage producer on the basis of his silage production.*

Another very important concern that I have is not new but is more relevant today than in past years. The regulation that requires total production from all acres, including those planted in excess of allotment, be counted against the total allotted production is grossly unfair. If the producer responded to your urging of all-out production, he is now penalized for doing so when he is faced with drought. Surely, if we are to help the drought-stricken producer, we should not penalize those that cooperated the most. While I believe he has a right to be paid on *all* his planted acres, he should at a minimum be paid on his allotted acres. *However, I can see no justification in having his "excess acres" used against him. I urge your immediate attention to remedying this injustice.*

In conclusion I would like to point out some injustices in the conversion ratio of silage corn that is used in computing the disaster payment. In South Dakota this ratio is one ton of silage equals seven bushels of corn. My understanding is that this is computed by taking a five-year state production average. In the case of corn, the acres harvested for grain are divided into the total grain production and the acres harvested for silage are divided into the total silage production and the ratio of those two yields is the conversion ratio that is assigned to the state. Three reasons I think this to be unfair are:

1. On most farms, particularly those that utilize part of their acreage for grain and part for silage on a regular basis, acres harvested for grain will be the best corn and those harvested for silage the poorest. Thus, the conversion ratio becomes distorted and unfair and should be substantially lower.

2. A seven-to-one ratio implies that the worth of one ton of silage has a dollar value worth of seven bushels of corn. Figuring corn at only $3 per bushel, the implication then is that one ton of silage is worth $21.

I have studies before me from the University of Nebraska, Lincoln, made in July of 1974, that estimates the worth of immature drought corn compared with that of alfalfa hay. An example of this study indicates that when alfalfa hay is worth $40 per ton, 25% dry-matter corn silage is worth $4.53 a ton and 20% dry-matter corn silage worth only $2.62 a ton. These figures are extremely smaller than the worth allotted to it on the seven-to-one conversion ratio.

3. The conversion ratio fails to recognize the extra cost per ton in harvesting poor yielding silage in comparison to that which is higher. This has the effect of helping the least those producers who need it the most.

Producers and adjusters in South Dakota have told me that producers are developing a very frustrated attitude when they see any small payment that they think they have coming reduced even further when they salvage any silage from that acreage.

Mr. Secretary, I hope my points are favorably considered. I earnestly request that you act favorably to help keep our producers on the land so that they might continue to supply us with food and fiber.

Sincerely,

ROBERT N. DUXBURY,
Secretary, South Dakota Department of Agriculture.

ADDRESS BY SECRETARY OF THE NAVY J. WILLIAM MIDDENDORF II

Mr. THURMOND. Mr. President, during the recess, the American Legion held its annual convention in Minneapolis, Minn.

On August 15, Secretary of the Navy J. William Middendorf II spoke to the National Security Commission. In his remarks Secretary Middendorf discussed the role of the U.S. Navy in wake of the recent buildup in Soviet seapower. His remarks and his assessment of our naval capabilities are timely and important.

Mr. President, so my colleagues will have an opportunity to review the Secretary's speech, I ask unanimous consent that the address by Secretary Middendorf before the American Legion National Security Commission be printed in the RECORD.

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

ADDRESS BY J. WILLIAM MIDDENDORF II

It is a pleasure to be here in Minneapolis to address you, the leaders of the American Legion. Since its founding in 1919, the American Legion has supported the concept that the greatest benefit a nation can give its citizens is to insure their individual liberty, security and freedom. And I can assure you that every man and woman of the United States Navy and Marine Corps appreciates that support.

At the 56th National Convention of the American Legion, held in Miami Beach last August, Resolution #279 was passed. That Resolution petitioned, in part, to:

"Take immediate steps to restore the United States to a position of global naval supremacy and appropriate adequate monies to ensure the fastest possible modernization of our Navy with emphasis on a balanced sea control force of aircraft carriers, aircraft, other surface ships and submarines."

I think this Resolution is a tremendous example fo the foresight, wisdom and dedication to this nation which the American Legion has shown for the last 56 years.

Your resolution comes at a most appropriate time. For the first time in this nation's history we are challenged by a powerful threat from the sea. For the last 200 years the Atlantic and Pacific Oceans have been a protective cloak for America, protective buffers which enabled our first President, George Washington, to warn against "intangling alliances."

Today this protective cloak is infested with deadly spiders. This very day stealthy Soviet ballistic missile submarines—the "jaws" of Soviet seapower—are on patrol off both our coasts. And Soviet surface ships have circumnavigated one of our states—Hawaii.

The build-up of the modern Soviet Navy is unprecedented. From a coastal defense navy in the 1950's, the Soviets have, since 1962, outbuilt us in every category of ship except aircraft carriers. Today the Soviet Navy has more than two and a half times the number of submarines as your Navy and almost twice the number of major surface combatants as the U.S. Navy.

The Soviets have deployed aboard their ships highly sophisticated sensors, electronics and offensive and defensive weapons systems. They have developed an arsenal of some 20 types of anti-ship capable missiles and their variants. Having ranges from 20 to 400 miles, these missiles can be fired from aircraft, surface ships, and submerged submarines.

You may justifiably ask: "Why? Why this tremendous naval build-up?" Quite frankly, a major emphasis of the Soviet Navy is the capability to interdict U.S. and allied sea lines of communication.

The second question you may rightly ask is what are we doing about it? I would use this forum to answer that question and to discuss the direction the Navy is going in meeting the defense needs of our country. At the outset it is not the Navy of today that is of concern. The ships and aircraft of today's Navy—like the nuclear-powered aircraft carrier NIMITZ which was commissioned on May 3 or the sophisticated F-14 TOMCAT fighter aircraft—are the results of decisions made in some cases ten or more years ago. And therefore it is the Navy of the 1980's that is our major concern. The ships of that fleet may be only concepts today. But they will be active units of the fleet well into the next century.

There has been of late much public discussion on the adequacy of our naval forces. This discussion is based, in part, on the recognition of the following facts:

In June, 1968, the U.S. Navy had a total active fleet of 976 ships, including 15 attack aircraft carriers and 8 anti-submarine warfare carriers.

A great number of these ships were of World War II vintage and were rapidly approaching technical and material obsolescence. The Navy decided to retire these ships, reduce the size of the active, and invest in new ships with the funds made available.

At 1000 on August 13, the World War II vintage fleet oiler NAVASOTA (AO-106) was decommissioned in San Diego. While this event went unheralded, as a simple change of command ceremony, the Navy now has an active fleet of just 482 ships, less than half the number of ships in the fleet in 1968 (976), and representing the smallest fleet since mid-1940—a year and a half before Pearl Harbor (460 ships June 30, 1940).

We therefore face one of the most significant challenges to our maritime superiority since the end of World War II. That challenge is to rebuild the U.S. fleet to such a size and having sufficient ships of various capabilities that it can do the job assigned in support of our national strategy.

In order to meet this challenge, we must first establish the force requirements—the minimum number and kinds of ships we need to do the job.

How big a Navy do we need? One thousand ships, eight hundred ships, seven hundred ships? There are justifications for each of these force levels.

A navy—just like its sister services—exists to support national policy, and its adequacy must be judged according to that standard.

And maritime power is a substantial element in the total continuum of the national strategy of the United States.

Therefore, the process of determining the direction, the size and compensation of the Navy is based on four logical steps:

(1) Define the national strategy which the Navy must support.

(2) Assess the potential threats to that strategy.

(3) Assess the prudent and acceptable risks we take in the judgmental process.

(4) Establish an objective force level requirement designed to carry out national strategy.

In defining our national strategy, more concepts than strict military issues must be taken into account. Indeed, history, geography, economics and politics all exert a unique effect on our national interest and our resultant national policy.

By geographical considerations alone, the United States is, in the strictest sense, an island nation. Having a shoreline exceeding 88,000 miles in predominantly temperate climates, the United States enjoys free and unlimited access to the two, major oceans of the world.

The land borders of the United States adjoin nations with whom we have enjoyed most open and friendly relations for more than a century. Indeed, ourt 5,525-mile border with Canada and our 1,933-mile border with Mexico are the longest non-fortified national boundaries in the world.

Furthermore, since the seaborne British invasion during the War of 1812, the United States has been free from foreign invasion.

The American historical experience and geographical considerations have had a significant effect on the development of our international political, economic and resultant military structures.

The emergence of the United States as a world power was the result of the rapid expansion of our industrial base and the coincident development of foreign trade. During the period from our industrial development up until the end of World War II we were relatively self-sufficient in abundant energy and cheap raw materials. Today, with only 7% of the world's population, we consume about 40% of these raw materials. Although we today still have vast quantities of natural resources, we must now import significant quantities of these increasingly expensive raw materials and energy sources to support our industrial base. The day of cheap, readily accessible raw materials and energy sources, upon which the industrial might of this nation was founded, is long since past and never to return.

A more important consideration is the volume of our foreign trade, the lifeblood of our economy, that moves by sea. It is estimated that more than 70% of U.S. trade is with nations other than the two contiguous states of Canada and Mexico. And more than 99% of our raw materials and overseas foreign trade moves by sea.

These factors have in turn affected our alliance structure. Other than Canada and Mexico, all of the allies of the United States are overseas. Our allies of western Europe and Japan are themselves maritime nations. Indeed the western alliance is an oceanic alliance, and without the capability for full and free utilization of the seas the effectiveness of our alliance structures are seriously undermined.

It is these oceanic factors that contribute to the development of our national strategy. As a component of national strategy, the function of military strategy is to support the national interests by:

(1) Deterring the outbreak of war and other infringements on U.S. interests.

(2) Contributing to international stability through the maintenance of a balance of military power.

(3) By maintaining a war-fighting capability to respond to crisis ranging from a minor confrontation to global war.

U.S. military forces implementing this strategy therefore must not only be optimized to meet the challenge of our geography, but must also be adapted to the functional concerns associated with the expansion of the military capabilities of our potential adversaries, the vulnerability of our critical imports, the continued viability of unilateral U.S. interests outside our alliance areas, and the fragility of regional power balances.

In Europe, substantial forward-based ground forces together with naval forces will continue to preserve the credibility of NATO, provided there is a demonstrable link to the capability of the U.S. to augment these forces, resupply them and provide reinforcement.

Elsewhere in the world, forward afloat deployed forces and sea-mobile tactical air forces, supported by a quick-reaction strategic reserve, can fulfill most U.S. defense commitments, including the projection of power when necessary.

Therefore, U.S. national and military strategy is intimately tied to the ready availability of naval forces structured to support the basic concept that control of the sea is absolutely vital to our national interests.

Your Navy is, then, the forward deployed arm of the United States. It functions as a protective buffer to keep the threat as far away from our shores as possible, as a shield to guard the arteries of commerce of this nation and our allies, and as a visible manifestation of the presence of the United States protecting our interests around the world.

However, from a naval point of view, the coincident reduction of the size of our fleet and the impressive build-up of the Soviet Navy pose a significant threat to this maritime strategy. Our nation is no longer in the dominant position at sea that we have enjoyed until recently. There are now two powerful navies on the high seas instead of one.

The only valid comparison of these two navies is whether each can carry out its missions in suppport of its role in the national strategy. To put it simply, our mission is to control the seas, theirs is to deny us this control.

The U.S. Navy has a substantial lead in aircraft carriers, while the Soviet Navy numbers many more ships. While certain classes of ships are common to both fleets—such as destroyers (DD) and nuclear-powered attack submarines (SSN)—the U.S. Navy has no cruise missile equipped submarines, nor does the Soviet Navy have attack aircraft carriers. The existing deployment patterns of the two fleets are different. U.S. deployments may best be characterized as a continuous maintenance of commitments. Soviet deployments vary radically in size, and appear to be directed toward developing the capability of concentrating the naval forces necessary to achieve a particular goal for a limited period of time.

Comparing individual ships is no less difficult than comparing the fleets as a whole. Aside from the readily apparent difficulty in comparing different ship classes—e.g. a U.S. attack aircraft carrier vs. a Soviet cruise missile submarine—a wide variance of capabilities and characteristics is found within common ship classes. Different design philosophies result in trade-offs among the various uses to which a ship's internal volume and topside weight might be put. In general Soviet designs emphasize lightweight, high maneuverability and great offensive firepower—with little apparent emphasis on reload capability perhaps relying on a "First Strike" concept. U.S. designs on the other hand stress endurance, survivability and habitability.

In view of these strategic considerations, the threat posed by potential adversaries and the shrinking size of the U.S. Navy, a critical national security issue we face is the size and structure of the U.S. Navy.

Our solution to this critical issue is a balanced objective force level of 600 active ships in the U.S. Navy by the mid-1980's. This active fleet is built around 13 to 15 aircraft carriers and 190 to 220 surface combatants.

The following considerations are relevant in determining the composition of this 600 ship force level:

(1) With a balanced fleet of 600 active ships, their aircraft, supplemented by reserve forces, the U.S. Navy can with confidence carry out its most important tasks in the event of conflict with any potential adversary.

(2) We presently maintain four to five continually deployed task groups and Marine Amphibious Units required to support our overseas national policy. With an evaporating overseas base structure and regional uncertainties, it is unlikely that the Navy's forward-deployment responsibiilties will diminish.

(3) The Navy must have the flexibility for operational fleet response to reinforce deployed ships and have the capability to meet—simultaneously—more than one situation of potential conflict.

The key element in this naval strategy remains the aircraft carrier. As a mobile, forward-deployed base, the aircraft carrier remains today that single platform which is capable of carrying out all the missions of the U.S. Navy.

Yet we have reached what I call the "fiscal crunch." There is no question that the NIMITZ-class nuclear-powered aircraft carrier is the most complex weapons systems in the world. Yet the cost of these ships has risen to a point where we must now choose between small numbers of these sophisticated and expensive carriers or larger numbers of smaller, less complex and therefore less expensive aircraft carriers.

We are therefore studying extensively the construction of a new class of aircraft carrier. This ship would be smaller than our NIMITZ-class carriers and displace about two-thirds the tonnage of the 90,000 ton NIMITZ. What we would lose in single-ship capability we would gain in having numbers available to meet the vast majority of anticipated commitments.

Aircraft carriers of these classes, along with very sophisticated ships at the high end of the spectrum and less sophisticated, less expensive ships designed to carry their missions in low threat areas, will be a key element in the Navy in the future.

We have reached a critical juncture in the history of the U.S. Navy and our Nation.

On the one hand, since 1968 as a result of the Vietnam War and a reordering of fiscal priorities, the Navy undertook the construction of 119 new ships—an average of only 13 ships per year. Were this trend to continue, it would result in a Navy of substantially less than 450 ships by 1980.

On the other hand, the President and the Congress have recognized the need for more ships to modernize the Navy. Last year 23 new ships were approved. However, in order to reach the objective of a 600 ship Navy, arithmetically this nation would have to build an average of at least 35 new ships a year starting next year.

In my judgment, it is critical that we preserve this shipbuilding momentum in order to ensure maritime superiority.

A great American, Chairman George Mahon of the House Appropriations Committee said only last week at the launching of the *USS Texas:*

"It is well to remind ourselves that defense is expensive, but the lack of defense is even more expensive. The first priority is to keep the citizen alive and to keep the citizen free."

In closing, I would quote the words of our President:

"I deeply believe that the vast majority of our citizens today want to maintain American sea, land and air forces that are second to none.

"Let it never be said that our generation allowed American seapower to erode into a second class status. Let it never be said that

we permitted our Merchant fleet to disappear by attrition.

"Only a strong America, an America strong of will, strong of purpose, can be an effective force for peace in a troubled, modern world and a strong Navy and Merchant Marine are essential to a strong America."

GENOCIDE—TWO ASPECTS

Mr. PROXMIRE. Mr. President, everyone seated here today knows that the outrageous act of murdering in whole or in part a national, ethnical, racial, or religious group is known as genocide. However, the term "genocide" encompasses much more than mass executions. It refers to subjecting people to life in a concentration camp. Immediately one thinks of the Germans loading "enemies of the Third Reich" into cattle cars and shipping them off to such unthinkable places as Auschwitz, Dachau, or Bergen-Belsen.

We are all too familiar with the brutal slaughtering process which took place, but yet we also know that there were survivors. These people survived because they were strong, because they prostituted their bodies, because they worked like dogs under intolerable conditions, and because they were used as guinea pigs for new, mysterious and harmful drugs. This is also genocide. No government, at any time, at any place has the right to impose a life worse than death on its inhabitants. Such low, demeaning treatment of human beings should be condemned by the United States and indeed would be when this Congress acts to ratify the treaty outlawing genocide.

One need only to read the famed Nobel Prize winner, Alexandr Solzhenitsyn, to realize that Nazi Germany was not the only nation guilty of committing genocide. When people are awakened at night only to disappear in Siberia it is also a form of genocide. In fact, any nation which sets out with the purpose of brainwashing is guilty of genocide. When a group of people is no longer able to think freely—when they are beaten, tortured, killed for speaking against the government it is a form of genocide.

When people are no longer able to pray as they choose, when Christians are being fed to the lions and Jews marched to the gas chambers it is genocide. When governments subject people to forced labor as is presently going on in some parts of the world it is genocide. When a government designates certain people to be the recipient of unproven drugs which could cause mental and emotional anguish or even possible death it is genocide. All in all, genocide is much more than merely killing people. It is a mental condition as well as a physical condition.

Laws are established to promote an orderly society and to set up a moral code of do's and don'ts. If genocide is legally permissible then we cannot expect nations to refrain from the infringement of human rights. We know genocide has happened in the physical sense. We know genocide is happening in the mental sense. We also know that we want to eliminate genocide in the future in all senses. To do that, action must be taken.

S. 1110—COUNCIL ON JUDICIAL TENURE

Mr. GARN. Mr. President, earlier this year I cosponsored, with Senator NUNN, S. 1110, a bill to create a Council on Judicial Tenure, which would alleviate the problem of disabled judges and judges whose performance is inconsistent with the standards of the Federal judiciary. Such a Council has been called for by the Chief Justice of the Supreme Court, and has been recommended by many conferences of jurists and lawyers.

Recently, at the 1975 annual meeting of the Conference of Western Attorneys General, a resolution in support of S. 1110 was adopted. I believe this action shows again the support for such legislation, and I urge the Judiciary Committee to hold hearings on this bill as soon as they can be scheduled. In this day of concern for the rights of the accused, and for the rights of the victims of crime, we cannot tolerate less than the best in our judicial system.

Mr. President, I ask unanimous consent that the text of the resolution adopted by the Western Attorneys General be printed in the RECORD.

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

II. JUDICIAL TENURE

Whereas, a bill designated S1110 has been introduced in the United States Senate to establish a Council on Judicial Tenure within the judicial branch of the government, to establish a procedure to effect the retirement of disabled Justices and judges of the United States and to remove Justices and judges whose conduct is or has been inconsistent with the good behavior required by article III, section 1 of the Constitution; and

Whereas, this bill has been approved in principle by the Federal Judicial Council and endorsed by Chief Justice Warren E. Burger; and

Whereas, the National Association of Attorneys General adopted a resolution at its meeting in San Diego, California in December, 1972, calling for the creation of a Council on Judicial Tenure; and

Whereas, it is of utmost importance that the standard of conduct by Federal Judges be of the highest order;

Now, therefore, be it resolved that the Conference of Western Attorneys General endorses and urges passage of S1110 and recommends to Congressional delegations of said states that they support passage of this bill; and

Be it further resolved that the Secretariat furnish each Congressman and Senator from the states represented by this Conference with a copy of this resolution, and that copies also be sent to the Federal Judicial Council.

PROPOSED SALE OF HAWK MISSILES TO JORDAN

Mr. SPARKMAN. Mr. President, on July 10 the Department of Defense submitted information, as required in section 36(b) of the Foreign Military Sales Act, in regard to a proposed arms sale of Hawk missiles to Jordan. Under normal circumstances, the Congress would have had 20 calendar days during which the sale could have been prohibited by means of concurrent resolution.

In this instance, the Department of Defense decided to resubmit the proposal to allow consideration by the Congress following the August recess. The Committee on Foreign Relations has just received the final notification of the proposed sale.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD the notification I have just received.

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

OFFICE OF THE DIRECTOR DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 3, 1975.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Foreign Military Sales Act, as amended, we are retransmitting under separate cover Transmittal No. 75-40c, concerning the Department of the Army's proposed Letter of Offer to Jordan for the Hawk Air Defense System.

This retransmittal is submitted in order to provide a review period after the Congressional August 1975 recess.

Sincerely,

H. M. FISH,
Lieutenant General, U.S.A.F.

TRANSMITTAL No. 75-40c

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Foreign Military Sales Act, as amended.)

a. Prospective Purchaser: Jordan.

b. Total Estimated Value: (Deleted).

c. Description of Articles or Services Offered: Improved Hawk Air Defense Equipment. [D] Batteries with supporting test equipment, current spare parts and [D] Improved Hawk Missiles.

d. Military Department: Army.

e. Date Report Delivered to Congress: 3 Sep. 1975.

IMPROVING RELATIONS WITH ARGENTINA

Mr. HELMS. Mr. President, a few months ago, I had the privilege of visiting Argentina and visiting there with a number of its distinguished citizens. The visit was most illuminating for me, because it opened up to me the fact that many of our Latin American friends have difficulty in getting the attention of the United States for their problems. Too often our attention has been engaged elsewhere, and our relations with Latin America have suffered because we have ignored differences between us when such differences have arisen.

At a luncheon with the Argentine Rural Society, I met a group of distinguished agricultural and business leaders, where we discussed this problem. Among them was Señor Julio Werthein, who subsequently sent me a memorandum which I have earlier discussed on this floor.

Recently, the President of the Argentine Rural Society, Señor Celedonio V. Pereda, has also sent me such a state-

ment, containing suggestions as to ways in which we could ease our restrictions so as to help the marketing of the Argentine meat production. I do not necessarily endorse the substance of every suggestion which Señor Pereda has made; there are others who are more familiar with the impact such actions would have on the health and safety of meat imports. But I applaud the practical spirit with which Señor Pereda's suggestions are made. They are reasonable proposals and a good starting point for discussions. The beef industry worldwide is hard pressed, but it particularly hits Argentina because the Argentine agricultural industry depends so heavily on its beef and its internal currency is pressed by inflation. Perhaps some of these proposals could help Argentina compete for its share of our beef import market.

What I endorse, therefore, is the friendly discussion of such problems and a practical approach to improving relations with those Latin American countries which are willing to work with our kind of economic system. I recommend Señor Pereda's memorandum to my colleagues, and I want to thank him sincerely for his kindness in preparing it.

Today I had an opportunity to meet the distinguished new Argentinian Ambassador to Washington, the Honorable Rafael M. Vazquez. We spoke of the mutual benefits of such educational exchanges to the citizens of both of our countries, and I promised to do whatever I could in my role as a U.S. Senator to promote such understanding. I was greatly impressed with the Ambassador's dedication, and I feel that he is in a position to help all of us take stock in our relations with each other. Ambassador Vazquez has had many years of experience in the United States, and understands perfectly that our Nation is composed of many regions and many peoples. For his part he has promised to help Argentinians understand the complexity of our Nation, and for mine, I will do what I can with the reverse dialog. I am sure there will be times when our national interests differ, but these differences ought to be stated frankly and without animosity. I salute Ambassador Vazquez, and welcome him to Washington.

Mr. President, I ask unanimous consent that Señor Pereda's memo be printed in the RECORD.

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

MEMORANDUM OF SEÑOR CELEDONIO V. PERIDA, PRESIDENT OF THE ARGENTINE RURAL SOCIETY

The most important problem in economic relations between the United States and Argentina is the difficulty facing Argentine meat exports to the U.S. We understand that the problem of foot and mouth disease is a real one and we do not pretend that the present U.S. sanitary regulations can be eliminated. Nevertheless, something more could be done toward a solution and to avoid extension of the effects of the sanitary restrictions any further than necessary. The following should be pointed out:

1. U.S. sanitary restrictions could be eliminated for cattle and sheep from Patagonia, which is a hoof and mouth-free area;

2. The importation of Argentine meat in transit through U.S. ports could be authorized in refrigerated containers for the supply of ocean-going vessels once they depart port. Thus, the meat would not actually enter U.S. territory; only the handling of sealed containers would take place in restricted areas of the ports concerned.

3. The research that is being carried out at Plum Island should be intensified. It would be advantageous to conclude an agreement with Argentina for a joint research program on the basis of the present conditions existing in the country. Argentina would have no difficulty in carrying out a thorough investigation of foot and mouth disease. On the other hand, local results should be double checked in Plum Island, although this would take additional time. Finally, it must be pointed out that investigations with the aftosa-free animals which are used in Plum Island trials are very different from those with animals coming from aftosa endemic areas, which have already developed defenses.

The launching of a joint aftosa research program, with the necessary resources, would give political credibility in Argentina to the U.S. sanitary thesis, thus helping to improve relationships between both countries.

In other sectors of agricultural production, Argentina is interested in the elimination of import quotas, at present in force, for cheeses and tung oil. Otherwise, Argentine agriculture is competitive with that of the U.S. so that what really counts is a common policy toward third countries, especially the European Community. The preponderance of U.S. exports in the world market is so great that U.S. sales have decisive importance for prices and sales possibilities of third countries. For this reason a closer relationship in order to coordinate marketing policies of both countries, with the inclusion of other countries in the temperate zone, would be of advantage to Argentina.

RACHEL CARSON'S LIVING LEGACY

Mr. NELSON. Mr. President, on behalf of the Senator from Michigan (Mr. PHILIP HART) I ask unanimous consent that a statement by him and an article entitled "Rachel Carson's Living Legacy" be printed in the RECORD.

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

STATEMENT BY SENATOR PHILIP A. HART

Eleven years have elapsed since the death of Rachel Carson, the eloquent biologist who first alerted the Nation to the ecological hazards of the misuse of pesticides.

A living legacy of Miss Carson is the strengthened pesticide control laws which Congress passed in 1972. The Senate will soon be asked to consider whether these laws have gone too far or whether they were strong enough.

As a contribution to this debate I recommend the article on Rachel Carson by Ann Cottrell Free, which appeared in the Washington Post on September 3, 1975, and ask that the article be printed in the RECORD.

RACHEL CARSON'S LIVING LEGACY

(By Ann Cottrell Free)

BANGOR, MAINE—Usually in early September, Rachel Carson could be found here in Maine at her West Southport cottage overlooking Sheepscot Bay. From there she could see the wide expanse of blue water edged by tidal pools, where millions of tiny aquatic creatures make their home.

She was unable to reach those pools her last summer here—the summer of 1963. Others would bring her those primitive, often lovely, life forms that she, as a marine biologist, so delighted in studying under her microscope.

Her health was almost gone from metastisized cancer. If there could be any consolation, it was knowing that the message given the world in "Silent Spring" was taking wing legislatively in the Congress.

On June 4, before coming to Maine, she appeared before a Senate subcommittee inspired by her book to inquire about control of "miracle" pesticides. In it she warned that unwise use of substances like DDT, dieldrin, and aldrin meant spreading the "elixirs of death" further than to target insects but to all of us and the rest of the natural world. From those hearings conducted by Sen. Abraham Ribicoff came the pesticide reforms of the last 12 years.

Rachel Carson would be sick at heart to know that these congressional mandates could be perilously close to termination this month. If this should happen, it would be turning the clock back to that June day.

"Miss Carson, on behalf of the committee, we certainly welcome you here. You are the lady who started all this," Sen. Ribicoff began. The whole world, he said, owed her a debt of gratitude.

He had introduced the first tiny legislative step in the fierce struggle with the Department of Agriculture over its handling of the 1947 Federal Insecticide, Fungicide, and Rodenticide Act. He wanted to close the loophole permitting manufacturers to market pesticides that USDA refused to register as safe. Strangely, USDA would not name the companies. This, said Sen. Ribicoff, was "indefensible."

The list soon appeared. The spotlight on USDA became intense with the release of the Report of the President's Science Advisory Committee vindicating Rachel Carson and asking for greater governmental vigilance.

That last summer in Maine, she had time to think more about a suggestion that June 4 by Sen. Ernest Gruening.

"What would you think of creating a department of ecology?" he asked.

"Well, it is certainly a good objective," she replied. There was a note of concern in her calm voice.

Rachel Carson knew that USDA's control over pesticides would be hard to break because of the politically powerful oil, chemical and agribusiness lobby. If control was taken away, would that lobby ever rest until it was reclaimed?

Reluctant to leave Maine, she stayed later than usual before going home to Silver Spring to continue her two battles. Seven months later she was to lose one. She died on April 14, 1964. She was 56 years old.

The other battle continued. The ugly loophole was closed. It was discovered that USDA was registering pesticides the Food and Drug Administration and the Public Health Service had protested as unsafe.

HEW Secretary Robert Finch commissioned a scientific study on pesticides and the environment. And in November 1969 he asked USDA and the Interior Department to join HEW in phasing out DDT in two years. No takers. But miraculously Gruening's idea became a reality in 1972 with creation of the Environmental Protection Agency.

At last, USDA's grip on pesticides was loosened. Its lax pesticides registration division was transferred to EPA. Moving fast, EPA Administrator William Ruckelshaus cancelled most uses of DDT. After two years of hearings, the cumbersome 1947 Pesticide Act was overhauled by the adoption in 1972 of the Federal Environmental Pesticide Control Act. (FEPCA).

The new act includes a variety of safeguards. Primarily it makes clear that its sponsors well understood when Rachel Carson said, "We are neglecting the golden op-

portunity to prevent cancer while we spend millions seeking the cure."

The human cancer connection has been the basis for cancellation of the registration of DDT, dieldrin, aldrin, and suspension of heptachlor and chlordane. These decisions have been strongly protested by USDA and, of course, chemco-agribusiness. But EPA, after exhaustive scientific inquiry, has looked to the growing accumulation of cancer-causing chemicals in our bodies and has shown regard for pain, anguish, loss of life as well as for the billions of dollars lost to cancer.

Protesting agriculturists, most closely tied to agribusiness, talk of higher food prices, claiming that substitute pesticides are more expensive.

This month the battle between the kinds of costs—and the merits of the contentions on which they are based—will be joined on Capitol Hill. The outcome depends on how the Congress votes on the final form of the re-authorized 1972 FEPCA. (Re-authorization after three years is required by law. Deadline: Sept. 30.)

The first round of voting occurs in a few days in the House Agriculture Committee where 23 crippling amendments have been temporarily withdrawn for a consolidated amendment sponsored by Reps. W. R. Poage (D-Texas) and William C. Wampler (R-Va.). This is the vehicle in which USDA would ride for its triumphant return to pesticide control—exactly what Rachel Carson feared could happen. The amendment requires USDA's concurrence on all EPA pesticide actions.

"The issue," says EPA Administrator Russell Train, "is whether it is in the public interest to give the Secretary of Agriculture veto authority over a regulatory process designed to protect the public health."

Train went to the heart of the problem. But who is to go to the hearts of the people?

Reaching the heart—where most meaningful thought begins—cannot be dismissed as overemotionalism. That is what Rachel Carson's adversaries charged was her crime when she said that pain does not have to be borne, tears do not have to be shed, lives of children, as well as of the old, do not have to be sacrificed. (It was not only the death of birds and fish that are the concern. Like the cancerous laboratory mice and rats they are the early warners). Read her book again. That is what she said.

Rachel Carson's voice needs to be heard again. What would she have done had she lived? Would her eminence be so great that only a few measured words from her here in Maine could arouse the nation?

Idle speculation. Clearly, others must speak for her. Marshal their facts. Point to the inexpensive substitutes for banned pesticides. They do exist. Look to new agricultural practices. And particularly, remember that the scientist and the poet (for she was that, too) have one aim: truth.

In a sense, the quality of life in the future depends in large part on the quality of remembrance of Rachel Carson.

SENATOR HUGH SCOTT'S RECORD ON MONETARY AND FISCAL POLICY

Mr. BELLMON. Mr. President, the key held by Congress to America's economic well-being lies in its control over fiscal policy. Over the years, big spending by the Congress has contributed to the inflationary spiral. Record quantities of imports have also had a detrimental effect on our economy.

The minority leader, the distinguished Senator from Pennsylvania (Mr. HUGH SCOTT), has long advocated, as I have, congressional restraint on spending. He has also favored, as I have, easing the tax burdens on both business and individual taxpayers.

As the ranking Republican member of the Senate's new Budget Committee, I ask unanimous consent that Senator SCOTT's legislative record on monetary and fiscal policy be printed in the RECORD.

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

SENATOR SCOTT'S LEGISLATIVE RECORD ON MONETARY AND FISCAL POLICY

NINETY-FOURTH CONGRESS—VOTES

Voted for resolution referring to the conduct of monetary policy.

NINETY-THIRD CONGRESS—LEGISLATION

S. 1541—a bill to provide for the reform of congressional procedures with respect to the enactment of fiscal measures.

S. 1648—a bill to establish the calendar year as the fiscal year of the Government.

S. 4113—a bill to insure that budget outlays by the United States Government during the fiscal year ending June 30, 1975 do not exceed $300 billion.

S. Res. 275—a resolution expressing the sense of the Senate to initiate immediately for the legislative year 1974 an improvement in our procedures pending an enactment of the budget reform bill.

S. Res. 363—a resolution calling for a domestic summit meeting to develop a unified plan of action to restore stability and prosperity to the American economy.

VOTES

Voted for amendment to condition the imposition of mandatory wage and price controls upon prior approval by Congress.

Voted for amendment to limit to $246.3 billion Federal expenditures for fiscal year 1973, and require the President to notify Congress of necessary reductions, after which Congress would have 30 days to rescind proposed cuts.

Voted for Economic Stabilization Act Amendments of 1973.

Voted for Interest Equalization Tax Extension Act of 1973.

Voted for amendment to repeal the law prohibiting any person from purchasing or otherwise dealing with gold.

Voted for amendment to require, in future fiscal years, that Congress prescribe a limit on Federal expenditures prior to enactment of any appropriations bills.

Voted for Federal Impoundment Control Procedure Act.

Voted for amendment to require the interest rate to be equal to the cost of the money on dollar credit sales under Public Law 480 to any country with which the President could not otherwise enter into a Title I agreement.

Voted for Securities Exchange Act Amendments.

Voted for amendment to state the sense of the Congress that salaries of Members of Congress, members of the President's Cabinet, and members of the Federal Judiciary should not be increased in excess of the annual wage guidelines so long as wage and price controls continued.

Voted for International Economic Policy Act of 1972.

Voted for National Energy Emergency Act of 1973.

Voted for amendment to require, beginning fiscal year 1976, the President to submit a budget in which non-trust-fund outlays shall not exceed non-trust-fund revenues.

Voted for amendment to provide that Government expenditures not exceed its revenues during any fiscal year in budget enacted by Congress.

Voted for Federal Act to Control Expenditures and Establish National Priorities.

Voted for Civil Service Retirement Annuities.

Voted for Depository Institutions Amendments of 1974.

Voted for Emergency Livestock Credit Act of 1974.

Voted for Home Purchase Assistance Act of 1974.

ADDRESS BY RICHARD L. ROUDEBUSH TO 82D AIRBORNE DIVISION ASSOCIATION NATIONAL CONVENTION

Mr. THURMOND. Mr. President, when America recently observed the 30th anniversary of the end of World War II, it was quite natural that memories of some of the great military units which helped win that war should also be revived.

One such unit was the famed 82d Airborne Division which saw action in both North Africa and on the continent of Europe. During the Normandy invasion, it was an honor for me to be attached to the 82d Airborne Division, and to be associated with such brave and courageous men.

On August 8, 1975, as part of its national convention, the 82d Airborne Division Association held a memorial luncheon to honor its fallen comrades of World War II as well as those who died in the Vietnam conflict. The speaker on that occasion was the Honorable Richard L. Roudebush, Administrator of the Veterans' Administration.

In his remarks, Mr. Roudebush wisely pointed to the folly and destruction of war. He also addressed himself to the ongoing challenge facing America to provide the best care possible for the men who have fought to preserve our Nation's ideals and principles.

Mr. President, I ask unanimous consent that the address of Hon. Richard L. Roudebush before the 82d Airborne Division Association be printed in the RECORD.

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

REMARKS BY THE HONORABLE RICHARD L. ROUDEBUSH

When the major campaigns and the major battles of World War II are discussed . . . when the history of the war is recounted by people who know and proper credit is given to those men and those units of great accomplishment . . . the deeds of the 82nd Airborne Division are always remembered.

Later, another generation of young men added to the superb history of the 82nd with valiant service and high achievement in Vietnam.

I consider it an honor to have been invited to a reunion of men of that division and to be given the opportunity to speak at your memorial luncheon.

I think it is admirable that such an organization as the 82nd Airborne Division Association exists. You have determined to perpetuate old friendships and contacts and to keep alive over the years the spirit that has made your division one of the most successful in American military history.

You still give help and support to each other. You still care about each other's welfare. You still enjoy each other's company.

And, of course, you still have great pride in

what you did individually and as a team under the greatest possible duress and danger.

Next week we mark the Thirtieth Anniversary of the end of World War II.

It was the most widespread and destructive war in history and, though it has been followed by two other major conflicts in which American troops took part and countless smaller wars that involved other nations, World War II still dominates the history of the middle part of the Twentieth Century.

You who were there know of the total devastation and universal suffering and misery of World War II. Certainly those who had long duty in the 82nd Airborne had a variety of misery and hardship . . . from training in the heat of Africa to bloody combat in the snow and cold of western Europe.

You know how cities were pulverized and the countryside laid waste and you know of the pain endured by innocent inhabitants.

You know all the horrors it is possible to know about war, all the sights, sounds, smells and feelings of war.

You who have been to war, whether in Europe or Vietnam, know far better than those who have never had such an experience that there is no glamour and no glory in war.

One of the things you know particularly . . . that no noncombatant can ever know . . . is the pain of losing friends and companions in battle, of the sorrow that comes with such loss and of the feeling of outrage and helplessness that overrides even the sorrow.

Even thirty years later these feelings persist as you think of those who gave up their lives to make the brilliant victories you achieved possible.

I know that each combat veteran present brings personal recollections of a painful nature to this memorial luncheon. You recall individuals . . . places . . . circumstances . . . objectives . . . plans of action . . . and lives lost.

You have a feeling of sadness and tenderness that the years have not overcome and you still wonder if a companion might not have been spared if the battle had developed a little differently

You feel grateful for having been privileged to associate with fine young men who did not survive.

You feel grateful for having been spared by the fortunes of war to return home and to participate years later in a reunion of your old outfit.

And, all of us who have been to war wonder why we were the ones to survive and friends of ours were the ones to die. There is no way to explain our survival, no way to express our appreciation to those who did not survive . . . or to apologize to them for our own good fortune.

Our only course is to work to keep alive that which remains of those who died . . . the causes and principles to which they were devoted, the determination they had that something good would come out of their service.

The greatest tribute we can pay our fallen comrades is to do the best we can and the most we can, to help prevent future conflicts that will take the lives of other young men.

In May 1945, shortly after the war in Europe had ended, the Memorial Day speaker at Arlington National Cemetery, Fred M. Vinson, later Chief Justice, said:

"Wars are not acts of God. They are caused by man, by man-made institutions, by the way in which man has organized his society. What man has made, man can change."

It would be easy to be cynical about our ability to end war, of course. We have been to war twice since this speech was made and more than half the period since World War II has seen young Americans in combat.

But I think we must accept this proposition that war is not inevitable, that it is caused by the weaknesses and shortcomings of human beings and that man has it within his ability to improve himself and the way he does things.

If we are to remain out of war we must have a strong country. We have learned from history that strength can be a deterrent to others who are unfriendly.

If we are to remain out of war, and this is equally important, we must know how to use our strength wisely. We must understand what is important to us as a nation and devote ourselves to those policies that protect our interests and our principles.

And, of course, if we are to avoid future war we must have good leadership and an enlightened, aware and active populace.

A great deal of the leadership in communities throughout the country comes from organizations such as this one. It is natural that it should.

Your military service showed you to be capable, strong and dedicated individuals. The remarkable record you compiled as soldiers was a clue to the kind of civilians that would emerge from the 82nd Airborne Division, and you and your compatriots have done well.

Citizen interest and citizen responsibility like that you have shown have been among America's great strengths for 200 years.

I don't have to tell you how important it is that citizens really participate in their government and their society if we are to fulfill the promise of America and if we are to keep faith with those who died for American objectives and American principles.

I hope I have not seemed to direct my remarks too much to the World War II veterans here. Strong citizenship and good leadership are needed from our younger veterans even more than from those of my generation, whose years of activity will end sooner.

You younger veterans are aware that those of us who are older have made a lot of mistakes in the last few years. Maybe you can help us do better. Maybe *you* can do better.

Since I am entrusted with the important task of administering programs on behalf of America's 29 million veterans, I think it is appropriate that I mention the work of the Veterans Administration briefly.

I would like to do so by stating what I think the attitude of VA employees should be toward their jobs and toward the veterans they serve . . . the kind of attitude I have tried to foster in VA.

And I would like to do so by using somebody else's words. They were written for people in VA nearly 30 years ago by the man who then held the job I have now.

He said:

"Now more than ever before we must concentrate on prompt and direct service to veterans. We are dealing with men, not procedures; with their problems, not ours. We must constantly seek to understand those personal problems and exercise the imagination to solve them. We cannot permit administrative difficulties to obscure the objectives of our work.

"We cannot do our job as it should be done until we remember that the end is more important than the means, that every bit of work must contribute something to the veteran. . . .

". . . We are simply servants of the public ordained to represent their wishes through administration of the laws of Congress."

Those are the words of an old colleague of yours and the first Administrator of Veterans Affairs after World War II, Omar N. Bradley.

I might add that I am proud of the men and women who work for VA. I know that we can always find much room for improvement within the agency but I believe that they are doing a good job.

We at VA are constantly aware of the solemn obligation we have to care for those who can no longer care for themselves because of their war service. And I would like to assure you that we are equally aware of the obligation we have to survivors of those who died, widows of the men you honor today and others who felt the tragedy of war.

I have appreciated the opportunity to be here with you today and I hope that your convention is productive and enjoyable.

One of the great things the 82nd Airborne Division had going for it in its days of combat was the great esteem that its members felt for each other and for their outfit. You were pioneers and innovators in the kind of war you fought. You know that you were good and the enemy knew it too.

You were proud of yourselves and the Nation was proud of you. It was pride well placed and well deserved.

Today, as you honor fallen comrades, let me express the opinion that those you honor would be proud of you today. You have remembered them faithfully, sincerely and thoughtfully.

You are keeping alive the spirit and the tradition of a great outfit. By doing so you do great service to the memory of those who died.

ANNUAL REPORT OF JANE'S FIGHTING SHIPS

Mr. THURMOND. Mr. President, the latest report by the respected publication Jane's Fighting Ships further confirms the trend of the last few years that the Soviets are rapidly, and at great expense and effort, building a naval force far in excess of legitimate requirements of national defense.

Of particular concern is the Soviet submarine force. While a Soviet antisubmarine role in response to our ballistic missile fleet appears legitimate, the excesses in this area amount to a classic overkill.

This point is firmly supported by the fact that the U.S. submarine fleet consists of 105 nuclear vessels, 12 conventional craft, and 28 under construction or in reserve. Against this force the Soviets have countered with 120 nuclear, 191 conventional, and another 96 both nuclear and conventional submarines under construction or in reserve.

By the end of this year the Soviets expect to have a dozen of the new Delta submarines which can launch their nuclear missiles to any part of the United States from the safety of Soviet waters. As a counter, the United States is building the Trident, but the first boat will not be ready until the end of this decade.

Mr. President, I ask unanimous consent that articles on Jane's latest edition, which appeared in the August 21 issues of the Augusta Chronicle newspaper, Augusta, Ga., and the Washington Star, Washington, D.C., along with an editorial published in the August 24 issue of the Chronicle, be printed in the RECORD.

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

[From the Augusta (Ga.) Chronicle, Aug. 21, 1975]

JANE'S FIGHTING SHIPS—EVER GROWING SOVIET NAVY BUILT "FOR AGGRESSIVE ACTION"

LONDON.—The Soviet Union has spent 50 per cent more than the United States on naval shipbuilding in the past 10 years and the still growing Russian fleet can only be intended for aggressive action, the authoritative Jane's Fighting Ships said Wednesday.

In a foreword to its 1975–76 edition Jane's editor, Capt. John E. Moore, said, "There is

no answer to the question which of the superpowers' navies is 'Number one.'

"But," he said, "the Soviet Union has spent 50 per cent more than the United States on naval shipbuilding in the last 10 years and is currently expending one-third more than the United States for this purpose.

"The ever growing Soviet navy has outrun the legitimate requirements of national defense and has no logical merchant defense role in time of war. Until the adherents of unilateral disarmament can persuade the Soviets that they should reduce their massive armaments to the level of necessity, the NATO nations must abide by the lesson of history—unnecessarily large forces are intended for aggressive action."

Jane's said the French navy is rapidly becoming the largest in Western Europe. It said the British navy, once the world's mightiest, while "by no means on its beam ends," would be "desperately stretched in the event of a crisis."

It said China now has 58 submarines—seven more than a year ago—and has the world's largest fleet of small, fast attack craft. But it said the Chinese navy is primarily a defensive one.

Jane's said by the end of this year the Red fleet may include a dozen huge 8,000-ton "Delta" class nuclear powered submarines, each capable of launching 12 nuclear missiles 4,200 miles from the safety of the Barents Sea against any part of the United States and a large area of China.

Jane's listed the Soviet submarine fleet as 120 nuclear and 191 "conventionally" powered craft, with another 19 nuclear and 77 "conventional" subs either under construction or in reserve.

Jane's said the U.S. submarine fleet totals 105 nuclear vessels, with another 28 building or in reserve, and only 12 "conventional" craft, with three more building or in reserve.

The United States, Jane's said, continues to maintain an overwhelming lead in aircraft carriers, with 14 in service and eight building or in reserve, compared with the Red fleet's three small flat tops in service and one still building.

It said the Soviets have small leads in other vessels with 33 cruisers, 106 destroyers and 109 frigates compared with the United States' 27 cruisers, 105 destroyers and 65 frigates.

[From the Washington Star, Aug. 21, 1975]

MOSCOW'S "OVERKILL" FLEET THREAT TO SHIPPING LANES?

LONDON.—The Soviet Union's fleet of nuclear and conventional submarines has outgrown the legitimate requirements of national defense, possibly posing a threat to mercantile shipping lanes, says the latest edition of the authoritative Jane's Fighting Ships.

The Soviet Union has spent 50 percent more than the United States on naval shipbuilding and is currently expending one-third more than the United States for this purpose, the book says.

"Until the adherents of unilateral disarmament can persuade the Soviets that they should reduce their massive armaments to the level of necessity, NATO must abide by the lesson of history—unnecessarily large forces are intended for aggressive action," the book's editor, John Moore, writes in a foreword.

The 1975–76 edition of the book, recognized as a leading authority on naval matters, was published simultaneously here and in New York yesterday.

Moore said the six countries with the largest merchant fleets are Japan, Britain, Norway, Greece, the United States and the Soviet Union, in that order.

Despite having the smallest merchant fleet of the six, the Soviet Union has the largest number of destroyers and frigates available as escort ships, the editor said.

The Soviet Union, he added, is the only one of the six nations not heavily dependent on the import of raw materials.

He said the Soviets have 215 destroyers and frigates compared to fleets of 170 in the United States and 67 in Britain.

In addition to this disparity, Moore said, the Soviet Union's fleet of nuclear and conventional submarines is growing.

"Now that the nuclear strike task has been assumed by the Polaris-Poseidon-Trident submarine fleet of the U.S.A., France and Great Britain," Moore said, "it could be argued that the Russian force is intended for the anti-submarine role, but the numbers concerned must be a classic case of 'overkill.' "

Jane's listed the Soviet submarine fleet as consisting of 120 nuclear and 191 conventionally-powered craft, with another 19 nuclear and 77 conventional subs either in reserve or under construction. The U.S. submarine fleet totals 105 nuclear vessels, with another 28 building or in reserve, and only 12 conventional craft, with three more building or in reserve.

By the end of this year the Red fleet may include a dozen huge 8,000-ton Delta class nuclear powered submarine, each capable of launching 12 nuclear missiles 4,200 miles from the safety of the Barents Sea against any part of the United States and a large area of China.

Moore said if the Soviet fleet were not needed for defense, its size "must be placed in the upper bracket of political pressure—as a threat to mercantile shipping lanes."

The greatest change of sea balance since last year has been in the Indian Ocean, the editor said.

"With South Africa aware of the inadvisability of trusting other countries' contracts preparing to build her own frigates at Durban; India, showing a continued impartiality in adding ships of both Western and Russian design to her fleet and Pakistan taking Western and Chinese ships on her list, these areas seemed to be the main focus of attention. The presence of the Soviet squadron in the Arabian Sea and the establishment of a Russian Base at Berbera lent further interest."

The focus of naval power may be shifting to the Persian Gulf, he added, with Iran and Saudi Arabia having embarked on considerable re-equipment programs.

"The message is clear enough—with their own growing number of tankers, new docks such as the 300,000-ton construction in Bahrain, new oil installations and a standard of living rising at an unprecedented rate, the rulers of the Gulf states intend to rule their own sea areas."

[From the Augusta (Ga.) Chronicle-Herald, Aug. 24, 1975]

FRIGHTENING COMPARISON

For anyone with the slightest concern for the well being of this country, there are frightening overtones in the latest edition of Jane's Fighting Ships, a periodical that has become the world's most authoritative guide to navies, warships and naval weaponry.

What it reveals is something that many an American has suspected, but now knows for certain. It is that America's defenses are being "emasculated" by increasing reductions in a U.S. Navy that is already outnumbered by its Soviet counterpart.

It is, also, that "the ever-growing Soviet navy has outrun the legitimate requirements of national defense and has no logical merchant defense role in time of war." What those words from Jane's tell us is that the lesson of history boldly declares that "unnecessarily large forces are intended for aggressive action."

What should be appalling to concerned Americans is that the growing disparity in the rate of spending on naval strength between the U.S. and U.S.S.R. is obvious to an Englishman, the editor of Jane's, but seemingly is lost upon those in our government whose business it ought to be to keep the U.S. Navy at least on even terms with that of the Soviet Union.

Yet, said the editor, Capt. John Moore, the Soviets have spent 50 per cent more than the United States on naval shipbuilding in the past 10 years and are now spending one-third more.

For such a situation to have been allowed to develop is tragic. For it to be permitted to exist borders on treason.

CRUIKSHANK REBUKES PRESIDENT FOR REJECTION OF COUNCIL ADVICE

Mr. CHURCH. Mr. President, on July 28, I made a statement to the Senate criticizing President Ford for his out-of-hand rejection of recommendations made by the Federal Council on Aging.

The Council, I pointed out, was charged by Congress with the responsibility, among others, of advising and assisting the President on matters related to aging. I think it is clear that the Congress regarded the Council as a high-level and significant participant in the development of national policy on aging. Certainly, the Council deserves far better treatment than it received from the President when he rejected recommendations made in the Council's first annual report.

One of the Council members, Nelson Cruikshank, has responded vigorously to Mr. Ford's message. Mr. Cruikshank, president of the National Council on Aging, is also former Social Security Director of the AFL–CIO.

He is a respected, articulate spokesman on aging and other social issues of concern to all age groups in this Nation. He, too, responded to the President's negative reaction to the Federal Council's recommendations; and he made important comments about the significance of Mr. Ford's position. I ask unanimous consent that a news release issued by the National Council of Senior Citizens be printed in the RECORD.

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

PRESIDENT FORD REBUKED FOR "CALLOUS INDIFFERENCE" TO THE NEEDS OF THE ELDERLY POOR

WASHINGTON, D.C.—The leader of America's most politically-active organization of older people—representing 3 million older Americans—has sharply rebuked President Ford for his "callous indifference to the needs and sufferings of our elderly poor."

The rebuke came from Nelson H. Cruikshank, President of the National Council of Senior Citizens, following the release of the annual report of the Federal Council on Aging and the subsequent message by President Ford on transmitting the report to Congress. In that message Ford rejected the recommendations contained in the report. The Federal Council expressed its deep concern about the financial burden falling upon the elderly as a result of the reductions proposed

in the federal budget. Its recommendations include "legislative action to develop high standards of safety and care in nursing homes," and a request that "assistance be provided to enable facilities to meet such standards especially those homes serving minorities and the poor."

President Ford's rejection of the Federal Council's report was on the ground that it "does not reflect the Administration's policies."

"This is a curious statement," said Cruikshank. "Nowhere in the provisions of the Older Americans Act is it suggested that the Federal Council on Aging shall reflect the Administration's policies. On the contrary, the Act says the Federal Council shall serve as a spokesman on behalf of older Americans by making recommendations to the President and shall inform the public about the problems and needs of the aging.

"Mr. Ford has the best advice available on how to help the elderly, but he consistently chooses to ignore it," said Cruikshank. "His rejection of suggestions, however, is not unexpected. It is in keeping with the President's past performance as regards older people."

Cruikshank noted that among the first recommendations Ford sent to Congress on becoming President were proposals to cut back on Medicare and Medicaid, and to raise the price of food stamps. Later, he tried to get Congress to renege on its own law and reduce its scheduled cost-of-living increase in Social Security.

"When the President starts thinking of improving our economic situation why must it always be at the expense of some poor old man or woman?" Cruikshank asked.

The senior citizens leader said that a major part of the President's message to the Congress is devoted to a defense of his inept policies with regard to nursing homes. "However, the President had apparently not read a recent report by the U.S. Department of HEW following a new nursing home survey. Nor had the President been told of the recent remarks of Dr. Theodore Cooper, Assistant Secretary of HEW for health matters. Cooper said that present federal regulations "fail to achieve what they are designed to accomplish," and recommended they be replaced with new regulations which would emphasize the performance evaluation of a nursing home.

Cruikshank said the HEW study, in addition to other federal and state level investigations, revealed that hundreds of thousands of dollars in Medicare and Medicaid funds have gone to support owners and administrators of nursing homes that have flagrantly wasted taxpayers' money. "If the President is really interested in stopping all kinds of inflation why does he resist efforts to exert control over these homes and stop this shameful practice?" he said.

The National Council of Senior Citizens is a non-partisan organization of over 3,000 older people's clubs across the country which seeks to improve life for older Americans through social and political action. Since it was set up in August 1961, the Council has been the leading senior citizens organization involved in the legislative battle to enact Medicare, the Older Americans Act, improvements in Social Security, elderly housing, part-time community service employment for seniors, and other proposals to help the elderly.

THE NATIONAL SCIENCE FOUNDATION

Mr. JAVITS. Mr. President, shortly before recess, the Senate approved the agreement reached by the conference committee on H.R. 4723, a bill to authorize funds for the activities of the National Science Foundation. The National Science Foundation is the principal Federal agency concerned with assuring that the U.S. maintains its world leadership in the field of science research—a leadership which has enabled our technology—though now challenged more than ever—to be the strongest and most productive in the world.

The committee of conference's recommendation of $787 million plus $4 million in excess foreign currencies represents a stable level of support for vital research. I am particularly pleased that the committee of conference recommends $10 million for Intergovernmental Science and Research and Development incentives, with a floor of $8 million for the intergovernmental science program.

I am pleased to note that the conferees concluded that review by the Congress of all proposed National Science Foundation grants—a mechanism included in the House bill—is an unwise and inappropriate method by which to attempt oversight of NSF utilization of research tax dollars. Such a requirement would have required the Congress to set up a large bureaucracy to repeat the process of grant review presently carried out by the NSF, and that cure most certainly would have been worse than the disease.

Another provision in the House bill would have required the National Science Foundation to make available to the public, curricular materials being used in local schools. There can be no doubt that parental access to educational materials should be guaranteed on the local level. However, to require the National Science Foundation to make materials available for inspection is inappropriate. The National Science Foundation does not own or control curriculums developed with the assistance of National Science Foundation grant moneys.

The conferees have redrafted this provision to assure appropriate inspection by parents of science curriculum materials developed under grants from the NSF. The conference provision will require the Director of the National Science Foundation to include as a condition of any grant for developing precollege science curriculums, a requirement that the grantee include in any testing agreement, sales contract, or other comparable legal document, a provision mandating that the publisher of such curricula make all instructional materials available for inspection in each local school district using the materials. Thus, access by parents to materials used in local schools is assured. At the same time, the NSF is not placed in the position of conducting expositions throughout the country of materials which do not belong to the Federal Government.

Mr. President, I have one further issue I would like to briefly discuss. Recently, it has become increasingly popular to ridicule specific research grants based upon the particular title used to describe a grant rather than upon its substance—which is an entirely appropriate action. Therefore I am also disturbed that the conferees suggest that the research community devote more effort to drafting titles in order to avoid the attention of those who criticize grants on this basis. For in that way we could compromise substance in the name of form.

The specter of a bureaucracy of "Awards, Grants, and Contracts Titles Specialists" is frightening. Both Congress and the Nation Science Foundation would do better to stick to the substantive aspects of the uses of research dollars, rather than concern themselves unduly with the titles under which particular grants may be identified.

EARTH INVENTORY FROM SPACE

Mr. ABOUREZK. Mr. President, a great deal has been written and said about the Earth resources satellite and its successor Landsat in the past 3 years. It has been called the space success story of the seventies, the most productive tool now in space and one of the best programs NASA has ever produced.

This year, the Landsat system has proved beyond any doubt that it has been worthy of all these acclamations. Demand for data from Landsat is continuing to grow and utilization of this information by government and business alike is becoming commonplace.

A few months ago, I presented an amendment before the Senate Appropriations Subcommittee on the Interior which would increase the budget for EROS by $2 million which would be used to acquire a "quick-look" antenna and a digital processing unit at the EROS Data Center in Sioux Falls. This will allow the United States to maintain its leadership in Earth resources photography and it will insure that users who have come to rely on Landsat data will continue to obtain the information quickly and cheaply.

An article by Gerald Jonas was published in the Nature/Science annual by Time-Life Books. It is an excellent report of the capabilities and potential of the system. 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:

EARTH INVENTORY FROM SPACE

An eye-in-the-sky called the Earth Resources Technology Satellite (ERTS) celebrated its first anniversary aloft on July 23, 1973, with a list of record-shattering accomplishments in Earth-watching—and promised to continue functioning for many more months even though it had been designed to last only a year. The 10-foot-high, one-ton satellite uses a sophisticated "multi-spectral scanner" instead of conventional cameras to produce weirdly colored images that tell scientists what crops are growing where, reveal water pollution and help locate mineral deposits. It tracks the globe from a near-polar orbit, shifting westward as the earth rotates to cover the entire terrestrial surface, excluding the polar ice caps, once every 18 days. Each scene, from an altitude of 570 miles, covers an area of 13,000 square miles—and is recorded by a ground-based computer that turns it into a picture equivalent to 1,000 conventional high-altitude aerial photographs. For the first time cartographers were given an accurate record of the earth's land surface, three fourths of which was scanned during ERTS's first year. They were able to correct

maps of the Amazon basin and to rechart the poorly known African state of Mali.

Especially useful have been the startling false colors of the ERTS pictures, which allow a multitude of investigators to study normally invisible conditions as well as those in the ordinary visual range. In addition to gauging the sprawl of suburbs into untouched countryside, specialists have begun to apply ERTS data to crop and forest management, water and mineral studies and pollution control. Ultimately, ERTS's users foresee the continuing knowledge it makes available as an invaluable tool in planning efficient use of natural resources on a regional, national and even international scale.

NATURE'S SECRETS IN UNNATURAL COLORS

ERTS's information-packed pictures look bizarre—forests come out bright red, while treeless city centers appear blue—because they record not only some visible colors but also some conditions that cannot be seen by the human eve. The false colors are created from three simultaneous scans: one of visible blues and greens, one of visible red and another of invisible infarred, which is strongly reflected by healthy vegetation.

As electronic data from each scan is received on the ground, it is transformed with the aid of a computer into a black-and-white image. The three scenes are then combined into a single color composite, usually by projecting each through an appropriate color filter and superimposing the three on a sheet of color film.

The selection of color filters is governed by the necessity of making infrared features visible. The blue-green tones are printed in blue, the red in green and the infrared in red. The choice of colors was not arbitrary: it duplicates the characteristics of the infrared color film that has been used in aerial photography for over a decade. Thus the photographs obtained from ERTS's scans can be deciphered by the same methods to which investigators are already accustomed.

The signals from the satellite's scanners are relayed instantaneously so long as ERTS is within receiving range of ground stations in California, Maryland, Alaska and Saskatchewan; scenes of more-distant areas are stored on videotape for night transmission when the receiving stations come into range. In this way most of the earth can be kept under almost constant surveillance, and subtle changes, whether natural or man made, detected from one scan to the next.

DOCUMENTING A RECORD MISSISSIPPI FLOOD

Never since records were first kept in 1764 had the Mississippi River and its tributaries gone on such a torrential rampage as they did in the spring of 1973. The flood started with exceptionally heavy rains beginning the previous October—just a few days after ERTS had sighted the St. Louis, Missouri, area (above). Heavy winter snows followed, accumulating in the Great Lakes region and adding to the ground water supplies. As soon as the spring thaw started in March, the rivers began to swell and then to overflow their banks. By the time of ERTS's overflight in late March the entire landscape north of St. Louis was one of soggy desolation, as the Illinois, Missiouri and Mississippi rivers merged and spilled their onrushing waters, drowning islands in their streams as well as suburbs and farms beyond. By late April, the Mississippi was gushing past St. Louis at the rate of 13.5 million gallons per second—enough to supply all of the daily water requirements for New York City in a minute and a half.

Farther downstream, the flooding was even worse; near Vicksburg, more than 1,100 square miles of farmland was turned into a lake. Thousands of houses were submerged and families left homeless; all hope of planting cotton and soybeans, the area's main crops, had to be abandoned. Agricultural losses in the state of Mississippi alone were estimated at $700 million. The ERTS pictures provided for the Lrst time an overall view of a flood in the making, plus a quick assessment of the extent of the damage without time-consuming surveys on the ground. And it became evident that ERTS's repetitive coverage could also provide early warning of future spring floods, as well as summer water shortages, by constant monitoring of winter precipitation and snow accumulation in mountain ranges.

CHARTING AN UNKNOWN DESERT

The Chinese territory of Sinkiang, wedged between Mongolia and Siberia, is one of the most desolate areas of central Asia, and until ERTS was launched, one of the world's least known—the area was marked on most maps "unexplored." Whipped by winds that blow furnace-hot in summer and bitterly cold in winter, it is a region of bare mountains and arid deserts where virtually no vegetation can survive, as the almost total absence of red indicates in these striking views. For the first time, the peculiar dune pattern crisscrossing Sinkiang's Takla Makan—a large barren area west of the Gobi Desert—can be studied for clues to prevailing winds. Geologists are also interested in correlating data from such odd, wind-formed dunes with older sandstone formations, which in other desert areas of the world often harbor rich water or petroleum supplies.

A CENSUS OF CALIFORNIA CROPS

An ERTS picture of the San Joaquin Valley—the breadbasket of northern California—became one of the most closely studied of the satellite's output. From such scans, state and federal agricultural planners could learn faster and more economically about crop growth than by any other means used previously, and thus could predict total harvests as well as labor and transportation needs.

Thanks to computerization, the analysis of the false-color pictures is surprisingly simple. Areas for study are selected from an enlarged image; the computer is then programmed to recognize each crop within the area by its texture and tone (using known ground samples as a starting point) and to code it with a selected color. The resulting mosaic is displayed on the computer's TV-like screen and recorded photographically; inspection of this image yields a detailed tally of the agriculture of the region. Accurate identification of crops is achieved more than 90 per cent of the time, at one twentieth the cost of similar statistics derived from conventional ground and aerial surveys.

NEW PERSPECTIVE TO HELP UNSCRAMBLE URBAN SPRAWL

As more and more of the world's population concentrates in cities and their expanding suburbs, rational allotment of land becomes urgent. Until ERTS was launched, city and regional planners had to rely on time-consuming surveys to sort out needed information; now they have instant mapping to provide new perspectives on urban growth. For the Dallas-Forth Worth area, for example, the satellite located new housing, roads, reservoirs and even airports that did not appear on recent maps. In similar fashion, a research team was able to analyze the entire state of Rhode Island in eight days and break it down into 11 categories of existing land use.

In the Los Angeles area, ERTS scans proved invaluable in establishing broad regional relationships not evident in pieced-together mosaics of photographs made from airplanes. The high-level views are particularly useful in charting the extent and direction of the city's celebrated sprawl, in which transportation is a major problem and housing and commercial development eat up more agricultural land each year. Planners hope to identify areas that should be saved from urbanization for farming, recreation and green belts. But one of the most important immediate results for the city was the mapping of the region's geological faults along which earthquakes are most likely to occur—including not only the famed San Andreas fault but a possible new one—thus yielding a clear indication of where Los Angeles should, and should not, build.

EAMON DE VALERA: IRISH PATRIOT

Mr. BUCKLEY. Mr. President, I have just returned from the Republic of Ireland where I had the honor to represent the President and the people of the United States at the funeral of the great Irish patriot, Eamon De Valera. At this time, I would like to place in the RECORD remarks I made on the Senate floor on June 29, 1973, on the occasion of Eamon De Valera's retirement as President of Ireland. In those remarks I said:

> As for this patriot, we already know his epitaph when the time comes for him to go home to God. The epitaph will be in stark, simple words in the ancient tongue he so loved all his life: Bhi gra mor aige do Eireann, pronounced: Vee grā mora ĕgga dō Airen (he had a great love for Ireland).

Mr. President, Eamon De Valera had not only a great love of Ireland but a great love of freedom and I am certain that his example will inspire all those who cherish freedom.

Mr. President, I ask unanimous consent that my remarks of June 29, 1973, be printed in the RECORD.

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

EAMON DE VALERA: IRISH PATRIOT

Mr. BUCKLEY. Mr. President, the great Irish patriot, Eamon de Valera, retired this week as President of Ireland. At the time of his retirement he was, at age 90, the oldest head of state in the world. As he said his farewell to the political life of his country, which he has so obviously dominated and greatly enhanced for almost 60 years, he said:

"I was once afraid I would not live to see Ireland united. I now think I will see it. I have always been loyal to the country and to the Irish language."

Thus, one of the most controversial and dynamic political leaders in Ireland's history bade farewell to public life. It is fitting that he should mention, in his last words as a public official, the three facts that have inspired his remarkable career: the need for a united Ireland; his unquenchable patriotism; and his lifelong love affair with the Gaelic language. It has been said of his oratorical gifts:

"De Valera is marching . . . at the head of twenty thousand words."

He began his public career when the Irish people had little more than their gift for oratory to aid them in their long struggle for freedom. Now, at the time of his retirement, there is good if not overwhelming reason to hope that the country may be united. For the fact of Irish freedom and the promise of Irish unity, Eamon de Valera is to be praised.

I do not think it is necessary to emphasize that although "Dev," as he is popularly known, is an Irish patriot, he was born in New York City, at Lexington Avenue and Fifty-First Street on October 14, 1882.

In fact, during his arrest by the British after his courageous stand during the Easter Uprising in 1916, and after his release, when he was elected to the Parliament, he was still technically an American citizen.

De Valera came to Ireland as a small child, after the death of his father. The home rule

bill had just been defeated by the British Parliament, so the young De Valera grew up in a land aflame with patriotic sentiment. After his graduation from Dublin Royal University he began to teach college mathematics—a subject which has proved to be as long beloved by De Valera as Gaelic. As one of the leaders in the Easter Week uprising, he held out longest against the superior force of the British: It was his American citizenship and the protest against the killings of the Irish leaders by the British that saved De Valera's life.

"On his first trip back to America," the Washington Post has noted, "Eamon De Valera came alone—smuggled aboard an ocean liner after escaping from jail. He came as a propagandist for Irish freedom." He remained an eloquent spokesman for Irish freedom all his life.

Mr. President, I would be the last to say that Eamon de Valera's life and works have been without controversy. Indeed, it might be said that wherever he went, controversy was either there before him or not far behind. There are persons, equally devoted to Irish freedom, who disagree with some of his historical decisions. Yet, throughout his life runs the same theme, the same unswerving devotion to his country. He is, as I have said, a controversial figure. But there has never been a difference of opinion concerning one fact of his life: his love of Ireland.

I think that de Valera's life has meaning for all of us, even those who, through no fault of their own, cannot claim Irish ancestry. The son of a Spanish father and an Irish mother, born in New York City, raised in County Limerick, he has demonstrated that the love of freedom is universal, knowing no bounds of ancestry, nationality or birthplace. At a time when Ireland is once again plunged into bloodshed, it is good to know that this man, who can take the long view of history, is still hopeful that his dream of a united Ireland will be realized. You do not have to agree with all of de Valera's actions taken in support of what he has believed to be the best interests of Ireland to agree with him on basic principle: Ireland should be one. The Irish people because of, not despite, their differences, are strong and vigorous, and that strength and vigor can best be realized in a free, peaceful, prosperous united Ireland.

Mr. President, Ireland has given many martyrs to the cause of freedom, in that island and all over the world. Whatever history may say about Eamon de Valera, whatever differences he might have had with others who love freedom just as passionately as he does, whatever fate may decree concerning his hope for Irish unity, one unassailable truth remains: he is yet another in the great tradition of Irish patriots who have enobled their cause and benefited all mankind by their unparalleled devotion to freedom.

What better gift could be given to this great fighter in his twilight years than the gift of united Ireland? What divides the Irish people is accidental, peripheral, and momentary in the long view of history; what should unite them is imperishable, central and eternal. It is my hope that while Eamon de Valera still walks his beloved Irish soil, a movement toward a free and united Ireland will be consummated. As for this patriot, we already know his epitaph when the time comes for him to go home to God. The epitaph will be in stark, simple words in the ancient tongue he so loved all his life: Bhi gra mor aige do Eireann, [he had a great love for Ireland].

MEANY'S DICTATORIAL BEHAVIOR

Mr. McGOVERN. Mr. President, today's Washington Post carries a reply by Mr. George Meany to my criticism of his earlier statements on the shipment of American wheat and the 1976 Democratic Presidential nomination.

Since the Post did not carry my original statement, I ask unanimous consent that my statement of September 1, the Post article of September 4 and a further commentary by me be printed in the RECORD:

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

STATEMENT BY SENATOR GEORGE MCGOVERN

The refusal of longshoremen to load American wheat is dramatic evidence of the bankrupt leadership of George Meany who is the real instigator of the shipping boycott.

The function of a labor union is to protect the conditions of work of its members—not to dictate American foreign or agricultural policy.

Mr. Meany is entitled to express his views on public issues, but no one has appointed him to play God over the national interest.

The wheat loading boycott which he has organized has already undercut the markets of American farmers and our balance of payments. Beyond this, it has shaken international confidence in America's capacity to keep its commercial contracts.

Mr. Meany's action is a part of his growing tendency to abuse the power of labor to inflate his own sense of self-importance.

I have noted with interest his threatened veto of the Democratic Party if it should decide to nominate me again for the presidency next year. I am not seeking the presidency, but if I had been one of the few labor leaders who couldn't make up his mind between Nixon and McGovern in 1972, I would keep quiet in 1976.

[From the Washington Post, Sept. 4, 1975]

POLICY ROLE IS BACKED BY MEANY

In a scathing attack on Sen. George McGovern, AFL–CIO President George Meany said yesterday the labor movement has every right to call for a total reassessment of American foreign policy.

Speaking to a convention of the Seafarers International Union, Meany described McGovern (D-S.D.), as a "farmer who wears suede shoes," and also lashed out at Secretary of State Henry A. Kissinger and Agriculture Secretary Earl L. Butz.

"Come what may, we're going to continue to have our say on American foreign policy," said the 81-year-old labor leader in support of a boycott by union dockworkers on U.S. grain shipments to Russia.

McGovern said earlier this week that labor should not get involved in foreign policy and détente in connection with the recent Russian purchase of nearly 10 million tons of American grain.

"If we have a foreign policy it's being kept secret from the American people," Meany said "I don't think Henry Kissinger knows what it is until he gets up in the morning."

Meany said the United States is operating a foreign policy of "appeasement" to nations like the Soviet Union. He said American foreign policy should be run on the "good old Yankee principle of give and take."

"Should we not say, 'As you do with the oil which we need so shall we do with our grain which you need?'" Meany asked.

Mr. McGOVERN. Mr. Meany's characterization of me as a "farmer who wears suede shoes" is inaccurate. I do not own any suede shoes. And most family farmers cannot afford to own any under the administration which Mr. Meany helped to reelect in 1972. Then it was a case of Mr. Meany, a $100,000 a year plumber who had not fixed a washing machine in 40 years helping to reelect a corrupt President who was an expert at laundering money.

Let me warn Mr. Meany against any attempted dictatorship, either of American foreign policy or within the Democratic Party. I will do all in my power to see to it that the 1976 Democratic Convention nominates a candidate who favors reform at home and peace abroad. And if Mr. Meany then wants to help Gerald Ford, let him. It would be consistent with the anti-Democratic, antilabor course he adopted in 1972. This time the only people with him would be the monopolists who are supposed to sit on the other side of the table from labor.

SENATOR HUGH SCOTT'S RECORD ON ENERGY MATTERS

Mr. FANNIN. Mr. President, never before in the history of the United States has energy been a more important issue. Rapidly diminishing energy resources and soaring prices are causing great concern among Americans. In these troubled times, the public looks toward our elected officials for guidance, and one man who does not turn away is Senator HUGH SCOTT.

The distinguished minority leader has suported certain tax incentives and legislation to conserve our resources, and has strongly advocated methods of finding and developing new energy sources. As ranking Republican member of the Interior Committee, I ask unanimous consent that Senator HUGH SCOTT's record on energy matters be printed in the RECORD.

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

ENERGY

94TH CONGRESS LEGISLATION

S. 57—a bill to establish a program of Federal assistance to provide relief from energy emergencies and energy disasters.

S. 62—a bill to establish University Coal research laboratories and to establish energy research fellowships.

S. 168—a bill to amend the Internal Revenue Code of 1954 to allow an income tax credit or an income tax deduction for certain expenditures of a taxpayer relating to the thermal design of the residence of such taxpayer.

S. 504—a bill to protect consumers, preserve jobs, and provide emergency relief for natural gas shortages.

S. 594—a bill to increase domestic oil supplies and availability; and for other purposes.

S. 764—a bill to provide for the reclamation of abandoned coal mine lands.

S. 1421—a bill to provide for the prohibition of certain discriminatory practices in the pricing of fuels and forms of energy including electricity.

S. 1666—a bill to prescribe certain rules for Federal, State, and local agencies regulating electric rates by usage.

S. Res. 59—a resolution to aid in energy conservation.

S.J. Res. 117—resolution to extend the Coal Conversion Program.

S. Con. Res. 37.—a resolution relating to the problems of pollution and energy shortages.

94TH CONGRESS VOTES

Voted for amendment excluding imported petroleum or products derived from imported petroleum, except gasoline crude oil to be

refined into gasoline, from future tariffs or fees.

Voted for amendment exempting for 60 days the imposition of a tariff on petroleum products only.

Voted for amendment to withdraw from all forms of surface mining operations lands where the Federal Government owns the coal and other mineral rights but not the surface rights.

Voted for Surface Mining Control and Reclamation Act.

Voted for amendment to reduce from 3,000 to 1,000 barrels of oil, and 18 million to 6 million cubic feet of natural gas, the average daily production on which the percentage depletion allowance would be continued for the independent oil producers.

Voted for amendment to retain depletion allowance for production of up to 2,000 barrels of oil or 12 million cubic feet of natural gas.

Voted for amendment to provide tax incentives for certain residence energy-conserving improvements.

Voted for amendment to provide that the national goal to be achieved by the FEA shall be an energy savings of not less than 4 percent of the projected domestic consumption of refined petroleum products for the 12-month period following the effective date of the Act.

Voted for amendment changing from a "new" oil price not to exceed $7.50 the amount which may be charged per barrel of oil produced by secondary and tertiary recovery methods.

93RD CONGRESS LEGISLATION

S. 2731—a bill to amend the Tariff Schedules of the United States to provide for the duty-free entry of methanol imported for use as fuel.

S. 3068—a bill to extend the use of tax-free bonds without limit, the bonds to be used in those activities which would contribute toward relieving our energy crisis.

S. 3434—a bill to establish University Coal Research Laboratories and to establish energy resources fellowships.

S. Res. 279—a resolution expressing the sense of the Senate regarding the Washington Energy Conference.

S. Res. 281—a resolution expressing the sense of the Senate to provide adequate supplies of energy to all parts of the tourism industry.

Amendment No. 694 to provide that daylight savings time shall be observed on a year-round basis.

Amendment No. 735 to provide that daylight savings time on a year-round basis exist for a trial period, of two years, and to require the FCC to permit certain daytime broadcast stations to operate before local sunrise.

Amendment No. 1265—Allocation of Petrochemicals in short supply.

VOTES

Voted for Emergency Petroleum Allocation Act of 1973.

Voted for Atomic Energy Commission Authorization.

Voted for amendment to provide for equitable allocation of crude oil and petroleum products throughout all regions of the United States, particularly in connection with oil shipped through the Alaska Pipeline.

Voted for amendment to require exports of Alaskan crude oil be in the national interest and be allowed only if they would diminish the quality or quantity of petroleum available in the U.S. Markets.

Voted for amendment authorizing and directing construction of a trans-Alaska Pipeline and barring further court review of environmental aspects of that project.

Voted for the Federal Lands Right-of-Way Act of 1973.

Voted for amendment to exempt from price controls established pursuant to the Economic Stabilization Act, and any fuel allocation program, the first sale of crude oil and natural gas liquids produced from any oil lease whose average daily production did not exceed 10 barrels per day per well.

Voted for amendment to provide a criminal penalty for the second offense of willful black marketeering of petroleum products.

Voted for amendment to establish an Office of Emergency Fuel Allocation to receive complaints and act on emergency requests from State and Local governments concerning shortages in gasoline or fuel oil supplies.

Voted for Emergency Daylight Saving Time Energy Conservation Act of 1973.

Voted for National Energy Research and Development Policy Act of 1973.

Voted for Clean Air Act Amendments.

Voted for Federal Energy Emergency Administration Act.

Voted for Naval Petroleum Reserves Defense Production Authorization Act of 1973.

Voted for Energy Emergency Act.

Voted for amendment to give states discretionary authority to increase the speed limit on interstate highways from 55 to 60 miles per hour.

Voted for Special Energy Research and Development Appropriation Act.

Voted for Public Works for Water and Power Development and Atomic Energy Commission Appropriation Act.

Voted for amendment to provide a policy for non-nuclear research and deveolpment to be administered by ERDA.

Voted for Energy Transportation Security Act of 1974.

Voted for Energy Supply Act of 1974.

Voted for Deepwater Port Act of 1974.

Voted for Non-nuclear Energy and Development Act of 1974.

SSI: THE NEED FOR BALANCED JUDGMENT

Mr. CHURCH. Mr. President, the supplemental security income program has come under considerable fire within recent weeks, and for good reason.

The Washington Star has led the way in revealing that computer error and other administrative problems have resulted in more than $400 million in overpayments and at least $36 million in underpayments since the program began in January 1974.

In addition, stories written by the Star reporters tell of long delays before SSI payments or adjustments are made. To the persons waiting for these checks, contact with SSI has meant frustration, inability to pay even for the basic necessities of life, and quite often the growing conviction SSI is just another demeaning welfare program.

That, of course, is far from the intent expressed by Congress when we authorized SSI in 1972. We envisioned an equitable, federally administered program which would provide a floor under benefits throughout the Nation. It was to be a major improvement over old age assistance, which it was to replace. The Social Security Administration—with a generally commendable record of efficiency and low administrative costs—was to serve SSI recipients, along with payments to the disabled and the blind.

It was a major undertaking, one requiring a major commitment by the SSA. Of special concern to me as chairman of the Senate Committee on Aging was this question: Would the administration ask for, and would the Congress provide adequate funding to provide additional staff members to deal with the drastically increased workload in local social security offices and in SSA headquarters in Baltimore? At hearings in January 1973, I asked then outgoing Social Security Commissioner Robert Ball whether SSA had planned adequately to meet the new manpower demands. He assured me that a plan to increase the staff significantly was in existence, and that it would soon be implemented.

The Congress has certainly been responsive to requests for additional funding. The Second Supplemental Appropriations Act which became law on June 12 included $78.6 million for salaries and expenses for an additional 10,000 employees, 6,000 long-term employees, and 4,000 temporary and part-time positions. Approximately 8,000 employees were to be assigned to SSI to help reduce the backlog for disability insurance claims and in the hearings and appeals process.

I hope that SSA is making good use of these additional funds, and that there will soon be some relief in the most overburdened of the SSA offices.

In the meantime, however, I must express concern about reports I have received which indicate that demoralization is taking place in some district offices because of 54-hour work week requirements and poor working conditions in general. I have also been informed that widespread dismissals in one region have caused severe problems. I am asking the General Accounting Office to investigate both of these reports. I have also expressed my concern to the SSA about computer failures which delay payments or do worse. For example, my office had to work for months to help one elderly woman who had been declared dead by social security headquarters in Baltimore. She appeared at a hearing in Idaho to declare emphatically that this was not the case.

Still other questions have been raised by Senator KENNEDY who in May conducted a hearing on behalf of the committee in order to investigate complaints about SSA performance. He is persisting in efforts to evaluate SSA capacity to deal with the many assignments it has received from the Congress. He also wants to know what SSA is doing to enroll all eligible persons on the SSI rolls.

It is imperative that the Congress investigate these issues and others related to SSI. I believe that this program has great potential, but it is having more than the normal problems associated with implementation of a major new program. Overpayments, underpayments, and deterioration of standards of performance in SSA offices cannot be tolerated. Over the decades, SSA has won the confidence of the Congress and the people it serves. We cannot allow present difficulties—transitional difficulties, we can hope—to affect the overall service SSA gives to the Nation. To overcome these problems, we will have to take a balanced view. To that end, I ask unanimous consent to have printed in the RECORD, at the end of my remarks, a letter to the editor which appeared in the September 2 issue of the Washington Post.

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

(See exhibit 1.)

Mr. CHURCH. In the letter, SSA Acting Deputy Commissioner Arthur Hess provides important information about the problems now facing SSA. He also makes the point that "perhaps the best prospects for eventual improvement in SSI payment efficiency lie in simplifying the program." Several studies are underway toward that goal, and the Senate Committee on Aging will certainly maintain its interest in the issue.

Finally, Mr. President, I would like to point out that the present controversy surrounding SSI makes it all the more important that the Congress soon act favorably upon S. 388, my bill to establish the Social Security Administration as an automous agency outside the Department of Health, Education, and Welfare. SSA operations, so important to almost every family in the Nation, should be conducted entirely outside of the realm of HEW pressures and of political considerations of any kind.

EXHIBIT 1

[From the Washington Post, Sept. 2, 1975]

SUPPLEMENTAL SECURITY INCOME: THE ACHIEVEMENTS

Your August 23 editorial made some useful points in explaining the background of the severe problems the Social Security Administration has been coping with in administering the Supplemental Security Income (SSI) program. Nonetheless, the achievements of the program do not warrant your headline characterization of it as a "fiasco," defined by Webster as a "complete failure."

Despite the problems of overpayment and other serious transitional systems and staffing problems we faced in putting SSI into place, the fact remains that the program is putting $490 million a month (almost all of it through correct payments) into the hands of 4.2 million of our very neediest aged, blind, and disabled people. This is about one million more people and about $200 million more a month than was paid out under the state-federal categorical assistance programs that SSI replaced January 1, 1974.

Although it is true that most states would have increased their assistance payments between then and now, the facts remain that 55 per cent of all recipients converted to our rolls in January 1974 received a higher payment under SSI; that SSI provides automatic cost of living increases; and that many needy persons who did not previously qualify (for example, because of laws requiring relatives' responsibility or liens or home ownership) are now receiving payments under more dignified circumstances.

Many of the difficulties encountered in administering SSI result from what, in retrospect, were undesirable complexities of the law. In particular, eleventh hour changes in the law applying to the transitional disability payment feature wreaked havoc with our capacity to deal with recipients in an orderly fashion. Other problems, however, are inherent in the concept of a basic minimum payment that takes into account income, assets and living arrangements—including work and other income disregards and the imputed income of other family members. It is not generally understood that SSI payments are calculated in advance based on a recipient's expected need for a calendar quarter as determined by these complex factors. Should his circumstances change during that period, the monthly check could very well constitute an overpayment, albeit a completely unavoidable one. Nevertheless, due process requires us to continue these overpayments until the recipient has been given notice and opportunity for an evidentiary hearing or waives his right to one.

Perhaps one of the greatest complications was the belated drafting of the mandatory and optional state supplements in many states, involving adoption of a vast number of state variables, onto the federal payment system.

I am not suggesting that overpayments did not result from other causes. Some were due to errors in the data entered in our computers, including inaccurate data transferred from state to federal records during the conversion process. Still others arise from the fact that it was impossible to design a full automated system in the time frame allowed and with unexpected interim legislative changes.

Regardless of the causes, the problems have long since been identified and we are working hard to correct the deficiencies. Though emerging audit data (which covers past periods and hence past deficiencies) will continue to reflect problems, I feel sure we have turned the corner. There is, however, still a long road ahead and there is no complacency among SSA's top executives.

Perhaps the best prospects for eventual improvement in SSI payment efficiency lie in simplifying the program. The House Ways and Means Committee, the Senate Finance Committee, GAO, a special outside study group of public administration specialists and many others are all engaged in reviewing various aspects of this initial experience. I am hopeful that these studies will lead to eventual agreement on simplifying a number of areas affecting a recipient's eligibility and may reduce the number of supplementary payment variations Social Security is required to administer for one state or another.

ARTHUR E. HESS,
Acting Deputy Commissioner, Social Security Administration.

E. ROY STONE, JR.

Mr. THURMOND. Mr. President, I want to call to the attention of the Senate the election of a distinguished South Carolinian, E. Roy Stone, Jr., of Greenville, as national president of the American Legion Past Department Commanders.

He was elected to succeed Past National Commander Joe L. Matthews of Texas at the American Legion Convention in Minneapolis, Minn., on August 18.

Legionnaires in South Carolina and throughout the Nation have long recognized and respected the leadership of Roy Stone. After serving the American Legion as post commander, district commander, and South Carolina department commander, he was elected to the National Executive Committee in 1953. He has served continuously since then. He is now chairman of the subcommittee on resolutions, a member of the Spirit of '76 committee, and a member of the finance commission liaison.

Mr. President, veterans everywhere are indebted to Roy Stone for the time and effort he has spent to assure a first-rate VA hospital system and veterans benefits program in the VA.

Mr. President, Roy Stone takes great pride in his work with vocational rehabilitation, and justifiably so. He is chairman of the South Carolina State Agency of Vocational Rehabilitation. He was highly honored in 1969 when the American Legion awarded him the Distinguished Public Service Award for his work in this field.

In 1971, the E. Roy Stone, Jr., War Veterans Pavilion of the South Carolina Department of Mental Health was dedicated in his honor.

Mr. President, Roy Stone is an active member of the Augusta Heights Baptist Church, where he serves as a Sunday school teacher and deacon. He also finds time for involvement in numerous civic and community affairs, among which are the Masons, Elks, and the Lions Club. He has done extensive work with the Boy Scouts, and received the Silver Beaver Award for his outstanding service.

In a July 7, 1975, editorial, the Greenville Piedmont, Greenville, S.C., referred to him as "an institution." I agree.

Mr. President, I want to congratulate Roy Stone on his election as president of the past department commanders of the American Legion. I am confident that he will serve with great distinction.

Through the years, it has been my privilege to have the wise counsel of Roy Stone.

Mr. President, it is a pleasure for me to recognize the latest achievement of this outstanding South Carolinian. I continue to value his advice and judgment.

REMOVAL OF OIL PRICE CONTROL: A MISTAKE

Mr. McGOVERN. Mr. President, over the weekend, the distinguished majority leader of the Senate and the Speaker of the House met with President Ford. After the meeting, they announced that the President would propose what was described as a compromise on oil price deregulation to the Congress. The Washington Post reports that the President will delay his veto of legislation extending the Emergency Petroleum Allocation Act until he determines whether his measure can pass.

Instead of the immediate oil price decontrol which would follow a successful veto, the compromise would spread decontrol over the next 39 months in order to cushion the short-term impact on our economy. The proposal would also set a ceiling price of $11.50 per barrel on domestic oil to insulate domestic production from further OPEC price increases. It includes rather vague provisions for a windfall profits tax.

The majority leader has said that he would rather override the veto than accept the administration's plan. I am in full agreement with him.

The leadership has made a commendable effort to find an acceptable solution. But the administration is obviously not willing. What comes back to us is not a genuine compromise, it is simply the administration's program postponed. And robbery postponed is still robbery.

The administration's chief assumption is that decontrol, that is, a dramatically higher price, is the answer if we want to increase domestic oil supplies. The 39-month stretch-out plan incorporates precisely the same assumption. Yet it is this issue which is at the heart of the debate over decontrol. And the assump-

tion is based on a dangerously naive conclusion about the way these multinational oil giants operate.

Everyone knows that crude oil prices are not set according to competition. Despite pretense to the contrary, they also are not set according to the cost of production. Instead they are established by cartel price fixing.

Anyone who thinks we will get more oil simply by transferring more money from consumer pockets to the oil giants should explain why that has not already happened. In the past year so-called "new" oil has been deregulated, and prices have been extraordinarily high. Yet production actually went down. One estimate sets the revenue increase for oil companies at $90 billion over the past year, and on less output. Does anyone really think the proper response for Government is to conclude that we have not yet bribed them enough?

The fact is that higher American production would put a strain on the OPEC cartel. Its members and their industrial allies—the multinational oil companies—would then have to share a more competitive market. The oil companies have every incentive to avoid that. Their predictable response to deregulation would be to accept a price rise to OPEC levels, keep domestic production to the minimum excusable levels, and keep pushing the oil on which they make the most money—oil which originates outside the United States.

So whether we do it immediately or over 39 months, the net effect of decontrol of prices will be to make the oil companies full-fledged members of OPEC, and to make the American people pay the dues. And all that can be said for the compromise is that it would do the wrong thing slower.

At the same time the stretched-out version accepts by implication the broader assertion that Government has no place in the energy market. It sets the stage for unfettered rising prices across the board, first for oil, then for gas, and then, as Btu pricing comes into effect, for coal as well. What we are really discussing here, on this most critical ingredient in our economy, is simply an abandonment of the Federal Government's proper role to protect the American people from forces beyond their control.

No one is saying that the managers of these energy conglomerates are evil men. But even if they were saints we should not expect them to place the public interest first. That is not their job. They will put long-term profits and expanding economic power first. If the public interest is to be served, it must be by Government.

If we even consider abandoning that responsibility in energy, then we have no cause at all to wonder at public cynicism about Government. We have found a multitude of ways to inject Government regulation and red tape into the lives of ordinary people. No one has yet come up with an answer to that. We have commissions and committees to study it. And now we have an absurd answer. If we have to keep regulating the little guy, by all means, let us at least get the Government out of the hair of big oil.

We have come back from a recess with our ears ringing about congressional inaction on energy. But I talked to no one in my State who urged me to rush back here and arrange dollar-a-gallon gas for them. I talked to no one who agreed that the way to conserve energy is to shift even more of the real cost of the energy shortage to those who can least afford to bear it. I talked to no one who pleaded for another round of inflation, which this one proposal will do more to bring about than all the constructive legislation Preisdent Ford has sent back unsigned.

Instead, I think the American people are demanding action on the good legislation pending in Congress, to both conserve energy and increase supplies. Along with serious action on alternative energy sources, we must consider proposals to tap public resources in the public interest, including reserve development under direct public control. A positive energy program must also include major steps in transportation. It would include mileage requirements for motor vehicles, and incentives for better home construction. It includes also building an efficient railway and public transit system. These are some of the steps we know will have an effect.

I do not think the Congress needs to be intimidated by veto threats. We need not be coerced into accepting the unacceptable in watered down form.

Instead, we should look toward overriding the most mistaken veto of all, and toward prompt action on energy initiatives that both do justice and make sense.

LACK OF ACTIVE ARMY PERSONNEL TO TRAIN NATIONAL GUARD ENLISTEES

Mr. THURMOND. Mr. President, it was with shock that I read in the Army Times issue of September 10, 1975, that Army personnel strength had been diminished to the point that training facilities lacked manpower to receive and train incoming National Guardsmen.

This is an intolerable situation, if true, and I have contacted Army Secretary Martin R. Hoffmann urging an immediate investigation and remedial action, if necessary.

Because of my great respect for former National Guard Bureau Chief, Francis S. Greenlief, there is little doubt in my mind that the situation he describes in the Army Times article is an accurate one,

During the past few years there has been great pressure in the Congress to whittle away at military manpower strength levels despite large personnel reductions imposed by the services upon themselves.

Mr. President, I ask unanimous consent that the article entitled "Active Duty Cutback Hurts NG Training," which appeared in the September 10, 1975, issue of the Army Times, be printed in the RECORD.

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

ACTIVE DUTY CUTBACK HURTS NG TRAINING

WASHINGTON.—Former National Guard Bureau chief Maj. Gen. Francis S. Greenlief says the Army has removed so many active duty people from training duties that it is no longer able to train reservists.

The retired general, now executive vice president of the National Guard Association, says there is a backlog of more than 14,000 National Guardsmen awaiting initial active duty for training.

He said there's little chance that the backlog will be reduced soon because of "tremendous effort by the active Army to convert support spaces to combat spaces."

"The training base is inadequate to train the backlog of reservists awaiting initial active duty training," Greenlief told Army Times.

The support spaces being taken away from Army units are being transferred to the three active Army divisions being organized.

Greenlief said the failure of the active Army to furnish training spaces for guard recruits is preventing many citizen-soldiers from drawing drill pay.

The Defense Department has established a policy of not permitting the payment of drill pay to reserve recruits until they have formally entered basic combat training. The exceptions to this policy are high school graduates who join the Reserve Components. They're not affected by the "no-pay" rule for six months.

HENRY FONDA ON AMERICAN PLACE NAMES AND THE AMERICAN FLAG

Mr. KENNEDY. Mr. President, in recent years, some of the most eloquent moments in the annual fund-raising telethons sponsored by the Democratic National Committee have been the dramatic readings by the noted actor Henry Fonda.

In 1974, Mr. Fonda gave an extremely moving reading of "American Place Names," highlighting the beauty, poetry, nobility and variety by which the places in America are known.

In 1975, Mr. Fonda gave an equally moving dissertation on the history of the American flag, from its origins in the colonial period to its planting on the surface of the moon.

Even apart from the effectiveness of Mr. Fonda's fine delivery, his eloquent words themselves helped to evoke the best in America. They make each of us who watched his performances even prouder to be citizens of this land.

I believe that his texts will be of interest to all of us, and I ask unanimous consent that they may be printed in the RECORD.

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

AMERICAN PLACE NAMES

(By Henry Fonda)

My name is Henry Fonda. I'm an American actor. Listen to the names of our land. Mississippi. Monongahela. Natchez and Wounded Knee. Kalamazoo and Appomattox.

In 1892, Robert Louis Stevenson wrote: "There is no part of the world where nomenclature is so rich, poetical, humorous and picturesque as the United States of America. All times, races and languages have brought

their contribution. Pekin is in the same state with Euclid, with Bellfontaine, and with Sandusky. The names of the states themselves form a chorus of sweet and most romantic vocables: Delaware, Indiana, Florida, Dakota, Iowa, Minnesota and the Carolinas: there are few poems with a nobler music for the ear: a songful, tuneful land."

Listen to the names of America: Chickamauga, Salem, Concord and Manassas, Dover and Yarmouth, Savannah, Winnemucca, Boca Raton, Utah, Leesburg, Eldorado, Saratoga, Flat Rock, Chimney Rock, Little Rock, Rock Springs, Wyoming, Albuquerque, Ceder Rapids and Blueberry Hill, Hassayampa, Niagara, Powder River, Tuckahoe and Tennessee, Mamaroneck and Minneapolis, Susquehanna, Omaha, Allegheny, Tampa and Penobscot, Ossining, Tioga, Saranac Lake and Coffeepot Creek.

The Rio Grande, Missouri and Snake, Sarasota, Sewanee, Kettle Creek, Bear Valley, Pumpkin Hill, Grasshopper Flat, Chestnut Grove, Maple Springs, Wildcat Hollow, Twin Falls, Atlanta, Chattanooga, Carlsbad Caverns, Mammoth Cave, Cripple Creek and Spotted Horse, Alder Gulch and Great Salt Lake, Alamagordo, Carthage, Terre Haute, Tarzanna, Tacoma, and Ticonderoga.

Babylon, Butte, Bethesda, Syracuse, Selma, San Francisco, Cicero and Sumter, Mobile and Mount Vernon, Memphis, Nogales, Okeefenokee, Pueblo, Quincy, Redwood City, Seattle, Tallahassee, Utica, Valdosta, Walla Walla, Xenia, Yosemite, and Zanesville, Ohio, America.

THE AMERICAN FLAG

(By Henry Fonda)

Old Glory, the Stars and Stripes, the Star Spangled Banner. By any name it's a beautiful sight—makes me feel proud.

But a flag is nothing in itself—some cloth, some dye, some thread, nothing to be thrilled about in itself—an abstract design of colors and shapes, a symbol, like a cross or a star or a coat of arms are symbols, only as good or as bad as what it stands for, nothing in itself.

And the flag, being only a symbol, will change as the country it symbolizes changes, as our country has changed. And so it becomes a tangible record of these changes, of our beginnings, our growth, our history, a visual memory. And, as with most things remembered, it's the positive things, the great moments, the beloved people, the stirred emotions, that remain in the heart and in the mind.

Before there was a country called the United States of America there were separate states and many states of mind and a mother country, and so there were many flags. But soon those states and states of mind came together in a common cause—"Give me liberty or give me death."

And the British began to refer to our flags as "The Rebellious Stripes." While our friend from France, the Marquis de Lafayette, called them our "dear noble stars and stripes."

Our greatest revolutionary struggle began under General George Washington—a disorderly and dangerous struggle by inadequately armed civilians, without even an official flag to fly until 1777, when Congress declared, "Resolved that the flag of the United States be thirteen stripes, alternate red and white, that the Union be thirteen stars, white in a blue field, representing a new constellation." And that flag flew at Yorktown as General Cornwallis surrendered. Our nation had begun.

And that's what we remember, that glorious beginning—not the confusion, the uncertainty, the defeats, but that glorious beginning. "The rockets red glare, the bombs bursting in air, gave proof through the night that our flag was still there." There at Fort McHenry on the night of September 13, 1814, and still flying on the morning of September 14—fifteen stars and fifteen stripes, that had survived, as did our country survive, this threat to our newly gained independence.

Fifteen stars and fifteen stripes, yes, and soon twenty stars and twenty stripes. Where would it end? The flag was already too big and too busy and the end was not even in sight.

So in 1818, wisdom triumphed over stately pride. Thirteen stripes for the original thirteen, and a new star for each new state.

And then a harder problem, a terrible problem. Not one of too many stripes, but of too many flags, one too many. Four bloody years to decide whether one flag or two would fly over this American territory. In the end, after a long and painful struggle, one flag flew over our country once more.

Now came a time to gladden the heart of every flag maker—the blue field of that flag became a constellation—38 stars by 1876, 45 by the turn of the century, 48 by 1912. And there it held fast for nearly 50 years.

But not history, for now our country passed through a time like nothing before, a World War, a ten-year fling, a searing depression, still another World War, the nuclear age, assassinations, civil upheaval, Vietnam—and the incredible sight of an American raising a banner of 50 stars and 13 stripes on the surface of the moon.

The world has become more complex, not a black and white world any more, or even a red, white and blue one. The two hundred years that lie ahead may prove even more challenging than the two hundred that went before, making it even more important for all of us to stand by our flag and by our country. Not somebody else, each one of us. Answer America.

HALF-FARE FOR THE UNEMPLOYED WILL HELP REDUCE UNEMPLOYMENT

Mr. BENTSEN. Mr. President, in the midst of economic adversity, too many Americans and businesses sit passively by and demand that the Federal Government take the sole initiative in fighting inflation and unemployment. It is refreshing to see business take this kind of initiative.

Earlier this week, Continental Trailways Bus Co. proposed establishing half-price interstate bus fares for the unemployed, to run between September 8 and November 21, 1975.

Continental Trailways will also set up job opportunity information centers in many Trailways terminals, where they will list information useful to job hunters and make available Labor Department publications.

This action by Continental Trailways could help a number of the unemployed find jobs that might otherwise be beyond their reach. The Nation today is experiencing its highest unemployment since the Great Depression. At the same time, there are communities across the country where jobs exist and go unfilled because local workers do not have the needed skills. The unemployed in distant cities and towns do not know about these jobs and often do not have the resources to move themselves and their families to communities where jobs exist. Continental Trailways' half-fare for the unemployed can be a big factor in reducing the cost of bringing jobs and workers together and removing one barrier to reducing unemployment.

In order for these fares to become effective, the Interstate Commerce Commission must agree to Continental Trailways' application. I have written the Commission in support of this innovative fare proposal, and I urge other companies in the communications and transportation fields to follow Trailways' lead.

Continental Trailways traces its corporate history back to a small bus company founded in the 1920's in east Texas. Today, it is the second largest interstate bus company in the United States, and still a Texas firm with headquarters in Dallas.

Continental Trailways is an excellent example of a Texas business doing its part to help our economy get back on its feet, and I commend it for its public service initiative.

VOICE OF AMERICA

Mr. MATHIAS. Mr. President, much of this Nation's standing throughout the world is entrusted to the Voice of America; the medium through which millions of people perceive us both as individuals and as a Nation. We are aware of the changes in direction which have been taken by the Voice of America over the years, and of the criticisms, often from opposed sides, of its performance in one role or another. Frank Stanton, who served as chairman of a panel studying the Voice of America, has summarized his findings in an article which appeared in the New York Times on July 19, 1975. This brief overview provides a framework for future decisions not only about the Voice of America, but about the entire spectrum of our Nation's efforts to show itself to the rest of the world. I ask unanimous consent that it be printed in the RECORD.

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

SEPARATING AMERICAN MESSAGES

(By Frank Stanton)

The Commission on the Organization of the Government for the Conduct of Foreign Policy, appointed by the Congress and the President, issued its report on July 1. Among its many recommendations, a section on the American overseas informational and cultural programs endorses the findings of an independent nongovernment panel.

Our panel of experts, which I had the privilege of heading, was constituted because over the last few years those in and out of Congress concerned with the oversight of these programs have questioned their effectiveness and organizational arrangements in today's interdependent world.

We learned that what is usually called the information and cultural program or public diplomacy is really composed of two quite separate functions: the articulation of day-to-day American policies and the cultural communications programs supporting longer-range policy objectives.

Since all of these efforts are intended for overseas audiences, there are clear differences in the way these audiences accept our political messages and our cultural messages. They know that the former flow from the

Government, while the latter come from the American scene as a whole. They accept the political messages as Government controlled; they welcome the cultural message precisely because they consider them not to be governmentally controlled.

As George Kennan recently stated: "The Government does not make culture and should not try to use it as a means of political expression and propaganda. The cultural community, on the other hand, does not make policy and should not seek or bear the responsibility for stating it.

There should be a separation between the conduct of political-information operations and cultural-information operations. Other countries recognize this separation. While I do not want to suggest this course because of the practice of others, it is neither novel nor untried.

Having decided conceptually to separate the direct support of foreign policy—the articulation and advocacy role—from the indirect support of foreign policy—the cultural communications role—and having further decided that both are necessary and mutually supportive elements of a dynamic supportive elements of a dynamic foreign policy, we concluded that they must be organized separately to be effective.

The articulation and advocacy of current foreign policy requires the closest kind of operational integration with the State Department's policy process and hence should be located in the department. The cultural communications operation, however, should be a step removed organizationally from this process. It should concentrate on programs designed to create and reinforce favorable attitudes about this country without being harassed by day-to-day foreign policy issues. The long-range strategic obejectives should be pursued without the pressure of tactical policy requirements.

The longer-range cultural operations have been on the whole, more effective. This cultural-information operation should be in a separate agency, not in the State Department but with its director reporting to the Secretary of State, since his operations are conducted in support of foreign policy.

What of the Voice of America? It has three functions: to broadcast accurate, effective, and comprehensive news; to portray the variety and uniqueness of American soceity; to resent the foreign policy of the United States.

The Voice is a tactical tool for policy articulation and, at the same time, a strategic tool for cultural communications. In addition, and most importantly, it is a broadcaster of views. The structural conclusion is evident: Since it is impractical to divide the Voice or to have it located in three places at once, the problem is obviously to choose the functional location which does least violence to the performance of the other two functions. Placing it in either the State Department or in the new agency would severely compromise its independence as a source of news. A location outside either of these bodies would avoid this and other problems.

The Voice should be set up as a Federal agency under a board of directors, five in number, reflecting its functions. The Secretary of State would be represented on the board to see that the policy articulation function is adequately fulfilled. The director of the new agency would be on the board to advise on the portrayal of American society, and three members from the private sector, having broad experience in public diplomacy and appointed by the President with the approval of the Senate, would round out the board. This arrangement would permit the Voice to function as a credible medium serving the interests of the United States.

ENERGY POLICY

Mr. TAFT. Mr. President, this Congress has been dominated by discussions of our energy problem, yet no coherent policy seems to be emerging. In view of that situation, I feel it would be extremely useful to step back and try to provide an overview of the issues involved.

The problem is stated simply enough. It is to assure that we and future Americans have adequate supplies of energy to meet our basic needs, in a manner which minimizes the adverse economic impact, vulnerability to foreign countries and environmental problems.

The major challenge for the immediate and mid-term is to reduce America's dependence on imported petroleum. The oil embargo cost Americans $10 to $20 billion and exacerbated the recession greatly, while the quadrupled world oil prices resulted in a payment from the United States to OPEC countries of $26 billion last year.

Clearly, the economic effects of our oil import dependence are a serious drain on the economy. The foreign policy implications of vulnerability to an embargo are intolerable. Yet, we are already far more vulnerable to an embargo than we were in 1973. The Federal Energy Administration estimates that if no new energy initiatives are made, by 1985 we will be importing over half of our oil and about twice as much as we import presently, at an annual cost of about $60 billion.

In the longer term, the problem is likely to be an absolute shortage of fossil fuels. The Energy Research and Development Administration recently estimated that as a result of this situation, without enhanced recovery techniques, the domestic production of oil and natural gas will begin to fall drastically in the mid-1980's. For both of these fuels, America's estimated total remaining supplies even if enhanced recovery and stimulation techniques are used is under 50 years.

Thus, in addition to the import problem, America faces a longer term problem of conversion from fossil fuels to other sources of energy. While the economy has already converted from wood to coal and from coal to oil and natural gas during the last 125 years, the supply situation is such that this conversion will have to be a much faster one, in a far more complex economy.

These facts lead to several obvious conclusions. First, we must take immediate action to establish the standby programs necessary for reducing the Nation's vulnerability to another oil embargo. Second, we must do all we can to cut unnecessary energy consumption, which now is estimated to be about 30 percent of the total energy we consume. This will help combat both the oil import problem and the long-run problem of dwindling oil and gas supplies. Third, we must do what we can to improve the domestic energy supply picture for both the short run and the longer run. This means facilitating the maximum exploitation over time of our entire oil and gas reserves, continuing to use foreign oil to the extent economic and foreign policy considerations allow, and doing all we can to promote the development and use of energy sources other than oil and natural gas.

MEASURES TO COUNTER ANOTHER EMERGENCY

I feel that the Senate took a major step forward recently when it passed legislation calling for the buildup over 7 years of a strategic petroleum reserve, which would consist of a full 90 days' supply of imported oil. This is likely to be a major deterrent against another embargo and a major help if there should be a supply interruption.

The protection afforded is likely to be considerably longer than 90 days, because an embargo is not likely to result in a complete shutoff of supply. During the recent embargo, the supply of imports was reduced by about one-third. If one makes the reasonable assumption that an embargo is not likely to result in the curtailment of more than 50 percent of our imports, the stockpile would provide protection for 180 days.

The stockpile may cost several hundred million dollars or more per year to assemble. However, the large cost of even the very short 1973 embargo is a good indication that this idea is likely to prove worthwhile. It is possible that it will also have a stabilizing effect upon the oil price structure even without any embargo.

The Congress also should pass promptly the standby emergency authority needed to help minimize and manage the damage which another embargo would bring. The needed authorities would allow for emergency Federal direct regulation of petroleum production and allocation of scarce materials essential to the production process. The authority to implement emergency energy conservation plans, with gasoline rationing if necessary for the embargo period, must be included.

My constituents appear to face another type of emergency this winter, in the form of a natural gas shortage which could be severely disruptive to the economy, especially employment. As I will discuss more fully, we must do everything possible both legislatively and administratively to prepare for this eventuality.

The key longer term energy issue facing Congress is the pricing of oil and natural gas. The issue is plagued by a lack of much semblance of agreement among experts about the effect on energy supplies and conservation of any particular price level.

I believe it is crucial that oil and natural gas prices be high enough to stimulate the investment necessary for a much greater effort to expand our potential fuel supplies than we have had in the past. Over the short term, we will have to rely more heavily on this strategy than conversion away from oil and natural gas for meeting the Nation's energy needs successfully. Of course, there is also an incidental conservation effect of higher prices.

At the same time, these pricing policies must be carried out in a manner which minimizes the economic impact and bur-

den on consumers to the extent possible. As long as OPEC is setting world oil prices, doctrinal statements about the need for a prompt return to the free market are not particularly helpful. Furthermore, largely because it is so difficult to say what energy prices are "necessary," the taxation of windfall profits not used for further energy development is crucial to assure that the consuming public is treated fairly.

I am not enthusiastic about reliance on higher energy prices across the board to achieve energy conservation. There are several serious problems with this approach. First, the recent drastic rise in fuel prices already has forced some conservation. As prices rise higher and higher, the likelihood of achieving additional energy savings relative to the hardship caused to consumers undoubtedly drops. Second, and unfortunately as far as overcoming our energy problems are concerned, Americans' willingness or ability to conserve energy does not appear to be very responsive to energy price increases. To achieve any particular percentage reduction in energy use as a result of higher prices, prices must be raised by a much greater percentage. Third, it appears that such conservation policies would be extremely regressive, by causing great hardship for poor people and small businesses without resulting in much reduction in their energy use. A study for the Ford Foundation's energy policy project indicated that families classified as poor with incomes averaging $2,500 per year or less spent 15 percent of disposable income on energy; lower middle income families with annual incomes of $8,000 spent 7.2 percent; and well-off families with annual incomes in excess of $24,500 consumed more than twice as much energy as the average poor family but spent only 4.1 percent of disposable income in the process. These statistics suggest that energy consumption for the poor and lower middle income persons already may have been cut to the bone; families in these groupings today consume only 40 to 60 percent of what is being consumed by the well-to-do families. Four, I think it is obvious that we can achieve much greater conservation with respect to some types of energy usage, such as gasoline for automobiles, than for other types.

For these reasons, I feel that to the extent possible we should rely on more specifically directed conservation measures than across-the-board price increases. Thus, the need for higher prices basically should relate to energy development needs, although the national need for conservation is so great that the conservation effects of such proposals cannot be ignored. Across-the-board increases for conservation purposes also seem justified when the price of a particular fuel is so low relative to other fuel prices that wasteful consumption obviously is encouraged, as is the case for natural gas.

NATURAL GAS

In my judgment, as far as natural gas prices are concerned, these production and conservation considerations translate into the necessity for immediate deregulation at the wellhead of prices for natural gas newly committed to or contracted for interstate commerce. As I have mentioned, this policy must be accompanied by a tax on any windfall profits not used for further energy development.

Natural gas presently constitutes one-third of all energy consumed in the United States. More than half of the energy consumed by industry is derived from it and it constitutes over 40 percent of domestic energy production. Fifty-five percent of our homes are heated by it.

Thus, shortfalls in natural gas supplies obviously will be crippling. Yet, as my constituents are well aware, we are in trouble as far as natural gas supplies are concerned. A short time ago there was estimated to be about a 16-percent shortfall in supplies this year. However, in Ohio, which may be the most severely affected State, the major supplier estimated a 28-percent firm contract curtailment rate for this year. Other and more recent estimates of the statewide shortfall have been much more severe.

If we do not take remedial action, the long-term outlook is considerably worse. Natural gas production was stable in 1970 through 1973, dropped about 6 percent in 1974 and is expected by the Federal Energy Administration to drop about 40 percent by 1985, even if additions to new reserves until then equal the 1970 to 1974 average.

For my constituents and most of the rest of the Nation, the situation is exacerbated by the disparity between interstate and intrastate natural gas prices. Natural gas shipped interstate, which amounts to over 90 percent of Ohio's supply, is sold at a much lower federally regulated price than the unregulated price of the natural gas sold in the same State it was discovered. As a result, virtually no natural gas discovered since 1971 has been placed in the interstate market.

I believe there is ample evidence that the partial deregulation of natural gas prices would help the situation considerably. Natural gas discoveries and consumption have responded well to price increases during the last several years in Texas and other intrastate markets. Furthermore, the price increases should make possible development of some enhanced recovery techniques which can extend the life of our nautral gas reserves approximately an additional 10 years. As a result, for example the development of the massive Devonian shale reserves which underlie Ohio and much of Appalachia may become much more of a possibility.

The Federal Energy Administration estimates that this partial deregulation of natural gas prices could result in an oil import savings of perhaps 4 million barrels per day by 1985, which is the equivalent of about $16.8 billion annually. In any event, a well-designed windfall profits tax could help to assure that consumers' money is not squandered as a result of deregulation.

I have pointed out that there is also a unique conservation consideration with regard to natural gas prices. These prices have been and still are extremely low relative to the price of oil in particular. Partly as a result, between 1950 and 1970 the average increase in consumption of natural gas was 6.7 percent per year, while the average in demand for oil was in the 4-percent range. Thus, while deregulation does involve the shotgun approach to conservation which I have criticized, in the case of natural gas price corrections are necessary to overcome the distortive effects of past policies. Deregulation of "new" natural gas would simply place that fuel in a somewhat comparable price situation to oil, in which "old oil" is price controlled, but "new oil" is not.

There is no question that partial natural gas deregulation will impose substantial costs on consumers, but these costs will be tempered by several factors. First, the wellhead price on natural gas makes up less than 20 percent of its final price to consumers. Second, since natural gas under fixed contracts would remain at present prices, the impact would be spread out perhaps over a decade. Thus, the most recent Federal Energy Administration study indicated that the average cost of such deregulation would be between $13 and $18 per annual residential bill in 1977.

CRUDE OIL

As I just mentioned, the decontrol of natural gas newly committed to interstate commerce would result in a natural gas control situation somewhat comparable to the present price control situation for crude oil, in which only the volume of oil produced by 1972 is price controlled. The President has urged Congress to take the further step of decontrolling "old oil," with the latest proposal for a phaseout over a 3-year period. Thus far this approach has been rejected.

Presently, "old oil," which constitutes two-thirds of our domestic oil supply and 40 percent of our total oil supply, is price controlled at $5.25 per barrel. Domestically produced "new oil" is not subject to price controls and tends to rise toward the imported oil price of about $13.50 per barrel. Of course, that imported oil price includes the President's $2 per barrel oil tariff.

Thus, the average price of domestically produced oil today is about $7.50 to $8. If crude oil were decontrolled, the price of old oil would rise and cause increases in this average domestic oil price, with the ceiling set by the OPEC price. It appears likely that the average price of domestic oil would rise over an adjustment period to the $10 to $12 range.

Several of the considerations which make the immediate decontrol of new natural gas imperative do not apply, at least in as drastic a fashion, to the crude oil situation. Although the long-run crude oil supply outlook is very unfavorable, there are no shortages looming immediately ahead as is the case for natural gas. Nor is there the long history of regulation which has held down natural gas production in the past. Absent also, relative to the natural gas situation, are any comparable needs to correct a present price disparity with other fuels for conservation purposes, or to correct the

unequal distibution of supplies brought about by the difference between interstate and intrastate natural gas prices.

Nevertheless, of course, adequate supplies of domestically produced oil are vitally important, particularly since they constitute a direct replacement for OPEC imports. The key question is what the necessary price must be to stimulate adequate development of domestic petroleum supplies, without burdening consumers unnecessarily. This is a difficult question and estimates of the necessary price have varied widely. For example, the National Petroleum Council in 1972 estimated that this price would be $3.65 per barrel by 1975; the Independent Petroleum Association of America that year estimated that it would be $4.10 per barrel by 1980; that association 1 year later estimated that the price would be $6.50 per barrel for 85 percent domestic self-sufficiency by 1980 and $8.40 per barrel for 100 percent self-sufficiency by that time; Treasury Secretary Simon estimated in 1974 that it is about $7 per barrel; and a recent study by Economist Robert Nathan estimated that the figure in 1974 was about $12.73 per barrel.

Regardless of the figure estimated, however, there are significant short-run constraints to increased oil production. These constraints include the several-year lead time for the planning and development of energy investments and serious shortages of drilling rigs and other drilling-related supplies. For example, the House Commerce Committee recently reported that drilling rigs ordered in 1974 cannot be delivered until the first quarter of 1977. Manufacturers of walking drag lines are fully committed for deliveries through 1979.

In addition, the proposal for decontrol of crude oil prices should be tempered by its possible impact on the economy. The estimates of this impact have varied considerably, but the range of estimates appeared to be that direct cost to consumers annually by 1977 of the President's proposal might be between about $13 and $20 billion per year; the additional impact on prices by then would result in about a 1.2 to 2.5 percent increase in inflation; while the additional impact on unemployment would range from about three-tenths to seven-tenths of 1 percent. The Government's well-developed estimates were among the more conservative, but nevertheless it is worth noting that some private forecasters indicated the impact of the President's 2½-year phaseout plan by comparing it to that of another embargo and that the likely impact would be far more powerful than the stimulative effect of extending the present tax cut for individuals through 1976.

These considerations lead me to believe that it would be unnecessary and detrimental to phaseout oil price controls too quickly. On the other hand, I opposed the rollback of new oil prices to $7.50 suggested by the House Commerce Committee. While the price of new oil presently may be higher than necessary in the long-run, in view of the uncertainty involved in this matter, the tremendous need for additional development of our oil supplies, the incidental conservation benefits involved and the protection against price abuses which a windfall profits tax would bring, the Commerce Committee went too far. The House of Representatives instead has adopted a more moderate approach, but one which may involve an unreasonable administrative task and continued price incentive problems.

A gradual increase in old oil prices appears desirable in the long run both to provide the working capital needed to expand supplies and in recognition that recovery of the same volume of old oil becomes more expensive as a well declines. Thus, a compromise along the lines the President has proposed may be workable. But any compromise must be designed in view of the lack of any need for immediate decontrol or even too short a phaseout, and the great need to proceed in a way which minimizes consumer impact. Thus, I have felt that decontrol over a 5-year period would be a reasonable compromise.

With his most recent proposal for decontrol over 39 months—now rejected by the House—coupled with a rollback of domestic "new oil" prices to $11.50 per barrel, a cap on new oil prices at that level and the elimination of the tariff on imported refined oil products, the President indicated his willingness to compromise. The domestic price cap was a positive step which would prevent domestic new oil prices from being determined solely by OPEC cartel prices. His proposal would have softened the impact of decontrol on the economy. He came a long way. The Congress urgently needs to move in the same spirit of compromise.

At the same time, Congress must continue to insist that any decontrol proposal be accompanied by a windfall profits tax. The tax must be free of loopholes and assure consumers that the higher prices are being reinvested in energy development.

COAL

The other major fossil fuel resource, coal, is the only one which has never been subject to price controls. In tandem with the increase in oil prices, the price of coal on spot markets rose as much as 200 percent last year, while the price of long-term contract coal rose about 45 percent.

It is ironic that relative to other fuel prices, little attention has been paid to the skyrocketing price of coal. One of the most painful energy cost increases has been in consumers' utility bills. Since 40 percent of his country's electricity generation is based upon coal, the drastic recent coal price increases are certainly part of the utility bill problem.

Furthermore, the Government rightly has been urging industrial users to convert from oil or natural gas to coal where possible, because the long-term coal supply situation is so much better. It would be consistent with his goal to desire that if there is to be any disparity between coal prices and other fuel prices, coal prices should be lower. At least with respect to natural gas, the opposite is now true.

The Senate has twice passed my amendment to correct this lack of attention to coal prices, by requiring an immediate assessment of these prices in relation to national energy policy goals and an ongoing quarterly monitoring of coal price trends. Hopefully, this amendment will be enacted promptly and the situation will receive more attention.

ENERGY CONSERVATION

I have already made clear my belief that strong energy conservation measures are essential for several reasons. Lower levels of energy consumption will help this Nation combat the undesirable economic and political consequences of oil import dependence. Conservation will also provide some extra time for our conversion away from reliance upon oil and natural gas, by lengthening the life of these reserves. In addition, a lessening in energy production needs would lighten somewhat the environmental and economic strains likely to be raised by our efforts to overcome the energy problem.

Some of the early votes on these matters in Congress cast doubts upon the public's willingness to take meaningful energy conservation steps, or at least indicate that we in Congress percieve the situation that way. It is true that as long as the public can go to the corner gasoline station and fill up the tanks of the family cars, there may be difficulties in obtaining support for conservation programs. This is a difficult problem, but I believe that Americans can come to understand the need for a strong energy conservation program. However, we can only hope for such a result if the entire energy program is seen as a fair and equitable one.

I feel that the best way to accomplish that task with regard to energy conservation is to target the program to all the areas of potential energy savings. No particular type of energy users should have to bear a disproportionate share of the burden or be hurt unnecessarily. On the other hand, no major area of energy waste should be left unaffected.

Thus, it is helpful to examine each category of energy users' possibilities for energy savings. Very roughly, about 35 percent of our energy is used by the residential and commercial sectors, about 25 percent by the transportation sector and about 40 percent by the industrial sector.

HOUSEHOLD AND COMMERCIAL SECTOR

In the household and commercial sector, the main possibility for energy savings is to improve the efficiency of our buildings' insulation, heating, cooling, and ventilation systems. Other savings can be realized by improving the energy efficiency of appliances and changing our usage habits for lighting, appliances and buildings generally.

As part of its original emergency housing bill, the Senate-passed legislation which would have required the phasing in of mandatory energy conservation standards for new buildings, to be administered through the State and local building code mechanism. I feel it is unfortunate that the final bill deleted any such provision and I hope that the Congress will act upon such legislation.

It is estimated that by 1985, 29 percent of our housing stock will be of post-1974 construction. Studies have shown that up to 36 percent of the energy used

annually in single-family dwellings can be saved by altering construction designs, without drastically changing the average new-house cost or the lifestyle of the occupants. For high rise structures, the figure is about 24 percent. The possible energy savings percentage associated with this strategy for commercial buildings is about 32 percent.

Obviously, this is a vast energy savings and in my judgment, it far outweighs the Government administrative costs of several hundred million dollars per year. While this policy action might increase the initial cost of new housing by about $1,500 per unit, much or all of this increase eventually would be recouped through lower energy operating costs over the years.

I feel that this approach is well-targeted to an area of large potential energy savings. Energy efficiency is particularly important in new buildings, because these buildings hopefully will be with us for many years.

With regard to the existing stock of buildings, it is estimated that the installation of energy saving devices would result in savings of about 10 to 20 percent of the energy used in residences and up to 40 percent of the energy used in commercial buildings if accompanied by improved operating and maintenance practices. There is no practical way to force private owners to make these expenditures and I do not believe the Government should try to do so in any event. To mention just one problem, the potential for greater energy conservation varies considerably among existing buildings. I do feel that the Federal Government should encourage these actions by providing a limited percentage tax credit to owners who voluntarily make the improvements. This tax credit should be available, for a limited time, to owners of both commercial and residential buildings.

The major criticism of this proposal is that higher energy prices would give persons a natural incentive to improve the insulation of their homes and commercial buildings, even without the tax credit. Thus, the tax credit would provide Government assistance for action which would benefit the individual undertaking it in any event.

That is a valid criticism, but I feel that the question mainly is one of degree. In addition to the extra financial incentive provided, the temporary tax credit would call to the public attention the need for taking these actions. I feel that the public benefit in the additional energy likely to be saved because the tax credit program entices more persons to take these actions promptly is likely to be substantial enough to justify this approach.

In addition to these steps, I think it is important that the Government promote, or at least not discourage, energy efficient forms of housing. In that connection, I was pleased to see a proposal I introduced, to include condominium units and apartment projects in the Government's mortgage credit assistance program, recently become law. These forms of housing cannot serve everybody, but where possible their use is desirable from an environmental as well as an energy conservation standpoint. They are also the only forms of housing available to some consumers with low and moderate incomes.

I have also encouraged the greater use of rehabilitation of existing housing, as opposed to new construction, for meeting housing needs of those with low incomes and others to the extent possible. For example, I authored the proposal to extend and amend the 3 percent Federal housing rehabilitation loan program—section 312—which has now become law. Housing rehabilitation is likely to involve energy conserving improvements and can save additional energy to the extent it reduces the need for new construction.

INDUSTRIAL SECTOR

A major energy conservation effort by industry is essential in view of the large portion of our energy consumed by that sector. About 70 percent of that energy is consumed in manufacturing. In turn, 80 percent of that amount is consumed by the 2,000 largest energy consuming manufacturers. Eighty percent of the energy consumed in manufacturing is consumed by six energy-intensive primary goods industries—food, paper, chemicals, petroleum, stone, clay, and glass, and primary meals. Thus, the effort will have to be concentrated there.

Industries vary so much that the only strategy which makes sense is to let each concern determine its own energy conservation policy. I would favor a requirement that at least the largest energy consumers have energy conservation plans which would be available for Government scrutiny, advice, and comment. I also believe that there is considerable useful research and development to be performed on industrial energy conservation, although industries ought to bear much of the cost themselves for efforts likely to reduce their own energy costs. The Federal effort in these areas could concentrate largely on energy-intensive industrial processes and equipment, 11 types of which account for over 50 percent of the energy consumed by industry.

Another way to save energy in the industrial sector is to encourage the use of recycled oil. Each year in this country we generate more than one billion gallons of waste oil. Less than 40 percent of it is processed for reuse, usually either as lube oil or for fuel. Most of the rest is dumped on the ground or in sewers.

This practice is detrimental from an environmental as well as an energy policy standpoint. To help end it, I have cosponsored legislation that would require labeling of recycled oil according to its quality, which should help remove the stigma that it is a poor product; encourage the Federal and State governments to use recycled oil; require EPA to oversee State programs to license and monitor oil collectors and recyclers; provide for research on new processes and technology for waste oil recycling; and change the existing excise tax structure so that it is more favorable to recycled oil.

TRANSPORTATION SECTOR

The hottest debate on energy conservation problems has concerned the transportation sector—mainly, the extent to which automobile users should carry the energy conservation burden. This has happened largely because of the well-founded impression that automobile gasoline use contains the highest proportion of energy waste of any major energy use.

A recent Washington Post article stated that because of this issue's relationship to the automobile industry's problems, many Midwestern Senators and Congressmen would rather settle upon virtually any other energy conservation strategy than one which leans heavily on gasoline consumption. There is no question that this is a difficult problem to face. However, I believe that there is a great national need to face it now.

At the same time, we must not be unrealistic about the potential energy savings from policies which concentrate solely on gasoline. Gasoline accounts for only about 19 percent of the Nation's annual energy consumption. Passenger automobile gasoline consumption accounts for only about 14 percent of total energy consumption. It would be extremely foolish and inequitable to rely almost entirely on energy conservation measures affecting only one-seventh of our energy consumption for accomplishing the conservation we need.

With regard to the automobile problem, it appears that weight is the worst offender. According to the Environmental Protection Agency, a 5,000-pound vehicle consumes 100 percent more gasoline that its 2,500-pound counterpart. Thus, major improvements in automobile design which would lead to a 40- to 50-percent increase in fuel efficiency by 1980 could save about 700,000 barrels of oil per day by then and almost 2 million barrels per day, assuming continued improvements, by 1985. That amount is very large relative to the prospects for other specific conservation strategies.

The automobile redesign needed to accomplish this type of action would be likely to raise the average cost of a new car in 1980 by about $250 to $300. However, the fuel savings to consumers would be so great as a result that for most car models, such a cost easily would be recouped and exceeded by the car owner's savings in gasoline costs. For some models, that would happen in a very short time. Partly because of that favorable situation, the impact of such a proposal on automobile sales is expected to be only in the 3-percent range.

Thus, I favor a strong automobile fuel efficiecny program. The President has obtained agreements from major automobile producers that they will realize a 40-percent improvement in fuel efficiency by 1980, if the stricter automobile emission standards scheduled to be imposed in future years are delayed temporarily. I feel that this is a major step in the right direction, but I also note that several studies, including studies by the Treasury Department, EPA, and the Federal Energy Administration, indicate that the industry can do even better.

Earlier in this Congress, I cosponsored Senator PERCY's legislation to help

bring that about, by imposing an excise tax to $1,000 on the sale of each new "gas guzzler." The same bill provided tax rebates to consumers who buy fuel-efficient cars, to help further the sale of those cars and to offset any depressing effect on the industry whch might be caused by the excise tax. There has been some concern that this approach may discriminate against those who have a valid need for large cars, such as large families. A recent Treasury study indicated that this need not be the case, because the technology exists now for producing large cars which meet the fuel efficiency standard contemplated for 1980. However, because of that problem and others, the recently passed Senate bill establishing mandatory fleetwide automobile fuel economy standards may be an acceptable alternative. Either approach should be accompanied by a miles per gallon labeling requirement, to encourage consumers to take that factor into account fully.

To help assure that the investment burden for the industry of this task is manageable, I do support the President's proposal to defer the strengthening of our automobile emission control standards. This proposal generally would freeze the standards at the 1975 interim standards level in effect for California. These standards represent roughly a 90-percent reduction in carbon monoxide and hydrocarbons over pre-1968 vehicles. Thus, the replacement on the road of older cars with automobiles meeting these standards will continue our progress toward reducing automobile pollution, while the moratorium on standards increases will ease the task considerably of obtaining the fuel economy standards.

The fuel economy program should improve the gasoline usage situation drastically with regard to new cars. However, it does not affect peoples' old cars or old driving habits. The often-quoted estimates that one-third of all driving is discretionary and that even with respect to work-related driving, there is an average of only 1.2 passengers per car, have led me to be sympathetic to a large gasoline tax.

Such a tax would have to be accompanied by appropriate credits to ease the burden for those with a large amount of work-related or other essential driving or those whose low or moderate incomes make the additional tax a real hardship. Even with these credits, however, such a tax would be likely to raise considerable money. These funds could be used to fund the development of alternative energy sources or for a small general tax cut or similar purposes.

Lately I have seen some analyses, however, which have tempered my enthusiasm for such a measure. It appears that although some gasoline would be saved, Americans' consumption habits would not be changed easily. For example, the House Ways and Means Committee's $25 billion gasoline tax bill might be saving less gasoline by 1985 than a strong fuel economy program. It appears that the tax also might have a very severe effect on the automobile industry, related industries and the recreation and tourism industry.

These circumstances and the uncertainty regarding possible higher prices for all oil products in the near future convince me to refrain from endorsing a large gasoline tax at the present time. I remain sympathetic to the idea and depending on other energy price and supply developments, I may feel at a later point that the proposal has to be endorsed.

Of course, in addition to the energy savings involved, programs which reduce automobile dominance will have side effects in terms of reductions in urban congestion and pollution.

Energy savings in the transportation sector also could be realized by increasing the use of mass transit relative to automobiles and railroads relative to airplanes. With regard to mass transit, I have supported operating subsidies, an expanded capital grant program and the freedom to use highway trust funds for this purpose. I also have supported strongly some innovative individual mass transit applications, such as Dayton's light rail application. The design of our mass transit facilities is particularly important because the problem of stimulating a greater demand for mass transit is at least as serious as, and of course integrally related to, the problem of adequate funding.

For freight movement, railroads are about 60 times more energy-efficient than airplanes and four times more energy-efficient than trucks. Tremendous energy savings for passenger travel could also be realized through the greater use of trains rather than airplanes over medium distances. I have sponsored comprehensive legislation which would improve the viability of the railroads, by ending outmoded rate regulations and restoring private competition.

UTILITIES AND OTHER CONSERVATION CONCERNS

Of the energy conservation concerns which do not fit neatly into the categories I have discussed, perhaps the most important concerns utilities pricing. A few figures demonstrate clearly the magnitude of this problem. At the present rate of growth of electricity demand, more than six times the 1970 electricity capacity will be required by 1985. Approximately $20 billion in new plant construction occurs every year and $110 billion is expected to be spent on construction between now and 1980. Yet, because the utilities must accommodate "peak load" demand which is considerably higher than the average demand, only about 51 percent on average of the Nation's utility generating capacity is in use. Furthermore, inefficiencies in the generation and transmission of electricity are so high that only 30 percent of the energy consumed at the utility reaches the end user.

One of the primary potential corrective actions would concern electric utility rate structures, which typically are designed to promote consumption of electricity through prices which decline in steps with increasing usage. Alternative rate structures which discourage the use of electricity at peak times may have considerable potential for reducing our electricity production capacity needs. Demonstrations of other utility-related improvements, such as actions to develop processes and equipment which would recapture "waste" heat, also should be undertaken.

I have not yet mentioned energy conservation measures already considered which I have opposed. Although I voted for the 55-mile-per-hour speed limit, I supported discretionary authority to allow an increase in the limit to 60 by States which judge that this would reduce drivers' aggravation considerably without resulting in much energy or safety loss. Much more importantly, I opposed yearround daylight saving time and helped lead the fight for its repeal. I simply felt that the small energy savings were not worth the problems involved, such as the problems of sending children to school before sunrise. This program also affected Ohio very harshly, because of its position on the western edge of the eastern standard time zone.

Last but far from least, I feel that if the Government is to demand these kinds of sacrifices from its citizens, it has an obligation to set the example. Thus, I have cosponsored resolutions to require a reduction in Federal energy consumption by one-third and a reduction in Federal employees' travel activities by 25 percent.

ENERGY PRODUCTION AND SUPPLY

With the political and economic undesirability of high oil import levels, the fact that shortfalls in our domestic energy supplies have been made up almost totally by oil imports, the widespread projections that energy consumption will rise again with the end of the recession and could be double the present level by the year 2000 and the dwindling of our oil and natural gas supplies, it is obvious that a strong positive effort to brighten our energy supply alternatives is essential. This effort must be two-pronged. It must involve a more complete utilization and development of the oil and gas reserves which we have to meet rising demands and to provide extra time for answering questions clouding the possible use of every other major energy source. It must also involve a long-term effort of research, development, demonstration, and commercialization of energy sources which can replace oil and natural gas.

OIL AND NATURAL GAS

At the present time, about 49 percent of our energy consumption is petroleum and about 32 percent is natural gas. Thus, the most pressing immediate energy supply questions clearly involve these two fuel sources. I have already outlined my feelings on the most important component considerations affecting these fuels: their pricing and a vigorous energy conservation program.

For the short-term, our policy with regard to domestic oil and natural gas production must be to stimulate enough production so that shortages are avoided and oil imports are kept to a politically and economically tolerable level. We must bear in mind that the encouragement of domestic oil and gas production serves to deplete our finite resources. Thus, we will be using these scarce resources to buy time. If that time is wasted, we will face a real energy squeeze.

The extent to which this type of policy

could lead to an energy squeeze at some point depends upon the extent and long-term availability of domestic oil and gas reserves, our progress on energy alternatives to oil and natural gas, the availability of oil imports and our success at restraining energy consumption. It appears that for the near future we will need to promote a high level of domestic oil and gas production, as well as the obviously needed exploration and development. However, we must realize the additional pressure which this predicament puts on our conservation efforts, as probably the most controllable means of easing our fuel conversion problem.

The factor which sets the timetable for such policies is our estimated supply of oil and natural gas reserves. The known supply of domestic reserves is only about 8 years' worth for petroleum and 11 years' worth for natural gas. The additional reserves presently undiscovered, according to the U.S. Geological Survey, may be about another 20 to 38 years' worth for petroleum and another 20 to 41 years' worth for natural gas.

Based on such projections, the Energy Research and Development Administration made its prediction that without enhanced recovery, the production of both domestic oil and natural gas will begin to drop rapidly in the mid-1980's. However, ERDA also estimated that enhanced recovery techniques for oil and stimulation techniques for natural gas could buy roughly 10 additional years of time for the development and application of new energy sources. These 10 years will be crucially important to the country, because they will virtually double the time available. We must strive to win them.

Hopefully, enhanced recovery techniques could increase the average percentage of oil recoverable from existing fields by a figure well above the present 30 percent. With regard to natural gas, the development of stimulation techniques may have special meaning for Ohio and other States in the Appalachian region. It has been estimated that the Devonian shale underlying this region contains about 285 trillion cubic feet—TCF—of natural gas, which is about 48 trillion cubic feet more than the present amount of proven reserves nationwide.

As I have mentioned, considerable enhanced petroleum recovery and natural gas stimulation is likely to be conducted as a result of the higher price incentives. However, some elements of the technology needed to make these approaches commercially feasible are now lacking, including the technology needed for full-scale utilization of the Devonian shale natural gas. Because of the potential importance of these approaches in the near term, the Government should be willing to commit all the research and development funds which can be spent productively for improving them. I have already taken action to help assure that the fiscal 1976 ERDA authorization bill will take account of this need, although I was disappointed with the Senate's largely negative response.

Apart from the development of advanced recovery processes, it is necessary that we take action to assure use of the capacity to produce oil and natural gas through conventional processes from all possible resource fields. In that regard, I feel that the passage of the Alaska Pipeline Act in the last Congress was a major step forward and I strongly supported that act. It is also important that the necessary pipeline or pipelines be built to transport the associated Alaskan natural gas to the lower 48 States. This is crucial to the Midwest, near or in which a pipeline terminal might be located.

The other domestic resource thought to contain huge amounts of undeveloped oil and natural gas reserves is the Outer Continental Shelf. I believe it is in the national interest to press ahead vigorously with oil and natural gas development there, which could save us more imported oil, for example, than a gasoline tax by 1985.

Of course, Outer Continental Shelf development must proceed with commonsense and a decent respect for the environment. Necessary components of that development would include appropriate environmental studies for each leased sale, strict and total industry liability for the cost of any oil spills, strict regulation of Outer Continental Shelf operations to prevent environmentally destructive accidents in the first place and full participation of the coastal States in program planning.

There may also be a case for a limited program of assistance to the coastal States for mitigating adverse environmental, economic and social consequences of Outer Continental Shelf Development. However, any such program ought to be reviewed continually in the congressional appropriations process rather than receiving any automatic funding through a percentage of lease revenues, as has been proposed.

We also have had a large amount of oil resources going unused in the form of the four naval petroleum reserves. Production from any of these reserves for defense purposes has only been authorized once. Yet, the NPS No. 1 at Elk Hills, Calif., contains proven reserves of about 1.2 bilion barrels of petroleum and 1.2 trillion cubic feet of natural gas. NPR No. 4 in Alaska is estimated to contain betwen 10 and 33 billion barrels of oil, or enough to supply the entire country for several years.

I believe that we can safely use some of this oil for purposes other than defense. This is particularly appropriate for the years ahead when we should be using some of our oil supply to build a strategic oil stockpile. Either this oil could be used directly for the stockpile or the revenues from the sale of it could be used for the national security-related purpose of financing research and development relating to alternative fuel sources.

Thus, I would favor immediate development and production, particularly from NPR No. 1, for this purpose. It is also important that the vast resources of NPR No. 4 in Alaska be explored and, in the long-run, developed. Continued regulation over the amounts produced, plus the development of the stockpile and the Government's present authority under the Defense Production Act to divert civilian petroleum supplies if necessary for defense purposes, should assure that defense needs are not compromised by this action.

COAL

The other domestic fuel source now widely available is coal. Coal is our most abundant fuel source, with over 800 years' worth of proven reserves remaining. We have almost half of the world's coal supplies and are far richer in coal than the Middle East is in oil. Yet, we rely on coal only for about 17 percent of our present energy supplies.

Before World War II, coal energized railroads and much of our industries. But coal was pushed from the market by cheaper oil and gas and by its adverse environmental effects. The time has come to do all we can to restore coal to its rightful place as a mainstay of our domestic energy supply.

Coal production has remained almost constant for the past 35 years. While it seems logical that the recent drastic price increases would stimulate increased production, investments and production efforts have been held back by uncertainty concerning strip mining legislation, Western coal lands leasing policy, Clean Air Act implementation, and the economic prospects for competing fuels. Thus, the Government can help to improve the situation simply by resolving some of these uncertainties.

The most obvious case in point is the surface mining legislation. There is absolutely no question that America needs a mine land reclamation law with teeth. However, I have not been satisfied that reclamation requirements in the bills thus far have been realistic for all types of mine operations, or that they have fulfilled the obligation to provide for suitable reclamation with the minimum possible impact on coal production. I hope that congress promptly will enact a suitable bill.

Since almost half of our coal resources are located beneath Western Federal lands, virtually all of which is of the low-sulfur variety, future Federal leasing policy is obviously crucial to coal development. I am pleased that the President has developed a "diligence requirement" to assure timely production from existing leases and is exploring on a priority basis with Western Governors the economic, environmental and social problems associated with new Federal coal leases.

It appears that the sluggish demand for coal has been at least as important an impediment to its further use as any constraints on coal production. One of the major problems the Congress has before it in that regard is the legislation to ease air pollution standards so that electricity generation in particular can be based on coal to a greater extent. The Federal Power Commission's estimate that 200 million tons of coal needed for use in 1980 will require action to lower its sulfur content is testimony to the seriousness of the problem. This is the BTU equivalent of 800 million barrels of oil.

However, we have made considerable technical progress recently with regard

to the development of coal stack scrubbers. I feel that while some variances from the clean air act deadlines may be needed, as well as some relatively minor overall adjustments, the great burden of proof on those who feel that the standards need drastic alteration has not been met. Nevertheless, we should keep these standards under continual review and make any alterations necessary so that they will continue to be acceptable from an economic policy as well as an environmental policy standpoint.

RESEARCH DEVELOPMENT, AND DEMONSTRATION POLICY

Our other energy sources, to a greater or lesser degree, are still in the research, development, and demonstration stage. Yet, it is likely that we will rely a great deal on some of these sources for meeting future energy requirements.

The Congress took the first major step toward the development of a coherent research, development, and demonstration strategy last year, when it created the Energy Research and Development Administration. The purpose of this legislation was to centralize responsibility for such efforts, which had been spread throughout the Federal Government in an unmanageable number of agencies. I strongly supported that legislation. Recently, ERDA has come out with its first comprehensive proposal for proceeding in the energy R.D. & D. field.

I am far from an expert on the possible potential of any of these resources. However, simply as a Member of Congress exposed almost daily to wide-ranging and often conflicting arguments on the issue, several principles for the conduct of our energy research, development, and demonstration program seem apparent to me.

First, we must pursue all of the major energy options fully. No major approach is so problem-free or obviously superior to the others that we can depend on its development and use. Furthermore, if we were to foreclose a major option prematurely, such as nuclear power, we would put an undesirable amount of pressure on the other options to come through. That would be very unwise at this uncertain time. Thus, the question is not whether to attempt development of each option, but how much effort to allocate to each and with what timing.

Second, the energy research, development and demonstration program should receive all the money it can possibly use productively. However, that does not mean that we can afford to squander this money by allowing unnecessary or duplicatory demonstrations, funding research extremely unlikely to be productive, or allowing the Government to assume financial burdens which the private sector ought to assume.

Third, our highest priorities must be to solve our near-term fuel problems and to search for the highest-yield long-term answers in the form of virtually inexhaustable energy resources. Translated into fuel sources, this means that we should concentrate heavily on improving the technology for oil and natural gas enhanced recovery and stimulation, as I have already discussed, and bringing to fruition the substantial work already done on producing substitutes for these fuels from coal. The virtually inexhaustable sources of energy which deserve this high priority are nuclear power, including the liquid metal fast breeder reactor, and solar energy. Within this category, nuclear fusion also may come along down the line.

Fourth, the program must not be geared just to the development or even the demonstration stage, but instead must be conducted with sensitivity to the possibilities for commercialization of the energy resources involved. There is a great danger of conducting our research and development in too much of a vacuum, with too little attention paid to the pracitcal problems of commercializing the results of that work. The development of alternative energy sources is only useful to the extent that these sources actually can achieve widespread usage.

Last, we must conduct the program with flexibility and without concern for damaged egos. Some of the options we are pursuing may not work or may be disappointing, while others may prove to be much more favorable options than they seem now. We must be able to change our priorities to respond to any such developments in a timely manner, once they are established. At the same time, we must continue some basic as opposed to incremental research, which may lead to important breakthroughs.

FURTHER DEVELOPMENT OF SPECIFIC ENERGY ALTERNATIVES

In the debate over future energy sources, the nuclear energy issue is the loudest one. We have already concerned ourselves with this matter for two decades and spent billions of dollars to develop nuclear energy.

Although nuclear energy supplies only about 8 percent of our Nation's electricity and 2 percent of our total energy base at the present time, it is the only nonfossil fuel which could fulfill a substantial portion of our energy needs in the near future. Its proponents are hopeful that nuclear lightwater reactors could be responsible for meeting half of our electricity needs within the next 15 to 20 years. In the long run, it may provide the cheapest and cleanest form of electricity generation.

I believe that nuclear energy's possible contribution for the near term, just at the time when domestic oil and natural gas production is likely to be becoming much harder to sustain, makes it crucial that we press ahead with its development. Thus, I am extremely concerned about the much-publicized large-scale deferrals and cancellations of nuclear powerplants—and coal-fired plants, for that matter. To help turn the situation around, I have supported various improvements in the investment tax situation of the utilities, a prompt extension of the Price-Anderson nuclear indemnification law and a streamlining of the nuclear regulatory licensing process. With regard to the latter point, however, I am not opting for any insufficient consideration of environmental concerns, nor am I blaming the slippage wholly on the regulatory process. I think it has come about in large part because of economic factors, particularly the widespread uncertainty about the economy and the energy situation.

One of the first nuclear-related problems we must encounter is the possibility of a uranium shortage, which would be ironic to say the least after we have encouraged conversion away from scarce oil and natural gas resources. Unless expanded facilities for the enrichment of uranium can be brought in line, the nuclear industry could face a serious fuel shortage by 1985. As a first step in combatting this problem, the Government should expand its present enrichment facilities. Thus, I have been urging the expansion of the Portsmouth, Ohio, facility. Eventually, however, the nuclear industry itself should assume responsibility for enlarging our uranium enrichment capacity.

The most serious question about nuclear energy in the minds of our citizens is its possible threat to health and safety. A large majority of scientific opinion foresees this as much less of a problem than it has been portrayed publicly in many instances. For example, the most comprehensive report done on the subject, the Rasmussen report, done for the Atomic Energy Commission, concluded that the likelihood of reactor accidents is much smaller than that of many nonnuclear accidents having similar consequences; that nonnuclear accidents such as fires, explosions, dam failures, or airline crashes are much more likely to occur and can have consequences comparable to or larger than nuclear accidents; and that nuclear plants are about 100 to 1,000 times less likely to have costly large dollar value accidents than other sources. Similarly, a year-long American Physical Society study, although not as optimistic as the Rasmussen report, indicated it had not uncovered reasons for a substantial short-range concern regarding the risk of accidents in the present type of reactors. Other experts have advised that reactors pose less of a threat to health and safety than the generation of electricity from other energy sources, particularly coal.

Nevertheless, because considerable doubt about the issue remains, we must do all we can to reduce the health and safety risks involved in the generation of nuclear power. This means a continuing research effort and very strict regulation of the safety aspects of these plants' operation.

For the long term, the development of the liquid metal fast breeder reactor—LMFBR—is of vital importance. Without the breeder, only about 1 percent of the uranium atoms in nature are useful for nuclear fuel. With the breeder, the recoverable energy is multiplied at least 60-fold. As a result, nuclear fission would be transformed into an energy source lasting for centuries.

At the same time, there is no question in my mind that successful commercialization of the breeder will complicate the problem of keeping dangerous plutonium out of the hands of thieves and terrorists and will increase the effort required to store radioactive wastes safely. I do not think anyone is now satisfied with present provisions for nuclear safeguards

and waste disposal. Improvements have to be made.

I feel that in view of its tremendous potential and the rather long time that the breeder demonstration may take, there may be ample time to work out these problems. Thus, demonstration of the breeder should continue to receive high priority, with parallel high priority to developing the technologies for safeguards and waste disposal that would permit the widespread safe use of the breeder.

I was pleased to see the elevation of priority for solar energy research in the recent ERDA report. I have been impressed with the materials and demonstrations I have seen concerning this energy source. Partly for that reason, I coauthored an amendment to the 1974 Housing Act initiating research and demonstrations designed to improve residential solar heating and cooling facilities. That amendment has now become law.

Because of unsolved technological problems, the need for large facilities to collect this diffuse and intermittent source of power and the need to develop much-improved means of solar energy storage, it is evident that the use of solar power for generating electricity in central powerplants is years away. However, some uses of solar power are at or near the commercialization point. Solar heating and cooling for buildings is the best case in point. Such facilities are now available, but not at prices which are competitive with other fuels and equipment.

Since it is the commercialization of these new energy sources which counts, I am willing to support some measure of assistance for persons who decide to install these facilities, such as tax credits. These persons are performing a public service by demonstrating the viability of solar facilities and helping to develop the needed industrial capacity for the facilities' production and servicing. Furthermore, there are likely to be technological improvements in these systems from which these first purchasers will not be able to benefit. On the other hand, any such assistance should not be designed in a manner which sustains the industry indefinitely even though its prices are not competitive with those of other fuels, or which creates such a sudden demand that it funds all kinds of "ripoff" solar energy "specialists."

Because solar energy is an essentially inexhaustible, pollution-free, and widely distributed energy source, further research and development to make its widespread use for electricity generation a reality should receive our total support. America and the world would be extremely fortunate if this turns out to be a viable energy source.

The other virtually inexhaustible possible energy source is nuclear fusion, and as such it should receive concentrated research attention. However, this presently is a vast energy source only in theory. We may not even be able to demonstrate its possibilities in the remainder of this century.

Another area which deserves top research and development attention is the possibility for better use of our coal resources. I have already mentioned my concern that we underutilize this vast resource, which can help to improve our short-term energy predicament. This is a research and development problem, as well as a problem involving the regulatory isues I discussed earlier.

Thus, before the Energy Research and Development Administration even had become a reality, I cosponsored the Coal Research Laboratory and Energy Research Fellowship Act. This legislation was designed to foster a wide-ranging program of increase research on coal-related problems. For example, a high priority of the new research would be to develop methods by which use of high sulfur coal would be made more environmentally acceptable.

Continued research and development work on coal gasification and liquefaction also is extremely important, because these synthetic fuels can serve as direct replacements for oil and natural gas within a decade. I welcome the President's new national synthetic fuels commercialization program, which would facilitate the use of these fuels for fulfilling a small but significant portion of our energy needs by 1985. This program will include the development of synthetic fuels from oil shale as well as coal.

Of course, there are many other potential sources of energy which should continue to be explored and developed. For example, I supported legislation in the last Congress which provides loan guarantees to foster the commercial development of geothermal energy. Geothermal steam is already being used commercially in California to generate electricity. Another good example is the use of solid waste, which is combined with coal for powerplant firing in St. Louis. Both of these energy sources appear to be capable of making some impact within the next 10 to 15 years. It appears that improved technology to make the electricity generating process we already have more efficient could also make an impact during this period. As I already have emphasized, in view of the uncertain status of other future energy sources and the possibility of breakthroughs, all such alternatives should continue to be explored.

CONSTRAINTS ON FUTURE ENERGY PRODUCTION

Translating this outline of promising energy production possibilities into a reality will be one of our dominant economic and scientific tasks for the rest of this century and beyond. The most serious constraints appear to be raw materials and water resources in particular, and environmental problems. Other problems, such as capital shortfalls, manpower shortages, transportation problems and skilled labor and equipment shortages, are likely to develop on a spot basis from time to time.

The Energy Research and Development Administration believes that the capital, manpower and equipment energy production needs generally can be met satisfactorily. ERDA has estimated that capital investment just over the next 10 years of $450 to $600 billion will be necessary. Because a very large portion of this burden will fall on the oil, natural gas and utilities industries, I have already mentioned special price and tax considerations for these industries which I feel are appropriate.

With regard to the manpower situation, the largest problem may be in construction. Potential problem job slots could include architects, engineers and the pipe/steamfitters who comprise at least one-fourth of the construction tradesmen needed for building oil refineries, synthetic fuel plants, or electric powerplants.

ERDA feels that we are presently experiencing the most serious problems we will face in the near future with regard to the availability of manufacturing equipment. However, various steel goods in particular may be in short supply from time to time.

As more energy must be transported and energy facilities are developed further from population centers, there also will be considerable pressure placed on the transportation sector. The most severely affected form will be rail, where increased coal transport needs may necessitate a four-fold increase in rolling stock by the end of the century. This translates mostly into a concentrated effort to upgrade existing tracks. Substantial new investment in pipeline facilities obviously also will be required. In addition to the need for oil and gas pipelines, coal slurry pipelines may become the most efficient way to transport large coal volumes in areas not constrained by water resources. These pipelines also can take some of the pressure arising from coal transport needs off the rail system. However, legislation appears to be needed to establish rights-of-way before they can be built.

Raw materials shortages may become a serious problem. The future availability of chromium and alloying elements for steel is particularly sensitive because of our almost complete dependence on imports for supplies of these materials.

By far the most serious of all these problems, however, could be a water shortage. It is projected by ERDA that we need to increase our reliable water supplies by at least 50 percent in the next decade, with much of the new increase needed to meet expanded energy production requirements. The higher requirements for energy will result largely from the shift toward electric power and the substitution of synthetic fuels and oil shale production for oil and natural gas, which will create a ten-fold increase in water requirements per unit of energy.

It appears that this increase can be accommodated through improved facilities and methods for trapping the additional supplies needed. However, regional difficulties are likely to persist. I am extremely concerned that we are not devoting adequate attention to the technological and legal aspects of this problem.

Thus far, I have discussed only in passing the environmental, health, and safety problems associated with foreseeable energy production activities. Of course, that does not reflect their importance. These considerations are so

great that they are likely to have a fundamental impact upon our energy production strategies.

There are no simple answers to these problems. Everyone is familiar with the oil spills, strip mining problems, and air pollution associated with today's energy sources. As our energy needs grow, there also will be a great need for additional land on which to locate the facilities. A good deal of this land previously will have been unspoiled. Furthermore, the facilities which are created to service these activities, such as the facilities which will develop along our coastlines relating to the activities on the Outer Continental Shelf, in some cases may cause more environmental and ecological disturbance than the energy production itself.

None of the new energy sources can afford a total escape from these problems. Some of them even involve new environmental problems, such as the tremendous demand for water associated with oil shale development. Geothermal plants emit naturally radioactive wastes and unpleasant chemical pollutants.

Solar and nuclear energy have been portrayed as our cleanest potential fuels, but even in those cases the possible "pollutants" simply take different forms. The use of some forms of solar energy involves land use problems, because of the large areas required for collection, and generates waste heat which imposes water cooling requirements similar to those faced by conventional power systems. Nuclear energy involves the safety problems associated with waste control and disposal which I have already discussed, as well as the same types of water cooling requirements as solar thermal systems and conventional power systems.

Nevertheless, nuclear and solar energy are much more environmentally benign than our present fuels. Our environmental problems would be much reduced by reliance on these fuels, with the major caveat that a satisfactory solution be found to the nuclear waste problem.

A Federal Energy Administration projection of likely pollution levels by 1985 as a result of energy production activities, however, does provide some cause for hope. The study projected that the Federal water pollution standards would be effective in keeping water pollution generally below 1972 levels. Air pollution is viewed as a more mixed picture, but is expected to be kept around the 1972 level by the Federal emission standards. This would depend partly on the extent to which coal is substituted for oil and gas, which could worsen the situation. On the other hand, substitution of nuclear energy for these fuels would improve the situation greatly. In any event, surface mining-related problems could increase drastically and the energy production-related demand for land will increase drastically. As far as Ohio's region is concerned, both air pollution and the energy facility-related demand for new land are expected to be heavy relative to other parts of the country.

One of the best steps we can take to help minimize these impacts is to have a strong energy conservation program, which reduces the need for increased production facilities. By the same token, relative increases in imported oil would shift the environmental problems out of the United States. That adds to the dilemma concerning imports. Reliance on fuels other than coal also would help unless technological developments can reduce the pollution associated with coal use, but that appears to be a luxury we probably cannot afford.

There are going to be serious environmental impacts associated with the new facilities we must build. We will have no choice other than to accept some environmental risks. Some areas will be hurt much worse than others. At the same time, however, I do not believe that our people would or should accept energy policies which are likely to compromise seriously the environment on a widespread basis. That means consumers and regulatory agencies probably will have to accept large pollution control investments not as "unproductive" spending, but as a necessary component of our energy development policies. We will have to speed up the determination of the steps necessary for meeting environmental needs and assess these needs more critically, but we cannot give them short shrift.

How much environmental considerations will have an impact upon the development of any particular energy source or project is impossible to say. That is another reason for a flexible energy production policy which pursues initially every promising alternative.

FAIR TREATMENT FOR THE CONSUMING PUBLIC

Energy prices already have risen severely and are likely to rise further, at least in the short run. We also have had problems already of absolute shortages. We may have extremely serious problems in that regard this winter with respect to interstate natural gas.

The kind of conservation policies I have outlined, which target the conservation where possible, rather than forcing it through general price increases, would mitigate the hardship somewhat upon consumers. Nevertheless, the energy predicament still will inflict adverse effects upon most of our citizens through higher prices. The Government must do what is reasonable to mitigate these effects.

General economic policy will have to be very sensitive to the purchasing power losses suffered by consumers due to higher energy prices. In particular, we will have to be more sensitive to the tax burden upon our citizens. Tax relief measures and similar stimulative economic measures will have to be evaluated with this concern in mind. However, it is a fact of life that to some extent the higher energy prices today represent a real reduction in our standard of living, and thus Government fiscal and monetary policy should not be expected to restore to consumers their entire purchasing power in the shortrun.

Continuing special attention must be paid, of course, to the needs of low-income persons and small businesses which suffer the most serious hardships as a result of higher energy prices. Passage of legislation in the last Congress allowing special SBA loan assistance for small businesses hurt by the energy situation was a good example of responsive policymaking, as were the recent tax cuts.

These special needs put even more pressure on the Federal budget and on the Government to eliminate unessential spending wherever possible.

We also must do what is necessary to insure that the energy industries do not take unfair advantage of consumers as a result of our energy predicament. Assuming that we allow energy prices over time to rise to a level higher than the market would allow if it were not for the OPEC cartel, in a sense we are investing in the energy industries a quasi-governmental function and allowing them to receive the revenues necessary to carry it out. Thus, I have no qualms about imposing the windfall profits taxes I have described only upon the energy industries. They are a necessity. The taxes raised in this manner should be returned to consumers or used to promote development of alternative energy sources.

An exceptional degree of cooperation between companies undoubtedly will be in the public interest for some energy ventures. However, I do not believe that there is an established case for any general weakening of antitrust enforcement with regard to these industries. Competition in this industry is particularly important to consumers. Thus, I am following with interest the Federal Trade Commission's complaint of anticompetitive behavior against eight major oil companies.

I also feel that the present situation requires specific protection for petroleum dealers, specifically independent service station operators. Now that oil supplies have tightened, these dealers are much more vulnerable to such actions as franchise terminations from their energy suppliers unless they take certain actions not required by their franchises, but desired by these suppliers. For example, I have heard extremely disturbing stories of gasoline stations forced to stay open extra hours, which is directly contrary to the energy conservation we are trying to promote. It is important to the public that we have the competitive benefits which these small businessmen can bring.

The Federal Energy Administration's controversial crude oil entitlements program is also designed to promote competition within the industry. It recognizes that companies which presently have large domestic oil production volume otherwise would have a great competitive advantage over other oil companies which are forced to rely to a greater extent upon imports, and mitigates somewhat the price advantage. However, a strong argument has been made against the oil entitlements program on the grounds that it involves costly redtape and softens the penalties involved in companies' reliance upon imports rather than increased domestic production. It also would be undesirable as permanent policy to have one oil company subsidizing another.

Thus, I certainly do not think the entitlements program is a permanent

answer to the problem. However, I have refrained from opposing it thus far, because of its positive effects on the industry's competitive structure. It also must be pointed out that the program does not eliminate the cost disadvantage of a company's reliance upon imports.

There are a number of other ways in which the Government must act to assure the public fair treatment by the energy industries. For example, I support the diligence requirements which I mentioned in connection with the leasing of Federal lands for coal production and which are also proposed for Outer Continental Shelf leases. I also supported the repeal of the oil and gas depletion allowance. However, I supported its retention for "independents" in recognition of both their large historic role in exploration and development and the positive competitive effects of providing further incentives to that sector.

On the other hand, I have opposed the proposed creation of a Federal oil and gas corporation to compete against the private companies. I see nothing in the Government's past record at program administration that would lead me to believe the Government could do this job any better than, or anywhere near as well as, the private sector.

In the past, the Government has not had energy information which is sufficient and reliable enough to use for the important policy decisions that have been necessary. With that in mind, in the last Congress I cosponsored legislation which would require the industry to provide detailed regular reporting of essential energy statistics, with strict enforcement provisions and penalties for supplying false information. The Federal Energy Administration was provided this type of authority in the Energy Supply and Environmental Coordination Act, which was enacted in June 1974. We should make whatever improvements prove necessary to assure that the Government has adequate energy information, but at the same time we must avoid any duplication that simply would impose unnecessary costs on the energy companies, consumers and taxpayers.

Lastly, there may be continuing energy distribution problems which affect consumers greatly. During the embargo period of short petroleum supplies, the allocation program undertaken under the Emergency Petroleum Allocation Act helped to mitigate the effect of shortages on industry and thus to dampen their job impact.

While there is no such problem as far as petroleum is concerned at the present time, natural gas shortage and distribution problems are predicted for this winter to be very severe. The curtailment projections for my own State, which would be one of the hardest hit, are positively alarming and could cause extremely serious disruptions and job losses. The Government agencies involved at all levels should be doing all they can to gear up for this problem, with Congress encouraging them by exercising its oversight function. Every possible adjustment we can make so that supplies can be diverted from one State to another to take care of emergencies should be made now. This includes the adoption of any further Government allocation authority which is necessary and the alteration of any rules which constrict the movement of natural gas to shortage States, including any temporary price control exemptions necessary to help move the required fuel. We also should take the natural gas conservation, development, and production steps I have already outlined so that this problem can be mitigated over the longer term.

INTERNATIONAL ASPECTS

The energy problem became recognized as a crisis with the oil embargo and the rigging of world oil prices by the Organization of Petroleum Exporting Countries. Its most dominant short-run aspects, in addition to the natural gas shortage situation, are the economic threat caused by OPEC sky-high cartel prices and the political threat resulting from our dependence on oil imports. The United States has no choice other than to place its response to the problem on a worldwide framework.

The dominating question is how to cope with OPEC. We obviously must adopt policies which prevent crises arising from the present international economic situation and any further OPEC manipulation of that situation. There is no basis for assuming that OPEC will fall apart. The cartel may become even stronger in the immediate future as worldwide economic recovery gains momentum, assuming that the demand for petroleum increases as expected. At the same time, however, we should do all we can to avoid the adoption of policies which take the permanency of OPEC as a given fact and may contribute to that permanency. This is important not only in view of the much-publicized minor strains OPEC has endured as it has attempted to keep oil production low enough to prevent any price breaks, but also because OPEC is a group of countries whose political, sociological, and economic situations vary immensely. For example, the two OPEC superpowers, Saudi Arabia and Iran, have an intense historical rivalry. These types of considerations at least contribute to the chance that OPEC could become weaker or be destroyed in the years ahead.

It is to the consuming nations' obvious advantage in dealing with OPEC to have as much solidarity as possible. I feel that some of the strides made promptly in this regard by the new international energy agency have been remarkable. The best example is the international consuming nations' agreement to share oil in the case of another supply emergency, which just by its existence should serve as a deterrent to such an emergency.

The efforts of the agency to encourage conservation and an improved production situation among its members are also extremely important. Although I doubt that this type of international agency can have much effect on participating Government's energy conservation strategies, it can play a significant role in the development of more adequate non-OPEC energy supplies. For example, I support Secretary of State Kissinger's proposals for the development of a synthetic fuels consortium, an energy research and development consortium, and a comprehensive energy technology information exchange within the international energy agency.

In the short time since OPEC quadrupled world oil prices, there has been some significant energy production and development progress by the non-OPEC nations. Some of the most publicized gains were the discovery of oil resources in Mexico, Indonesia, and India, and progress toward the actual utilization of the vast North Sea oil resources. The oil consuming nations should be mutually supportive in this worldwide energy supply expansion effort, because supply improvements in any part of the world are likely to ease the situation elsewhere, at least to some extent.

Another major activity of the international energy agency has been the creation of a financial "safety net" for IEA members prepared to cooperate in efforts to increase energy conservation and production. The mechanism would allow loans to any such country—basically the world's non-Communist industrialized countries—which has short-term balance-of-payments problems.

I feel that this type of facility might help to deter OPEC from using the "recycling" of its huge financial surpluses as a foreign policy weapon, by refusing to do business with certain countries. However, it must continue to be financed equitably and it should not be used in a manner which helps a consuming nation sustain long-term balance-of-payments problems. Of course, the Members hope it will not have to be used at all.

While the recycling problem has not as yet become as serious to the industrialized nations as most economists predicted, it is a grim reality for the developing nations. The international monetary fund estimates roughly that with foreign aid discounted, these nations' balance-of-payments deficits grew by over $14 billion last year and may grow an additional $6 billion this year. The growth in foreign aid is likely to compensate for only about one-fourth of this total at best.

In view of this situation, I support the International Monetary Fund's program of low-interest loans for these countries. However, because of their much greater economic power than previously and their role as exacerbators of the developing countries' problems, the OPEC nations should fund a larger share of this assistance. As a further support to the developing nations, I cosponsored legislation in the last Congress which authorized a proportionately reduced but continuing U.S. contribution to the International Development Association.

The recycling situation has generated considerable concern about the effects of foreign investment in the United States. In general, I believe that we should encourage foreign investment, because it stimulates our economy and improves our balance-of-payments situation. Nevertheless, it obviously would be undesirable to allow OPEC investors to have

controlling interests in some of our key strategic industries. Although this problem has not developed as yet, I do favor the existence of an adequate screening process for major foreign investments which could have strategic impact. I also favor the adoption of requirements to provide the Government more sufficient more general information concerning the identity and financial participation of foreign investors.

Despite all the discussion, the only important energy conservation action taken this year has been the President's crude oil tariff. I supported the legislation to defer this tariff for 3 months, largely to give Congress some time to respond to the energy situation and because I felt it should not be imposed during a recession without a mechanism to return to consumers the money it takes away from them.

Assuming the latter problem is corrected, however, the long-run considerations are different. It appears that the tariff can result in some conservation, and it is a direct disincentive to oil importing. However, it is an inefficient conservation incentive, because the higher prices hit everyone regardless of whether they can cut back on energy use. It also could hurt our international economic position by imposing higher energy prices on our industries than the world price. The incentive not to import is present regardless of the tariff, because of the lower cost in any event of domestic oil.

Thus, I am inclined to believe that the tariff ought to be removed at some point. It has already served its worthwhile purpose of forcing congressional attention, belatedly, to the need for action on energy. However, the removal of the tariff is now a touchy diplomatic problem, in view of OPEC's open consideration of further price increases this fall. That consideration and the lack of any other conservation measures in place thus far lead me to believe that as a matter of economic and foreign policy—as opposed to the legal question concerning the tariff which is being decided in court—removal of the tariff unfortunately should be made to wait. However, I have urged that its removal be considered in the unfortunate event of immediate oil price decontrol, as an aid to consumers and a means of getting rid of it without inviting OPEC to substitute a price increase. The President apparently is willing to follow that course of action.

I favor the imposition of "mild" import quotas. Although I would not be disappointed if these quotas has some "bite," generally I feel they should not serve as an energy conservation measure in themselves. Instead, they should be used as a regulatory mechanism, to insure that energy conservation gains actually are translated into lower import levels. Import quotas have tended to be abused in the past, but I think that the hardships caused by the overly strict use of the quotas in this situation helps insure that they will not be abused this time.

I am sympathetic to those who advocate the involvement of our Government in the purchase of foreign oil. With only their private interests at stake, the international oil companies cannot be relied upon to make purchasing decisions with full consideration of the public interest involved. However, I am not convinced that we have the answer to this problem as yet. The Government would have a difficult and perhaps impossible time developing the necessary expertise to be the sole oil purchasing agent, unless it relied totally upon oil company expertise. Furthermore, whether such action would put us in a better foreign policy position than presently is far from beyond question.

There are other, less drastic alterations which would improve the operation of the international oil industry from the United States standpoint. For example, I felt that several of the tax changes relating to foreign oil-related income in the tax reduction act of 1975 were necessary to alter previous tax provisions which had the effect of allowing the oil companies to generate excessive U.S. tax credits in their foreign operations. I must add, however, that I am strongly opposed to some of the punitive tax legislation which has been proposed in conjunction with some of the provisions I have favored. Such measures include, for example, the taxation of multinationals' corporate earnings which have not even been returned to the United States and which are being taxed by the host country.

I have been opposed to Secretary Kissinger's proposal to deal with OPEC over the longer term partly by setting a floor price among consuming nations for future oil imports. I feel that this type of price guarantee can only strengthen OPEC. It has been argued that such a guarantee is necessary to encourage energy investments from those who are concerned that reduced future OPEC oil prices may make their investments uneconomical. However, I see no conclusive evidence that this is the case. There may be a case for assisting the domestic energy industry if a price break does occur, but there is certainly no justification for deciding that an import price floor is necessary now on those grounds.

Along the same lines, I am hesitant about the attempt to negotiate a long-term oil price agreement with OPEC. Particularly since the consuming nations' market position has not been strengthened substantially by increased conservation and production as yet, I doubt that OPEC would offer a good enough deal to justify the risk that we could be sustaining considerably the life of the cartel. I also feel that such an agreement might set a pattern for other world commodity agreements that are not in the United States' best interests.

Thus, I am not very enthusiastic even about our attempts to negotiate with OPEC in the near future. I do think we will have to keep open minds on the subject. Changes in market conditions could change the situation. Some of the other consuming nations also may force a shift in this position by attempting to negotiate their own oil supply agreements. I do not think, however, that the United States should lead the pack.

Of course, our foreign policy relationship with the Arab and other OPEC countries is at the heart of these problems. We should continue to strive for improved relations with these countries, who should share our economic interest in a prosperous and peaceful world. However, this does not mean that we should take any action which would compromise Israel's fundamental interests. For example, the Arab economic boycott of firms doing business with Israel is simply intolerable and should be opposed as strongly as possible. We also should continue working for international arms control agreements which would affect the Middle East, although it would make no sense for the United States to stop its own arms sales until such an agreement can be achieved.

CONCLUDING REMARKS

The intensified action on energy bills in July seems to indicate that Congressional debate on energy is finally coming to a head. I fervently hope this is the case. The time for action should have been yesterday and certainly is now.

Yet, although 1½ years have passed since the oil embargo and more than 6 months since the President presented his comprehensive energy program, Congress hardly has begun to address these problems. We have not even managed to complete action on legislation needed to protect the country from another embargo, such as the bill to create petroleum strategic reserves for use in emergency situations. The only Government-imposed energy conservation measure thus far is President Ford's import tariff, which Congress did not have to endorse but has tried to remove. The Congress also has failed to take the kind of domestic action necessary to improve our long-run domestic energy production outlook.

I mention these facts not for any partisan purpose, but because I am extremely concerned about them.

If nothing else, I hope that this statement has emphasized the many-faceted nature and multitude of ramifications of the energy problem we face. No one person possibly can be an expert on all of these problems. I certainly am not.

If my suggestions for energy conservation and production strategies sound ambitious, it is because I would rather go too far in the direction of assuring an adequate energy supply than not far enough. We always can ease our conservation and production efforts, but an energy squeeze for the long-term would leave us the worst kinds of choices.

This statement represents my best judgments, based on what I know at this time, of the directions our energy policies ought to take. However, the overwhelming nature of these problems demands that we proceed with flexibility and with open minds. It demands that we not let those large egos, for which politicians are famous, obstruct our progress on these problems. It demands that we do all we can to resolve our honest differences in judgment, based upon the best knowledge and facts available. We must forge a consensus with which to move ahead.

The Nation must move on with the business of helping to meet the energy challenge. As Congress shapes its con-

tribution, we must strive hard to treat all our citizens fairly. We also must never lose sight of our goal—to develop the most beneficial energy policy possible for fulfilling the diverse needs of all the people.

DEATH OF EAMON DE VALERA

Mr. KENNEDY. Mr. President, in yesterday's RECORD, in tribute to Eamon de Valera, the former President and Prime Minister of the Republic of Ireland who died last week, I included a number of editorials and articles from U.S. newspapers. Today, I have had the chance to see the memorials in the Irish Times. In tribute to the passing of this great leader of Irish history, I ask unanimous consent that these materials may be printed in the RECORD. I also ask unanimous consent that an editorial from the current issue of the Irish Echo may be printed in the RECORD.

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

[From the Irish Times, Aug. 30, 1975]

A TOWERING FIGURE

In one respect at least there will be no disagreement about Eamon de Valera: he was a great man. Great in controversy, it is true, but great also in his love for Ireland, in his vision, his tenacity, his independence of mind, his feeling for the people and his generosity. In a large measure his monument is the Republic of Ireland of today, with its weaknesses, its imperfections, its ends still to be tied off; but also its national pride realised, its sense of dynamism, its stability and its old divisions largely eradicated.

The controversies which surrounded Mr. de Valera—most notably, those regarding his activities between the opening of the Treaty negotiations and his leading Fianna Fail into the Dail—still have the power to move. His use of language was not so much careful as convoluted, giving the appearance of ambiguity even to the reasonable, and to his rancorous opponents that of dishonesty or deceit.

So strong was his personality and so violent were the passions of the day that even his great age, his lengthy absence from active politics and his indisputable quality of representative national leadership have not altogether overcome the partisan feelings inevitably involved, even to the present day.

But the overwhelming mass of people in the Republic recognise his greatness, accept his representative quality, and could not but be proud of the massive dignity which always characterised him, especially as President. Abroad, as many an Irishman can personally testify, his name is almost synonymous, to the ordinary foreign, with that of Ireland: only the very oldest can remember a period in which the name of de Valera was not a household word to be held in honour, adulated or execrated. In politics, that is no mean record, particularly since his name is borne by no philosophy or school of political thought. Perhaps its closest identification is with a style, equally dogged in opposition or Government, that consistently expressed one large and sometimes dominant strand of Irish history.

Mr. de Valera first came to prominence as a soldier, but essentially he was a constitutional politician, even if the tag "slightly constitutional" was far from Fianna Fail. He broke with Sinn Fein and founded his party. He was eager to get into the Dail and W. T. Cosgrave was determined to help him to get there. The shifts and strategems of the time, and the hair-splitting nonsense about the oath, are of comparatively little importance. The great fact is that Fianna Falls entry into the Dail was successfully and peacefully accomplished, and since 1932 there have been several impeccable exchanges of power.

Mr. de Valera ruled his own party (and the country, where he judged it appropriate) with a rod of iron, but his attachment to parliamentary democracy is beyond all question. Indeed, a good deal of credit for the very survival of parliamentary democracy in this part of Ireland belongs to him.

His long term of office began in 1932 and continued unbroken until 1948. Before the second World War he had on his hands the economic struggle over land annuities which led to the agreement with Neville Chamberlain, giving the ports back to Ireland. This had followed the passing in December, 1937, of a new Constitution and the appointment of Douglas Hyde as first President under its provisions.

The main achievement of this early period was the Constitution, a document that can now be criticised for its narrow approach to social matters or, still more, for the muddled thinking it has encouraged on the question of nationhood. Even in its time it was a mishmash of philosophies, ranging from Mr. de Valera's innate conservatism to 18th-century concepts of the Rights of Man, 19th-century nationalism by way of Wolfe Tone and O'Connell, and in a strange way the British Constitution. To Northern Unionists, of course it staked an unacceptable claim, but the de Valera pragmatism was responsible: refusing to limit the march of a nation, he chose a formula that confined jurisdiction effectively. No subsequent Government has seen the Constitution as endorsing any action, overt or covert, to further the objective of unity against the will of the majority in the North. In this generation something much more precise is required to reflect the shedding of outdated notions of statehood; but the de Valera model served its purpose at a period that still bore the imprint of the Civil War.

But more than this can be said for the 1937 Constitution: the thrust of its provisions was generally excellent insofar as they were designed to secure the sovereignty of parliament, assure the independence of the judiciary, and preserve the integrity of the institutions of State.

The first test of the reinforced independence thus formally declared came at the outbreak of war in 1939. Mr. de Valera's policy of neutrality, firmly adhered to, in spite of threats and cajolery at various times by Britain, Germany and the United States, is by many people regarded as the most excellent achievement of his long career. In an exchange over the radio at the end of the war, his dignified reply to Winston Churchill's scathing attack was generally applauded. Those who condemn Ireland's opting out of the war tend to forget the sensitivities of the time: Mr. de Valera's choice was not founded on any lack of humanity or unwillingness to participate in the struggle for democracy against totalitarianism, as his opponents sometimes claimed; it was based on the necessity to steer a course between those who contended that England's difficulty would justify any alliance, however ugly, and the advocates of joining in the war (as many did by enlisting in the British forces). It has been argued with considerable effectiveness that Ireland's neutrality during the war was, in fact, the best contribution the country could make in such circumstances to ensure the Allied victory.

Inevitably, much that happened at this period deepened the division between North and South; many of the things that Mr. de Valera did during his long lifetime, from his early meetings with Sir James Craig, the first Northern Prime Minister, heightened the suspicions of the Northern Unionists, by whom he was consistently misunderstood. This misunderstanding was reciprocal: Mr. Erskine Childers (senior) used to try to explain the Unionist position to him without success. In this failing, also, he was representative of a vast section of his fellow countrymen.

It was fitting that the outstanding Irish politician of the century should have ended his career as President. He filled the office for two terms. Since his retirement he lived in comparative seclusion; but he was never a man for display outside his official functions.

The long story of his political career is an extraordinary one. He survived all the great figures of his era, and there is nobody in the political world today with quite the eminence he won and kept abroad.

Whatever disputes there may be about his politics, he maintained against all odds, and sometimes in exacting circumstances, high personal dignity and integrity, in private and public life. He never descended to personalities or the jeer that so often accompanies such behaviour. In matters of religion he was a model of tolerance before that was generally acceptable in this country, and it is clear that in his concept of Ireland there was not a shred of religious animosity. He dearly wanted the restoration of the Irish language. His efforts to achieve this were not imaginative, but they were sincere.

Although he was not involved in the first Government or in forming the structures that led to it, Eamon de Valera left an indelible mark on the body politic of this country. It was he who, through the 30s and 40s, more than anybody else created the tradition of democratic party politics. His style, his elegance and sincerity were unmistakable.

The party which he created, Fianna Fail, is still the greatest political grouping in this country, a living, vibrant, political memorial. Perhaps his personality was too dominant, so that the natural leader often triumphed over the democrat. But these are small faults. Political Ireland, as we know it today, owes an incalculable debt to the memory of this great man. He will be mourned far outside these shores.

[From the Irish Times, Aug. 30, 1975]

EAMON DE VALERA IS DEAD

MOST INFLUENTIAL IRISH POLITICAL LEADER OF THIS CENTURY DIES PEACEFULLY IN HIS 93RD YEAR—STATE FUNERAL TO GLASNEVIN NEXT TUESDAY

Eamon de Valera, former President and Taoiseach, the dominant Irish national leader of this century, died just before noon yesterday at Linden Convalescent Home, in Blackrock, Co. Dublin. Aged 92, he had been ill for some time with a heavy cold and had grown steadily weaker over the past few days.

Last night, as tributes were paid to the former President by public figures in Ireland and abroad, the Government announced that he will be accorded a State funeral next Tuesday, which will be a day of national mourning.

Heads of State and national representatives from many countries are expected to attend the funeral ceremonies for the late Mr. de Valera, whose prominence at home was paralleled by his stature overseas as Europe's most distinguished elder statesman.

Eamon de Valera was the most dominant, influential and controversial Irish national leader of this century. Head of Government for a total of 21 years, President for 14, he was Ireland's best-known statesman abroad, and his political and national career was inextricably woven into all the major events before, during and after the foundation of the State up to his retirement from active politics. His last fight—that for his life—lasted about 14 days. He caught cold two

weeks ago and developed bronchial pneumonia.

In turn, he was a teacher, soldier, prisoner, President of the 1918–21 Republic, Civil War and Opposition leader and, finally, Taoiseach and President.

PUBLIC REACTION SUBDUED

His death had been expected and public reaction was subdued rather than shocked. People in towns and villages throughout the country spoke quietly of the extraordinary career of the revolutionary leader who founded Fianna Fail and influenced the course of Irish history for over half a century.

Within hours of his death the Tricolour was flown at half mast over Boland's Mill in Dublin, where Mr. de Valera was in command of the garrison of Volunteers during the 1916 Rising.

President O Dalaigh went on R.T.E. radio and television to broadcast a tribute, in Irish, and English, in the course of which he described the late Mr. de Valera as "one of the towering figures in Irish history."

The Taoiseach, Mr. Cosgrave, said he had learned with regret of the death; and the Tanaiste, Mr. Corish, said that Mr. de Valera would occupy a significant place in the history of this country. The Fianna Fail leader, Mr. Jack Lynch, said he believed that history would put Mr. de Valera among the greatest Irishmen of all time.

FAMILY AT BEDSIDE

Mr. de Valera died at 11:55 a.m., at Talbot Lodge, the small self-contained residence in the grounds of Linden Convalescent Home, where he was living in retirement. He and his wife, Sinead, had moved there in 1973 at the end of his second term as President. Sinead Bean de Valera died last January, aged 97.

The announcement of Mr. de Valera's death was made by members of his family, who said he had died peacefully. The cause of his death was bronchial pneumonia and cardiac failure.

Soon after midday, R.T.E. radio programmes were interrupted and news of the death was broadcast. Normal programmes on radio and television were suspended and replaced by solemn music, documentaries on Mr. de Valera's life and broadcast tributes.

The former President's four sons and two daughters were present at his bedside throughout the morning as his condition deteriorated rapidly and inexorably. Also present in his final moments were two priests—Mr. de Valera's grandson, the Rev. Shan O Cuiv, who administered the Last Rites, assisted by the Rev. William O'Mera, C.S.Sp., Blackrock College, Chaplain to Linden Convalescent Home.

Mr. de Valera's personal physician, Dr. Brian Alton, attended him at the end and also present were his personal secretary for very many years, Miss Máire Ní Cheallaigh, and Col. Tom McNamara, who was one of his A.D.C.'s during his time in Aras an Uachtarain. Mr. Lynch called at the home during the morning and was present when Mr. de Valera died.

PRESIDENT PAYS RESPECTS

Soon after the death, President O'Dalaigh and his wife drove from Aras an Uachtarain to the home to pay their respects.

The de Valera family issued a request that no flowers be sent, and also that Talbot Lodge should remain private. After consultation with the family during the afternoon, the Government prepared details of the funeral arrangements.

Mr. de Valera had, by his own wishes, lived quietly at the Linden home and remained silent in public on the political issues of the day. One of his few public appearances since his wife's death last January was at the Mansion House last March, when he was made a Freeman of the City of Dublin.

He is survived by his sons, Major Vivion de Valera, T.D., controlling director of Irish Press, Ltd., Dr. Eamon de Valera, the gynacologist, Dr. Toirleach de Valera, Taxing Master, and Professor Ruaidhri de Valera, professor of archaeology, U.C.D., and by his daughters, Mairin, who is a professor of botany at U.C.G. and Mrs. Emer O Cuiv.

BODY WILL LIE IN STATE FROM TONIGHT IN DUBLIN CASTLE

(By James Downey)

Mr. De Valera's body, dressed in the habit of the Carmelite Order, will lie in state in St. Patrick's Hall, Dublin Castle, from this evening until Monday evening, when the remains will be removed to the Pro-Cathedral.

Tuesday, the day of the State funeral, will be a national day of mourning and Government offices will be closed in the morning. The Government, in a statement last night, expressed the wish that private employers should also give their employees time off to pay their respects as the cortege passes through Dublin.

The lying-in-state and the funeral are likely to be the most massively attended events of their kind in Ireland in this century. Although a total of more than 24 hours has been allocated for public access to the lying-in-state it is not certain that this will be adequate for the vast crowds which are anticipated, and consideration may later be given to extending the hours of access.

The former President's Tri-colour-draped coffin, lying on a gun carriage and accompanied by a motor-cycle escort of honour, will be taken at 7 p.m. today from Talbot Lodge, Blackrock. At the foot of Grafton Street the procession will be joined by a military marching party and by the Army No. 1 Band for the last part of the journey to Dublin Castle.

There, the coffin will be carried into St. Patrick's Hall by a military bearer party, and a guard of honour will be placed on the catafelque. Members of the public will be admitted to St. Patrick's Hall from 8:30 p.m. to 11 p.m. today, from 9 a.m. to 11 p.m. tomorrow and from 9 a.m. to 5 p.m. on Monday.

The State Apartments will be closed then, to enable the de Valera family to pay their last respects privately. At 7 p.m. the gun carriage bearing the coffin, again accompanied by the hand and marching party, will proceed to the Pro-Cathedral. A military guard of honour will be mounted in the cathedral.

After Requiem Mass in the Pro-Cathedral on Tuesday morning, the funeral will take place to Glasnevin Cemetery. About 400 troops will march in the processon; an officer escort will march on either side of the procession.

[From the Irish Times, Aug. 30, 1975]

"AMONG PEOPLE STRIVING TO BE FREE" HIS NAME IS SYNONYMOUS WITH IRELAND

Many tributes to Eamon de Valera, who died at 11:55 a.m. yesterday, were received in Dublin last night. Early messages of sympathy came from Queen Elizabeth II and the British Premier, Mr. Harold Wilson.

President O Dalaigh said: "Throughout the world, and, in particular, among peoples striving to be free, his name has been a synonym for the struggle for Irish independence."

Cardinal Conway remembered him as "a great charismatic figure" and the Archbishop of Armagh and Primate of All Ireland, the Most Rev. Dr. Simms, recalled his concern for the Church of Ireland. The Presbyterian Moderator, Dr. G. Temple Lundie, mentioned that Mr. de Valera was prepared to take unpopular measures to maintain the authority of the State.

The Chief Rabbi, the Very Rev. Dr. Isaac Cohen, said he regarded him as a "world statesman imbued with the highest principles of religious faith, national pride and human brotherhood."

There were very brief messages from the Taoiseach, Mr. Cosgrave, and the Tanaiste, Mr. Corish. Mr. Cosgrave said: "I have just learned with regret of the death of former President de Valera. The Government's offer of a State funeral for the former President has been accepted by the de Valera family."

Mr. Corish said: "I deeply regret the death of Eamon de Valera. I extend my deepest sympathy to his bereaved family. He devoted the greater part of his long life to the service of the Irish people and will occupy a significant place in the history of this country."

The Fianna Fail leader, Mr. Jack Lynch, said he espoused peace and reconciliation after fighting for Ireland's freedom.

The text of President O Dalaigh's message is:

"One of the towering figures in Irish history has answered the last call, with a smile upon his lips.

"But his spirit abides with the land he loved unwaveringly. To the end, he bore himself as a scholar, a statesman and a soldier.

"Throughout the world, and in particular, among peoples striving to be free, his name has been a synonym for the struggle for Irish independence."

Cardinal Conway said the death of Mr. de Valera marked the passing of one of the great figures of Irish history. He was a great charismatic figure, who had played an immensely significant role in the history of Ireland in this century.

"All this is well known," said the Cardinal. "What is less well known is the intensity of his Christian faith and devotion. This was really extraordinary. It is no exaggeration to say that his devotion to the Mass and to the reading of the Gospels lay at the very heart of his personal life. Even up to the end he was meticulous about reciting the Angelus at noon and six in the evening every day.

"In this combination of great intelligence and political acumen, with an intense commitment to his faith, lies the explanation, I believe, of his great strength of character, and of the extraordinary impact which he made on the history of our times," the Cardinal said.

Dr. Simms said former President de Valera's devoted sense of duty and his sustained interest in the welfare of all the citizens, were greatly welcomed by the Church of Ireland.

Mr. de Valera had associated himself with the events in the life of the Church, and in this had done much to foster good relations among all.

KINDLINESS

"I was always impressed by his kindliness and his ability to give time and attention, even in matters of apparently small importance," said Dr. Simms. "I recall a day, just 40 years ago, when he made himself available to me, then an assistant curate, to bring the leader of Assyrian Church to meet him in Dublin, in order to acknowledge Mr. de Valera's helpfulness to his flock in their difficult situation. When President of the Council of the League of Nations, a short time before, Mr. de Valera had shown his concern for the position of this Church and I realised at the time something of his concern for people and his sense of fairness in such a problem.

"On behalf of the Church of Ireland, I send this message of sympathy to members of the family, and assure them of our prayers and special thoughts at this time. With many others he paid tribute to his long and distinguished life of service and statesmanship," the Primate said.

The Rt. Rev. Dr. G. Temple Lundie, Moderator of the General Assembly of the Presbyterian Church in Ireland, said:

"The passing of Eamon de Valera marks the end of a chapter in the history of our island, with which he was closely involved at many points. His political role was often a

matter of much controversy but even those opposed to his policies recognised his determination and sincerity of purpose. He believed that a government should govern and was prepared to take unpopular measures to maintain the authority of the State.

"As a democrat, Mr. de Valera had a high regard for the Presbyterian system of Church government, and officially attended the opening meeting of the General Assembly when it last met in Dublin in 1969.

"Mr. de Valera was also notable for his many academic interests. Among these were his devotion to the study of mathematics and astronomy, and he helped to found the Institute of Advanced Studies, which has done much to enhance the standing of Ireland in the world of scientific research.

"We express sympathy to his family and all those who mourn his passing."

The most Rev. Dermot Ryan, of Dublin, sent messages to Major Vivion de Valera, the President, the Taoiseach and to Mr. Lynch.

The most Rev. Dr. Buchanan, Archbishop of Dublin, in a tribute, said: "I knew him best in his later years and always received a warm welcome from him at Aras an Uachtarain. He frequently reminisced about the past and I felt at times that I was listening to history.

"Once he described most vividly his sending the Dublin Fire Brigade to help Belfast on the night of the air raid on Easter Tuesday, 1941. He relived the incident as he recalled his exhortations to haste after brief hesitations about neutrality.

"He was a good friend to my predecessor and was on especially close terms with his near contemporary, Archbishop Gregg.

"I send warmest sympathy from all our people to his family and friends."

Dr. Cohen said: "On behalf of the Jewish community in Ireland I wish to express my deepest sorrow on the death of Ireland's beloved senior statesman. His wise and serene deportment belied the stormy political life that he had successfully led on behalf of Irish independence.

"I consider it one of my outstanding privileges that I enjoyed a close personal relationship of deepest admiration and affection with this great historic personality.

"Mr. de Valera was a world statesman who was imbued with the highest principles of religious faith, national pride and human brotherhood. May his soul be united with the righteous of mankind and bring blessing and peace to his people."

BRITISH MESSAGES

Queen Elizabeth, in a message to President O Dalaigh, said:

"I was sorry to learn of the death of Mr. de Valera. I send my condolences to you and to the people of the Irish Republic."

Mr. Wilson said: "On behalf of Her Majesty's Government I offer our condolences on the death of Mr. de Valera. We recognise and respect his life-long devotion to his country. I send our sympathy to his family and to Irishmen all over the world who are mourning his death."

Another British tribute came from the Foreign Secretary, Mr. James Callaghan, who is holidaying in West Cork. He said, in a message to the Government: "I send you my deepest sympathy on the death of Mr. de Valera. I have known him for 30 years and have always been impressed by his service and dedication to his country, which have earned him a unique place in Irish history."

The former Nationalist Party leader, Mr. Eddie McAteer, said in Derry: "We are still too close to this great figure to measure properly his place in Irish history or our hearts."

The former Northern Premier, Lord O'Neill of the Maine, said he was very sorry to hear of Mr. de Valera's death. "He treated me very kindly when I met him at the Park. I had a happy relationship with him."

Another former Premier, Mr. Brian Faulkner, now U.P.N.I. leader, said: "His Irish politics and mine were poles apart. But he was a man of principle and he was not afraid to take action against the men of violence during the 'fifties I.R.A. campaign."

One of the warmest political tributes came from the Fianna Fail Leader, Mr. Lynch, who served in Mr. de Valera's Government.

He said: "Tá Eamon de Valera marbh agus tá deire laghta do saol a caithfeadh ar son na hEireann.

"It is not possible for me to pay adequate tribute to Eamon de Valera. I have known him and worked under him for half my life. I have admired him and been inspired by him all my life. Therefore I know that my assessment of him is subjective, but I believe that history will put him amongst the greatest Irishmen of all time.

"His influence on the development of modern Ireland was enormous. He loved Ireland; he loved its people; he loved its culture and especially it language.

FOUGHT IN ARMS

"He fought in arms for Ireland's freedom but when he saw that 'the continuance of the struggle in arms was unwise in the national interest' he, for 50 years in elected office, espoused peace throughout the land and reconciliation between all Irish men and women.

"His commitment to Ireland was total; his spirit was indomitable; his concern for, his courtesy towards, and his understanding of all people, even those who did not agree with him, were absolute.

"He had a deep and abiding faith in his God and in his country, and his every word and deed exemplified this.

"He was a simple man and, by any standards, a great man. His simplicity became his greatness and his greatness his simplicity. His expressed wish was that no oration of him be made at his grave on his burial.

"As he joins his dead wife, Sinéad, in the presence of his Creator, I, on behalf of the Fianna Fail Party and organisation, which he founded, offer to our colleague, his son, Vivion, and the other members of his family and to his personal secretary, Máire Ni Chealaigh, who served him devotedly for so long, my sincere sympathy.

"I thank God that I have had the privilege of knowing and serving under Eamon de Valera."

The Fianna Fail Dublin city council group met last night, conveyed sympathy to the de Valera family and adjourned.

Dublin city community council sent the following message to Major Vivion de Valera.

"Dublin city community councillors extend to you and to your family their sincere sympathy on the death of your eminent father.

"Eamon de Valera's contribution to the cause of human dignity and freedom will be remembered as long as civilisation itself endures. With his death we in Ireland mourn the passing of a patriot and of a statesman of world stature and renown."

(From the Irish Time, Aug. 30, 1975)

EAMON DE VALERA: 1882–1975—THE CONTROVERSIAL GIANT OF MODERN IRELAND; REVOLUTIONARY, HERO, POLITICIAN, AND STATESMAN, HE MOULDED THE NATION OF TODAY

(By Michael McInerney)

Eamon de Valera's almost totally political career paradoxically began with a soldier's role in Easter Week 1916. Barely a year later he became the nation's political leader. For almost 60 years since then his public life was completely confined to politics, to the day in June, 1973, when he retired from the highest "non-political" post of all, President of the Republic. Even in retirement his living presence in Ireland has had its own significance, just as his death now will have its own special effect on the future of Irish politics.

He was born in Manhattan, New York, on October 14th, 1882. His mother, Catherine Coll, was reared in the village of Knockmore, Bruree, Co. Limerick, and his father Vivion de Valera, was born in Spain, the son of a Spanish-Cuban trader. The young Catherine and Vivion were married on September 19th, 1881, in Greenville, New Jersey. Their first child, registered as George and christened Edward, had, however, only the faintest memory of his mother and father in their New York home, for his father died two years after his son's birth. Eamon de Valera, received devoted love and kindness for 14 years when he was brought to his grandmother's cottage at Bruree. His mother remained on in New York and, though she remarried some years later, she kept in life-long touch with her son.

De Valera's life was no continuous triumph. There were high mountain peaks and deep valleys, and also paradox. There was death sentence, commuted to life imprisonment after the glory of 1916. Following 1921, and the mountain peak of compelling the British to the Truce, there came the dark valley of the Civil War, and then the triumphant recovery of Sinn Féin, shortly to be followed by a new Republican split, and yet a later triumph. In all—and this shows the extraordinary resilience of the man—he was to build three great national organisations; after 1916, after 1922, and again in 1926 when he built Fianna Fáil, the organization which proved to be the most lasting and fruitful for him.

De Valera's failures, if they could be directly attributed to him, were related to Northern Ireland and also to social, economic and cultural problems when he was head of Government, with two interludes, between 1932 and 1957.

Eamon de Valera's life story, however, cannot be told simply in snatches from famous headlines. He had many careers, far exceeding Shakespeare's "Seven Ages of Man." First, the military Commandant, then national leader of the freedom struggle, then President of Ireland's first free Assembly and President of the Irish Republic in its military and diplomatic struggle against Britain, then the defeated political leader engaged in Civil War politics against the first Irish Government.

Finally, President of the Executive of the Irish Free State and Taoiseach of a sovereign Republic for more than 20 years, and ultimately its President. When Foreign Minister of the Republic he became a world statesman as President of the League of Nations.

HISTORY LESSONS

His very early background did not foreshadow a great future. He learned of Irish history from his grandmother, Elizabeth Coll, from his Uncle Patrick and from the local parish priest, Father Eugene Sheehy, the "Land League-Priest," uncle of Dr. Conor Cruise O'Brien. The priest "taught me patriotism," he says. He learned of Ireland's struggle against England, of Tone, the United Irishmen, the Young Irelanders, of the Fenians and the Land League, of Mitchelstown in 1887, of the Parnell tragedy, and even of social wrongs from his Uncle Pat, a member of Davitt's Land and Labour League.

Though those years provided barely "frugal comfort," they were by no means unhappy.

In West Limerick he developed that devout Catholicism which was to have such a remarkable influence on his philosophy, character and politics, and which caused him once to think of becoming a priest. And yet, later, on national issues he was to develop an independence of mind in relation to the Church. When charged with being a foreigner he replied "I was reared in a farm

labourer's cottage in Co. Limerick and when I want to know the mind of the Irish people, I only have to look into my own heart."

De Valera was to prove a distinguished student at Bruree National School, and also at the Christian Brothers School, Charleville. He won scholarships and exhibitions which paid his way to Blackrock Intermediate and University Colleges, Dublin, his expenses later helped by part-time teaching.

He graduated in the former Royal University and pursued postgraduate studies there in the National University of Ireland, after its formation and also at Trinity College, Dublin, under the Professor of Astronomy and the Royal Astronomer of Ireland, Edmund T. Whittaker. He taught at Belvedere College, at Carysfort College and Rockwell College. Though his applications for professorships at Galway and Cork were turned down, he secured a post at Maynooth College. In these years from 1898 to 1910, Eamon de Valera was fully engaged using his enormous energy, not only in his studies, but also in athletics at both Blackrock and Rockwell and in rugby football in which his close lifelong friend, Mick Ryan, won so many international caps.

In Bruree he had made his first acquaintance with history and tradition and, as he took a horse-tram from Kingsbridge station to O'Connell Bridge in the late summer of 1898, he would be aware that the 1798 Rebellion was being celebrated and that Wolfe Tone, who had united Protestant and Catholic, was being hailed as the greatest of all Irish leaders. He would know that Parnell had died only seven years before, wrecking all hopes of Home Rule from Gladstone, and that only now were efforts being made to unite the sundered and disgraced Irish Party to make a new effort to solve the Northern and Home Rule problem. That year, also, local government had come to Ireland for the first time ever, and Land Acts were being proposed.

He would not have known, however, that about that time Tom Clarke and other Fenian leaders were returning to Ireland from jails and planning revolution already against the British. He would have known of the threat of new Boer wars, though not of the role his future friend, Erskine Childers, was even then planning to play. Griffith was returning to Ireland to found Sinn Féin. Ireland was pregnant with new life: Connolly's *Workers' Republic* was on sale in the streets, Yeats and Lady Gregory and the new National Theatre and its plays were creating controversy and the Gaelic League had been formed.

THE MARRIAGE

With such a renaissance around him it is not surprising that the young de Valera was stimulated into participation. In 1908 he joined the Gaelic League. He was a student of Irish at the Leinster College and through these studies he met and won, against keen competition, his beautiful and gifted bride to be, Sinéad Flanagan, and married her two years later in St. Paul's, Arran Quay, Dublin. He more or less conducted the ceremony in Irish himself; as the priest did not know sufficient Irish the young enthusiast prompted him. Through the Gaelic League he met men like MacDonagh who, five years later, caused him to join the Irish Volunteers on their foundation in November, 1913.

MacDonagh made him captain of the Donnybrook Volunteer Company. He immediately bought himself a rifle and a uniform and took part in the Howth gun-running of Childers and his Asgard, in July 1914. In 1915 he was a Commandant, taking part in meetings with Pearse, MacDonagh and Clarke, to decide on the principles of a Rising. Next he was invited by MacDonagh to become a member of the I.R.B. after he had complained that some of his junior officers were securing more information than he. At first he refused to join the secret, conspiratorial organisation, so subject to secret order, but eventually he joined though he refused to attend any I.R.B. meetings.

Against the decision to call the Easter Week Rising of 1916, "as a soldier" he instantly obeyed MacDonagh. His orders were to guard the south-eastern approaches to the City and his headquarters were at Boland's Mills on Easter Monday, 1916. He proved efficient and enterprising, studying military matters and his allotted area with mathematical thoroughness.

De Valera's men were the last to surrender and he was detained under arrest. His reprieve from a death sentence is attributed to that delay rather than to his American birth. The earlier executions of Clarke, Pearse, MacDonagh and others had caused widespread revulsion in England as well as Ireland. Bernard Shaw made a forceful demand to end the killings and so did Redmond and John Dillon of the Irish Party.

De Valera felt that the death sentence was certain. His "last letters" of farewell were surprisingly cheerful. The death sentence came on May 8th, but after a short interval, was commuted to life imprisonment. He accepted both without visible emotion.

ELECTED PRESIDENT

Released a year later, De Valera was automatically accepted, even by all the Republicans at home, as the man to lead them forward. Dressed in his 1916 uniform he conducted his own electoral campaign in East Clare. The uniform of course had been banned by the authorities.

Eamon de Valera was now in his 35th year, married, with a young family, and only about a month out of prison but with no experience whatever of politics he had become the central figure in an Ireland which had many rival national but fragmented organisations. He saw the key aim as securing the unity of all these bodies into one national organisation, to reconcile the Republican volunteers with the dual-monarchist Sinn Féin and the secret I.R.B. with democratic organisations.

At a vital meeting during which at one point, Cathal Brugha, Rory O'Connor and others were actually storming out of the Mansion House in protest against a statement of Griffith, de Valera achieved what had seemed to be impossible; the agreement of all the diverse elements to unite in one organisation. The formula was "Sinn Féin seeks to secure the Republic, but having achieved that status, the Irish people may, by referendum, choose their own form of Government".

The compromise was accepted unanimously. But it was almost swamped at the first Sinn Féin Ard Fheis, a few weeks later, when de Valera was elected President after Griffith had withdrawn. Michael Collins, then almost unknown, was elected to the executive at the bottom of the poll.

De Valera had become President of the greatest mass organisation that Ireland had ever known. He had combined Volunteers, I.R.B., the Irish Volunteers, the old Sinn Féin, Citizen Army and Labour groups, the Liberty Corps and others into one mass "Sinn Féin" organisation. (The I.R.B., however, remained a separate body, secretly, and all its members remained in Sinn Féin and the Volunteers).

SINN FEIN VICTORY

De Valera himself drafted the comprehensive constitution, aims, means and form of organisation for the new Sinn Féin and for the Volunteers. Now, however, came a remarkable and significant change in tactics, strategy and outlook. Though wearing his Easter week uniform everywhere and proclaiming his eternal allegiance to Easter Week and its martyred leaders and to their aims, de Valera ignored and rejected the methods, tactics and conspiracy of the Irish Republican Brotherhood, the organisation which had planned and carried through Easter Week. He severed his own connection with it and advised his friends to do so. Cathal Brugha also left the I.R.B. From that moment began his rivalry with Collins.

Lloyd George's attempt to impose conscription on Ireland was to be one of the great factors in giving Sinn Féin, after less than a year, a colossal victory in the December General Elections, winning 73 seats out of 105 for the whole of Ireland; the Unionists, however, won 26 seats in the North. On January 21st, 1919, 27 of the 73 elected Republicans set up their own Parliament, Dáil Eireann. Though the 36 members, including de Valera and Griffith, arrested during the conscription campaign, could not be present, the remaining Dáil Deputies ratified the Republic proclaimed in 1916, and referred to "the existing state of war between Ireland and England".

It was a reference acted on literally, but by chance, when Republican Volunteers under Dan Breen ambushed and shot dead two R.I.C. men that same day in Tipperary, it opened a "war" that was to last for more than two years.

De Valera had been arrested in May 1918. On February 3rd, 1919, he made a spectacular escape from Lincoln Jail. He held secret meetings of his "Government" in the grounds of the Dublin Archbishop's Palace. With the general release, in May, of Irish prisoners from British jails, however, he ventured to attend the Dáil and was elected unanimously as President, appointing his own national Government. He was not re-arrested.

Satisfied with the phenomenal success of the Movement at home, de Valera now took a decision which has been severely criticised. He decided to visit the United States. He had four aims: to seek American Presidential and Congress recognition of the newly declared Irish Republic, to seek public support for that Republic, to raise a Republican loan and to unite the different Irish-American organisations which had been bitterly disrupted. He was smuggled to New York in a ship's hold infested with rats. Illegally landed, in a stay that lasted 18 months, he failed in the first mission, recognition from President and Congress, partially succeeded in the unity effort, raised $6m. in Republican Bonds and won wide public support.

The visit, however, had the ominous effect that his absence gave Michael Collins freedom to strengthen the I.R.B. and its influence in the Volunteers and Sinn Féin. It also allowed enmity to grow between Collins and Cathal Brugha, Minister for Defence, on the issue of control of the Army.

When de Valera returned to Ireland in December, 1920, his influence was still so powerful that he was able to effect a strategic change in the army operations. His strategy was to "make British Government impossible in Ireland". He also tried to insist on strict Dáil control of the Army, a blow at I.R.B. influence, which emphasised the growing rivalry between himself and Collins.

TRUCE DECLARED

Events were moving to decision. The Black and Tan repression in Ireland was causing most unrest inside Britain and in the United States. Moves for peace were initiated by Britain and on June 22nd, 1921, King George V opened the Northern Ireland Parliament with a surprisingly sympathetic and eloquent appeal for peace. The peace move had been planned by Lloyd George, with a push by General Smuts, but the launching pad—a Partition Parliament—was double-edged.

On that same day, de Valera was arrested in his hiding place in Sandymout, Dublin. A few hours later he was visited in his cell by Cope, British Under-Secretary, who ordered his immediate removal to comfortable officers' quarters in Portobello. The next day, suspicious and puzzled, he was released and on the following day, June 25th, received a letter from Lloyd George proposing a conference on peace between the British Gov-

ernment, Sir James Craig, other Unionists and himself.

On July 11th, a Truce was declared. A day later—"appropriately" the 12th—de Valera was on his way to London to open "peace negotiations" with Lloyd George. The British Prime Minister, having now established a Northern Partition State, was ready to make peace with the South. Ambivalent Republican optimism hid the grim facts of the North's new and strengthened position.

Accompanied by Griffith, Stack, Barton, Count Plunkett and Erskine Childers (father of the late President) as advisers, but not negotiators, de Valera met Lloyd George on his own. On July 14th he began the fateful talks to decide Ireland's future, but failed to reach agreement. It is interesting that at that meeting the two statemen discussed casually the Irish name for Republic. The Prime Minister, Lloyd George, sought the Irish translation for Republic and Mr. de Valera mentioned Poblacht. Another term, "Saorstát Eireann, could be used, he said. It meant "Free State of Ireland," de Valera explained. "That will do," said Lloyd George in a flash. Six months later the Treaty proposed the name, Irish Free State, for Southern Ireland.

After resumption of the Anglo-Irish negotiations on October 11th, 1921, and two months' talks, the Irish representatives, Griffith, Collins, Barton, Duffy and Duggan, signed on December 6th, 1921, what has become known as the 'Treaty." It meant less than a United Irish Republic, independent of the British Empire, which had been the original aim. Instead it proved to be a divided Ireland of two States, with an Oath of Allegiance to the King even for Deputies in the 26-County Assembly and a link with the Empire.

A Cabinet meeting on December 8th split the Government. De Valera announced to the nation that he could not recommend acceptance of the Treaty either to the Dail or the people. A month later the Dail accepted the Treaty by 64 votes to 57, and a Provisional Government was appointed to establish the Free State.

Six months later the Four Courts was attacked by Free State troops and Civil War had begun. Before it ended, almost 800 had died and thousands were maimed.

Thus was the great Movement of 1917–21 destroyed. Since then, de Valera's whole conduct of the negotiations and his policies on the Treaty itself have been severely criticised. He has been blamed for the Civil War. He had not attended the October-December negotiations, and to criticism that he should have led the negotiators himself, his defense always has been that his presence at home was required, firstly to maintain unity of the Movement, and secondly, to give an opportunity to the plenipotentiaries to delay acceptance until they had obtained the approval of Head of State (de Valera) and their Government. His criticism of the representatives was that they had signed in defiance of their promise not to do so until after they had consulted Dublin. If Griffith had not promised this, he himself would have led the negotiations.

He explained his strategy many times since. He had at first seen the Truce negotiations rather despairingly, as merely giving the I.R.A. and the Movement time to reorganise, re-equip and rest, so as to be ready to renew the war. He had no real hopes for peace, he said. On September 7th, however, Lloyd George had sent a letter which gave him slight hope that peace might be possible. It seemed to contain grounds for a possible settlement in the phrase to call "a conference to ascertain how the association of Ireland with the community of nations known as the British Empire can best be reconciled with Irish national aspirations."

He had begun to think of how some association of Ireland with the British Empire "without being a member" could be devised. He tried to get the idea discussed in Cabinet and failed, but one morning, he explained, dressing for a further Cabinet meeting, "I was tying my bootlace when the word 'external' flashed into my mind. 'External Association of Ireland with the British Empire.' "—that day he clarified his ideas with the Cabinet and all of them saw the significance at once.

The Treaty vote

De Valera's aim was to keep the two extremes of the Movement together. His idea of "external association" of Ireland with the Empire was too moderate for militant Volunteers, however, who wanted the Republic or renewed war, and too extreme for those favouring the Treaty. He has explained that, if the Dail had favoured it, he would have fought for it through political means. But by a majority of seven votes the Dail accepted the Treaty, and from such a slender majority was Ireland to be involved in Civil War and the first free Irish State to be born.

As a result of that and other votes, de Valera was stripped of all his power, which was transferred to the new President, Arthur Griffith. De Valera and the 56 other Deputies who had voted with him now formed a new opposition Party—Cumann na Poblacht—with the aim of fighting the Treaty in the Dail. But the Provisional Government, headed by Collins, was now the real authority.

That Dáil division also had the even more serious effect of causing a split in the I.R.A. Liam Lynch and Rory O'Connor refused to accept General Mulcahy, who had been appointed Minister for Defence instead of Brugha; and declared their own I.R.A. executive as the only authority to which they were responsible. De Valera gave the rebel I.R.A. some cautious support.

On June 18th, ten days before Civil War broke, O'Connor and his section broke with Lynch, taking over the Four Courts. They appointed a new Executive and Chief-of-Staff instead of Lynch. They refused Lynch permission to enter the Four Courts and even de Valera was excluded.

This split could have been of paramount importance in that Collins and Mulcahy, believing the O'Connor wing was isolated from the Lynch I.R.A., attacked the Four Courts on June 28th, 1922. But as they did so Lynch and O'Connor had patched up their disagreement and the result of the Four Courts attack was to unite the rest of the anti-Treaty I.R.A. De Valera rejoined, formally, his unit in the Dublin Brigade, as a private. So did Brugha and many of the de Valera Deputies like Sean MacEntee and Sean Moylan.

Wishing to limit the fighting to a token resistance to the Treaty de Valera immediately urged the I.R.A. leadership to make peace. He persuaded the Lord Mayor of Dublin and the famous Father Albert, to ask Collins for a truce. Collins, however, said there could be no peace until the "irregulars" laid down their arms. The Civil War went on with all its tragedy, including the deaths of Collins himself, Griffith, Harry Boland, Erskine Childers and many others.

For de Valera it was the darkest hour. When, however the war was going seriously against the anti-Treaty I.R.A., Lynch agreed to accept de Valera again as head of "the Republican Government." It was eight months later before he and Frank Aiken were able to persuade the I.R.A., after the death in action of Liam Lynch, to agree to a "cease fire." Republican Ireland seemed well and truly scattered, battered and defeated. It seemed the end of the road for de Valera; a catastrophe.

POLITICAL SOLUTION

Even in the midst of catastrophe de Valera did not give up hope. O'Connor, Mellows and their comrades, were facing firing squads, but a few weeks after the death of his dear friend, Erskine Childers, he was meeting officers of Sinn Féin, in hiding, to tell them that "no matter what way the Civil War ends there will have to be a political solution."

They would fight on but new thinking was required. Now there was an Irish Government, a national army, police and financial resources. Whatever chance military tactics had against a foreign Government they had no chance against an Irish State, particularly without an electoral majority and support of the people. The new fight had to be political. The word went out: "Build Sinn Féin and make it into a new Party and organisation."

So Sinn Féin was built. Less than three months after the Civil War, de Valera had won 44 seats and 286,000 votes, he himself receiving 17,700 against the 8,190 for his pro-Treaty opponent—Eoin MacNeill. So bitter was that election that, in Ennis, de Valera was threatened with shooting by a Free State soldier as he addressed a meeting. Even as he was arrested, he felt a return of confidence that the road back was opening again. In jail he received the hopeful election news, and helped the re-organisation of Sinn Féin with smuggled policy messages. A Sinn Féin Ard Fheis held later that year was a big success, even with 12,000 de Valera supporters still in jail. Another de Valera organisation had been born.

Released in July, 1924, de Valera began yet another new career: leader of a political organization in militant confrontation with an Irish Government. He was no longer the old de Valera, the national revolutionary willing to use physical force and radical policies. Now everything was concentrated on politics and even the I.R.A. was directed to build the political organisation. In November, 1924, the Sinn Féin Ard Fheis had reached its old strength. There was an Irish Parliament and State to be won by politics. Soon ideas which de Valera had formed as far back as December, 1922, of entering the Dáil by some means, began to filter through to Sinn Féin members.

FIANNA FAIL FORMED

His new policy was outlined as a campaign to have the Oath of Allegiance abolished, so that all Republicans could enter the Dáil. In November, 1925, however, the I.R.A. split from de Valera on the idea of entering the Dáil. They had fought a Civil War against the Free State and its "Dáil" and the Oath of Allegiance.

Three months later, in March, 1926, a Sinn Féin Ard Fheis defeated de Valera's proposals by a very small majority. The Ard Fheis, however, refused to carry a substantive motion against their old hero, "Dev," and de Valera, using the classic device, then said he could do no other than resign. A split was inevitable and, now, once again—for the third time in five years—he set himself to build another new organisation.

A few days later he met Seán T. O'Kelly, Seán Lemass, Seán MacEntee, Paddy Ruttledge, Frank Aiken, Dr. Jim Ryan, Gerry Boland and other Republican figures like Mrs. Pearse and Madame Markievicz to form a new organisation. Within little more than a month the new party, Fianna Fáil, was launched at an overflow and enthusiastic meeting in the La Scala Theatre, Dublin. The first Ard Fheis was held less than six months later, when more than 500 delegates attended from nearly as many branches.

In this re-creation of what was virtually the old Sinn Féin and old I.R.A. of 1923 under a new name, Fianna Fáil, pledged to politics rather than the gun, de Valera could be said

to have performed a signal service for Ireland. Not alone was the new Party to bring power, fame and the highest honours to himself personally, but it also drew away from the gun and the bomb, almost an entire generation of Republicans, creating a new political system that was to last half-a-century.

The new Party won 44 seats in the 1927 election compared with Cosgrave's 47, and de Valera soon found the opportunity to enter the Dáil. The assassination of Kevin O'Higgins, Deputy Premier of the Free State Government, caused Cosgrave, who had become Free State Executive Council President, to pass laws which de Valera interpreted as giving him the alternative of entering the Dáil or resorting to Civil War. He found an ingenious formula and a procedure which were accepted as complying with the Oath. He entered the Dáil on August 12th, 1927, with 42 other Fianna Fáil Deputies.

BACK IN POWER

A month later his Party won 57 seats (and almost 412,000 votes), only five seats and only 40,000 votes less than Cosgrave. The policy of entering the Dáil had been overwhelmingly endorsed by his supporters. Now for the first time, de Valera was the Leader of the Opposition in a Dáil which really was in control of an Irish State.

Votes were the new battalions—the means to power. Obtaining them required reconciliation with the Church—with which he was on bad terms, so he protested at Protestants being appointed to public posts, insisted that the Dail should not meet on holy days and that prayers should be said before each meeting of the Dail. If votes required retaining favour with the I.R.A. that was done by useful speeches in the Dail. To win Labour voters he claimed that "James Connolly's policies are most in accord with mine."

The master stroke, however, was the founding of the *Irish Press* in 1931 to support Fianna Fail. At the same time, as Leader of the Opposition, he launched devastating attacks on the Government for failure in national policies, as with the Boundary agreement in 1925, its lack of social services, its economic policies, like lack of protection for industry and agriculture, and public safety measures against the I.R.A. To win the farmers he urged retention of the Land Annuities. And, of course, he advocated the abolition of the "Oath." He reassured Protestants in the Republic in various speeches, and later by joining with other parties in inviting Douglas Hyde to be President.

Now at last, after almost 20 years in politics and in the 50th year of his life, de Valera attained real power.

In the February General Election of 1932, he won 72 seats against Cosgrave's 57 and with the support of the Labour Party became President of the Government of the very Irish Free State he had fought against. The victors in the Civil War peacefully handed over the power to the losers.

Now with supreme power, with control of all the resources of a modern State, how was de Valera to use it? What kind of social order would he aim at? What would be his policy towards the partition, towards the Catholic Church, towards politics, towards Britain?

Many among the propertied interests were worried. The small Protestant minority was anxious. It became clear, however, from the beginning, particularly from the first Budget, that no social upheaval was contemplated. The answer as to how he would use the State on national issues was settled at once. His first action, almost, was to repudiate, unilaterally, the Oath of Allegiance and other Articles of the Anglo-Irish Treaty of 1921, to retain the Land Annuities and reduce drastically the status of the Governor-General.

The British imposed economic sanctions against Irish exports in protest. The sanctions caused grave hardship to both workers and farmers and social distress in cities. When a political storm of criticism arose de Valera suddenly called a new election, and secured an overwhelming endorsement of his policies from 692,000 voters—more than 50% of the electorate.

In the next few years he dealt firmly and shrewdly with a "national front" of Cumann nanGael, the Blueshirts, and the National Centre Party, under the name of "Fine Gael" with a total of nearly 60 seats in the Dáil. In 1936 he met a challenge from the I.R.A., now becoming dissatisfied with his national policies.

MINI-CIVIL WAR

The most important national event during those decisive years from 1932–1938 was the conclusion of the Anglo-Irish Agreement (1938) which ended the Economic War, solved problems, settled the Land Annuities question, and, above all, recognised and accepted the abolition of the Oath and other amendments to the Treaty. The British had accepted the fact that the Irish Free State had become, in effect, a Republic, "in external association with (the now) British Commonwealth."

There was more. The British enabled the new sovereignty to be realised in practice by returning the ports which she had held during the terms of 1921 for use in time of war. It was the return of those ports which enabled Ireland to be neutral in the second World War which began the following year.

During these talks de Valera had won a private admission from Mr. Chamberlain, then British Prime Minister, that "Partition" was an "anomaly." It was the first time a British Prime Minister had conceded so much, but he added that nothing could be done unless British public opinion approved. He gave de Valera freedom, however, to establish his own organisation in Britain to influence public opinion.

Unfortunately, a new generation I.R.A. led by a section of the physical-force wing of the 1922–23 I.R.A. chose that moment to begin a terrorist bombing-campaign on British cities, an action which resulted in a mini-civil war in Ireland for the next four years, even during the Second World War. But for that intervention something might have been won for the Catholic minority in Northern Ireland—the only section of the Irish people which lost by all the Agreements of 1921 or 1938.

Whatever criticism may be made of de Valera, however, about the North or about his social and cultural policies—and they are related—there will be none to dispute his superb handling of Ireland's neutrality during the Second World War. Assailed by threats from Germany, Britain and the United States, his superb diplomacy maintained Irish neutrality. He defeated attempts to impose conscription on Northern Ireland, the greatest threat of all to peace in Ireland.

The most serious internal threat, which came from the German-oriented IRA, was defeated by the toughest measures. Over 1,000 IRA men were imprisoned or interned under emergency laws and 16 IRA men were tried on murder charges by the Special Criminal Court, or by the Military Court whose only sentence was death. Six were shot or hanged, four were sentenced to life imprisonment when their death sentences were commuted by the Government, while the remainder were acquitted or jailed for many years. Three IRA men died on hunger strike and another 12 were shot in armed clashes in which about 12 detectives died. All the efforts of German agents for joint working with the IRA were foiled through vigilant police work.

De Valera managed to retain mainly friendly relations with Britain throughout. While tough with Churchill, he turned the blind eye to crashed British pilots finding their way back over the Border or to British aircraft flying over Irish territory. He permitted some 50,000 Irish to join the British Forces and many more thousands to work in British factories, hospitals or transport, etc. and he agreed to defence plans being worked out by top British and Irish Army Chiefs. He offered to receive women and children refugees from air-raid districts. And yet, behind the scenes, there were tough sessions with the British on supplies, on arms, and particularly on threats of occupying the ports.

The only serious public row was when, at the end of the War, Churchill made a famous "Victory Speech" which contained unworthy words on Dev. In reply, De Valera declared his admiration for Britain standing alone, "but there is one small nation that had stood alone—not for two years—but for several hundred years against aggression, a small nation that could not be forced to accept defeat and has never surrendered her soul".

De Valera also stood up to Germany and to the powerful United States and held his own with both. He took risks with Germany at a time when Hitler was rampant in Europe. He made an international protest against the "cruel wrong" of the invasion of Holland and Belgium. He protested vigorously at the bombing of Dublin by the Germans and he took a risk when he sent the Dublin Fire Brigades to the aid of Belfast after the Germans had bombed its citizens. Later he insisted on the Germans surrendering their Embassy radio transmitter. But on the other hand he resisted tempting offers to abandon neutrality even when it was evident that Germany was beaten.

When Hitler died de Valera paid "a formal call of condolence to Hempel, the German Ambassador". Not to do so, he has said, "would have been an act of unpardonable discourtesy to the German people and to Dr. Hempel." His balancing act was adroit. One single serious mistake could have been fatal not only for himself but for the whole nation.

De Valera was in power for 16 years—from 1932 to 1948. As the war receded, the de Valera magic began to fade. In 1948, his Government was rejected. A combination of parties joined together to defeat him and form an Inter-Party Government. The secret of that defeat was the sudden rise of a new Republican Party, Clann na Poblachta, which drew votes from the Fianna Fáil nurseries. The main party in the new Government was Fine Gael.

De Valera's first move in Opposition, was to begin a world campaign on Partition, a move which may have been a factor in the new Government breaking completely the old Fine Gael Commonwealth policy and the link with Britain and defining Ireland (Twenty-six Counties) as a Republic. They were trying to be even more Republican than de Valera.

By 1951 he was in power again. For the following three years he used his own special tact and compromise to defeat the main onslaught of Catholic Church opposition to a Mother and Child Health Scheme, opposition which had brought the Inter-Party Government down. In 1954, now in his 72nd year, and almost completely blind, his old fire gone, de Valera went into Opposition again after another defeat from the Inter-Party grouping.

OLD MAGIC GONE

Incredibly, three years later, almost 75, he was to chalk up the greatest victory of his career when, in what was to prove his last election, he won 78 seats, the greatest number ever, giving his Party an overall majority of 13 in the Báil. It was a rare achievement in a Parliament elected by proportional representation.

Now, however, even closest colleagues like Séan Lemass, could no longer deny the old magic was going. "He had become an adjudicator, no longer the initiator," Lemass said. And, in 1958, with a Presidential election looming, Oscar Traynor, his very close friend, together with Jim Ryan and Seán MacEntee, suggested to him that he should be the Fianna Fáil candidate in that Presidential election.

He announced to a private meeting of the Dáil Party that he would be retiring in 1959 as Taoiseach and President of Fianna Fáil, and that he intended also to put a Bill to the Dáil, and to a Referendum, to abolish the system of proportional representation. He claimed that P.R. made for unstable government by returning too many small political parties. The Party accepted the inevitable. But some Deputies were uneasy about the abolition of proportional representation; it had served them well.

The long debate on P.R. was closed by Mr. de Valera on May 26th, 1959. It was his last Dail speech. His performance on that evening, and his last few moments in the Dail Chamber, remain among the most vivid memories of this writer's years as a political correspondent.

In his 77th year and almost blind in that speech Mr. de Valera showed that he could still be supreme at the high level which the debate had reached. Speaking necessarily without notes for more than an hour, his finest moment came when he purported to read from a Fine Gael journal denouncing coalition Governments necessarily consisting of many parties, the direct fruit of P.R. Holding the journal page in front of him, and quoting, of course from memory, the 77-year-old blind man was actually holding the journal page upside down.

Later, when the Debate ended with victory for his proposal, came his last visit to the Dail Chamber on the day it adjourned for the Referendum on P.R. and the Presidential election. As business ended and the Chamber emptied, I watched from the Press Gallery; he remained behind in the Taoiseach's seat. The lights dimmed in the House and then, after a few moments he rose and slowly walked up the stairs with the aid of the hand-rail, to the exit. There he paused and looked round at what to him could have been only the dim outline of the Chamber where he had been the dominant figure for almost 33 years. Then, somewhat bowed, he walked alone through the exit door and out of active politics forever. It was almost to the day just 42 years before that he had left Lewes Jail to become Ireland's greatest national leader. It had been a long journey and no one doubted that this was the saddest moment of it all.

PRESIDENTIAL YEARS

On June 17th, 1959, he was elected by a majority of 100,000 votes as President. The people however, rejected his proposal to abolish proportional reresentation.

In 1964, de Valera, as President, visited Washington and addressed the joint Houses of Congress. In memorable terms he expressed his joy at this supreme recognition of the Irish Republic. He impressed the House also—this New York-born Irish President—with his quite extraordinary appreciation of the world's prime issue—peace.

But he was still to surprise people, even those who knew him, with his intellectual agility and physical endurance. As on the occasion when he undertook the journey to Donegal to open a school at Cloughaneely in countryside that echoed history and the language he loved. Or when, on Palm Sunday, 1971, he went to Lourdes to attend Mass in the open air and pray in the basilica square.

He continued to be honoured by institutions of international reputation and to receive the statesmen of other nations. In 1967, he became an Honorary Fellow of the Royal College of Physicians of Ireland and a year later he was elected Fellow of the Royal Society, the oldest scientific society in existence. The reasons for election were given as conspicuous service to science and because his fellowship would benefit the society.

In 1969 and 1970 he was host, briefly, to an ex-President and a President—Charles de Gaulle of France and Richard Nixon of the United States. General de Gaulle, on a private visit to Ireland, spent June 17th, 1969, in Aras an Uachtarain and on June 18th was, for the first time in 24 years, out of France for the anniversary of his call for resistance. On October 5th, 1970, Mr. Nixon, who was on a State visit to Dublin, paid a courtesy call on President de Valera.

Some 50,0000 men and women, in June, 1973, turned out to bid him goodbye when he left office, after serving two terms—14 years—as President, the maximum permitted by the Constitution.

Mr. de Valera was succeeded as President by Mr. Erskine Childers, son of one of Mr. de Valera's closest friends who was executed by the Provisional Government in November, 1922, during the Civil War. The new President, however, was hardly in office a year when he died suddenly on November 16th, 1974, after a heart attack. He was succeeded by Cearbhaill O. Dalaigh, former Chief Justice and President of the Court of the European Community.

He has taken care to have set down the reasons for actions that were controversial, not only in biographies but in a more direct form: in April, 1967, he agreed to give a series of interviews, on television, to Brandeis University, Massachusetts. They covered, partly at his request, such subjects as the Articles of Agreement of 1921, the Civil War, the break with Sinn Fein and the establishment of Fianna Fail, the economic war with Britain and Irish neutrality. He stipulated, however, that the material should be kept under seal, at Brandeis and in R.T.E., until a date which he determined.

He made gestures of reconciliation toward people with whom he once fought. On July 7th, 1968, he attended the annual Mass for Michael Collins in Dublin Castle.

He still appealed for conciliation before conflagration. On January 6th, 1970, addressing members of the Diplomatic Corps at a New Year reception, he urged all nations to unite in a solemn covenant to submit all international disputes to arbitration and judicial determination.

As soldier and politician, Eamon de Valera was prominent in creating a sovereign independent State to such an extent as to be able to maintain neutrality in a World War. As President, and later Taoiseach of an Irish State, he had remained true to his role as a national leader.

The great paradox of de Valera, however, is that in the national field, all through his life, in power or out of power, and on the international field, representing Ireland in the World Councils, he demonstrated wisdom, courage, judgment—even radicalism. Yet when he won supreme power over an independent Irish State, when he was faced with the problem of "what to do with freedom" and power, he seemed unable to apply those talents, first to Northern Ireland or secondly to the social, economic and cultural problems of the Republic.

Though social and economic advance was made in the Republic under de Valera, such as the giant State enterprises and relatively improved social welfare, problems of unemployment, housing, health and education were never fully solved. One million free Irish emigrated to seek work in Britain after 1922. While the population of all other countries increased, including Northern Ireland's the Republic's population declined.

SEPARATIST POLICY

For all his achievements, de Valera failed to solve the greatest problem of his own country, the reconciliation between the communities within Northern Ireland and reconciliation between North and South. An even greater paradox is that he not only failed to solve that problem, but that almost everything he did, every measure he enacted in the Republic, pushed solution of that problem even further away, even making it impossible. His politics in the Republic consolidated the Republic as a separate State and consolidated partition.

That such a subtle political mind apparently was unable to grasp or understand the problem of the North is indeed the tragedy of his life and of his politics and of Ireland. Few can doubt that had he applied to that problem the same deep thought which he applied to others, he would have found a way to make at least a step towards its solution, or towards peace between the Northern communities. Failure to understand that question could also be the reason for his failures in the social, economic and cultural fields.

He did not see any role for the North's million Protestants. They were virtually ignored, treated almost as pawns of Britain, who would, given freedom of choice or vote, opt to be Irish. When they were noticed at all it was merely to tell them the conditions, or concessions and equality which they would enjoy in an Irish Republic. In one speech in 1939 he urged that Northerners should declare their allegiance and that the country of their choice should "buy them out." How such a view of the North affected the Treaty negotiations, the Dail Debate on the Treaty, or the Civil War, is incalculable.

Apart from one statement in 1933, that the "one way to secure unity would be to build a State here that would attract the North," Mr. de Valera, before or since, did not mention the Twenty-Six County State as a factor, or instrument—or deterrent—for a United Ireland. His 1937 Constitution declared that the State included all of Ireland. The Northerners were ignored. To him it seemed there was nothing incompatible in the stated national aims of a Republic, United Ireland and the restoration of the Irish language though to most Northern Protestants the three aims would be utterly unacceptable.

On the question of the language, indeed, one is driven to ask if the winning of a United Ireland were really Mr. de Valera's supreme aim. Once he said—at a university lecture in U.C.D.—that if he were offered freedom and unity without the restoration of the language or offered the language without unity or freedom, he would accept the language. On another occasion he told this writer that, offered a United Ireland without the language or the 26 Counties with the language, he would accept the latter.

CATHOLIC CHURCH

The fundamental law contained in the de Valera Constitution of 1937 accorded a "special position" to the Roman Catholic Church and its preamble was unmistakably Catholic. On big Catholic occasions the Church-State relationship was obvious. Protestants also had a deep grievance against the *Ne Temere* decree of the Catholic Church, which forced Protestants carrying Catholics to pledge that children of the marriage should be reared as Catholics and which de Valera, despite his relations with the Church, did little to moderate. On occasion—as in the Tilson case—Court verdicts were biassed against Protestants.

All of these questions, apart from their distress to Southern Protestants, were, of course, of deep significance and relevance to the winning or losing support for Irish Unity among even the most liberal of Northern

Protestants. Such laws, mostly enforced by clerical pressure, as well as Catholic Church control of education, were strong arguments for Northern Protestants conviction that Home Rule was seen to be Rome Rule in practice.

There were also decisions or actions which Northern or Southern Protestants interpreted as threats to the North's existence. In the de Valera Constitution of 1937, for instance, apart from the "special role" accorded to the Roman Catholic Church, Articles Two and Three, define the State as consisting of the whole island, including Northern Ireland and claiming a qualified jurisdiction over the North.

There was—and is—a teaching of history, and the teaching of a general culture, which produced young men—and young women—with anti-British and anti-Northern prejudices. It was a teaching which consolidated the official community culture of the "worship" of the heroic dead killed by the British; and endless commemorations of Republican I.R.A. martyrs which turned on its head Tone's plan "to abolish the memory of all past dissensions."

Despite official condemnation of I.R.A. violence when it occurred, there was the contradiction that the very first generation of young people who were educated in a free Ireland, produced by 1938 a new style I.R.A.—the first Provisionals—who began virtually a second civil war against de Valera's government and State and against the Northern State. Many of these young men were executed by the very society which had produced them and made them what they were.

The social and cultural system in the South was one made in the image and likeness of Eamon de Valera. The State he built was Catholic and Conservative and its laws supplemented Catholic laws. It was a State that was inevitably anathema to all Northern Protestants, and though this expressed, as was often argued, the fact that its population was overwhelmingly Catholic, it inescapably deepened the division of the country made in 1922.

The difficulty of assessment is great. The magic of the man sprang from his work between 1916 to 1921, when, in a nation awakened for freedom, his name was a symbol of all that the people most deeply desired for their country.

History will not criticise de Valera for his work in those years, nor will it criticise him for his national and international work while head of the Government of the Republic. The deep tragedy of Ireland was that this great man, with all his stature and authority, was unable, or did not see the need, or was unwilling to change, even slightly, his overwhelmingly conservative-Catholic outlook, so as to advance the hopes of reconciliation in the North and with the North, by using the resources of the State he commanded.

THE VITAL YEARS

1882—October 14th: Born in New York.

1885—Brought to Ireland and reared in a farm labourer's cottage in Bruree, Co. Limerick.

1898–1910—Student, teacher, athlete.

1908—Joined Gaelic League.

1910—Married Sinéad Ní Fhlannagáin.

1913—Joined Irish Volunteers.

1916—Easter Week: Commandant of Boland's Mills garrison.

1917—Released from jail; elected M.P. for East Clare.

1917–26—President, Sinn Féin.

1917–22—President, Irish Volunteers.

1919–22—President of Irish Republic.

1919–20—In United States seeking official recognition for Republic; raised $6-million loan for Dáil administration.

1921—July 11the; Truce between Irish and British forces; July-October: Negotiated with Lloyd George; December: Rejected Anglo-Irish Treaty.

1921–75—Chancellor, National University of Ireland.

1921–29—M.P. for Down.

1923–24—Interned by Free State Government.

1926–59—President, Fianna Fáil.

1927—Entered Dáil.

1932–48—Fianna Fáil in power.

1932–37—President of Executive Council of Free State and Minister for External Affairs.

1932—President of Council of League of Nations.

1933–37—M.P. for South Down.

1937—Constitution ratified.

1937–48—Taoiseach and Minister for External Affairs; 1939–40, Minister for Education.

1938—Anglo-Irish Agreement ended economic war; President of Assembly of League of Nations.

1939—Offenses Against the State Act introduced.

1939–45—Achieved neutrality for State.

1948–51—Leader of Opposition in Dáil.

1951–54—Taoiseach.

1954–57—Leader of Opposition.

1957–59—Taoiseach.

1959–73—President of Ireland.

1962—Received Order of Christ decoration from Pope John XXIII.

1964—Addressed joint session of Congress in Washington, D.C.

1975—January: Death of Bean de Valera. August 29th: Death of Eamon de Valera.

[From the Irish Echo, Sept. 6, 1975]

EAMON DE VALERA

For more than fifty years, the name of Eamon de Valera has been virtually synonymous with the Irish nation in the eyes of the world. Even in the most remote areas of this planet, he was known, admired and respected.

His career spans an era, from the establishment of the Republic of Ireland through periods of bitter economic and political turmoil up to the Irish accession to the European Common Market. No other individual so epitomized the Irish efforts to both the governments and peoples of the globe. No other individual so influenced the history of Ireland in this century.

Often described as a mystic, he was at the same time a realist. This seeming contradiction gave to him a type of charisma never attained by the merely attractive modern politician to whom that appelation is presently applied.

The reaction to him by the great majority of his countrymen and countrywomen was electric. To the members of his party he was always the Chief. To the academic community he was the Man of Destiny. To the man of the rural village he was the Long Fellow.

Teacher, soldier, revolutionist, politician, Prime Minister, President, he was the epitomy of the natural born leader. His name and his very being became one with the word Irish.

He was, of course, a man of controversy. Any man that so bestrode the political life of his nation for half a century would have to be a man of controversy. But, save for a few, he was admired by friends and political foe alike, as a man of constancy, who had dedicated his life to Ireland.

Men like Eamon de Valera come to a people only rarely. Sometimes, like flashing comets, their stay is all too brief on this earth. Sometimes, like Eamon de Valera, their stay is long like the constant star.

Ireland's constant star is gone now, never to be forgotten by the sons and daughters of this land.

FEDERAL ELECTION COMMISSION NOTICES

Mr. CANNON. Mr. President, I ask unanimous consent that several notices submitted to the Senate during the August recess be printed in chronological order in the RECORD.

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

FEDERAL ELECTION COMMISSION,
Washington, D.C., August 26, 1975.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are copies of several notices of the Federal Election Commission which will be published in the Federal Register.

Notice 1975–35 contains Advisory Opinions (AO 1975–7 and AO 1975–17).

Notice 1975–36 contains Interim Guideline: Disbursement Procedures For Public Financing of Conventions.

Notice 1975–37 contains additional Advisory Opinion Requests (AOR 1975–38—AOR 1975–57).

All of the above Notices will be published in the Federal Register on Wednesday, September 3, 1975.

In accordance with our previous correspondence, the Commission would be most appreciative if you could make arrangements to have these notices inserted in the CONGRESSIONAL RECORD.

Sincerely,

JOHN G. MURPHY, Jr.
General Counsel.

(Highlights: Federal Elections—Federal Election Commission Publishes two advisory opinions, contributions and expenditures relating to the constituent services of Members of Congress; campaign contributions from a partnership.)

[Federal Election Commission Notice 1975–35]

ADVISORY OPINIONS

AO 1975–7—Contributions and Expenditures Relating to the Constituent Services of Members of Congress

AO 1975–17—Campaign Contributions from a Partnership

The Federal Election Commission announces the publication today of Advisory Opinions 1975–7 and 1975–17. The Commission's opinions are in response to questions raised by individuals holding Federal office, candidates for Federal office and political committees, with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of the Federal Election Campaign Act of 1971, as amended, of Chapter 95 or Chapter 96 of Title 26 United States Code, or of Sections 608, 610, 611, 613, 614, 615, 616, or 167 of Title 18 United States Code.

ADVISORY OPINION 1975–7: CONTRIBUTIONS AND EXPENDITURES RELATING TO THE CONSTITUENT SERVICES OF MEMBERS OF CONGRESS

This advisory opinion is rendered under 2 U.S.C. § 437f in response to requests for advisory opinions submitted by Mr. Thomas J. Kern for Congressman Dale Evans, Congressman John P. Murtha, and Senator Jake Garn, which were published together as AOR 1975–7 in the July 2, 1975, Federal Register (40 FR 28044). Interested parties were given an opportunity to submit written comments relating to the requests.

The requests generally ask the Commission, under the Federal Election Campaign Act of 1971, as amended, and Title 18 of the United States Code (the Act), what types of contributions to and expenditures by an office account are permissible, and how these accounts shall be reported and administered. Specifically, the following requests were made:

(a) Thomas J. Kern, administrative assistant for Congressman Dave Evans, states that

the Congressman has established two fundraising entities to support the Representative's political activities. One entity is the principal campaign committee of the Congressman and the other is an office account (called here a "constituent service fund") set up to collect funds to assist Congressman Evans in providing services for his constituents.

Donations to the office account will be used for printing newsletters; holding neighborhood office hours; conducting meetings and seminars with representatives of governmental and private agencies, and with elected and appointed officials of the cities, counties and towns of the District; holding periodic open house activities at the District and Washington offices, providing constituents with flags, publications and certain other items that must be purchased; and for other expenses incurred in connection with the Congressman's services for his constituents. The account will not be used to present or promote the views of any political party or philosophy or to influence the reelection of Congressman Evans. Mr. Kern asks whether the office account is a political committee under the Act. He also asks how the sponsor of a fundraising event for the benefit of an office account should be identified, and what disclosure requirements are applicable to the use of the proceeds from such an event;

(b) Congressman John P. Murtha states that he has established a franking account (called here a "public service committee") which is used solely to defray the cost of newsletters, reports, and questionnaires sent to constituents. Congressman Murtha asks whether a corporation may make a donation to such an account without violating the statutory provisions governing political contributions; and

(c) Senator Jake Garn asks whether an incumbent Senator or Representative may engage in attitudinal research with his constituency for purposes of measuring the voters' sentiments on policy issues, job approval perceptions, and the like, without having these expenditures allocated against any applicable spending limitation. The proposed polls will ask questions for statistical purposes, open end questions, and forced response questions, but will not ask questions relating to political trial heats. Senator Garn asks further whether the fact that a Member of Congress is a candidate will make any difference in the use of issue-oriented opinion research.

As stated in AO 1975–14 on "Contributions by Banks, Corporations, and Labor Unions to Defray Constituent Service Expenses" (40 FR 34084, August 13, 1975), "[i]t is clear that the Federal Election Commission has the duty to formulate general policy with respect to the Act (2 U.S.C. § 437d(a)(9)), has the power to regulate amounts contributed to a holder of Federal office in order to defray expenses arising in connection with that office (2 U.S.C. § 439a), has the power to formulate general policy regarding contributions and expenditures (18 U.S.C. § 608), and has the power to formulate general policy regarding contributions or expenditures by national banks, corporations or labor organizations (18 U.S.C. § 610)."

Congress has the discretion and power to appropriate sufficient money for staff salaries, newsletters, stationery, travel, constituent services, and the other legislative expenses of a Member of Congress to assure the performance of the Member's legislative duties. Accordingly, except for money raised pursuant to 39 U.S.C. § 3210(f), additional money which is raised by a Member or his supporters shall be treated as a contribution made for purposes of influencing a Federal election and shall be controlled by all appropriate limitations. Similarly, except for money expended pursuant to 39 U.S.C. § 3210(f), additional money which is expended from an office account shall be treated as an expenditure intended for purposes of influencing a Federal election and shall be controlled by all appropriate limitations. As provided in § 3210(f) of Title 39, United States Code, money which is contributed and expended for the preparation or printing of material to be mailed under the frank shall be treated as a contribution or expenditures for disclosure purposes of the Act, although not for purposes of the contribution and expenditure limitations provided in 18 U.S.C. § 608.

The Commission intends to apply its policy on office accounts as follows:

(a) It is the opinion of the Commission that an office account established to provide services for the constituents of a Congressman shall report as if such account is a political committee and contributions to, expenditures by, and the general operation of an office account should be reported and otherwise treated as provided in Notice 1975–18 of the Federal Election Commission "Office Accounts and Franking Accounts; Excess Campaign Contributions" (40 FR 32951, August 5, 1975). See also AO 1975–14, *supra*. As provided in Notice 1975–18 and AO 1975–14, all private contributions received by or on behalf of a Federal officeholder for use by his office account may be deposited in such account or an account of the officeholder's principal campaign committee, pursuant to 2 U.S.C. § 437b. Also as provided in Notice 1975–18, money received for the preparation or printing of material to be sent under the frank (e.g., a newsletter), other than funds appropriated for legislative activities, shall be deposited in a separate segregated franking account which shall report as provided in that notice.

Monies expended from such accounts, other than the franking account, will be counted toward the officeholder's campaign expenditure limits under 18 U.S.C. § 608(c). A Congressman holding a fundraiser should identify that the fundraising is being conducted by either the Congressman's principal campaign committee, his office account or his franking account.

The Commission also is requested to provide guidance as to whether a person holding a fundraiser for the benefit of an office account should state that a donation to the office account is not tax deductible or subject to a tax credit. The Commission is unable to provide such guidance as it lacks authority to rule with regard to such tax consequences. Reference should be made to Sections 41 and 128, Title 26, United States Code.

(b) It is the opinion of the Commission that corporate contributions to a franking account, used solely to defray the cost of newsletters, reports, and questionnaires sent to constituents, are prohibited under 18 U.S.C. § 610. While exempt from the limitations in 18 U.S.C. § 608 (see 39 U.S.C. § 3210 (f)), contributions and expenditures for the preparation or printing of material to be mailed under the frank shall otherwise be treated as contributions and expenditures for purposes of the Act, (including the pertinent provisions of Title 18). Since the proposed contribution would be derived from general corporate funds, and not from separate voluntary funds to support the franking accounts of Congressmen, the contribution by the corporation would be prohibited under 18 U.S.C. § 610.

(c) A Member of Congress may, of course, make expenditures for attitudinal research within his constituency for purposes of measuring the voter's sentiments on policy issues, job approval perceptions, and the like. However, unless the expenditures for the attitudinal research are paid from funds appropriated for legislative purposes by Congress or from a Congressional franking account and are used to print or prepare matter mailed under the frank, they will be treated as an expenditure from the Member's office account and will be subject to the limitations provided in 18 U.S.C. § 608 as well as the other provisions of the Act. See Notice 1975–18, *supra*. The fact that a Member of Congress is an announced candidate thus would not make any difference in how expenditures for attitudinal research will be treated.

The provisions of this opinion represent the opinion of the Commission as to the effect of 2 U.S.C. § 437(a)(9), 2 U.S.C. § 439a, 18 U.S.C. § 608, 18 U.SC § 610, and 39 US.C. § 3210(f) on contributions and expenditures from the office or franking account of a Federal officeholder.

The provisions of this opinion are reflected in the proposed regulations which the Commission has submitted to Congress, see Notice 1975–18, *supra*. Pursuant to the Administrative Procedure Act the Commission will hold public hearings on the proposed regulation on September 16 and 17, 1975, at the U.S. Court of Claims in Washington, D.C.

ADVISORY OPINION 1975–17: CAMPAIGN CONTRIBUTIONS FROM A PARTNERSHIP

This advisory opinion is rendered under 2 U.S.C. § 437(f) in response to a request for an advisory opinion submitted by Congressman Neal and published in the July 17, 1975 Federal Register (40 FR 30259). Interested parties were given an opportunity to submit written comments relating to the request.

The question raised in Congressman Neal's request is "[h]ow much money in campaign contributions may a candidate for Federal office accept from a partnership" under the Federal Election Campaign Act of 1971, as amended in 1974.

Section 608(b)(1) of Title 18, United States Code, states that:

(1) Except as otherwise provided by paragraphs (2) and (3) no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed $1,000 (underlining added for emphasis).[1]

Section 591(g) of Title 18, United States Code, defines "person" as an individual, *patrnership*, committee, association, corporation, or any other organization or group of persons, * * *" (underlining added for emphasis).

It is the opinion of the Commission that the cited statutory provisions impose a $1,000 limit on the amount a partnership may contribute to a candidate for Federal office with respect to each separate election wherein that candidate seeks nomination or election. The Commission further concludes that when a partnership maks a contribution to a candidate for Federal office it counts against each individual partner's limitation under 18 U.S.C. § 608(b)(1) in direct proportion to each partner's share of partnership profits. For example, in the case of a four member partnership (each partner having an equal share) which makes a $1,000 contribution to a Federal candidate, one-fourth of the $1,000, or $250, is counted toward each individual partner's limit. Therefore, each partner may contribute no more than an additional $750 to the same Federal candidate with respect to the same election.

Under the general theory of partnership law a partner is an agent for the partnership, and the partnership has no legal capacity to act as a person in its own right. Therefore, even though a partnership is a "person" for purposes of 18 U.S.C. § 608(b), as well as 2 U.S.C. § 431, *et seq.* contributions made in the

[1] The exceptions to 18 U.S.C. § 608(b)(1) are not relevant to the question of the amount a candidate may receive from a partnership, and contributions to a candidate for nomination to the office of President are subject to an overall $1,000 limit during the entire pre-nominated period. See 18 U.S.C. § 608(b)(5).

partnership's name must be attributed to the individual partners in relations to each partner's interest in the partnership profits. Furthermore, when a contribution is made in the partnership name without accompanying information as to each partner's proportionate share thereof, the candidate or committee recipient must obtain a written statement providing the requisite information within 30 days after receiving the contribution.

If this information is not timely obtained the contribution must be returned. Otherwise, the candidate or committee will be regarded as in violation of 18 U.S.C. § 614 which prohibits an individual from making a contribution in the name of another "person," i.e. partnership, and also prohibits the knowing acceptance of such a contribution.

NEIL STAEBLER,
Vice Chairman for the Federal Election Commission.

Date: Aug. 22, 1975.

(Highlight: Federal Elections; Federal Election Commission Interim Guideline: Disbursement procedures for public financing of conventions.)

INTERIM GUIDELINE: DISBURSEMENT PROCEDURES FOR PUBLIC FINANCING OF CONVENTIONS [NOTICE 1975-36]

TITLE II—FEDERAL ELECTIONS

Chapter I—Federal Election Commission

I. Certification of Entitlement to Public Funds for Nominating Convention Expenses

Title 26 U.S.C § 9008 authorizes the Federal Election Commission to certify to the Secretary of the Treasury for payments of the amounts to which the national committee of any major or minor party is entitled under 26 U.S.C. § 9008 with respect to a presidential nominating convention, but the entitlement of each major party may not exceed the aggregate amount of $2,000,000.[1] The amount of each party's entitlement is adjusted annually based on increases in the Consumer Price Index, See 26 U.S.C. § 9008(b)(5) and 18 U.S.C. § 608(d).

II. Information Required to Receive Certifications for Public Funds

To be eligible for public financing of their conventions, the national committees of the major parties shall submit or otherwise make available the following information to the Federal Election Commission in order that the Commission may forward the appropriate certification to the Secretary of the Treasury.

A. For initial payment:

1. Signature cards containing signatures of officials who have been authorized to sign requests for payment (Exhibit I);

2. The name and address of the commercial bank to be used as the committee's depository;

3. A request for an initial payment, supported by a statement projecting and describing estimated expenditures through the close of December 31, 1975. Specific dollar figures need not be assigned to the various itemized expenditure categories.

B. For subsequent payments:

1. Subsequent requests for disbursements after the initial disbursement shall be submitted quarterly commencing with January 1 in the year in which the convention will be held. Such requests should be submitted to the Commission within 10 days after the commencement of the quarter to which they relate.

2. The request is to include (a) a report in a form consistent with the requirements of 2 U.S.C. 434(b) of actual expenditures made during the previous period or quarter, and (b) the total amount of expenditures estimated through the close of the next quarter and the categories in which the proposed expenditures are to be made. No specific dollar figure need be assigned to the various itemized expenditure categories thus projected and described.

III. Special Approval for Accelerated Payment Schedule

Each quarterly disbursement will be based upon the legally permissible expenses projected for that quarter. The Commission will approve more than one disbursement per quarter where a showing is made that a deficit is likely to be incurred unless a further disbursement is made. Any request for such further disbursement should be supported by a summary of actual expenses previously incurred for the quarter together with the projected expenses which will occasion the deficit if a further disbursement is not forthcoming.

IV. Transmittal of Certification to Secretary of the Treasury

Following Commission approval of any request for disbursement, the Commission shall forthwith transmit a certification for payment to the Secretary of the Treasury, who shall make payment in the amount certified to the national committee designated by the certification, but not to exceed the amounts in each account maintained under 26 U.S.C. § 9008(a).

V. Use of Funds by Committees

Under 26 U.S.C. § 9008(c), funds so disbursed shall be used only (1) to defray expenses incurred with respect to a presidential nominating convention (including the payment of deposits) by or on behalf of the national committee receiving such payments; or (2) to repay loans, the proceeds of which were used to defray such expenses, or otherwise to restore funds (other than contributions to defray such expenses received by such committee) used to defray such expenses. Any investment of public funds or their use in any other way which generates income is permissible only if the income so generated is used for the purposes described in this part V, and such income will be applied against the $2 million ceiling.

VI. Repayments for Funds Improperly Received or Spent

Repayments in an appropriate amount will be required from the national committees whenever they have (1) received payments in excess of their entitlement, (2) incurred expenses in excess of their spending limits, (3) improperly accepted private contributions to defray convention expenses, or (4) expended public funds in any manner other than to defray expenses incurred with respect to a presidential nominating convention. Repayments may not exceed the aggregate amounts actually received by a national committee under section 9008.

A. Notification of need for repayment: If the Commission determines that repayment is required in the circumstances stated above, it shall give written notification to the affected national committee of the amounts required to be paid and the reasons therefor.

B. Collection of repayment by deduction from future payments: The Commission may obtain such repayment by deducting such amount from the amount otherwise due the national committee for its next quarterly payment.

VII. Post-convention Disbursements

Pending the conclusion of any national convention, the Commission may in its discretion withhold an amount to be hereafter determined, but in any event not to exceed $200,000, which would otherwise bring the aggregate funds disbursed to the total allowed by law. Such withheld funds, if any, shall be subject to post-convention disbursement and such disbursement shall be made in the manner provided for in Part II-B above, except that such request shall include a list of all accounts payable and the purpose for which the expense was incurred. Post convention payments shall be subject to audit by the Commission and deduction of unauthorized expenditures in addition to other requirements imposed by law.

EXHIBIT I

Standard form Funds	AUTHORIZED SIGNATURE CARD FOR PAYMENT	Account Number
Issued in favor of (recipient)		Issued by (Federal agency)
Signatures of authorized individuals—		[ ] Only one signature required or [ ] Any two signatures required to sign or countersign
Typed name and signature		Typed name and signature
Typed name and signature		Typed name and signature
I certify that the signatures above are of the authorized individuals		Approved:
Date and signature of authorizing official (recipient)		Date and signature of agency certifying officer

VIII. Commission's Audit Authority

National committees affected by the foregoing should note the Commission's general authority and duties under 2 U.S.C. §§ 437d and 438.

NEIL STAEBLER,
Vice-Chairman for the Federal Election Commission.

Date: August 25, 1975.

(Highlights: Federal Election—Federal Election Commission publishes several requests for advisory opinions, comment invited for ten days.)

FEDERAL ELECTION COMMISSION NOTICES 1975-37, AOR 1975-38 TO AOR 1975-57

In accordance with the procedures set forth in the Commission's Notice 1975-4, published on June 24, 1975 (40 FR 26660),

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[1] Under 26 U.S.C. § 9008(b) the national committees of both major and minor parties are entitled to payments from public funds to defray expenses which they have incurred with respect to a presidential nominating convention. For a minor party to be entitled to its proportionate share of public funds for 1975 or 1976 convention expenses, its 1972 presidential candidate must have received (as the presidential candidate of that party) at least 5 percent of the total popular vote received by all presidential candidates in 1972. Accordingly, since no minor party presidential candidate received that many votes in 1972, there is no minor party that can qualify for convention funds in 1975 or 1976.

Advisory Opinion Requests 1975–38 through 1975–57 are published today. Some of the Requests consist of similar inquiries from several sources which have been consolidated in cases where appropriate.

Interested persons wishing to comment on the subject matter of any Advisory Opinion Request may submit written views with respect to such requests within 10 calendar days of the date of the publication of the request in the Federal Register. Such submission should be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Section, 1325 K Street, NW., Washington, D.C. 20463. Persons requiring additional time in which to respond to any Advisory Opinion Request will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered by the Commission before it issues an advisory opinion. The Commission recommends that comments on pending Advisory Opinion Requests refer to specific AOR number of the Request commented upon, and that statutory references be to the United States Code citations, rather than to the Public Law Citations.

AOR 1975–38: Use of Excess Campaign Funds for Office Expenses and Federal Preemption (Request Edited by the Commission)

GENTLEMEN: I am writing to request advisory opinions on the following questions, with regard to the Federal Election Laws.

(1) If I, as a Member of Congress, elect to use left-over campaign funds for legitimate office expenses, will these expenditures be counted in determining whether I, or my Campaign Committee, have reached any of the spending limits set forth under the new law?

(2) If I elect to use campaign funds for legitimate office expenses, will it still be necessary for me or my Campaign Committee to file periodic reports with the Clerk of the House up to and until I again announce myself as a Candidate, or may I close out my accounts until that time.

(3) Does the new Federal Election Law supercede state campaign regulations, or must state laws be adhered to separately?

SILVIO O. CONTE,
Member of Congress.

Source: Representative Silvio O. Conte, House of Representatives, 239 Cannon House Office Building, Washington, D.C. 20515 (July 15, 1975).

AOR 1975–39: Settlement of Campaign Debts Owed to Corporations (Request Edited by the Commission)

GENTLEMEN: Your recent Advisory Opinions 1975–5 and 1975–6 prompt us to ask on behalf of the Metzenbaum Post-Campaign Committee:

May a candidate's committee, which incurred debts during the 1974 senatorial campaign, settle those debts with corporate or non-corporate creditors, if the committee has made a serious effort to bring down the amount of said debts since the date of the election and has little likelihood of raising additional funds sufficient to pay all debts in full?

After the election, we found ourselves indebted to the extent of about $113,000.00. A number of fund-raising events and personal solicitations have been made to the point that the committee has now been successful in decreasing that debt to under $79,000.00. The committee has a cash balance of a little over $5,000.00 at the present time. Some of the creditors, both individuals and corporations, have indicated a willingness to settle the amounts due them if we will offer a cash settlement. We believe it may be possible for us to solicit a modest amount of additional money. However, the last sentence of Advisory Opinion 1975–6 issued by the Commission on July 23, 1975 makes reference to the problem possibly faced by corporate creditors that acceptance of such settlements could be construed as violations of the Federal Election Campaign Act.

* * * * *

MELVIN S. SCHWARZWALD,
Counsel for the Metzenbaum Post-Campaign Committee.

Source: Metzenbaum Post-Campaign Committee, by Counsel, Melvin S. Schwarzwald, Metzenbaum, Gaines & Stern, 1700 Investment Plaza, 1801 East 9th Street, Cleveland, Ohio 44114 (August 1, 1975).

AOR 1975–40: Reporting Contributions from Political Action Committees (Request Edited by the Commission)

* * * * *

The Federal Election law appears to be ambiguous on the question of the requirement of campaign committees to report contributions by political action committees when such funds are used to purchase tickets to a reception. * * *

It is my understanding * * * that campaign committees are not required to report individual contributions of $100 or less by political action committees when such contributions are made for the purpose of purchasing tickets to a reception. * * *

[T]his Committee requests a formal, written [advisory opinion] on whether a campaign committee is required to disclose publicly contributions of $100 or less by political action committees when such contributions are made for the purpose of purchasing tickets to a reception.

I would also like to know the rules covering reporting by donor organizations. I understand they must report their contributions, regardless of the amount.

WALLY JOHANSON, *Treasurer.*

Source: Wally Johanson, Treasurer, Oberstar for Congress, Volunteer Committee, P.O. Box 465, Duluth, Minnesota 55802 (July 17, 1975).

AOR 1975–41: Investment or Savings Deposits of Contributions or Other Receipts (Request edited by the Commission)

DEAR MR. CURTIS: Our Committee * * * formally makes this request of the Commission for an Advisory Opinion as to when, if ever, receipts from contributions, sales, collections, loans and/or transfers may be deposited in an interest-bearing savings account in a state and/or national bank, or invested in government treasury notes.

(Mrs.) ANN M. EPPARD,
Assistant Treasurer.

Source: (Mrs.) Ann M. Eppard, Assistant Treasurer, Shuster for Congress Committee, Star Route 5, Everett, Pennsylvania 15537 (July 24, 1975).

AOR 1975–42: Application of Spending Limits to Candidate Purchase of Advertising in Directories and Yearbooks (Request Edited by the Commission)

DEAR MR. CHAIRMAN: I have been invited by the editors of Hawaii's annual "Labor Director" to purchase a ⅛ page advertisement in the Directory. My photograph will appear with the words "Aloha to Labor from Sparky" superimposed. I have also been invited to purchase a quarter-page advertisement in the Hawaii State Little League Baseball "Souvenir Yearbook," which is published annually at the end of the Little League Baseball season. My photograph will appear with the words "Aloha and Best Wishes.(s) Spark Matsunaga, Member of Congress."

I would appreciate receiving the Commission's opinion as to whether this expenditure must be recorded as a "campaign expenditure" under the provisions of the Federal Elections Campaign Act, as amended. If so, would the cost of the advertisement be credited toward the Primary Election campaign expenditure ceiling established in 1974?

If the proposed advertisement is not a "campaign expenditure" under the provisions of the Federal Elections Campaign Act, could funds from my congressional Communications Fund be used for its purchase? A report of receipts and expenditures under my Communications Fund has been filed with the Clerk of the U.S. House of Representatives and the Lieutenant Governor of the State of Hawaii.

SPARK MATSUNAGA,
Member of Congress.

Source: Representative Spark Matsunaga, 422 Cannon House Office Building, Washington, D.C. 20515. (Two letters dated July 22, 1975.)

AOR 1975–43: Establishment by Corporation of Voluntary Employee Political Donation Program (Request Edited by the Commission)

GENTLEMEN: On behalf of TRW, I would like to respectfully request your advice on the following situation:

TRW operates a Good Government Program whereby employees who desire to participate are permitted to have a certain amount of their paycheck withheld and sent to a designated candidate or party. [The Commission notes that the TRW Good Government Program registered as a political committee on August 7, 1975]

All contributions made by our employees to the designated candidates or committees are fully disclosed to the intended recipient. Each recipient receives a check in the total amount of all contributions designated for such recipient and in addition receives a list of every employee who designated a contribution to such candidate or committee together with the amount contributed by such employee. TRW simply acts as an agent of the employee in forwarding the designated contribution much as a bank operates as an agent of a depositor when a check is written and the bank honors that check upon presentment.

However, it would appear possible to argue that TRW is an "intermediary or conduit" within the meaning of Title 18 § 608(b)(6) of the United States Code. TRW does not believe that our program is within the spirit of this section. However, since the point is arguable we would like to request the Commission's position on this point.

Should the Commission rule that TRW is an "intermediary or conduit" rather than a simple agent of its employees, we would like to be informed of the Commission's requirements for our fund particularly in the following respects:

(1) How frequently should we report or file with the Commission?

In some cases, our payroll departments issue checks biweekly in other cases payroll periods are semi-monthly, monthly or weekly. In some cases the amounts to be withheld pursuant to the employees direction are withheld in each paycheck and others the deduction is made only once a year. I am sure that neither TRW nor the Commission desires to be inundated with paperwork for this program. Accordingly, if the Commission feels a report is necessary at all, TRW respectfully suggests that such report be provided to the Commission annually.

(2) What form should we use for the report?

We are not aware of any form which can be appropriately used for purposes of § 608(b)(6). Accordingly, if the Commission desires TRW to report its program under this section we respectfully request that the Commission adopt some form on which we may make the report or at least inform us of the

various items which the report should contain.

* * * * *

WILLIAM A. HANCOCK,
Senior Counsel.

Source: TRW Good Government Program, by Counsel, William A. Hancock, TRW, INC., 23555 Euclid Avenue, Cleveland, Ohio 44117 (July 28, 1975).

AOR 1975–44: Request of Socialist Workers 1976 National Campaign Committee (Request Edited by the Commission)

DEAR COMMISSIONERS:

* * * * *

We seek advisory opinions under 2 U.S.C. § 437f from the Commission on several questions regarding the Act and the 1974 Amendments.

1. In our letter of January 31, 1975 we requested clarification on the $1,000 limitation on contributions. Does this limit apply separately to primary, runoff (if any), and general elections? Section 608(b)(5) indicates that the limitation is $2,000 for presidential candidates but fails to give any time limitation. Is it for instance, $1,000 before the primary and an additional $1,000 between the primary and the general election? If the limitation does apply separately for candidates contending in primary and runoff elections, does it also apply separately for candidates contesting only the general election?

2. Regarding the limitation of $100,000 on petty cash purchases and transactions (18 U.S.C. § 615), does this mean that no check to the order of "cash" can be made for over $100.00? What does a campaign committee do in a situation where a candidate or representative of a candidate is out of town and requires emergency funds in excess of $100.00? What does a committee do in the case where its checks are unacceptable as a means of payment for a certain vendor, for example, the U.S. Postal Service?

* * * * *

4. When candidates are not contesting special, primary, or run-off elections, what are the reporting requirements regarding the 10-day preelection and 30-day postelection reports?

* * * * *

6. What constitutes a "debt" or "obligations" itemizable under parts 11 and 12 of the reports? Does this refer to long-term debts and obligations of say, 60 days, or something else?

7. Do the non-principal campaign committees have to be authorized in writing by the candidates?

8. What constitutes "affiliation" and "relationship" of committees?

* * * * *

ANDREA MORELL,
Treasurer, Socialist Workers,
1976 National Campaign Committee.

Source: Andrea Morell, Treasurer, Socialist Workers 1976 National Campaign Committee, 14 Charles Lane, New York, New York 10014 (July 10, 1975).

AOR 1975—45: Legality of the Establishment and Administration of "Independent Antonomons" Multicandidate Political Committees. (Request Edited by the Commission)

DEAR SIR: We represent the Agricultural & Dairy Educational Political Trust ("ADEPT").

* * * * *

ADEPT submits this advisory opinion request, by counsel, pursuant to the provisions of 2 U.S.C. § 437f(a).

The pertinent facts are that ADEPT is considering the establishment in several states of the Union of independent and autonomous political committees which, like ADEPT, would be multiple candidate committees and which, like ADEPT, would be political committees * * *. Each such committee would operate solely within the state in which it was organized; would be governed by committee members at least one of whom would be resident in such state; would make political contributions as defined by the provisions of 2 U.S.C. § 431(e) and 18 U.S.C. § 591 (e); would exercise its independent judgment as to the beneficiaries and amounts of its contributions; would report to the Federal Election Commission pursuant to the provisions of 2 U.S.C. § 434(a); and, except to the extent it might receive unanticipated and unsolicited donations, would depend solely for its funds upon transfers from ADEPT (which transfers would be reported by ADEPT as contributions by ADEPT); and which might receive the benefit of accounting, clerical, legal or similar services in kind from ADEPT (which services also would be reported by ADEPT as contributions from ADEPT).

The basic question is whether such committees may be established.

If the basic question be answered in the affirmative, ADEPT would propound the following questions.

1. May the Treasurer of ADEPT also serve as the treasurer of one or more of the state committees?

2. Would the limitations upon the quantum of contributions set forth in 18 U.S.C. § 608(b)(2) be applicable (1) separately to ADEPT and to each such committee or (2) in the aggregate to ADEPT and each and every such committee?

3. May one or more members of the ADEPT committee also hold membership on one or more state committees?

4. May each state committee be funded by transfers of funds from ADEPT? In this connection ADEPT envisions that upon being notified by a particular state committee that the funds thereof were depleted to the sum of $1,000.00 or some other relatively small sum, ADEPT would transfer to that particular state committee a substantial sum, as for example, $25,000.00. No part of the transfer would be earmarked for a particular contribution. The state committee would be free to spend the money as it deemed appropriate. The state committee then would be expected to advise ADEPT when at some subsequent date its funds available for contribution again dropped to $1,000.00.

* * * * *

MARION EDWYN HARRISON.

Source: Marion Edwyn Harrison, Harrison, Lucey, Sagle & Solter, 1701 Pennsylvania Avenue, NW., Washington, D.C. 20006 (July 15, 1975).

AOR 1975—46: Fee for the Televised Appearance of a Member of Congress (Request Edited by the Commission)

DEAR MR. CURTIS: I am writing on behalf of United States Representative Barbara Jordan, 18th District of Texas to request advisory opinions regarding section 616 of the "Federal Election Campaign Act Amendments of 1975." As you know, that section deals with the "Acceptance of Excessive Honorariums."

Miss Jordan has been asked to provide editorial comment once a month which is recorded on video tape, for presentation on the CBS television Morning News Show. She is paid One Hundred and Fifty Dollars for each taping.

It is our position that this payment is salary for services for which a fee is traditionally required, and therefore, should not be included when computing her acceptance of honorariums for the calendar year. * * *

RUFUS (BUD) MYERS.

Source: Representative Barbara Jordan, by Rufus Myers, Administrative Assistant, 1534 Longworth House Office Building, Washington, D.C. 20515 (July 3, 1975).

AOR 1975—47: Expenditures of Corporate Funds by Host Committees for the Benefit of National Political Party (Request Edited by the Commission)

DEAR COMMISSIONERS:

* * * * *

On behalf of the Democratic National Committee, a supplementary advisory opinion is requested in this regard.

Specifically, Advisory Opinion 1975–1 provided, in part, that local corporations which are engaged in certain retail businesses may contribute funds to a local civic association, or other similar type of business association ("Host Committee"), which payment, under certain conditions, would not constitute a prohibited corporate contribution within the provisions of 18 U.S.C. § 610. The Opinion did not cover the purposes for which a Host Committee could expend its funds, including funds derived by it from local retail corporations referred to above.

An Opinion is respectfully requested that a Host Committee may offer to the National Committee any of the services, benefits, or uses of property described in paragraphs (1) through (7), inclusive, of Advisory Opinion 1975–1, without violating 18 U.S.C. § 610, and that such transactions do not involve "expenditures" under 26 U.S.C. § 9008(d).

STUART E. SEIGEL.

Source: Stuart E. Seigel, Cohen and Uretz, 1775 K Street NW., Washington, D.C. 20006 (August 4, 1975).

AOR 1975–48: Attribution of Contribution to Political Party to Candidate Receiving Funds from that Party (Request edited by Commission)

DEAR COMMISSIONER:

* * * We request that the Federal Election Commission issue an Advisory Opinion in answer to this question:

Because the 1974 Act imposes a $1,000 limit on contributions by an individual to a candidate for election to Federal office, if a contributor makes a contribution of less than $1,000 to a candidate's campaign committee and thereafter is asked to contribute to one or more state and local party committees, some portion of whose receipts from contributions will be contributed by that committee to or expended for the election of that same candidate, but where the portion of the individual's contribution has not been earmarked for that candidate either by the contributor or the party committee, can the contributor make that contribution to the state or local party committee without being considered to have exceeded the $1,000 limitation?

If the answer to the foregoing question is now, what steps must the state or local party committee or the contributor take in order to insure that his total contributions to the Federal candidate do not exceed the $1,000 limit?

RICHARD C. FRAME,
State Chairman.

Source: Richard C. Frame, State Chairman, Republican State Committee of Pennsylvania, P.O. Box 1624, Harrisburg, Pa. 17105 (August 5, 1975).

AOR 1975–49: Corporate Contribution to State Political Party Committee Supporting State and Federal Candidates (Request edited by Commission)

GENTLEMEN: I write in behalf of the New York Republican State Committee respectfully to request [an advisory opinion.] * * *.

On February 13, 1975, the New York Republican State Committee put on a fundraising dinner in New York City in honor of Vice President Rockefeller. The President graciously attended under the auspices and at the expense of the Republican National Committee. As is usual in such cases, the National Committee charged back such expense to the State Committee and we gladly

agreed to reimburse them for such expense out of the proceeds of the dinner.

We, of course, want to honor that commitment.

Following the dinner, however, it dawned on both the National Committee and ourselves that we had accepted some corporate checks as subscriptions to the dinner. Subject to certain limitations, corporate checks are legal for political contributions in New York. The corporate checks received for the dinner and otherwise by the Committee had been intermingled in the Committee's general funds. Thus both the National Committee and ourselves concluded that our debt to them could not be paid out of the Committee's general funds.

* * * * *

* * * Our Republican State Committee continues to receive contributions both directly and through an arm called "The Governor's Club", all of whose income, after expenses, goes to the State Committee. Most of these contributions are individual but some of them are corporate.

Question: If we segregate the receipts from individuals as they come in in the future identifiably one by one in a separate account, excluding all corporate receipts from that fund, can we properly and legally pay our debt to the National Committee out of that segregated account?

* * * * *

GEORGE L. HINMAN.

Source: George L. Hinman, Member for New York, Republican National Committee, Room 5600, 30 Rockefeller Plaza, New York, New York 10021 (August 6, 1975).

AOR 1975–50: Application of 1974 Amendments to Debt Transaction Incident to Special Election in 1975 (Request edited by Commission)

DEAR MR. CURTIS: After studying the latest Federal Election Commission Advisory Opinion (1975–6) there remain specific questions to be answered concerning campaign debts owed by this Committee.

Jeff LaCaze was a candidate for the U.S. House of Representatives from The Sixth District of Louisiana. The results of the general election of November 5, 1974 was disputed and after litigation the state courts ordered a new election for January 7, 1975.

* * * * *

* * * [C]ontributions in excess of $1,000 were received by this Committee during 1975 and used for an election held in 1975 * * *.

Please clarify this [question], i.e. were contributions received subsequent to December 31, 1974 and prior to January 8, 1975 subject to the 1971 Act * * * or subject to provisions of the 1974 Act as indicated in Advisory Opinion 1975–6?

Additionally, please consider the following for an [advisory opinion]:

1. Promissory notes made in 1974.

a. Are accrued interest payments made in 1975 on these notes, "debt" incurred during 1974 and therefore, payable with contributions as outlined in Advisory Opinion 1975–6?

b. Can makers of these notes (i.e. coguarantors, etc.) pay interest accumulated on these notes without having these contributions being subject to the 1974 Act?

2. Corporate debts owed by a Candidate or Committee.

a. Can debts owed by a candidate or committee to a corporation be forgiven or settled for sums less than those previously billed without such forgiveness of debt being considered an "illegal contribution" as outlined under 18 U.S.C. 610–611?

b. Can a corporation write off as bad debts, any debts owed by a candidate or committee for which payment cannot be made?

TED E. DOVE, *Treasurer*.

Source: Ted E. Dove, Treasurer, The Jeff Lacaze Committee, P.O. Box 14649, Baton Rouge, Louisiana 70808 (August 5, 1975).

AOR 1975–51: Use of Excess Campaign Funds to Purchase Congressional Office Equipment (Request edited by the Commission)

DEAR MR. CURTIS: * * * This is a request for an advisory opinion on the use of campaign funds to defray Congressional office expenses above the usual electrical equipment and clerk-hire allotments.

Our office plans to install a computer terminal to meet the demands of constituent mail. The cost of the terminal will exceed our office allotment and, therefore, we would like to use excess campaign funds to establish a separate Oberstar Office Equipment account.

In checking with the Office of the Clerk of the House, Mr. Moss recommended this separate account and suggested the account be set up in a manner allowing a staff member to make disbursement, rather than require the Member's signature.

Mr. Moss assured me that the use of campaign funds in the manner prescribed is legal and preferred (reference Section 439(a) of the 1974 Federal Election law). However, he felt a letter to your office asking for an advisory opinion would be wise. * * *

JAMES L. OBERSTAR, M.C.

Source: Congressman James L. Oberstar, Room 323, Cannon House Office Building, Washington, D.C. 20515, (July 8, 1975).

AOR 1975–52: Assistance by a Multi-candidate Committee to Pay Off a Candidate's Past Campaign Debt. (Request Edited by the Commission)

GENTLEMEN: I am writing to inquire as to whether or not in your opinion a State Committee may assist a successful candidate for the Congress to pay off his 1974 election debt without impairing the limitations on the amount of money it may give to said Congressman under the new law should he be a candidate for re-election in 1976?

JOHN R. LINNELL.

Source: John R. Linnell, Maine Republican State Committee, 187 State Street, Augusta, Maine 04330 (July 14, 1975).

AOR 1975–53: Application of Limitations on Contributions and Expenditures to Nomination by Petition Effort (Request edited by the Commission)

DEAR MR. CURTIS: A group of interested citizens in the State of Maryland have formed a political committee of which I am Chairman to explore the possibility of promoting the independent candidacy of Bruce Bradley for the office of United States Senator in 1976.

In the process of gathering preparatory information, we find that under Maryland law, an independent candidate may qualify by petition to have his name placed on the ballot for the general election.

In reviewing the provisions of the Federal Election Campaign Act of 1971 [as amended in 1974] * * * we find the language of 18 U.S.C. § 608(c)(1) * * * sufficiently vague as to request a formal advisory opinion from you on the following specific issues:

1. * * * Under Maryland law an independent candidate for United States Senator must qualify for election by petition, a method of which, while involving the expenditure of funds for political purposes, is not an expenditure of political funds for nomination by election in a primary election sponsored by an organized political party. We would like an opinion as to whether or not nomination by petition in this case is considered legally equivalent to any other primary election contemplated under [18 U.S.C. § 608(c)(1)(C)] * * *. We would interpret an affirmative ruling in this case to mean that an independent candidate for nomination for election to the office of U.S. Senator from the State of Maryland attempting to qualify as a candidate for the general election by petition would be eligible to raise funds and spend them as if he were any other candidate attempting to obtain nomination for election through the political primary process. Further, such an interpretation would mean that the limitations of [18 U.S.C. § 608(c)(1)(C)] * * * would apply to all political activities of an independent candidate up until such time as he is legally certified as a candidate for the general election by competent state authority.

2. Assuming that the above ruling is in the affirmative, and that an independent candidate is considered for purposes of the spending limitations as any other candidate for nomination by primary, would there be any restrictions on funds used to qualify by petition other than those imposed by the Federal Election Campaign Act of 1971, as amended? We would interpret a no restriction ruling as permitting the expenditure of funds raised to qualify for election by petition for the same types of activities and services as would be procured under the law by any other candidate seeking nomination by primary, i.e. payment of staff salaries, media advertisements, airplane or car rentals, and publications of a promotional nature.

3. If, in fact, qualification by petition constitutes a primary for purposes of [18 U.S.C. § 608(c)(1)(C)] * * * and a surplus remains at the time the candidate's petition is certified and he is, in fact, qualified for election under State law, can the surplus be carried over for use in the general election campaign without regard to the limitations imposed under [18 U.S.C. § 608(c)(1)(D)]? * * *

JOHN F. FALCONER.

Source: John F. Falconer, Chairman, Bradley for Senate Committee, 10600 Seneca Ridge Drive, Gaithersburg, Maryland 20760 (June 30, 1975).

AOR 1975–54: Application of Contribution and Expenditure Limitations to Each Election Held in a State (Request edited by the Commission)

GENTLEMEN: * * * Utah has a somewhat unique nomination process. At the respective State Nominating Conventions, attended by delegates elected at precinct mass meetings, primary contenders are reduced to two. If, however, one candidate receives 70 percent of the vote, he becomes the nominee, without a primary. Both Senator Jake Garn (R–Utah), and his opponent, former Congressman Wayne Owens (D–Utah) in 1974 received a 70 percent convention nomination.

Were there, in Utah, to be 3 phases of a Federal campaign (i.e., convention, primary and general) would the campaign limitation apply to each phase, with no carry-over from one time frame to another? Under the prior law the Secretary of the Senate answered this question affirmatively, denoting, accurately, no difference between primary runoffs and the Utah system.

Your advisory opinion on the question raised is sought.

KENT SHEARER, *Legal Counsel*.

Source: Kent Shearer, Legal Counsel, Utah Republican Central Committee, c/o Mock, Shearer and Carling, 1000 Continental Bank Building, Salt Lake City, Utah 84101 (June 28, 1975).

AOR 1975–55: Organizational Contributions to Charity in Lieu of Honorarium To Federal Office-Holders or Scholarship Fund (Request Edited by the Commission)

DEAR MR. CHAIRMAN: I write to request a clarification and interpretation of the requirements and limitations under Section 616 of Title 18 of the U.S. Code with respect to honorariums received by a Member of Congress.

Would it be proper, assuming no self-dealing or self-serving implications of any kind, for private organizations to make contributions to legitimate charities, either in lieu of or in addition to honorariums that I might otherwise receive? Would such contributions

in any way count with respect to the limitations imposed under Section 616?

In addition, a special situation would be the possible establishment of a scholarship fund, properly set up with no self-dealing and an unrelated board of directors. If a private organization were asked in lieu of an honorarium, to make such a contribution only if they wished, and not as a condition for my appearance, would this be proper?

AL ULLMAN,
Member of Congress.

Source: Representative Al Ullman, House of Representatives, Washington, D.C. 20515 (August 11, 1975).

AOR 1975–56: Office Account Expenditures Chargeable to Primary or General Election Campaign

DEAR SIR: I hereby request an advisory opinion in regard to the following:

Are expenditures by an office account to be counted against the expenditure limitations applicable to a campaign for election (general) or should they be counted against the campaign for nomination for election (primary).

STEPHEN J. SOLARZ,
Member of Congress.

Source: Representative Stephen J. Solarz, House of Representatives, 1228 Longworth House Office Building, Washington, D.C. 20515 (August 12, 1975).

AOR 1975–57: Application of Limits to Post-election Contributions to Single Candidate Committee (Request Edited by the Commission)

DEAR SIR: We would appreciate a ruling from you regarding certain points of law regarding candidates/campaigns for Federal Office (U.S. Senate), Title III of Public Law 92–225, the Federal Election Campaign Act.

Please give us a ruling on the following:

(1) Is there any limitation as to time that contributions can be accepted subsequent to the election?

(2) Is it permissable to accept funds raised from Testimonials, Dinners, etc. (given for the benefit of the candidate) subsequent to the election?

(3) If post election contributions are acceptable, is it in any way contrary to the law to repay the candidate for funds loaned to his own campaign fund, which has been used to defray campaign expenses?

A. R. GRIGSBY,
Treasurer, John L. Grady Campaign Fund.

Source: A. R. Grigsby, Treasurer, John L. Grady Campaign Fund, Belle Glade, Florida 33430 (August 1, 1975).

THOMAS B. CURTIS,
Chairman for the Federal Election Commission.

Date: August 25, 1975.

FEDERAL ELECTION COMMISSION,
Washington, D.C., August 22, 1975.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are copies of two notices of the Federal Election Commission which will be published in the Federal Register.

Notice 1975–33, which will be published on Wednesday, September 3, contains Advisory Opinion 1975–10.

Notice 1975–34, which will also be published on Wednesday, September 3, contains Interim Guideline—New Hampshire Senate Election.

In accordance with our previous correspondence, the Commission would be most appreciative if you could make arrangements to have these notices inserted in the CONGRESSIONAL RECORD.

Sincerely,

ORLANDO B. POTTER,
Staff Director.

(Highlights: Federal elections—Federal Election Commission publishes an advisory opinion, internal transfers of funds by candidates or committees.)

FEDERAL ELECTION COMMISSION

[Notice 1975–33]

ADVISORY OPINION

The Federal Election Commission announces the publication today of Advisory Opinion 1975–10. The Commission's opinions are in response to questions raised by individuals holding Federal office, candidates for Federal office and political committees, with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of the Federal Election Campaign Act of 1971, as amended, of Chapter 95 or Chapter 96 of Title 26 United States Code, or of Sections 608, 610, 611, 613, 614, 615, 616, or 617 of Title 18, United States Code.

ADVISORY OPINION 1975-10

Internal transfers of funds by candidates or committees

This advisory opinion is rendered under 2 U.S.C. § 437f in response to four requests, published as AOR 1975–10 in the July 9, 1975 *Federal Register* (40 FR 28944). All of the requests relate to various types of transfers of funds by candidates or political committees. Interested parties were given an opportunity to submit written comments pertaining to the requests.

A. Request of Congressman John J. McFall

The issue presented is whether a principal campaign committee of a candidate for Federal office may transfer funds from a checking account at a designated campaign depository to a savings account in the same bank or to a savings account in another financial institution which is not a designated campaign depository.

Section 437b(a)(1) of Title 2, U.S. Code, provides that "[e]ach candidate shall designate one or more national or State banks as his campaign depositories." This section further requires that the principal campaign committee shall maintain a checking account at the designated depository, shall deposit any contributions received by it into such account, and shall make all expenditures from said checking account. The statute is silent as to the establishment and use of savings accounts.

It is clear that the statute requires *all* contributions and *all* expenditures to pass through the checking account at the designated depository. However, the statute would not preclude a transfer from a checking account to a savings account if full disclosure is made and the committee retains its complete control of the funds so transferred at all times.

To assure compliance with the reporting requirements of 2 U.S.C. § 434(b) and the specific language of section 437b(a)(1) that all contributions and all expenditures flow through the checking account at the designated depository, the Commission will require:

(1) that all funds transferred from the checking account described above to any savings account, certificates of deposit or other interest-bearing account be reflected clearly on the reporting forms required to be filed with the Commission under 2 U.S.C. § 434(b);

(2) that all funds transferred out of the designated checking account, as described above, be eventually transferred back into such account and clearly reflected on the reporting forms required to be filed with the Commission under 2 U.S.C. § 434(b);

(3) that any interest earned from funds transferred to any savings account, certificates of deposit or other interest-bearing account be timely reflected on the reports required to be filed with the Federal Election Commission under 2 U.S.C. § 434;

(4) that no expenditures be made from any funds transferred to an account other than the checking account at the designated campaign depository.

B. Request of Thomas Coleman

This request raises the question as to how one should report the transfer of surplus campaign funds remaining from an election campaign for local or State office to a Federal election campaign committee. The Commission's response to this question should not be construed as adversely affecting any donor's rights provided by State law as to the use of the donor's original contribution made in connection with a campaign for State or local elective office.

Funds received by a political committee which are transferred from any other source are contributions as defined in 2 U.S.C. § 431(e)(3). As such, they are required to be reported under the provisions of 2 U.S.C. §434 (b)(2)(4) and (7). Specifically, full information as to the source of all funds transferred to a reporting political committee, as well as the amounts and dates of all individual contributions included in the transfer, must be reported. The Commission agrees that Mr. Coleman may presume that the surplus transferred to his Federal campaign committee is comprised of those individual contributions last received before the State election. The Commission contemplates future regulations that will provide more specific guidance as to the proper reporting of transfers of this type.

The Commission also concludes that the funds to be transferred to the Federal campaign committee may not include any contributions by national banks or corporations, labor organizations, Government contractors, or agents of foreign principals. See 18 U.S.C. §§ 610, 611, and 613.

Furthermore, no contributions which exceed $1,000 from any one person and were made after January 1, 1975, may be transferred to the Federal campaign committee. Finally, any funds that were under Mr. Coleman's personal dominion and control, although contributed to a State campaign committee, may be transferred to the Federal campaign committee only to the extent permitted under 18 U.S.C. § 608(a).

C. Request of the Circle Club

The question presented is whether a preexisting political committee with residual funds may obtain consent from the original contributors of these funds to "earmark" their contributions for a specific Federal candidate, and transfer said earmarked contributions to the principal campaign committee of the candidate designated by the contributor.

Under 18 U.S.C. § 608(b) persons (other than qualified multicandidate political committees) may not lawfully make contributions to any Federal candidate in excess of $1,000 with respect to any election. Subsection (b)(2) allows certain political committees to make $5,000 contributions to any Federal candidate with respect to each separate election.

In the event that contributions are earmarked by the donor (or on the donor's behalf), or otherwise directed through an intermediary or conduit to a particular candidate, they are treated as contributions to that candidate from the original donor and are, therefore, subject to applicable limits under section 608(b). Section 608(b)(6) would not apply to situations where donors relinquish complete control over their contributions and do not at a later time regain such control either by actual return of their contribution or, as in this instance, by request of the recipient committee for authorization to earmark a contribution originally given without such restriction. Since

in this case the committee will be asserting some control over the earmarking by reason of the fact that it will actively seek to obtain consent from the donors to earmark funds for a specific Federal candidate, it follows that the committee, as well as the original donor, should be regarded as having made the contribution.

Hence, both aspects of the transaction are subject to limitation under 18 U.S.C. § 608 (b)(1). The committee must regard its involvement in procuring the authorization to earmark as tantamount to its own contribution and, therefore, subject to the $5,000 limit in 18 U.S.C. § 608(b)(2), if it is otherwise qualified to make contributions in that amount. Further, such designated contributions must be reported to the Commission and the intended recipient by the political committee as provided in 18 U.S.C. § 608(b)(6). Until issuance of final regulations, this may be accomplished by complying with the reporting provisions of 2 U.S.C. § 434(b) and the earmarking regulations issued by the previous supervisory officers and adopted by the Commission on an interim basis on June 2, 1975, 40 FR 23833.

D. Request of Senator James Buckley

The Friends of Jim Buckley Committee has established an internal method of allocating political expenditures from "non-political" expenditures for constituent services. The Committee has solicited funds for both political and non-political purposes through its fundraising appeals. Senator Buckley requests an opinion as to:

(1) whether the Commission will recognize the functional distinction between the two types of expenditures;

(2) whether it will be necessary to establish another committee to handle funds expended for constituent services; and

(3) if a separate committee is established, whether a separate committee for constituent services will be able to receive funds from the political committee.

The matter of constituent service accounts is controlled by the provisions of 2 U.S.C. 439a and such rules as may be necessary to carry out the provisions of section 439a. The Commission has formally proposed such rules which treat contributions to and expenditures by constituent service funds as transactions of a political committee. See Notice 1975-18, August 5, 1975 (40 FR 32951).

Furthermore, in Advisory Opinion 1975-14, decided August 7, 1975, the Commission held that contributions to constituent service accounts are subject to 18 U.S.C. §§ 608, 610, 611, 613, 614, and 615. Accordingly, the Commission has no objection to transfers of funds from the existing political committee to another one newly organized, but recognizes no functional distinctions between the two types of expenditures described in the request. Finally, the Commission concludes that all expenditures made by either the existing political committee or a new constituent service committee are subject to the spending limits applicable to a candidate under 18 U.S.C. § 608(c).

THOMAS B. CURTIS,
Chairman for the Federal Election Commission.

FEDERAL ELECTION COMMISSION

[Notice 1975-34]

Interim Guideline—New Hampshire Senate Election

On June 2, 1975, the Federal Election Commission issued an Interim Guideline (Notice 1975-1) which directed all individuals, committees, and others subject to the Federal Election Campaign Act of 1971, as amended, to file the July 10, 1975 quarterly report with either the Secretary of the Senate, the Clerk of the House of Representatives, or the Federal Election Commission, depending upon the nature of the candidacy involved. Today, with respect to the Special Election to fill the vacancy in the office of United States Senator from New Hampshire, scheduled for September 16, 1975, the Federal Election Commission issues a guideline which directs the parties involved in the New Hampshire election to file directly with the Commission, and which sets out other rules of general applicability with respect to complying with the Federal Election Campaign Act in the pre- and post-election periods.

Date: August 21, 1975.

THOMAS B. CURTIS,
Chairman for the Federal Election Commission.

INTERIM GUIDELINE—NEW HAMPSHIRE SENATE ELECTION

I. DEFINITIONS

For purposes of this interim guideline the term

(a) "candidate" means an individual whose name will appear on the ballot in the September 16, 1975 election to fill the New Hampshire Senate seat.

(b) "election or special election" means the special election to be held on September 16, 1975, to fill the New Hampshire Senate seat.

(c) "political committee" means a political committee which receives (or intends to receive) contributions or makes (or intends to make) expenditures with respect to the September 16, 1975 special election to fill the New Hampshire Senate seat.

(d) "authorized committee" means a political committee which has been authorized in writing by a candidate to receive contributions or make expenditures for or in furtherance of the election of such candidate. Such authorization shall be provided to the chairman of such political committee and a copy shall be sent to the Commission.

II. APPLICABILITY OF THE FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1974

A. General

For purposes of calculating the limitations on contributions and expenditures under 18 U.S.C. § 608, the Commission has set July 30, 1975, the day that the Senate passed the Resolution declaring the New Hampshire Senate seat vacant, as a cutoff date.

Subject to the next paragraph, all contributions received or expenditures made or incurred prior to July 31, 1975, will be considered as made with respect to the 1974 election, to which the limitations of 18 U.S.C. § 608 did not apply. Such limitations will, however, apply to all contributions received or expenditures incurred subsequent to July 30, 1975, which contributions and expenditures shall be attributed to the September 16 special election, except to the extent that such contributions are earmarked for another purpose.

In the unique circumstances attending the holding of the September 16 special election, funds received or promised in writing subsequent to December 31, 1974 and prior to July 31, 1975 and which remained on hand as of July 30, 1975 may be expended or transferred for that special election by an authorized political committee to the extent that such contributions would be lawful under the Federal Election Campaign Act of 1971, as amended, and Title 18 U.S.C. All contributions to a candidate or his authorized political committee subsequent to December 31, 1974 and prior to July 31, 1975 must, however, be reviewed by the candidate or the appropriate committee treasurer. Such contributions shall be reviewed in reverse order of receipt, beginning with the last contribution received prior to July 31, 1975. To the extent that any contribution exceeds the limits set by 18 U.S.C. § 608, such excess shall be set aside and excluded until the sum of the contributions so reviewed equals the amount of cash on hand on July 30, 1975, at which point an amount equal to the sum of the non-excluded portions of the contributions may be transferred to or expended on behalf of the candidate. If the excluded amounts, thus computed, or any portion thereof have already been transferred or expended, an equivalent sum shall be deducted from the current campaign funds of such candidate's authorized political committee or committees, and may not be used for the September 16 election, although such funds may be used for any other lawful purpose including the retirement of residual campaign debts from the 1974 election.

Excluded portions of contributions will not count against expenditure ceilings under the 1974 Act, but non-excluded portions will count against such ceilings. For example, if the most recent contribution was $500 contributed by an individual, which is non-excluded, that individual may not contribute more than $500 additional for the September 16 special election.

Each candidate must designate a new principal campaign committee to receive contributions and incur expenditures with respect to the September 16 special election.

B. Prior campaign debts and obligations

Debts and obligations of any candidate incurred with respect to the 1974 Senatorial election, or with respect to any subsequent recount activities, which remain outstanding will be subject to the guidelines set forth in the Commission's Policy Statement on Pre-1975 Campaign Debts (40 FR 32952 (August 5, 1975)) and Interim Guideline on the Reporting of Debts and Obligations (40 FR 32950 (August 5, 1975)). Reference is also made to Advisory Opinions 1975-5 and 6, 40 FR 31316 (July 25, 1975).

C. Multicandidate committees

Section 608(b)(2) of Title 18, United States Code establishes three requirements which multicandidate committees must satisfy before they qualify as a political committee subject to the $5,000 rather than the $1,000 contribution limitation. These requirements are: (1) registration under 2 U.S.C. § 433 for a period not less than six months; (2) the receipt of contributions from more than 50 persons; and (3) except for any state political party organization, the making of contributions to five or more candidates for federal office.

For the purpose of meeting these requirements for this election only, each politcial committee (1) must have been registered with one of the three previous supervisory officers for six months or more prior to the time the contribution is made, and, (2) with respect to the 1974 Congressional elections, each political committee must have received contributions from more than 50 persons and made contributions to five or more federal candidates. If a political commitee meets these requirements, it may contribute $5,000 to a candidate in this election. If any of these requirements are not met, then the political committee is limited to a $1,000 contribution under § 608(b)(1).

D. Expenditures by national and State committees

National and state committees of political parties are entitled to make the expenditures provided in 18 U.S.C. § 608(f) in connection with this election. Section 608(f) establishes separate expenditure limitations for political party committees in connection with a general election. The New Hampshire statute under which this election is to be held terms it a "special" election. For purposes of federal law, a general election is an election that is held to fill a vacancy in a federal office. Since the upcoming New Hampshire contest is such an election, it will be considered within the definition of general election.

E. New Hampshire State committees—Establishment of segregated funds

Each New Hampshire state committee, and each subordinate committee of such state

committees, which intends to solicit or receive contributions for or on behalf of, or make expenditures, or make transfers, in excess of $1,000, to or on behalf of any candidate for federal office shall:

(1) establish a segregated federal campaign account in either a state or national bank which account may not receive contributions other than contributions earmarked for such account and any expenditure from which must be made exclusively for a candidate or candidates for federal office. Such segregated federal account may not receive transfers from another account established by a state committee or subordinate committee of a state committee unless such state or subordinate committee account is itself a segregated federal campaign account.

(2) file with the Commission reports and statements of receipts, contributions and expenditures made for such account.

III. CANDIDATE DESIGNATIONS AND REPORTING

A. Candidate designations

(a) Within 5 days of the publication of this guideline in the *Federal Register* each candidate shall file a Statement of Candidacy with the Commission on which such candidate shall—

(1) designate a principal campaign committee, and

(2) designate at least one national or state bank as a campaign depository, and

(b) Such candidate shall also file reports of personal receipts and expenditures in accordance with section V of this interim guideline unless a waiver of personal reporting is applied for and granted by the Commission.

B. Waiver of candidate reporting

(a) Upon written application to the Commission, a candidate may be relieved of the duty personally to file reports of receipts and expenditures if the candidate certifies that he will comply with the following conditions:

(1) Within five days after personally receiving any contribution the candidate will surrender possession of the entire contribution to the treasurer of his principal campaign committee without expending any of the proceeds thereof.

(2) Such candidate will not make any personal expenditures for his campaign, except that this paragraph does not preclude a candidate from conveying personal funds, or the personal funds of his immediate family, to such candidate's designated principal campaign committee so long as the amount of funds so transferred does not exceed the limit prescribed by 18 U.S.C. § 608(a).

(b) After the candidate has submitted a verified statement that he will conform to the conditions specified above, the Commission, after such investigation as it deems necessary, may grant a formal waiver relieving the candidate from the obligation to comply personally with the reporting requirements in 2 U.S.C. § 434.

(c) Such waiver will continue in effect only to the extent that the candidate complies with the conditions under which it was applied for and granted.

IV. REGISTRATION OF POLITICAL COMMITTEES

A. Registration

(a) Unless already registered with the Commission or with one of the previous supervisory officers, each political committee which anticipates receiving contributions or making expenditures with respect to the special election during the remainder of calendar year 1975 in an aggregate amount exceeding $1,000 shall file a Statement of Organization with the Federal Election Commission within 5 days after the date of publication of this guideline in the Federal Register, within 5 days after the date of its organization, or within 5 days after the date on which the committee has information which causes it to anticipate receiving such contributions or making such expenditures exceeding $1,000 whichever is later.

(b) Authorized committees which support only a candidate for the Senate seat, and no other candidate, shall file the Statement of Organization required by paragraph (a) of this section, and any amendment thereto, or termination thereof, with the affiliated principal campaign committee and, concurrently, shall file a copy of such Statement with the Commission together with a copy of its written authorization.

B. Forms of filing

(a) The Statement of Organization shall be filed on a form which may be obtained from the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463, telephone (202) 382-5162. The Statement shall include the following:

(1) The name and address of the committee;

(2) The names, addresses, and relationships of affiliated or connected organizations (see paragraph (b) of this section);

(3) The area, scope, or jurisdiction of the committee.

(4) The name, address, and committee position of the custodian of books and accounts.

(5) The name, address, and committee position of other principal officers, including officers and members of the finance committee, if any.

(6) The name, address, office sought, and party affiliation of (i) each candidate for federal office whom the committee is supporting and (ii) each candidate whom the committee is supporting for nomination or election to any other federal office or to any public office whatever; and, additionally, if the committee is supporting the entire ticket of any party, the name of the party;

(7) A statement whether the committee's existence will continue beyond the calendar year;

(8) The plans for the disposition of residual funds which will be made in the event of dissolution;

(9) A listing of all banks, safety deposit boxes, or other repositories used;

(10) A statement listing any reports regarding candidates for federal office filed under state or local law by the committee with state or local officers, and the names, addresses, and positions of such officers and,

(11) If the committee is not a principal campaign committee but has been authorized by a candidate to receive contributions and/or make expenditures, a copy of the authorization shall be included in the copy filed with the Commission.

(b) (1) Affiliated organizations include all authorized committees of the same candidate;

(2) Connected organization includes any organization which is not a political committee but which organized or supports the registrant.

C. Change or correction in information

Any change or correction in the information previously filed in the Statement of Organization shall be reported to the Commission within 10 days following the date of the change or correction, it shall (1) be reported by letter to the Commission or to the principal campaign committee (whichever is appropriate); (2) identify the form and the item or schedule containing the information to be changed or corrected; and (3) be verified by oath or affirmation by the person required by law to submit such information at the time the change or correction is reported.

D. Discontinuance of registration

(a) Any political committee not having outstanding debts or obligations owed to or by it which, after having filed one or more Statements of Organization with the Commission, disbands or determines that it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding $1,000, shall so notify the Commission.

(b) Such Notice of Termination shall be filed with the Commission or the principal campaign committee, where appropriate, and shall include a statement as to the disposition of residual funds if the committee is disbanding.

E. Identification number

Upon receipt of a Statement of Organization under this interim guideline, the Commission shall assign an identification number to the organization, acknowledge the receipt thereof, and notify political committee of the number assigned. This identification number shall be entered by the political committee on all subsequent reports or statements filed with the Commission under the Act, as well as on all communications concerning such reports or statements.

IV. CAMPAIGN DEPOSITORIES

Every political committee shall inform the Federal Election Commission, or its appropriate principal campaign committee, of the national or state bank(s) designated by its authorizing candidate as its campaign depository(ies) by listing them in its Statement of Organization.

V. REPORTS OF RECEIPTS AND EXPENDITURES

A. Timing of reports

The filing deadline for campaign finance disclosure reports as prescribed by the Act for the heretofore mentioned special election are as follows:

(a) Pre-election Report (10-day report) Filing date: Actual delivery to the Commission on or by September 6, 1975 or by registered or certified mail postmarked no later than September 4, 1975. Reports mailed first class will be considered filed only upon receipt by the Commission, regardless of date of postmark.

Period Covered: From the last date of previous report filed or from date of organization through close of business September 1, 1975.

(b) Post-election report (30-day report) Filing Date: On or by October 16, 1975—reports filed by registered or certified mail postmarked on or by such date shall be deemed filed as of the filing date.

Period Covered: From September 2, 1975 through the close of business October 6, 1975.

(c) The timely filing of a post-election report as outlined in (b) above shall satisfy the requirements for filing a quarterly report on October 10, 1975.

(d) If any contribution of $1,000 or more is received subsequent to the fifteenth day but more than 48 hours before 12:01 a.m. of the day on which the election is to be conducted, such information shall be reported directly to the Commission within 48 hours of receipt thereof. For purposes of this paragraph, report means—

(1) a letter signed by the treasurer or his designee hand delivered to the Commission within 48 hours of the receipt of the contribution, or

(2) a telegram to the Commission followed by a letter signed by the treasurer or his designee, sent registered or certified mail and postmarked within 48 hours of the receipt of the contribution.

B. Contents of reports

(a) Each report of receipts and expenditures required to be filed under this interim guideline by either a candidate or political committee shall contain the information required by 2 U.S.C. § 434(b).

(b) Such reports may be filed on the Reports of Receipts and Expenditures forms issued previously by the Secretary of the Senate.

C. *Uniform reporting of contributions*

(a) Each contributor of an amount in excess of $100 shall be identified by full name and mailing address (occupation, and principal place of business, if any). If a contributor's name or address is known to have changed since an earlier contribution during the calendar year, the exact name or address previously used shall be noted.

(b) In each case when a contribution received from a person in a reporting period is added to previously unitemized contributions from the same contributor and the aggregate exceeds $100 within the calendar year, the full name and mailing address (occupation, and principal place of business, if any) of that contributor shall then be listed on the prescribed reporting forms.

(c) In determining the aggregate of a person's contributions, all such contributions from the same donor shall be listed under the same name.

(d) Absent evidence to the contrary, any contribution made by check, money order, or other written instrument shall be reported as a contribution by the last person signing the instrument prior to delivery to the candidate or committee.

D. *Uniform reporting of expenditures*

(a) Each expenditure by or on behalf of a candidate or committee in excess of $100 shall be itemized by and shall include the full name and residence or, in the case of a recipient other than an individual, other mailing address of the recipient.

(b) In each case when an expenditure made to a recipient in a reporting period is added to previously unitemized expenditures to the same recipient and the aggregate exceeds $100 within the calendar year, the full name and residence or, in the case of a recipient other than an individual, other mailing address of that recipient shall be listed on the prescribed reporting forms.

VI. DOCUMENT FILING

A. *Place of Filing*

(a) All statements and reports, including any modifications or amendments thereto, required to be filed under 2 U.S.C. § 433 and 2 U.S.C. § 434, shall be filed in original form with the Federal Election Commission. A copy of each statement or report shall be filed with the New Hampshire Secretary of State or the equivalent New Hampshire state officer.

(b) Notwithstanding paragraph (a)—

(1) authorized committees which support only a candidate for the Senate, and no other candidate shall file reports with the authorizing candidate's principal campaign committee, and shall concurrently file a copy of such report with the Commission;

(2) authorized multicandidate committees shall file reports with the Commission, and, in addition, shall file with the authorizing candidate's principal campaign committee the information required by 2 U.S.C. § 434(b) regarding contributions received and expenditures made on behalf of the authorizing candidate;

(3) a multicandidate committee (whether authorized or unauthorized) which receives contributions earmarked by a contributor for any candidate or an authorized committee thereof shall report such contribution to that candidate's principal campaign committee in addition to the Commission.

B. Copies transmitted to Secretary of Senate

Upon receiving a statement or report filed by (a) a candidate and/or by (b) any political committee supporting one or more such candidates, the Commission shall within one working day, if practicable, and in any event not later than the second working day after receiving the filed statement or report, furnish a microfilm (or suitable equivalent) copy thereof, together with an index, to the Secretary of the Senate.

C. Originals transmitted to the Secretary of the Senate

(a) After receiving a filed statement or report within 5 working days if practicable and in any event no later than 10 days after receiving it, the Commission shall transmit the original statement report filed by (1) a candidate for the New Hampshire Senate seat, and by (2) any political committee supporting such candidate, to the Secretary of the Senate as custodian for the Commission.

(b) For purposes of the above paragraph the phrase "any political committee supporting such candidate" means:

(1) the principal campaign committee designated by a candidate, and

(2) any political committee required to file a statement or report with the principal campaign committee of a candidate.

VII. FORMAL REQUIREMENTS

A. Authentication

Each report or statement required to be filed with the Commission or with a principal campaign committee under this interim guideline by a treasurer of a political committee, a candidate, or by any other person, shall be signed by the person filing such report or statement.

B. Preservation of records

(a) Every person filing a report or statement with the Commission or with a principal campaign committee under this interim guideline shall preserve a copy thereof for a period of three years from the date of termination of the Committee, but in no event for a period of more than seven years from the last day of the calendar year in which the election was held for which the reports and statements were prepared.

(b) Every candidate, political committee, or other person required to file any report or statement with the Commission or with a principal campaign committee under this interim guideline shall maintain records with respect to the matters required to be reported, including vouchers, worksheets, receipts, bills and accounts, which will provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained or clarified, and checked for accuracy and completeness, and shall keep such records available for audit, inspection, or examination by the Commission or its authorized representatives, for a period of not less than three years from the date of termination of the committee, but in no event for a period of more than seven years from the last day of the calendar year in which the election was held for which the records and statements were prepared.

C. Effect of acknowledgment and filing by the Commission

Any acknowledgment by the Commission of the receipt of any statement of organization or any report or statement filed under this interim guideline is intended solely to inform the person filing the same of the receipt thereof by the Commission, and neither such acknowledgment nor the acceptance and filing of any such report or statement by the Commission shall constitute express or implied approval thereof, or in any manner indicate that the contents of any such report or statement fulfills the filing or other requirements of the Act or of this interim guideline thereunder.

D. Personal responsibility of person signing statement

(a) Each treasurer of a political committee, each candidate, and any other person required to file any report or statement with the Commission under these regulations and under this interim guideline shall be personally responsible for the timely and complete filing of such report or statement and for the accuracy of any information or statement contained therein.

(b) The treasurer of each candidate's principal campaign committee shall be responsible for collecting, compiling and filing with the Commission a complete report of all authorized contributions received or authorized expenditures made on behalf of such candidate. The pre- and post-election reports filed by such treasurer shall include—

(1) with respect to the principal campaign committee, all of the information required by 2 U.S.C. § 434(b).

(2) with respect to contributions received and expenditures made by authorized committees other than the principal campaign committee, a summary sheet setting forth the totals for all contributions received and expenditures made by such committees but need not include a copy of such authorized committee reports so long as each such authorized committee has mailed a copy of such report to the Commission pursuant to paragraph VI(A)(b) of this interim guideline.

(c) With respect to the pre-election report it shall be the responsibility of the treasurer of each committee other than principal campaign committee which is authorized to receive contributions or make expenditures to file a report containing the information required by 2 U.S.C. § 434(b) complete as of the fifteenth day before the election with the treasurer of the appropriate principal campaign committee by the 12th day prior to the election.

(d) Any willfully false or fraudulent statements or representations in such a report or statement will subject the person making the same to the criminal penalties provided under 18 U.S.C. § 1001.

THOMAS B. CURTIS,
Chairman for the Federal Election Commission.

FEDERAL ELECTION COMMISSION,
Washington, D.C. August 21, 1975.

HON. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are copies of a notice of the Federal Election Commission which will be published in the Federal Register.

Notice 1975–32, which will be published on Tuesday, August 26 contains an Extension Of Time To Comment On Proposed Rulemaking entitled "Office Accounts and Franking Accounts: Excess Campaign Contributions", Notice 1975–18.

In accordance with our previous correspondence, the Commission would be most appreciative if you could make arrangements to have this notice inserted in the CONGRESSIONAL RECORD.

Sincerely,

ORLANDO B. POTTER,
Staff Director.

Federal Election Commission [Notice 1975–32]

EXTENSION OF TIME TO COMMENT ON PROPOSED RULEMAKING

The time period within which written comments may be submitted to the Federal Election Commission concerning any part of the Notice of Proposed Rulemaking entitled "Office Accounts and Franking Accounts: Excess Campaign Contributions", (Notice 1975–18, 40 F.R. 32951, August 5, 1975), is hereby extended from September 4, 1975 to September 19, 1975.

THOMAS B. CURTIS,
Chairman for the Federal Election Commission.

Date: Aug. 20, 1975.

FEDERAL ELECTION COMMMISSION,
Washington, D.C., August 21, 1975.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are copies of a notice of the Federal Election Commission which will be published in the Federal Register.

Notice 1975-31, which will be published on Friday, August 22 contains a notice of hearings for the purpose of receiving comments on the proposed rules entitled "Office Accounts and Franking Accounts: Excess Campaign Contributions", Notice 1975-18.

In accordance with our previous correspondence, the Commission would be most appreciative if you could make arrangements to have this notice inserted in the CONGRESSIONAL RECORD.

Sincerely,

ORLANDO B. POTTER,
Staff Director.

TITLE II—FEDERAL ELECTIONS, CHAPTER I—FEDERAL ELECTION COMMISSION

[11 CRF Part 113]

(Notice of Hearing [Notice 1975-31])

The Federal Election Commission today publishes a notice of hearings to be held on Tuesday and Wednesday, September 16 and 17, 1975. The hearings are for the purpose of receiving further comments from interested persons on the proposed rules published in the Federal Register, Volume 40, Number 151—Tuesday, August 5, 1975, at page 32951, entitled "Office Accounts and Franking Accounts: Excess Campaign Contributions", Notice 1975-18.

All persons wishing to present views at these hearings shall no later than Wednesday, September 10, 1975, request in writing to be placed on the calendar. This request should be addressed to the General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Further, all persons desiring to appear must submit to the Commission at its offices at 1325 K Street, N.W., Washington, D.C. 20463, a written statement setting forth their proposed testimony, no later than Thursday, September 11, 1975. All questions regarding the above notice should be addressed to the Office of General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C., or telephone 202-382-5839. The location and hours of the hearings will be designated by the Commission in a subsequent notice.

THOMAS B. CURTIS,
Chairman of the Federal Election Commission.

Date: August 20, 1975.

FEDERAL ELECTION COMMISSION,
Washington, D.C., August 20, 1975.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are copies of a notice of the Federal Election Commission which was published in the Federal Register.

Notice 1975-28, which was published on Wednesday, August 20 extends the comment period on Advisory Opinion Request (AOR 1975-21).

In accordance with our previous correspondence, the Commission would be most appreciative if you could make arrangements to have this notice inserted in the CONGRESSIONAL RECORD.

Sincerely,

ORLANDO B. POTTER,
Staff Director.

Federal Election Commission

[Notice 1975-28]

ADVISORY OPINION REQUESTS

CORPORATE CONTRIBUTIONS TO POLITICAL COMMITTEES SUPPORTING STATE AND FEDERAL CANDIDATES; EXTENSION OF TIME TO COMMENT

The period of time within which to comment upon AOR 1975-21, is hereby extended by the Commission until the close of business, September 8, 1975. This Advisory Opinion Request was previously printed in the *Federal Register* on July 29, 1975, at 40 FR 31879. The issue posed by a California source, has national ramifications and the Commission encourages submission of comments. The issue presented is whether corporate contributions to state central committees (permitted under State law) which contributions are used to defray day-to-day operational expenses (office rent, utilities, secretaries' salaries, office supplies) and to fund partisan registration drives, are nonetheless prohibited by 18 U.S.C. § 610 because such contributions expended for the stated purposes directly or indirectly benefit Federal candidates.

NEIL STAEBLER,
Vice Chairman for the Federal Election Commission.

Date: Aug. 15, 1975.

FEDERAL ELECTION COMMISSION,
Washington, D.C., August 18, 1975.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are copies of several notices of the Federal Election Commission which will be published in the Federal Register.

Notice 1975-29, which will be published on Wednesday, August 20 contains additional Advisory Opinion Requests (AOR 1975-24 through AOR 1975-37).

Notice 1975-30, which will be published on Thursday, August 21, 1975, contains two Advisory Opinions (AO 1975-8 and AO 1975-13).

Notice 1975-25, the proposed rules for the implementation of the Privacy Act and Notice 1975-26, the systems of records for the Privacy Act, both will be published in the Federal Register on Friday, August 22, 1975.

In accordance with our previous correspondence, the Commission would be most appreciative if you could make arrangements to have these notices inserted in the CONGRESSIONAL RECORD.

Sincerely,

ORLANDO B. POTTER,
Staff Director.

(Highlights: Federal Elections—Federal Election Commission publishes several requests for advisory opinions, comments invited for ten days.)

[Notice 1975-29, AOR 1975-24—AOR 1975-37]

FEDERAL ELECTION COMMISSION ADVISORY OPINION REQUESTS

In accordance with the procedures set forth in the Commission's Notice 1975-4, published on June 24, 1975 (40 FR 26660), Advisory Opinion Requests 1975-24 through 1975-37 are published today. Some of the Requests consist of similar inquiries from several sources which have been consolidated in cases where appropriate.

Interested persons wishing to comment on the subject matter of any Advisory Opinion Request may submit written views within respect to such requests within 10 calendar days of the date of the publication of the request in the Federal Register. Such submission should be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Section, 1325 K Street, NW., Washington, D.C. 20463. Persons requiring additional time in which to respond to any Advisory Opinion Request will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered by the Commission before it issues an advisory opinion. The Commission recommends that comments on pending Advisory Opinion Requests refer to specific AOR number of the Request commented upon, and that statutory references be to the United States Code citations, rather than to the Public Law Citations.

AOR 1975—24: Constituent Service Committees, Office Accounts and Newsletter Accounts

A. Request of Representative Martha Keys (Request Edited and Paraphrased by Commission)

Gentlemen:

* * * * *

The Martha Keys Congressional Forum is an unincorporated committee having two officers, a chairman (volunteer) and a secretary-treasurer (Congressional Staff member). Membership is limited to individuals on a per family basis and all payouts from the committee will be for office-newsletter expenses, deductible to the Member and are not campaign expenses. All members have been notified that their contributions are not deductible.

Records of income and expenses will be kept by the secretary-treasurer who will be the only authorized signature on the account. Regular reports will be made to members of the Forum and put in The Congressional Record at least every six months.

We will attach a schedule of the Forum receipts and expenditures to Mrs. Keys' personal income tax return, reporting any balance in the fund at year end as income. The records of the Forum will be maintained by the same certified public accounting firm that prepares Mrs. Keys' personal return to insure that an accurate accounting is made.

* * * * *

[We request an advisory opinion as to whether above practices meet the requirement of the Federal Election Campaign Act of 1971, as amended.] /S/ James P. Buchele, Administrative Assistant.

Source: James P. Buchele, Administrative Assistant to Representative Martha Keys, 1207 Longworth House Office Building, Washington, D.C., 20515 (May 1, 1975).

B. Request of J. J. Pickle Political Trust Fund (Request Edited by the Commission)

DEAR MR. CURTIS:

* * * * *

Prior to 1974, a non-campaign type trust fund was formed for the purpose of making expenditures for non-reimbursable, non-campaign items incurred by Congressman J. J. "Jake" Pickle in connection with his official duties as U.S. Representative from the 10th Congressional District of Texas. These expenditures were not for the purpose of "influencing the nomination or the election of any person to Federal office" and, therefore, were not considered to be "expenditures" as defined and required to be reported by the Federal Election Campaign Act. Such expenditures included the cost of newsletters to constituents, unreimbursed trips to the District, constituent luncheons, District newspaper subscriptions, etc. In late summer, 1973, this trust fund was exhausted.

Proceeds from a fund-raising function in

October, 1973, were used to finance a new trust fund, entitled the J. J. Pickle Political Trust Fund, of which I am Chairman. Funds were transferred in 1974 from the Trust Fund to the J. J. Pickle Re-election Committee which was a duly organized "political committee" whose purpose was to conduct Congressman Pickle's re-election campaign in 1974. All contributions received and expenditures made by the Re-Election Committee were reported pursuant to the requirements of the Federal Election Campaing Act. In addition, the Trust Fund was organized as a "political committee" under the Federal law, and all contributions to and expenditures by the Trust Fund have been reported and filed with the Clerk of the House.

As of December 31, 1974, the Re-Election Committee was dissolved, and its surplus transferred back to the Trust Fund. The Trust Fund is still organized as a "political committee", and I have continued to file repors for the Trust Fund in 1975 even though the expenditures from this fund have been non-campaign in nature, i.e. not for the purpose of influencing the nomination or election of any person to Federal office.

I * * * request an advisory opinion on the following questions:

(1) If the Trust Fund receives contributions and makes expenditures for the sole purpose of reimbursing Congressman Pickle for expenses incurred in connection with his official duties but non-reimbursable by the U.S. House of Representatives, is the Trust Fund required to remain organized and report as a "political committee" under the Federal Election Campaign Act, as amended?

(2) Is the Trust Fund required to organize, or to remain organized, and report as a "political committee" if the Trust Fund transfers funds to a "political committee" which will serve as Congressman Pickle's "principal campaign committee" and which also will report the required information concerning the original contributors of the transferred funds?

(3) If the Trust Fund is not required to organize, or to remain organized, and to report as a "political committee", do the expenditures made by the Trust Fund for the purpose of reimbursing the Congressman for non-reimbursable expenses incurred in connection with his official duties count toward the limits imposed on expenditures in the Federal campaign by the Federal Election Campaign Act Amendments of 1974?

(4) If the Trust Fund is required to organize, or to remain organized, and to report as a "political committee", do the expenditures made by the Trust Fund for the purpose of reimbursing the Congressman for non-reimbursable expenses related to his official duties count toward the limits imposed on campaign expenditures by the Federal law?

* * * * *

/S/ R. L. Phinney, Chairman.

Source: R. L. Phinney, Chairman, J. J. Pickle Political Trust Fund, 1907 Exposition Blvd., Austin, Texas, 78703, (July 16, 1975).

C. Request of Representative Christopher J. Dodd (Request Edited and Paraphrased by the Commission)

DEAR CHAIRMAN CURTIS:

* * * * *

There is a group of businessmen in my district who wish to form a Congressional Club. The purpose of this club would be for them to meet with me on a regular basis so that they can inform me about their problems, and I can report to them about current legislation which is relevant to them.

The group would meet on a monthly, or perhaps bi-monthly basis, and they would be willing to pay my travel expenses (round-trip transportation only) for this purpose.

Because of the value such a program would have to the businessmen in my district as well as to myself, I would like to see it be implemented.

I [request an advisory opinion: (1) as to whether the Federal Election Campaign Act of 1971, as amended] * * * would prohibit such a group from assuming the cost of my travel for this designated purpose [and (2) if so,] * * * as to how the basic concept might be adapted in order to comply.

* * * * *

/S/ Christopher J. Dodd, Member of Congress.

Source: Representative Christopher J. Dodd, 429 Cannon House Office Building, Washington, D.C. 20515, (July 18, 1975).

D. Request of Mineta for Congress Committee (Request Edited and Paraphrased by the Commission)

DEAR SIRS: The [Mineta for Congress Committee requests an advisory opinion] in connection with expenditures for certain activities which are deemed to be political but may otherwise be objectionable on the ground that the disbursement is a diversion and considered as income received by the office holder. If for example:

1. An office holder mails out newsletters during regular intervals under a franking privilege, but the printing expenses of the newsletters are paid for by a committee;

Query: (1) Are such expenditures permissible? (2) Are the printing expenses of the newsletters paid for by the committee, a diversion by the office holder, requiring said office holder to declare such payment as income received?

2. Committee assists office holder by paying part of a telephone bill incurred at his administrative offices located in his district:

Query: (1) Is this type of an expenditure permissible? (2) Are political funds used to pay a part of telephone expenses incurred at administrative headquarters of office holder includible in his income?

* * * * *

/S/ Grant Shimizu.

Source: Grant Shimizu, Attorney at Law, 724 North First Street, San Jose, California 95112, (June 25, 1975).

E. Request of Senator Gary W. Hart (Request Edited by the Commission)

An informal constituent services operation is in the process of being organized on behalf of Senator Gary W. Hart of Colorado. It is contemplated that funds will be solicited from the public and expenditures authorized under Senate Rule 42 will be made. Expenditures will be primarily for lease payments and operating expenses for the use of a mobile can. The van will travel to outlying areas of Colorado to make constituent services more accessible to Colorado residents.

Other expenditures authorized by Rule 42 may also be incurred.

It is not presently contemplated that any attempt will be made to qualify this operation as a "political campaign committee" under Section 41 of the Internal Revenue Code, so no funds solicited would qualify as a tax deductible political contribution.

I * * * request that you advise me whether this committee will be required to register and file reports with your office as a "political committee" pursuant to the Federal Election Campaign Act of 1971, as amended.

* * * * *

/S/ Harold A. Haddon, Attorney for Senator Hart.

Source: Harold A. Haddon, Attorney for Senator Hart, 2878 S. Oakland Circle E, Denver, Colorado 80232, (June 25, 1975).

F. Request of Senator Strom Thurmond (Request Edited and Paraphrased by the Commission)

DEAR MR. CHAIRMAN: I [request] an advisory opinion on several points regarding 24 U.S.C. 439a * * *.

Will the "non-campaign" expenditures of a principal campaign committee be reported separately, in a way that will not count against spending limitations, or must the funds be transferred out of the principal campaign committee to a segregated fund?

Are expenses such as (1) lunches in Washington for constituents and (2) small gifts (paperweights and letter openers with my name embossed) for constituents and press campaign expenditures, ordinary and necessary expenses incurred in connection with my duties as a Federal office holder * * * ?

What is meant by the phrase "or any other lawful purpose"?

* * * * *

/S/ Strom Thurmond, U.S. Senate.

Source: Senator Strom Thurmond, United States Senate, Washington, D.C. 20510, (April 30, 1975).

G. Request of Representative Christopher J. Dodd (Request Edited and Paraphrased by the Commission).

DEAR MR. CURTIS:

* * * * *

Congressman Dodd is preparing plans to make a television report to the people of the Second District in December 1975. This report will be in the nature of a "fireside chat" and will consist of a report to his constituents regarding his activities and the activities of the Congress during the year 1975.

His present intention is to solicit contributions from individual persons to defray the cost of these television programs. These contributions would not in any manner be considered political contributions but would, in my opinion, be considered amounts contributed to Congressman Dodd for the purpose of supporting his activities as a holder of Federal office. [I request an advisory opinion as to: (1) whether these amounts may be used by Congressman Dodd to defray the expense of television program which is an expense incurred by him in connection with his duties as a holder of Federal office, (2) whether the amount contributed and the expenditure thereof would be required to be disclosed under the provisions of 2 U.S.C. Sec. 431 *et seq.*, and (3) whether that amount would be subject to the limitations of 18 U.S.C. Sec. 608.]

/S/ Thomas B. Wilson, Treasurer, Dodd for Congress Committee.

Source: Thomas B. Wilson, Treasurer, Dodd for Congress Committee, Suisman, Shapiro, Wood & Brennan, P.C., 1028 Poquonnock Road, Groton, Connecticut 06340, (July 11, 1975).

AOR 1975–25: Constituent Service Accounts; Contributions by Multi-candidate Political Committees to Drefray Recount Expenses of 1974 Senate Elections (Request of National Republican Senatorial Committee and Democratic Senatorial Campaign Committee) (Request Edited by the Commission)

GENTLEMEN: This is a request on behalf of our respective Senatorial Committee for an advisory opinion dealing with the circumstances, if any, under which expenditures by incumbent Senators for ordinary and necessary expenses of serving their constituents become campaign expenditures, subject to disclosure requirements and expenditure limits.

For years, Senators have assumed that such expenditures made from their own pockets or from a constituent service account were not subject to the campaign laws. However, we would appreciate a clarification of this issue from you as soon as possible.

Specifically, we would like you to consider a circumstance in which a Senator maintains a constituent service account over and above the allowances he receives from the U.S. Senate. The account is funded by dona-

tions from private donors and from the Senator himself. The account makes expenditures to publish and distribute newsletters under the frank to the Senator's constituents. Moreover, the account is used to pay the expenses of radio and television broadcasts to a Senator's constituents concerning his official duties. Other ordinary and necessary expenses of running the Senator's office may also be paid from time to time out of the account, but in no case are expenditures made to influence the result of a Federal election, in the traditional meaning of that phrase.

The question is whether or not payments from such an account are "expenditures", subject to the overall campaign spending limits imposed by Section 608(c) of Title 18, U.S. Code. A related question is whether or not donations from private donors into such account are "contributions", subject to the contribution limits in Section 608(b) of Title 18.

We would very much appreciate some rather specific guidance in this area. In passing, we stress the value of consistency with other bodies of law, particularly the franking statute (39 U.S.C., Section 3210) and applicable portions of the Internal Revenue Code.

In addition, our respecting Committees have a difference of interpretation of the provisions of the 1974 Campaign Act Amendments relating to contribution limits for elections taking place prior to January 1, 1975, and we would appreciate having the Commission include in its ruling a determination of whether the $5,000 maximum contribution ceiling applies to elections occurring prior to the effective date of the Amendments. Specifically, can our respective Committee legally contribute more than $5,000 to help defray the recount expenses of any 1974 Senate elections.

/S/ J. Bennett Johnston, Chairman, Democratic Senatorial Campaign Committee; Ted Stevens, Chairman, National Republican Senatorial Committee.

Source: J. Bennett Johnston, Chairman, Democratic Senatorial Campaign Committee, Room 130, RSOB, Washington, D.C. 20510, (June 11, 1975). Ted Stevens, Chairman, National Republican Senatorial Committee, Room 445, RSOB, Washington, D.C. 20510 (June 11, 1975).

AOR 1975—26: Contribution Limitations as Applied to Excess Senatorial Campaign Funds Deposited with National Republican Senatorial Committee (Request of National Republican Senatorial Committee) (Request Edited and Paraphrased by the Commission)

DEAR MR. CURTIS: In 1972, former Delaware Senator J. Caleb Boggs provided $11,402 in leftover funds from his own campaign to the National Republican Senatorial Committee as a depository, with the request that the funds be held by the Committee for the use of the 1976 Republican Senatorial candidate from Delaware. The Committee continues to hold and is prepared to distribute this amount to the Republican Senate candidate from Delaware pursuant to Mr. Boggs' instructions.

* * * I [request an advisory opinion of] the Commission as to whether the Committee can distribute these funds earmarked in 1972 to the Delaware Republican Senate candidate without being in violation of the $5,000 contribution limits contained in the Federal Election Campaign Act Amendments of 1974.

* * * * *

/S/ Ted Stevens, U.S. Senator.

Source: Senator Ted Stevens, National Republican Senatorial Committee, Room 445, Senate Office Building, Washington, D.C. 20510 (July 14, 1975).

AOR 1975—27: Attorney's or Accountant's Fees As Expenditures

A. Request of Warren E. Hearnes (Excluding Fees from Expenditure Limit (Request Edited and Paraphrased by the Commission).

Are expenses incurred by a candidate for legal and accounting fees paid for the purpose of complying with the Federal Election Campaign Act of 1971, as amended, expenditures for the purpose of a candidate's campaign expenditure limit?

/S/ Warren E. Hearnes.

Source: Warren E. Hearnes, 1015 Locust Street, Suite 800, St. Louis, Missouri 63101 (July 14, 1975).

B. Request of Representative John Y. McCollister (Including Accountant's Fees in Fundraising Expenditures) (Request Edited by the Commission).

* * * * *

Can the separate area of fundraising costs not counted against general campaign expenditures be used for paying for the services of a certified public accountant * * * for purposes of handling campaign reports?

* * * * *

/S/ John Y. McCollister.

Source: Representative John Y. McCollister, 217 Cannon House Office Building, Washington, D.C. 20515 (July 21, 1975).

AOR 1975—28: Status and Activities Allowed of a Political Committee Supporting a Former Candidate for the Presidency (Request of the Percy Committee) (Request Edited and Paraphrased by the Commission)

GENTLEMEN:

* * * * *

The Percy Committee was establised on February 9, 1973, in response to a number of requests and initiatives by friends and supporters of Senator Charles H. Percy of Illinois. The committee, which was then known as the Exploratory Committee, resulted from the belief of a number of those individuals that Senator Percy possessed the qualities expected of a President and that it would be in the public interest that ample information be made available to him to make a sound decision as to whether he should become a candidate for President of the United States in 1976.

The Exploratory Committee (later The Percy Committee) received contributions and made expenditures for the purposes stated above. Although Senator Percy was not an announced candidate for President, the contributions and expenditures have been reported in accordance with the Federal Election Campaign Act of 1971. Apart from the Percy Committee's accountants, who have not yet rendered their final bill, The Percy Committee is not aware of any outstanding obligations or anticipated contributions related in any respect to a possible presidential candidacy by Senator Percy in 1976. The Committee has approximately $9,000 of funds on hand.

Senator Percy is not a candidate for President in 1976 and does not expect to be. As a result The Percy Committee is not and will not be soliciting additional contributions or making additional expenditures (with the exception of the bill referred to above) to pursue a possible presidential candidacy by Senator Percy in 1976. Similarly, The Percy Committee will not be taking action toward that end.

We request an advisory opinion as to whether * * * (1) The Percy Committee will cease to be a "political committee" established on behalf of a potential presidential candidate * * * once the last expenditure related to a possible presidential candidacy has been made (that is expected to be the payment to The Percy Committee's accountant referred to above);

(2) * * * since Senator Percy is expected to engage in political activity from time to time in Illinois on behalf of other Republican candidates and is also expected to seek reelection in 1978, and certain political expenses related to these activities can be expected in such regard from time to time, receipts and expenditures of and for this Committee should continue to be recorded and reported in accordance with the law;

(3) * * * the Percy Committee may engage in general political fund raising and may make expenditures related to Senator Percy's political activities as well as expected reelection campaign.

* * * * *

/S/ Arthur C. Nielsen, Jr., Chairman, The Percy Committee.

Source: Arthur C. Nielsen, Jr., Chairman, The Percy Committee, P.O. Box A3503, Chicago, Illinois 60690, (July 8, 1975).

AOR 1975—29: Limitations on Contributions by Local Political Parties (Request of Representative Tom Railsback) (Request Edited by the Commission)

DEAR CHAIRMAN CURTIS: * * * What is the maximum contribution which can be made by a political party's county central committee (an official subordinate organ of a State political party committee) to a candidate for U.S. House of Representatives in the primary and in the general elections? Such county central committee will principally make contributions to State and local party candidates but will also make contributions to its party's candidate for U.S. House of Representatives and President.

* * * * *

/S/ Tom Railsback, Member of Congress.

Source: Representative Tom Railsback, 2431 Rayburn House Office Building, Washington, D.C. 20515, (July 10, 1975).

AOR 1975—30: Use of Campaign Fund for Newspaper Subscriptions and Travel Expenses (Request Edited by Commission)

DEAR MR. CURTIS: My Campaign Treasurer in Mississippi has requested that I make an advisory opinion request with regard to the following two items: (1) may newspaper subscriptions be paid out of the campaign fund? (2) may the Member be reimbursed for travel expenses that he incurs in connection with political appearances in his Congressional District?

* * * * *

/S/ David R. Bowen, Member of Congress.

Source: Representative David R. Bowen, House of Representatives, 116 Cannon House Office Building, Washington, D.C. 20515, (July 31, 1975).

AOR 1975—31: Contributions by Spouses and Individuals Connected with Government Contractors (Request Edited by the Commission)

DEAR MR. CURTIS: * * * [W]e are sending a written request in order that you may render an opinion on the following:

1. Can a wife in a single income family make a contribution to a candidate if the husband has contributed $1,000?

2. Can a partner, officer, or member of a corporation or business holding a federal contract make a personal contribution? In addition, can the wives of those mentioned make a contribution?

/S/ Norval D. Reece, Campaign Manager.

Source: Norval D. Reece, Campaign Manager, Shapp For President Committee, P.O. Box 1012, Federal Square Station, Harrisburg, Pennsylvania 17108.

AOR 1975—32: Limitations on Contributions by Multi-candidate Committee (Request Edited by the Commission)

DEAR SIR: We represent the Committee for the Survival of a Free Congress ("CSFC"), address as above.

CSFC is a "political committee" as defined

by the provisions of 2 U.S.C. § 431(d) and 18 U.S.C. § 591(d). * * *

CSFC submits this advisory opinion request, by counsel * * *.

CSFC is a multiple candidate committee which makes political contributions as defined by the provisions of 2 U.S.C. § 431(e) and 18 U.S.C. § 691(e).

CSFC inquires whether the Federal Election Commission interprets the proscription set forth in 18 U.S.C. § 608(b)(2) to prohibit CSFC from contributing more than the sum of $5,000.00 in connection with any one election to or on behalf of any one candidate?

If so, does the Commission also construe that or any other prohibition to limit the total contribution of CSFC to the national committee of a politcal party (whether major, minor or incipient) or political organizational group?

* * * * *

/S/ Marion Edwyn Harrison.

Source: Marion Edwyn Harrison, Harrison, Lucey, Sagle & Solter, 1701 Pennsylvania Avenue, NW., Washington, D.C. 20006 (July 29, 1975).

AOR 1975–33: Interpretation of Spending Limit Exemption for Fundraising Costs (Request Edited by Commission)

DEAR COMMISSIONERS: This Advisory Opinion Request is filed on behalf of the Bentsen in '76 committee, a political committee duly registered and reporting under appropriate sections of the Federal Election Campaign Act and supporting the candidacy of Senator Lloyd Bentsen for nomination for election to the office of President of the United States. The request concerns the proper interpretation of the fundraising exception to the definition of the term "expenditure", found in Section 591(f)(4)(H) of Title 18, U.S. Code.

This subsection exempts from the Section 608(c) candidate expenditure limitations the costs of soliciting contributions, to the extent such costs do not exceed "20% of the expenditure limitation applicable to such candidate under Section 608(c). . . ." Section 608(c) imposes a $10 million expenditure limit for a candidate seeking nomination for election to the office of President. However, expenditures in any one state may not exceed twice the limit available in such state "to a candidate for nomination for election to the office of Senator. . . ."

The question is whether or not fundraising costs in a particular state are exempt if they do not exceed the $2 million nationwide limit, but do exceed 20% of the Presidential candidate's expenditure allocation for such state, as computed under Section 608(c)(1)(A).

* * * * *

You are authorized to publish this Advisory Opinion Request, as required by applicable statutory provisions and FEC regulations.

/S/ Robert N. Thomson, Counsel, Bentsen in '76.

Source: Robert N. Thomson, Counsel, Bentsen in '76, Preston, Thorgrimson, Ellis, Holman & Fletcher, 1776 F Street, NW., Washington, D.C. 20006 (July 28, 1975).

AOR 1975–34: Establishment of "Non-campaign Fund" by Multicandidate Committee (Request Edited by the Commission)

DEAR COMMISSIONERS: Pursuant to Section 437(f) of Title 2, U.S. Code, the National Committee for an Effective Congress (NCEC) hereby requests an advisory opinion from the Federal Election Commission regarding certain activities and transactions. NCEC is an independent political action group, founded in 1948, and supported by a national constituency of approximately 70,000 citizens.

NCEC is a "political committee" as defined by Section 431(d), Title 2, U.S. Code and Section 591(d), Title 18, U.S. Code and in addition qualifies as a multicandidate political committee pursuant to Section 608(b)(2), Title 18.

The purpose and activities of the NCEC extend beyond providing assistance and support to select candidates seeking the nomination for or election to either the U.S. House of Representatives or the U.S. Senate. It is the Committee's belief that certain activities of the NCEC are non-campaign in nature and that funds solicited and received and expenditures made for these non-campaign activities do not constitute a "contribution" or "expenditure" under Section 591, Title 18.

Thus, it is the intention of the NCEC to establish a separate and segregated non-campaign fund patterned after the separate and segregated funds established by certain labor unions, corporations and interest groups. The name of this non-campaign fund will be the Congressional Services Fund. The Board of Directors and the Director of the Congressional Services Fund will be identical to those of the NCEC. Separate accounts will be maintained for campaign and non-campaign activities; the funds will not be transferable. The solicitation of funds for each account will be separate. Funds solicited and received for the NCEC campaign account will be considered contributions as defined by Sec. 591(e), T. 18; funds received for the non-campaign account will not. Staff salaries and overhead will be prorated between the two accounts based on the time spent on each activity.

Section I:

The activities of the Congressional Services Fund will be as follows:

1. To provide management consulting and technical assistance to certain Members of Congress for the purpose of achieving effective execution of the ordinary and necessary functions relating to the official business, activities and duties of the Congress.

Areas for consultation and assistance will include:

—efficient handling of legislative and constituent mail;

—proper preparation for legislative responsibilities, such as committee and Floor activities;

—provision of constituent services;

—preparation and dissemination of materials pertaining to official congressional business which are distributed as franked mail in accord with Sec. 3210(f), T. 39;

—non-campaign polling subject to any pertinent Commission ruling;

—maximum utilization of resources provided Members of Congress for their official business.

2. To organize and conduct non-partisan, educational issue seminars for Members of Congress.

3. To prepare and publish certain communications for the purpose of soliciting funds for the above mentioned purposes.

4. To conduct any other activities for the purpose of soliciting funds for the above mentioned purposes.

Section II:

The activities of the NCEC campaign fund will be as follows:

1. To determine which candidates for federal office shall qualify for receipt of either direct financial or technical campaign assistance.

2. To provide direct financial assistance and in-kind consulting and technical assistance to select candidates for the purpose of influencing or attempting to influence their nomination for election, or election, to federal office. The in-kind consulting program will include but is not limited to assistance with organization and management, fundraising, research, campaign polling, media development and production, voter contact programs.

3. To provide campaign consulting and technical assistance to certain Members of Congress to influence or attempt to influence his or her nomination for re-election, or re-election, to federal office.

4. To prepare and publish certain communications, separate and different from those mentioned under the non-campaign activities (Section I, above), for the purpose of solicitation of funds.

5. To conduct any other activities for the purpose of soliciting funds for the above mentioned purposes.

For the purposes of establishing this separate and fully segregated fund, we shall voluntarily cease providing non-campaign assistance to a Member of Congress from that date six months prior to a contested election or from that date on which the Member is considered to be a candidate, as defined by Section 591(b), Title 18, whichever comes first, even though it is plain and clear that certain consulting services do not constitute a "contribution" or "expenditure" under Section 591, Title 18. From that date, any assistance will be provided by the NCEC campaign funds and fully reported as an expenditure on behalf of such candidate as defined by Section 591(f), Title 18.

Further, we shall consider that the Congressional Services Fund falls under the requirements of Section 437a, Title 2, and shall file reports with the Commission setting forth the source of the funds used in carrying out any activity described in Section I above as if the funds were contributions within the meaning of Section 431(e), Title 18, and payments of such funds in the same detail as if they were expenditures within the meaning of Section 431(f), Title 18.

* * * * *

/S/ Russell D. Hemenway, National Director.

Source: Russell D. Hemenway, National Director, The National Committee for an Effective Congress, 10 East 39th Street, New York, New York 10016 (July 23, 1975).

AOR 1975–35: Officials of Political Committees (Request Edited by the Commission)

DEAR MR. CHAIRMAN: In the structure of the Republican Congressional Boosters Club it is customary to have two or more national co-chairmen.

We would like to have * * * [an advisory opinion] from the Federal Election Commission as to whether a person serving as a member of the executive committee of the official committee of one fund raising national committee can serve as chairman or a member of another national fundraising committee.

/S/ I. Lee Potter, Executive Director.

Source: I. Lee Potter, Executive Director, Republican Congressional Boosters Club, 300 New Jersey Avenue SE., Suite 522, Washington, D.C. 20003 (July 18, 1975).

AOR 1975–36: Payment for Administrative Costs Incurred by Corporation on Behalf of Political Committee Operating As Separate Segregated Fund of Corporation (Request Edited by the Commission)

GENTLEMEN: The Committee for Thorough Agricultural Political Education (C–TAPE) a multicandidate political committee is the successor of the Trust for Agricultural Political Education (TAPE).

C-TAPE was established by Associated Milk Producers, Inc. (AMPI), predecessor Milk Producers, Inc. (MPI). TAPE filed its last report April 20, 1973.

In 1972 and 1973 TAPE transferred funds in the amount of $1,931,541.09 to C-TAPE.

C-TAPE has always reimbursed AMPI for any expenses that AMPI incurred in its behalf, i.e., salaries, data processing, telephone, travel, etc.

TAPE did not reimburse AMPI or MPI for any expenses incurred during the period 1969 through March 1972.

On June 19, 1975 AMPI billed C-TAPE for the TAPE expenses in the amount of $162,500 for the period 1969 through March 1972.

In the opinion of C-TAPE and its counsel the expenses are reasonable and should be repaid. However, out of an abundance of caution and desiring not to take unappropriate action, C-TAPE at its last meeting approved payment of this bill from AMPI on the condition that it receive an advisory opinion from the Federal Election Commission (FEC) approving such a payment.

In the opinion of the FEC can this payment be made?

* * * * *

/S/ J. S. Stone, Secretary, Committee for TAPE. Robert Uvick, Treasurer, General Counsel, Committee for TAPE.

Source: J. S. Stone, Secretary, Committee for TAPE. Robert Uvick, Treasurer, General Counsel, Committee for TAPE, P.O. Box 32287, San Antonio, Texas 78284 (July 29, 1975).

AOR 1975-37: Incorporation of Political Committee (Request Edited by the Commission)

DEAR CHAIRMAN CURTIS: On behalf of the Shriver for President Committee, a political committee registered with the Federal Election Commission, I hereby request confirmation as to the legality under 18 U.S.C. § 610 of the election of the Committee to organize as a nonprofit corporation. The Committee filed a Statement of Organization with the Commission on July 15, 1975 and is organized solely for the purpose of collecting and expending political contributions and carrying out other normal campaign activities.

* * * * *

/S/ David E. Birenbaum, Co-counsel, Shriver for President Committee.

Source: Shriver for President Committee by David E. Birenbaum, Co-counsel, Fried, Frank, Harris, Shriver & Kampelman, Suite 1000, The Watergate 600, 600 New Hampshire Avenue, NW., Washington, D.C. 20037 (August 4, 1975).

NEIL STAEBLER,
Vice Chairman for the Federal Election Commission.

Date: Aug. 15, 1975.

FEDERAL ELECTION COMMISSION
[NOTICE 1975-30]

ADVISORY OPINIONS

(AO 1975-8—Honorariums and Related Benefits for Members of Congress)

(AO 1975-13—Legality of Presidential Candidates Receiving Travel Expenses from Corporations)

The Federal Election Commission announces the publication today of Advisory Opinions 1975-8 and 1975-13. The Commission's opinions are in response to questions raised by individuals holding Federal office and political committees, with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of the Federal Election Campaign Act of 1971, as amended, of Chapter 95 or Chapter 96 of Title 26 United States Code, or of Sections 608, 610, 611, 613, 614, 615, 616, or 617 of Title 18, United States Code.

ADVISORY OPINION 1975-8

Honorariums and Related Benefits for Members of Congress.

This advisory opinion is rendered under 2 U.S.C. 437f in response to requests for advisory opinions submitted by Congressman Dan Rostenkowski, Congressman Rhodes, and Senators Mike Mansfield and Hugh Scott which were published together as AOR 1975-8 in the July 2, 1975, Federal Register (40 FR 28044). Interested parties were given an opportunity to submit written comments relating to the requests.

A. Request of Congressman Dan Rostenkowski

Congressman Rostenkowski in his letter of May 8, 1975, asks for clarification of Section 616 of Title 18, United States Code, which provides limitations on the acceptance of honorariums. He generally describes situations in which a Member of Congress prefers not to accept an honorarium for a speech, and instead suggests to the speech's sponsor that at least part of the intended honorarium could be donated to one of two bona fide charitable organizations. The donation would not be a prerequisite to or a requirement for making the speech. Congressman Rostenkowski wishes to know whether the amount of the donation to charity by the other party will count towards the honorarium limits of a Congressman. Specifically, the following circumstances are described:

(1) A Member of Congress is offered a $500.00 honorarium to speak at a convention when he already has accepted $4,000 in honoraria during the calendar year. Congressman Rostenkowski asks whether the honorarium is considered accepted if the Congressman declines the entire honorarium and suggests instead that it be given to either of two specific charities which are named by that Congressman;

(2) A Member of Congress is offered a $1,500 honorarium to speak at a convention when he already has accepted $4,000 in honoraria during the calendar year. Congressman Rostenkowski asks whether the honorarium is considered accepted if the Congressman specifies that he will accept only $1,000 of the honorarium and suggests that a $500.00 donation be given to either of two specific charities which are named by that Congressman;

(3) A Member of Congress is offered a $500.00 honorarium to speak at a convention when he already has accepted his limit of $15,000 in honoraria during the calendar year. Congressman Rostenkowski asks whether the honorarium is considered accepted if the Congressman agrees to make the speech but declines the honorarium, and suggests instead that it be given to either of two specific charities which are named by that Congressman.

Do these transactions constitute acceptance of an honorarium, and therefore come within the provisions of 18 U.S.C. § 616?

Section 616 of Title 18, United States Code, provides that:

Whoever, while an elected or appointed officer or employee of any branch of the Federal Government—

(1) accepts any honorarium of more than $1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

(2) accepts honorariums (not prohibited by paragraph (1) of this section) aggregating more than $15,000 in any calendar year; shall be fined not less than $1,000 nor more than $5,000.

This section on its face strictly limits the financial benefits that a Member of Congress may receive from the acceptance of an honorarium. The legislative history of the section indicates that this view accords with the intent of Congress. This history shows a strong Congressional concern with limiting the amounts, and thus the benefits, that a Federal official may receive in exchange for an appearance, speech, or article. Congress does not evidence in this section any interest in specifically exempting from the limitations, honorariums that are accepted and subsequently applied to a particular purpose, no matter how commendable may be this purpose.

Even the indirect acceptance of an honorarium for subsequent charitable use can produce benefits for a Member of Congress. For example, he thereby may become entitled to an income tax deduction for making a charitable contribution. A Congressman also could receive valuable public exposure by donating to charity an honorarium which he possessed or controlled. Accordingly, to implement Congress' intent to limit the benefits which may be received from honorariums, it is the opinion of the Commission that the limits imposed by 18 U.S.C. § 616 shall apply to any honorarium accepted by a Congressman in exchange for an appearance, speech, or article.

The question then arises as to what action by a Member of Congress constitutes acceptance of an honorarium. An honorarium is considered to have been "accepted" under 18 U.S.C. § 616 when there has been active or constructive receipt of the honorarium and the federal officeholder or employee exercises dominion or control over it. A federal officeholder or employee is considered to have accepted an honorarium if he receives it for his personal use, if he receives it with the intent of subsequently donating the honorarium to charity, if he directs that the organization offering the honorarium give the honorarium to a charity which he names, or if he suggests that the honorarium might be given to a charity of the organization's own choosing. In addition, a Federal officeholder will be presumed by the Commission to have accepted as an honorarium, any charitable donation made by an organization in the name of that Federal officeholder or employee, assuming that sometime earlier the officeholder or employee had made an appearance or speech, or written an article, for the donating person or organization.

The Commission intends to apply its policy on honorariums as follows:

(1) If a Congressman declines an entire honorarium and instead requests that it be given to either of two specific charities, the honorarium will be treated as accepted by the officeholder. In this case, a Congressman would be sufficiently attempting to influence an organization's choice of recipients as to constitute, for purposes of 18 U.S.C. § 616, the exercise of dominion.

(2) If a Congressman wishes to accept part and decline part of a proposed honorarium and suggests that the difference in amount be given to either of two specific charities, the honorarium will be treated as accepted by the officeholder. By suggesting how the proposed honorarium should be allocated, a Congressman would exercise sufficient dominion over the honorarium to constitute acceptance under 18 U.S.C. § 616.

(3) If a Congressman declines an entire honorarium to avoid exceeding the aggregate limit on honoraria and then suggests that it be given to either of two specific charities, the Commission would conclude that the honorarium has been accepted by the officeholder. For purposes of 18 U.S.C. § 616, the honorarium has been accepted by the officeholder through an attempt to exercise sufficient dominion and control over its use. Therefore, the officeholder would have violated the limits provided in this section.

The Commission does not wish to discourage charitable donations by Federal officeholders or employees, either directly or indirectly, nor charitable donations by any organization, but it will examine the particulars of each donation for any improper implications under 18 U.S.C. § 616.

This section of this opinion assumes that the officeholder receiving the honorarium is not making an appearance or speech before a substantial number of people who comprise a part of the electorate with respect to which the officeholder is a Federal candidate. Compare part C of this opinion.

B. Request of Congressman John J. Rhodes

Congressman Rhodes in his letter of May 6, 1975, requests an advisory opinion as to

whether a Member of Congress may request, in lieu of an honorarium for a speech, that an organization make an appropriate donation to a charitable organization. Congressman Rhodes asks whether a Member of Congress, who has already received the full amount of honoraria permitted by the cited statute, would be in violation of the law if he or she requires or requests that the sponsors of the Member's appearance donate an amount equal to, but in lieu of the honorarium, directly to "bona fide charities" named by the Member or the donor.

The principles established in part A of this advisory opinion also are applicable to this request. Accordingly, no further elaboration is necessary.

The opinion presented in part A of this advisory opinion may be relied upon as controlling the factual situation presented in this request, and if there is good faith compliance with that part of the opinion, there will be a presumption of compliance with the provisions of 18 U.S.C. § 616, pursuant to 2 U.S.C. § 437f(b), with respect to the issues raised by this request.

C. Joint Request of Senators Mansfield and Scott

Senators Mike Mansfield and Hugh Scott in their joint letter of June 26, 1975, request an advisory opinion as to whether travel and subsistence expenses are included in the limitation on honorariums. Specifically, they ask whether a Member of Congress, who has reached the aggregate limit of $15,000 in a calendar year, may accept a speaking engagement, receive no honorarium, and still be able to have travel and subsistence expenses paid by the sponsor of the engagement. As a related issue, they ask whether a sponsor of a speaking engagement may provide travel and subsistence expenses in these circumstances, if the sponsor would ordinarily and otherwise be prohibited from making a campaign contribution.

It is provided in 18 U.S.C. § 616 that:

Whoever, while an elected or appointed officer or employee of any branch of the Federal Government—

(1) accepts any honorarium of more than $1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or . . . shall be fined not less than $1,000 nor more than $5,000.

Thus, this section on its face shows a legislative intent to treat "actual travel and subsistence expenses" differently from honorariums. The legislative history of 18 U.S.C. § 616 confirms that this view accords with the intent of Congress. (See *Congressional Record*, October 8, 1974, p. 34373). The legislative history shows a clear Congressional intent to exclude money given for actual transportation expenses, accommodations, and meals, from any amount given as an honorarium to an elected or appointed officer or employee of the Federal Government. It should be noted that the Internal Revenue Code similarly distinguishes between an honorarium, which is treated as income, and expenses for transportation, accommodations, and meals which are deductible from income as an ordinary and necessary cost of doing business.

Accordingly, it is the opinion of the Commission that the actual costs of transportation, accommodations, and meals are excluded from the limitations on honorariums provided in 18 U.S.C. § 616. Thus, Members of Congress who reach the aggregate limit of $15,000 on honorariums received in any calendar year may continue to accept speaking engagements for which they receive only their own personal actual transportation, accommodation, and meal expenses.

It is further asked whether an organization could provide reimbursement for these expenses, even if the organization is prohibited from making campaign contributions. The language of 18 U.S.C. § 616 expressly applies to any "elected or appointed officer or employee of any branch of the Federal Government." A review of the legislative history of this section (see the *Congressional Record*, August 7, 1974, p. 27231; and October 8, 1974, p. 34373) indicates that the intent of Congress in enacting this section was to limit the amounts of honorariums received by federal officeholders and employees.

On the other hand, 18 U.S.C. § 610 which prohibits contributions or expenditures by a national bank, corporation, or labor organization and 18 U.S.C. § 611 which prohibits contributions by government contractors, are more broadly applicable to contributions or expenditures made to any candidate in connection with any election to federal office. Thus, it seems clear that 18 U.S.C. § 616, is not intended to supersede the application of 18 U.S.C. § 610 and § 611 to officeholders once they become candidates. Accordingly, once an individual (including an officeholder) becomes a candidate for federal office, all speeches made before substantial numbers of people, comprising a part of the electorate with respect to which the individual is a federal candidate, are presumably for the purpose of enhancing the candidacy and the candidate is prohibited from accepting expense money for transportation, accommodations and meals from organizations covered by 18 U.S.C. §§ 610 and 611. See Advisory Opinion 1975-13, issued August 14, 1975.

This advisory opinion is to be construed as limited to the facts of the request and should not be relied on as having any precedential significance except as it relates to those facts at the time of its issuance.

ADVISORY OPINION 1975-13

Legality of Presidential Candidate Receiving Travel Expenses from Corporations.

The Federal Election Commission renders this advisory opinion under 2 U.S.C. § 437f in response to a request submitted by a candidate. The request was made public by the Commission and published in the Federal Register on July 17, 1975 (40 FR 30258). Interested parties were given an opportunity to submit comments relating to the request.

The requesting party seeks an advisory opinion as to whether 18 U.S.C. § 610 prohibits a Presidential candidate from receiving travel expenses for a speaking engagement at a Chamber of Commerce, if the Chamber's general treasury includes money contributed by corporations.

Section 610 prohibits corporations from making contributions or expenditures in connection with Federal elections, and prohibits any person from accepting or receiving any such contributions or expenditures. As used in section 610, contribution includes "any direct or indirect payment, * * * to any candidate, * * * in connection with any election to [Federal office] * * *"

Thus, reimbursing the travel expenses of a Presidential candidate from corporate funds would be prohibited by 18 U.S.C. § 610, since any public appearance of such a candidate before an audience, comprised of individuals who could be influenced to take affirmative action in support of his candidacy as a result of that appearance, is connected with an election.

The Commission's opinion is that, once an individual has become a candidate for the Presidency, all speeches made before substantial numbers of people are presumably for the purpose of enhancing his candidacy. (See also Advisory Opinion 1975-8 issued August 14, 1975, in which the Commission decided that certain travel and subsistence expenses paid to officeholders who are also candidates are subject to 18 U.S.C. § 610 and § 611). Accordingly, since the requesting party is a Presidential candidate, he would be prohibited from accepting corporate funds to pay his travel expenses in connection with the speaking engagement. The Commission notes, however, that organizations, such as Chambers of Commerce, could properly (within the limits of 18 U.S.C. § 608) pay the travel expenses of candidates by making such payments from separate segregated accounts containing non-corporate funds.

Dated: Aug. 18, 1975.

THOMAS B. CURTIS,
Chairman for the Federal Election Commission.

FEDERAL ELECTION COMMISSION (NOTICE 1975-25)

PROPOSED RULES FOR IMPLEMENTATION OF PRIVACY ACT

Leading to Publication of Implementation of the Privacy Act of 1974 Regulation.

The Federal Election Commission today publishes its proposed rules regarding Implementation of the Privacy Act of 1974. The Commission also publishes today a statement of its systems of records as required by the Privacy Act of 1974. The information contained in these publications today is designed to aid individual citizens in understanding what systems of records are maintained by the Federal Election Commission, where such records are located, and the manner in which individual access to pertinent records may be expeditiously facilitated. For previous Commission announcements bearing on public access to Commission documents see 40 Federal Register 28530, July 7, 1975.

Dated: August 11, 1975.

NEIL STAEBLER,
Vice Chairman, Federal Election Commission.

FEDERAL ELECTION COMMISSION—11 CFR PART 1

IMPLEMENTATION OF PRIVACY ACT OF 1974

The Privacy Act of 1974 (P.L. 93-579) amended Title 5 U.S.C. Sec. 552 (Freedom of Information Act) by adding Sec. 552a. Title 5 U.S.C. Sec. 552a(f) provides that each agency covered by the Act shall promulgate rules to inform the public about information maintained by the agency about identifiable individuals and to inform those individuals how they may gain access to and correct or amend information about themselves.

The public is invited to comment or inquire about these proposed rules. Comments or inquires should be addressed to: General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. All material received before September 10, 1975 will be considered. All comments in response to this proposal will be available for public inspection during normal business hours at the foregoing address.

PART 1—IMPLEMENTATION OF PRIVACY ACT OF 1974

Section

1.1 Purpose and Scope
1.2 Definitions
1.3 Procedures for Requests Pertaining to Individual Records in a Record System
1.4 Times, Places, and Requirements for Identification of Individuals Making Requests
1.5 Disclosure of Requested Information to Individuals
1.6 Vacant
1.7 Request for Correction or Amendment to Record
1.8 Agency Review of Request for Correction or Amendment of Record
1.9 Appeal of Initial Adverse Agency Determination on Amendment or Correction
1.10 Disclosure of Record to Person Other Than the Individual to Whom It Pertains
1.11 Fees

1.12 Penalties
1.13 Vacant
1.14 Specific Exemptions

Authority: 5 U.S.C. 552a(f), P.L. 93-579, 88 Stat. 1897, 1900.

001.1 Purpose and scope

(a) The purpose of this part is to set forth rules informing the public as to what information is maintained by the Federal Election Commission about identifiable individuals and to inform those individuals how they may gain access to and correct or amend information about themselves.

(b) The regulations in this part carry out the requirements of the Privacy Act of 1974 (P.L. 93-579) and in particular 5 U.S.C. 552a as added by that Act.

(c) The regulations in this part apply only to records disclosed, or requested under the Privacy Act of 1974, and not to requests for information made pursuant to 5 U.S.C. Sec. 552, the Freedom of Information Act, or requests for reports and statements filed with the Federal Election Commission which are public records and available for inspection and copying pursuant to Title 2 U.S.C. Sec. 438(a)(4).

001.2 Definitions

As defined in the Privacy Act of 1974 and for the purposes of this part, unless otherwise required by the context, the following terms shall have these meanings:

(a) Individual—a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) Maintain—includes maintain, collect, use or disseminate.

(c) Record—any item, collection, or grouping of information about an individual that is maintained by an agency, including but not limited to his or her education, financial transactions, medical history, and criminal or employment history and that contains his or her name, or the identifying number, symbol or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(d) System of Records—a group of any records under the control of the Federal Election Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Commission's Systems of Records are published hereunder today.

(e) Routine use—the use of such record for a purpose compatible with the purpose for which the information was collected.

(f) Commission—employees of the Federal Election Commission.

(g) Commissioners—the six appointees confirmed by Congress who are voting members of the Commission.

001.3 Procedures for requests pertaining to individual records in a record system

(a) Any individual may request the Commission to inform him or her whether a particular record system named by the individual contains a record pertaining to him or her. The request may be made in person or in writing at the location and to the person specified in the notice describing that record system.

(b) An individual who believes that the Commission maintains records pertaining to him or her but who cannot determine which record system contains those records, may request assistance by mail or in person from the Staff Director, Federal Election Commission, 1325 K Street N.W., Washington, D.C. 20463 during the hours of 9:00 a.m. to 5:30 p.m.

001.4 Times, places, and requirements for identification of individuals making requests

(a) After being informed by the Commission that a record system contains a record pertaining to him or her, an individual may request the Commission to disclose that record in the manner described in this section. Each request for the disclosure of a record or a copy of it shall be made at the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463 and to the system manager identified in the notice (published hereunder today) describing that system of records, either in writing or in person. Requests may be made by agents, parents, or guardians of individuals as described in 001.10 (a) and (b).

(b) Each individual requesting the disclosure of a record or copy of a record shall furnish the following information with his or her request:

(1) The name of the record system containing the record;

(2) Proof as described in paragraph (c) of this section that he or she is the individual to whom the requested record relates;

(3) Any other information required by the notice describing the record system.

(c) Proof of identity as required by paragraph (b)(2) of this section shall be provided as described in paragraph (c)(1) and (2) of this section. Requests made by an agent, parent, or guardian shall include the authorization described in 001.10 (a) and (b).

(1) Requests made in writing shall include a statement, signed by the individual and properly notarized, that he or she appeared before a notary public and submitted proof of identification in the form of a driver's license, birth certificate, passport, or other identification acceptable to the notary public. In any case in which, because of the extreme sensitivity of the record sought to be seen or copied, the Commission determines that the identification is not adequate, it may request the individual to submit additional proof of identification.

(2) If the request is made in person, the requester shall submit proof of identification similar to that described in paragraph (c)(1) of this section, acceptable to the Commission.

001.5 Disclosure of requested information to individuals

(a) Upon submission of proof of identification as required by 001.4, the Commission shall, as soon as possible, allow the individual to see and/or obtain a copy of the requested record or shall send a copy of the record to the individual by registered mail. If the individual requests to see the record, the Commission may make the record available either at the location where the record is maintained or at a place more suitable to the requester, if possible.

(b) The Commission must furnish each record requested by an individual under this part in a form intelligible to that individual.

001.6 Special procedure: Medical records vacant

001.7 Request for correction or amendment to record

(a) Any individual who has reviewed a record pertaining to him or her that was furnished under this part, may request the Commission to correct or amend all or any part of that record.

(b) Each individual requesting a correction or amendment shall send the request to the Commission through the person who furnished the record.

(c) Each request for a correction or amendment of a record shall contain the following information:

(1) The name of the individual requesting the correction or amendment;

(2) The name of the system of records in which the record sought to be amended is maintained;

(3) The location of the system of records from which the individual record was obtained;

(4) A copy of the record sought to be amended or corrected or a sufficiently detailed description of that record;

(5) A statement of the material in the record that the individual desires to correct or amend;

(6) A statement of the specific wording of the correction or amendment sought;

(7) A statement of the basis for the requested correction or amendment including any material that the individual can furnish to substantiate the reasons for the correction or amendment sought.

001.8 Agency review of request for correction or amendment of record

(a) The Commission shall, not later than ten (10) days (excluding Saturdays, Sundays and legal holidays) after the receipt of the request for a correction or amendment of a record under 001.7, acknowledge receipt of the request and inform the individual whether information is required before the correction or amendment can be considered.

(b) If no additional information is required, within ten (10) days from receipt of the request, the Commission shall either make the requested correction or amendment or notify the individual of its refusal to do so, including in the notification the reasons for the refusal, and the appeal procedures provided in 001.9 of this part.

(c) The Commission shall make each requested correction or amendment to a record if that correction or amendment will tend to negate inaccurate, irrelevant, untimely, or incomplete matter in the record.

001.9 Appeal of initial adverse agency determination on amendment or correction

(a) Any individual whose request for a correction or amendment has been denied in whole or in part, may appeal that decision to the Commissioners no later than thirty (30) days after the adverse decision is rendered.

(b) The appeal shall be in writing and shall contain the following information:

(1) The name of the individual making the appeal;

(2) Identification of the record sought to be amended;

(3) The record system in which that record is contained;

(4) A short statement describing the amendment sought; and

(5) The name and location of the agency official who initially denied the correction or amendment.

(c) Not later than thirty (30) days (excluding Saturdays, Sundays and legal holidays) after the date on which the Commission receives the appeal, the Commissioners shall complete their review of the appeal and make a final decision thereon. However, for good cause shown, the Commissioners may extend that thirty (30) day period. If the Commissioners extend the period, the individual requesting the review shall be promptly notified of the extension and the anticipated date of a decision.

(d) After review of an appeal, the Commission shall send a written notice to the requester containing the following information:

(1) The decision and, if the denial is upheld, the reasons for the decision;

(2) The right of the requester to institute a civil action in a Federal District Court for judicial review of the decision; and

(3) The right of the requester to file with the Commission a concise statement setting forth the reasons for his or her disagreement with the Commission denial of the correction or amendment. The Commission shall make this statement available to any person to whom the record is later disclosed, together with a brief statement, if appropriate, of the Commission's reasons for denying the requested correction or amendment.

001.10 Disclosure to record to Person Other than the Individual to Whom it Pertains

(a) Any individual who desires to have a record covered by this part disclosed to or mailed to another person may designate such person and authorize such person to act as his or her agent for that specific purpose. The authorization shall be in writing, signed by the individual and notarized. The agent shall submit, with the authorization, proof of the individual's identity as required by 001.4(c).

(b) The parent of any minor individual or the legal guardian of any individual who has been declared by a court of competent jurisdiction to be incompetent, due to physical or mental incapacity or age, may act on behalf of that individual in any matter covered by this part. A parent or guardian who desires to act on behalf of such an individual shall present suitable evidence of parentage or guardianship, by birth certificate, certified copy of a court order, or similar documents, and proof of the individual's identity in a form that complies with 001.4(c).

(c) An individual to whom a record is to be disclosed in person, pursuant to this part may have a person of his or her own choosing accompany him or her when the record is disclosed.

001.11 Fees

(a) The Commission shall not charge an individual for the costs of making a search for a record or the costs of reviewing the record. When the Commission makes a copy of a record as a necessary part of the process of disclosing the record to an individual, the Commission shall not charge the individual for the cost of making that copy.

(b) If an individual requests the Commission to furnish a copy of the record, the Commission shall charge the individual for the costs of making the copy. The fee that the Commission has established for making a copy is ten cents ($.10) per page.

001.12 Penalties

Any person who makes a false statement in connection with any request for a record, or an amendment or correction thereto, under this part, is subject to the penalties prescribed in 18 U.S.C. Secs. 494 and 495.

001.13 General exemptions

Vacant.

001.14 Specific exemptions

(a) No individual, under the provisions of these regulations, shall be entitled to access to investigatory material compiled pursuant to authority granted under 2 U.S.C. 437 g (a)(2) for use by the Commission in carrying out its law enforcement responsibilities under 2 U.S.C. 437 d (6) and (11) and 2 U.S.C. 437 g (a)(5), (6), and (7), 2 U.S.C. 437 g (b) and 2 U.S.C. Sec. 438 (a)(9).

(b) The provisions of subsection (a) above shall not apply to the extent that application of the subsection would deny any individual any right, privilege or benefit that he or she would otherwise be entitled to receive:

(1) under federal law unless the disclosure of such material would reveal the identity of a source who furnished information to the Commission under an express promise that the identity of the source would be held in confidence; or

(2) in the course of a formal hearing pursuant to 2 U.S.C. 437 g (a)(4) or in a civil action instituted by the Commission under 2 U.S.C. 437 g (a)(5).

REASON FOR EXEMPTION

In accordance with the provisions of Sec. 3 of the Privacy Act of 1974 under 2 U.S.C. 552a(K), the Commission states the following reasons for exempting the investigatory material compiled for law enforcement purposes:

(1) The information gathered by the investigative staff of the Commission may form the basis for either civil and/or criminal proceedings.

(2) The work of the investigative staff will be in cooperation with the Office of General Counsel in the preparation of the case for either a hearing within the agency or litigation in appropriate courts. The reports compiled may represent the "work product" of the attorney when such information has been gathered at his or her direction and thus may not be subject to access by a party even if litigation has been instituted.

(3) It may be necessary to seek information from persons who desire not to be named and the names of these sources must be kept confidential in order to gather information and to protect the credibility of the Commission for such purpose.

(4) The enforcement process requires that no information be released which may in any way hamper a thorough investigation of possible violations or give an opportunity to one under investigation to frustrate the Commission in the vigorous enforcement of the Federal Election Campaign Act of 1971, as amended.

FEDERAL ELECTION COMMISSION
(Notice 1975-26)

SYSTEMS OF RECORDS

Notice is hereby given pursuant to P.L. 93-579 [Privacy Act of 1974] that the Federal Election Commission has compiled its systems of records published therein. These systems identify the location of data which is available for inspection by an individual about records maintained on him or her. Any individual who believes that this agency maintains a record about him or her may request to inspect such record, if available, and to correct or amend it if necessary. Such request should be addressed to the system manager listed for the appropriate system.

Inquiries about these systems of records may be addressed to the General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463, 202 382-5162.

Date: August 13, 1975.

NEIL STAEBLER,
Vice Chairman, Federal Election Commission

SYSTEMS AND RECORDS

1 FEC. Advisory opinion requests and public comment.

2 FEC. Audits and investigations.

3 FEC. Compliance actions.

4 FEC. Correspondence.

5 FEC. Meetings and telephone communications.

6 FEC. Personnel.

7 FEC. Registration of political committees and designations by candidates.

8 FEC. Reports of contributions and expenditures.

9 FEC. Rulemaking and public comment.

10 FEC. Certification for primary matching funds and for election campaign funds.

11 FEC. Payments for presidential nominating conventions.

(The symbol "H" precedes each paragraph initial, i.e., A. FEC 1 below would read HA. FEC 1, etc.)

A. FEC 1.

B. FEC advisory opinion requests and public comment.

C.

D. 1325 K Street, N.W., Washington, D.C. 20463.

E. Persons requesting advisory opinions from the FEC and persons commenting on such opinion requests.

F. Letters requesting advisory opinions and letters commenting on such requests.

G. 2 U.S.C. Section 437 d (a)(7) and Section 437 f.

H. Commissioners and staff will use this system to draft advisory opinions.

I.

J. Paper records.

K. Indexed by name, date and advisory opinion request (AOR) number.

L. Locked filing cabinets.

M. Indefinite.

N. The General Counsel, FEC, 1325 K Street, N.W., Washington, D.C. 20463 (202) 382-5162.

O. Inquiries should be addressed to the system manager and should include name, address and AOR number.

P. System manager.

Q. System manager.

R. Advisory opinion requests and public comments.

A. FEC 2.

B. FEC audits and investigations.

C.

D. 1325 K Street, N.W., Washington, D.C. 20463.

E. Political committees, candidates and contributors subject to the Federal Election Campaign Act.

F. Audit and investigative files.

G. 2 U.S.C. Section 437 d (a) 11, Section 437 g (a)(2), Section 437 g (b), and Section 438 (a)(9).

H. The General Counsel, Director of Investigations, Staff Director and Commissioners will use audit and investigation files for hearings, complaints, advisory opinions and regulations. Apparent violations may be referred to law enforcement authorities.

I.

J. Paper records.

K. Indexed by name and identification number.

L. Locked safes in limited access locations. Access is limited to FEC staff on a restricted basis and to appropriate law enforcement agencies as directed by the Commission.

M. Indefinite.

S. The following system is exempt pursuant to the provisions of 5 U.S.C. Section 552 a (K) (2) and accordingly implemented by proposed regulations issued this day under 11 CFR 001.14.

A. FEC 3.

B. FEC compliance actions.

C.

D. 1325 K Street, N.W., Washington, D.C. 20463.

E. Persons who have filed complaints and persons complained about [respondent].

F. Complaints, referrals and responses.

G. 2 U.S.C. Section 437g(a)(1)(A), (B), Section 437g (a), (2), (3), Section 437g(b), Section 438(a)(9).

H. Compliance actions will be assigned by the General Counsel and Director of the auditing and investigations division to an attorney and an investigator for an investigation into the subject matter of the compliance action. Apparent violations may be referred to law enforcement authorities.

I.

J. Paper records.

K. This system is indexed by compliance action number and respondent's name.

L. This system is kept in locked filing cabinets and behind locked interior office doors.

M. Indefinite.

S. The following system is exempt pursuant to the provisions of 5 U.S.C. Section 552a(K)(2) and accordingly implemented by proposed regulations issued this day under 11 CFR 001.14.

A. FEC 4.

B. FEC correspondence.

C.

D. 1325 K Street, N.W., Washington, D.C. 20463.

E. Persons who have written to the FEC.

F. Letters and responses.

G. 2 U.S.C. Section 437d.

H. Commission staff will use correspondence files to respond to inquiries from the public.

I.

J. Paper records.

K. This system is indexed by name and date.

L. This system is kept in locked filing cabinets.

M. Indefinite.

N. Assistant Staff Director for Administration, FEC, 1325 K Street, N.W., Washington, D.C. 20463; (202) 382-5162.

O. Inquiries should be addressed to the system manager and should include name of person or committee and address.

P. System manager.

Q. System manager.

R. Correspondence to the FEC and Commission responses to such correspondence.

A. FEC 5.

B. FEC meetings and telephone communications.

C.

D. 1325 K Street, N.W., Washington, D.C. 20463.

E. Outside persons who have talked by telephone or met with Commissioners or the Commission staff concerning a substantial interest matter.

F. Summaries of meetings and telephone logs.

G. 2 U.S.C. Section 437 (a) (9).

H. This system may be used by any person for information purposes.

I.

J. Paper records.

K. Indexed by date.

L. Locked filing cabinets.

M. Indefinite.

N. Assistant Staff Director for Administration, FEC 1325 K Street, N.W., Washington, D.C. 20463; (202) 382-5162.

O. Inquiries should be addressed to the system manager and should include name of outside person or committee, address and date.

P. System manager.

Q. System manager.

R. Looseleaf meeting summaries and telephone logs from Commissioners and staff are consolidated monthly.

A. FEC 6.

B. FEC personnel.

C.

D. 1325 K Street, N.W., Washington, D.C. 20463.

E. Persons who have applied for employment and persons employed at the FEC.

F. Resumes, applications and employment forms.

G. 2 U.S.C. Section 437c (f) (1).

H. The Staff Director and his or her designates will use the personnel system to hire employees of the Commission, and other appropriate personnel matters such as pay increases, vacation, sick leave and separation from the Commission.

I.

J. Paper records.

K. Indexed by name and job category.

L. Locked filing cabinets.

M. Indefinite.

N. Assistant Staff Director for Administration, FEC, 1325 K Street, N.W., Washington, D.C. 20463; (202) 382-5162.

O. Inquiries should be addressed to the system manager and should include name and address.

P. System manager.

Q. System manager.

R. Personnel applications, resumes, interviews, employment forms, etc.

A. FEC 7.

B. FEC registration of political committees and designations by candidates.

C.

D. 1325 K. Street, N.W., Washington, D.C. 20463.

E. Political committees.

F. Registration statements filed with the FEC.

G. 2 U.S.C. Section 432, Section 433 and Section 437 b.

H. This system may be used by any person for information purposes. However, any information copies from such reports shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose.

I.

J. Paper records and/or microfilm.

K. Indexed by candidate's name, by state, by committee name, by congressional district, by office sought, by candidate supported and by committee supporting a candidate.

L. Locked filing cabinets.

M. Reports are preserved for a ten year period except that reports relating solely to candidates for the House of Representatives are preserved for five years from the date of receipt.

N. Director of Public Records, FEC, 1325 K Street, N.W., Washington, D.C. 20463; (202) 382-5162.

O. Inquiries should be addressed to the system manager and should include name of candidate or committee, identification number and address.

P. System manager.

Q. System manager.

R. Registrations and designations filed with the FEC.

A. FEC 8.

B. FEC reports of contributions and expenditures.

C.

D. 1325 K Street, N.W., Washington, D.C. 20463.

E. Political committees, candidates and contributors whose reports of contributions and expenditures are filed with the FEC.

F. Reporting forms filed with the FEC.

G. 2 U.S.C. Section 434, Section 437 and Section 437a.

H. This system may be used by any person for information purposes. However, any information copied from such reports shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose.

I.

J. Paper records and/or microfilm.

K. Indexed by candidate's name, by state, by committee name, by congressional district, by office sought, by candidate supported and by committee supporting a candidate.

L. Locked filing cabinets.

M. Reports are preserved for a ten year period except that reports relating solely to candidates for the House of Representatives are preserved for five years from the date of receipt.

N. Director, Public Records Division, FEC, 1325 K Street, N.W., Washington, D.C. 20463; (202) 382-5162.

O. Inquiries should be addressed to the system manager and should include name of candidate or committee identification number and address.

P. System manager.

Q. System manager.

R. Reports filed with the FEC.

A. FEC 9.

B. FEC rulemaking and public comment.

C.

D. 1325 K Street, N.W., Washington, D.C. 20463.

E. Persons commenting on FEC proposed regulations.

F. Letters commenting on proposed FEC rules.

G. 2 U.S.C. Section 437d(a)8.

H. This system may be used by any person for information purposes.

I.

J. Paper records.

K. Indexed by subject, date, individual and committee.

L. Locked filing cabinets.

M. Indefinite.

N. Director, Public Records Division, FEC, 1325 K Street, N.W., Washington, D.C. 20463; (202) 382-5162.

O. Inquiries should be addressed to the system manager and should include name of person or committee, address and subject matter involved.

P. System manager.

Q. System manager.

R. Rulemaking proposals and public comment received by the FEC on such proposals.

A. FEC 10.

B. Certification for primary matching funds and for election campaign funds.

C.

D. 1325 K Street, N.W., Washington, D.C. 20463.

E. Candidates for nomination or election to the Office of President of the United States.

F. Certification forms requesting matching funds or election funds and audit and investigation files.

G. 26 U.S.C. 9007 (a), 9006 (c); 26 U.S.C. 9033, 9037(b), 9038(a).

H. Certification of eligibility for funds by presidential candidates.

I.

J. Paper records.

K. This system is indexed by name of candidate.

L. This system is kept in locked filing cabinets.

M. Indefinite.

N. Staff Director, FEC, 1325 K Street, N.W., Washington, D.C. 20463; (202) 382-5162.

O. Inquiries should be addressed to the system manager and should include name of presidential candidate.

P. System manager.

Q. System manager.

R. Certification reports filed with the Commission, investigations and audits.

A. FEC 11.

B. Payments for presidential nominating conventions.

C.

D. 1325 K Street, N.W., Washington, D.C. 20463.

E. National political parties.

F. Certification forms for entitlement to payment and audit and investigation files.

G. 26 U.S.C. 9008 (b)(3), 9008 (g), 9008 (h).

H. Certification of eligibility for funds for presidential conventions.

I.

J. Paper records.

K. This system is indexed by name of national political party.

L. This system is kept in locked filing cabinets.

M. Indefinite.

N. Staff Director, FEC, 1325 K Street, N.W., Washington, D.C., 20463; (202) 382-5162.

O. Inquiries should be addressed to the system manager and should include name of national political party.

P. System manager.

Q. System manager.

R. Certification reports filed with the Commission, investigations and audits.

FEDERAL ELECTION COMMISSION,
Washington, D.C., August 15, 1975.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are copies of an announcement of the Federal Election Commission which will be published in the *Federal Register* on Tuesday, August 19, 1975.

This notice contains two Advisory Opinions (AO 1975-9 and AO 1975-16). AO 1975-9 deals with the Application of Contributions and Expenditure Limits to Unopposed Primary Candidates, and AO 1975-16 which relates to the interpretation of Principal Campaign Committee, Reporting Schedule, and Campaign Depository Provisions; Contributions from Incorporated Membership Organization.

In accordance with our previous correspondence, the Commission would be most appreciative if you could make arrangements to have this notice inserted in the *Congressional Record*.

Sincerely,

ORLANDO B. POTTER,
Staff Director.

Enclosures.

FEDERAL ELECTION COMMISSION

[Notice 1975-27]

ADVISORY OPINIONS

(AO 1975-9—Application of contribution and expenditure limits to unopposed primary candidates)

(AO 1975-16—Interpretation of principal campaign commitee, reporting schedule, and campaign depository provisions; contributions from incorporated membership organization)

The Federal Election Commission announces the publication today of Advisory Opinions 1975-9 and 1975-16. The Commission's opinions are in response to questions raised by individuals holding Federal office, candidates for Federal office and political committees, with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of the Federal Election Campaign Act of 1971, as amended, of Chapter 95 or Chapter 96 of Title 26 United States Code, or of Sections 608, 610, 611, 613, 614, 615, 616, or 617 of Title 18 United States Code.

ADVISORY OPINION 1975-9

(Application of contribution and expenditure limits to unopposed primary candidates)

The Federal Election Commission renders this advisory opinion under 2 U.S.C. § 437f in response to requests submitted by a candidate and a political committee. The requests were made public by the Commission and published in the Federal Register on July 9, 1975 (40 FR 28944). Interested parties were given an opportunity to submit comments relating to the requests.

The requesting parties seek an advisory opinion as to whether a primary election in which there is only one candidate for nomination is an "election" for purposes of the contribution and spending limitations of 18 U.S.C. § 608. In 18 U.S.C. § 591(a) the term "election", as used in 18 U.S.C. § 608, is defined as, *inter alia*, "a general, special, primary, or runoff election." The Commission's opinion is that this definition includes a primary election in which a candidate runs unopposed and without regard to whether his or her name appears on the ballot. The provisions of 18 U.S.C. § 608 clearly state that the contribution and expenditure limitations "apply separately with respect to each election." No distinction is made between opposed and unopposed primary and general election candidates.

This conclusion is in accordance with the legislative history of the Federal Election Campaign Act Amendments of 1974, (the Act). The Senate bill (S. 3044) as reported from committee contained specific provisions which limited expenditures by unopposed candidates in both a primary and general election to 10 percent of the limits applicable to opposed candidates. The 10 percent limit on unopposed primary candidates was deleted by floor amendment during Senate debate while the 10 percent limit on candidates unopposed in the general election was dropped in conference with the House. Thus, the legislative history also indicates that it was not Congress' intent to make a distinction between opposed and unopposed candidates for purposes of either contribution or expenditure limits. Accordingly, an unopposed candidate in a primary election is entitled to receive contributions and make expenditures with respect to that election within the limitations set by 19 U.S.C. § 608.

The Commission further concludes that those expenditures made solely to defray expenses incurred with respect to the primary election would not be chargeable to the unopposed candidate's expenditure limits in the general election. Until further notice the Commission will assume that all expenditures made and required to be reported with respect to a forthcoming primary election are allocable to that primary election rather than to be subsequent general election.

ADVISORY OPINION 1975-16

(Interpretation of principal campaign committee, reporting schedule, and campaign depository provisions; contributions from incorporated membership organization)

This advisory opinion is rendered under 2 U.S.C. § 437f in response to a request submitted by Congressman John D. Dingell and published as AOR 1975-16 in the July 17, 1975, Federal Register (40 FR 30259). Interested parties were given an opportunity to submit written comments pertaining to the request.

The advisory opinion request submitted by Congressman Dingell raises several issues. Each issue is discussed separately in the following advisory opinion.

1. The first question raised by Congressman Dingell concerns the types of political committees a candidate may establish. Each candidate is required to designate a political committee to serve as his or her principal campaign committee. 2 U.S.C. § 432(f). The candidate may authorize any number of political committees to solicit or receive contributions on behalf of the candidate or to make expenditures on behalf of the candidate. This authorization must be in writing and signed by the candidate. The expenditures made on behalf of the candidate by these authorized political committees are applied to the candidate's overall expenditure limitation.

These authorized committees file reports with the principal campaign committee for the candidate on whose behalf the contributions are accepted or the expenditures are made. The principal campaign committee is required to compile the reports of these authorized committees and file these reports, together with the report on its own activity, with the Commission. 2 U.S.C. § 432(f) (2) and (3).

All political committees must remain in existence and report until all of their debts and obligations are extinguished. 2 U.S.C. § 434(b)(12). The Commission may by future regulation prescribe ways in which continuous reporting of outstanding debts and obligations of campaign committees which have become and remained insolvent for long periods of time may be suspended or terminated. Since the committees authorized by the candidate report to that candidate's principal campaign committee, the candidate's principal campaign committee must remain in existence until all of its debts and obligations are extinguished and all of the debts and obligations of its authorized committees are extinguished or consolidated with the debts and obligations of the principal campaign committee.

2. The second question concerns the reporting requirements of committees which have registered with the Commission but which do not receive contributions or make expenditures in excess of $1,000 during a particular calendar quarter. Generally, a committee is required to file a report of receipts and expenditures for each calendar quarter in which it received contributions in excess of $1,000, or made expenditures in excess of $1,000. 2 U.S.C. § 434(a)(1)(C). The Commission is required to prepare and publish special reports listing those candidates for whom reports were filed as required and those candidates for whom such reports were not filed as so required. 2 U.S.C. § 438(a)(7). If a political committee has registered with the Commission and has previously filed quarterly reports, the Commission will not know, in the absence of other information, whether such a committee has a continuous reporting obligation. Therefore, at the close of the first calendar quarter in which the committee does not receive or expend $1,000, the committee must notify the Commission that "no more than $1,000 was received or expended" during that calendar quarter and that quarterly reports will be suspended until such time as the committee receives or expends $1,000 during a calendar quarter. Upon receipt of this type of notification, the Commission will remove the committee from the list of committees required to file quarterly reports. The Commission is in the process of developing a short form for this purpose.

This procedure will not affect the committee's obligation to file a pre-election report, 2 U.S.C. § 434(a)(1)(A), or an end of the year report, 2 U.S.C. § 434(a)(1)(B). If the committee determines that it has not received contributions or made expenditures during the calendar *year* in an aggregate amount exceeding $1,000, the committee must so report to the Commission in the calendar year report. 2 U.S.C. § 433(d). The Commission will, as noted in Part 1, promulgate regulations pertaining to reporting by committees with outstanding debts and obligations.

3. The third question concerns the time limit which is imposed between the receipt of a campaign contribution and the deposit of such a contribution in a campaign account. The Commission is currently in the process of proposing regulations which would establish such a time limit. Until such time as the regulations are prescribed, the Commission will require the contribution to be deposited within a reasonable time. The Commission considers five days after the receipt of the contribution by the treasurer or other designated official of the political committee to be a reasonable time limit in which to deposit the contribution.

4. The last question is whether a political committee is prohibited by 18 U.S.C. § 610 from accepting a contribution from a VFW Post which is incorporated. Section 610 prohibits *"any corporation whatever"* from making a "contribution or expenditure in connection with any election" to Federal office and prohibits a candidate, political committee or person from accepting such a contribution.

The prohibitions in § 610 apply, with limited exception, to contributions or expenditures by nonprofit corporations just as they apply to contributions or expenditures made by profit-making corporations. If a nonprofit organization is created expressly and exclusively to engage in political activities, however, and has incorporated for liability purposes only, the general prohibitions in § 610 will not apply to that corporation. That type of corporation is essentially a political committee and may contribute its assets to Federal candidates the same as unincorporated political committees. Other types of nonprofit corporations are subject to the prohibitions in § 610, and, therefore, a candidate or political committee is prohibited from accepting a contribution from these types of nonprofit corporations.

A corporation which is subject to the prohibitions in § 610 may, however, establish a separate segregated fund and may make contributions and/or expenditures in connection with Federal elections from that fund. A candidate or political committee may, in turn, accept a contribution from the separate segregated fund of a corporation.

This advisory opinion is issued on an interim basis only pending promulgation by the Commission of rules and regulations or policy statements of general applicability.

NEIL STAEBLER,
Vice Chairman for the Federal Election Commission.

Date: August 13, 1975.

FEDERAL ELECTION COMMISSION,
Washington, D.C., August 15, 1975.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are copies of an announcement of the Federal Election Commission which will be published on Monday, August 18, 1975 in the *Federal Register*.

This notice contains two Advisory Opinions (AO-2 and AO-3) relative to the Michigan Democratic Party and the National Republican Congressional Committee.

In accordance with our previous correspondence, the Commission would be most appreciative if you could make arrangements to have this notice inserted in the *Congressional Record*.

Sincerely,

ORLANDO B. POTTER,
Staff Director.

Enclosures.

FEDERAL ELECTION COMMISSION

(Notice 1975-24, AO 1975-2 and AO 1975-3)

AO 1975-2: MICHIGAN DEMOCRATIC PARTY

This advisory opinion is rendered under 2 U.S.C. §437f in response to a request submitted by the Michigan Democratic Party (hereinafter MDP) and published as AOR 1975-2 in the June 24, 1975, *Federal Register* (40 FR 26660). Interested parties were given an opportunity to submit written comments pertaining to the request.

The advisory opinion request by the MDP raises several issues. Each issue is discussed separately in the following advisory opinion.

1. The first question concerns the practice by the Michigan Democratic Party of maintaining two separate bank accounts—one for Federal election use and one for state election use. The party has established two separate accounts to assist it in meeting the different reporting requirements of the Federal law and of the Michigan state laws. The Federal election account is not the "official" account of the Michigan Democratic Party. The party's question is, then, whether the money from the Federal election account can be used for the 18 U.S.C. §608(f) state committee expenditures.

Section 608(f) does not specify that the expenditures made under this section must be from the "official" account of the state party. Therefore, the general section on campaign depositories, 2 U.S.C. § 437(b), controls. Subsection 437(b) (2) provides:

"The treasurer of each political committee (other than a political committee authorized by a candidate to receive contributions or to make expenditures on his behalf) shall designate one or more national or State banks as campaign depositories of such committee, and shall maintain a checking account for the committee at each such depository. All contributions received by such committee shall be deposited in such accounts. No expenditure may be made by such committee except by check drawn on such accounts, other than petty cash expenditures as provided in subsection (b)."

The MDP has complied with the first requirement of this subsection by establishing a separate account for Federal elections. In addition, the MDP must designate the bank in which it maintains its separate account for Federal elections (or any other National or State banks) as the campaign depository of the committee. All contributions received or expenditures made pertaining to Federal elections must be deposited in or drawn from this account of the party. Each local party committee which intends to solicit contributions, receive contributions, or make expenditures in connection with any Federal election must establish a separate account for Federal election purposes as described above.

All contributions received by the MDP which the contributor designates to be used for Federal election purposes and all contributions received which the MDP intends to use for Federal election purposes must be deposited in this account. Since the individual or political committee whose contribution is deposited in this account is making a contribution within the definition of 18 U.S.C. § 591(e) the contribution limitations established in 18 U.S.C. § 608(b) are applicable. In addition, the sections in Title 18 which prohibit contributions by certain types of contributors are applicable. 18 U.S.C. §§ 610, 611, 613, 614 and 615.

2. The second question raised by the Michigan Democratic Party concerns the application of the expenditures limitations in 18 U.S.C. § 608(f) to the state and local committees in Michigan and the proper place of filing reports by the local committees. Subsection 608(f) (3) provides:

The national committee of a political party, or a State committee of a political party, *including any subordinate committee of a State committee,* may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds . . . (explanation of formula for determining limitation) (emphasis added)

The term subordinate, as used in this section, includes all "branches" or "subsidiaries" which are officially a part of the State Party organization. By statute, each major party in Michigan is required to establish a county committee in each county, a district committee in each Congressional district, and a State central committee. (Hereinafter the County and Congressional committees are referred to as local committees.) Alhough the local committees of each party select the members of the state central committee of that party, each committee on each level retains independent statutory existence and exercises a substantial degree of autonomy with respect to all other committees in its finances and operations. When applied to the political party structure in Michigan, the term subordinate as used in § 608 includes all statutorily required local committees and any other committee which, by virtue of the bylaws of the Michigan Democratic Party, is part of the Democratic Party structure in the state. Therefore, all such committees are included within the state party *expenditure* limitation established in § 608(f) (3).

The Michigan Democratic Party may administer the § 608(f) (3) expenditure by one of the following methods, which the Commission does not intend to be an exhaustive statement of the alternative methods. In the first instance, the state central committee will be responsible for insuring that the expenditures of the entire party organization are within the limitations established in § 608(f) (3). Any § 608(f) (3) expenditure made by a local committee would have to be reported to the state central committee. The state central committee would be responsible for filing reports with the Commission pertaining to all § 608(f) (3) expenditures made by any branch of the party structure.

In the alternative, the state central committee may allocate the § 608(f) (3) expenditure among the local party committees in the following manner. The state committee and the local committees first agree upon an allocation formula whereby a portion of the total § 608(f) (3) expenditure limitation for each Federal candidate is allocated to local committees. The state committee, then, files a statement with the Commission setting forth the agreed upon allocation. This "allocation statement" shall contain, in addition to the allocation for each committee, the following information with regard to each committee which has not filed a statement of organization with the Commission: the name and address of the committee; the name, address, and position of the custodian of books and accounts; the name, address and position of other principal officers; and a listing of all banks, safety deposit boxes, or other repositories used. If the local committee has already filed a statement of organization, the "allocation statement" must contain the name and address of the local committee and the amount allocated to that committee, and state that a statement of organization has already been filed by that committee. Any changes in the information pertaining to the local committees which was submitted in the "allocation statement" must be reported by the local committee to the Commission within 10 days following the change.

Once the "allocation statement" has been filed with the Commission, the actual allocation to a local committee may be changed by an amended report submitted to the Commission by the state central committee. This report must be signed by authorized agents of both the state central committee and that particular local committee and state that both parties have agreed that the original allocation should be changed and set forth the amended allocation.

Each local committee (other than a political committee) which is listed in the "allocation statement" will be required to file appropriate reports of expenditures with the Commission if the total § 608(f) (3) expenditure allocation is in excess of $100.[1] In addition, each local committee will be responsible for insuring that all § 608(f) (3) expenditures by that local committee are within the allocated amount. If the local committee exceeds its allocation as set forth in the "allocation statement" and, as a result, the total party expenditures in the state exceed the overall expenditure limitation in § 608(f) (3), the local committee, rather than the state party officials, will be charged with the responsibility for exceeding the expenditure limitation.

Although § 608(f) (3) specifically includes the local committees within the state party *expenditure* limitation, the local committees may be considered separate organizations for the purposes of applying the *contribution* limitations in § 608(b). If the local committees are in fact truly independent of the state central committee, then each local committee may contribute to Federal candidates. If the local committee qualifies under § 608(b) (2), its contribution limitation for each candidate is $5,000. Otherwise, the limitation for each candidate is $1,000 per candidate, 18 U.S.C. § 608(b) (1). Each local committee is responsible for filing with the Commission any appropriate reports made necessary by reason of its contributions to Federal candidates.

3. The next question raised is whether the state committee is required to file the required reports and statements with the appropriate principal campaign committee or with the Commission. The state committee must file reports of any contributions received which are "earmarked" for a particular candidate with that candidate's principal campaign committee. The committee must also file a report pertaining to expenditures which are authorized by the candidate to be made on his or her behalf with the appropriate principal campaign committee.[2] Reports pertaining to all contributions and expenditures will be filed with the Commission.[3]

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[1] The Commission will be issuing regulations pursuant to 2 U.S.C. § 434(e) which will detail this reporting requirement.

[2] This does not include 18 U.S.C. § 608(f) (3) expenditures.

[3] An Interim Guideline pertaining to the filing of the July 10 reports was published in the *Federal Register* on July 26, 1975. Regulations pertaining to reports due on October 10 and thereafter will be published in the *Federal Register* prior to the date when the reports are due.

If the state committee has not registered, the statement of organization should be filed with the Commission.

4. Question 4 concerns the newsletter the Michigan Democratic Party publishes and sends to its members. The question is whether the newsletter comes within the expenditure exemption in 18 U.S.C. § 591(f)(4)(C), which provides:

(C) any communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election of any person to Federal office;

Although a state political party does endorse federal candidates, many of the activities of the party are generally not to influence directly Federal elections, but to build a strong party organization. A newsletter of a political party will come within this expenditure exemption if the newsletter is distributed only to dues paying members of the party. Moreover, the state political party or other entity sending the newsletter must not be "organized primarily for the purpose of influencing the nomination for election, or election, of any person to federal office." 18 U.S.C. § 591(f)(4)(C). This concept of being "organized primarily" for such purposes will be particularized by Commission regulations to be issued in the near future.

It is relevant to note that the party may solicit contributions to the Democratic Party in this newsletter (although not for any federal candidate). Such a solicitation will not make the newsletter an expenditure. Section 591(f)(4)(1) exempts from the definition of expenditure any costs incurred by a political committee with respect to the solicitation of contributions to such political committee, unless the solicitation is done by general public advertising.

5. The last question concerns the reporting requirements for the local committees of the Michigan Democratic Party which do not receive contributions for federal elections in excess of $1,000 or which are not allocated more than $100 of MDP's § 608(f)(3) expenditures.[4] The question is whether 2 U.S.C. § 437a, pertaining to reports by certain persons, requires such committees to file reports with the Commission. In particular, the MDP asks whether the phrase "commits any act directed to the public for the purpose of influencing outcome of an election" as used in § 437a, includes such routine activities by political committees as putting up a poster for a federal candidate.

The local committee of a state political party organization which is not required to file reports as a political committee or as a "person" under 2 U.S.C. § 434(e) and which is not required to file reports of § 608(f)(3) expenditures, will not be required to file reports under § 437a. Certain "routine activities" of political committees described in the request could frequently come within the exemptions to the definition of contribution in 2 U.S.C. § 431(e) and 18 U.S.C. § 591(e).

For example, a person who put up posters for a federal candidate is usually volunteering his or her services without compensation. If that is the case, such activity is exempt from the definition of contribution by 2 U.S.C. § 431(a)(5)(A) and 18 U.S.C. § 591(e)(5)(A).[5]

This advisory opinion is issued on an interim basis only pending the promulgation by the Commission of rules and regulations of general applicability. Any interpretation or ruling contained herein is to be construed as limited to the facts of the specific advisory opinion request and should not be relied on as having precedential significance except as it relates to those facts at the time of its issuance.

AO 1975–3: NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE

This advisory opinion is rendered under 2 U.S.C. § 437f in response to a request submitted by the National Republican Congressional Committee (hereinafter NRCC) and published as AOR 1975–3 in the June 24, 1975, *Federal Register* (40 FR 26660). Interested parties were given an opportunity to submit written comments pertaining to the request.

This request states that NRCC provides certain services and property to Republican Members of the House of Representatives (hereinafter Member). These services are:

1. The NRCC's preparing and printing newsletters, questionnaires and other printed matter to be mailed by Members under the Congressional frank.

2. The NRCC's reprinting of excerpts from the Congressional Record to be mailed by Members under the Congressional frank.

3. The NRCC's paying the cost of tabulating responses to questionnaires sent by a Member to his constituents under the Congressional frank including the cost of using a computer for such tabulation.

4. The NRCC's reimbursing a Member for the cost of newsletter paper purchased by the Member from the House of Representatives Stationery Room to be used by the member in preparing materials to be mailed by the Member under the Congressional frank.

The NRCC requests the Commission to rule on the question of whether the described activities are noncampaign in nature and, therefore, do not count against the NRCC's contribution limitation to a candidate [18 U.S.C. § 608(b)(2)] and do not apply to the Member's election expenditure limitations [18 U.S.C. § 608(c)(1)(E)].

It is not necessary for the Commission at this time to reach the question of whether the activities described in paragraphs 1, 2 and 4 are noncampaign in nature. 39 U.S.C. § 3210(f) is applicable to material sent under the Congressional frank. This section provides:

Notwithstanding any other provision of Federal, State, or local law, or any regulation thereunder, the equivalent amount of postage determined under section 3216 of this title on franked mail mailed under the frank of the Vice President or a Member of Congress, and *the cost of preparing or printing such frankable matter for such mailing under the frank, shall not be considered as a contribution to, or an expenditure by, the Vice President or a Member of Congress for the purpose of determining any limitation on expenditures or contributions* with respect to such official, imposed by any Federal, State, or local law or regulation, in connection with any campaign of such official for election to any Federal office. (Emphasis added.)

As long as the materials prepared by the NRCC are suitable to be mailed under the frank and, in fact, are mailed under the frank, the cost of preparing or printing the materials will not be charged against the contribution or expenditure limitations in 18 U.S.C. § 608. For purposes of this opinion, the Commission assumes that such mailings are suitable to be mailed under the frank.

In paragraph 3, the NRCC requests the Commission to rule on its practice of paying the cost of tabulating responses to questionnaires sent by a Member to his constituents under the Congressional frank including the cost of using a computer for such tabulation. The exemption in 39 U.S.C. § 3210(f) only extends to the cost of preparing or printing the franked matter. Therefore, in determining whether the cost of tabulating responses is a contribution or expenditure subject to the appropriate limitations in 18 U.S.C. § 608, the question is whether such responses is a contribution or expenditure within the general definition of 18 U.S.C. § 591(e) and (f). The Commission has proposed regulations providing that the cited definitions apply to these activities and that they are therefore subject to limitation under 18 U.S.C. § 608.

This advisory opinion is to be construed as limited to the facts of the request and should not be relied on as having any precedential significance except as it relates to those facts at the time of its issuance.

NEIL STAEBLER,
Vice Chairman for the Federal Election Commission.

Date: August 11, 1975.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

NATIONAL PRODUCTIVITY AND QUALITY OF WORKING LIFE ACT OF 1975

The Senate continued with the consideration of the bill (S. 2195) to establish a National Center for Productivity and Quality of Working Life; to provide for a review of the activities of all Federal agencies including implementation of all Federal laws, regulations, and policies which impede the productive performance and efficiency of the American economy; to encourage joint labor, industry, and Government efforts to improve national productivity and the character of working conditions; to establish a Federal policy with respect to continued productivity growth and improved utilization of human resources in the United States; and for other purposes.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 20 minutes, to be equally divided between and controlled by the Senator from Georgia (Mr. NUNN) and the Senator from Illinois (Mr. PERCY), with 20 minutes on any debatable motion, appeal, or point of order.

Mr. NUNN. Mr. President, I ask to be notified when I have consumed 5 minutes of my time.

Mr. President, the National Productivity and Quality of Working Life Act of 1975, S. 2195, is the product of more than 9 months of work by the Committee on Government Operations.

It is designed to increase and improve

[4] See discussion relating to question 2.

[5] 2 U.S.C. § 437a requires any person (other than an individual) "who expends any funds or commits any act directed to the public for the purpose of influencing the outcome of an election" to report the funds received by that person as if they were contributions under 2 U.S.C. § 431(e) and payments of such funds as if they were expenditures under 2 U.S.C. § 431(f). Therefore, even if the local committee were required to report under § 437a, the local committee would not be required to report the activity described in the request if the person putting up the posters was volunteering his services without compensation. The individual volunteering his services would not be making a contribution to the local committee since such volunteer activity is exempted from the definition of contribution. The local committee would not, in these circumstances, be making an expenditure since it is not compensating the individual for his time.

Federal participation in efforts to reverse the overall decline in the rate of our national productivity growth that has occurred during the past 9 years.

Senator PERCY and I introduced bills—S. 4130 and S. 4212—during the last Congress to reorganize and strengthen the National Commission on Productivity and Work Quality. The committee conducted extensive hearings on those bills on December 16 and 17, 1974.

We revised our bills and introduced new versions this year. These new bills, S. 765 and S. 937, were subject to hearings on March 20 and 21 by the committee.

Since then the committee has worked to draft a new bill which incorporates the best features of our two bills and many of the suggestions made at our hearings. In addition, the committee considered the provisions of a bill which was recommended by the Ford administration and introduced in the House of Representatives as H.R. 6078.

The committee also solicited and received considerable input from several organizations involved in efforts to improve our national productivity growth rate, especially the United Steelworkers of America, the United Automobile Workers of America, and the American Institute of Industrial Engineers.

S. 2195 is the result of the committee's labors to develop the best possible legislation for this particular time. We believe that it provides a very sound approach to the problem and that it satisfies the interests of both labor and management in achieving its objectives.

This new bill is the result of the efforts of many members of the Government Operations Committee and especially of Senators PERCY and JAVITS, who have been interested in the problems of productivity and working conditions for a number of years. Their leadership and efforts on behalf of this legislation have been invaluable, and we owe them a debt of gratitude.

I would also like to mention the significant contribution of Senator ABE RIBICOFF, the chairman of the committee, and the contributions of Senators CHILES, ROTH, and BROCK, all of whom have been instrumental in the development of S. 2195.

Staff members of the Committee on Government Operations and its subcommittees also contributed greatly to this bill. They were Dick Wegman, chief counsel and staff director of the full committee; Matt Schneider, counsel; J. Robert Vastine, former chief counsel to the minority, who is now at the Treasury Department; John B. Childers, who is now the chief counsel to the minority; Mark Bravin, assistant to the minority; David Dunn, professional staff member of the Committee on Labor and Public Welfare, Claudia Ingram of the Subcommittee on Federal Spending Practices; Win Turner, chief counsel, and Vic Reinemer, staff director of the Subcommittee on Reports, Accounting, and Management; Harold C. Anderson and Fred McClintock, staff editors; Bill Goodwin, chief counsel and staff director of my own Subcommittee on Oversight Procedures; Betsy Prichard, chief clerk of the Subcommittee on Oversight Procedures; and two congressional fellows who have worked for the subcommittee, Dani Emery and Roy Jenney.

I would also like to extend my thanks to Peter Henle of the economics division of the Congressional Research Service, Library of Congress, who made a valuable contribution to our consideration of the quality of working life aspects of the bill, and to Ted Mills and Nick Bizony of the National Quality of Work Center, who assisted the committee at the request of Senator PERCY and myself.

The work of all these individuals has resulted in the legislation which is before us today.

The purpose of the bill is to increase the Federal effort to solve one of our most serious and least understood economic problems—a declining rate of productivity growth. It is a serious problem because increases in our standard of living depend to a large extent on increases in our national productivity. Otherwise, price increases devour any increases in our incomes.

Reversing the decline and improving our productivity growth rate also is important if we are to maintain our world leadership in the production of goods and the provision of services.

As explained in the committee report on the bill, our average national productivity growth rate has declined steadily during the past 9 years. At the same time, the growth rate in Japan and most of the other major industrial countries has increased.

No legislation alone can force a turnaround in our productivity growth. Rather, this bill is meant to provide a stimulus for an all-out effort by all sectors of the economy, and particularly by the Federal Government.

Mr. President, I recently read an article in the Washingtonian magazine which recommended that a number of Federal agencies be abolished. One of these was the National Commission on Productivity and Work Quality.

I agree fully that agencies which serve no useful purpose should be done away with. In many respects, the Commission has failed to carry out its mission, and the time has come either to do away with it or to reorganize and revitalize it.

This bill replaces the National Commission on Productivity and Work Quality with a National Center for Productivity and Quality of Working Life, and it attempts to solve many of the problems that have hampered the Commission. With the proper functions and status, which this bill provides, the Center will be able to stimulate productivity growth in America.

On the other hand, should the new Center not make a meaningful contribution to our productivity growth, then I will be as ardent an advocate of its abolition as I have been of its creation.

The bill provides authorization of appropriations for the Center for only 3 years, at the end of which Congress must evaluate its performance and determine whether to continue its existence. In addition, the Comptroller General will be required to evaluate and assess the Center's performance at the end of the 4-year period, thus giving Congress the benefit of his expertise in the area of productivity.

In my opinion, these are adequate provisions to assure that the Center carries out its functions as intended by the bill. If the Center fails to do so, then Congress should abolish it, and I will lead that effort.

The Center will serve as the focal point in a national effort to reverse the downward trend in our productivity growth.

Its primary functions will be to stimulate improvements in our productivity growth and the working environment through coordination and consultation with other Federal agencies, State and local governments, and qualified public and private groups.

For example, Federal agencies which spend funds on productivity-related projects will be required to consult with the Center before doing so. This should enable the Center to implement a coordinated national productivity policy.

This bill makes it the continuing policy of the Federal Government to stimulate a high rate of productivity growth and improvements in the working environment of American workers. The Center will coordinate and promote efforts to carry out this policy.

The Center will have a 25-man Board of Directors, consisting of a Chairman; the Secretaries of Treasury, Commerce, and Labor; the Executive Director of the Center; the Director of the Federal Mediation and Conciliation Service; not less than five members from labor organizations; not less than three members from management; two from State and local government; one public member, and such other members as the President appoints.

The Board of Directors will operate through an executive committee of seven members to be named by the Chairman and including the executive director.

All Federal agencies will be directed to improve their own internal productivity and working conditions, and to assist the Center in carrying out the national productivity policy.

Although an accurate accounting is not available at present, several Federal agencies expend funds on projects related to productivity and quality of working life. The National Science Foundation, for example, has approximately $20 million budgeted for the coming fiscal year for these types of projects.

The Center will coordinate the expenditure of these funds, and it will compile an accounting of the funds available for these purposes, an assessment of how effectively these funds have been used, and its recommendations on how the expenditures can better be coordinated in the future.

There is no intention that the Center should become another large, grant-making Federal bureaucracy, or that it is to be another regulatory agency. Instead, it should remain small and serve mainly as a stimulating and coordinating body for both Federal and non-Federal efforts. Its activities should be aimed at stimulating voluntary efforts to improve productivity growth and at coordinating productivity improvements within the Federal sector.

Its power to make regulations is to be used only to regulate its own internal activities; that is, the Center will not have authority to force productivity improvements in the private sector, either by regulations or any other method. To the contrary, it will work with all Federal agencies to review their laws, regulations, and policies in order to eliminate those which adversely affect productivity growth.

The Center will not be in a position to harrass American businessmen or labor organizations with needless and unwise regulations, nor will it have the power to compel the production of information to carry out its functions, whether by subpena or any other means. In a nutshell, its functions are designed to bring about efforts on the part of others to improve our national productivity growth rate. This will be an important first step in correcting one of our primary economic ills.

I strongly encourage every Member of the Senate to join in supporting this legislation.

Mr. President, I ask unanimous consent that a section-by-section analysis of S. 2195 be printed in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF THE BILL

TITLE I—FINDINGS, PURPOSE, AND POLICY; DEFINITIONS

Section 101 contains congressional findings relating to the declining rate of productivity growth. In general, the findings state that the Nation's productivity growth rate has declined since 1965, and that an increasing growth rate is essential to the social and economic welfare of the American people. The section also sets out several national needs which must be met in order to stimulate continued productivity growth.

Statement of purpose

Section 102 states the purpose of the Act, which is to establish a national policy to encourage productivity growth consistent with the needs of the economy, the environment, and the needs, rights, and best interest of management, the work force and consumers; and to establish an independent National Center for Productivity and Quality of Working Life to focus, coordinate, and promote efforts to improve the rate of national productivity growth.

Federal policy

Section 103 establishes a continuing policy of the Federal Government to use all practicable means and measures, including financial and technical assistance, to stimulate a high rate of productivity growth. This policy is to be carried out in cooperation with State and local governments.

The section makes it the continuing responsibility of the Federal Government to use all practicable means to improve and coordinate Federal plans, functions, programs, and resources to carry out the policy set forth in the bill, and it directs that all Federal laws, rules, regulations, and policies shall be interpreted to give full force and effect to the Federal productivity policy.

Definitions

Section 104 provides that the terms "Center" and "Board" as used in the bill means the National Center for Productivity and Quality of Working Life and the Center's Board of Directors, respectively.

It also provides that the terms "productivity growth" and "improved productivity" shall be interpreted to mean, but not be limited to, improvements in technology, management techniques, and the quality of working life. In other words, when the bill speaks of improving productivity growth, it means improvements in all the various factors which affect productivity. Technology, management techniques, and quality of working life considerations are three of these, but they are by no means the only factors to be considered in a Federal effort to improve productivity. By including these three specific factors, the committee does not mean to imply that they should be treated equally or to the exclusion of other factors.

Section 104 also directs that the term "quality of working life" shall be interpreted to mean "the conditions of work relating to the role of the worker in the production process." As explained above in the discussion of the quality of working life, the term refers to the worker, his training, experience, job conditions, and his role in production at his place of employment. For the purposes of this bill, it is not meant to include conditions beyond the actual workplace.

TITLE II—NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE ESTABLISHED

Section 201 establishes the National Center for Productivity and Quality of Working Life as an independent establishment of the executive branch.

Board of Directors

Section 202 provides that the Center shall have a Board of Directors to be comprised of not more than 25 members, as follows:

(1) a Chairman;

(2) the Secretary of the Treasury;

(3) the Secretary of Commerce;

(4) the Secretary of Labor;

(5) the Director of the Federal Mediation and Conciliation Service;

(6) the Executive Director of the Center;

(7) not less than 3 members from among qualified private individuals in manufacturing and service industries;

(8) not less than 5 members from among qualified private individuals from labor organizations;

(9) not less than 2 members from among qualified individuals in State or local governments;

(10) not less than one member from among the general public;

(11) not less than one member from qualified individuals associated with leading institutions of higher education; and

(12) such other qualified members from the public or private sectors of the economy whom the President may deem appropriate.

All of the Board members shall be appointed by the President, and unless they are the Vice President of the United States or a Federal official whose appointment was subject to Senate confirmation, their appointments shall be made by and with the advice and consent of the Senate.

If a member who is a Secretary of a Federal department or the Director of the Federal Mediation and Conciliation Service is unable to attend a meeting of the Board—or of the executive committee if he is a member of that body—he shall appoint an appropriate alternate from within his department or agency to represent him at the meeting.

The private members of the Board shall serve for terms of 4 years, coterminous with the term of the President. No member shall serve in an acting or temporary capacity for a period in excess of 3 months.

The Chairman of the Board also shall serve a term of 4 years, coterminous with that of the President. The Secretaries and the Director of FMCS shall serve on the Board as long as they are head of the department or agency represented on the Board.

Members of the Board who are not Federal officials will be compensated at the daily rate provided for GS-18 for each day they are engaged in duties as members. All members will be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties as members of the Board.

The Chairman of the Board shall appoint an executive committee of not more than 7 members, including the Executive Director of the Center, which shall meet at least every 90 days.

Executive director

Section 203 provides that the Center shall have an Executive Director, who shall be responsible for the exercise of all powers and the discharge of all duties of the Center. The Executive Director shall be appointed by the President, subject to Senate confirmation, without regard to political affiliation and solely on the basis of fitness to perform the duties and functions of the office. He will be compensated at a rate not to exceed Executive level IV ($38,000 under present law), and shall have no other employment during his tenure in office.

Functions of the center

Section 204 sets the functions of the Center. Among these are:

(1) to develop and establish a national policy for the growth of productivity;

(2) to seek, stimulate, and encourage maximum active participation of all sectors of the economy in efforts to improve the rate of productivity growth;

(3) to seek, stimulate, and encourage selected research and demonstration programs implemented by public agencies and qualified private organizations which will increase the rate of productivity growth, and develop, refine, and apply accurate and reliable measurement techniques to evaluate changes in productivity;

(4) to identify, study, and review existing Federal, State, and local statutes, regulations, and fiscal policies which impede productivity growth or the effective economic performance of the public and private sectors of the United States; incentives to encourage industry and labor initiatives in the development of methods, techniques, and systems for the improved utilization of technological and human resources; existing and new programs, plans, and other methods designed to counteract threats to job security as a result of productivity improvement efforts; the impact of public personnel policies, statutes, and regulations affecting the productivity of public agencies; and the need and feasibility of providing various Center services to potential users in return for payment to the Center;

(5) to recommend to the President, Congress, the appropriate agencies and departments, and State and local governments, any revisions of regulations, policies, practices, and procedures which will result in improved productivity growth;

(6) to encourage cooperation between labor and management in the achievement of continued productivity growth, but not to become involved in activities pertaining to issues which are the proper subjects for bargaining both by tradition and by labor-management agreements without the consent and cooperation of the parties to such agreements;

(7) to encourage Federal agencies to initiate, stimulate, and support efforts inside and outside the Government to improve productivity growth;

(8) to coordinate efforts to eliminate interagency duplication of effort and cost, and to maximize the effectiveness of all Federal programs and activities which affect productivity growth, and to consult with other Federal agencies prior to the obligation and expenditure of funds for activities and projects in both the public and private sectors to improve productivity growth;

(9) to support activities in the various

Federal agencies for measuring productivity within these agencies;

(10) to collect and disseminate relevant information obtained by the Center or by other public agencies, institutions of higher learning, or private organizations pertaining to productivity growth, and to develop and implement a public information program designed to inform the public of the meaning and importance of productivity and the quality of working life;

(11) to maintain liaison with organizations, both domestic and foreign, involved in efforts to increase productivity; and

(12) to determine the Nation's needs for productivity-related management, and analytical skills and to encourage and facilitate the development of training programs in such skills.

Powers of the Center

Section 205 enumerates the powers of the Center in carrying out its functions. It authorizes the Center to enter into contracts or other funding arrangements in order to carry out the provisions of the bill; to organize and conduct conferences, meetings, seminars, workshops, or other forums for the presentation and dissemination of relevant information generated or collected pursuant to the provisions of the bill; to make studies and recommendations to the President and Congress; to implement a program and secure necessary facilities for the collection, collation, analysis, and interpretation of data and information in order to carry out its public information functions; and to undertake other studies, reviews, activities, and make such recommendations and reports as may be required to carry out its functions.

Funding conditions

Section 206 sets forth the conditions for contracts and other funding arrangements. Under these conditions, a participating party must agree that all information relating to any innovation or achievement generated in the course of any Center-funded demonstration programs shall be public information. The purpose of this section is to insure that work funded by the Center will be applicable to a broad range of users and not just to one particular plant or industry. No contract or other funding arrangement shall be entered into unless it is consistent with the policies and purposes of the bill.

Funding criteria

Section 207 sets forth criteria for contracts and other funding arrangements. For the most part, the Center shall prescribe the criteria by regulation, after consultation with appropriate agencies and officials of Federal, State, and local governments.

Annual Report

Section 208 requires that not later than December 31 of each year the Center shall report to the President and to the Congress on its activities. These annual reports shall include such recommendations as the Center deems appropriate. They also shall include an analysis of the extent to which each Federal agency which has significant responsibilities for assisting in the improvement of productivity is carrying out those responsibilities. This analysis shall include an accounting of all funds expended or obligated by such agencies for activities and projects to improve productivity growth, an assessment of the extent to which these expenditures have furthered the policies of the Center, and the Center's recommendations on how these funds can be better coordinated to accomplish the purposes of the bill.

TITLE III—FEDERAL AGENCY ASSISTANCE LIAISON WITH CENTER

Section 301 requires each Federal agency to designate an individual to serve as liaison with the Center and to assist the Center in carrying out its functions pursuant to the Act. They also are requried to keep the Center currently informed about their productivity-related activities and to consult with the Center prior to the obligation or expenditure of funds for activities or projects to improve productivity growth. Each department, agency, and independent establishment also is directed to furnish the Center access to all relevant materials and information it requires to carry out its functions.

INTERNAL REVIEW

Section 302 requires each Federal agency and independent establishment of the Government, in coordination with the Center, to study and review the promulgation and implementation of its statutory authority, policies, and regulations. Each agency shall identify such statutes, policies, and regulations which inhibit or impair productivity growth in the public or private sectors, and shall recommend to the President and to the Congress—or implement where appropriate—alternatives which will contribute to the achievement of the purposes of the bill.

Support of external activities

Section 303 directs each Federal agency, in coordination with the Center, to extend appropriate assistance to activities outside the Government designed to maintain, promote, and enhance sustained growth in productivity.

Internal productivity

Section 304 directs each Federal agency to improve its own internal productivity.

Effect on prior provisions

Section 305 provides that nothing in the Act shall affect any specific statutory obligation of any Federal agency (1) to coordinate or consult with any other Federal or State agency or (2) to act, or to refrain from acting, contingent upon the recommendations or certification of any other Federal or State agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

Section 401 provides certain technical administrative provisions to enable the Center to prescribe such regulations as are deemed necessary to carry out the purposes of the bill, to receive money and other property donated for the use of the Center, and to appoint and fix the compensation of its staff. The Center would also be authorized to establish task forces to assist and advise it in the performance of its functions.

TITLE V—EVALUATION BY THE COMPTROLLER GENERAL

Section 501 requires the Comptroller General to audit, review, and evaluate the implementation of the provisions of the bill by the Center. Not less than 30 months nor more than 36 months after the date of enactment, the Comptroller General shall report to Congress the results of his evaluation, which shall contain an evaluation of the effectiveness of the Center's activities, the effect of the Center's activities on the efficiency and effectiveness of other Federal agencies, and his recommendations for improving the implementation of the objectives of the bill.

TITLE VI—REPEAL AND TRANSFER

Section 601 repeals section 4 of Public Law 92–210, and Public Law 93–311, which established the National Commission on Productivity and Work Quality.

Transfer of functions and staff

Section 602 provides that the functions and staff of the National Commission on Productivity and Work Quality are to be transferred to the National Center for Productivity and Quality of Working Life. All property, records, and contracts as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the National Commission on Productivity and Work Quality are to be transferred to the Center.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

Section 701 provides an authorization of $6.25 million for fiscal year 1976 and the 3-month transition period thereafter (of which $1.25 million is intended for the transition period), and $5 million for each of the fiscal years 1977 and 1978. Funds appropriated for any fiscal year shall remain available for obligation until expended.

Cost estimate

The committee estimates that the total cost of this bill will amount to approximately $16.25 million over the next 3 years, assuming that the full amount authorized is appropriated and expended. The existing National Commission on Productivity and Work Quality is operating on a budget of $2 million. Since these funds will be incorporated into the Center's budget, this bill will result in additional Federal expenditures of not more than $10.25 million over the next 3 years.

Changes in existing law

The original bill reported by the committee does not amend existing law. However, it does repeal section 4 of Public Law 92–210, and Public Law 93–311, relating to the National Commission on Productivity and Work Quality. It is the opinion of the committee that it is necessary to dispense with the requirements of paragraph 4, rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. NUNN. I will take 1 more minute, Mr. President.

One thing I would like to point out is that there has been some concern that this may be a new regulatory agency.

As one of the authors of this legislation, I would like to further comment on and to make it clear that the regulatory power contained in the bill simply relates to the internal operations of the Center, and that there is no intention whatsoever to make a new regulatory agency out of this particular Center. I would say, as one of the authors, that that is my intention. It is not our intention that this Center in any way be able to harass American businessmen or unions or to become another regulatory agency.

I will ask the Senator from Illinois to comment on that.

Mr. PERCY. I believe the Senator from Illinois speaks on behalf of his distinguished colleagues on the committee and, I would believe, every Senator on this side of the aisle. The committee does not intend the Center to become in any way, manner, shape, or form a regulatory agency.

The ACTING PRESIDENT pro tempore. The Senator's additional minute has expired.

Mr. PERCY. I will take 1 minute on my own time.

The Senator from Illinois would be unalterably opposed if this would be the intention for the Center. The committee intends for the Center to remain small, to concentrate its efforts to coordinating the activities of the other agencies, State, local government, private organizations, and individuals.

There is no intention to make the Center a large Federal bureaucracy, and certainly no intention of any kind to have it implied, indirectly or otherwise, that it is another regulatory agency. We can use less, not more, of such agencies.

Mr. NUNN. I concur completely, and I am glad that we see eye to eye on that particular point.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. PERCY. Mr. President, in view of the fact that Senator Javits has asked for 3 minutes and Senator Brock for 2 minutes, I ask to be notified when 5 minutes are up, and then I will immediately yield to my distinguished colleagues.

Mr. President, Senate action today on S. 2195 to create a National Center for Productivity and Quality of Working Life culminates many months of active work by the Senate Government Operations Committee. The committee has been striving to upgrade the emphasis put on productivity by the Federal Government. This bill should be a large step in that direction.

The bill would replace the existing National Commission on Productivity and Work Quality with a new National Center for Productivity and Quality of Working Life, giving the Center upgraded status in the Federal government.

The Center is to help establish a national policy on productivity, to support research in this regard, to coordinate Federal agency activities in this area, and in general to be the major Federal actor in trying to improve productivity in the private sector and in the Federal Government itself. Other Federal agencies are to keep the Center informed of their efforts in improving productivity—both efforts they fund on the outside and efforts they undertake within their own agencies to improve productivity.

I attach particular importance to this legislation as improving productivity in the United States is of the utmost importance.

Although there has been recent improvement, one of the most disquieting economic trends I have observed is the declining rate of America's productivity growth in recent years.

Having been a part of American industry for a quarter of a century during our most rapid rise in productivity, and being able to see firsthand the effect this has on consumer pricing, the effect it has on employment opportunities in America, I look with great concern on a reversing trend now.

In 1974, U.S. productivity actually decreased by 2.7 percent, the only year on record in which we have actually experienced a drop in productivity. We are reinvesting substantially less of our GNP each year than other industrialized countries. For example, from 1960 to 1972, U.S. industry was reinvesting an average of only 14.9 percent of its output—the lowest of the major industrialized countries.

Currently, inflation continues to sap our economic vitality while rising unemployment works also to greatly diminish the standard of living. We must therefore not fail to make every reasonable effort to boost productivity in order to improve our real living standard.

I feel that we should place equal emphasis on both the technological and human aspects of productivity. It is a delusion to believe that only technology and capital can improve productivity, just as it is a delusion to believe that human motivation alone can result in sustained productivity improvement. The two must go hand in hand. We must have more and more of both, and we must insure that the National Center gives adequate emphasis to both sides of the complex productivity improvement equation.

Mr. President, it has been a great pleasure for me to work with my colleagues on the committee on this legislation. Senator NUNN is particularly to be complimented for his dedicated work and interest in seeing this bill come to fruition, and for his creative position. Senator JAVITS has also been a moving force in finalizing this legislation and has maintained his interest in productivity in which field he has been active for many years. I consider he has been the pioneer in the Senate on this whole concept. Chairman RIBICOFF, Senator ROTH, and Senator BROCK have also contributed importantly to this legislation. This bill represents a thoroughly bipartisan effort on the part of the committee, and I commend it to my colleagues in the Senate.

Mr. President, have I used 4 minutes of my time?

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

Mr. PERCY. Five minutes remaining. I yield 3 minutes to the senior Senator from New York.

Mr. JAVITS. Mr. President, I thank my colleague. I compliment Senator PERCY and Senator NUNN for carrying this torch. I think it is a great job. It is a very well articulated bill, agreed upon with labor, with management, and with the national administration, which is very important.

The bill is very modest in amount; therefore, it may mislead us as to its importance.

Mr. President, if we wish to abate inflation, if we wish to have peace and prosperity for our people, if we wish to give a helping hand to the poor nations of the world, it all depends upon how this effort works on American productivity.

The key to inflation is that the cost of producing goods has by far outstripped the wage level which is involved, and this inflation will continue unless we change it, and the key to it, therefore, is American productivity. That is why I worked on it for so many years and that is why I regard this a gifted initiative.

Mr. President, it should be much greater than it is. We should recreate the policy of World War II, because we are in a great war against depression, as well as against the danger of war. I am on the congressional committee that is working up there at the U.N. at this session now and it is the most vivid thing I have ever seen in the world.

Mr. President, if we are to make any progress in this field, we really ought to have a war situation with labor, management, public committees, just like those that are contemplated by this bill, spread throughout the country. We had thousands of them in World War II and they worked very effectively.

The Nation could be aroused to its danger very much better in that way, but we have to live with what we can live with. The framework which is provided by this bill could even accommodate so massive a form of industrial organization as I have described, and may well do it, but this structure which Senator PERCY and Senator NUNN are establishing is absolutely essential to anything any of us could want in the productivity field.

Notwithstanding the small amount involved, it is one of the most gifted initiatives, Mr. President, which has been taken in this or any other Congress, and I hope the Senate gives it an overwhelming rollcall.

Mr. President, I support S. 2195, the bill to establish a new National Center for Productivity and Quality of Working Life.

Historically, this Nation has led the rest of the world in the production of goods and provision of services for its people. Over the period of the last 10 years, however, we have been far outstripped by several European nations in achieving productivity growth. Indeed, according to the Bureau of Labor Statistics, output per man-hour in the United States has declined 1.9 percent since 1966. It is my belief that our continued industrial leadership and prosperity is contingent upon our ability to recognize and deal with problems in the area of productivity and quality of working life.

This legislation will establish a new independent agency within the executive branch whose function will be to coordinate Federal efforts to achieve continued productivity improvement and to stimulate private sector advances.

The new National Center for Productivity and Quality of Working Life replaces the National Commission on Productivity and Work Quality, which was created by Executive order in 1970, and given legislative recognition in 1971. Over the past 5 years that Commission has experienced organizational and funding problems which have hampered its effectiveness. It is our belief that the establishment of this new permanent center will provide the type of attention for productivity problems which I believe is urgently needed.

The center's first goal will be to identify and coordinate productivity improvement efforts already underway in a wide range of other Federal agencies. It will, in addition, be authorized to stimulate, initiate, and support productivity improvement efforts in both the public and private sectors where it finds such support is not currently being provided by other agencies.

This legislation has been worked out in a true spirit of cooperation between all interested parties within the Government and the private sector. The bill reported by the Government Operations Committee is a direct outgrowth of S. 4130, introduced by Senator NUNN and S. 4214, introduced by Senator PERCY and myself. I would particularly like to congratulate Senators PERCY and NUNN for the monumental effort on their parts which has culminated in the reporting of this consensus legislation to the Senate. These Senators have demonstrated a unique awareness and concern for the problems of productivity improvement. In addition, I would like to thank Senator RIBICOFF, the chairman of the Government Operations Committee, for his key efforts in focusing the attention of our committee on this problem and in bringing this legislation to the floor in an expeditious manner.

We must recognize that this bill and the establishment of this center represent but a first step in the effort to reestablish this Nation's leadership in productivity improvement and quality of working life of our people. As this center begins its work, it will undoubtedly identify many areas in which specific Federal, State, or local legislation or programs will be necessary and valuable in furthering productivity improvement efforts. It is my belief that in this center we will have established an effective vehicle for the execution and administration of such further programs as we may find it necessary or desirable to enact.

We must not, however, believe that having established this center and passed this legislation that Congress will have done its full part in the effort to regain our productivity growth. It may well be necessary to consider further legislation to provide specific assistance and stimulus to efforts aimed at increased productivity.

It is my belief, for example, that the Congress must develop additional legislation in the areas of employee stock ownership and profit sharing, greater participation of employees in job-related decisions, and continuing worker education programs in both job related and nonrelated fields.

The funding authorization level contained in this legislation is significantly above that level which we have recently appropriated for the National Commission on Productivity and Work Quality. The committee carefully considered what level of funding would be necessary in order for the new center to adequately perform its tasks. I hope that the Congress will look favorably upon a supplemental appropriation to provide the new center with adequate funding.

Because the life of the National Commission on Productivity and Work quality is scheduled to expire on September 30, 1975, it is necessary that this legislation receive speedy consideration by the Congress. I would urge my colleagues to support this legislation so that the center may begin its crucial task as quickly as possible.

Mr. NUNN. Mr. President, I thank the Senator from New York for his kind remarks about my own efforts. These efforts were built on a launching pad and foundation which the Senator from New York constructed. As a matter of fact, after I got interested in the subject, I happened to be presiding in the Senate when the Senator from New York made a talk on the subject, and that was one of my inspirations.

He is to be congratulated for his continuing effort in this regard.

The ACTING PRESIDENT pro tempore. The Senator's 3 minutes have expired.

Mr. PERCY. Mr. President, I yield 2 minutes to the distinguished Senator from Tennessee.

Mr. BROCK. Mr. President, I do support this legislation. I think it is a remarkable venture.

I do so with perhaps a little bit of caution, because if there is anybody in the whole world that has been contributing to nonproductivity it is the Federal Government itself and to assume that the Federal Government can cure the problem with which it is largely the genesis stretches the credulity of the exercise.

But I think this is a particularly unique effort and I would draw attention of those who are present to the purposes of the bill.

One of the fundamental statements in the original premise is to provide for review of the activities of all Federal agencies, including implementation of all Federal laws, regulations, and policies which impede productive performance and efficiency of the American economy.

I would say in all sincerity that this little commission can more than justify itself by a thousandfold if it deals only with that one area and resolves one-tenth of the problem. It would be worth all the time and effort we could muster to make this thing go.

In the interim, however, the American people are burdened with $120-plus billion a year to pay the cost of excessive Federal regulation. There is no excuse for that, and this particular body could help us, I think, a great deal in reducing that load on the consumers, the working people of this Nation of ours.

I share the thought of the Senator from Georgia. If the new agency does not work in these 3 years, I will join in leading the fight to abolish it.

Mr. President, by coincidence, the consideration of this bill before the Senate, S. 2195, comes about on a day when millions of school age children return to school. Schooling, the right to attend school and the requirement that children stay in school until a certain age and attain minimum working knowledge has been the foundation upon which much of our national productivity growth has been based. We are finding, however, that there is much more we need to know about what sustains and brings about productivity. The fourth annual report of the National Committee on Productivity and Work Quality had the following to say about policies that raise productivity:

> While business recovery probably will restore the rate of productivity growth approximately to its historic trend, long term growth is not preordained. Public and private policies which foster advance must be considered in relation to what is known about the main sources of long term growth and the major obstacles to improvement.

In fact, the Congress and the Executive have at long last paid heed to the cries of millions who for years have pointed out the effects of regulatory constraints, often outdated and at times running at cross purposes. Congress and the President are now willing to take a first crack at regulatory agencies and their policies. I am proud to note that Senator METCALF, chairman of the Subcommittee on Reports, Accounting and Management has been in the forefront of this effort. Despite all cautions that the subject may be too complex or too difficult to handle, he has insisted that the Government Operations Committee live up to its responsibilities in this area.

The bill we now have before the Senate, moreover, the product of many long hours of work by Senators NUNN, PERCY, and JAVITS is a complementary effort which builds upon our own efforts to make Government more effective. We are herein acknowledging that not only do regulatory bodies give out with regulations which bind and constrict our growth, but all Federal agencies are unknowingly, but nonetheless still inflicted and infected with this disease. Senator PERCY has approached the problem in a very astute manner, requiring an inward census by each agency of policies which might inhibit productivity. This effort can and should be an ongoing one and the bill establishes it as such.

Senator NUNN has contributed in equal measure. American unions and industry had, in the past, paid much attention to education, salary, and fringe benefits. Other countries faced with social unrest growing out of industrialization have acted to lessen this unrest by involving workers in some aspects of plant management and product line decisions. In the forefront of this experimental effort here in the United States is Leonard Woodcock, president of the United Automobile Workers as well as Irving Bluestone, head of the General Motors Department of the UAW. Together with the Steelworkers union they have taken steps, which some consider revolutionary. I consider it evolutionary. In my own State of Tennessee we now have underway two unique projects, one in conjunction with the UAW and Harmon International Industries, Inc., a union experiment in west Tennessee and one in conjunction with the Tennessee Valley Authority a white collar experiment. Both of these experiments, I feel, will, with the help of legislation S. 2195 create a new industrial America, where workers create productivity increases as individual expressions of pride in their own effort.

I ask unanimous consent that the New York Times article of April 9, 1975, describing the Bolivar experiment, as well as material descriptive of the Bolivar and Chattanooga experiment be printed in the RECORD.

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

PLANT IS EXPERIMENTING WITH CHANGING WORK ON LINE

(By Agis Salpukas)

BOLIVAR, TENN.—In a plant housed in three big leaky quonset huts here, a far-reaching and unusual experiment to change work is evolving.

In most previous experiments like this, management planned and ran the efforts, which usually were limited to new nonunion plants and which had narrow goals of improving productivity and morale and discipline of workers.

But at the plant here in the southwest corner of rural Tennessee, where the employes make automobile mirrors, a work improvement program has been under way in which the United Automobile Workers and the management of Harman International Industries, Inc., have equal roles. And the workers have been given most of the task of coming up with their own changes.

Much of the inspiration comes from the national effort in Norway that seeks to establish democratic rights for workers on the shop floor.

The basic unit for change consists of small groups of workers and their supervisors who, under the guidance of a professional, sit at a large table and talk. On a recent day at the plant three workers from the paint department sat opposite three supervisors and were prodded by Bob Duckles, a graduate student in psychology who is a coordinator in the project, to talk about problems in their work area.

BREAKING THE ICE

There were long periods of silence, but the ice was broken by Dollie M. Poplar, who wipes and packs mirrors as they come out of the paint department.

Sitting under a sign on a wall that said "Man cannot discover new oceans unless he has the courage to lose sight of the shore," she told of periods when the wipers had nothing to do because the painters had run out of paint and the production line had stopped.

But the painters, she said, did not want help in getting the line started again.

"We don't all work together like we should," she said. "What's the problem, I don't know."

After a half hour of discussion, the workers and supervisors decided to see if some of the painters would like help in getting resupplied.

Through such give-and-take sessions, which began about a year ago, small groups of workers have decided to work in teams, rotate jobs, supervise themselves and make other changes in their work areas.

The leaders of the project have had the help of one of the foremost persons in the field, Dr. Einar Thorsrud, a Norwegian social scientist whose methods and ideas have had wide-ranging impact on experiments at the work place and other countries.

The project is not only an effort to improve the quality of life inside the plant; it is also a pilot test for the U.A.W. If it succeeds the union can use it as a model for other plants in the auto industry, which has had some of the most serious problems with workers.

Irving Bluestone, the head of the General Motors Department of the U.A.W., who is one of the key men behind the effort, said in an interview:

"If this experiment is successful, it gives us a lever to present to other companies of what direction to take. 'We are not starting from scratch here as in other experiments with a fresh, clean plant and a new work force.' If these efforts are going to spread, they've got to spread in the old plant."

QUESTION ON OUTPUT

By being a partner in the experiment, U.A.W. leaders are also learning how to handle the challenges that changes in work bring to traditional union rights.

The local U.A.W., for example, is grappling at the Harmon plant with the issue of whether some workers who work in teams and finish their quotas in half a shift should be allowed to go home or should be required to stay at the plant so as not to upset other workers who must work the full shift.

There is also the question of what happens to work standards if changes enable workers to turn out more in less time. So far the union and the company have agreed not to increase quotas as workers get more efficient, but eventually the issue will have to be resolved.

The experiment in Bolivar (population, 7,000) is taking place in a community consisting mostly of farmers. They are generally religious, often suspicious of strangers, and imbued with the value of hard work.

Most of the workers, half of them women and a little more than half of them black, came to work at the plant because they could not make enough money farming.

In a survey of a sample of employes, 86 per cent said their family income of around $6,000 a year was not enough to allow them to live the way they would like.

Most of the workers—there are normally 1,000, but now, during the recession, only 600—have low-skill jobs. The plant has many areas with fumes and noise, parts of which are too cold in the winter and too hot in the summer. The casting department, for example, reaches 120 degrees on some days.

In 1969 the workers voted to be represented by the U.A.W. Before the current experiment the relationship between management and employes can best be indicated by what has become known as the buzzer incident.

One day in 1972 the 10 P.M. buzzer, which signals that workers in the polish and buff department can take their coffee break, failed. But there was a 10:30 buzzer that worked. Management sent word that from then on the coffee break would be at 10:30.

The workers were outraged. They felt management thought they could not be relied on to tell when it was 10 P.M. They took their coffee break at their usual time.

Management suspended a group of the workers for three days without pay for their action.

When Sidney Harman, the president of Harman International, heard of the incident in his executive office at Lake Success, N.Y., he flew to the plant to rebuke his managers.

"I got them to realize that it's not an expression of weakness to say we blew that one," he recalled in an interview. "We were saying to the workers you're less important than the machine of the clock."

EXPERIMENT BEGINS

The experiment began on Oct. 5, 1972, when over half of the workers in the plant agreed to participate in the project.

Up to the spring of 1974, the effort consisted mostly of making a study of the community and the workers and rounding up money and expert assistance from various foundations. Besides support from the U.A.W. and the company, the project has received aid from the Ford Foundation, the National Commission on Productivity, the Sloan Foundation, the Mellon Foundation, the H. E. Upjohn Institute for Employment Research, the Institute for Policy Studies in Washington and the German Marshall Fund.

Dr. Michael Maccoby, a psychologist at the Institute for Policy Studies, who has been head of a major study of work funded by Harvard University in 1970 called the Harvard Project on Technology, Work and Character, was called in to direct the effort.

He was determined that the work changes in the project would be initiated by the workers themselves.

"If management brings the change, then the project isn't working," he said in an interview.

The project set up a joint committee made up of four union and four management representatives, which oversees the effort. Under this committee are the basic units of workers and supervisors that make the changes.

Employes did not jump at the opportunity to join these units, called core groups.

In April, 1974, the main committee asked for volunteers for a group from the polish and buff department, where many workers expressed dissatisfaction. No one volunteered.

A shop steward was sent out to seek volunteers and finally found six workers.

EARLY SUSPICION

The group collapsed quickly, however, because of suspicion that management would use it to boost production despite assurances from union leaders that work standards could not be increased.

Finally, after further efforts to overcome opposition, small groups of three and four workers decided to see if they could work in teams, to determine among themselves such things as who would do what job, to keep their own records, and to cover for each other when one team member was absent.

These teams have found that they can turn out their production in much less time than before.

Oscar Rivers, a 34-year-old worker, used to come in at 6:40 A.M. and finish work at 3:30 P.M. like everyone else on his shift.

Now he and two other workers who polish the shells of mirrors for Cadillacs finish their quota of 1,716 shells a shift by 11:30 A.M. and go home.

Mr. Rivers, who earns $3.57 an hour for a full eight-hour shift, recalled that when the group first joined the experiment most were suspicious that as they produced more parts in less time the work standards would be put up.

But the standards have not changed, for it would violate the agreement signed between the local union and management covering the experiment.

"It's fine to be in a group," Mr. Rivers says. "Everyone cooperates. I get home now to see my kids get back from school."

He plans to use his extra time to take a course in auto mechanics under an educational program being set up at the plant.

The changes have not been made easily, or without problems.

GROUP PROBLEMS

At meetings of core groups, workers sometimes are reluctant to make suggestions and seize the initiative.

And there are many jobs that are machine-paced and thus not susceptible to change resulting from human cooperation.

Just across the aisle from Mr. Rivers sit two other workers, Queenie Jones and Lizzie Giles, who put 1,050 mirror shells an hour onto a moving conveyor belt. Their job is difficult to change, and they must stay the full shift.

James W. Carter, a union shop steward in polish and buff, is a critic of the program and has sought to get workers to sign a petition to end it.

He said that in the program there was "too much daydreaming about things down the road."

He contends that the program has not dealt with obvious bad physical conditions such as providing shields for polishers to keep metal flakes from flying into their faces.

But he conceded that the groups had opened an important channel for workers to voice their problems.

For Arthur McCarver, the plant manager, the program cannot be judged in terms of production standards.

"What we want to do is change the total atmosphere," he said, "so that people trust

us and share their everyday problems on the job."

So far, he thinks the effort has just scratched the surface.

By bringing workers together in core groups, he believes, the plant has a mechanism that can eventually bring a big change in the relationship between workers and management.

THE BOLIVAR PROJECT—OCTOBER 1972–APRIL 1975

Since the fall of 1972, the Bolivar Project has been sponsored jointly by Harman International Industries and the United Automobile Workers. The project was initiated to fill a need for a model for improving factory work so as to optimize human development. The program involved a total existing factory (in contrast to one built from scratch), with no special selection of workers. A central element is that management and a union jointly determine change according to principles of security, equity, individuation, and democracy.

The project is now entering a final year in which 1) what has been learned in experiments is being adopted on a plant-wide basis, and 2) a school is being instituted.

The project began with union and management gaining agreement from workers for an initial survey of attitudes toward work. Michael Maccoby, Director of the Harvard Project on Technology, Work and Character was invited by Sidney Harman, President of Harman International Industries and E. T. Michael, Director of Region 8, United Automobile Workers to carry out the project. A survey was made (with the help of the W.E. Upjohn Institute for Employment Research) in the summer of 1973 as a part of a larger study of technical, economic, social, and psychological factors in relation to the work. (See Final Technical Report of the Bolivar Project, February 15, 1974.)

In the fall of 1973, management and the union formed a Working Committee composed of five members selected by each group with the initial purpose of jointly solving problems expressed in the survey. The first issues considered included temperature and air pollution in the factory, parking problems, the institution of a credit union, etc.

The pace of the project slowed during contract negotiations during the winter of 1973–74. At the beginning of March a seminar was held at the plant to initiate experiments within various departments. The three-day seminar was led by Einar Thorsrud, Director of the Norwegian Industrial Democracy Project. Also contributing was Bert Jonsson, Director of Corporate Planning at AB Volvo.

In the spring of 1974, experiments were instituted with volunteers in Polish and and Margaret Duckles, the on-site Project co-ordinators, together with John Lyle, chief plant engineer, acted as resource people for the experiments, which resulted in new ways of organizing work, increased satisfaction and more effective work. By June, when the Advisory Board of the Project[1] met at the plant, it became clear that the experiments were a success. But they raised new problems of what to do with productivity gains and how to relate changes to the collective bargaining structure.

During the summer, experiments were expanded to include about 60 people in the three departments. Under the direction of Sanford Berlin, Vice-President of Harman International Industries, the top management of the plant also developed a new, cooperative mode of work which helped support the project's development.

In early September 1974, a group of workers, managers, and UAW officials visited factories in Sweden and Norway as a means of gaining ideas for the project. It is interesting to note that the participants from Bolivar considered the major benefit of the trip in observing problems that could be avoided. One result was the request by management that the project remain in the plant until all departments are part of the program.

During the fall, pressure grew from workers outside the experiments to be included. In January 1975, it was decided to expand the project gradually to include the whole factory. This was done by means of creating a "core group" in each department to analyze work and develop ideas for improvements.

At the same time, the Working Committee, top management, and UAW officials discussed the issue of what to do with earned idle time. This issue was resolved by a formula which allows workers and foremen in each department to propose a plan for how such time will be used. The plan must be approved by the Working Committee. This formula itself was approved through the collective bargaining procedure, thus reaffirming the union's role in determining rewards.

The guidelines for departments suggest that earned idle time may be used to leave early, to discuss work-related matters, or to be used in courses of instruction.[2]

The newest development in the program has been the establishment of a school at the factory. This grew out of the experimental groups which asked for courses in subjects ranging from industrial engineering to first-aid and typing. These courses were held at the factory during time gained by workers due to experimental improvements in work methods. The courses at the school are those petitioned for by workers. In some cases, workers and managers are the teachers. The school has the cooperation of the Hardeman County vocational education program which pays teachers of approved courses. A new full-time school coordinator, Loren Farmer, has been approved by the Education Committee composed of representatives of management, the union, and the project staff.

It should be noted that the company was hard-hit by the down-turn in the auto industry. A third of the workforce was laid-off during December and January. Yet, the project was not abandoned by either the company or the workers, and in fact it was expanded and developed. A main reason for this was the new spirit of communication and good faith. Management kept the workers fully informed about the economic situation and the workers accepted the facts of economic necessity. The company and union jointly sent a letter to laid-off workers inviting their participation in the school, and some have taken advantage of the offer.

The Next Year

The goals for the project in the coming year July 1, 1975–June 30, 1976, are:

(1) To establish the work improvement programs in every department of the factory.

(2) To develop the school as an on-going institution, including building class-rooms, developing a faculty (with a seminar on teaching), establishing ties with the county and state institutions (such as Memphis State University which has offered to cooperate with the school).

(3) To train managers and workers to take over the program and run it by themselves.

(4) To communicate our methods to representatives from other companies and unions who are now beginning to request information and want to visit Bolivar.

(5) To write the history of the project and publish scientific findings concerning the relationship between work and human development.

NATIONAL QUALITY OF WORK CENTER PROJECT AT THE TENNESSEE VALLEY AUTHORITY, TRANSMISSION PLANNING AND ENGINEERING DIVISION, CHATTANOOGA, TENN.

The establishment at TVA of a Quality of Work Experimental Project was the result of conversations in mid-1973 between Messrs. Arthur H. Allen, Head of the Employee Development staff of the Division of Personnel of the Authority, Robert H. Betts, Director of Personnel for the Authority, and Ted Mills, Director of the Quality of Work Program. In those initial discussions, no specific division was yet identified; the exploration involved the Quality of Work notion as applied to TVA. After several discussions, it was agreed by Messrs. Allen, Betts, and Mills to examine the possibility of a Project in the Power Production Division of the Authority, whose employees were involved in running TVA's power stations.

A meeting was arranged with all the line and staff managers of that Division, who approved the undertaking of an Experimental Project. Since union participation is required in all Quality of Work Experimental Projects, the next meeting was with the Trades & Labor Council and Salary Policy Employee Panel (SPEP), a consortium representing all unions involved in the TVA. For many internal reasons, the Trades & Labor Council, which represents the blue-collar workers in TVA, declined participation in an Experimental Project, which meant the proposed Project in the Power Production Division would not materialize.

At the same meeting, however, representatives of the many white collar unions in TVA expressed strong interest in participation in an Experimental Project. Representatives of the TVAEA and OPEIU suggested designation of the Transmission, Planning and Engineering Division as a potential site for an experimental project. At the instigation of Messrs. Betts and Allen, Mr. Charles Winn, Manager of the Division, Mr. William Ensign, Personnel Manager of the Division, and Mr. James Byerley, a representative of TVAEA, attended a Quality of Work Conference in Chicago on December 9, 1973, where they met Mr. Mills, and discussed the potential of an Experimental Project in their division. It was agreed that Mr. Mills would come to Chattanooga (headquarters of the TP&E Division) to meet with managers and union leaders of the Division, and with the Division's Cooperative Conference itself. On March 11, 1974, Mr. Mills visited Chattanooga, as planned, and met, separately with representatives of the unions, and representatives of the management. In these separate sessions, each party agreed to enter into the Experiment if the other party agreed, and also separately agreed, if the other party agreed, to waive prohibition of Cooperative Conference examination of "negotiable" matters. At a third meeting of the Cooperative Conference, in which both management and union representatives were present, it was agreed (in a Cooperative Conference, agreement is by consensus, not vote) that the Division would enter into a Quality of Work Experimental Project, if funding to furnish the services of a team of consultant experts could be secured. At the same meeting, it was agreed that the Cooperative conference would appoint a "select committee" which would determine whether a "Quality of Work Committee" should be appointed by the Cooperative Conference, or whether

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[1] The members of the advisory board are: Irving Bluestone, Vice-president, UAW; Harvey Brooks, Dean, Harvard School of Engineering & Applied Physics; Sidney Harman, President, Harmon International Industries; Berth Jonsson, Volvo Goteborg; John Lyle, chief engineer, Harman Industries, Bolivar; Michael Maccoby, Director, Harvard Project; E. T. Michael, regional director, UAW; Lubie Overton, President, Local 130 UAW; David Riesman, Harvard University; Ben Stephansky, Director, W. E. Upjohn Institute for Employment Research; and Einar Thorsrud, Work Research Institute, Oslo.

[2] It was decided not to allow workers to gain a financial bonus by increasing output above the standard, because, at the present time, this would lead to loss of jobs.

a reconstituted Cooperative Conference itself would become the quality of work committee.

On March 16, 1974, the labor-management Select Committee of the Conference met and by consensus decided that the Quality of Work committee would be separate from the Conference itself, but would report to the Conference its recommendations.

On March 14, 1974, in Knoxville, Mr. Mills met with Howard Coughlin, International President of the OPIEU, and gained his sanction for his union's participation in the experiment. On the same day Mr. Winn, director of the TP&E Division and Mr. Mills met with Lynn Seeber, General Manager of the Tennessee Valley Authority, and similarly received his approval and endorsement of the Project in the TP&E Division.

Both local union and management representatives had agreed to commence the Project; sanction for its commencement from the highest levels of management and the union had been secured. In the meetings in Chattanooga on March 11, both labor and management participants in the conference had supported Mr. Mills' suggestion that the selection of the expert consulting team be assigned to the Project should be made by the Project's Quality of Work Committee, from candidates recommended by NQWC.

From March 15 through July 25, 1974, there were meetings scheduled by the Quality of Work Committee both to establish itself and its operating procedures and to interview the various consultants recommended. On July 25, the Committee decided in favor of the consultant services of Arthur D. Little Company, and transmitted their choice to NQWC for action.

PROJECT HISTORY

The TVA project became an "official" NQWC project—joining NQWC's Rushton and Bolivar projects as #3—on September 10, 1974 in the first meeting of the TP&E Quality of Work Committee with the consultant Committee with the consultant team from ADL.

The first task the Quality of Work Committee (composed of 7 union and 5 management individuals) assigned itself was an intensive examination—or analysis—of work practices in the TP&E Division, which lasted three months through December, 1974. ADL and Committee members amassed a list of 171 critical observations by workers and managers about the Division's ways of performing work. The list included matters of pay, supervision, organization, management, and scores of small technical aspects of work performance which might be improved, changed, revised, or eliminated.

On December 16, 1974, at a 5-day-and-night workshop in a local motel, the Quality of Work Committee and ADL met to examine and prioritize the 171 action posibilities for workplace change. Those which were considered "barriers" to better performance were first identified, and given first priority. By the end of the week, an action study for change implementation had been mapped by the members of the Committee. The following week, the scores of flip-chart work sheets used by the Committee were displayed in a room on TP&E office premises, to acquaint *all members of the Division*—employees and managers—with the nature of the matters discussed and decisions made. The "analysis phase" was essentially ended and the "implementation phase" ready to begin.

One of the principal decisions made at the December workshop was to proliferate the QOW Committee throughout the Division, through formation of labor-management subcommittees, or task forces, each with an assignment, in a given "barrier" area, to report back to the QOW Committee with specific change recommendations.

Not surprisingly, the principal resistance to what was occurring swiftly in the Division came neither from the unions or top management of the Division or TVA itself. It came from many middle managers (branch chiefs) who perceived, with some accuracy, that the changes being explored radically altered their traditional authoritarian power base and former decision-making prerogatives, now subject to worker-participatory examination and change.

Also not surprisingly, a new sense of dynamism and freedom began to permeate the entire division, as task force deliberations in twelve hitherto "closed" areas of operations and procedures began to be experienced by Division employees in assaying specific daily performance criteria.

By April, 1975, several of the task forces had reported back major specific change recommendations to the QOW Committee, including switchyard design, employee performance appraisals, reorganization of field surveyors, redundancy in TP&E and Power Systems Operations, environmental problems, decision ladders and procedures, organization change, and employee utilization. As of April 1, some 74 of the Division's 400 total employees were *directly* involved in some aspect of the quality of work program.

Mr. BROCK. Mr. President, it was Senator NUNN who recognized the importance that this effort would have across America. I join him in that commitment to all working Americans in automobile plants, in dry cleaning establishments, and pumping gas stations. This legislation, I feel, will be a positive contribution to industrial harmony and the rebuilding of productivity through the 50 States. I commend both Senator PERCY and Senator NUNN, along with Senator JAVITS, whose intercession paved the way for union acceptance of this proposal.

The ACTING PRESIDENT pro tempore. The time of the Senator from Illinois has expired.

Mr. NUNN. Mr. President, I shall yield the remainder of my time for a very brief remark by the Senator from Kentucky.

I would like to say to the Senator from Tennessee that he has put his finger on the key to this bill. The greatest thing the Federal Government can do and the greatest thing the Senate can do is look at the Federal Government itself as to how it is impeding productivity in this Nation.

That is the single greatest thing that can be done.

So I join the Senator from Tennessee in emphasizing that point and thank him for his comment.

Mr. President, I yield the remainder of my time to the Senator from Kentucky, and I am informed that the Senator from Arizona would like to make a statement also. So if the Senator from Kentucky can use as little time as possible, I think we probably will accept his well-worded amendment.

Mr. HUDDLESTON. Mr. President, I send an amendment to the desk.

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

The assistant legislative clerk read as follows:

On page 16, line 9, strike out "and".

On page 16, line 13, strike out the period and insert "; and".

On page 16, after line 13, insert the following:

"(15) study the effects of materials availability upon productivity growth.".

The ACTING PRESIDENT pro tempore. There are 10 minutes to each side on the amendment.

Mr. HUDDLESTON. Ten minutes to each side on the amendment?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. HUDDLESTON. Mr. President, the amendment is very brief. It has been agreed upon by both sides of the aisle, the floor managers.

I would like to commend the Senator from Georgia, the Senator from Illinois, and others who have been instrumental in developing this legislation and bringing it to the floor of the Senate.

Mr. President, of the multitude of problems which face us today, faltering productivity has probably received the least amount of attention. Yet, one of the primary reasons for our rising standard of living over the years has been the growth in the productivity of our work force. By increasing our productivity the average American has been able to acquire a greater share of our national wealth than would have been possible under other circumstances.

The fruits of our expanding productivity have been beneficial to us in more than one way. During a time when inflation is stealing our purchasing power a rising rate of productivity can go a long way toward offsetting the increasing costs. Without adequate productivity growth, wage increases are neutralized by higher prices and wage earners find themselves having to make painful adjustments to lower standards of living.

Productivity growth has varied considerably from year to year, although on the average our economy has experienced a growth in productivity. For example, the rate of increase was 3.5 percent from 1960 to 1965 but fell to 1.9 percent from 1965 to 1970. However, these fluctuations demonstrate that we are capable of achieving and sustaining high levels of productivity growth over long periods of time. This in itself indicates that there is positive action we can take to influence the factors affecting the rate of growth. Until now we have not approached this problem in an organized and consistent manner. Instead, we have left the process to chance and the result has been the wide differences in productivity growth which we now see in the statistics. The bill before us today, S. 2195, offers us the opportunity to approach this problem in a constructive manner which will benefit all Americans now and in the future. By creating the National Center for Productivity and Quality of Working Life we will establish a focal point which will collect the existing information and knowledge we have relating to productivity growth, review and evaluate it and then disseminate its findings to all sectors of the economy both public and private.

An important facet of productivity—and one which is recognized in the statement of the bill's objectives—is the availability of basic industrial raw materials. The machinery left idle for lack of replacement parts, the goods incomplete for want of a small piece, the manufactured item unproduced as a result of materials unavailability, and the rework-

ing of manufacturing machinery and processes necessitated by the use of lower grade or substitute resources do little to enhance productivity. Conversely, the oversupply of materials in a declining economy offers small incentive to pursue the productivity characteristic of a healthy economy and essential for the efficient operation of most businesses.

The availability and pricing of materials, of course, impact upon our economy and society more at certain times than others. In times of economic expansion and growth, resources often are strained, prices exaggerated; in periods of depression and recession, materials are generally readily available at lowered prices. The objective, however, should be to manage these cyclical moves in such a manner that they do not unduly disrupt our manufacturing processes, contribute to dislocations in our economy and lead to lowered productivity.

In 1974, as a member of the Senate Committee on Government Operations that initiated this legislation, I was privileged to conduct hearings on materials availability and pricing. Both the distinguished majority and minority floor managers of this bill participated in those hearings. Perhaps they remember the testimony of the witness who referred to the expensive piece of equipment which could not be finished because of the unavailability of a small piece costing only cents—or of the witness who told of going out in the mornings to check the overnight deliveries in order to determine whether or not the company could use its workers that day.

These are not situations to relish. They are not desirable for our economy or our business community. They are contrary to efforts to increase productivity. I believe, consequently, that it would be most useful for the Center which is to review this important area of productivity to include in their deliberations consideration of the role that the availability and pricing of our basic materials—such as iron and steel, aluminum and a host of other resources—play in productivity. As I mentioned previously, the significance of these resources is acknowledged in the bill's statement of intent. I would hope that we could go a step further and specify that the relationship between the availability or unavailability of raw materials and productivity will be explored by the Center. My amendment would simply direct the Center to undertake as one of its specific functions the study of the effects of materials availability on production by growth. In this way we can assure that this potentially critical area will receive the full and complete scrutiny which my investigations show that it deserves.

Recent statistics reveal that the old problem of inflation is still very much with us and will probably become more pronounced as our economic recovery progresses. Unless we are to stand idly by while we watch the standard of living of the average citizen go down the drain, we must commit ourselves to fight the fires of inflation as aggressively as possible. I believe that this bill, as amended, will give us another effective weapon in this battle, and I urge the adoption of the amendment.

Mr. NUNN. Mr. President, I have read the amendment and I worked with the Senator from Kentucky on this particular measure. Certainly, from my point of view, I am willing to accept the amendment.

Mr. PERCY. Mr. President, from the standpoint of the minority, we fully accept the amendment and fully support it and express deep appreciation to our distinguished colleague.

Mr. NUNN. Mr. President, before we act on the amendment, I have some time on the amendment, I yield on my time on the amendment such time as the Senator from Arizona may need.

Mr. GOLDWATER. I thank the Senator.

Mr. President, I rise in opposition to this bill, recognizing that it has a very good sound to it. I spent a good part of my life in business and I have naturally maintained an interest in business since I have been in politics.

I note that part of the bill wants to study policies which impede the productive performance and efficiency of the American economy, and yet another part would say it is the continuing policy of the Federal Government, in cooperation with State and local governments, to use all practicable means and measures, including financial and technical assistance, to stimulate a rate of productivity growth.

No one can argue, Mr. President, with those ideas or those goals. But let us face it: The American businessman today is literally being put out of business by the Federal Government, and being put out of business by the multiplicity of regulatory agencies which now hold him back.

We have had very little capital growth in this country. That cannot be blamed on the corporations. It cannot be blamed on the small businessman. It can be blamed mostly upon the Government and to some extent, I might say, on the growth of the union power over the Congress.

I read an editorial the other day asking, Is the United States going the way of Great Britain? Great Britain is now practically bankrupt because the labor unions have taken over. We see in our great cities in this country today, with the exception of the city of Chicago, I might say, cities that are in danger of bankruptcy because of their having been forced to adopt policies which are strictly against the wise operation of any business or government.

I have been arguing this case on the floor of the Senate since the early 1950's, that we have not had enough reinvestment; we have not had enough profit in this country to encourage people to take a piece of that profit and put it back into a new building, a new store, improvement by the purchase of machinery, so that more men and women might be employed.

There is no way the Government can create these things. They have been trying it ever since Lord Keynes came over here in the middle 1930's and, in my opinion, did more damage to the American economy than any one person has ever done.

The Federal Government has to get out of the hair of American business. We have to start ending by legislative fiat the agencies that we now have.

I recognize that is one of the purposes of this legislation. I have listened to these purposes for nearly 22 years and I have never yet seen Congress stand up and abolish one regulatory agency. It now requires—I think as of last year—$180 million just to fill out the forms, some 16 million forms that American businessmen are required to fill out and mail to Washington each year.

Mr. PERCY. Will the distinguished Senator yield?

Mr. GOLDWATER. If the Lord will speak above and say, "Goldwater, this will end the agencies," I would vote for it, but I have been around here too long. I think I will be here to hold my good friends from Tennessee and Georgia to their promise to oppose this because they will not see any change.

Mr. PERCY. Will the Senator yield?

Mr. GOLDWATER. I will be happy to yield.

Mr. PERCY. There is one agency we abolished last month, the Federal Mining Review Board. That was a bill I introduced. We are taking them as fast as we can, one by one. We are trying to eliminate as much Government regulation as we possibly can. I assure the Senator on this particular section he has mentioned that Robert Galvin, of one of the largest manufacturers in Arizona, Motorola, sat down with me on a weekend and we worked on this section to see that it is the policy of the Government of the United States that we should increase productivity. He is now working on a matter where it is the policy of this Government that we create capital in the private sector and have laws that will enable us to do so because of the capital shortage that we are facing. But he felt very strongly about this section. It was worked out in intimate detail with him and his advisers. I am very happy to attribute a great deal of credit for this particular section establishing a Federal national policy including the agencies of government, State, local, and Federal, as a matter that we should, as a policy, move toward increasing our productivity. An honest day's pay and an honest day's work is the principle underlying this whole bill.

Mr. GOLDWATER. As I said, that sounds great. It sounds like free beer, wide roads, and mother love. But I have been around this place too long. The Senator has eliminated one agency. I think that is great, one agency in 40 years. We did 85 percent of the Hoover report. If we had just done the 15 percent left we would not have the trouble we are in today.

The Senator mentioned our good friend Bob Galvin. Why did he have to build factories in Korea? Because he cannot make any money in the United States operating as he does with the tremendous competition mostly from Japan and their lower wage scales which some day will balance out. I am not worried about lower

wage scales elsewhere. I am worried about the tremendous regulations on a man like Bob Galvin and Motorola. I could recite ad infinitum what he has to put up with in the construction of one radar.

My good friend from Chicago has been one of the most prominent businessmen in this country and can certainly remember the days when every time we turned a crank on a Bell and Howell camera about 16 Government reports fell out of the other end.

I am opposed to this just as a matter of habit. I have yet to see this body or the other body show any indication that we are going to stand up and say to the American union movement "You have gone far enough" or to say to the bureaucrats downtown "You have gone far enough. We are going to start chopping you off."

We will not do that. They will come walking up on this Hill and just tell us, "No."

Mr. NUNN. I yielded to the Senator from Arizona and I hate to interrupt.

Mr. GOLDWATER. I am all through.

Mr. NUNN. I assured the majority leader that we would vote on this at 12:30 and we did have a 20-minute time limitation.

I would like to say in brief response that the Senator from Georgia shares all of the frustrations pointed out by the Senator from Arizona.

A vote of no on this particular bill would indicate that the Senator from Arizona was in favor of continuing the Commission which everyone agrees should be abolished. I would say the Senator should carefully reconsider his no vote. No one thinks the Commission is doing the job. The bill does not create a new agency but restructures one which is not working. I know the Senator from Arizona would not want his constituents to think that he wanted to continue an agency that everyone knows would not be doing a job.

Mr. GOLDWATER. I recognize the distinguished junior Senator from Georgia as being one of the finest Senators who has come to this body in my lifetime but I did not know he was so cute. The people of Arizona know exactly why I am voting against it. If I believed with him, I would join him. But 1 year from now I will ask, "What have you stopped" and the Senator will say, "Nothing."

Mr. NUNN. We may join together at that point in time.

Mr. PERCY. In 30 seconds I can report to the Senator from Arizona an optimistic note. We started with the objective in the Government Operations Committee of trying to reduce the number of Presidential commissions and committees that consume $75 million a year. We devised a method by which they have to get renewed, and in the last year we have eliminated 30 of them at considerable savings to the Government. We share the philosophy and objective that the Senator from Arizona has expressed. We are making a little progress. We have a lot more room to go, but we are along the same road.

Mr. NUNN. Mr. President, I believe the amendment has not yet been adopted. After that, I believe we already have an order for a rollcall vote. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. NUNN. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

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

Mr. ROTH. Mr. President, I rise in support of this legislation to establish a National Center for Productivity and Quality of Working Life. The purpose of this legislation, which I have cosponsored, is to establish a national policy to encourage productivity growth in all sectors of the economy and to promote efforts to improve the rate of national productivity growth.

The decline in our productivity over the past decade has significantly contributed to the economic problems we are experiencing today. Our decreasing productivity, combined with spiraling inflation, has greatly affected the standard of living in the United States, and something must be done.

The rate of productivity growth in the United States has declined in 4 of the past 6 years. In recent years the United States has fallen to ninth place among the dozen leading industrialized nations in the rate of productivity increase, weakening our competitive position in world markets.

One of the nations outstripping us is Japan. Under prodding from the United States, Japan's government in the mid-1950's established a national productivity center, and from 1970 to 1974, productivity in Japan increased 43 percent. In comparison, the U.S. productivity rate increased only 8.4 percent during that period, and 1974 showed the first productivity decline in this country in 27 years.

This bill will not set up a new bureaucracy. Instead, it will set up a single Government focal point to coordinate activities in all sectors of the economy to improve productivity growth.

The new productivity center will gather, analyze, and disseminate productivity information and fully utilize the talents and skills available at the State and local level.

One of the key provisions of the bill is designed to break down the Government rules, regulations, and policies which impede the productive performance and efficiency of the American economy.

This legislation specifically directs the productivity center to review and identify all Federal laws and regulations, and recommend to the President and Congress legislation to reform policies which adversely affect our productivity growth. I believe that our free enterprise system has become bogged down by excessive Government regulations, many of them devised by unelected bureaucrats. Government should not control our lives. We should control Government. And this legislation is the first step that is necessary to regain control of the Government. This legislation will encourage labor, business, and Government to work in unison to improve this Nation's productivity and working conditions. Only through increased productivity can this country maintain and increase employment opportunities, stabilize the cost of living, and provide job security for all Americans.

Mr. TAFT. Mr. President, I welcome the increased attention to problems of productivity in Government as well as the private sector, which the creation of the National Center for Productivity and Quality of Working Life will bring about. The previous Commission, while a good first step, was not adequate to meet the challenge we face in the current economic climate. Productivity is of increasing concern in an era of expensive energy and balance of payments difficulties. In dealing with our world economic situation, we need to raise our rate of growth of productivity to match that of our major trading partners and competitors.

Especially welcome is the coordination the National Center is instructed to encourage among Government, labor, and management in effecting the required productivity increases while avoiding shocks to jobs and employment patterns, and the emphasis placed on labor-management cooperating in matters of employee morale. I look forward to the success of the National Center in promoting a new awareness of the benefits to labor, management, and the consuming public, that regulatory reform and increased productivity will bring.

The ACTING PRESIDENT pro tempore. The Senator from Georgia has 3 minutes remaining. Does the Senator care to yield back the remainder of his time?

Mr. NUNN. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The yeas and nays have been ordered. The clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Utah (Mr. MOSS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), and the Senator from Connecticut (Mr. RIBICOFF) are absent on official business.

I also announce that the Senator from Alabama (Mr. ALLEN) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS),

the Senator from Arizona (Mr. FANNIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I also announce that the Senator from New Jersey (Mr. CASE) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE), and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 66, nays 15, as follows:

[Rollcall Vote No. 379 Leg.]

YEAS—66

Abourezk	Gravel	Nelson
Baker	Griffin	Nunn
Bartlett	Hansen	Pastore
Beall	Hart, Gary W.	Pearson
Bentsen	Haskell	Pell
Brock	Hathaway	Percy
Brooke	Hruska	Proxmire
Buckley	Huddleston	Randolph
Burdick	Inouye	Roth
Byrd, Harry F., Jr.	Jackson	Schweiker
Byrd, Robert C.	Javits	Scott, Hugh
Cannon	Johnston	Sparkman
Chiles	Kennedy	Stafford
Church	Leahy	Stennis
Clark	Mansfield	Stevenson
Culver	Mathias	Symington
Dole	McClure	Taft
Domenici	McGovern	Talmadge
Eagleton	McIntyre	Tunney
Eastland	Metcalf	Weicker
Fong	Mondale	Young
Ford	Montoya	
	Muskie	

NAYS—15

Bellmon	Helms	Thurmond
Bumpers	Laxalt	Tower
Cotton	McClellan	
Cranston	Morgan	
Garn	Scott, William L.	
Glenn	Stone	
Goldwater		

NOT VOTING—19

Allen	Hartke	Moss
Bayh	Hatfield	Packwood
Biden	Hollings	Ribicoff
Case	Humphrey	Stevens
Curtis	Long	Williams
Fannin	Magnuson	
Hart, Philip A.	McGee	

So the bill (S. 2195) was passed, as follows:

S. 2195

An Act to establish a National Center for Productivity and Quality of Working Life; to provide for a review of the activities of all Federal agencies including implementation of all Federal laws, regulations, and policies which impede the productive performance and efficiency of the American economy; to encourage joint labor, industry, and Government efforts to improve national productivity and the character of working conditions; to establish a Federal policy with respect to continued productivity growth and improved utilization of human resources in the United States; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Productivity and Quality of Working Life Act of 1975".

TITLE I—FINDINGS, PURPOSE, AND POLICY; DEFINITIONS

SEC. 101. The Congress finds that—

(1) the rate of productivity growth in the United States has declined during four of the past six years;

(2) the decline in the rate of productivity growth has contributed to inflation, to economic stagnation, and to increasing unemployment;

(3) since 1965, the rate of productivity growth of the United States has been consistently lower than that of many industrial nations in the world, adversely affecting the competitive position of the United States in world markets;

(4) growth in productivity of the economy of the United States is essential to the social and economic welfare of the American people, and to the health of the world economy;

(5) growth in the productivity of the Nation's economy is essential to maintain and increase employment, to stabilize the cost of living and to provide job security;

(6) mounting worldwide materials shortages and their consequent inflationary results make increased efficiency in the utilization of these resources of urgent importance;

(7) sharing the fruits of productivity gains among labor, management, and owners may considerably influence productivity;

(8) the continued development of joint labor-management efforts to provide a healthy environment for collective bargaining can make a significant contribution to improve productivity and foster industrial peace;

(9) factors affecting the growth of productivity in the economy include not only the status of technology and the techniques of management but also the role of the worker in the production process and the conditions of his working life;

(10) there is a national need to identify and encourage appropriate application of capital in sectors of American economic activity in order to improve productivity;

(11) there is a national need to identify and encourage appropriate application of technology in all sectors of American economic activity in order to improve productivity;

(12) there is a national need to identify and encourage the development of social, economic, scientific, business, labor, and governmental contributions to improve productivity growth, and increased economic effectiveness in the public and private sectors of the United States; which objectives can best be accomplished through maximizing private sector and State and local development of such contributions;

(13) there is a national need to identify, study, and revise or eliminate the laws, regulations, policies, and procedures which adversely affect productivity growth and the efficient functioning of the economy;

(14) there is a national need to increase employment security through such activities as manpower planning, skill-training and retraining of workers, internal work force adjustments to avoid worker displacement, assistance to workers facing or experiencing displacement, and all other public and private programs which seek to minimize the human costs of productivity improvement, thereby diminishing resistance to workplace change and improving productivity growth;

(15) there is a national need to develop new technologies for the more effective production of goods and services;

(16) there is a national need to encourage and support efforts by qualified institutions of higher learning to identify and inaugurate programs which will improve productivity;

(17) there is a national need to develop precise, standardized measurements of productivity; and

(18) there is a national need to gather and disseminate information about methods and techniques to improve productivity.

STATEMENT OF PURPOSE

SEC. 102. It is the purpose of this Act—

(1) to establish a national policy which will encourage productivity growth consistent with needs of the economy, the natural environment, and the needs, rights, and best interests of management, the work force, and consumers; and

(2) to establish as an independent establishment of the executive branch a National Center for Productivity and Quality of Working Life to focus, coordinate, and promote efforts to improve the rate of productivity growth.

POLICY

SEC. 103. (a) The Congress, recognizing the profound impact of productivity on the interrelations of all components of the national economy, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, to use all practicable means and measures, including financial and technical assistance, to stimulate a high rate of productivity growth.

(b) It is the continuing responsibility of the Federal Government to use all practicable means to improve and coordinate Federal plans, functions, programs, and resources to carry out the policy set forth in this Act.

(c) The laws, rules, regulations, and policies of the United States shall be so interpreted as to give full force and effect to this policy.

DEFINITIONS

SEC. 104. For the purposes of this Act—

(1) the term "Center" means the National Center for Productivity and Quality of Working Life;

(2) the term "Board" means the Board of Directors of the Center;

(3) the terms "productivity growth" and "improved productivity" shall be interpreted to include, but not be limited to, improvements in technology, management techniques, and the quality of working life; and

(4) the term "quality of working life" shall be interpreted to mean the conditions of work relating to the role of the worker in the production process.

TITLE II—NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE ESTABLISHED

SEC. 201. There is hereby established as an independent establishment of the executive branch of the Government the National Center for Productivity and Quality of Working Life.

BOARD OF DIRECTORS

SEC. 202. (a) The Center shall have a Board of Directors, to be comprised of not more than twenty-five members, as follows:

(1) a Chairman, appointed by the President, by and with the advice and consent of the Senate;

(2) the Secretary of the Treasury;

(3) the Secretary of Commerce;

(4) the Secretary of Labor;

(5) the Director of the Federal Mediation and Conciliation Service;

(6) the Executive Director of the Center;

(7) not less than three members who shall be appointed by the President, by and with the advice and consent of the Senate, from among qualified private individuals in manufacturing and service industries;

(8) not less than five members who shall be appointed by the President, by and with the advice and consent of the Senate, from among qualified private individuals from labor organizations;

(9) not less than two members who shall be appointed by the President, by and with the advice and consent of the Senate, from among qualified individuals in State or local governments;

(10) not less than one member who shall be appointed by the President, by and with the advice and consent of the Senate, from among the general public;

(11) not less than one member who shall be appointed by the President, by and with the advice and consent of the Senate, from among qualified individuals associated with leading institutions of higher education; and

(12) such other qualified members from the public or private sectors whom the President may deem appropriate who shall be appointed by the President, by and with the advice and consent of the Senate.

When unable to attend a meeting of the Board, a member appointed under clauses (2), (3), (4), and (5) shall appoint an appropriate alternate from such members Department or agency to represent such member at that meeting.

(b)(1) The members of the Board appointed under clauses (7), (8), (9), (10), (11), and any private sector members appointed pursuant to clause (12) of subsection (a) shall be appointed for a four-year term coterminous with the term of the President. Members other than members appointed under such clauses, with the exception of the Chairman, shall serve as long as such member is head of the department or agency represented on the Board. No person shall serve as an acting or temporary member in positions requiring Senate confirmation including that of Chairman, for a period in excess of three months.

(2) The President shall appoint a Chairman for a term of four years coterminous with the term of the President. In appointing a Chairman, the President may appoint an individual who is an officer of the United States. If that officer has been appointed to his current position, by and with the advice and consent of the Senate, or if such individual is the Vice President of the United States, such individual may be appointed chairman by the President without the requirement of confirmation by the Senate.

(c) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term.

(d)(1) Each member of the Board appointed under clauses (7), (8), (9), (10), (11), and any private sector members appointed pursuant to clause (12) of subsection (a) may be compensated at the daily rate provided for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including travel time, for each day such member is engaged in the performance of his duties as a member of the Board and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in carrying out the functions of the Board.

(2) Other members of the Board, with the exception of the Chairman, and the Executive Director of he Center shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Board.

(3) The Chairman shall be compensated as set forth in paragraph (1) of this subsection, except if the Chairman holds some other position in the Federal Government such individual shall be compensated as set forth in paragraph (2) of this subsection.

(e)(1) The Chairman shall appoint an Executive Committee of the Board, not to exceed seven members, including the executive director of the Center.

(2) The Executive Committee of the Board shall meet at the call of the Chairman, but in no case less frequently than once every ninety days.

EXECUTIVE DIRECTOR; DEPUTY DIRECTOR

SEC. 203. (a) The Center shall have an Executive Director, who shall be appointed by the President by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of fitness to perform the duties and functions of the office. No person shall serve as acting or temporary Executive Director for a period in excess of three months.

(b) The Executive Director shall appoint a Deputy Director, who shall perform such functions as the Executive Director may prescribe. The Deputy Director shall act for and exercise the powers of the Executive Director during the absence or disability of the Executive Director.

(c) The Executive Director shall be responsible for the exercise of all powers and the discharge of all duties of the Center. The Executive Director shall have authority over and control of all of the staff of the Center and their activities. The Executive Director shall maintain budgets and allocate available funds as appropriate in carrying out the provisions of this Act.

(e) The Executive Director shall be compensated at a rate not to exceed that provided for Executive level IV under section 5315 of title 5 of the United States Code as determined by the President, and shall have no other employment, public or private, during the tenure of his appointment.

FUNCTIONS OF THE CENTER

SEC. 204. The Center shall—

(1) develop and establish, in consultation with the appropriate committees of the Congress and with the appropriate departments and agencies of the executive branch, a national policy for productivity growth in the public and private sectors of the United States consistent with the purposes of this Act;

(2) seek, stimulate, and encourage maximum active participation of—

(A) the private sector of the Nation's economy, including labor organizations, associations and confederations, business enterprises and associations, institutions of higher education, foundations and other philanthropic organizations and research centers and institutes; and

(B) the public sector of the Nation's economy, including Federal, State, and local governments and agencies thereof, including institutions of higher education,

in efforts to improve the rate of productivity growth in all sectors of the Nation's economy;

(3) seek, stimulate, and encourage maximum active participation of the public agencies and private organizations identified in clause (2) of this section through identification and encouragement of selected research and demonstration programs implemented by public agencies and qualified private organizations which will—

(A) increase the rate of productivity growth in the public and private sectors of the National economy through improved and innovative utilization of technological and human resources; and

(B) develop, refine, and apply accurate and reliable measurement techniques to evaluate changes in productivity;

(4) to identify, study, and review—

(A) existing Federal, State, and local statutes, regulations, and fiscal policies which adversely affect productivity growth or the economic performance of the public and private sectors of the United States;

(B) incentives to encourage industry and labor initiatives in the development of methods, techniques, and systems for the improved utilization of technological and human resources in the public and private sectors;

(C) existing and new programs, plans, and other methods, including advanced warning systems, retraining programs, retirement and separation programs, designed to counteract threats to job security which may result from efforts to improve productivity;

(D) jointly, with the Civil Service Commission, the impact of Federal personnel policies, statutes, and regulations affecting the productivity of Federal agencies and the quality of working life of Federal employees; and

(E) the need and feasibility of providing, directly to potential users, public or private, various Center services in return for payment to the Center, and methods by which charges for such services will be established;

(5) recommend to the President, the Congress, the appropriate agencies and departments of the Federal Government, and State and local governments, any legislation, revisions of regulations, policies, practices, and procedures which result from the activities carried out under clause (4) of this section;

(6) encourage, support, and initiate efforts in the public and private sector specifically designed to improve cooperation between labor and management in the achievement of continued productivity growth: *Provided, however,* That no activities of the Center involving consideration of issues includes in labor-management agreements shall be undertaken without the consent and cooperation of the parties to that agreement;

(7) encourage departments and agencies of the Federal Government to initiate, stimulate, and support efforts in both the public and private sectors of the United States to improve the rate of productivity growth;

(8) coordinate all activities referred to in subsection (7) of this section in order to eliminate interagency duplication of effort and cost, to insure that Center activities will not unnecessarily conflict or overlap with such other activities, and to maximize the effectiveness of all such Federal programs and activities;

(9) coordinate and consult with the departments and agencies of the Federal Government in the obligation and expenditure of funds for activities and projects in both the public and private sectors to improve productivity growth;

(10) identify, develop, and support activities, programs, systems, and techniques, in the various departments and agencies of the Federal Government for measuring productivity growth within such departments and agencies;

(11) collect and disseminate relevant information obtained by the Center or other public agencies, institutions of higher education, or private organizations engaged in projects under this Act, including information related to new or improved methods, systems, technological developments, equipment, and devices to improve and stimulate productivity growth, and to develop and implement a public information program designed to inform the public of the meaning and importance of productivity, and productivity growth;

(12) encourage and coordinate the efforts of State and local governments, and institutions of higher education, to improve productivity;

(13) maintain liaison with organizations, both domestic and foreign, involved in efforts to improve productivity;

(14) determine the Nation's needs for productivity-related management and analytical skills and to encourage and facilitate the development of training programs in such skills; and

(15) study the effects of materials availability upon productivity growth.

POWERS

SEC. 205. In carrying out its functions, the Center is authorized—

(1) to enter into contracts or other funding arrangements, or modifications thereof, in order to carry out the provisions of this Act;

(2) to organize and conduct, directly by contract or other funding arrangements with other public agencies or private organizations, conferences, meetings, seminars, workshops, or other forums for the presentation and dissemination of relevant information generated or collected pursuant to the provisions of this Act;

(3) to make such studies and recommendations to the President and to Congress as may be necessary to carry out the functions of the Center;

(4) to implement a program and secure necessary facilities for the collection, collation, analysis, and interpretation of data and information as required in order to carry out the public information functions under this Act; and

(5) to undertake such other studies, reviews, activities, and to make such recommendations and reports as may be required to carry out the functions of the Center.

CONTRACTS AND OTHER FUNDING ARRANGEMENTS—CONDITIONS

SEC. 206. (a) No contracts or other funding arrangements may be entered into under this Act unless—

(1) such contracts or other funding arrangements will be consistent with the policies and purposes of this Act and of potential benefit to other users in the public or private sectors;

(2) provisions are made to evaluate the demonstration program and maintain improvement data, such evaluation either to be implemented by the participating parties in accordance with specifications established by the Center, or to be implemented by or on behalf of the Center; and

(3) the participating parties agree that all information relating to any innovation or achievement generated in the course of any Center-funded demonstration program shall be public information.

(b) No contract or other funding arrangement shall be made or entered into pursuant to the provisions of this Act for a period of more than three years.

(c) Any non-Federal share of a project may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, or services.

CONTRACT AND OTHER FUNDING ARRANGEMENTS—CRITERIA

SEC. 207. (a) The Center shall prescribe by regulation, after consultation with appropriate agencies and officials of Federal, State, and local governments, basic criteria for the participating parties under this Act.

(b) If the Center determines, on the basis of information available to it during any fiscal year, that a portion of the funds provided to a participating party for that fiscal year will not be required by the party or will become available by virtue of the application of regulations established by the Center to govern noncompliance for reallocation under this section.

(c) The Center shall by regulation prescribe the basic criteria for determination of noncompliance by participating parties including appropriate provisions for notice and hearing with respect to such determination.

ANNUAL REPORT

SEC. 208. (a) Not later than December 31 of each year, the Center shall report to the President and to the Congress on activities pursuant to the provision of this title during the preceding fiscal year; such reports shall include a detailed statement of all public and private funds received and expended together with such recommendations as the Center deems appropriate. Such report shall include an analysis of the extent to which each agency of the Federal Government which has significant responsibilities for assisting in the improvement of productivity is carrying out such responsibilities consistent with the provisions of this Act, including (A) an accounting of all funds expended or obligated by such agencies for activities and projects to improve productivity growth. (B) an assessment of the extent to which such expenditures or obligations have furthered the policies of the Center, and (C) the Center's recommendations on how these expenditures and obligations can be better coordinated to accomplish the purposes of this Act.

(b) Each report required to be submitted to the Congress by this Act shall be referred to the standing committee or committees having jurisdiction over any part of the subject matter of the report.

TITLE III—FEDERAL AGENCY COORDINATION AND LIAISON WITH CENTER

SEC. 301. (a) Each department, agency, and independent establishment of the Federal Government shall designate a qualified individual to serve as liaison with the Center and to assist the Center in carrying out its functions pursuant to this Act.

(b) Each department, agency, and independent establishment of the Federal Government shall keep the Center currently informed of its program, policies, and initiatives to improve productivity which relate to the responsibilities of the Center, and shall consult with the Center prior to the obligation or expenditure of funds for activities or projects to improve productivity growth.

(c) Each Federal department, agency, and independent establishment of the Federal Government is authorized and directed to furnish or allow access to all relevant materials and information required by the Center to carry out its functions under this Act.

INTERNAL REVIEW

SEC. 302. Each department, agency, and independent establishment of the Federal Government, in coordination with the Center, shall study and review the promulgation and implementation of its statutory authority, policies, and regulations, and shall identify such statutes, policies, and regulations which adversely affect productivity growth in the public or private sectors of the United States, or those which impede the efficient functioning of the Nation's economy, and shall recommend to the President and the Congress, or implement where appropriate, alternative statutes, policies, and regulations which will contribute to the achievement of the purposes of this Act.

SUPPORT OF EXTERNAL ACTIVITIES

SEC. 303. Each department, agency, and independent establishment of the Federal Government, in coordination with the Center, shall, to the extent appropriate, make available to State and local governments, labor organizations, industry, public institutions, and other qualified organizations advice, information, and support, including financial and other assistance, designed to maintain, promote, and enhance sustained productivity growth in the public and private sectors of the United States.

INTERNAL PRODUCTIVITY

SEC. 304. Each department, agency, and independent establishment of the Federal Government shall identify, develop, initiate, and support appropriate programs, systems, procedures, policies, and techniques to improve the productivity of such departments and agencies, including the implementation, where desirable, of specific programs recommended, supported, or implemented by the Center.

EFFECT ON PRIOR PROVISIONS

SEC. 305. Nothing in this title affects any specific statutory obligation of any Federal agency (1) to coordinate or consult with any other Federal or State agency or (2) to act, or to refrain from acting, contingent upon the recommendations or certification of any other Federal or State agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

SEC. 401. The Executive Director is authorized to—

(1) prescribe such regulations as are deemed necessary to carry out the purposes of this Act;

(2) receive money and other property donated, bequeathed, or devised, or remitted in payment for services rendered, without condition or restriction other than that it be for the purposes of the Center;

(3) receive (and use, sell, or otherwise dispose of, in accordance with clause (2)) money or other property donated, bequeathed, or devised to the Center, except for such money and other property which includes a condition that the Center use other funds of the Center for the purpose of the gift, in which case two-thirds of the members of the Board of Center must approve such donations;

(4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of the Act in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed the maximum daily rate prescribed for GS-18 under section 5332 of title 5, United States Code;

(6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem as authorized by section 5703 of title 5, United States Code;

(7) utilize, on a reimbursable or nonreimbursable basis the services, equipment, personnel, and facilities of any other department or agency of the United States;

(8) establish one or more task forces to assist and advise the Center, composed of individuals who, by reason of experience, are qualified for such service. Each member of any such task force who is not an officer or employee of the Federal Government may receive an amount not to exceed the maximum daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, for each day such individual is engaged in the actual performance of duties (including traveltime) as a member of such a task force. Members may be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties; and

(9) make advances, progress, and other payments deemed necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (21 U.S.C. 529).

TITLE V—EVALUATION BY THE COMPTROLLER GENERAL

SEC. 501. (a) The Comptroller General of the United States shall audit, review, and evaluate the implementation of the provisions of this Act by the Center.

(b) Not less than thirty months nor more than thirty-six months after the effective date of this Act, the Comptroller General shall prepare and submit to the Congress a report on his audit conducted pursuant to subsection (a), which shall contain, but not be limited to, the following:

(1) an evaluation of the effectiveness of the Center's activities;

(2) an evaluation of the effect of the activities of the Center on the efficiency, and effectiveness, of affected Federal agencies in carrying out their assigned functions and duties under this Act; and

(3) recommendations concerning any legislation he deems necessary, and the reasons therefor, for improving the implementation of the objectives of this Act as set forth in section 102.

TITLE VI—REPEAL AND TRANSFER

REPEAL OF PUBLIC LAWS 92-210 AND 93-311

SEC. 601. Section 4 of Public Law 92-210, and Public Law 93-311, relating to the National Commission on Productivity and Work Quality are repealed.

TRANSFER OF FUNCTIONS AND STAFF

SEC. 602. (a) The functions and staff of the National Commission on Productivity and Work Quality are hereby transferred to the Center.

(b) All property, records, and contracts as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred by subsection (a) are transferred to the Center.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

SEC. 701. There are authorized to be appropriated to carry out the purposes of this Act, not to exceed $6,250,000 for the fiscal year ending June 30, 1976, and the subsequent transition period ending September 30, 1976; not to exceed $5,000,000 for the fiscal year ending September 30, 1977; and not to exceed $5,000,000 for the fiscal year ending September 30, 1978. Funds appropriated for any fiscal year shall remain available for obligation until expended.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, I will take a moment to congratulate the sponsors of the bill. Senator NUNN of Georgia, Senator PERCY, and Senator JAVITS are the prime sponsors of the bill.

We spend a considerable amount of time in Congress and we pass many laws. Often these laws cause problems to the people who make this country go in the private sector.

In this bill we see a landmark piece of legislation that really will endeavor to help the private sector in increasing the productivity of this country and better the working conditions of the working people in this country.

This is the kind of spirit in legislation that we need to think more about in this body and try to determine how we can make the system work and work better, rather than how we set something up that harasses people.

The work and dedication of the Senators is commendable. I know, personally, the time that Senator NUNN has devoted to the bill, and I know the cooperation that existed among Senator NUNN, Senator PERCY, Senator JAVITS and other cosponsors of the bill, and the hearings that they held in the Committee on Government Operations.

This bill is just a start. But if we can follow up to ascertain that the council is implemented and given the kind of help and support that it needs, I think it will go a long way toward insuring that we are going to have more than 200 years for an anniversary in this country.

I congratulate them on their efforts on this bill.

Mr. PERCY. Mr. President, will the Senator yield for just a comment?

Mr. CHILES. I yield.

Mr. PERCY. Mr. President, I commend the distinguished Senator from Florida for the work that he has done on this bill. He deserves a great deal of commendation.

I was only sorry he was not in the Chamber during the very eloquent and pertinent comments made by the distinguished Senator from Arizona (Mr. GOLDWATER).

Senator GOLDWATER raised certain objections in principle, and the principles I did not disagree with one bit.

The question is can we with this legislation and through this center implement, carry forward, and remove many of the obstacles and objectives that Senator GOLDWATER very wisely pointed out. I think we can accomplish what we tried to build in.

We can go back to the fact that in World War II labor and management sat down together in teamwork and they created productive labor-management committees to work together. That is why labor and management have worked so closely with us in creating and overwhelmingly support this legislation.

I thank our distinguished colleague for his very thoughtful comments.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 10 minutes each.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

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

ORDER FOR RESUMPTION OF CONSIDERATION OF S. 1281 at 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 2 p.m. today the Senate resume consideration of S. 1281, the so-called redline bill.

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

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 12:59 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FORD).

HOME MORTGAGE DISCLOSURE ACT OF 1975

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1281, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1281) to improve public understanding of the role of depository institutions in home financing.

The PRESIDING OFFICER. Time for debate on this bill is limited to 2 hours, to be equally divided between and controlled by the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Texas (Mr. TOWER), with 1 hour on any amendment and with 20 minutes on any debate, motion, appeal, or point of order.

Part of the time on the bill has been used. The proponents have 35 minutes remaining, and the opponents have 40 minutes remaining.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may yield to the Senator from Virginia without losing my right to the floor.

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

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Howard Sagermark, of my staff, be accorded the privilege of the floor during the discussion of this measure.

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

Mr. PROXMIRE. Mr. President, I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, I ask unanimous consent that Rod Solomon, of my staff, have the privilege of the floor during the consideration of this measure

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

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the consideration of and votes on this measure: Dudley O'Neal, Jerry Buckley, Thomas Brooks, Tony Cluff, Lamar Smith, Patten Abshire, Ron Parker, Rick Wahlstrom, Dan Wall, Ken McLean, and Robert Kuttner.

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

Who yields time?

AMENDMENT NO. 827

Mr. STONE. Mr. President, I call up my amendment No. 827.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. STONE) proposes an amendment numbered 827;

On page 9, line 23, strike out "census tract" and insert in lieu thereof "ZIP code".

Mr. STONE. Mr. President, I ask unanimous consent that Mr. Barry Direnfeld, of my staff, may have the privilege of the floor during the consideration of this bill.

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

There is 1 hour on the amendment.

Mr. STONE. Mr. President, I have submitted an amendment which would require thrift institutions to disclose the location of their mortgages by ZIP codes rather than by census tracts. Although the burden on thrift institutions has been reduced by making the reporting requirements in this bill prospective, I believe it is also necessary to limit the mortgage disclosure requirements to ZIP codes.

Mr. PROXMIRE. Mr. President, as a matter of clarification, it is my understanding that this is amendment No. 827. Is that correct?

Mr. STONE. That is correct.

Mr. President, as I stated, although the burden on thrift institutions has been reduced by making the reporting requirements in this bill prospective, I believe it is also necessary to limit the

mortgage disclosure requirements to ZIP codes.

Presently, most financial institutions do not have the internal systems necessary to code their mortgage loans to census tracts. Therefore, reference must be made to other data sources which are often inadequate or not readily available. Address coding guides or other book type directories which match street addresses and census tract numbers are unavailable from the Bureau of the Census. Computer tapes containing the address and tract numbers for Standard Metropolitan Statistical Areas—SMSA—are available from the Census Bureau, but they need to be updated. In any event, the tapes are of little use for those smaller financial institutions which do not have access to computers. There are approximately 1,200 savings and loan associations with 263 SMSAs which have less than $25 million in assets and some 1,700 with $50 million or less in assets. A fair proportion of those institutions would be required to manually relate every mortgage to a census tract.

In Dade County, a county with a population of more than a million, the largest census tract map procured is approximately 19 inches by 28 inches. This map has some main streets and avenues indicated by name and number but many lines of demarcation give no indication of street or avenue identification. Since the assignment of each individual loan to its proper census tract would have to be done manually, and in many cases actually requires a field inspection, the amount of time and labor expended to comply with this provision of the bill would amount to an inordinate expense.

I state parenthetically that all such expenses are paid for by the consumer. It is the consumer who pays.

In Hillsborough County there are 141 tracts. Only in the city of Tampa is there available a street index relating addresses to census tracts and this is only approximately 60 percent accurate according to a spokesman for the Tampa Bay Regional Planning Commission.

Mr. President, in addition to the problems regarding the accessibility of census tract data, there is some questions as to the accuracy of census tract data. Neither local directories nor the Bureau of the Census' computer tapes of SMSA addresses and census tracts numbers are completely accurate and up-to-date. The computer tapes and directories compiled for the 1970 census, are approximately 70 percent accurate and are in the process of being corrected for the 1980 census. Many communities have been instructed to submit corrected census tract maps to the Bureau of the Census by 1978. Various changes can occur in an SMSA which are not reflected in the existing tapes and directories. New SMSAs have been added since 1970 which many existing SMSAs have experienced significant adjustment. Mr. Vincent Barabba, Director of the Bureau of the Census, testified on July 15, 1975, before the House Committee on Banking Currency and Housing on the very plan proposed by this bill. In describing the capabilities and limitations of the address reference file, which serves as the geographic base-inventory for census tract, he pointed out that these files would become outdated rapidly if they remained static. Should the Bureau of the Census find it necessary to revise standard metropolitan areas in 1980, the entire data base accumulated by thrift institutions at a major cost would be obsolete. The system proposed by the bill appears to be predicated upon the assumption that present census tracts will remain static. Empirical and statistical evidence indicate that present census tracts will not remain unchanged.

Mr. President, I believe the many technical problems associated with the use of census tract data and the increased burden the use of this data places upon small financial institutions demands that the mortgage reporting requirements of this bill be limited to ZIP codes. I therefore urge that this amendment be adopted.

It would be the borrower who would pay these added burdens. When we are trying to get the cost of borrowing down, so that the savings and loan institutions can finance building expansion which is sorely needed and building labor employment which is sorely needed, this is the time to add paperwork on top of paperwork. Reporting by ZIP codes would provide the analysts with the raw material they really would need, according to the latest software programing that they could apply centrally to get the statistics and the facts they need to make their determination.

Mr. President, I yield to the distinguished Senator from Colorado (Mr. HASKELL) for further remarks in favor of this amendment.

Mr. THURMOND. Mr. President, will the distinguished Senator yield to me to introduce distinguished members of the Swedish Parliament,

Mr. STONE. I yield for that purpose.

A VISIT TO THE SENATE BY MEMBERS OF THE STANDING COMMITTEE ON LAWS, PARLIAMENT OF SWEDEN

Mr. THURMOND. Mr. President, we have the unusual pleasure today to have with us 17 members of the Swedish Parliament. They just had lunch down in the Foreign Relations Committee room. The Ambassador from that great country, Ambassador Wachtmeister accompanies them.

It is a pleasure for me to introduce them at this time. They are:

Ivan Svanström. Chairman of the Committee. Born in 1918. Represents the Center Party. Member of the Swedish Parliament for 16 years. Farmer. Lives in Ruda, the County of Kalmar;

Sven Hammarberg. Vice Chairman. Born in 1912. Represents the Social Democratic Party. Member of the Swedish Parliament for 15 years. Member of the Board of the Nordic Council. District Party Secretary. Lives in the city of Västerås;

Bertil Lidgard. Born in 1916. Represents the Conservative Party. Member of the Swedish Parliament for 11 years. Alternate member of the Consultative Assembly of the Council of Europe. Has Bachelor of Law degree. Lives in the city of Stockholm;

Bernhard Sundelin. Born in 1911. Represents the Social Democratic Party. Member of the Swedish Parliament for 22 years. Owner of trucking company. Lives in Bredbyn, the County of Västernorrland;

Bengt Börjesson. Born in 1920. Represents the Center Party. Member of the Swedish Parliament for 15 years. Bank manager at the Farmers Cooperative Bank. Lives in the city of Falköping;

Sten Sjöholm. Born in 1917. Represents the Liberal Party. Member of the Swedish Parliament for 11 years. Has Bachelor of Law degree. County police commissioner. Lives in the city of Helsingborg;

Rune Torwald. Born in 1924. Represents the Center Party. Member of the Swedish Parliament for 5 years. Personnel manager at the postal service. Lives in Olofstorp, the city of Gothenburg;

Stig Olsson. Born in 1919. Represents the Social Democratic Party. Member of the Swedish Parliament for 7 years. Shop steward (building industry). Lives in Timrå, the county of Västernorrland;

Håkan Winberg. Born in 1931. Represents the Conservative Party. Member of the Swedish Parliament for 5 years. Has Bachelor of Law degree. Judge of the City Court. Lives in the city of Sundsvall;

Mrs. Elvy Nilsson. Born in 1925. Represents the Social Democratic Party. Members of the Swedish Parliament for 5 years. Lives in Sunne, the county of Värmland;

Martin Olsson. Born in 1932. Represents the Center Party. Member of the Swedish Parliament for 5 years. Bank manager at the Farmers Cooperative Bank. Lives in Sundsbruk, the county of Västernorrland;

Per Israelsson. Born in 1917. Represents the Communist Party. Member of the Swedish Parliament for 5 years. Machine operator. Lives in the city of Karlskoga;

Mrs. Sonja Fredgardh. Born in 1912. Represents the Center Party. Member of the Swedish Parliament for 2 years. Journalist. Lives in Höllviksnäs, the County of Malmö;

Mrs. Ulla Johansson. Born in 1928. Represents the Social Democratic Party. Member of the Swedish Parliament for 2 years. Alternate member of the Committee. Preschool teacher. Lives in Hovmanstorp, the County of Kronoberg;

Stig Gustafsson. Born in 1931. Represents the Social Democratic Party. Member of the Swedish Parliament for 2 years. Alternate member of the Committee. Legal adviser to the Salaried Employees Federation, TCO;

Lars Å Beckman. Born in 1931. Staff director. Assistant Justice of the Court of Appeal; and

Staffan Janvid. Born in 1938. Committee Reading Clerk. Assistant Justice of the Court of Appeal.

RECESS FOR 5 MINUTES

Mr. THURMOND. I shall ask the Members of the Swedish Parliament to stand and be received by the Senate. I

ask unanimous consent that the Senate take 5 minutes to give the Members an opportunity to speak to them.

There being no objection, the Senate, at 2:11 p.m. recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FORD).

HOME MORTGAGE DISCLOSURE ACT OF 1975

The Senate continued with the consideration of the bill (S. 1281) to improve public understanding of the role of depository institutions in home financing.

Mr. STONE. Mr. President, I ask unanimous consent that the distinguished Senator from Colorado (Mr. HASKELL) be added as a cosponsor to amendment No. 827.

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

Mr. STONE. I yield to the distinguished Senator from Colorado (Mr. HASKELL).

The PRESIDING OFFICER. The Senator from Colorado (Mr. HASKELL) is recognized.

Mr. HASKELL. Mr. President, I congratulate the distinguished Senator from Florida for arriving at the same conclusion as I did, except he thinks faster than I do so he arrived at it about 4 weeks before me. I am pleased to join him as a cosponsor of this amendment.

I think this is a meritorious change in this vital legislation. I am certain the distinguished floor manager of the bill will listen receptively, as he always does. I would really like to discuss this with him because redlining is a very bad lending practice and, unfortunately, a legal lending practice.

What we are trying to do and what the distinguished floor manager of the bill wants to do is to have information available for the public at the place loans are made. He wants it in such form that an interested person or interested group can, with minimal difficulty, find out whether the banking institution was redlining.

Now, the bill as it is now before us says the financial institution will break down the loans by census tract. Our amendment says that we will break it down by ZIP codes.

I submit, Mr. President, and I submit to the distinguished Senator from Wisconsin that when you redline you do not do it either by census tract or by ZIP code. A certain amount of analysis has got to take place in the way you categorize the information to make it intelligible for public use. The persons involved in the interruption can develop this analysis as easily from ZIP codes as census tracts.

That being the case, I think it is far better to classify it by ZIP code since every lending institution has a ZIP code on almost every borrower. If there is redlining it is not going to take place neatly, whether it be census tract or ZIP code. A certain amount of analysis has got to be made, a certain number of loans will be kicked out because they do not appear to be within the district.

Since this is the case, it seems to me we are accomplishing the basic purpose of the distinguished Senator from Wisconsin if we make available to the public, or to any civil rights group, for example, that would want to make an analysis, the information by ZIP code; if only for the reason that the committee report itself shows the relative costs census tract roughly appears to be twice as expensive for the institution.

In addition to this, we have heard a great deal about the proliferation of paperwork imposed on small businesses. I personally am not particularly worried about the First National Bank of Denver, Colo. They will get along. I am a little concerned about the smaller institutions, putting this burden on them.

In conclusion, my reason for sponsoring this amendment is, No. 1, it gets the job done. It puts the information out.

No. 2, it does it at a minimum disturbance to the financial institution.

I thank the Senator for yielding, and I would be glad to answer any questions at some future time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. I yield to the distinguished Senator from Utah (Mr. GARN).

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I rise in support of amendment No. 827 offered by the Senator from Florida (Mr. STONE) to the committte bill S. 1281 to require reporting by ZIP code.

The effect of this amendment is to restore the geographic reporting section of S. 1281 to its original text.

As that bill came to us in the committee, it was in the form of ZIP codes and was subsequently changed in the markup reported out of the Banking Committee to census tract. So this amendment would merely restore the original language of S. 1281 in the committee.

When the hearings on this bill were commenced, it was on the assumption that the reporting areas would be by ZIP code. Consequently, the affected parties were not prepared to provide information on the problems which could be encountered in reporting on some other geographic area such as census tract.

After the hearings were completed, and without notice to the parties affected in what was called by its proponents a "technical" amendment, the committee at the markup session was asked to change the reporting designation from ZIP code to census tract. After this change was made, I directed my staff to conduct an investigation into the problem which would be faced in this type of reporting. This investigation, which is reflected in the Additional Views of the Committee Report of the Home Mortgage Disclosure Act, reveals that such reporting would increase the cost of compliance considerably and that the feasibility and accuracy of such reporting is questionable.

As the distinguished Senator from Colorado has pointed out, I am not really concerned about the big savings institutions and big banks in this country, but the effect it would have on many of the smaller institutions would be considerable.

The proponents of S. 1281 say that with perspective reporting, the cost will be minimal. The same has been said in the past when Congress has considered other legislation affecting financial institutions.

Last year when this body enacted the Equal Credit Opportunity Act, no consideration was given to the cost of compliance. Testimony has now been received by the Federal Reserve on its regulations implementing this act which indicate that that compliance will run into millions of dollars.

The same was true with the Real Estate Settlement Procedures Act. No consideration was given to the cost to the lending institutions of disclosure of the settlement costs to the consumer.

When we mention the consumer, we might as well be faced with the fact that any cost imposed on the financial institutions will be passed on to the consumer who will pay the bill. The one who is going to get the loan is going to pay for it.

Now every Member of this body is receiving letters from small financial institutions indicating that the cost of that disclosure could go as high as $50 per mortgage that will simply be added to the closing costs.

Although I feel and certainly hope that these estimates are on the high side, the fact remains that the new law requires new forms and cost the institutions additional sums of money. The consumers ultimately will have to pay for such protection whether they want it or not.

The Stone amendment will restore, in a small way, some sanity to this legislation. It has my full support.

I am thankful the distinguished Senator from Florida offered what I consider a very good amendment.

The PRESIDING OFFICER. Who yields time?

Mr. STONE. Mr. President, I reserve the remainder of my time on this.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I regretfully oppose this amendment. I think we can work something out on it if the Senator from Florida is willing to do so.

We did change the original legislation from ZIP code to census tract for a very definite reason, that the record was overwhelming on the side of having this reported by census tract.

We had a number of neighborhood organizations, which were really the driving force behind this legislation, and without exception they insisted the only way this could be made meaningful and useful to them is if the disclosure is made by census tract. ZIP code is much too large, they said, to be really helpful.

Furthermore, this amendment might have made some sense under the original version of the bill which required lenders to assign census tracts into all their outstanding loans, to go back over their whole portfolio, using a computer program, and since the data is not kept in that form for small banks, this would have required substantial work.

As the bill now stands, this is essen-

tially prospective. We are not asking them to go back in their present or past portfolio, only to apply this to loans made this year or in the future.

There are very important reasons why the committee chose census tract rather than ZIP codes. In densely populated cities where redlining is a particular problem, ZIP codes tend not to conform to neighborhoods, whereas census tracts do. That was documented. That point was made over and over again; that if we have the reports made by census tract so we know no loans are made in a neighborhood, then we know that that neighborhood is being ignored by the particular institution.

If we have it, on the other hand, by ZIP codes, we do not get that.

I was in Chicago over the recess where blue collar and very expensive high rise neighborhoods on Chicago's lakefront are all in the same ZIP code. Of course, the blue collar areas west of the lakefront are the old areas which are suffering discrimination and where loans are not being made.

The institutions are delighted to make loans in the very expensive high rise apartment areas on the lakefront, so that if we had this by ZIP codes this would be no real picture. The ZIP code would show that there were substantial loans being made in an area, but if we had it by census tract we could tell the blue collar neighborhood had been ignored, and that is the whole purpose.

Census tracts are also more useful to show the other kinds of data reflected by it, including the cost of housing and, of course, income.

In the committee's own study of this city, Washington, D.C., we found it enormously useful to look at the economic characteristics by census tracts. We do not get that on ZIP codes.

By using census tracts, we can tell that in a particular neighborhood which has certain characteristics as far as income is concerned, as far as age of the housing is concerned, that in this area there seems to be a policy of denying mortgage credit.

The census tract breakdown, furthermore, shows several neighborhoods with relatively high income were denied mortgage money by savings and loan associations and forced to rely on out-of-town mortgage companies or cash sales.

Only by knowledge of the mortgage data by census tract does this kind of comparison become possible. Similarly, in the city of Baltimore and in the city of Los Angeles, similar conclusions were possible using census tracts.

I do not think there is any question that census tract is more useful. At least the people involved in this for many, many years have said it is the way to get the information.

What remains, however, is the point raised by every one of the proponents of this amendment. Senator STONE, and also Senator HASKELL and Senator GARN, who all argued that the cost would be greater.

Now, we have looked into the cost aspects. I have a letter from the National Savings and Loan League. They are opposed to the legislation and they certainly would not be in a position of underestimating the costs. They say:

> It is estimated that consulting, research and development, programing computer time and clerical and administrative costs involved in converting savings and loan address files to census tracts would be $50,000 and that it will cost about $20,000 annually to maintain, generate and report the data required by the pending legislation. That means it would cost an association almost $2 per mortgage to establish a reasonably accurate system, and about $.70 per mortgage annually to maintain the data. And in the end, consumers will have to pay more for their mortgage credit.

I would not pooh-pooh even something as small as 70 cents, even though the mortgage loans average $20,000, $25,000, $30,000, but I think there is a very clear advantage to giving the neighborhood groups and the depositors an understanding of what is happening to their deposits, where it is going, whether their neighborhood is being ignored.

After all, if one lives in a neighborhood and is not sure whether to make his deposit with S&L "A" or bank "B," and one knows that the bank is not making an investment in one's neighborhood and the savings and loan is, I think that information that is worthwhile.

It would not be worth $50 or $100, but it seems to me it would be worth the 70 cents or $2 opening cost which the Savings and Loan League—which, as I say, has opposed legislation of this kind and are certainly not going to underestimate the cost—estimates the cost would be.

So, Mr. President, I do hope that this amendment, which is offered by my good friend and very fine Senator from Florida, is rejected.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STONE. Mr. President, I yield briefly to the Senator from Colorado, then to the Senator from Utah and then to the Senator from North Carolina, as time permits.

Mr. HASKELL. First, I would like to congratulate the chairman of the Banking Committee for bringing this legislation before the Senate. He is putting information into the open allowing people to find out whether redlining exists.

I would like to point out again that redlining does not take place neatly by census tract. It does not take place neatly by ZIP code. Someone has to do an analysis. If I went into a city familiar to me in Colorado, I think I would know. There will always have to be people familiar with the city to make the analysis. If I had information by ZIP code or census tract I would soon know whether or not it was worth pursuing further to determine if redlining existed.

According to page 30 of the committee report, the cost of doing it by ZIP code is about 40 percent of the cost of doing it by census tract.

I would hope that this amendment would be adopted.

I thank the Senator.

Mr. STONE. I yield to the Senator from Utah.

Mr. GARN. As the distinguished Senator mentioned, the committee testimony was overwhelmingly in favor of census tracts. That is because the committee hearings were overwhelmingly stacked with people who favored that position. When I get to my own amendment I am going to discuss the committee hearings, the inadequacy of both sides, and some independent observers.

To get to the census tract for a moment, forgetting the cost, the census tract is hardly a cure-all. Neither the computer of the census computer tapes, census tracts numbers, or such local directories as exist are completely accurate or up to date. I agree with what the chairman wants to accomplish, but census tracts will hardly do it. The computer tapes and directories were compiled for the 1970 census. They are now 5 years out of date. They are approximately 70 percent inaccurate. I should correct that and say 70 percent accurate and 30 percent inaccurate. They are in the process of being corrected for the 1980 census. Communities have been instructed to submit corrected census tract maps to the Bureau of the Census by 1978. Are we going to enact a bill on census tracts that are 30 percent in error? We will not have corrected information until 1980. Will we solve this problem? I hardly think so. Besides cost, there are other reasons to oppose census tracts in this legislation.

Mr. STONE. I yield to the Senator from North Carolina.

Mr. MORGAN. Mr. President, I rise to urge adoption of the amendment offered by the distinguished Senator from Florida. I believe that, if we are going to adopt this bill and pass it, the amendment will make it much more palatable to many of the small lending institutions across the Nation.

I think that is a real problem, Mr. President. I just spent 15 days traveling throughout my State of North Carolina, talking with various people. The one thing I was amazed to learn was the mood of my State with regard to increased Federal bureaucracy and increased requirements from the regulatory agencies in acts such as this one. I heard it at every stop.

I was later interested to note that the President had commented on it.

The Real Estate Settlement Procedures Act, which was passed last year, has really thrown many of the small savings and loans into turmoil. Add to that this bill, and especially if you go by census tracts, and I think you will substantially increase the cost to the average borrower. You will certainly increase the redtape and the burdens of the lending institution.

Quite frankly, I hope we will not pass this bill. There are some problems in this country, but they are problems that can best be understood by the local governing authorities. A number of States are already looking into the problems of redlining and there has been some action taken in this area. But simply because there are problems in Chicago, San Francisco, and maybe a half dozen other areas in the Nation does not warrant or justify, in my opinion, imposing these kinds of burdens on the lending institutions of the rest of the Nation.

This amendment will make it easier to administer and, therefore, I urge the adoption of the amendment.

Mr. PROXMIRE. Will the Senator from Florida yield? I think the Senator from North Carolina will be interested in this.

When the time comes, when we both yield back the remainder of our time, I have an amendment that I would like to offer to his amendment. The reason I want to rise now is because the Senator from North Carolina has indicated a very strong point.

This is primarily aimed at the big cities, though not entirely. There is redlining in the smaller towns, too. But I think that for the purposes of designating census tracts I would be perfectly willing to accept the amendment of the Senator from Florida if he would modify it to provide that the ZIP codes would apply to the areas outside of the cities and would also apply to all cities of less than 350,000 in population so that the smaller cities would have ZIP codes. In the Washington area, for example, most of the people live in the suburban areas. We roughly calculated that about half of them live outside the central areas in SMSA's. There I think the census tracts are less accurate and less useful. But I think they are absolutely essential in the city proper. It seems to me that this would be an amendment on which we could agree. It would give us a considerable degree of consensus and would go a long way if not all the way toward meeting the objections of the Senator from Florida.

Mr. STONE. The Senator from Florida reluctantly and respectfully does not accept the amendment. Modification would create, I think, more confusion. The principal city in the standard metropolitan statistical area is not necessarily the only congested area. On the contrary, in my home area the principal city is Miami, but there are a number of other cities with just the same form of congestion, with just the same ghetto problems, neighborhood problems, outside the city of Miami. For example, the city of Hialeah. We have 26 plus. So it really would confuse the situation.

I reluctantly will not accept the modification.

Mr. PROXMIRE. May I say to the Senator this amendment I am suggesting is not one that we just dreamed up on the floor. This is something that is already done in the State of Massachusetts. They provide the ZIP codes outside of their large cities and it seems to work well. It is not confusing. It does simplify the problem for the smaller institutions which by and large are located in the suburban areas. It seems to me it accepts a very large part, at least 90 percent, of the amendment of the Senator from Florida.

Mr. STONE. I do appreciate the responsiveness to the thrust of this amendment of the distinguished floor manager, but reluctantly, I cannot accept his modification.

Before yielding back my time, I yield briefly to the Senator from Colorado for a unanimous-consent request.

PRIVILEGE OF THE FLOOR

Mr. HASKELL. Mr. President, I ask unanimous consent that John Cevette of my staff be accorded the privilege of the floor during the consideration of S. 1281.

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

Mr. STONE. I yield briefly to the Senator from North Carolina.

Mr. MORGAN. Mr. President, I ask unanimous consent that Rick Wahlstrom of my staff be given the privilege of the floor during the consideration of this measure.

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

Mr. MORGAN. Mr. President, if the Senator from Florida will yield, I wish to ask him a question.

Mr. STONE. I yield.

Mr. MORGAN. I understand that the State of Illinois and the State of California presently require this by census tracts. If that is true, I wonder if it would be desirable to modify the Senator's amendment to give local areas the option to use either census tract or ZIP code as a basis.

Mr. STONE. I would respectfully urge that that be made the subject of a separate amendment, so as not to complicate this one.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second. Who yields time?

Mr. STONE. Then I yield back my time, and ask for a vote on the amendment.

Mr. PROXMIRE. Mr. President, will the Senator yield on my time?

Mr. STONE. I yield.

Mr. PROXMIRE. I think we want the yeas and nays on the Senator's amendment. I suggest that we do several things. If the Senator from Florida will yield back his time, I will yield back my time, and then I can offer my amendment. Then we will put in a quorum call, get sufficient Senators here for a second, and get the yeas and nays on both amendments.

Mr. STONE. That is fine. I yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Florida.

Mr. PROXMIRE. Mr. President, I offer an amendment to the amendment of the Senator from Florida, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an amendment to the amendment of the Senator from Florida (Mr. STONE) as follows:

On page 9, line 23, strike out "census tract" and insert in lieu thereof "ZIP code for areas outside the principal city of a standard metropolitan statistical area; by census tract for areas within such principal city, and by ZIP code for all standard metropolitan statistical areas of less than 350,000 in population.

Mr. PROXMIRE. Mr. President, this amendment, it seems to me, would retain the best part of the Stone amendment—it is a good amendment in all its parts, but I think this is the most important and best part of it. The city is the area where the use of the census tract is required. If we do it there by ZIP code, we simply cannot tell whether or not an institution is making loans on the basis of discriminating against certain neighborhoods and groups. The ZIP codes in the cities are too large. This is not true, or not nearly as true at least, in the suburban areas.

As I have stated, Massachusetts uses this compromise.

Furthermore, California has had monthly census tract reporting—although it was confidential until this year—since 1964, and they have had no serious costs or problems in complying. They have had 10 years' experience with it. The objection to this kind of approach has been that it is costly. That is the only objection, it seems to me, that really remains; and if we did not have this experience with the largest State in the Union, with 10 percent of the Nation's population and an unparalleled variety of experience, the objection might carry more weight. But we have had that experience and on that basis we have found this is not unduly costly.

Therefore, I would hope my amendment to the amendment of the distinguished Senator from Florida would be accepted. It would still be, as I say, overwhelmingly the Stone amendment with just a limited qualification; and my modification, it seems to me, in no way weakens the Stone amendment, in fact I think it could strengthen it.

I hope the Senator from Florida will reconsider—he is such a reasonable man—and apply his sunshine philosophy, which he feels so strongly, to let the sun shine in on the census tract as well as the ZIP code area.

Mr. GARN. Mr. President, will the Senator from Wisconsin answer a question?

Mr. PROXMIRE. Yes, indeed.

Mr. GARN. In reading the Senator's amendment, I am a little confused. It begins:

On page 9, line 23, strike out "census tract" and insert in lieu thereof "ZIP code" for areas outside the principal city of a standard metropolitan statistical area;

All right, that is by ZIP code. Then:

and by census tract for areas within such principal city, and by ZIP code for all standard metropolitan statistical areas of less than 350,000 in population.

As I read it, it says you are going to the census tract for areas of less than 350,000. I do not think this is the Senator's intent.

Mr. PROXMIRE. That is correct. I am glad that the Senator from Utah has corrected that. Our intent is to provide for the use of ZIP codes for areas outside the principal city of a standard metropolitan area, and for the cities under 350,000 in population.

We will make that correction.

Mr. GARN. In the Senator's verbal statement I thought that was what he said.

Mr. PROXMIRE. Yes. As happens so often, the Senator from Utah is very helpful, even helping a cause which he opposes.

Mr. GARN. The Senator from Utah is glad to be of help, but I still oppose the amendment to the amendment, and will vote against it.

Mr. STONE. Mr. President, there are several things wrong with the modification. In the first place, there are a number of cities where the accuracy of the census today is insufficient, and I cited several in my opening remarks.

In the second place, there are many small institutions, even within the larger cities, for which census data would be required, that do not have computer facilities.

And finally, there are a number of areas where the census data are not even readily available, even though they would be required.

For all those reasons, plus the confusion that would result by some reporting by census tracts and some, probably most, reporting by ZIP codes, I would respectfully oppose this modifying amendment, urging a nay vote on the pending modifying amendment and then a yea vote on the basic amendment.

Mr. PROXMIRE. Mr. President, before I yield back my time, I would like to make sure we have an understanding of just what this amendment is. As the Senator from Utah has indicated, as the amendment was sent to the desk, it may have been defective. Let me read it slowly, so that we will have it correct, and if necessary I will redraft the amendment:

One page 9, line 23, strike out "census tract" and insert in lieu thereof "ZIP code for areas outside the principal city of a standard metropolitan statistical area; by census tract for areas within such principal city, and by ZIP code for all standard metropolitan statistical areas of less than 350,000 in population".

The PRESIDING OFFICER. Is the Senator putting the "and" back in?

Mr. PROXMIRE. My question is, Is the amendment at the desk in that form?

The PRESIDING OFFICER. Let the clerk state the amendment which is at the desk, and let the Senator from Wisconsin determine its interpretation.

The legislative clerk read as follows:

On page 9, line 23, strike out "census tract" and insert in lieu thereof "ZIP code for areas outside the principle city of a standard metropolitan statistical area; by census tract for areas within such principal city, and by ZIP code for all standard metropolitan statistical areas of less than 350,000 in population".

Mr. PROXMIRE. Mr. President, I modify my amendment to conform with the way it was stated by the clerk.

The PRESIDING OFFICER. That is the amendment that is at the desk.

Mr. PROXMIRE. That is the amendment at the desk?

The PRESIDING OFFICER. That is the amendment at the desk.

Who yields time?

Mr. PROXMIRE. Mr. President, I ask if the Senator from Utah understood the amendment.

Mr. GARN. Yes, I understand the amendment, as modified.

Mr. PROXMIRE. Very good.

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

The PRESIDING OFFICER. The Senator from Utah controls the time for the opposition.

Mr. PROXMIRE. I beg pardon.

Mr. GARN. Mr. President, I yield back the remainder of our time.

The PRESIDING OFFICER. All time is yielded back.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. PROXMIRE. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is this on the amendment of the Senator from Wisconsin?

Mr. PROXMIRE. That is right.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Is it in order to call for the yeas and nays on the Stone amendment?

The PRESIDING OFFICER. Not until after the vote.

Mr. STONE. Mr. President, may we ask if it will be in order?

The PRESIDING OFFICER. The Senator may ask if it will be in order.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that it be in order that we call for the yeas and nays on the Stone amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll on the amendment of the Senator from Wisconsin.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. PHILIP A. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), and the Senator from Utah (Mr. MOSS) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), and the Senator from Connecticut (Mr. RIBICOFF), are absent on official business.

I also announce that the Senator from Alabama (Mr. ALLEN) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 36, nays 49, as follows:

[Rollcall Vote No. 380 Leg.]

YEAS—36

Abourezk	Hathaway	Pell
Biden	Javits	Percy
Brooke	Kennedy	Proxmire
Burdick	Leahy	Randolph
Cannon	Mansfield	Schweiker
Case	Mathias	Stafford
Clark	McGovern	Stevenson
Cranston	McIntyre	Symington
Culver	Mondale	Taft
Eagleton	Muskie	Tunney
Gravel	Nelson	Weicker
Hart, Gary W.	Pastore	Williams

NAYS—49

Baker	Eastland	McClure
Bartlett	Fannin	Metcalf
Beall	Fong	Montoya
Bellmon	Ford	Morgan
Bentsen	Garn	Nunn
Brock	Glenn	Pearson
Buckley	Goldwater	Roth
Bumpers	Griffin	Scott, Hugh
Byrd, Harry F., Jr.	Hansen	Scott, William L.
Byrd, Robert C.	Haskell	Sparkman
Chiles	Helms	Stennis
Church	Hruska	Stone
Cotton	Huddleston	Talmadge
Curtis	Inouye	Thurmond
Dole	Johnston	Tower
Domenici	Laxalt	Young
	McClellan	

NOT VOTING—15

Allen	Hollings	McGee
Bayh	Humphrey	Moss
Hart, Philip A.	Jackson	Packwood
Hartke	Long	Ribicoff
Hatfield	Magnuson	Stevens

So Mr. PROXMIRE'S amendment was rejected.

Mr. STONE. Mr. President, I ask unanimous consent that the yeas and nays previously ordered on my amendment be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

AMENDMENT NO. 700

Mr. TAFT. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

Mr. TAFT. Mr. President, the amendment I am calling up is a printed amendment, No. 700.

The second assistant legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 8, line 22, after "1974" insert "and a home improvement loan".

On page 10, line 12, strike "and".

On page 10, line 16, strike the period and insert in lieu thereof the following: "; and "(3) the number and dollar amount of home improvement loans.".

On page 14, line 18, strike "and home improvement".

Mr. TAFT. This is a very simple amendment. It would include under those loans on which reports and information have to be filed, home improvement loans which financial institutions make, as well as homebuilding loans and home purchase loans.

The importance of these loans to a neighborhood's health and survival is obvious, particularly since many of the neighborhoods in question have a large number of older homes in need of repair.

My amendment is cosponsored by the distinguished Senator from Missouri (Mr. SYMINGTON), and I would be happy to yield to the floor manager of the bill for his comments on the amendment.

Mr. PROXMIRE. Mr. President, this is a very helpful amendment. It is generally true that those communities having difficulty in getting mortgage loans are also off limits for home improvement loans. Obviously the home improvement loan is a key factor in neighborhood preservation, which is the key purpose of this legislation.

I think it is a good amendment. I support it and I am happy to accept it.

Mr. GARN. Mr. President, on behalf of the minority of the committee I would accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

CLARIFICATION OF THE STATUS OF S. 1281, THE HOME MORTGAGE DISCLOSURE ACT

Mr. GARN. Mr. President, I wish to take this opportunity to clarify the status of that legislation as well as to correct some misunderstandings which may have been generated by the floor action on the bill on Saturday, July 26, 1975. At that time, the distinguished chairman of the Senate Banking, Housing and Urban Affairs Committee (Mr. PROXMIRE) called up S. 1281 as amended by the committee to be considered as original text. Preliminary statements were made and then Senator PROXMIRE called up his amendment No. 694 which, after a modification to strike coverage of mortgage bankers, was adopted. No further action was taken on the bill before adjournment for the August recess.

Although the perfecting amendments offered by Senator PROXMIRE purport to make the bill less costly for the financial institutions to comply with, the legislation remains unacceptable in a number of respects.

First, the proponents of S. 1281 have failed to establish that it will achieve its purpose of reversing neighborhood decline.

The backers of the Home Mortgage Disclosure Act maintain that to prevent older neighborhoods from deteriorating, we need simply to give community action groups and depositors information to enable them to force lending institutions to make home mortgage loans in inner-city neighborhoods.

This is based on the theory that the primary cause of neighborhood decline is the concerted action of financial institutions in disinvesting or refusing to lend in neighborhoods where they are located, a practice often referred to as redlining.

The serious flaw in this theory is that it overlooks the fact recognized by most authorities on the subject that disinvestment generally occurs in the later stages of neighborhood decline. A national survey of housing abandonment in 1971 examined the sequence of neighborhood decline and identified the six stages in this process as follows:

Decline in neighborhood economic status;

Racial or ethnic change;

Property speculation;

Weakened market conditions and emergence of crisis ghetto conditions;

Disinvestment; and finally,

Abandonment.

Thus the disinvestment comes after the serious stages of decline have set in and is in reality more of a symptom than a cause of the decline. Pumping mortgage money into a neighborhood cannot cause an improvement in schools, increase safety, give more efficient public transportation, or upgrade any other city services necessary for a viable neighborhood.

Furthermore, raw statistical data of the type called for under S. 1281 will not enable the consumer or municipal governments to compare lending records of financial institutions because too many essential factors are left out. For example, the procedure does not take into account the fact that lending institutions are bound by statutory and regulatory requirements to apply sound credit standards to determine the creditworthiness of a borrower and economic viability of the piece of property.

Also, differences involved in granting credit in one section of a city as compared to another, may reflect the underwriting procedures of Federal mortgage insurance programs which is not unfair discrimination as some claim, but rather prudent underwriting policy.

It does not take into consideration the fact that only a small percentage of commercial banks' savings deposits is invested in residential mortgages—they provide vast sums for other capital needs of the community—construction, factories, jobs, municipal financing, and so forth.

Finally, the statistics do not reflect the demand factor—an older neighborhood may be populated primarily by savers who own their homes or are apartment dwellers.

Another important factor is that data do not speak for themselves. They need to be interpreted. If data is improperly interpreted to foster narrow parochial, selfish interests, it can damage the solvency of our financial institutions and lead to destructive divisions between cities and suburbs, between different racial and ethnic groups, and between rich and poor. Therein lies the damage in S. 1281.

NO INDICATION DEPOSITORS WOULD OR COULD USE DATA

For disclosure to be an effective instrument in a free market, the recipient of the information must be in a position to use it to make intelligent market decisions. The disclosure scheme in S. 1281 has no mechanism for decisionmaking. The information being disclosed under the bill is totally insufficient to enable one to reach a rational judgment as to why loans are not being made in a geographic area and what effects such lending patterns may have on neighborhood decline.

Another problem is indifference. The persons for whom the disclosure is intended must be concerned over utilizing that information to treat the problem at hand. The theory behind S. 1281 is that once depositors know where their money is being invested, they will make demands upon the savings institutions that that money or a portion of that money be returned to their neighborhood. This flies in the face of the testimony recently given by Garth Marston of the Federal Home Loan Bank Board, during his confirmation hearings, that most surveys show that depositors in savings and loans are simply not concerned where their deposits are invested. What does concern them is the convenience of the depository facility, the safety of their deposit, and the return on their investment. Thus, all indications are that depositors would not make use of the disclosure information to encourage savings institutions to reinvest or invest in declining neighborhoods.

THE BILL IS BASED ON THE UNACCEPTABLE PREMISE THAT LOCAL DEPOSITS SHOULD BE USED ONLY FOR LOCAL CREDIT

The premise of S. 1281 is that local deposits should be used essentially for local credit. Although it is generally recognized that it is in the best interests of financial institutions to accommodate the legitimate credit needs of their local communities, the premise of the bill fails to recognize that one of the main functions of financial intermediaries is to provide greater mobility for the economy's savings and investments. Financial institutions are the principal conduit by which capital flows from areas of capital surplus—which may be temporary—to areas of capital deficiency. This has enabled the development of the West, especially California, and the Southeast, as a result of capital flowing to these areas. It has also enabled millions of Americans to acquire homeownership.

There is no explicit legal obligation to provide financing in their own neighborhoods. The Home Owners' Loan Act of 1933 authorized the Federal Home Loan Bank Board to charter Federal savings and loan associations "in order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes" (12 U.S.C. 1464(a).) The act also directs the Board to give "primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States." Similarly, the National Housing Act authorizes the Federal Savings and Loan Insurance Corporation to refuse to insure savings and loan associations whose financing policies are inconsistent with economical home financing (12 U.S.C. 1726 (c)). The thrust of both acts and the supporting congressional statements is that federally chartered or insured associations are to promote both local thrift practices by encouraging savings, and

homeownership through a sound financing mechanism. These statutes impose no explicit duty on savings and loan associations to invest in specific neighborhoods; rather this is left to be determined by institutions themselves in the exercise of sound business judgment.

It should also be noted that when savings and loans were first organized, communities were much more homogeneous than they are today. Now, one may have a savings account in an association many miles from where he lives. In addition, savings and loans have few, if any, offices in declining areas.

There are good reasons why lenders try to make mortgage loans on sound properties in good neighborhoods to borrowers who are expected to be able to make the mortgage payments. Few prospective borrowers who may be expected to be able to make mortgage loan payments, buy homes in deteriorating neighborhoods.

Another problem with S. 1281 is that it lumps together savings and loans and commercial banks. Only a small portion of commercial banks place their investments in mortgage loans while a large portion goes into consumer, commercial and public lending that also supports the viability of neighborhoods. None of this is taken into account in S. 1281.

S. 1281 IS THE FIRST STEP TOWARD CREDIT ALLOCATION

The truth of the matter is S. 1281 is the first step toward credit allocation—the next would be to say that at least x percentage of the deposits must be invested in a certain area. This fear is fostered by statements made by many of the supporters of S. 1281.

For example, William O'Grady of the Bond Hill Task Force, Cincinnati, Ohio, stated that S. 1281 "would be a step in the right direction."

Ronald H. Brown of the National Urban League viewed the disclosure provisions of S. 1281 as inconsequential, "unless coupled with other significant reforms," and went on to outline the next steps. Two of the "reforms" Mr. Brown advocates would utilize the disclosure data to impose tax penalties and denial of branching privileges where savings institutions "have pursued a policy of disinvestment." This type of program would necessitate the use of a quota system to determine what savings and loans are "disinvesting" in the inner city.

In a similar vein, Robert Thrasher of the Organization of North East, Chicago, sees S. 1281 as no panacea, but as a "fine and necessary first step against redlining." He talks in terms of a 5-percent loan-deposit ratio being too low whereas a 65-percent loan-deposit ratio seemed reasonable for a commercial bank in his community. He objected to an urban bank's having $25 million in Farmers Home Administration notes which are used to support rural communities.

Likewise, James H. Harvey of the Metropolitan Washington Planning and Housing Association perceives S. 1281 as a "good beginning." Other steps he recommended included collecting data from S. & L.'s by race of persons applying for mortgages, persons who obtained mortgages and persons who were refused loans. In granting charters and requests for branches, the chartering agencies should give consideration to "equal opportunity and a commitment to service minority and poor neighborhoods." These commitment programs ultimately end up as quota allocating systems.

Also, the Honorable Kenneth Gibson, mayor of Newark, N.J., representing the U.S. Conference of Mayors at the hearings, testified that S. 1281 is "an essential first step." He recommended that other steps include requirements that institutions "lend minimal percentages of their assets in the communities in which they are located."

As one of the opponents put it, it is hard to imagine that if a bill is passed, that the next step would not be pressure to say that there ought to be a formula for at least a certain percentage of deposits in a certain area that must be devoted to specific investments in that area.

S. 1281 COULD JEOPARDIZE THE SAFETY OF DEPOSITS

Chairman Bomar testified before the Senate Banking Committee that reports by community groups prepared on the basis of voluntarily disclosed information, using correct numbers and invalid comparisons, have been used to seek lending agreements from institutions which could result in significant damage to the institutions and in increased risk to the Federal Savings and Loan Insurance Corporation. One community group listed every transfer of property in a ZIP code for the past 3 years to arrive at an average figure for mortgage loan demand in that ZIP code. This group then allocated a portion of this total loan demand to each savings and loan association in the neighborhood, based on its lending activity. Only savings and loan associations, but no other mortgage lenders, were included in the allocation, which meant that S. & L.'s were assigned mortgage lending shares which were inflated by the absence of other mortgage lenders.

Chairman Bomar continued by telling the committee that each savings and loan association was then approached to enter into a "contract" to lend its predetermined share in the designated ZIP code during the next year, without regard to the actual demand for loans or to the future availability of funds to invest. Offers by some institutions to pledge to make the requested amount available, a procedure similar to that of making commitments to developers, were rejected. Such coercive uses of disclosed data may well result in unsafe and unsound lending practices by some institutions, and the Board is very concerned that care be taken to insure that such data is not dangerously misused.

Grover J. Hansen, president of the First Federal Savings & Loan League of Chicago related to the committee that:

> First Federal, and every other conventional lender to our knowledge in large cities, has taken losses on loans because the underlying property has very little or *no* sales value. We have no firm data, but we are certain the cost has been in the millions of dollars in Chicago just in the past four or five years. If making a few more conventional mortgage loans would have protected that investment, someone would have proved the effectiveness of that idea long ago. Contrary to the underlying assumptions in support of this Bill, the reason that such losses mount up is that lenders have in fact continued to make conventional loans as neighborhoods declined. Why should this work now when it wouldn't work then?

The National Commission on Consumer Finance in its 1972 report looked at the related problem of furnishing credit to low income groups in this manner:

> Despite the progress made, the remaining problems of dealing with low and unstable incomes become progressively more formidable. The Commission believes that full access to the legal credit market by the poor will be effectively provided only by improving their incomes. The basic problem of the poor is that they do not have the same ability to repay obligations as other consumers. Restricted access to the legal credit market is only one of many results of an unstable or inadequate income. The solution lies not in glossing over the symptoms but in dealing with the major causes.
>
> The basic problem of providing credit to the poor is not a credit problem but an income and employment problem. The Commission urges treatment of the basic causes—income improvement programs, upgrading of neighborhoods, and education—in addition to efforts to make credit from legal sources more widely available.

Finally, it should not be forgotten that the interest of the depositors is paramount. It is their money that must be protected. There is a serious question whether financial institutions should be encouraged to make real estate loans in certain deteriorating neighborhoods, at least without more stringent credit terms necessary for the protection of the depositors. During the hearings there was testimony that some savings and loans have gone bankrupt in the city of Chicago because they made loans in deteriorating areas. Appraisals of property were based on values that the sellers and buyers were willing to meet, and over a period of time, the loans went bad. No sympathy has been shown for depositors who might lose their savings if financial institutions are forced to make unwise loans.

In addition, the action of irresponsible groups could cause withdrawals or savers' "runs" on the financial institutions if the data disclosed did not happen to measure up to some arbitrary loan volume standard established by that group. This could threaten the very existence of many financial institutions.

FEASIBILITY AND COST OF REPORTING BY CENSUS TRACT

Serious questions arise concerning the requirement to report by census tract. No accurate data was produced during the hearings concerning the cost and feasibility of this reporting. However, subsequent investigation has brought to light the following data.

ACCURACY OF CENSUS TRACT DATA

Neither the Bureau of the Census' computer tapes of SMSA addresses and census tract numbers, nor such local directories as exist are completely accurate and up to date. The computer tapes and directories were compiled for

the 1970 census, are approximately 70 percent accurate, and are in the process of being corrected for the 1980 census. Communities have been instructed to submit corrected census tract maps to the Bureau of the Census by 1978.

Various changes can have occurred in an SMSA which are not reflected in the existing tapes and directories. New SMSA's have been added since 1970 and new areas have been added to existing SMSA's. A census tract existing during the 1970 census may have been split into two or merged with another census tract. In either case, the tract number would have changed. A large percentage of tract numbers were changed prior to the 1970 census so that all numbers would be numerical. Some SMSA's were not completely divided into census tracts for the 1970 census, either due to the Bureau of the Census' lack of money or because local volunteers could not be found to walk through certain inner city areas to verify the census tract maps.

Neither rural route addresses nor addresses with post office box numbers can be matched with a census tract number, since no specific location can be identified from those addresses.

AVAILABILITY OF CENSUS TRACT DATA

Many small financial institutions do not have the internal systems needed to code their mortgage loans to census tract, so must rely on some other means. There is no easily and readily available method yet existing, which is both accurate and up to date.

Address coding guides or other book-type directories which match street addresses and census tract numbers are unavailable from the Bureau of the Census. Computer tapes containing the address and tract numbers for SMSA's are available from Census, but they need to be updated from the 1970 census, put into a standard format and corrected. In any event, the tapes are of little use to those smaller financial institutions which do not have access to computers. There are approximately 1,200 savings and loan associations within 263 SMSA's which have less than $25 million in assets, and some 1,700 with $50 million or less in assets. A fair proportion of those institutions would have to rely on something other than computers to match addresses and census tract numbers.

Private vendors could take the Bureau of the Census' computer tapes of SMSA's and print them out. However, communities have until 1978 to correct their local maps, and few vendors have the capability of correcting and updating those maps themselves. Such privately printed maps or guides are not now available.

Some local governmental units have produced hard-copy directories of street addresses indicating census tracts. However, such directories are difficult to get in those SMSA's which produce them. For instance, there is no central place to get the directories of the SMSA of Washington, D.C. It is necessary to call the Executive Office of the District of Columbia government, the Arlington Planning Commission, the Alexandria Planning Commission, the Maryland National Capital Park and Planning Commission—for Montgomery and Prince Georges Counties—the Office of Planning and Research in Fairfax County, the Planning Departments of Falls Church—map only—Prince William County, Loudoun County, Charles County, Manassas, and Manassas Park. The latter six localities have not issued directories for their jurisdictions.

The Bureau of the Census has issued reports which contain census tract maps. Census tract reports, based on the 1970 census, contain maps detailing merely the outlines of the census tracts and not the numbered street addresses. These reports are therefore useless for matching specific addresses and census tract numbers, and, in addition, are available only as reference copies in libraries.

Block statistics reports, compiled for the central cores of SMSA's, contain detailed street maps of census tracts. But block statistics reports for many SMSA's are out of print and available only on microfiche. In addition, the SMSA may be composed of many maps; the SMSA of the District of Columbia is made up of 45 maps.

Thus, there are no readily available, easy-to-use directories of street addresses and census tract numbers.

PROBLEMS HAVE ARISEN IN JURISDICTIONS WHERE REPORTING IS REQUIRED

Although statements have been made by proponents of the bill to the contrary, problems have arisen in jurisdictions where reporting has been required by census tract. The investigation of Dr. Kenneth J. Thygerson, Chief Economist for the U.S. Savings and Loan Association, indicates that there have been many problems associated with the reporting to California Savings and Loan Commissioner's Office on coding new mortgages made by census tract. Dr. Thygerson discussed this with Bill Harrison of the Savings and Loan Commissioner's Office in California and found that when the California program was first developed 11 years ago, the associations had very substantial problems complying with the regulations.

Mr. Harrison mentioned that because census maps were not available, computer service companies were not established, and few lenders understood what a census tract was, nearly all institutions were unable to comply with the regulation. Bill Swaboda of the Commissioner's office indicated that in the early years of the program, as many as 70–80 percent of all loans made within SMSA where census tracts were available could not be successfully classified according to census tract.

Even with 11 years of experience, the Commisioner's office still estimates that over 10 percent of all loans within SMSA's cannot be successfully coded by census tract. In part, this is because Thomas Bros. does not produce tract maps for all counties, but it is also the result of the fact that this job is time-consuming and the maps are hard to read.

Despite the 11 years of experience, there are frequent additional problems with the regulation. Harrison mentioned the fact that when all census tract numbers were changed in 1970 that this created enormous confusion and many problems. Most associations could not obtain the new tract numbering systems or the new census boundaries. Maps were not available. As a result, the Commissioner's office allowed the associations to report using the old and new census numbers. This, in effect, meant that the reports were essentially useless for any purpose.

The proponents of disclosure say that with perspective reporting, the cost will be de minimus. The same has been said in the past when Congress has considered other legislation affecting financial institutions.

Last year when this body enacted the Equal Credit Opportunity Act, no consideration was given to the cost of compliance. Testimony has now been received by the Federal Reserve on its regulations implementing this act which indicate that that compliance will run into millions of dollars.

The same was true with the Real Estate Settlement Procedures Act. No consideration was given to the cost to the lending institutions of disclosure of the settlement costs to the consumer. Now every Member of this body is receiving letters from small financial institutions indicating that the cost of that disclosure could go as high as $50 per mortgage.

The fact remains that each new law requires new forms and costs the institutions additional sums of money. The consumers ultimately will have to pay for such protection whether they want it or not.

S. 1281 UNANIMOUSLY OPPOSED BY AFFECTED INDUSTRIES AND FEDERAL REGULATORY AGENCIES

The affected industry groups, the American Bankers Association, the U.S. Savings and Loan League, the National Savings and Loan League, and the National Association of Mutual Savings Banks all appeared in opposition to S. 1281 when the Committee conducted hearings. So far as I am aware, nothing has been done to date to change the position of the affected industry groups.

Although the Federal Home Loan Bank Board was the only Federal agency called to testify and did testify in opposition to the legislation, the Federal Deposit Insurance Corporation, the Federal Reserve Board, and the Department of Housing and Urban Development filed statements in opposition to S. 1281. The administration feels that it is questionable whether the information derived would be worth the heavy burdens placed upon the financial institutions. It urges that legislative action should await the results of an ongoing pilot study of fair housing lending practices in 18 metropolitan areas by the Comptroller of the Currency, the Federal Reserve, the FDIC, and the Federal Home Loan Bank Board.

There seems to be some confusion as to the exact position of the Secretary of Housing and Urban Development. In this regard, I would like to point out that Secretary Carla Hills has never endorsed any version of the Home Mortgage Disclosure Act. Although she did not appear before the Senate Banking Committee when it was considering S. 1281, she did appear before the committee when it was holding hearings on unrelated leg-

islation. In response to a question by Senator PROXMIRE, she indicated that she felt disclosure of mortgage lending patterns could be helpful but she strongly objected to a provision of S. 1281 which required disclosure of deposits.

The more precise position of Mrs. Hills is reflected in the May 22, 1975 letter signed by general counsel, Robert R. Elliott for Carla A. Hills. In that letter she noted several specific reservations with S. 1281 as currently drafted. The Secretary found fault with the statement of findings and purposes, the underlying assumptions of the bill, the requirement that lending institutions provide information as to the source and amounts of deposits, the distinction between institutions inside and outside of standard metropolitan statistical areas, and the requirement that lending and deposit information for an institution's entire area of service be retained by each office. The only change made by the committee responsive to the objections raised by the Secretary is the dropping of the requirement of reporting on deposits. The perfecting amendments did require reporting only at branches and offices from which the mortgages originate. These two changes can hardly be said to bring the bill into line with the Secretary's overall recommendations.

NEED FOR FURTHER STUDY

The foregoing should amply demonstrate that there is a need for further study and analysis of the problems and usefulness of disclosure by financial institutions of their mortgage lending portfolios by geographic area before embarking on costly and permanent legislation. To meet this need, Senators TOWER, SPARKMAN, HELMS, MORGAN, STONE, and I will offer amendment No. 826 in the nature of a substitute which will provide a demonstration study to look at the feasibility and desirability of mortgage lending disclosure on a national basis as well as to provide Congress with sound data to determine whether mortgage lending institutions are serving the housing and community needs in areas in which they are located, and if not, what remedial action should be taken. To accomplish this, amendment No. 826 would modify S. 1281 to:

Limit the bill to a 3-year demonstration study in 20 SMSA's to be selected by the Federal Reserve Board.

Add the Federal Home Loan Bank Board as an agency to participate in the study together with the Department of Housing and Urban Development.

Provide that lenders shall not be required to make loans to unqualified borrowers or on inadequate security.

Require reporting by ZIP code rather than by census tract.

Require reporting only on future mortgages.

Call upon the Board to report to Congress in 3 years on the feasibility and usefulness of requiring all depository institutions to make public disclosure of their lending practices and sources of deposits.

Add a number of technical changes suggested by the staff of the Federal Reserve Board.

This is a fair and rational approach to the problem. It should meet the needs of the proponents of the legislation and the objections of the opponents. When this amendment is called up, I urge the full support of the Members of this body.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 826

Mr. GARN. Mr. President, I call up my amendment No. 826 in the nature of a substitute to S. 1281.

The PRESIDING OFFICER The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an amendment No. 826 in the nature of a substitute

The amendment is as follows:

AMENDMENT NO. 826

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Home Mortgage Disclosure Act of 1975".

FINDING AND PURPOSE

SEC. 2. (a) The Congress finds and declares that depository institutions have sometimes failed to provide adequate home financing on a nondiscriminatory basis for all neighborhoods within the communities and neighborhoods from which those institutions receive deposits.

(b) The purpose of this Act is to provide, on a demonstration basis, sufficient information to enable citizens, public officials, and the Congress of the United States to determine whether mortgage lending institutions are serving the housing and community needs, without discrimination by geographic location, of the communities and neighborhoods in which they are located.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "mortgage loan" means a federally related mortgage loan as defined under section 3 of the Real Estate Settlement Procedures Act of 1974;

(2) the term "depository institution" means any commercial bank, mutual savings bank, savings and loan association, and building and loan association;

(3) the term "ZIP code" means a ZIP code as established and defined by the United States Postal Service;

(4) the term "standard metropolitan statistical area" means a standard metropolitan statistical area as established and defined by the Office of Management and Budget; and

(5) the term "Board" means the Board of Governors of the Federal Reserve System.

MAINTENANCE OF REPORTS AND PUBLIC DISCLOSURE

SEC. 4. (a) Each depository institution having a home office in any one of twenty standard metropolitan statistical areas selected by the Board for a three-year study and demonstration shall compile and make available, in accordance with regulations of the Board, to the public for inspection and copying at each office of that institution the following information:

(1) The number and total dollar amount of mortgage loans made during each fiscal year of that institution beginning with the first full year of that institution after the enactment of this Act.

(2) The number and dollar amount of such mortgage loans by ZIP code, as determined by the Board, for borrowers under mortgage loans secured by property located within that standard metropolitan statistical area.

(3) The number and dollar amount of such mortgage loans, by such geographic area as the Board determines to be appropriate, for all such mortgage loans which are secured by property located outside that standard metropolitan statistical area.

(b) Any item of information relating to mortgage loans required to be maintained under subsection (a) shall be further itemized in order to disclose for each such item—

(1) the number and dollar amount of mortgage loans which are insured under title II of the National Housing Act or under title V of the Housing Act of 1949 or which are guaranteed under chapter 37 of title 38, United States Code; and

(2) the number and dollar amount of mortgage loans made to mortgagors who did not, at the time of execution of the mortgage, intend to reside in the property securing the mortgage loan.

ENFORCEMENT

SEC. 5. (a)(1) The Board shall prescribe such regulations as may be necessary to carry out the purposes of this Act. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this Act, and prevent circumvention or evasion thereof, or to facilitate compliance therewith. Such regulations shall specify that no mortgage lender shall be required to make any real estate loan unless the borrower is qualified and unless the security for such a loan is deemed by the lender to be adequate based upon an appraisal by a qualified real estate appraiser in the community.

(2) The Board may require the furnishing of such additional information as it deems appropriate relating to housing finance, including patterns of credit flows within and among localities, and the financial practices of institutions which must be responsive to the needs of local savers as well as local borrowers.

(b) Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency.

(B) member banks of the Federal Reserve System (other than national banks), by the Board.

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions.

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this Act shall be deemed to be a violation of requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(d) Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some other Government agency under subsection (b), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirements imposed under this Act shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this Act, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

(e) The authority of the Board to issue regulations under this Act does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this Act.

RELATION TO STATE LAWS

SEC. 6. (a) This Act does not annul, alter, or affect, or exempt any person subject to the provisions of this Act from complying with the laws of any State or subdivision thereof with respect to public disclosure and recordkeeping by depository institutions, except to the extent that those laws are inconsistent with any provision of this Act, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any such law is inconsistent with any provision of this Act if the Board determines that such law requires the maintenance of records with greater geographic or other detail than is required under this Act, or that such law otherwise provides greater disclosure than is required under this Act.

(b) The Board shall by regulation exempt from the requirements of this Act any depository institution within any State or subdivision thereof if it determines that, under the law of such State or subdivision, that institution is subject to requirements substantially similar to those imposed under this Act.

STUDY

SEC. 7. (a) The Board, after consultation with the Secretary of Housing and Urban Development and the Federal Home Loan Bank Board, is authorized and directed to carry out the study described in this section and to transmit to Congress a report on such study no later than three years after the enactment of this Act.

(b) The study and report described in this section shall cover, to the extent feasible and appropriate, the following matters: the feasibility, cost, and usefulness of (1) the disclosure requirements prescribed by section 4; (2) extending the disclosure requirements to other types of home mortgage lenders within standard metropolitan statistical areas and to mortgage lenders outside of standard metropolitan statistical areas; (3) requiring mortgage lending institutions to disclose by geographical location the source of savings deposits; (4) requiring disclosure of the average terms and downpayments ratios of mortgage loans by geographical location; (5) requiring disclosure of other types of lending data, such as small business and home improvement loans; (6) the impact and use of the availability of lending data in selected standard metropolitan statistical areas; and (7) such other matters as the Board may find to be necessary or appropriate to report to the Congress in regard to effectuating the purposes of this Act.

(c) In making the study described in this section, the Board may use such samples within the selected twenty of standard metropolitan statistical areas and other areas of differing characteristics, of depository institutions and lenders or offices of such institutions and lenders, and of loans, as it finds to be necessary or appropriate.

SEC. 8. The study and demonstration provided for under this Act and the recordkeeping required thereunder shall terminate upon the expiration of three years following the date of enactment of this Act.

Mr. GARN. This amendment which I introduced on June 28 for myself and Senators SPARKMAN, TOWER, HELMS, MORGAN, and STONE would modify S. 1281 to:

Limit the bill to a 3-year demonstration study in 20 SMSA's to be selected by the Federal Reserve Board.

Add the Federal Home Loan Bank Board as an agency to participate in the study together with the Department of Housing and Urban Development.

Provide that lenders shall not be required to make loans to unqualified borrowers or on inadequate security.

Require reporting by ZIP code rather than by census tract.

Require reporting only on future mortgages.

Call upon the Board to report to Congress in 3 years on the feasibility and usefulness of requiring all depository institutions to make public disclosure of their lending practices and sources of deposits.

Add a number of technical changes suggested by the staff of the Federal Reserve Board.

Before embarking upon permanent Federal legislation as controversial as S. 1281, there should be further study and analysis of the problems and usefulness of disclosure of the mortgage lending portfolios of the financial institutions. The hearings on the bill conducted by the Senate Banking Committee, totally failed to establish:

That the problem of disinvestment identified in some of our older cities exists in most of the 265 standard metropolitan statistical areas covered by the bill.

That the legislation as presently framed would make a contribution to solving the problem of inner city decay where there is disinvestment.

That the mechanism of reporting mortgage lending by census tract is feasible or economically justifiable.

The bill contains no adequate mechanism for the analysis of data required to be disclosed under its provisions. Although there is certainly a need for better statistics concerning the lending practices of financial institutions, the misuse of raw statistical data can be counterproductive and harmful to savings institutions thus jeopardizing the safety of deposits. Institutions can be forced to infuse money into neighborhoods thus creating a turnover in housing and disruption. Investors' confidence in savings banks can be shaken and runs on those institutions can jeopardize their solvency. The flow of money can be inhibited from surplus areas to areas of scarcity where it is needed.

A principal concern is that S. 1281 would place an expensive reporting burden on the many small banks and thrift institutions located in over 200 SMSA's where there has been no demonstration that the problem of redlining exists. These costs will ultimately be passed on to the consumer in the form of a lower return on their savings or higher costs for credit. The supporters of the bill in the committee report state that in general the data in at least 15 cities showed a consistent pattern in which most lenders seem to be reluctant to make loans in older neighborhoods. Elsewhere in the report, the cities of Chicago, Boston, Milwaukee, Baltimore, Cincinnati, Indianapolis, Los Angeles, Oakland, Providence, St. Louis, Cleveland, and Washington, D.C., are identified as problem communities. And yet, the bill requires reporting by an institution having a branch or a home office in any one of the 265 SMSA's in the country. It should be kept in mind that the SMSA's as defined by the Office of Management and Budget are not made up entirely of urban areas. They include rural, contiguous counties with an area of at least 75 percent of the residential labor force which is nonagricultural and at least 30 percent of the employed workers who live in the county working in the central county area. Thus, there would be literally thousands of small banks and savings and loans located in these rural/suburban counties that have no identification with the redlining problems that the bill addresses.

Coming from a State with a comparatively small population, I know that people in the less densely populated areas of our country do not need nor do they like to be asked to conform to Federal programs designed for the good of those who live in high density population areas. As I stated at the committee hearings, redlining is a problem, but the seriousness of this problem varies. Measures needed to investigate and solve redlining as it exists in Chicago, Ill.; Newark, N.J.; Oakland, Calif.; or any other metropolitan area with populations which are greater than the total number of people living in the States of Utah, Idaho, Wyoming, and Nevada combined are most often far too extreme, costly, and in fact, counterproductive in the smaller city centers of the country. I think a few facts and figures will point out the wide disparity in SMSA populations.

There are 265 standard metropolitan statistical areas in the United States. Of these 265 SMSA's, only 9 have populations over 2,500,000. Twenty-five more contain within the SMSA boundaries a population from 1 million to 2,499,000. This means that there are 231 SMSA's with populations under 1 million.

Looking at the lower side of the population scale—there are 27 SMSA's with populations under 100,000.

Another statistic that is interesting to note is the number of States that are included in these extreme high and low SMSA populations of over 1 million and under 100,000 people. There are only nine States and the District of Columbia that have within their borders or are a part of an SMSA of over 2,500,000. Thirteen

more States can be added to this figure when we include SMSA's of over 1 million population. On the lower side of the scale, there are 17 States that have within their borders SMSA's under 100,000.

As far apart as the size of these SMSA's are, there are eight States which have SMSA's of both over 1 million and SMSA's under 100,000.

Mr. TOWER. Will the Senator yield briefly?

Mr. GARN. Yes, I yield to the Senator from Texas.

Mr. TOWER. Mr. President, I ask unanimous consent that during consideration of S. 1281 Caroleen Silver of the staff of Senator DOMENICI be granted privilege of the floor.

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

The Senator from Utah.

Mr. GARN. Mr. President, all these figures boil down to two main points: First, we have a great disparity in the size of our standard metropolitan areas—even within the boundaries of States, and; second, the great majority of the SMSA's, 204 of 265 to be exact, lie in the middle population range of 100,000 to 1 million.

The SMSA's that are found in my home State of Utah are found in this middle category. As a mayor of a large city—not a giant like Chicago nor a small town, but an average metropolitan area that includes a population of approximately 500,000, I know that most of the mayors and the city dwellers of the "average size large city" do not want to have to comply with regulations and laws that are aimed at the large, densely populated areas of the country.

Before we enact permanent, hard-to-repeal Federal legislation that is so totally sweeping in its coverage as S. 1281 is, let us take some time to study the situation more thoroughly. Let us determine first of all if disclosure will help solve the problem of redlining—second, let us get some hard facts and figures about cost and feasibility of compliance to this law. And third, let us have some experts study the problem of dealing with the various sizes of metropolitan areas to determine how they should be treated according to their size, or if there is possibly a better geographic area to be used in solving this problem.

My amendment would cure these defects by limiting the coverage of the bill to 20 SMSA's to be selected by the Federal Reserve Board. It is my intention that the Board select those areas which have been identified at the hearings and during these debates as places where potential problems exist. The amendment would, in addition, meet the need for additional statistics which would be analyzed by those agencies having expertise in the area of home mortgage lending and the problems of neighborhood decline and rejuvenation.

In addition, the amendment would address other problems which are not treated in the bill. It would direct the agencies to look at credit flows, the use of statistics, whether the report should be by census tract, ZIP code, or other geographical area, and what statistics are needed. It would also require a cost/benefit analysis.

The amendment recognizes that there is a valid question concerning the role of financial institutions in inner city decline and development and provides a rational approach to the problem through a demonstration study.

Although we have not received formal comments by the agencies called upon to administer this legislation, we have had informal conversations with the staff of the Federal Reserve Board and have attempted to incorporate their technical comments into the legislation to provide for a workable and meaningful demonstration study.

This is a fair and rational approach to the problem. It should meet the needs of the proponents of the legislation and the objections of the opponents.

I respectfully urge my colleagues to vote for this amendment.

To sum up my feelings, having sat through all the hearings, I felt that the testimony was very inadequate to prove either side and that is why I am suggesting we modify this and limit it to 20 SMSA's.

At the end of 3 years, we would have the answers. We would find out whether the distinguished chairman from Wisconsin is right or whether I am right and we would be able to pass legislation that would help correct the problem.

But again, to enact this massive bill at this time, to require all of this reporting of very inadequate data, not knowing whether it would be helpful in solving the problem, would seem to place a great, undue burden on the financial institutions in this country.

This 3-year demonstration study would give us the facts and figures and statistics on which we could then pass permanent legislation on this problem of redlining.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, make no mistake about it, if the Senators accept the Garn amendment, they vote to cut the legislation. That would be the end of this legislation.

This would not provide the information that neighborhood groups—organized labor, consumer groups, civil rights groups—say they must have to determine whether or not their neighborhood is redlined, discriminated against. It would not give them that information except in 20 areas out of 260.

Mr. President, on every piece of legislation, reform legislation, as far as our Banking Committee is concerned, from the Federal Reserve Act to truth in lending, Congress has gotten cries of protest from financial institutions that any reform will bring down their house, yet most of these measures turn out to be mild palliatives that strengthen the system and help support it, once enacted.

The one piece of legislation that turned out to be something of a disaster was, in fact, written by the affected industry. It is the Real Estate Settlement Act, and they are crying and weeping about that one.

We intend to hold hearings later this month to see if we can improve it.

But despite the flurry of half truths and allegations, S. 1281 was very carefully considered, and as our colleague Senator GARN has said time and time again, there is no doubt that redlining exists.

If it exists and if the principal opponent of the bill, the man who is offering this amendment that would reduce it to less than 10 percent of its size, says it exists, let us do something about it. What we are asking to do about it is very, very mild. All we are saying is let us report it. Let it be known, so that a depositor will know when he puts his deposit in a bank whether or not that bank is discriminating against his own neighborhood. That is all these people are asking.

If this is the case, I see no further need for another feasibility study. This is not an untested concept or an uproven malady. The Library of Congress used computerized property transfer records to show that D.C.-based financial institutions, which receive something like 50 percent of their deposits from D.C. residents make only 10 percent of their loans in the city. A more detailed study in Baltimore showed great unmet demand for mortgage credit on sound homes in that city, and an even more disproportionate distribution of mortgage money.

Mr. President, we can understand why people feel very strongly about the injustice of a system when they have good credit, when they have a good job, when they are good, hard-working, honest people and they are denied mortgage credit, although they come in and have everything that they should require to get credit. Why are they denied it? Because they happen to live in a neighborhood which the bank regards as old.

I am not only talking about the inner city neighborhood. Yes, they are redlined. I am talking about many old neighborhoods, such as Oak Park, Ill., and other areas, where you have ethnic groups that have lived in an area for generations.

The bank feels they do not have as big a future, so they do not make loans there.

As I have noted, disclosure in Baltimore produced a 50-percent increase in mortgage lending. Similar patterns have been shown in Chicago and in Los Angeles, as the consequence of disclosure programs in those areas.

I want to respond to Senator GARN's contentions one by one.

First, it is said that many technical problems make it burdensome for institutions to report lending by census tract. This is simply not the case, for it is already being done in several States.

We do not need a study. We have had this done in California, which has 10 percent of our people; which has the greatest variety of cities and situations of any State in the Union, perhaps.

I do not doubt that some lenders would rather not report these statistics, because they oppose the bill, just as many opposed truth in lending, but that is not the same thing as saying that it is technically impossible. We have estimates from the major trade associations

that such reporting would cost about $1 per mortgage, and the California authorities estimate the cost of compliance as substantially less than $1 per loan. The argument that many lenders do not have the computer system necessary to comply is also, frankly, a red herring. Banks do not need computers to comply, especially since we have modified this legislation to make the disclosure requirement apply only to future loans and loans made during the one fiscal year preceding enactment.

The minority has repeatedly contended that census tract maps are difficult to obtain or nonexistent. I can tell you that such maps exist for every SMSA in the country, and they are readily available. I have some of those maps right here. I sent for the SMSA maps for Salt Lake City and Dallas, which my distinguished committee colleagues know well. At the time a new loan is entered on a lender's books, it is simply a matter of looking up the census tract on the map. That should take about 30 seconds. And most city planning agencies also have local census tract directories, which should make the process even easier. Once a year, the statistics would be assembled. That is all there is to it.

Another argument is that lending institutions might pull out of city neighborhoods altogether. That is non sequitur. The whole point here is that lending institutions are active in these neighborhoods because there are plenty of deposits to be had, but that they do not make loans. This is often fertile territory. I am certain that if any banks do close up shop, others would eagerly take their place, and in fact in many cities savings and loan associations have tried to keep out new, more community-minded competitors, even though the existing lenders were refusing to serve the community. In the District of Columbia, one minority-owned savings and loan had to fight for 7 years to get its charter. This savings and loan was opposed by the existing savings and loan, despite the fact that he was prepared to lend in the city's black neighborhood and they were not. And in fact this new savings and loan has not had a single foreclosure in the neighborhoods that are redlined by most of the other lenders, although these are areas where most of the low-income people live and, by and large, the minority groups.

The implicit threat that a lender might take his ball and go home is a hollow threat, because these lenders are not providing service anyway.

I find it particularly ironic that critics allege that this bill might interfere with the free flow of capital by inhibiting the flow of money from so-called surplus areas. What is a surplus area? Who defines it? Many lenders seem to consider all deposits gathered in an urban neighborhood as surplus capital, even though that neighborhood is begging for mortgage money. Massachusetts is considered a capital surplus State, but try explaining that to a depositor in the Jamaica Plain section of Boston who cannot get a mortgage.

We do not need a feasibility study because we have demonstrated conclusively that redlining is a problem, and that the cost of disclosure is low. We certainly do not need to limit disclosure to 20 cities because we know that it is a problem in far more than 20 cities. As Senator CLARK has pointed out, disinvestment by financial institutions is even a problem in many rural areas as well. The committee has received expressions of support from public officials and neighborhood associations in large cities and small, from most regions of the country. We agreed to limit the disclosure requirement to standard metropolitan statistical areas, on the premise that redlining is mainly an urban phenomenon, but it makes no sense to limit it further to only 20 cities, especially when the 20 cities would have to be a cross section and you would have to eliminate either New York, Chicago, Philadelphia, Pittsburgh, or Milwaukee, or some of the big cities, if you are going to get 20 and have any kind of a useful cross section.

It also disturbs me that under this amendment the format of the study and the 20 cities would be selected by the Federal Reserve Board.

They have never moved against a lender because of redlining. Think of that. We know there is redlining. They have the right and the authority to move, but never once have they moved against a single lender in the history of this country because of redlining.

So we know that redlining is a problem in more than 20 cities, and that the kind of disclosure required by S. 1281 is both feasible and inexpensive. I urge that this amendment be defeated.

Mr. President, since this legislation was first considered, a number of changes have been made in the legislation to make it easier for the financial institutions to comply with it, to make it more acceptable to them. I read some releases put out by some of the mortgage lenders who have stated that there is very little remaining reason to oppose this legislation from their viewpoint.

For one thing, we make the disclosure prospective. That means they do not have to go back if they have a big loan portfolio and figure out in what ZIP code each loan was and then report that. They can forget all of that. This is mostly prospective. It means at the end of this year they can report what their loans were from the time of their last fiscal year. That makes it much easier for them. It will save them money; it will save them time; it will save almost all the red tape they could object to, it seems to me, that is in the bill.

Furthermore, we exempt the areas of the country, and they are substantial in population, that are outside of the standard metropolitan statistical area. They are exempted. We have now accepted the amendment by the distinguished Senator from Florida (Mr. STONE), which was one of the objections made by the banks and savings and loans, that they could do this much more easily if we would let them report on the ZIP code basis. Well, that is the way they are going to report now, on the ZIP code basis, not on the census tract which we thought was more useful but which would take a little more work on their part.

We have gone this far, Mr. President. I do hope that we will not go so far as to gut the bill by subtracting 93 percent of it and leaving a pitiful little 7 percent, letting this bill limp into the House as just a shadow, and a pretty pale shadow at that, of the way it started out.

We have had enough studying. As the Senator from Utah has said over and over again, redlining does exist. It is time that we act on it.

Mr. President, I reserve the remainder of my time.

Mr. GARN. Mr. President, the distinguished chairman does quote me accurately. Redlining does exist; I said it in committee. I am willing to try to solve the problem here. But there is no need to solve a problem with a 105-millimeter howitzer when a flyswatter will do. There is no need to impose it on the entire country to solve the problem of redlining in the few cities where it may exist.

The Senator quotes me often as a former mayor. It has only been 8 months since I was. There are times when I wish I was still out there, where there is more sanity than manifests itself here on the banks of the Potomac.

I gave the example of my own planning and zoning director in Salt Lake City, who could not get a home improvement loan because of the area in which he lived. But we are making the assumption that investment would solve the problem. This will not solve the problem of the central cities.

There were days that I spent in my office all night long. I lived with the problem for 7 years, 24 hours a day. The mayor never gets away from it. Redlining is a part of the problem, but only a part. Until the cities address themselves to some other problems, it will do no good if we disclose all this information, no good at all, until we get city administrations that will put in curbs and gutters, give people adequate sewer lines and water supplies, get them off septic tanks and outhouses and generally fix up these areas by providing adequate city services. Then maybe we will start to solve the problems. Those things all go toward it and with it.

Too many people think this is a cure-all. As usual, they run to the Federal Government; they do an end run around their mayor, their city council, their Governor, and their State legislature, and come here to Washington pleading for help, and get a sympathetic ear from all the bleeding hearts back here, because they think they are more intelligent, capable, and brighter than all the mayors and city councils.

I recently spent a month in Utah, and it was refreshing; I got out for awhile in the real world. Washington reminds me of a great stage show, with a bunch of actors. We feed upon ourselves, and convince each other that we can solve the problems of the whole country; to heck with the mayors who are responsible for those water lines, sewer lines, and all those things.

When we start passing laws to cut down to size these bureaucrats and agencies in Washington and stop telling those responsible in the local governments how to run their affairs, maybe we will start

solving these problems. Redlining does exist, but to impose this on them and tell them it will solve their problems is a bunch of baloney. Any mayor councilman in the country will tell you a different story—that other problems need to be solved.

Mr. President, this is a first step toward credit allocation. That means the rationing of money. All the groups who testified in favor of S. 1281 saw it as the first step. They ultimately want a law to dictate where the money is loaned, to say, "All right, you have not loaned enough in this area, so we are going to tell you to," in every nook and cranny in this country, again from the wonderful wizards of the Potomac. This is the first step, the first step in credit allocation, which means the rationing of money. Do not believe anything else, because, again, this is what will happen.

Why not take care of it? I am talking about a study; I am talking about actually doing it for 3 years in 20 cities. Let us pick the toughest ones, and find out whether we need to expand it, rather than impose it on the entire country.

Another thing that has not been addressed at all—I have not heard anyone talking about it—is the rights of depositors. Any bank in this country has as a primary responsibility the safety of the depositors' money. The Federal Government even insures it up to $40,000, so that we do not go back to another 1932. But no one has talked about the rights of depositors and the responsibilities of those savings and loan and banking institutions to make loans that they expect to get paid back on.

If we pass a law that ultimately leads to dictating where the money will be lent, what happens to the depositors? I think I know what will happen. People will quit putting their money in those institutions, if they are afraid they are going to lose it, if they are not making sound business judgments on where that money should be loaned.

It is interesting that there is a letter here about that, written to Mr. Grover J. Hansen, president of the First Federal Savings and Loan Association in Chicago. It says:

DEAR MR. HANSEN: First Federal's position on "redlining" was of great interest to me, since I have a savings account with your association.

The name of your organization, savings and loan association, implies that the emphasis is on savings, since the word, "savings," comes first.

Without savings you would be unable to make any loans of any kind in any location. I believe that your first responsibility is to actual savers, not to potential borrowers. I believe that your responsibility to savers should be discharged by using any criteria you find necessary in order to make profitable loans.

I do not happen to agree with that last sentence.

I believe that names of organizations should not be misleading. Perhaps you should suggest to those concerned with the "redlining problem" that they set up "loan and saving associations" or "deteriorated housing rehabilitation and savings associations", rather than trying to make savings and loan associations into something they were never intended to be.

Accompanying this letter is a very interesting article entitled "Redlining: Our View of the Matter," published in the quarterly magazine of the First Federal Savings and Loan Association of Chicago, summer of 1975 issue, which I ask unanimous consent to have printed in the RECORD.

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

REDLINING: OUR VIEW OF THE MATTER

The redlining controversy has surfaced many times in the course of the last three years. At the time this article was being prepared, legislation was pending in the Illinois state legislature and before Congress aimed at preventing so-called redlining by home lenders.

First Federal's position on redlining and the proposed disclosure legislation is well-known within the industry, but perhaps not by our customers or the general public. We had hoped that the flurry over redlining would disappear as the false reasoning and bad economics supporting it became apparent. This has not happened. We now want you, our savers and borrowers, to know where we stand and why.

In simplest terms, redlining is the refusal to consider loans on property in a given geographic area and the indication of that area by drawing a red line around it on the map. An area can be redlined for any reason, but the usual one imputed is that the area is deteriorating and is therefore a bad risk.

In the current battle, anti-redlining groups in Chicago say that home lenders have redlined many city neighborhoods and that this is the principal cause or first step in a neighborhood's deterioration. They say lenders lose faith in a neighborhood, refuse to make loans, and the neighborhood heads downhill.

First Federal denies these charges. Redlining is not a widespread practice among lenders here. First Federal, the area's largest residential lender, does not now and never has practiced redlining and, as far as we know, no Chicago area lender engages in the practice. If there are instances of redlining, they are few and isolated. To enact state or nationwide legislation to curb them is overkill.

Urbanologist Pierre De Vise, assistant professor of urban science at the University of Illinois at Chicago Circle, has said much the same thing. He was quoted in *The Austin News*, a community newspaper, when he spoke before a meeting of the West Side Real Estate Board on May 12.

"My guess is that there is probably too much lending in so-called redlined areas . . . I'm suggesting redlining is a problem and needs legislative solutions if indeed it is denying mortgage loans to qualified buyers for property which is economically sound, but I haven't seen any area where this is the case.

"I suggest there is no indication of redlining in that sense," he added.

Certainly no one has proved that refusing to grant loans is the *cause* of neighborhood deterioration. Experts from many disciplines have been attempting to untangle that problem for many years. To say that lack of faith by lenders brings about deterioration is putting the cart before the horse. First, neighborhoods deteriorate; then lenders are more cautious about making loans there.

All the mortgage money in the world will not change an unattractive neighborhood into one in which people want to buy homes. Well-maintained buildings, good schools, good transportation, attractive surroundings and other convenient services are what attract buyers. Mortgage money does not make the market, it follows it.

We oppose the disclosure legislation (similar bills are before the state legislature and Congress) because the data asked for will not show one way or the other whether redlining is being practiced. It is an expensive and time-consuming exercise that will produce data that can be interpreted in any number of ways. In addition, the legislation is based on an unsound economic assumption.

If federal law is passed, almost 20,000 banks and savings and loans all over the country would be required to compile and publish this data, and redlining charges are an issue in only four metropolitan areas!

The proposed bills would require banks and savings and loans to report savings and lending data by zip code and would require them to break down mortgage figures by conventional, FHA and VA (government insured/guaranteed) loans. The implication is that there is an ideal ratio between savings deposits from a given zip code and the amount of money that should be loaned there. No one has said yet what this "ideal" ratio is, but we can assume that the same groups that have pushed so zealously for adoption of this legislation would decide what was fair in their neighborhoods and label anything else redlining.

First Federal thinks the basic assumption behind the disclosure legislation is bad economics. As Grover J. Hansen, First Federal's president, said when testifying before Senator William Proxmire's Committee on Banking, Housing and Urban Affairs, which held hearings on the redlining legislation: "The concept that financial institutions should be forced to invest money where it is saved goes against the underlying economic principle upon which this country and its economy are based and have prospered: movement of capital must be free and unhindered."

Resistance to the disclosure bills has been construed by legislators, the media, and proponent groups as approval of redlining or an attempt to cover it up. Nothing could be further from the truth. We simply say that it is not a widespread practice, and that the data asked for by this legislation will not clarify the matter.

There are those who see redlining everywhere and those who can't find it at all—depending on how you define redlining and what figures you use to prove the point.

The Savings and Loan Commissioners of Illinois and Wisconsin and the Federal Home Loan Bank of Chicago have tried to validate one single case of redlining and have been unable to do so.

On the other hand, the Illinois Legislative Investigating Commission, directed by the state legislature to look into redlining, issued a report on its hearings which gives page after page of testimony on purported instances of redlining. One example was a couple who claimed the property they wanted to buy was in an area redlined by a particular lender because the lender would make them a loan of only $24,000 while another institution would go to $24,800. An $800 difference may seem huge to a prospective borrower, but it is well within the normal range of appraisal differences on a loan of this size and could no way be called "redlining" by anyone who had the least knowledge of how appraisal and lending processes work.

As far as the ambiguity that could result from the data requested by the disclosure legislation is concerned, let's look at several examples of what's already happened.

The Metropolitan Area Housing Alliance (MAHA) recently claimed that 17 zip codes in Chicago were "severely redlined." It presented this study to the Proxmire committee. MAHA said the study was based on 1973–74 figures submitted to the city of Chicago by 41 banks and 127 savings and loans in Cook County.

As an experiment, First Federal compared its own data for those same 17 zip codes. It can be read to show "too little" investment or "too much" as follows:

Savings and lending data aggregated for 17 selected zip codes (12 months ending November 1974):

Total savings balances, $145,122,000.

Mortgages made, $5,254,000.

"Savings dollars returned to the neighborhoods," 3.6%.

Net savings gain, $4,429,000.

Mortgages made, $5,254,000.

Ratio of mortgages made to savings gain, 118.6%.

In the first part of the table, the dollar amount of mortgages made in the 12-month period was compared to the stock of savings built up over many years. In the second part, mortgages were compared to the 12-month flow or net gain in savings at First Federal from the 17 zip codes.

In both cases shown here, "Mortgages Made" gives only the loans made in the 12-month period. It does not show the total loans First Federal has outstanding in the 17 zip codes. Do any of these figures give a clear picture of redlining? We do not think so, but this is the type of data that is being used to "prove" redlining. It is also the type of data that will be generated by disclosure legislation.

But more important is what the figures can't show—the lending dynamics. Was one large loan paid off and a number of small ones made? Is that "appropriate" to the market? Were older homes refinanced? Were mortgages assumed by new buyers?

Nor can this data tell anything about the unsatisfied demand for loans in a given area, which is the heart of the matter. To begin to assess demand, you need to know how many loan applications were received by each lender serving the market, how many were refused and for what reasons.

For example, some neighborhoods may represent substantial deposits, yet have little need for mortgage loans. This is true in older neighborhoods where homes are paid for, few properties are for sale, and people have built up their savings. It is also true in neighborhoods where apartment-dwellers predominate. If only a few loans were made in these neighborhoods because there was little demand, would it mean they were redlined? It would if you based your conclusions on the data requested by the disclosure legislation.

Another instance of misread data occurred last summer. The Citizens Action Program (CAP) released a study showing that 65 percent of Chicago savings and loans' home financing money was pledged to developers of lakefront and suburban property before individual home buyers in older neighborhoods got a crack at it. The study was said to be based on figures submitted by savings and loans to the Federal Home Loan Bank of Chicago.

The release of this report made headlines in the Chicago papers. A letter from Federal Home Loan Bank President H. Robert Bartell, Jr., challenging the use of the data, did not. Addressed to Charles Siragusa, executive director of the Illinois Legislative Investigating Commission to whom the study was submitted, the letter said in part: "I am unable to determine how . . ., CAP president, arrived at the figures on 'forward commitments' since they do not compare with any data published by the Federal Home Loan Bank Board. . . .

Commitments to lend by associations may result in loans actually made in two weeks, two months, two years, or not at all. Also, these commitments may be made to builders, new home buyers, or existing home buyers. Therefore, to compare the total amount of commitments made in any year to the amount of loans made and assert that this shows that individual home buyers are not served by associations until builders' needs are satisfied is clearly wrong. This is especially so when there is unambiguous data available from the Federal Home Loan Bank Board which gets to the question directly.

"The Board collects data on types of loans actually made. These data show that buyers of existing homes receive considerably more funds than buyers of new homes from builders. This is true during periods of tight money, as at present, and times of more readily available mortgage money."

Both these examples go to show that data cannot speak for itself. It must be interpreted in a fair manner by people who understand it. In the current redlining controversy, figures have been misinterpreted or misused many times. Facts have not emerged, they have been clouded. Disclosure legislation simply opens the door for more of the same.

Not only does data demand clarification, but the ground rules on what is and is not redlining have shifted a number of times. First, redlining was the refusal to make home improvement loans in certain areas. Then it became mortgage loans which were denied by neighborhood. More recently the emphasis changed, so that now redlining is the denying of conventional mortgage loans. Governor Walker's Commission on Mortgage Practices gave 11 definitions, and the call for the hearing of Senator Proxmire's bill listed another, saying redlining was "more typically an insistence on higher down-payment and shorter pay-back terms."

Indeed, things have progressed to the point where a lender, picking his way carefully among the 11 or 12 definitions of redlining finds he is hamstrung. He cannot now exercise prudent judgment based on accepted lending standards and fair appraisals without being accused of redlining. If he isn't guilty by one definition, he will be by another.

As E. Stanley Enlund, chairman of First Federal, said, "We are as interested in preserving the city's older neighborhoods as any group, but we must be permitted to exercise our judgment on the soundness of every loan in order to protect our savers."

In this uproar over redlining, the saver seems to be the forgotten man, but savings and loan officials dare not forget him. They are charged with investing his funds prudently for the best return without sacrificing safety. It is an obligation that cannot be waved off even to "save" a neighborhood.

Does this mean that First Federal and other lenders have done nothing about central city deterioration? On the contrary, First Federal has been active in revitalizing neighborhoods for many years. In 1959 we provided the first private urban renewal financing in the Hyde Park-Kenwood area. Currently we are involved with other savings and loans and banks—sharing the work and the risk—in two projects to help re-establish already declining areas.

The first, Rescorp, formed by 55 savings and loans in Chicago, is already underway with its first demonstration project in South Shore. Phase one, the purchase and rehabilitation of six apartment buildings with 170 units, is in progress.

Neighborhood Housing Services Program, a non-profit partnership of major savings and loans and banks, is providing technical and financial assistance to rehabilitate housing and assist in community preservation in city areas containing 6,000 structures. The names of the sites will be announced later this summer.

On an individual basis, over the years, First Federal has done its share by making loans to qualified buyers in every section of the city. We are not afraid of disclosure legislation on this score.

We are concerned, though, about the demand by anti-redlining groups that lenders abandon FHA (Federal Housing Administration) and VA (Veterans Administration) lending programs.

As Grover Hansen reminded the Proxmire committee, these are federal government programs and as such must be available to all qualified individuals. Over the years, by insuring or guaranteeing single-family mortgages, the federal government has helped hundreds of thousands of families into their own homes—people who, while credit-worthy, did not have a sufficient down payment or needed a longer repayment term in order to reduce monthly payments. No doubt some of those now railing against FHA/VA loans were assisted by these loans themselves.

This does not mean that First Federal approves every phase of FHA/VA operations. It does mean that on balance the programs have helped to better house our citizens.

Hansen also told the Proxmire committee that while First Federal kept no statistics on the matter, it was our experience that, in large cities such as Chicago, those obtaining government-insured or guaranteed loans tended to be somewhat poorer than those obtaining conventional financing; they also tended to be members of racial minorities. To abandon these federal programs would tend to deny home ownership to these groups.

Disclosure legislation which would classify loans between conventional and FHA/VA would give ammunition to those wishing to deny others the freedom to use these programs.

The problem of urban deterioration that the redlining question has helped bring to the fore is complex and frustrating. It has been with us for many years. It is human to want to find a "cause" for the problem and easy to choose one group, lenders, as the "bad guys." The only trouble is, it really doesn't solve anything.

The proposed disclosure legislation, which many hope will reveal true lending patterns, don't do any such thing. The right type of data is not being asked for, and data alone cannot begin to tell this complex story. This is why First Federal opposes the legislation and declines to accept the redlining charges.

Mr. GARN. I shall not take the time to read it, but just offer it to show Senators an example of how these data can be misused. Do not think there are not groups who would misuse them to prove anything they want: The old statistical game, where you take the same figures and show in a different way how a total savings balance of $145 million and mortgages made as $45 million would show that savings dollars returned to the neighborhood are only 3.6 percent. You can take the same figures and show that the ratio of mortgages to savings gains are 118.6 percent—you get more out than you put in.

I do think this is overkill. I agree with the chairman that redlining does exist. But let us not put the blame on the financial institutions. Let us put the blame on the mayors. I would not invest a dime in New York City, because of their gross mismanagement. I do not think the Federal Government should bail them out. We are using a negative example. We want to bail out New York City, when most of the cities of this country are competently run by qualified mayors, who are not back here yelling for a handout to bail them out of their problems.

Again, by imposing a national program without looking at the problems of the cities which they must address for themselves, all the pieces of this pie that caused the disinvestment problem, we are simply not going to solve it.

These are additional deficiencies in the legislative proposal that specifically should be taken into account:

The legislative proposal makes no effort to measure the demand for lending services in all neighborhoods in relationship to the outstanding balances or new loan volume of financial institutions.

There is no measure of the extent to which usury and foreclosure statutes in the various States affect the underwriting standards of reporting institutions.

The legislative proposals do not take into account the purchase criteria of investors such as the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association and others who indirectly establish the neighborhood criteria for purchasable loans. This is particularly important in capital poor areas, such as Utah, where mortgage investors originate loans in significant degree for the purpose of immediate resale to these investors.

The definitions of those loans to be reported are essentially one- to four-family units, and such a definition does not consider the residential rental project lending of financial institutions, which is equally critical to any study and determination of housing related lending by financial institutions.

The distinguished chairman has heard these arguments over and over again, so I ask unanimous consent to have printed in the RECORD two responses to statements that the chairman has made.

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

RESPONSE

Although there is evidence that tends to establish that location of the property is an important consideration in mortgage lending and undoubtedly "credit-worthy persons are sometimes denied loans on sound homes solely because of the location" it's questionable whether the hearings established that the practice of "redlining" is anything other than a phenomenon in a few urban areas. Most of the so-called evidence presented to the Committee was either antidotal or statistics of untested validity. It failed to examine in any detail the underlying reasons why financial institutions might be reluctant to lend in certain neighborhoods. It totally ignored the right of a mortgage lender in the loan underwriting process to look at the present and potential value of the security if the loan gets into trouble.

One of the problems in determining whether "redlining" exists in an area is that there is no agreement as to what the term means. The unpublished report of the Illinois Governor's Commission on Mortgage Practice lists 11 definitions of redlining. Some see it as an insistence on higher downpayment and shorter pay-back terms. Others call it the refusal to make conventional loans. The Committee Report defines it as the refusal to make mortgages solely because of neighborhood. The sort of data presented to the Committee and required to be produced under S. 1281 may show the flow of funds in and out of areas, but it cannot show why those changes occurred or the variety and extent of transactions which produced the results.

THE FEDERAL HOME LOAN BANK BOARD FINDS NO EVIDENCE OF REDLINING

Chairman Bomar of the Federal Home Loan Bank Board told the Committee that:

"We also believe it is important to point out that evidence of intentional discrimination against particular areas has been elusive at best. Recently, in response to allegations of neighborhood organizations that mortgage lenders were refusing to lend in certain neighborhoods, lenders in the Milwaukee area established a council to receive and resolve complaints of local citizens. The Milwaukee Area Mortgage Opportunity Plan (MAMOP), established in late 1974, has a comprehensive procedure for resolving complaints by rejected loan applicants. To date, they have received no complaints. A similar effort is currently being undertaken in Cincinnati with the assistance of the Federal Home Loan Bank of Cincinnati, but it has not yet become operational.

"After issuing regulations prohibiting redlining, the Wisconsin Savings and Loan Commissioner's office has received no redlining complaints and the Illinois Commissioner of Savings and Loan Associations has received only one complaint, which was proven to be unfounded.

"The Board's Supervisory Agents in Chicago have publicly invited consumer groups to submit complaints of alleged redlining to them for investigation. About 15 complaints have been received, most concerning incidents where telephone calls or word of mouth contacts took place several years ago and where the associations concerned either had no records which could be checked or could find no personnel who remembered the incident. In those incidents where some records could be found, it was determined that underwriting considerations justified the refusal to make the loan. The Board itself has received only a modest number of complaints of discriminatory lending practices by federally regulated savings and loan associations, and in each instance where it has completed its investigation it has found the complaint to be unfounded."

RESPONSE

The investigation of Dr. Kenneth J. Thygerson, Chief Economist for the U.S. Savings and Loan Association, indicates that there have been many problems associated with the reporting to California Savings and Loan Commissioner's office on coding new mortgages made by census tract. Dr. Thygerson discussed this with Bill Harrison of the Savings and Loan Commissioner's office in California and found that when the California program was first developed 11 years ago, the associations had very substantial problems complying with the regulations. Mr. Harrison mentioned that because (a) census maps were not available; (b) computer service companies were not established; and, (c) few lenders understood what a census tract was; nearly all institutions were unable to comply with the regulation. Bill Swaboda of the Commissioner's office indicated that in the early years of the program, as many as 70–80 percent of all loans made within SMSA where census tracts were available could not be successfully classified according to census tract.

Even with eleven years of experience, the Commissioner's office still estimates that over 10 percent of all loans within SMSAs cannot be successfully coded by census tract. In part, this is because Thomas Bros. does not produce tract maps for all counties, but it is also the result of the fact that this job is time consuming and the maps are hard to read.

Despite the eleven years of experience, there are frequent additional problems with the regulation. Harrison mentioned the fact that when all census tract numbers were changed in 1970 that this created enormous confusion and many problems. Most associations could not obtain the new tract numbering systems or the new census boundaries. Maps were not available. As a result, the Commissioner's office allowed the associations to report using the old and new census numbers. This, in effect, meant that the reports were essentially useless for any purpose.

Mr. GARN. I yield 10 minutes to the distinguished Senator from Texas.

Mr. TOWER. Mr. President, I believe that the provisions of the bill if enacted into law not only will fail to make a meaningful contribution to the preservation or revival of our urban neighborhoods but will be counterproductive.

First, the proponents of the bill maintain that to reverse neighborhood decline, we need simply to give community action groups and depositors information to enable them to force lending institutions to make home mortgage loans in inner-city neighborhoods. This is based on the theory that the primary cause of neighborhood decline is the concerted action of financial institutions in disinvesting or refusing to lend in neighborhoods where they are located, a practice, of course, that has been often referred to as "redlining."

The serious flaw in this theory is that it overlooks the fact recognized by most authorities on the subject that disinvestment generally occurs in the later stages of neighborhood decline. A national survey of housing abandonment in 1971 examined the sequence of neighborhood decline and identified the six stages in this process as follows:

Decline in neighborhood's economic status;

Racial or ethnic change;

Property speculation;

Weakened market conditions and emergence of crisis ghetto conditions;

Disinvestment; and finally

Abandonment.

Thus the disinvestment comes after the serious stages of decline have set in and is in reality more of a symptom than a cause of the decline. Pumping mortgage money into a neighborhood cannot cause an improvement in schools, increase safety, give more efficient public transportation, or upgrade any other city services necessary for a viable neighborhood.

Another basic misconception upon which the bill is based is that local deposits should be used essentially for local credit. Although it is generally recognized that it is in the best interests of financial institutions to accommodate the legitimate credit needs of their local communities, the premise of the bill fails to recognize that one of the main functions of financial institutions is to provide greater mobility for the economy's savings and investments.

The savings institutions are the principal intermediaries by which capital flows from areas of capital surplus—which may be temporary—to areas of capital deficiency.

Thus we may have neighborhoods made up primarily of apartment dwellers and savers where there is a surplus of savings over the demand for home mortgage financing. This money quite properly is transported to newer, growing neighborhoods where young couples with families are building new houses. In all likelihood these new family formations are made up of the sons and daughters from the old neighborhood.

In a like manner, certain older areas

of the country, such as the East, have experienced capital surplus whereas the West and the South have had capital shortages. The transportation of capital through the intermediaries has enabled these sections of our country to grow and has made possible homeownership for millions of Americans. It also benefits the saver by providing a better return on his investment. The philosophy behind S. 1281 would reverse this process and do great damage to our economic system as well as deprive many Americans of homeownership.

This is as the distinguished Senator from Utah has so eloquently noted, a first step toward a form of Federal credit rationing. The next step would be to say that at least a certain percentage of deposits must be invested in a certain area. In Chicago where several savings and loans have made public their lending patterns, neighborhood groups have demanded commitments for a fixed amount of mortgage financing in specific areas.

Here the answer lies not in the Mortgage Disclosure Act, but in the creating of more capital in the private sector through incentives to save. This bill goes in the opposite direction.

Even with larger stores of capital, there will be persons of economic levels who will not be served by the private mortgage market. Adequate housing for these Americans should be financed through Government guarantees or support programs. In recent years, Congress has been most generous in this regard:

S. 1281 will not only fail to solve the problem of neighborhood decline, but could be counterproductive by the following:

Causing lending institutions to pull out of declining neighborhoods;

Shaking investors confidence and causing withdrawals from savings accounts;

Forcing lending institutions to infuse money into neighborhoods creating a turnover in housing and disruption; and

Inhibiting the flow of money from surplus areas of the country where it is not needed to areas of scarcity where it is needed.

Another concern that I have is the unnecessary burden this legislation will place upon the small savings institutions which operate in the areas of the country not identified with the redlining problem. The committee hearings identified the disinvestment problems in about 15 to 20 urban areas particularly where the older cities are located. The committee bill, however, would require financial institutions with a home office or branch in any 1 of the 265 standard metropolitan statistical areas to report their lending patterns.

The standard metropolitan statistical areas are often made up of one urban county surrounded by suburban and rural areas with a large commuter population coming into the city. For example, the Washington, D.C., area includes rural Loudoun County, Va. In my State of Texas, we have 23 SMSA's. The larger SMSA's, such as Dallas-Fort Worth or Houston, include rural counties. For example, we find in Dallas-Fort Worth that Hood County has a population of 6,300. Looking at Houston, Liberty County has a population of 33,000 whereas Waller County has 14,000. Near my home of Wichita Falls, Tex., Clay County has a population of only 8,000. These are all rural counties and there are no redlining problems associated with them. Yet, the authors of this legislation would require institutions serving those areas to report their lending patterns.

Although there has been a great hue and cry in pursuit of the redliners, the proponents of S. 1281 have produced little or no hard evidence that it exists. The committee report admits that there is no evidence that lenders actually redline an area. It then goes on to explain that the practice is more subtle. But nowhere is the term defined in objective terms. To some it means making FHA-VA loans in an area. Others see it as lending on less advantageous terms. As the Chairman of the Federal Home Loan Bank Board told the committee:

> Evidence of intentional discrimination against particular areas has been elusive at best.

Much of the so-called documentary evidence presented to the committee is of a questionable nature. Although community groups presented statistics which they claimed established the existence of redlining in Chicago, a survey of the Federal Home Loan Bank Board of Chicago showed that the city's savings and loans were making a significant amount of loans from June 1971 to June 1973 in areas claimed to be redlined.

In a similar vein, the committee was presented with a map of the District of Columbia which the committee staff said showed a large part of the city is redlined. And yet a Washington Post survey showed that most Washington area savings and loans historically have made mortgage loans for homes in neighborhoods throughout the city and its suburbs in rough proportion to savings deposits generated from the same neighborhoods.

My fear is that if this bill goes forward in its present form, it will be costly to the future home buyer without a commensurate benefit. The thrift institutions in this country are in an earnings squeeze and they will have to pass the cost on to the consumer who can ill afford additional inflationary increases.

The preservation of our older neighborhoods and the maximum utilization of the Nation's existing housing stock have been important concerns of the Committee on Banking, Housing and Urban Affairs. In the last session of Congress under the able leadership of the distinguished senior Senator from Alabama (Mr. SPARKMAN), the committee reported out the important Housing and Community Development Act which will give the Government important tools to attack the underlying causes of urban decay. Additional approaches are being developed by the Department of Housing and Urban Development and the Federal Home Loan Bank Board to encourage community groups, the financial institutions, and government agencies to reverse the decline in older neighborhoods. There is more hope in these approaches which emphasize community cooperation rather than confrontation which would be fostered under the provisions S. 1281.

Mr. President, I think that the Senator from Utah has done a wise thing in offering his amendment, which would limit the bill to a 3-year demonstration study in 20 SMSA's. This is the orderly way to approach this problem and to gain some experience through a demonstration program.

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

Mr. PROXMIRE. Mr. President, I yield the Senator additional time.

Mr. TOWER. I fervently hope the amendment of the Senator from Utah will be adopted.

Mr. PROXMIRE. Mr. President, I will not take much more time. I call the attention of the Senate to several points.

The distinguished Senator from Utah was a fine mayor and had great experience in that area, but I think he does not speak for the mayors of this country.

Let me read what I have from John Gunther, executive director, U.S. Conference of Mayors:

> At the annual meeting of the U.S. Conference of Mayors in Boston, July 4–9, the membership overwhelmingly adopted a resolution calling upon Congress to enact legislation requiring the full disclosure of mortgage and home repair loans by census tract as well as for the full disclosure of the sources of a lending institution's deposits. I have attached a copy of this resolution for your attention.
>
> It is my understanding that the Senate has scheduled floor action on S. 1281, "The Home Mortgage Disclosure Act of 1975" for Tuesday, July 22, and that there will be an amendment offered by Senators Garn and Tower.

That is the amendment now before us—

> To seriously weaken the objectives of this legislation. S. 1281 (by requiring only disclosure of mortgage loans by census tract) is not as comprehensive a measure as hoped for by the nation's mayors. However, it does represent an important first step and a partial remedy to the ever-increasing problem of red-lining and disinvestment besetting many of our cities. Any attempt to weaken this legislation in any fashion including the development of a pilot "feasibility study" in some 20 metropolitan areas is unacceptable. The problem is much more extensive and comparable public policy has been a proven success in Chicago and California.
>
> While public disclosure of depositing institutions' investment and loan practices will not assure the prevention of neighborhood decline, it does provide the citizenry and local officials with another tool to assist in this most important undertaking. As Executive Director of the U.S. Conference of Mayors, I urge your support of S. 1281, the "Home Mortgage Disclosure Act of 1975," as reported and ask you to oppose the Garn-Tower amendment and any other efforts to weaken this most important piece of legislation.

Mr. President, I do not know how we can have a clearer record. I have been in the Senate 18 years and I have seen many issues, but I have never seen a group more explicitly in favor of a legislative position than the U.S. Conference of Mayors is on this particular issue. In this case they are against it, but they make no bones about it. They do not just say that they favor the bill and oppose amendments. They say that this particular amendment, offered by the Senator from Utah, is an amendment they

oppose, that it is wrong, that it will weaken the bill—a bill which the mayors of this country say overwhelmingly, in a conference, they need.

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

Mr. PROXMIRE. I yield.

Mr. GARN. Mr. President, I wish to clarify something. There is no doubt about that. I have a copy of the letter. John Gunther sent me a personal copy.

I served on the advisory board of the U.S. Conference of Mayors. But there are two organizations of mayors in this country. The U.S. Conference of Mayors is composed of mayors of cities of more than 50,000. Normally, 250 to 300 mayors attend the U.S. Conference of Mayors.

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

Mr. GARN. I yield.

Mr. PROXMIRE. The Senator makes a very good point, and that is precisely what this measure covers. It does not cover the small cities under 50,000. It covers the SMSA cities of 75,000 or more. Once again, we are talking about legislation that is explicitly and exclusively in their area. I do not know how we can get better advice.

Mr. GARN. My city was a city well above 50,000—a metropolitan area of 500,000.

The Senator will find the policy positions of the U.S. Conference of Mayors in great difference with respect to the National League of Cities. The National League of Cities has taken no position on this legislation. I was president-elect of that organization, and they represent 15,000 cities in this country.

Mr. PROXMIRE. And those cities would not be affected by this legislation. That is why they do not take a position.

Mr. GARN. Not 200 or 300. So when the Senator says "the mayors of this country," I want to clarify that he is primarily talking about the big-city mayors, and that is what I have been talking about.

Mr. PROXMIRE. Bless your heart, Senator.

Mr. GARN. Let us look at the big cities and not use the 105-millimeter howitzer on the whole country.

Mr. PROXMIRE. When I talk about the mayors who are affected by this legislation, I am not talking about the mayor of Warsaw, Poland; I am not talking about a mayor in every little city in Wisconsin. I am talking about every mayor in the country who is affected by this legislation, who is eligible to belong to the U.S. Conference of Mayors. The overwhelming majority of them belong, and they overwhelmingly say that they are opposed to the amendment of the Senator from Utah. They are the ones affected by this.

Mr. GARN. I think the Senator is making my point, because we discussed this in the hall one day, after a committee meeting, and I told him how policy is made.

I cannot prove it, but I feel that if we polled all the members of the U.S. Conference of Mayors as to how they felt about this, a majority would be opposed to it. I do not know how many show up on the floor at one of these conventions, but it is not a large number, and the same happens in the National League of Cities.

The national municipal policy certainly is not always represented. It is representative of those who attended the convention, and that is all it means.

The Senator is looking at a limited number of mayors, primarily the mayor of Milwaukee, who bleeds for everything from the Federal Government. Henry is a good friend of mine.

Mr. PROXMIRE. Henry is a good mayor, a brilliant mayor. But that is irrelevant to this debate. The point is that this is the only opportunity we have to know how these mayors feel. The Senator from Utah says they oppose it; I say they favor the legislation. The only way they can know is if there is a conference and a meeting, and there was. They go on record, and the record is very clear. The Senator can speculate all he wishes that they did not mean what they said. The Senator can say that John Gunther is not speaking the truth, but John Gunther wrote this letter and said that the U.S. Conference of Mayors is unanimously in favor of this legislation. It is a fact; it is true.

Mr. GARN. Do not put words in my mouth. I did not say that John Gunther was lying. All I am clarifying is the fact that that is a correct statement from those who were on the floor at that convention. If the Senator wants to limit it to that and say that it represents the mayors who were there, who said yea or nay on the floor of that convention, I agree. I have been to all those conventions in the last 7 years. That is a true statement.

My disagreement is this: The Senator should not represent that that convention represents every mayor in this country, any more than saying what goes through the Senate, which the Senate passed, can be said to be something favored by the Senators of this country. The mayors who attended that convention and voted were for it. I do not know what the vote was. It was probably a voice vote, like many of our votes. I do not believe it is representative of the mayors of this country.

I would be far more interested in the position of the National League of Cities, which has a more involved process of determining national policy. They hold committee meetings throughout the year and are representative of 15,000 cities, with 5,000 attendees, rather than 200 or 300.

I am just limiting the scope. Everything the Senator says is absolutely correct. I want to make clear the limitations of the scope of that resolution.

Mr. PROXMIRE. I thank the Senator.

Mr. President, I would like to make clear what the proposed legislation would do and would not do, before it is gutted, virtually destroyed, by my good friend, the Senator from Utah.

The Senator from Utah, in his splendid rhetoric, said it would dictate where money would be loaned. It would not do anything of the kind. There is no dictation here. It would not deny the charter to a bank that fails to make a particular loan. It would not require the bank to make any loan at all. It says, "You will disclose where you make the loan," and any depositor has a right to know where that depository institution has made its mortgages.

The Senator spoke very strongly about the rights of depositors and said that nobody has spoken about the rights of depositors.

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

Mr. PROXMIRE. Not at this point. I will yield later.

The rights of depositors are important. They are of the greatest importance. The kind of right we want is the right for the depositor to know where his money goes. The depositor is the one who would be enlightened by this kind of information.

I yield to the Senator.

Mr. GARN. I have a brief clarification. I did not say and certainly do not believe that this bill would do all those things. My statement was—and I am sure the Senator will find this in the RECORD—that I felt, and most of the groups testifying in favor of it believe, that it is a first step. It is the camel's nose under the tent. That is all I want to say.

I do not want it left in the record that I believe this legislation requires money to be spent in different places. I think it is just a first step.

Mr. PROXMIRE. I am happy to have that clarification.

Mr. President, I do not want to take further steps. We are all grown men. We do not feel that because a step has been taken in the direction that some people say has to lead somewhere that we have to go all the way. I believe in disclosure—in truth in lending and in many other areas. But I do not believe in mandating loans. I do not believe in a scheme of comprehensive credit allocation. I will fight that kind of legislation.

I point out that this legislation is supported by the U.S. Conference of Mayors, which is in a strong position to know what the cities need and what happens to the cities and whether or not this kind of disclosure with respect to mortgages will be helpful. They favor it overwhelmingly, as we have been told by the U.S. Conference of Mayors. It is also favored by the AFL-CIO, whose working people constitute a large part of our cities. It is also favored by the NAACP and the Urban League and other civil rights groups, including the Leadership Conference on Civil Rights, who are aware of what redlining has done to minority groups, the cruelty of it, the unfairness of it; and the simplicity and ease with which this could be at least corrected.

As I say, we are not telling the banks they have to make a loan. We are just saying, disclose what you do; just let us know. It is also favored, of course, by neighborhood groups.

Under these circumstances, Mr. President, I hope that we can vote no on the amendment by the distinguished Senator from Utah. If he is ready to yield back his time, I am ready to yield back mine.

Mr. GARN. I have just one brief comment, getting back to the mayors. I think the point that should be made——

The PRESIDING OFFICER. Does the

Senator from Wisconsin yield to the Senator from Utah? The Senator from Utah has used all his time.

Mr. PROXMIRE. Yes.

Mr. GARN. I use my own SMSA as an example. There are nine incorporated communities, each having a mayor, within this area. I would be the only one eligible by size to belong to the U.S. Conference of Mayors. In SMSA's all over the country, we would find the same situation of small town mayors included within the SMSA but having no vote. In the entire State of Utah, there are only three of us, out of some 218 incorporated communities, who are eligible to belong to the U.S. Conference of Mayors. Yet many of those small towns are within the Ogden-Salt Lake City-Provo area and would have no voice in that kind of thing.

I yield back my time, but I have no time left to yield back.

Mr. PROXMIRE. Mr. President, I yield back my time. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. PROXMIRE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TAFT. 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. TAFT. Mr. President, I have a number of amendments on the Garn amendment that I wish to discuss at this time.

Mr. President, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, line 12, after "1974" insert the following: "and a home improvement loan".

On page 4, line 5, strike "and".

On page 4, line 9, strike the period and insert in lieu thereof the following: "; and "(3) the number and dollar amount of home improvement loans.".

On page 8, line 24, strike "and home improvement".

Mr. TAFT. Before discussing this particular amendment, I would like to express my feelings briefly about the entire Garn amendment and what I intend to do in the next few minutes.

Mr. President, before proceeding to that, I consider that redlining is a very serious problem and one that we have every reason, because of our involvement in the entire housing program at the Federal level, to consider and act upon in Congress. I do believe, however, that to some extent, the national debate on urban home lending practices unfortunately has not focused upon the real issues. The use of the emotional term "redlining" has polarized the debate. It has helped to cause some community groups to regard the financial institutions' actions as unrealistically sinister and some financial institutions to respond as if their business practices are virtually above subjection to public examination.

Contrary to the claims of some financial institutions, I believe that there are some serious problems with regard to their performance in providing credit to our older neighborhoods—in which many of them are located. However, unlike some community groups, I do not attribute these problems largely to any sinister intent. There undoubtedly are instances where whole neighborhoods are discriminated against on racial grounds or similar grounds which are illegal under the Civil Rights Act of 1968, and financial institutions should be held accountable for such actions. Admittedly in most cases the credit "discrimination" probably results from a good-faith business judgment concerning the lending risks involved. Rather than blatant intentional discrimination as we usually use the term, the problem with lenders' credit practices in these neighborhoods is that they sometimes are far more conservative than appears to be necessary, based on actual credit experience. The financial institution may feel that it can afford to be extremely conservative because it has plenty of business in the suburbs or wealthier neighborhoods.

By these practices, the financial institution may be contributing to the decline of various neighborhoods, even though its actions are motivated by what it believes to be legitimate business considerations.

Thus, the redlining issue is not generally a simple question of intentional discrimination, but rather a more difficult one concerning the propriety of business judgments and the possibilities for changing them.

Mr. President, I am quite sympathetic with the approach of the amendment of the Senator from Utah. Our staffs have had a number of discussions about the amendment. I do feel it would be desirable to have more information before reaching a conclusion about the desirability or form of nationwide disclosure requirements. For that reason, I am sympathetic to the Garn approach. I do, however, have some doubts about some of the provisions in the Garn amendment's 20-metropolitan-area program.

I have an amendment which I will offer shortly, or attempting to raise that number to 35. I also feel that there should be some areas in which information is gathered on what the use of a census trace rather than ZIP code approach might bring. I think even other standards might be developed and I do intend to offer an amendment which will give the Federal Reserve the authority to use other standards.

I also have a couple of what I think are more or less noncontroversial amendments, the first of which is before the Senate at the present time.

Let me address myself for a moment to that amendment. All that the amendment before us now would do is put into the substitute, the Garn substitute as proposed, home improvement loans in the information to be included in the information which financial institutions will have to disclose. I have mentioned that the importance of these loans to a neighborhood's health and survival is obvious, many of the neighborhoods in question have a large number of older homes in need of repair.

In many cases, profitable home improvement loans of one kind or another would improve the neighborhood. This amendment, as I am sure the Senator will recognize, has already been adopted as to the bill at the present time.

Since the Garn amendment is before us and, if it is adopted, will be substituted for the entire bill, I offer this amendment to the Garn amendment at this time.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield to the Senator from Utah such time as he may require.

Mr. GARN. I shall simply accept the Taft amendment, to include home improvement loans, to my amendment.

The PRESIDING OFFICER. Does the Senator modify his amendment to accept the Taft amendment?

Mr. GARN. Yes, I would modify my amendment to accept the Taft amendment No. 700.

The PRESIDING OFFICER. The Senator's amendment is so modified.

Mr. GARN. My amendment is 826. This is the Taft amendment to amend the bill to include home improvement loans, No. 700.

Mr. TAFT. Mr. President, as sent to the desk, it had been modified. I apologize for using the original number, but it had been modified to comply with the substitute. Does the Senator accept that?

Mr. GARN. Yes.

The PRESIDING OFFICER. The amendment is so modified.

The Senator from Ohio.

Mr. TAFT. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 4, between lines 9 and 10, insert the following: "For the purpose of carrying out its study and demonstration, the Board shall, to the maximum extent consistent with the necessity to conduct such study and demonstration in a sound and comprehensive manner, select those standard metropolitan statistical areas in which mortgage lending practices have been alleged to be discriminatory by geographic location."

Mr. TAFT. Mr. President, the amendment that is now before us would require that to the maximum extent consistent with the necessity to have a sound and comprehensive demonstration, the Federal Reserve Board should choose metropolitan areas in which discriminatory neighborhood lending practices of the

financial institutions have been alleged to be a problem. I believe that this amendment is extremely important to help insure that the demonstration will include a heavy representation of cities where redlining is a live and difficult issue, as opposed to areas where the disclosure program may not invoke much interest. For example, the extent to which redlining is an issue varies drastically among the 14 metropolitan areas in my own State.

This amendment does not mean that all the SMSA's chosen should be "problem areas," because that might limit the usefulness of the demonstration. However, I do believe that a large number of such areas should be included in that demonstration.

The purpose of this amendment is to insure that that is done and to provide the indication of the manner in which the Federal Reserve should move in that direction.

Mr. President, I shall be glad to yield to the Senator from Utah.

Mr. GARN. The Senator from Utah will have no objection to modifying his amendment to require the Board to select SMSA's in these areas where mortgage lending has been alleged to be discriminatory.

The PRESIDING OFFICER. The amendment is modified by the amendment of the Senator from Ohio.

Mr. TAFT. Mr. President, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 3, line 3, strike out "twenty" and insert in lieu thereof "thirty-five".

On page 9, line 6, strike "twenty" and insert in lieu thereof "thirty-five".

Mr. TAFT. Mr. President, in my opinion, this amendment would strengthen the Garn comprehensive amendment so that it would provide for a fuller demonstration of a loan location disclosure requirement's effects. The amendment would increase the number of standard metropolitan statistical areas involved from 20 to 35. This coincides, incidentally, with the number of SMSA's which have populations greater than 1 million people.

This change would be made so that the demonstration program would involve more different types of SMSA's to, perhaps, test a variation of the disclosure requirements. I think it would make the test that would be brought about by the Garn substitute a more effective test and one from which we could draw sounder conclusions because of the somewhat broader sample than is proposed in the Garn amendment.

Mr. President, I would be glad to yield to the Senator from Utah.

Mr. GARN. The Senator from Utah would not accept going to 35. I think that is an unwarranted expansion. I would be willing to modify my amendment to somewhat larger than 20 if the Senator from Ohio and I could agree on some middle ground between 20 and 35.

Mr. TAFT. Mr. President, if the Senator will yield, I would be glad to split the difference because I think it would be an improvement, and I desire to accommodate the Senator in that regard. I would make it 27, which gives the Senator from Utah the extra city.

Mr. GARN. I would be willing to accept a modification of my amendment to strike out "20" and change it to "27."

The PRESIDING OFFICER. The amendment is so modified.

Mr. TAFT. Mr. President, I send an amendment to the desk and ask the clerk to report the amendment.

The legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, between lines 18 and 19 insert the following:

"(4) the term 'census tract' means a census tract as established and defined by the Bureau of the Census;".

On page 2, line 19, strike "(4)" and insert in lieu thereof "(5)".

On page 2, line 23, strike "(5)" and insert in lieu thereof "(6)".

On page 3, line 14, strike ", as determined by the Board" and insert in lieu thereof the following:

"or by census tract or other easily definable geographic unit, as determined by the Board, except that the Board shall require itemization by census tract in a significant number of the areas selected".

Mr. TAFT. This amendment, I think, is by far the most important of these amendments to the substitute that I have been discussing.

This amendment would change the provision of the Garn amendment which, as amended on the floor, requires that the demonstration be conducted by ZIP code in every one of the 20 metropolitan areas selected. Instead, it would allow the Federal Reserve Board to choose between census tract, ZIP code or another easily definable geographic unit as the basis for loan disclosure by location. It also would require that in a significant number of the metropolitan areas selected, the demonstration would have to involve the disclosure of data by census tract. Thus, it insures that the demonstration would require disclosure by census tract on at least a widespread enough basis to give that method a full and fair trial.

I already have indicated that I believe we would be better off giving the loan disclosure concept a limited but meaningful application than adopting the committee bill and that is why I am supporting the Garn amendment. I believe we could use further experience before concluding the form any disclosure to be required nationwide should take. For that reason, I was attracted to the Garn amendment and rather than opposing it, I have submitted amendments to try to strengthen it. However, I believe that a limited program should include disclosure by census tract as well as ZIP code.

I understand the reasons why the proponents of this amendment are reluctant to require disclosure by census tract in any metropolitan area. In its preliminary studies, the Federal Home Loan Bank Board has had indications that the error rate for census tract disclosure is extremely high—perhaps in the 50-percent range. Of course, we must balance such problems with the bill's effectiveness in alleviating redlining.

I am also receiving the same kinds of letters as these Senators from constituent financial institutions, alleging that they cannot obtain needed census tract information and that compliance with a census tract requirement would be costly if not impossible. In fact, I may be receiving more of those letters, because I believe my State has so many savings and loan associations.

Nevertheless, we will weaken the demonstration considerably if we refuse even to try census tract disclosure. The major legislative vehicle, the committee bill, proposes disclosure exclusively by census tract. The U.S. League of Cities/Conference of Mayors has passed a resolution supporting disclosure by census tract. Other concerned individuals and organizations, such as Ralph Nader and the Consumer Federation of America, have written all of us urging that disclosure be required by census tract. More importantly, although there certainly is some adverse evidence concerning census tract-based disclosure, the evidence is far from clear that this approach cannot be made workable. Furthermore, we all know that ZIP code leaves something to be desired as an alternative because the area covered by a ZIP code is often very large. The number of people generally is in the neighborhood of something like 60,000.

I believe that Senators who really want to have a full demonstration of the loan disclosure by location concept will vote for my amendment. My amendment would make the program more of a real demonstration. Thus, I urge the adoption of my amendment to make the Garn amendment more of a true alternative to the committee bill, and providing a better test of the concept we are attempting to develop here.

Mr. President, I will be glad to yield to the Senator from Utah.

Mr. GARN. The Senator from Utah cannot accept this particular amendment going to census tract in other areas. I believe the vote on the Proxmire amendment which was easily defeated 49 to 36, and a voice vote approving the Stone amendment which changed the bill from census tract to ZIP code indicate that the Senate has spoken on this issue, and I am not willing to accept the amendment.

Mr. TAFT. I would have to take issue, I believe, with the Senator on his statement that the Senate has spoken on this matter. What the Senate said, in effect, on the Stone amendment and on the Proxmire amendment vote to which the Senator has referred, referred to an overall comprehensive program covering every standard metropolitan area in the country. This proposal relates solely to the 27 demonstration area program we are talking about and which the Senator from Utah and I agree would provide a more realistic and practical ap-

proach than the committee bill. The proposal would help us as we try to find out what we should do and what we should not do in this area.

What the amendment attempts to do is to help obtain information as to how a program should work. I do not think we should kid ourselves into saying that we are just going to have this 27-city program, after the 3-year period provided for, on the books for very long. I think Congress will be looking at the application of the program and the principles that are developed for application to areas in other parts of the country where redlining may be found to exist, and I think we will find it exists in more areas than the number that would be covered by this amendment.

But to cut out the alternative method of disclosure seems to me to be contrary to the purposes of a true test.

Mr. GARN. I would disagree, in a very friendly manner, with the distinguished Senator from Ohio. The Proxmire amendment greatly limited it by saying it would not be ZIP code in metropolitan areas under 350,000, that it would be only central cities, and their suburbs would be eliminated, and that was the 49-to-36 vote. It was a combination, a considerable modification of the original census tract bill. So I would disagree.

Mr. TAFT. That is true, but there are some 100 SMSA's, I think, that would have been covered by the Proxmire amendment. I think we are dealing with about that number.

Mr. GARN. I am sure that is true, but I still would not, respectfully, accept the amendment.

Mr. TAFT. Mr. President, I note we do not have a large number of Senators on the floor and I, therefore, suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. TAFT. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TAFT. 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. TAFT. Mr. President, I am asking to modify the amendment presently at the desk. The effect of the modification language presented there would be to make the use of census tract or another geographic unit other than ZIP code voluntary on the part of the financial institution.

In other words, the ZIP code would be used unless the financial institution agreed on a voluntary basis with the Federal Reserve Board and the Federal Reserve Board approved that the census tract or some other means of determination might be used.

I would ask to modify my amendment to that effect.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 2, between lines 18 and 19 insert the following:

"(4) the term 'census tract' means a census tract as established and defined by the Bureau of the Census;".

On page 2, line 19, strike "(4)" and insert in lieu thereof "(5)".

On page 2, line 23, strike "(5)" and insert in lieu thereof "(6)".

On page 3, line 14, strike ", as determined by the Board" and insert in lieu thereof the following:

"or where the financial institution agrees, by census tract or other easily definable geographic unit, as approved by the Board.

Mr. TAFT. Mr. President, I am glad to yield to the Senator from Utah.

Mr. GARN. Mr. President, I accept the amendment of the Senator from Ohio, as modified.

The PRESIDING OFFICER. The Senator modifies his amendment in accordance with the Senator from Ohio?

Mr. GARN. That is correct.

The PRESIDING OFFICER. The amendment will be so modified.

AMENDMENT NO. 702

Mr. TAFT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) proposes an amendment at the end of the amendment to add the following title.

The amendment is as follows:

At the end of the amendment add the following new title:

TITLE II—HOUSING PRESERVATION ALTERNATIVES ACT

SEC. 201. This Act may be cited as the "Housing Preservation Alternatives Act of 1975".

FINDINGS AND DECLARATIONS; PURPOSE

SEC. 202. (a) The Congress—

(1) reaffirms its finding that policies designed to contribute to the achievement of the national housing goal have not devoted sufficient attention and resources to the preservation of existing housing and neighborhoods;

(2) reaffirms its declaration that, if the national housing goal is to be achieved, a greater effort must be made to encourage the preservation of existing housing and neighborhoods; and

(3) declares that in view of this situation, promising alternative means of encouraging such preservation should be developed and assessed promptly.

(b) It is the purpose of this Act to authorize the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") to develop and implement alternative means of encouraging the preservation and rehabilitation of existing housing and neighborhoods, on a scale which is at least sufficient for assessment purposes but which does not involve an excessive amount of new Federal outlays, and to report his evaluations and recommendations for future housing and neighborhood preservation policy to the Congress.

LEVERAGING OF LOCAL FUNDS

SEC. 203. Section 2(a) of the National Housing Act is amended by inserting before the period at the end of the first paragraph the following: "(or 100 per centum of such loss if (A) such loan, advance of credit or purchase is accompanied by a subsidy or grant of at least $2,000 to the owner or lessee of such real property in conjunction with any applicable approved community development program under title I of the Housing and Community Development Act of 1974, for the purpose of enabling such owner or lessee to undertake housing repairs, improvements, or rehabilitation, and (B) the State or unit of general local government supplying such subsidy or grant agrees to reimburse the Secretary for an amount equal to 20 per centum of any such loss)".

DEMONSTRATION ASSISTANCE FOR HOME IMPROVEMENT LOANS

SEC. 204. Title I of the National Housing Act is amended by adding at the end thereof the following new section:

"DEMONSTRATION GRANT ASSISTANCE

"SEC. 10. (a) The Secretary is authorized to undertake a program to demonstrate the feasibility of making grants or advances in connection with private financing, in order to enable homeowners to finance housing repairs, improvements, or rehabilitation with private capital to the extent feasible and without paying an excessive percentage of their monthly incomes for housing expenses, as determined by the Secretary. For this purpose, the Secretary is authorized to make grants or advances in connection with property improvement loans covered by insurance under section 2 of this title, or in connection with other private financing of housing repairs, improvements, or rehabilitation (including financing insured pursuant to this Act) upon such terms and conditions as he may prescribe, subject to the limitations of this section.

"(b) The cost of repairs, improvements, rehabilitation facilitated by any grant or advance made under this section shall not exceed the maximum insurable amount for a property improvement loan which is insured to section 2 of this title.

"(c) To the extent practicable, the Secretary shall carry out the provisions of this section through the financial institution which makes the loan in connection with which the grant or advance is made. The Secretary is authorized to utilize local public and private agencies where feasible to assist in the administration of this section.

"(d) Grants or advances under this section may not be made after March 31, 1978. For the purpose of making grants or advances pursuant to this section, there are authorized to be appropriated not to exceed $15,000,000 in any fiscal year.".

PORTFOLIO INSURANCE FOR REHABILITATION LOAN FUNDS

SEC. 205. Title I of the National Housing Act is further amended by adding at the end thereof the following new section:

"REHABILITATION FUND INSURANCE

"SEC. 11. (a) The Secretary is authorized upon such terms and conditions as he may prescribe to enter into contracts to insure revolving rehabilitation loan funds administered by State or local governments, or by public or private nonprofit agencies or organizations approved by the Secretary for purposes of this section, against part of the losses which such funds may sustain as a result of loans or advances of credit from the funds pursuant to loan programs which meet the requirements of this section. To the maximum extent practicable, the Secretary shall provide insurance pursuant to this section only in cases where he is satisfied that such insurance will result in a significantly larger rehabilitation program.

"(b) A loan program which meets the requirements of this section shall—

"(1) involve significant financial participation in the rehabilitation program by a State or local government;

"(2) involve loans to finance rehabilitation of predominantly residential property in a manner consistent with nay approved community development plan under title I of the Housing and Community Development Act of 1974 for the community involved;

"(3) provide loans to persons who cannot obtain or afford private financing; and

"(4) meet such requirements concerning the nature of the loans involved, including requirements concerning the nature of the neighborhoods involved, as the Secretary determines necessary so that any guarantee pursuant to this section will be acceptable as a special risk.

"(c) The Secretary is authorized to establish and collect such insurance premiums or other fees or charges as he determines to be necessary in connection with the administration of this section. Any contract for insurance under this section shall be the obligation of the Special Risk Insurance Fund.

"(d) The aggregate amount of outstanding loans in revolving funds partially insured against losses under this section may not exceed $15,000,000, at the beginning of fiscal year 1977, and may not exceed $35,000,000, at the beginning of fiscal year 1978.".

LIMITATION ON INSURANCE PROGRAM FOR EXISTING MULTIFAMILY PROJECTS

SEC. 206. The first sentence of section 223(f) of the National Housing Act is amended by inserting before the period at the end thereof the following: ", except that a mortgage covering a project, the construction of which commenced after June 30, 1974, may not be insured prior to the expiration of 3 years after the completion of construction".

OTHER MEASURES TO FACILITATE HOUSING PRESERVATION

SEC. 207. The Secretary shall explore the feasibility and undertake demonstrations, where appropriate, of innovative measures by which the Federal Government can encourage the preservation of existing housing and neighborhoods other than the measures authorized by sections 3, 4, and 5 of this Act. Such measures shall include, but are not limited to—

(a) measures to develop a secondary market for home improvement and rehabilitation loans;

(b) the innovative use of mortgage insurance; and

(c) measures to render the refinancing of existing mortgages as a more economical means of housing preseravtion.

REPORT

SEC. 208. (a) Not later than March 31, 1978, the Secretary shall submit to Congress a report of the activities carried out pursuant to this Act. Such report shall include the Secretary's evaluation of such activities and of other demonstrations, programs, and measures designed to encourage the preservation of existing housing and neighborhoods (including tax measures, which the Secretary shall review in cooperation with the Secretary of the Treasury, and section 223(f) of the National Housing Act), and the Secretary's recommendations concerning future Government policy for encouraging such preservation.

(b) Not later than March 31, 1977, the Secretary shall submit to Congress an interim report which contains a description and evaluation, to the extent practicable, of the activities carried out pursuant to this Act.

Mr. TAFT. Mr. President, this amendment would add to the bill a measure pending before the Banking, Housing, and Urban Affairs Committee and introduced by myself under the title of the Housing Preservation Alternatives Act of 1975. Its purpose would be to attack the same type of problem we are attempting to attack in this area; that is, the housing situation in areas that are deteriorating or are threatening to deteriorate. The attack would be on a far broader scale than I think we do merely by the redlining bill. I am aware, of course, that it is unlikely that the Senate will want to consider the many details of this particular legislation at this time, but I do offer it as an amendment because I think it is appropriate to point out to the Senate that there are many other possible actions to address this same problem that I think might well be considered by the Senate and by the committee.

I bring it up for the purpose of asking the distinguished chairman of the committee whether we have reason to be optimistic about the possibility of this measure being considered.

I noted particularly that the distinguished ranking member from Texas (Mr. TOWER) a few minutes ago did refer to the types of approaches that are covered in this measure as being more profitable approaches, possibly, for attacking the same kind of problem as the bill currently before us. I would welcome any comment from the committee chairman as to his intentions or feelings in this regard or from the minority member handling the bill, as they desire.

Mr. PROXMIRE. I think the Senator from Ohio has made a good suggestion. I am happy to assure him I will do all I can to press for hearings on this. This is, as the Senator knows, within the jurisdiction of the subcommittee of the Senator from Alabama (Mr. SPARKMAN). I would urge him to hold hearings. I think it is a very constructive proposal.

Mr. GARN. I commend the Senator from Ohio for sponsoring this legislation. I agree that prompt hearings should be held. As a member of the minority of the committee I would encourage Senator Sparkman to hold hearings as promptly as possible.

Though I commend the Senator for offering this, I would oppose it as an amendment to my amendment. I will do everything I can to facilitate hearings.

Mr. TAFT. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

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

Mr. PROXMIRE. Mr. President, I would like to take a minute or two on the bill to discuss the amendment, as modified.

The Senator from Ohio has made some substantial modifications in the amendment of the Senator from Utah, but I think we should recognize what we now have. We have a proposal to make a study not of 20 but of 27 standard metropolitan statistical areas. That is the major change.

Mr. President, it seems to me that this is a waste of money, a waste of time, and a waste of the time of the Federal Reserve Board. If this amendment is adopted we simply would be repeating what is done anyway. California, Massachusetts, and Illinois together have 25 or 26 or 27 standard metropolitan statistical areas. They require this disclosure as a matter of State law. That is being done at the present time. We will have this information. It will be available. For that reason, it seems to me we will be duplicating something that is being done if we accept this. I think we should either defeat the bill or we should defeat the Garn amendment and pass the bill so that we have this disclosure all over the country where it has been called for by these organizations I have indicated in the past. So, Mr. President, I will vote against the Garn amendment.

Mr. HELMS. Mr. President, I strongly support this amendment in the nature of a substitute to limit the Home Mortgage Disclosure Act to a 3-year demonstration study in 20 standard metropolitan statistical areas.

I am concerned that if S. 1281 goes forward in its present form, it will adversely affect most of the home buyers and savers in this country and will place an unnecessary burden on the many small savings institutions in the many areas of the country where there is no suggestion that a redlining problem exists.

It has not been established that S. 1281 is the proper vehicle to revitalize our older cities. The real need is to encourage savings, and to increase our supply of available mortgage money at a reasonable rate. This bill, which is a step toward credit rationing, goes in the opposite direction.

Another of my concerns is that the legislation will force the small lending institutions, having no computer capacity of their own, to put their confidential lending portfolios into computers outside of their control. There is nothing in S. 1281 which assures the protection of the privacy of these borrowers. This was not even considered at the hearings.

Further, I am concerned with the unnecessary burden this legislation will place on the small savings institutions in sections of the country where there is no problem. I have been informed by the United States League of Savings Associations that more than 1,000 of their members having assets under $25 million will be covered by this legislation.

Looking at my State of North Carolina, I find that in Greensboro, the American Federal Savings and Loan, having assets of about $8 million is covered by the legislation. In High Point, we find that the First Federal Savings and Loan and the Piedmont Savings and Loan with less than $50 million assets are covered. In Durham, the First Federal Savings and Loan with assets of less than $50 million and the Mutual Savings and Loan with assets of less than $15 million are covered. In addition, there are many small commercial banks in North Carolina which will be included. These institutions have been suffering severe earnings strains and obviously will have to pass additional operating costs created by this legislation on to the consumer, probably the home buyer.

It should be remembered that many of these small savings and loans are mutual companies run by the depositors. If the depositors are dissatisfied with the lending policy they can change it by changing the board of directors. This is the democratic approach. They neither need nor want outside groups to come in and tell their management what the lending policies of their association should be. When the activists took their fight for control of Chicago's Republic Federal Savings lending practices to the depositors of the institution, they were re-

soundingly defeated in their proxy fight by a margin of better than 30 to 1.

It is most unfair to burden these small institutions and their depositors and borrowers with this dubious legislation.

This amendment in the nature of a substitute, of which I am a cosponsor, is a fair and reasonable approach to the problem. It would satisfy the legitimate needs of the proponents of the legislation by providing disclosure in those areas where they claim there is a problem which can be relieved by the Home Mortgage Disclosure Act. It will provide for further study of some of the problems that disturb me and others. The regulatory agencies which will be involved in the demonstration study will make recommendations to Congress on the need for national legislation and the form it should take if it is deemed necessary to have such legislation. This is a good alternative, and I urge its approval.

Mr. MORGAN. Mr. President, I rise in support of the amendment offered by the junior Senator from Utah (Mr. GARN) to convert the Home Mortgage Disclosure Act into a demonstration study on the usefulness and feasibility of disclosure of home mortgage lending practices.

I am concerned that we simply do not know enough about the problem to venture into national legislation.

A properly framed disclosure law can be an avenue for reform in a free market economy. However, it does not follow that disclosure is a solution to all problems everywhere.

For disclosure to be an effective instrument in a free market, the recipient of the information must be in a position to use it to make intelligent market decisions. The disclosure scheme in S. 1281 has no mechanism for decisionmaking. The information being disclosed under the bill is totally insufficient to enable one to reach a rational judgment as to why loans are not being made in a geographic area and what effects such lending patterns may have on neighborhood decline.

Another problem is indifference. The persons for whom the disclosure is intended must be concerned over utilizing that information to treat the problem at hand. The theory behind S. 1281 is that once depositors know where their money is being invested, they will make demands upon the savings institutions that that money or a portion of that money be returned to their neighborhood. This flies in the face of the testimony recently given by Garth Marston of the Federal Home Loan Bank Board, during his confirmation hearings, that most surveys show that depositors in savings and loans are simply not concerned where their deposits are invested. What does concern them is the convenience of the depository facility, the safety of their deposit, and the return on their investment. Thus, all indications are that depositors would not make use of the disclosure information to encourage savings institutions to reinvest or invest in declining neighborhoods.

I have been concerned with the proliferation of legislation which is passed with little or no examination as to its effectiveness. In the disclosure area, one needs only to look at the Truth in Lending Act. Fortunately, there was sufficient controversy surrounding it in Congress that many of the possible problems were anticipated and avoided. However, there are still problems with truth in lending, and one might raise serious questions as to its cost effectiveness.

It was based on the theory that the informed use of credit arises from an awareness of its cost. If lenders were required to tell borrowers exactly what credit cost, the borrowers could shop around and get the lowest rate.

This is a simple proposition and on its face would seem most wise. Yet, in practice, it has not been that simple. Studies have shown that after several years, consumer awareness of costs are still quite low. This is particularly true of low-income groups who need the protection the most. Now probably much of this can be cured through education, but the fact remains that even the best thought-out disclosure legislation will not solve many of the problems that it is intended to address.

For this reason, I do feel that there is a need for considerably more study and analyzation before we move into permanent Federal legislation requiring disclosure of mortgage lending portfolios.

Not only is the legislation of a dubious nature but it covers many institutions and areas of the country not touched by the redlining problem. For example, in North Carolina we have eight standard metropolitan statistics areas which would be included under the bill. All of these have a population of under 1 million people. Our smallest SMSA has as its central city, Burlington in the county of Alamance. In a similar vein, the Wilmington SMSA has Brunswick and Hanover Counties with populations of 24,223 and 82,966 respectively. Certainly, Alamance, Brunswick, and Hanover Counties do not have the same problems as Cook County, Ill. It is most unfair to impose the legislation wanted by those people of Cook County on the citizens of these counties in North Carolina.

I could go on to name many others. One anomaly appears in the Norfolk-Virginia Beach-Portsmouth SMSA which includes Currituck County, N.C. There is simply no reason to include this beach resort with a population of 6,976 in this reporting legislation.

The same pattern is true in the States neighboring North Carolina. Right across the border in the Chattanooga SMSA we find Marion and Sequatchie County in Tennessee and Catoosa, Dade, and Walker Counties, Ga., included under the bill. These are all mountainous sections of Tennessee and Georgia and it is ludicrous to suggest that they have the same problems as Chicago, Boston, Cleveland, and Los Angeles. The same is pretty much true in Virginia to the north and South Carolina to the south. If S. 1281 is enacted in its present form, there will be small banks and savings and loan associations throughout the Southeast that will be compelled to comply with this reporting legislation.

I do recognize that financial institutions play an important role in the vitality of both our new and our older neighborhoods. More analysis and study is needed of the problem of disinvestment. The Garn amendment will give that without imposing an unnecessary burden on the small financial institutions in this country.

Mr. SPARKMAN. Mr. President, I am a cosponsor of amendment No. 826, and I hope the Senate will support the amendment.

Let me say I support the real objectives of S. 1281, the bill to improve public understanding of the role of depository institutions in home financing—the bill which has commonly become known as the "redlining bill." I have always tried to lend my support to legislation that seeks to help make funds more readily available to finance housing. For the last 39 years, in practically every session of Congress, laws have been passed to improve the housing supply for all American families. I have sponsored or led the debate on most of this legislation for the last 25 years or so in this body.

But, Mr. President, I do not believe that S. 1281 as it is presently written is sound or necessarily wise legislation. The bill is motivated by a concern to increase the volume of mortgage lending in older urban neighborhoods. I share this concern. True, there is evidence that redlining is practiced by some financial institutions in central cities, particularly in older urban neighborhoods. But, no evidence has been developed to prove this practice is so widespread that every financial institution in every standard metropolitan statistical area should be subjected to the detailed and costly publication of statistics as would be required by S. 1281 as it presently stands. I also very seriously question whether the publication of these statistics would, in fact, increase the volume of mortgage lending secured by existing homes in older urban neighborhoods.

Frequently, we in the Congress are asked to consider legislative proposals which, if enacted, would impose certain costs upon those private enterprises covered by the proposal. And often, it is unclear just what the costs will be. This is certainly the case with regard to S. 1281 as the costs would apply to financial institutions. The real question is, however, whether these costs will be borne by the financial institution or the consumer.

The amendment being offered to S. 1281 proposes a logical approach to this matter. In general it would direct the Federal Reserve Board, the Federal Home Loan Bank Board, and the Department of Housing and Urban Development to gather and study data on current home mortgage lending practices of financial institutions in 20 SMSA's, to be chosen by the Boards and Department. After a 3-year study by these agencies, recommendations must be made to Congress regarding the need for additional action.

Mr. President, the amendment being offered should satisfy the objections of all concerned, because, if adopted, the legislation should produce evidence needed by the Congress in its continuing desire to enable a decent home in a decent living environment for all people.

Mr. DOLE. Mr. President, I wish to briefly express my support for this substitute amendment offered by the distinguished Senator from Utah (Mr. GARN) and other committee members from both sides. In my opinion, it goes about as far as even the most ardent reformer can justify with respect to the problem of "redlining" among our mortgage lending institutions.

I note from the committee's own report, for example, that its investigation was limited to just 15 major cities where systematic disinvestment in older neighborhoods was felt to be significant. Why, then, seek to devise a broad, comprehensive remedy which overreacts to the ill itself?

I realize that some effort has been made in S. 1281 to scale down the scope of its coverage by providing a so-called exemption for rural areas. Ordinarily that could be welcomed as some consolation—were it not for the fact that "rural" has really been defined to mean "non-SMSA."

As a result, there would be seven major counties affected in my State of Kansas. And within each of those counties—away from the principal urban community—are numerous small, genuinely rural banking or savings and loan facilities which simply do not have the resources or capability to meet the requirements in this bill—even if such standards could by some stretch of the imagination be termed appropriate.

Coming on the heels of the fiscal and administrative difficulties they are experiencing in complying with the Real Estate Settlement Procedures Act, this legislation, if enacted in its current form, could have a devastating impact on those institutions. Accordingly, I have no interest in allowing them to be subjected to its provisions.

As a matter of fact, Mr. President, I can see no reason why any part of Kansas should be targeted for inclusion under a proposal of this type. Moreover, if this amendment is agreed to—and I hope it is—it would be my intention to point out to the people at HUD that "redlining" has simply not prevailed in my State, and that we should not be considered for any of the 27 demonstration areas contemplated.

I am not suggesting that this type of problem does not exist in some areas of the country—only that Kansas is not among them. Neither am I objecting to addressing an abuse where a response is indicated—only to the policy of legislating a nationwide solution to correct situations which are isolated and local in nature.

Clearly, the intent and purpose of the Home Mortgage Disclosure Act would be better served by State and local action—something that is already being initiated in Chicago and the States of Illinois, Massachusetts and California, where instances of redlining have been identified and acknowledged. It seems to me we should further encourage such regional problem-solving trends, without precipitously moving to apply a blanket Federal mandate which may well prove counterproductive.

By that I mean that restraint is called for here if we are to keep our lending institutions from becoming totally frustrated with unnecessary government red tape—unnecessary because in many areas it would impose a remedy for a condition that is not present, a little like unwarranted surgery. The far more enlightened course to follow in my opinion is that of identifying, studying, and analyzing the nature and extent of the ailment, and then determining what, if any, treatment should be prescribed.

That is essentially what this amendment would do, and I support it for just such a reason. We do not need higher interest rates to cover the costs of complying with anti-redlining legislation that will only provide meaningless data and undermine the confidence of the public in financial institutions.

I doubt that very many here would want to endorse a "presumption of guilt" policy for lenders in every metropolitan area in the country. Yet that is precisely what we would be doing by passing this bill as reported and placing on them the burden to prove that redlining is not an habitual practice.

So let us adopt this amendment and give proper consideration to the disinvestment issue before launching out with uncertainty and confusion. Only with adequate, factual data will we be equipped to act reasonably and responsibly if and where States and localities have not.

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Utah.

Mr. GARN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. PROXMIRE. Mr. President, if all time has expired on the amendment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUDDLESTON (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. PHILIP A. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Massachusetts (Mr. KENNEDY), the Senator from North Carolina (Mr. MORGAN), and the Senator from Utah (Mr. MOSS) are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Ohio (Mr. GLENN) are absent on official business.

I also announce that the Senator from Alabama (Mr. ALLEN) is absent because of illness.

I further announce that if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

On this vote, the Senator from North Carolina (Mr. MORGAN) is paired with the Senator from Washington (Mr. MAGNUSON). If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Washington would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 40, nays 41, as follows:

[Rollcall Vote No. 381 Leg.]

YEAS—40

Baker	Domenici	Nunn
Bartlett	Eastland	Pearson
Bellmon	Fannin	Randolph
Bentsen	Fong	Roth
Brock	Ford	Scott, William L.
Buckley	Garn	Sparkman
Bumpers	Goldwater	Stennis
Byrd, Harry F., Jr.	Griffin	Stone
Byrd, Robert C.	Hansen	Taft
Chiles	Helms	Talmadge
Cotton	Hruska	Thurmond
Curtis	Laxalt	Tower
Dole	McClellan	Young
	McClure	

NAYS—41

Beall	Hathaway	Nelson
Biden	Inouye	Pastore
Brooke	Jackson	Pell
Burdick	Johnston	Percy
Cannon	Leahy	Proxmire
Case	Mansfield	Schweiker
Church	Mathias	Scott, Hugh
Clark	McGee	Stafford
Cranston	McGovern	Stevenson
Culver	McIntyre	Symington
Eagleton	Metcalf	Tunney
Gravel	Mondale	Weicker
Hart, Gary W.	Montoya	Williams
Haskell	Muskie	

ANSWERED "PRESENT"—1

Huddleston

NOT VOTING—18

Abourezk	Hatfield	Magnuson
Allen	Hollings	Morgan
Bayh	Humphrey	Moss
Glenn	Javits	Packwood
Hart, Philip A.	Kennedy	Ribicoff
Hartke	Long	Stevens

So Mr. GARN's amendment (No. 826), as amended, was rejected.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. 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. JOHNSTON. Mr. President, I have an amendment——

Mr. GARN. May we have order, Mr. President.

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order.

Mr. JOHNSTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an amendment to add a new section at the end of the bill.

The amendment is as follows:

Add a new section at the end of the bill, as follows:

"SEC. . The authority granted by this Act shall expire three (3) years after the date of its enactment."

Mr. JOHNSTON. Mr. President, all this amendment does is to require that this matter be reviewed, at the end of 3 years, if it is going to continue in existence.

Any Federal program that costs money, it seems to me, ought to be reviewed to determine its cost-benefit ratio to determine whether it is being effective and whether it is achieving the purposes for which it was designed.

I understand this is agreeable with the author of the bill.

Therefore, I urge its adoption by the Senate.

Mr. PROXMIRE. Mr. President, if the Senator from Louisiana will yield, I discussed this with the Senator from Louisiana. I think it is a good amendment. I am happy to accept it.

Mr. GARN. Mr. President, I accept the amendment on behalf of the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an amendment.

The amendment is as follows:

On page 13, line 4, change the section title to read:

"RELATION TO STATE LAWS AND PRACTICES"

On page 13, after line 24, insert the following new subsection:

(c) The Board shall also by regulation exempt from the requirements of this Act any depository institution within any State or subdivision thereof upon receipt of a written declaration from the Governor of that State certifying that depository institutions within such State are, whether by law or practice, in substantial compliance with the requirements imposed under this Act.

Mr. DOLE. Mr. President, the purpose of S. 1281 is to prevent financial institutions from unjustifiably refusing to make loans within a specified geographical area—the so-called "redlining" practice which has been thoroughly discussed in this Chamber already this afternoon. But though redlining may be a problem in some of the larger metropolitan areas a survey of lending institutions in my State of Kansas revealed that redlining has never been a problem there.

To complement that survey, a recent study made by the Controller of Currency and Administrator of National Banks indicate that while there may be some bias against lending to minorities themselves in one Kansas community, the evidence is very substantial that there is no pattern of excluding neighborhoods, in whole or in part, from access to mortgage money since that is simply because they are occupied by the poor or the minorities. The problem this legislation is intended to remedy, then, I see no reason why my State should be required to undergo the costs of proving it does not exist.

I am therefore offering this amendment to allow any Governor to remove his State from the reporting requirements of this by certifying in writing to the Board that the depository institutions in such State are, in fact, by practice in substantial compliance with the intent of the act. The amendment would, I believe, prevent this unnecessary burden and expense, I have described from being placed on mortgage lending facilities in States so exempted by gubernatorial action.

Mr. President, I am without question totally sympathetic with the problems of blighted and declining neighborhoods in our Nation. However, I feel it would be ill-advised to blanket the country with yet another Federal program which is applicable only in a few areas.

I think it would be well to remind my colleagues that there are a number of Federal statutes already on the books which specifically address housing discrimination problems including the Housing and Community Development Act of 1974; the Equal Credit Opportunity Act, effective next month; and title 8 of the Civil Rights Act of 1968. Accordingly, it is quite possible that instead of pursuing this legislation and making it universally applicable, we should be focusing on improving the provisions and enforcement of the existing law.

Our Kansas realtors, banks, and savings and loan institutions are acutely conscious of their responsibility to deal fairly and equitably with minorities and the poor. For that reason, I feel the information to be obtained from additional Federal requirements would, in no meaningful way, improve housing for any disadvantaged segment of society in our State.

I am simply suggesting with this amendment, Mr. President, that in Kansas—and I am confident in many other States as well—the propriety of this bill's application can best be judged by State officials themselves, and not this body or any of its committees. I believe they should have the opportunity to make that determination, and hope Senators from States in similar situations who feel the same will support the amendment's adoption.

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

Mr. DOLE. I yield.

Mr. PROXMIRE. I understand the good reasons behind the amendment. The Senator has said that there may be States or areas of the country where this is a matter of compliance. But let me read to the Senator what we now have in the bill. I read from page 13, lines 19 to 24:

The Board shall by regulation exempt from the requirements of this Act any depository institution within any State or subdivision thereof if it determines that, under the law of such State or subdivision, that institution is subject to requirements substantially similar to those imposed under this Act.

In other words, a State like California, which already has census tract disclosure, would be in compliance.

I do not know how the Governor would know, if there is not a law requiring a bank to report on where it makes its mortgage loans—how the Governor could know whether his banks are in compliance. That is the whole point. That is what the legislation would try to determine.

We know there is redlining. Everybody on the committee who has listened to the testimony and all the bankers agree that there is redlining. But there is very little agreement on where the redlining occurs. Unless we have some disclosure, at least for awhile, we will not have that.

It may be that after a couple of years an amendment such as that offered by the Senator from Kansas will be a good amendment. If he finds, after a couple of years, that there is not redlining in Kansas or in Utah or in some other States, then it seems to me that the amendment of the Senator would be appropriate. But if he were the Governor of a State or I were the Governor of a State, I do not know how in the world we could honestly tell the Federal Government that all our banks were in compliance. It seems to me that I would be vulnerable. I would be in a position where it would be hard to make that assurance.

Mr. DOLE. I understand and appreciate the Senator's point, but here again it seems to me that we are presupposing that the problem exists everywhere—even where there have been no complaints registered and no showings of evidence to that effect. I simply feel very strongly that with all the State resources available to the Governor, if S. 1281 should become law, he could make that determination.

I am aware of the rather limited exemption provided for in the bill with reference to actual State laws. Where statutes themselves have not been enacted by State legislatures because the practices of lending institutions have not made them necessary, however, I just believe that the chief executive of that State should have the discretion to determine that formal, federally initiated reporting requirements are not necessary.

Obviously, if he does not have enough facts or information at hand to make

such a finding, he could not in good conscience ask for an exemption. But in Kansas, where there is a State bank commissioner, a State banking board, a savings and loan commissioner, a savings and loan board, a commission on civil rights, a Kansas real estate commission, and, most importantly, very perceptive consumers themselves to provide the Governor with all the data he could possibly desire, that would certainly not be the case.

So all I am suggesting is that we should give the senior elected officials in our States the ability to relieve their financial institutions from the heavy burden of this legislation when it will serve no useful purpose and only operate to cause a substantial expense to be incurred—an expense which will have to be passed on in the form of additional loan costs to consumers. That is what could all be avoided by adopting this amendment.

Mr. PROXMIRE. Will the Senator consider withdrawing his amendment and permitting us to hold hearings on this matter? It may have substantial merit, but we would like to hear from the banking fraternity, from Governors, from banking commissioners, and others, to see if there is a basis on which we can do it. I think it has a great deal of merit, if we could get assurance from the States that they could do this responsibly and do this on the basis of documentation that would be available.

I am sure that the Senator would not want to offer an amendment which would put a Governor in an impossible position, and we do not want to do that.

I also plan hearings on the amendment proposed by the Senator from Iowa, regarding rural credit outflows.

Mr. DOLE. I do want to cooperate with the distinguished Senator from Wisconsin and am pleased that he would offer to hold hearings. However, it seems to the Senator from Kansas that if the amendment has merit, it should be acted upon—even though it may be defeated.

I am willing to do it on a voice vote if the Senator would prefer, but would rather do that than withdraw it. Since I have offered it and believe it would enhance the acceptability of this legislation, I would like to have some response from the Senate.

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

The PRESIDING OFFICER (Mr. BUMPERS). All time having been yielded back, the question is on agreeing to the amendment.

The amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on passage of the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PROXMIRE. Mr. President, I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the bill before the Senate, S. 1281, would require most mortgage institutions to disclose annually by area within a community the number and total value of mortgages made.

The proponents of this bill reason that disclosure of mortgage records will allow pressure to be put on lenders. Public scrutiny, it is argued, would force lenders to make loans in certain areas, thus keeping the neighborhoods from declining.

The premise is faulty and the proposed solution may cause more harm than good.

Mortgage associations are important institutions in our society. They are publicly chartered organizations which are obliged to operate in a prudent manner. They are trusted with the savings of individuals in order to invest those savings as wisely as possible in mortgages for family homes.

The bill before the Senate conflicts with that purpose.

First, it presumes that mortgage associations arbitrarily designate areas in which they will not finance home purchases—a practice called "redlining."

Not only does the United States League of Savings Association, the largest organization of mortgage associations, strongly condemn this practice but the Federal Home Loan Bank Board rules provide sanctions against associations which follow this practice.

Officials of the Board further point out that the arbitrary denial of a mortgage for any property on grounds other than sound investment practices, would be contrary to the obligations of the trustees of savers' funds.

That, it seems, is the key: sound investment practices.

The bill asks that the judgments of mortgage associations be subject to scrutiny by individuals who would be able to criticize the judgments of the association on social or political grounds.

If groups or individuals are successful in persuading some savings and loan associations to make loans which are not justified by sound judgment or prudent financial practices, then those associations have not fulfilled the obligations to the savers: the investors.

The premise behind this bill is that loans should be made with the influence of individuals whose expertise is in areas other than home loans, savings, and investments. What the bill ultimately gives us is upside-down redlining.

It provides the vehicle for groups or individuals to put pressure on mortgage institutions to make mortgages deemed worthy on noneconomic grounds.

The bill puts Congress in the duplistic position of saying, "Do not redline—do not refuse a mortgage on arbitrary grounds. But we see nothing wrong with the opposite: approving a mortgage on arbitrary grounds."

We should remember, too, that regulation of this kind is not free. It will cost millions of dollars to make these reports; and the only sources of those funds are home buyers who obtain mortgages.

The bill may also result in the outflow of funds from savings and loan associations. If institutions are pressured into making uneconomic mortgages, investor confidence will fall, and other investments will be relatively more attractive.

I support the intent of this legislation, if that intent is to stop urban blight. However, I do not think this bill will help accomplish that goal. In fact, it likely will be counter-productive.

I cannot vote for the proposal before the Senate because it is an unsound proposal.

RURAL AREAS AND THE HOME MORTGAGE DISCLOSURE ACT OF 1975

Mr. CLARK. Mr. President, S. 1281—the Home Mortgage Disclosure Act of 1975—requires mortgage lenders in urban areas to disclose the number and dollar amount of mortgage loans originated by that institution at the end of each fiscal year. The total number and dollar amount of all loans outstanding at the close of each fiscal year also must be made public. The disclosure statement requires urban lending institutions to reveal by ZIP code the breakdown between loans to owner-occupied versus absentee-owned housing and the breakdown between conventional, FHA and VA loans. This would help the public understand the role of depository lending institutions in home financing.

In its present form, the legislation is yet another example of an unfortunate trend. That is the exclusion of small towns and rural areas from legislation considered by the Congress.

As initially introduced, S. 1281 applied to both metropolitan and nonmetropolitan areas. As amended by the Senate Committee on Banking, Housing and Urban Affairs, the legislation would apply only to metropolitan areas.

The decision to exclude rural areas from this bill is particularly unfortunate because there was not an opportunity during the hearings on the bill to receive testimony from rural public interest groups on the need for the legislation in rural areas. Right now, about 30 percent of our population resides in rural areas but 60 percent of the Nation's substandard housing is located there. Moreover, according to the Department of Housing and Urban Development, the proportion of mortgage debt for single unit dwellings outside urban areas is just about 19 percent of the total debt in this category. Overall, the mortgage credit in nonmetropolitan areas for all housing credit obligations is even less—standing at around 17 percent of the total. These disparities could be better understood if rural lending institutions had to make a public disclosure of their lending practices.

I have introduced an amendment that simply would restore rural areas under the provisions of this legislation. The amendment would require disclosure in nonmetropolitan areas by zip code; but the rest of the obligations required by this legislation would apply to rural and urban banks alike.

Right now, there is a serious shortage of mortgage credit in rural areas. Earlier this year, the Subcommittee on Rural Development released a study prepared by the Congressional Research Service on "Rural Housing: Needs, Credit Availability, and Federal Programs." This study concluded that rural borrowers have fewer options, and in general must pay higher interest rates for shorter term mortgages than their urban counterparts. The study also found that rural areas are more dependent on their own internal savings for mortgage credit than are urban areas. Yet, there is little information available either on the lending practices of small-town lenders or on the exent to which capital is exported from rural areas.

The Department of Housing and Urban Development recently requested research proposals for a major study on the existence of housing credit market differentials between rural and other areas and the causes of these differentials. More than a quarter of a million dollars is being spent on this study. But it will only provide information on a sample basis. Full disclosure as required by my amendment would provide such information on a regular and continuing basis.

The point is that credit shortage is not simply an urban problem, different lending institutions and different lending practices prevail throughout rural America—with some banks doing a very good job for their communities. But because of the disparity in lending practices, the burden of proof, before excluding rural areas, should rest on those who would limit the application of this legislation to standard metropolitan statistical areas.

My amendment would require disclosure in rural areas by ZIP code in small towns and rural areas, sufficient information can be provided to consumers by ZIP code. It will help them determine the extent to which lending institutions are active locally and whether capital is being imported or exported.

In 1974, the Office of Economic Research of the Federal Home Loan Bank Board prepared a series of comparisons of mortgage lending by savings and loan institutions during the period from 1968 to 1974 within an outside metropolitan areas. These comparisons lead to some interesting conclusions that lend weight to the need for further compilation and disclosure of information.

For example, between 1968 and 1974, nonmetropolitan savings and loans showed proportionate increases both in their total assets and in mortgage lending, as compared with savings and loans in metropolitan areas. However, nonmetropolitan mortgage lending as a proportion of total assets did not increase as much as metropolitan mortgage lending. In other words, savings and loan institutions made more mortgage credit available per dollar of assets in metropolitan areas than was available in nonmetropolitan America. This trend could be better understood if rural residents had more complete information on lending practices. That is what my amendment would accomplish.

Mr. President, the provisions of S. 1281 recognize a problematic situation, and together they take a sound first step toward solving the so-called redlining problem. The bill requires compilation and disclosure of significant information. That may or may not lead to a solution, but at least it will help us define the problem's scope and dimensions.

Recent population surveys have shown that the trend away from rural areas has dramatically reversed itself in many rural sections of the country. Moreover, projections indicate that this reversal may continue and be a permanent part of a larger trend. No doubt, this change in population growth will have an impact on housing and on mortgage credit.

However, because there was not an opportunity during the hearings on S. 1281 to receive testimony from rural organizations and lending institutions located in rural areas, the distinguished chairman of the Senate Housing and Banking Committee—Mr. PROXMIRE—has consented to hold hearings on the "redlining" problems facing rural areas. At that time, rural groups and rural lending institutions could present their case to the committee, and similar legislation could be adopted.

With the assurance from Senator PROXMIRE to hold hearings on redlining problems in rural areas, I will withdraw my amendment.

Mr. TUNNEY. Mr. President, I would like to take this opportunity to indicate my support of S. 1281, the mortgage disclosure bill, as reported by the Banking and Housing Committee. I know that that committee has worked hundreds of hours to insure that this legislation accomplishes its purposes with minimum administrative inconvenience and maximum effectiveness. I believe that the bill before us accomplishes that goal, and the committee deserves our commendation.

The fundamental purpose of S. 1281 is to provide information about the impact of mortgage lending practices on our Nation's urban areas. At present, we lack sound facts about the presence and prevalence of so-called redlining in many of our cities. We do know that it exists in many places. Yet we continue to sit by and witness the wholesale deterioration of hundreds of cities, powerless to act because we don't know what action is necessary. If we are to take corrective action to deal with the causes and effects of urban decay, our first and most important need will be reliable information on its causes and effects. S. 1281 will provide us that information. Where redlining is a problem, this bill will help us to identify it, and arrive at sound policies to arrest and reverse the resulting urban decline. Where redlining does not exist, such information will enable us to turn our attention to the real underlying causes of deterioration.

As important as what this bill does is what it does not do. It does not force the allocation of credit by our Nation's lending institutions, nor does it represent a first step in such credit allocation. If the bill required that mortgage lenders jeopardize their financial stability, I would oppose it. But it does no such thing; it does represent a reasonable, limited and prudent attempt to deal with an urgent national problem by providing information about that problem. For that reason, I support the bill.

Mr. President, the Congress is not the only institution attempting to grapple with the complexities of urban mortgage lending patterns. In my own state of California, the state Business and Transportation Agency has recently proposed measures to deal with "redlining" in State-regulated lending institutions. Those proposals were the outgrowth of a series of hearings and months of study on the prevalence and consequences of "redlining." I had the opportunity to present testimony at those hearings, which sets out in greater detail my feelings on this issue.

It is clear that our present efforts, both at the State and Federal level, represent a start, but only a start, in dealing with the phenomenon of urban decay as it results from lending practices. However, we must start somewhere, and the efforts to collect and analyze information about "redlining" represent an intelligent and natural starting point. That is why I support S. 1281, which I believe will help us to avoid the further destruction and waste of our urban environments. My reasons for these feelings are amplified in the statement which I recently presented at California hearings, and I ask unanimous consent that the text of those remarks be printed in its entirety at this point in the RECORD.

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

STATEMENT BY SENATOR JOHN V. TUNNEY

Thank you very much for the opportunity to offer some of my thoughts on "redlining." I want to commend the Business and Transportation Agency for its initiative in holding hearings on this vital issue, which may be a crucial factor in determining some of the directions which our society takes in the next decade.

Most of us are fast becoming familiar with the meaning of the term "redlining"—the figurative process of mortgage lending institutions blocking out particular areas on lending maps for which little or no mortgage money will be made available, regardless of how solvent or respectable the loan applicant or mortgage property may be. Whether that process is accomplished by the literal drawing of a red line around whole neighborhoods, or by a *de facto* decision to deny loan applications from particular areas, we know that the practice exists, and we know of its devastating consequences for the neighborhoods involved.

Redlining exists on a national scale. A 1972 survey by the Federal Home Loan Bank Board revealed that 3 out of every 10 savings and loan institutions surveyed admitted disqualifying some areas for loan eligibility, and an even higher number admitted that loans made to certain areas carried more onerous terms than the routine loan made by the institution.

In recent Congressional hearings, witness after witness has testified to the fact that redlining is a universal phenomenon throughout the United States—in Washington, in Baltimore, in Boston, in Chicago, in most major cities of this country. California is no exception. At those same Washington hearings, Mayor Merle Mergell of Inglewood told of the pervasive impact of such lending practices in that city. Mrs. Fran

Mattarrese, of the East Oakland Housing Committee, detailed the existence of redlining practices in consideration of loan applications from her area. And the Senate heard testimony from the National Task Force on Credit Policy, testimony that outlined the pervasiveness of redlining throughout the Los Angeles area.

Refusals to lend for residential purchases and improvement can trigger the deterioration of a neighborhood, which in turn results in ever more determined refusals to lend in such areas. We should recognize the results for what they are—a devastating downward cycle of deterioration. Once started, the process becomes increasingly difficult to reverse—a self-fulfilling prophecy of decay for the communities involved. The most difficult aspect of that process is that the practice originates in the ostensibly sound business judgments of lending institutions. Savings and loan institutions and banks are normally justified in avoiding loans which they believe may never be repaid in full.

No one expects lenders to throw good money after bad by approving loans to poor risk borrowers. Lending institutions have an obligation to their investors and to the public not to jeopardize their financial health. The entire apparatus of regulatory agencies at the Federal and state level is designed to insure that banks and savings and loan institutions, remain financially secure and stable. And, if redlining were nothing more than the prudent practice of avoiding financial loss, it would probably be beyond the proper purview of governmental intervention or investigation.

But it *is* within government's purview when a lender anticipates the decline of a neighborhood or community, and becomes a catalyst of deterioration, or when a lending institution refuses to approve the loan application of a solvent and credit-worthy individual because he or she is living in a neighborhood which is defined as declining.

In such cases, redlining steps over the limits of sound financial practices, and enters the realm of social policy. When private actions lead to urban blight, contribute to increased crime, diminish property values and dwindling local tax bases, and increase the need for government services, they take on a public character which places them properly in the public realm.

Redlining contradicts the fundamental policy that every American is entitled to decent housing in a decent neighborhood. It certainly contradicts the ideas that every citizen should be able to incur a mortgage obligation based on his own credit rating and not on factors which are remotely related or irrelevant to credit worthiness.

At a time of rapidly dwindling land availability, redlining encourages the artificial and premature deterioration and abandonment of liveable old communities for new neighborhoods and communities. That seriously depletes our available land supply, and puts large burdens on our natural and social resources.

For these reasons, I believe we must move on several fronts to insure that appropriate action is taken to sharpen our focus and redlining, our actions must not threaten the financial prerogatives or stability of our lending institutions, however.

The first step is to provide the public with information about the practice. The hearings conducted in the Congress and these hearings at the state level are important first steps in dealing with the causes and effects of redlining. But if we are to know where redlining is practiced, where it is justified as a sound business judgment and where it has triggered the deterioration of whole areas, we must collect and disseminate reveal that the cost would be minimal—about $200 per institution per year—a pittance when compared to the value of the information generated. Fears of excess cost should not deter the Federal government from undertaking this program of information collection and disclosure.

A second immediate step should be taken by governments at both the State and Federal levels. All agencies involved in the process of lending for real estate purchases, whether they are agencies regulating depository institutions or quasi governmental agencies purchasing mortgages from primary lending institutions in the secondary mortgage market, should be made sensitive to the need to identify redlining in regulated institutions and to amend or remove any administrative practices which may encourage redlining by such institutions.

At the Federal level, several institutions would be involved in such activities. Regulatory agencies such as the Federal Home Loan Bank Board, the FDIC, the Controller of the Currency, and the Federal Reserve System—have become partially aware of the practice as a result of reviewing lending institutions. Unfortunately, that progress has not been fast or extensive enough and the institutions need to be made more sensitive to such problems. You can count on my efforts in this regard.

Moreover, quasi-Federal institutions such as the FNMA, the GNMA and the FHLMC, are insufficiently aware of the impact their mortgage evaluation procedures and their purchasing power may have in encouraging or perpetuating redlining practices. Elimination of such procedures and new awareness of the impact of their activities is one immediate goal which the Federal agencies should pursue. I will also actively support efforts to redirect the perspectives of such secondary mortgage market agencies.

I am pleased to note that the State Business and Transportation agency appears to be sensitive to these issues. Such sensitivity is a primary prerequisite at all levels of government—local, State and Federal—if we are to approach the American dream of decent housing for every family.

In short, I believe the problem of redlining is difficult and complex, but that we have an obligation to take immediate action. We must compile and publicize relevant information on the practice, its effects, and possible remedial measures. And we must ensure that the Government agencies which have jurisdiction in this area are more sensitive to its existence and better able to take affirmative action to cope with its implications. In both respects, California already has taken the lead. I hope that in the future, I will be able to report that the Federal Government has followed that lead and joined with California in that effort.

Mr. BROOKE. Mr. President, S. 1281, the Home Mortgage Disclosure Act of 1975, would require institutions engaged in residential mortgage lending to compile data reflecting the geographic areas in which they make mortgage loans and to reveal such information to the public.

While the mechanics of the bill are relatively easy to understand, its underlying rationale deserves consideration. In the course of hearings on this bill, the Banking Committee received testimony which indicated that many mortgage lending institutions were not making mortgage loans in older neighborhoods, even though such institutions were located in or had branch offices receiving deposits in such neighborhoods. What emerged from the testimony was a pattern of deliberate disinvestment in certain neighborhoods by some mortgage lending institutions. These institutions were "redlining" neighborhoods and refusing to make mortgage loans regardless of the quality of the property offered as security or the ability of the buyer to pay for and maintain his home.

The Banking Committee has wrestled with the problem of "redlining" before, and it has not been an easy one to solve. The decision on whether to make a mortgage loan must be made on a case-by-case basis taking into account a large number of factors including the price and condition of the property, and the credit worthiness of the buyer. No one suggests that mortgage lenders should make bad loans. Nor does any member of our committee urge a system of credit allocation under which mortgage lending institutions are directed to invest a certain percentage of their funds in older neighborhoods.

What the sponsors of S. 1281 do suggest is that so far as the practice of "redlining" is concerned, the public has a right to more information. Many mortgage lending institutions are getting deposits in urban neighborhoods where moderate income homeowners live. These institutions operate under charters issued by financial regulatory agencies which restrict entry into the business on a geographic basis. They are supposed to serve the area in which they are located; not only to obtain deposits, but also to make loans. And under S. 1281, their depositors and the public at large will be given an opportunity to assess the lending policies of these institutions by looking at the areas in which they make mortgage loans.

In some cities, neighborhood groups have organized to persuade their local lending institutions to make more mortgage credit available in their areas. They argue persuasively that they should be able to make an educated judgment about where they will deposit their savings based on the probability of their being able to obtain mortgage loans from the institutions in which they have made deposits.

S. 1281 does not apply to institutions in rural areas, and under the amendment which Senator PROXMIRE and I offered and which was adopted by the Senate on July 26, the disclosure requirements of the bill are only prospective in their application, that is, institutions are not required to report the location of properties securing all the mortgages in their portfolios. The cost of supplying the information required by the bill will be less than $1 per mortgage.

Some who oppose S. 1281 argue that mortgage lending practices are not the only factors which cause older neighborhoods to decline, and they are right. However, "redlining" is one factor, and an important factor, causing neighborhood deterioration, and I do not believe that we should delay taking steps to deal with "redlining" until we can offer legislation which creates a remedy for all the causes of neighborhood decline.

The Home Mortgage Disclosure Act of 1975 is not a cure-all, but I believe it is a good bill and will discourage the practice of "redlining" which has developed in some cities. I urge my colleagues to vote for the bill.

The PRESIDING OFFICER. Is all time yielded back?

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

Mr. GARN. I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. HUDDLESTON (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. PHILIP A. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from North Carolina (Mr. MORGAN), and the Senator from Utah (Mr. MOSS), are necessarily absent.

I further announce that the Senator from Indiana (Mr. BAYH), the Senator from Ohio (Mr. GLENN), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. LONG), and the Senator from Connecticut (Mr. RIBICOFF), are absent on official business.

I also announce that the Senator from Alabama (Mr. ALLEN), is absent because of illness.

On this vote, the Senator from Washington (Mr. MAGNUSON) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting, the Senator from Washington would vote "yea" and the Senator from North Carolina would vote "nay."

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Alaska (Mr. STEVENS), are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), would vote "nay."

The result was announced—yeas 45, nays 37, as follows:

[Rollcall Vote No. 382 Leg.]

YEAS—45

Abourezk	Hathaway	Pastore
Beall	Inouye	Pearson
Biden	Jackson	Pell
Brooke	Johnston	Percy
Burdick	Leahy	Proxmire
Cannon	Mansfield	Schweiker
Case	Mathias	Scott, Hugh
Church	McGee	Sparkman
Clark	McGovern	Stafford
Cranston	McIntyre	Stevenson
Culver	Metcalf	Symington
Eagleton	Mondale	Taft
Gravel	Montoya	Tunney
Hart, Gary W.	Muskie	Weicker
Haskell	Nelson	Williams

NAYS—37

Baker	Dole	McClellan
Bartlett	Domenici	McClure
Bellmon	Eastland	Nunn
Bentsen	Fannin	Randolph
Brock	Fong	Roth
Buckley	Ford	Scott, William L.
Bumpers	Garn	Stennis
Byrd, Harry F., Jr.	Goldwater	Stone
Byrd, Robert C.	Griffin	Talmadge
Chiles	Hansen	Thurmond
Cotton	Helms	Tower
Curtis	Hruska	Young
	Laxalt	

ANSWERED "PRESENT"—1

Huddleston

NOT VOTING—17

Allen	Hollings	Morgan
Bayh	Humphrey	Moss
Glenn	Javits	Packwood
Hart, Philip A.	Kennedy	Ribicoff
Hartke	Long	Stevens
Hatfield	Magnuson	

So the bill (S. 1281) was passed, as amended, as follows:

S. 1281

An act to improve public understanding of the role of depository institutions in home financing

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 "Home Mortgage Disclosure Act of 1975".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that depository institutions have sometimes failed to provide adequate home financing on a nondiscriminatory basis for all neighborhoods within the communities and neighborhoods from which those institutions receive deposits.

(b) The purpose of this Act is to provide the citizens and public officials of the United States with sufficient information to enable them to determine which depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "mortgage loan" means a federally related mortgage loan other than temporary financing, such as a construction loan as defined under section 3 of the Real Estate Settlement Procedures Act of 1974;

(2) the term "depository institution" means any commercial bank, savings bank, savings and loan association, or credit union, which makes federally related mortgage loans as determined by the Board; and

(3) the term "Board" means the Board of Governors of the Federal Reserve System.

MAINTENANCE OF RECORDS AND PUBLIC DISCLOSURE

SEC. 4. (a)(1) Each depository institution which has a home office or branch office located within a standard metropolitan statistical area, as defined by the Office of Management and Budget shall compile and make available, in accordance with regulations of the Board, to the public for inspection and copying at each office of that institution the number and total dollar amount mortgage loans which were (A) originated, or (B) purchased, by that institution during each fiscal year (beginning with the last full fiscal year of that institution which immediately preceded the effective date of this Act.)

(2) The information required to be maintained and made available under paragraph (1) shall also be itemized in order to clearly and conspicuously disclose the following:

(A) The number and dollar amount for each item referred to in paragraph (1), by zip code, for borrowers under mortgage loans secured by property located within that standard metropolitan statistical area.

(B) The number and dollar amount for each item referred to in paragraph (1), by State, for all such mortgage loans which are secured by property located outside that standard metropolitan statistical area.

For the purpose of this paragraph, a depository institution which maintains offices in more than one standard metropolitan statistical area shall be required to make the information required by this paragraph available at any such office only to the extent that such information relates to mortgage loans which were originated, purchased, or sold by an office of that depository institution located in the standard metropolitan statistical area in which the office making such information available is located.

(b) Any item of information relating to mortgage loans required to be maintained under subsection (a) shall be further itemized in order to disclose for each such item—

(1) the number and dollar amount of mortgage loans which are insured under title II of the National Housing Act or under title V of the Housing Act of 1949 or which are guaranteed under chapter 37 of title 38, United States Code;

(2) the number and dollar amount of mortgage loans made to mortgagors who did not, at the time of execution of the mortgage, intend to reside in the property securing the mortgage loan; and

(3) the number and dollar amount of home improvement loans.

(c) Any information required to be compiled and made available under this section shall be maintained and made available for a period of five years after the close of the first year during which such information is required to be maintained and made available.

ENFORCEMENT

SEC. 5. (a) The Board shall prescribe such regulations as may be necessary to carry out the purposes of this Act. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this Act, and prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(b) Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(d) Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some other Government agency under subsection (b), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any

requirements imposed under this Act shall be deemed a violation of a requirement imposed under that Act. All of the functions and power of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this Act, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

(e) The authority of the Board to issue regulations under this Act does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this Act.

RELATION TO STATE LAWS

SEC. 6. (a) This Act does not annul, alter, or affect, or exempt any person subject to the provisions of this Act from complying with the laws of any State or subdivision thereof with respect to public disclosure and recordkeeping by depository institutions, except to the extent that those laws are inconsistent with any provision of this Act, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any such law is inconsistent with any provision of this Act if the Board determines that such law requires the maintenance of records with greater geographic or other detail than is required under this Act, or that such law otherwise provides greater disclosure than is required under this Act.

(b) The Board may by regulation exempt from the requirements of this Act any depository institution within any State or subdivision thereof if it determines that, under the law of such State or subdivision, that institution is subject to requirements substantially similar to those imposed under this Act, and that such law contains adequate provisions for enforcement.

STUDIES

SEC. 7. (a) The Board, in consultation with the Secretary of Housing and Urban Development, is authorized and directed to carry out a study to determine—

(1) the feasibility and usefulness of requiring depository institutions located outside standard metropolitan statistical areas, as defined by the Office of Management and Budget, to make disclosures comparable to those required by this Act;

(2) the feasibility, cost, and usefulness of requiring all institutions covered by this Act to disclose by geographical location the source of savings deposits;

(3) the practicability of requiring disclosure of the average terms and downpayment ratios of mortgage loans by geographical location; and

(4) the feasibility and usefulness of requiring disclosure of other types of lending data, such as small business loans.

(b) The Board shall also study and analyze, in a sample of standard metropolitan statistical areas of differing characteristics to be selected by the Board, the use to which the data disclosed under this Act is put by local government agencies, community groups, and other interested parties in such areas. The Board shall also analyze the impact of availability of lending data in the selected standard metropolitan statistical areas, including such questions as whether and to what extent mortgage lending in older neighborhoods increased as a result of disclosure, and whether any lending institutions altered their lending patterns, and any change in default or foreclosure rates.

(c) A report on the studies under this section shall be transmitted to the Congress not later than three years after the date of enactment of this Act.

EFFECTIVE DATE

SEC. 8. The provisions of this Act shall become effective upon the expiration of ninety days following the date of enactment of this Act.

EXPIRATION DATE

SEC. 9. The authority granted by this Act shall expire three years after the date of its enactment.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 1281.

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

ORDER OF BUSINESS

The PRESIDING OFFICER. What is the will of the Senate?

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, am I now recognized under the order previously entered?

The PRESIDING OFFICER. The Senator is correct. He is recognized for 1 hour.

REPORT ON TRIP TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. ROBERT C. BYRD. Mr. President, on August 17, a delegation of three Senators (Mr. PEARSON of Kansas, Mr. NUNN of Georgia, and myself) and three Members of the House of Representatives (Mr. ANDERSON and Mr. DERWINSKI of Illinois, and Mr. SLACK of West Virginia) and their wives left the United States for China at the invitation of the Chinese People's Institute of Foreign Affairs—an arm of the People's Republic of China—PRC—Government. The invitation from the PRC was extended to the individual Members and their wives through President Ford. The delegation was transported to and from China by a U.S. Air Force plane. Once in China, all transportation, lodging, food, and other costs were borne by the Chinese Government.

The travel itinerary inside China was arranged solely by the PRC, but we saw a representative sample of rural and urban life and China geography.

Of course, as could be expected, our conversations, in a limited 10-day visit, were confined only to discussions with dedicated followers of Maoist political theory—persons thoroughly committed to, and schooled in, Chairman Mao's ideological teachings.

A 10-day stay in China is far too short a period to afford other than a mere glimpse at the world's most populated country—a country of 800 to 900 million people and slightly larger than the United States, and whose written history dates back to about 1500 B.C. That 10-day visit took us to Peking, Sian, Kunming, Kweilin, and Shanghai. In that brief time, we saw the Temple of Heaven in Peking, where the Emperor, centuries ago, came to pray for bumper harvests; the Forbidden City, in Peking, housing the Imperial Palaces of the Ming and Ching dynasties, with their priceless works of art and jeweled treasures; the 13 Ming tombs, outside Peking—only one of which has been excavated—which house the coffins of the Ming Dynasty, 14th to 17th centuries, emperors and empresses; the Summer Palace, 7 miles northwest of Peking, vacation home of royal families as far back as 1000 A.D.; the 1,300-year-old Great Goose Pagoda—Buddhist—in Sian; some recent archeological finds in Sian not yet shown even to the Chinese public; the museum of history in Sian, housing stone tablets dating from the Han Dynasty (200 B.C–24 A.D.); the site of a 6,000-year-old stone age village discovered in 1952; the Institute for National Minorities in Kunming; the Dragons Gate on top of the Western Hills overlooking Lake Tien Chig (Dragons Gate is a temple carved out of sheer cliffs 1,500 feet above the level of the lake below); the Stone Forest, 3 hours out of Kweilin, estimated to be 270 million years old, and consisting of huge grotesque stone formations; and the Great Wall of China.

The Great Wall of China is the longest defense line ever built—stretching 1,500 to 2,000 miles over extremely difficult mountainous terrain. The wall is 20–22 feet high and tapers from a width of 20 feet at the base to about 15 feet at the top. Towers from 35 to 40 feet high are built into the wall every 300–500 yards. The sides of the wall are made of bricks and blocks of granite, and the wall is filled with earth. The top of the wall is paved with bricks set in lime, and forms a roadway along which people may walk.

The building of the wall started in the late 200's B.C., at the order of one of the rulers of the China Dynasty to keep the northern Tartar tribes from moving south to invade the territory of China proper. The present wall was completed in the A.D. 1300's. It was built entirely by hand, and thousands of workmen are believed to have died under the strain of the work. It has served at different times as a line of defense for different rulers and tribes of China.

But these impressive sights—both natural and man made—were not so interesting to me as a look at everyday life in Communist China.

It must be borne in mind in any critical evaluation of China today, of course, that it is a Communist, totalitarian state—one that completely negates the

kind of freedom of the individual that we so cherish in America.

To the Western visitor, China is a different world—a nation of 800 to 900 million—nobody knows—completely dedicated, disciplined, highly regimented, hard-working people. Out of these millions of people and in all of China, there is not one privately owned automobile. A limited number of passenger vehicles is available in each community for official purpose only. Tens of thousands of bicycles fill the streets, and crowded buses are seen everywhere. Old and young, women and men, government bureaucrat and factory worker and peasant—all ride bicycles, and all dress alike in baggy pants or shorts, and shirts without ties. Women usually wear trousers like the men, but do sometimes wear a simple white blouse with skirt so as to cover the knee. Women do not wear cosmetics or jewelry—only wrist watches are worn by women and men.

Not only are there no privately owned cars in all of China; there also are no privately owned businesses. Everything is owned by the state or by the communes. Only a little personal property or a small garden plot of ground, a pig, and a few chickens can be owned by an individual or family. The entire country is divided into communes, and the grain produced in the communes is sold to the state and rationed to the people living in the communes. "From each according to his ability; to each according to his work," is the standard applied to peasant, worker, and government official. After the basic needs of the people are satisfied—that is, adequate food, clothing, and shelter—production is then distributed according to how much the individual offers to society.

The discipline is extraordinary and incomprehensible to the Western observer. Everywhere there is cleanliness and there is order. Prostitution has reportedly been eliminated; unemployment and inflation are nonexistent, although there is underemployment; the streets, by all accounts, are safe, day and night—and there seem to be few if any social problems of drug addiction, alcoholism, or juvenile delinquency. Everybody works—women alongside men—in the factories and in the fields, and receive equal pay for equal work. Women do heavy labor on the highways and streets and railroads—just as do the men. Heavy loads are carried in baskets, or on carts drawn by oxen, water buffalo, burros, or people. Men, women, and children pull carts, carry heavy loads, and work together in the rice paddies.

Wages for city workers, average about $25 to $30 per month, and range from $15 per month to $40 to $50. The work is 6 days per week, 8 hours per day—with no vacations, although there are some holidays. People are assigned to work in factories or in the communes—wherever the need exists—and they may not shift from job to job or from city to city to suit their own desires or convenience. They must work wherever and at whatever task the state requires in order to meet the needs of the people. "Serve the people" and "self reliance" are the standards and goals, mottoes and slogans by which the people are constantly guided.

Rent plus utilities cost the average family of five about $4 to $5 per month. Medical care—such as it is—is free for the workers, and costs the communal dwellers only a few cents per month. There are no income taxes, and education is free.

The land is intensely farmed, with rice on the terraced hillsides and in the level valleys, and corn in the narrow hollows and ravines. Crops of rice, wheat, corn, millet, and sorghum are well planned, rotated, and alternated. Even the strips of land running right up to the airport runways are cultivated.

Eighty percent of Chinese population is on the land; yet, only 10 to 12 percent of the total land area is used for agriculture. However, enough food is produced for 800 million people. China both exports and imports grain, but all observers agree that China has apparently solved the food problem, with grain reserves being stored in all parts of the country.

All persons working in agriculture live in communes that vary in size. To the extent possible, each commune is a self-sustaining and self-contained unit, producing its own fertilizer, providing its own medical clinic or small hospital, manufacturing and repairing its own tools, providing its own markets and schools, and producing its own consumer durables.

China presently has over 50,000 communes, which function as the basic unit of local government. The commune system, born in the optimistic fervor of the so-called Great Leap Forward in 1958, consists of four parts: commune, brigades, production teams, and households.

The commune is charged with the responsibility of producing grain, management of water resources, construction, afforestation, and management of local industries to produce consumer goods for local consumption as well as for state consumption. The commune formulates specific production plans for its subordinate units after adapting policies, received from higher government levels, to local conditions.

Brigades currently number over 700,000 and constitute the final link in the long chain of government and party control systems. The brigade is charged with overseeing the work of its production teams, which, in all of China, number about 5 million. The brigade nominates officials who lead the teams, and it is also responsible for inculcating Marxist theory in team officials and members.

Each production team is a semiautonomous unit, and it makes the final decisions regarding the production of goods and distribution of income. It calculates profits and losses. Most of the grains and foodstuffs grown in teams is consumed by member households, and the remaining portion is sold to the government.

Households number about 170 million. In addition to their work on the communal farms, they cultivate small private plots—which are also farmed collectively—from which come most of China's vegetables, poultry, and hogs. Communes allow party leaders to improve control in rural areas, and to curb capitalist and feudal tendencies among the peasants.

During the "Cultural Revolution," revolutionary committees were established in the communes. The revolutionary committee functions as the management unit in each commune and serves as the local people's government. It interprets policy decisions made by the central government in Peking, adapts such policies to local conditions, and insures that policies and production plans are implemented. Responsible persons hold two jobs—one in the party, and the other in commune management, which includes control over the commune-level militia organization. Militia regiments or battalions are organized at the commune level, and they function to provide public security and as firefighting and rescue forces. The Revolutionary Committee also collects data for the central government, writes official reports, and enhances ideological and political consciousness and the growth of socialism among the members. Communes engage in industrial as well as agricultural production, and own the land. The agricultural production is limited mostly to fishing, forestry, farming, animal husbandry, and cultivation of fruit orchards. Industrial production includes grain processing mills; farm implement construction and repair shops; brick, tile and lime kilns; hydroelectric generation; production of cement; stone quarries and small coal mines; boatbuilding shops; fruit canneries; starch and paper factories; shoe factories; et cetera.

The average commune numbers about 3,000 households—about 15,000 persons—and has about 5,000 acres of arable land. The number of brigades and teams varies widely from one commune to another.

Nearly every commune has a health clinic, and half of China's professional medical workers work in these clinics, where birth control efforts and public health programs are also directed. The treatment may be less than satisfactory, but it constitutes a vast improvement over the previous general lack of medical care.

Primary education is provided at the brigade level, and secondary and special schools at the commune level. In spite of its failings, the commune education system has given an increasing number of Chinese young people a chance to obtain a basic education.

Communes earn their incomes from the sale of products to state institutions and to other communes, and to their own brigades, teams, and members. Commune-owned hydroelectric plants sell electricity to brigades, teams, and households.

The state figures prominently in team income distribution. Teams deliver grain to state tax stations to pay their agricultural taxes; and they deliver prescribed quotas of grain, cotton, and edible oil seeds to state procurement stations. The state bears the burden of rationing grain, cotton cloth, and edible oils to the population. Through planning and the accumulated performance of teams, the government expects each team to annually deliver a set quantity of grain to

the state. After the obligations to the State have been fulfilled, the remainder of grain is allocated to team leaders and members. A certain percentage of the team's income goes into a capital accumulation fund and is used to pay off loans or to purchase machinery, or goes into the team's welfare fund to help take care of the old, sick, and indigent members.

We visited the Red Star Agricultural Commune in Peking, a commune which our hosts told us was "just average"—there were "some better, some not as good, some bigger, some smaller." Our guide for the commune visit was a 26-year-old unmarried lady who is vice chairman of the People's Revolutionary Committee in the commune—it is obvious that the leaders in the communes and factories are the thoroughly indoctrinated, committed political activists. Incidentally, young people are discouraged from getting married before their mid-or-late twenties, as they are considered then to be more mature, thus contributing to more stable marriages and smaller families. Divorce is allowed but much frowned upon.

The total population of the Red Star Commune is 82,000, with a work force divided into 129 production teams. The commune produces mostly grain, but it also has over 3,000 milk cows, nearly 70,000 hogs, and 170,000 Peking—forced fed—ducks. In addition, there are 14 farm machinery repair shops; several nurseries and other schools for 20,000 students; a hospital; area clinics; as well as "barefoot doctors"—paramedics trained for at least 3 months to bring health services to the workers and peasants. The average income per peasant worker in the commune is around $150 per year. All grain and other products consumed by the peasants—except for the private livestock and private plot production—are deducted from the income of the peasant. The living quarters are extremely meager by our standards, but, by their own standards, they consider that great progress has been made since the "Liberation" of 1949–50. Private plot production can be consumed or sold to the state; but the state, while permitting, does not support private plot production. Such private plots are always very small and may include room for a pig and a half-dozen, or so, chickens.

We visited one of the commune's 10 dairy farms. Most milking is done by hand, and each cow is milked every 3 hours. There is very little refrigeration in China, so the milk was converted into powdered form at a plant in the commune. Political night schools are conducted at the commune, and 2,600 political study teams have been organized in the commune to bring "political awareness" to the peasants and to lecture on marxist theory. Everywhere one travels in China, he is constantly reminded of the teachings of Chairman Mao and the "progress made since the Great Cultural Revolution."

The Red Star Commune leaders were proud that their 1974 crop production was higher than in 1973, and they expect to do better this year. Each commune is assigned a state production quota annually, fixed for a period of 5 years. Farm products are sold to the State each year at a fixed price for the assigned quota. Any production over the quota may be sold to the State for a bonus price or retained by the commune to build up reserves or to be allotted to members of the commune—"to each according to his work."

Nothing compares to American agriculture but, by all accounts, progress has been made in recent years. There is little modern machinery, but great use is made of animals and there is no scarcity of human effort and manpower. If mechanhuman effort and manpower. If mechanization should ever come to Chinese agriteeming millions of peasants?

The Chinese people in recent years have been taught the simple rudiments of hygiene. They boil their drinking water; flies and mosquitos have been virtually eliminated except in rural areas; rats have been warred upon; dogs and cats are seldom seen; and an intensive effort has been made to eliminate birds because of their destruction of crops. Human waste—night soil—is treated as an asset, but it is now being chemically treated and combined with animal waste and compost, all of which make up 75 percent of the fertilizer used.

The low level of personal hygiene and the widespread use of animal and human wastes as fertilizer, combined to make fecal borne diseases the primary cause of deaths in old rural China. The collection of both rural and urban fecal material, and its spread over most of China's agricultural lands, resulted in a pollution of the fields that made it impossible for people to avoid infection. Through an extensive education program since 1949, however, the people have been taught the danger of contact with raw excrement. Millions of newly covered latrines have been built, and receptacles for night soil constructed. The old "honey buckets" can still be seen, however, just a few blocks from Tien An-men Square in the center of Peking, carrying the waste out of the city. Every spring, much of the labor force is rounded up to move manure accumulated during the winter months, and large numbers of urban workers and government employees are called upon to participate—what better way to shed possible remnants of elitist thoughts? Great precautions are taken to insure that the manure accumulated over the months is properly cured, chemically treated, and environmentally safe.

One might easily assume that in a country where there is no ownership of private automobiles, and only 15 percent of the population lives in urban areas, air pollution would not be a serious problem. It is not, for most people, except for those who live in the large industrial centers, where the air is as bad as is likely to be found anywhere in the world. Eight-five percent of China's energy comes from coal, and the widespread use of coal for both power and heat intensifies the normal pollution caused by industry in the cities.

Air and water pollution are a concern of the authorities, and efforts are being pressed to improve the quality of both air and water. Some progress is being made, although the Chinese admit that they still have a long way to go. Educational campaigns are conducted urging the people to wage war on the "three wastes": waste liquid; waste gas; and waste slag. The emphasis on the first two is on prevention; as to the third, the emphasis in on utilization. Mass cleanup campaigns are conducted, and the solid wastes are recycled, where possible—thus wastes are "turned into treasures": glass fiber products, soap, bricks, tile, cement, rolled steel, steel ingots, et cetera.

Now that China's basic priorities—the food and health problems—are more or less under control, she will continue to concentrate on important refinements, among which are improvements in air and water quality.

China's all-out effort to reduce population growth suggests a conventional view of the cause-and-effect relationships between population size and consequent problems of pollution. Conscious efforts are also made to promote industrial and population dispersal, and urban growth is controlled. In this way, pollution is not only made more manageable, but other social problems are, to some extent, also avoided. Not the least of considerations providing the impetus for industrial and population dispersal, however, is the constant tension between China and the Soviet Union, and China's desire to decrease vulnerability in case of a war with the U.S.S.R. In this regard, I was repeatedly told that tunnels are being built under all Chinese cities as civil defense measures against air and land attacks, and that grain, water, and other necessities are being stored therein.

Other considerations in population and industrial dispersal are the desire to devise ways of economically absorbing the millions of Chinese youths who enter the work force annually, and the encouragement of local self-sufficiency in agriculture. There is much land drainage, irrigation, flood control and land leveling, and, as I have indicated, virtually every foot of available arable land is used.

Population growth is not discouraged in sparsely populated regions, but, where population density is high, both late marriage and birth control are advocated. Contraceptive devices are available and are free, as are sterilization and abortion.

We also visited a workers' village in Shanghai, housing 4,200 working and retired families. At a kindergarten day care center, we were welcomed by 5-year-olds who applauded us warmly upon our arrival—as was the case wherever crowds of youngsters gathered. The 5-year-olds gave us a song and dance performance which, to grandparents like Mrs. Byrd and myself, was heart warming.

There was a village hospital—austere but adequate for treatment of minor ailments—with no air conditioning. Incidentally, air conditioning is scarce in China, and is found in only a few hotels and large hospitals. In fact, of the several cars used by the government to transport our delegation to official functions, not more than one car was air conditioned. There was also a village

market, with fruits and vegetables and meats. Here, I saw some flies in the butcher shops where meat was carved in the open and under large electric fans.

We visited the apartment of a retired couple, which, although meager, was better than the home I had visited in the commune. There were two bedrooms, and a common kitchen and common bathroom shared with another family.

The retired couple drew pensions of $30 and $24 per month, and their children earn $53 per month for a total monthly income of $107. The apartment furnishings consisted of a small TV set, $150, an electric fan, $104, two beds, a table, four chairs, a dresser, a clock, a sewing machine, and a picture of Chairman Mao. The retired couple were glad to see us and followed us from their third story apartment to the ground level when we left. The lady and her husband were very friendly and vocal. Before the "liberation," she earned $3 per month; the husband had worked in a restaurant—no pay; only food and tips. They were proud of the progress they had made since the "liberation" and had even saved money to take a week's vacation.

The lady and her husband sang a song for us—a song of praise to Chairman Mao—all songs and performances deliver a political message extolling the Cultural Revolution, Chairman Mao, or promising to "liberate" Taiwan. Two of their three children had died before the "liberation" because they could afford no medical services, no doctors. Now, medical care is free or available for a small registration fee of 2 to 5 cents monthly. So, what we in America consider to be below the poverty level is beyond the means of even the highest paid government worker in China.

While in Shanghai, my wife and I and some others in the delegation visited a large hospital where we witnessed an operation for removal of a brain tumor, benign, and an operation for removal of a thyroid growth. Normal anesthesia was replaced with acupuncture in both operations. The brain tumor patient was a female cook, with a medical history of 4 years of headaches and declining vision. Five needles were inserted—one in front of the ear, one in back of the ear, and three in her feet—all needles being electrically stimulated. The thyroid patient had four needles inserted—two in each hand. Both patients were conscious throughout. The brain tumor patient was also given a light sedative. The brain surgeon was a male; the thyroid surgeon, a female. The brain tumor was about the size of a turkey egg, and the thyroid growth was about the size of a golf ball.

With our American delegation was a State Department physician who explained that the operations themselves were very similar to those in America, but that the monitoring equipment and sanitation were about equal to what our U.S. hospitals would have had 25 or 30 years ago. The postoperative recovery was unbelievable—no nausea, and the thyroid patient looked up at us, where we viewed from a students' windowed observatory, and waved and smiled at us. The brain tumor patient, after having the skull and scalp sewed back into place, looked up at us with a big smile, waved, and lifted her own head off one pillow to another and helped the attendant as she was being transferred from the operating table to a mobile bed. The doctors then participated with the nurses in mopping the floor. It was a very impressive performance.

We were told that acupuncture is used most successfully as an anesthesia for operations from the chest upward.

One final note: The salary of the brain surgeon is 80 yuan—$40—per month. The salary of the top physician/professor in the hospital is $180 per month. The total cost of the brain operation was about $20—paid for by the factory where the patient worked.

Also at the hospital we were shown a patient whose fingers and thumbs had been frozen and amputated. One toe had been removed from each foot and grafted on the hands as thumbs.

Another patient, a female, had had an upper arm removed at the shoulder because of bone cancer. The lower arm had been successfully grafted to the shoulder. The patient showed amazing control and use of the hand and fingers. All in all, our visit to this Shanghai hospital was an unforgettable experience.

Everywhere in China we saw large pictures displayed of Marx, Engels, Lenin, and Stalin. Chairman Mao's massive portraits were omnipresent on government buildings and at airports. Large posters were prevalent, carrying such messages as "Workers unite"; "Long live Chairman Mao"; "Long live the great unity of all the people"; and so forth.

Although no policemen are to be seen in the cities, traffic officers are numerous but do not carry weapons. In actuality, the pedestrians, cyclists, and truck and bus operators appear to pay little attention to the directors of traffic. Although there are no armed policemen, armed members of the Red Army are stationed as guards at hotel entrances, government buildings, and at airports.

China's military potential obviously derives from its huge manpower resources. Equally obvious is the fact that a country, whose annual per capita income is less than 200 U.S. dollars, and which stresses economic, industrial, and agricultural self-sufficiency, must emphasize manpower over modern, sophisticated, costly weaponry. Nonetheless, provision of a creditable military defense posture will continue to be a priority objective to Chinese leaders, while the country struggles to accomplish economic and industrial progress.

Sino-American trade in 1975 will be down from the high point of 1974. This decline, from $934 million to an estimated $400 million, is attributable largely to improved harvests in China. The 1974 trade between the two nations represented a 7-to-1 balance in the U.S. favor—$810 million in U.S. exports and $120 million in imports—with the United States second only to Japan in volume of trade with China. The ratio in 1975 is expected to be about 3 to 1 in favor of the United States. The principal items imported from China are such consumer goods as fabrics, bristles, oils, tin, and works of arts and crafts.

The delegation had a 2-hour meeting with Vice Premier Teng Hsiao-p'ing, the man who runs the government of the People's Republic of China in the absence of Premier Chou-En-lai and Chairman Mao-tse-tung, both of whom are aged and ailing.

Another 2-hour session was held with the Foreign Minister, Ch'iao Kuan-hua.

These discussions, held on different days, were frank and covered numerous subjects, including: the future of Indochina; the revolutionary events in Portugal; United States-Soviet grain deals; the Helsinki summit; Soviet hegemony; United States-China trade; Soviet attempts to covertly establish military and naval bases in Vietnam and elsewhere; Diego Garcia; Salt I and II; NATO; the Middle East; the Shanghai communique; recent developments in India and Bangladesh; the Chinese-Soviet border dispute; the Nuclear Nonproliferation Treaty; North and South Korea; the tremendous increase in Soviet naval and military strength; Soviet attempts to create dissension among Chinese minorities, which make up 5 percent of the Chinese population; the issue of Cyprus, American MIA's in Southeast Asia; the role of the military in the PRC Government; et cetera. All conversations were candid, stimulating, and with no holds barred.

Most of the Chinese with whom we had contact spoke English, some of them fluently and even colloquially. Even those few who professed not to speak English, I suspect, understood it.

From our discussions and others with numerous PRC officials at the provincial, county, and municipal levels, I gained the following distinct impressions:

First. The People's Republic of China is a highly regimented, controlled, collectivist State—determined to be self-reliant, self-contained, and independent of foreign domination, interference, and influence. However much one may disagree with a system that takes away personal freedom, such a system is working—or appears to the visitor to be working—in mainland China a quarter of a century after the upheaval of World War II and its aftermath in that vast Asian land. How long it may continue to work—how long the Chinese people may continue to accept the complete control of their lives—remains to be seen.

Second. The PRC does not seek to become a superpower on the basis of all statements made to us and harbors no intentions of expansionism or takeover of other countries or areas—with the exception of regaining Chinese territories such as Taiwan. Both the PRC and the United States recognize Taiwan as a part of China.

Third. The PRC seeks mainly to build up its own economic and industrial base, improve the living conditions of its own people, further develop the "dictatorship of the Proletariat," and protect its own territorial integrity against outside attack. It claims no designs on other countries in Southeast Asia, and is firmly op-

posed to attempts by any country to establish bases on foreign territory or to exercise hegemony over other countries. Homeland defense is now the determinant strategic military posture in the minds of the Chinese leadership, despite its rhetoric from time to time.

Fourth. The PRC no longer believes the United States poses any threat to its own territorial integrity or to its existence as a socialist state, but it is thoroughly distrustful of the intentions, words, and actions of the Soviet Union.

The lessons of the recent past have not been forgotten by the Chinese. At a time when China was weak and isolated, the Soviet Union, hoping to gain hegemony over its new Communist neighbor, provided China with the foundations of a basic industry, which not only included production technology but also industrial organization, complete with planning, budgeting, and management systems.

By the late 1950's, it had become clear to the Chinese that the Soviet beneficence was a mixed blessing. They had been made heavily dependent on imports and on Soviet tutelage, and they had been enticed into a blind acceptance of the U.S.S.R. as a prototype for their own independence and self-confidence. The Chinese felt compelled to reject that degree of foreign influence.

The "great leap forward" marked the break with dependence, and was the first step in what soon became a total rejection of Soviet technological guidance. The Soviets precipitously withdrew in 1960, and the Sino-Soviet rupture was to the Chinese an object lesson in the dangers of foreign dependence, they having had to starve themselves in the early 1960's to repay their Soviet credits. Today, the PRC views the Soviet Union as successfully dominating Eastern Europe and as seeking hegemony over the Middle East, the Indian Ocean Southeast Asia, and finally the world.

The PRC sees a Soviet effort to dominate North Vietnam and establish bases south of China's border; to create dissension in Inner Mongolia and among Chinese minorities; to promote Soviet influence in Portugal; and to rapidly increase Soviet naval and nuclear power. The failure of the Soviets to honor agreements is cited by the Chinese, as are the recent Soviet worldwide naval exercises and maneuverings; the Soviet armies of over a million men along the Sino-Soviet Border; and the Helsinki summit. All these are developments of concern to the Chinese and leave no doubt as to the hegemonical designs of the U.S.S.R.

In my judgment, the United States need have no fear of Red China as a viable threat to our own country in the foreseeable future or as long as the Sino-Soviet rupture continues. Nor do I foresee any rapprochement between the PRC and the U.S.S.R. until such time as the U.S.S.R. drastically revises its policies of hegemonism over other people—an event not easily anticipated.

Fifth. Although by U.S. standards, China is a very poor and backward country given the conditions of poverty and penury that existed following World War II in China, the general health and living conditions have been greatly improved under the strict regimentation imposed by the PRC. The growing of opium, except for medical purposes, has been outlawed; crime has been reduced virtually to a zero point; housing and apartments are being increasingly constructed; the economic base is being gradually strengthened; and a self-reliant China is emerging to take its place among the great powers of the world.

China is still a poor country, the considerable gap between the incomes and living conditions of workers and peasants still exists, and the industrial base is weak and lacking in efficiency—all of which is frankly admitted by Chinese officials. But the determination and the confidence are there, the will to sacrifice and to work is everywhere evident, and the manpower to get the job done—whatever it may be—is abundant. The progress made in the last quarter century is impressive, and it appears that this progress will continue.

Sixth. In my opinion, the effort to normalize relations with the PRC, first initiated by President Nixon's visit to China in February 1972, should be continued. This normalization process can only be slow and gradual, but it ought to go forward. I think we ought not be overly eager to speed up the process, nor do I think we should press too hard; but a gradual evolution toward normalization will be in the best interests of the United States and the PRC in the long run—especially given the present obvious efforts and intent of the Soviet Union to expand her sphere of influence and authority and the continuing buildup of Soviet naval and nuclear strength.

Taiwan remains the primary obstacle in the path toward full normalization of relations between the United States and the PRC, but the PRC is not pressing for a rapid solution of this issue, and, in spite of occasional rhetoric, appears content to await the developments of time. The subject of Taiwan was not brought up by Chinese officials during our discussions with them, nor did our delegation broach the matter, we having decided in advance that we knew the PRC's position and that it would be fruitless to pursue the issue at this time. The PRC's position is simply this: First, the United States must terminate diplomatic relations with Taiwan; second, the United States must withdraw U.S. forces and military installations from Taiwan; and third, the U.S. defense treaty with Taiwan must be scrapped.

In the Shanghai Communique, which was issued in 1972 at the conclusion of the meetings between President Nixon and Premier Chou En-lai, the United States acknowledged that "there is but one China and that Taiwan is part of China." The United States also affirmed the ultimate objective of the withdrawal of all U.S. forces and military installations from Taiwan. Subsequently, the reduction of U.S. forces on Taiwan has gone forward, slowly but gradually and significantly.

The Chinese take the position that the PRC is the sole legal government of China; that Taiwan has long been a province of China; and that the "Liberation" of Taiwan is China's internal affair in which no other country has a right to interfere. The United States hopes for a peaceful settlement of the Taiwan question by the Chinese themselves, and this will take time. The Taiwan issue poses many difficult questions, but, in time, hopefully, some resolution of the problem will evolve.

Until then, as I have stated, relations between the United States and the PRC will not be completely normalized, but, in the meantime, they need not retrogress or be stalemated. There is room for progress—not spectacular perhaps, and properly so—but, nevertheless, progress in the evolution of the present thaw in relations between our two countries. Communications between the United States and the PRC—countries that have different ideologies and different systems—can and ought to be improved so as to bring about a mutual understanding of our differences and our problems.

Some of the differences between our two countries obviously may never be bridgeable and some of our problems may not, in the immediate future, be capable of resolution, but at least they can be made manageable. Educational and cultural exchanges can continue to be a major factor in reestablishing the ties between the American and Chinese people and should be encouraged. The Chinese have thus far ruled out visits by high level Chinese officials to the United States, and the establishment of permanent press officials because of the Taiwan issue. But the mutual learning process can and should continue between our two countries—both of which, I again emphasize, are opposed to the growing threat of Soviet hegemony.

Seventh. As for United States-China trade, no direct commerce existed for many years prior to President Nixon's 1972 trip to Peking. Since then, some progressive developments in trade between the two countries have been facilitated, with China running a deficit and with the United States running a significantly favorable balance. Americans should realize, however, that China is not a ready market for 100 million automobiles or refrigerators or air-conditioning units, but it is, rather, a highly selective one, dependent on the dictates of Peking's planning. To the extent that the PRC chooses to emphasize rapid economic growth in the years ahead, the market for some American products, particularly those of a more advanced technological nature, appears good. We must keep in mind that the PRC, for the present, is not a major trading nation, despite its large size, and that it is largely an agrarian economy and also the most self-contained and self-sufficient and insulated economy in the world.

The Chinese have a saying: "Honor the contract." The PRC has a good reputation in fulfilling contractual obligations, and it follows a general policy largely of "pay as you go." Chinese financial obligations involve only short- and medium-term credits, and the PRC, in the main, has been unwilling to finance purchases by long-term arrange-

ments of any kind—unlike the Soviet Union, where reportedly as much as 90 percent is in this category. The Chinese, to my knowledge, have never even hinted that they are interested in loans from the U.S. Export-Import Bank or any other U.S. or foreign bank. It has been pretty much a cash-on-the-barrelhead basis.

Although foreign trade occupies a minor role in overall PRC activity, and the PRC's inflexibility in its external trade transactions and its failure to move closer to standard international finance practices do pose continuing obstacles to the developments of trade, I think good faith efforts should continue to be put forth by both sides toward the eventual removal of trade obstacles. The fact that China has lately become an oil exporting country and that the Chinese Government has given its petroleum industry a high priority in the allocation of its limited investment resources, is a consideration not to be lightly disregarded in the light of the world's energy problems—to say nothing of our own.

In looking ahead to improved future trade relations between the United States and the PRC, attention should be given to the still unresolved issues of blocked Chinese assets and private U.S. claims, and we should also encourage the facilitation of trade missions between the two countries. Many other steps, obviously, are open to suggestion by those who are far more learned than I in the fields of international finance and trade; but, based upon my cursory observations and studies, I am of the opinion that the long-run best interests of the United States lie in the direction of careful, rational, and progressive trade developments between the two countries in the years ahead.

Eighth. China's economic and other relations with the so-called Third World can be of increasing importance to our own future economic, industrial, and—indirectly—national security and well being—especially in view of our increasing dependence upon scarce raw materials. Many countries of the Third World look to the PRC for leadership and guidance—a fact not to be overlooked in the overall context of power relations and Soviet hegemonic tendencies. This is another reason why improved ties between the United States and the PRC can be mutually beneficial.

Ninth. In conclusion, it is obvious from the foregoing that I favor a gradual and rational evolvement toward normalization of relations between the United States and the PRC. It is also clear that this viewpoint represents a change in my own attitude of some years ago toward China. The change is, for the most part, based on the shifting necessities underlying our own national security, which I believe, is being increasingly threatened by growing Soviet power and aggressive inclinations—some subtle and some not so subtle.

I am also persuaded, by my own studies and observations, to believe that the PRC's main interests lie in the direction of its own economic and industrial growth and the betterment of life for its own people, and that its military posture is that of defense of its own boundaries, rather than a posture of expansionism and aggression and Chinese hegemony. I do not now consider the PRC to be a viable nuclear threat to the United States—either in terms of present intentions or by present means. I do not say the same about the Soviet Union.

The PRC, while claiming not to "export" revolution, does "support" revolution elsewhere; but perhaps, in time, this is a situation that can be mitigated or at least stabilized. It should be apparent to anyone that the critical threat today to our own security and to world peace is posed, in far greater potential, by the Soviet Union.

The Chinese people view the Soviets with increasing concern. Repeatedly, we were told by Chinese leaders that the United States should pay more attention to what the Soviet Union is doing; that the Soviets cannot be trusted; that Soviet expansion in the Indian Ocean has far surpassed the United States there; that the Soviets have established disguised bases, and quietly, "whereas the United States must do everything in public;" and that the United States has "lagged behind the U.S.S.R. in the last 10 years." Chinese leaders say that the "tentacles" of the Soviet Union are in the Indian Ocean and elsewhere; that the Soviet Union fervently intends to dominate other countries; that the focus of Soviet strategy, basically, is westward and southward toward Europe, Turkey, and the Middle East, while feinting to the East; and that Portugal is part of that strategy.

With reference to the establishment of a U.S. presence on the island of Diego Garcia, Chinese leaders "do not approve of foreign bases on the soil of any country;" but, at the same time, they "take a realistic view" under the circumstances.

In respect of the Chinese slogans of "self-reliance," as to their claims of progress in the improved health and well-being of their people; as to the validity of their vaunted confidence in the ideological unity of all their people; in all these things, it is difficult, of course, for me to distinguish between what is shadow and what is substance. Assuredly, a 10-day visit cannot equip me with any claim of expertise in such matters, and I am willing to accept my own impressions gained from the trip with some "grains of salt." And it goes without saying that, while our delegation was free to go many places in China, if a deleterious or deteriorating situation existed anywhere, they would not have rushed us by Government limousine to see it.

The Chinese leaders are sophisticated, charming, polite, and supremely dedicated to their way of life. I believe they can also be extremely tough and cold-blooded. Of two things I am sure, however:

First. While any reading of Chinese history would reveal that under their present system, they are better off in many ways and have made progress, it is a system that would never work in the United States, and anything I have said above should not be misinterpreted as approval of the system. Much of what has been accomplished by the Communist regime in China has been, as I have stated, heretofore, at the expense of human liberty, freedom of choice, and, most of all, at the expense of spiritual life. It was spiritual strength that sustained us at Valley Forge, where many Americans died within sight of the lights of Philadelphia and a free meal. In sum, my own appreciation of the superiority of the American political, governmental, economic, agricultural, and industrial systems over those of the People's Republic of China or any other country has been immensely enhanced by my visit to China; and

Second. A recognition of the necessity for reevaluation of our attitude and posture toward the PRC, and for a gradual but continued progress toward normalized relations with the Chinese people, has been made more clear to me.

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

Mr. ROBERT C. BYRD. Yes.

Mr. HELMS. Mr. President, I commend the distinguished assistant majority leader on the detailed and very graphic report on his journey to Red China.

As he spoke, I thought of the contrast between his observations about Communist China and my own experience in Taiwan.

I wonder if the distinguished assistant majority leader has visited Taiwan recently.

Mr. ROBERT C. BYRD. Twenty years ago.

Mr. HELMS. Twenty years ago.

I was there last year. I say to the Senator that the streets are safe in Taiwan, also.

Mr. ROBERT C. BYRD. I would agree with that. I was very much impressed with the progress that was being made in Taiwan, when I visited there 20 years ago as a member of the then House Committee on Foreign Affairs.

Mr. HELMS. That is right. There is virtually no crime in Taiwan.

Much of what the Senator said about Red China in the positive sense is equally applicable to Nationalist China.

Mr. ROBERT C. BYRD. And possibly even more so.

Mr. HELMS. Except that the people on Taiwan are free. They move with complete freedom day or night.

I remember one morning about 3 a.m., the time lag being what it is in distant travel, I was awake, and I went out on the balcony of the hotel. I saw lady Chinese citizens going to work in the dark, coming to the hotel. I made inquiry about that, and I was told that this goes on because there is virtually no crime, but when the law is violated there is strict and stern punishment.

Mr. ROBERT C. BYRD. If the Senator will allow me, I think the Chinese people are generally recognized as a very industrious people, a hard-working people, and a people who are not inclined to commit crimes of violence against persons and property.

Mr. HELMS. The Senator is absolutely correct.

Mr. ROBERT C. BYRD. They have been much put upon in past history by other countries, one of which, I might cite as being Great Britain in the old days.

Mr. HELMS. Exactly.

Mr. ROBERT C. BYRD. The people on Taiwan are Chinese, and we, the United States, recognize as in the Shanghai communique, that there are not two Chinas, that Taiwan is a part of China, and that the Taiwan issue hopefully will be resolved by peaceful means and by the Chinese themselves.

As I have iterated, the Taiwan issue was not raised by this delegation because we knew what the Chinese position is, we knew what our position is, and we felt that it would be a waste of time and an exercise in futility to bring up the subject; and the Chinese did not bring it up.

Mr. HELMS. I say again that I am immensely impressed by the Senator's report, and I am delighted that I was able to be here when he presented it.

Among other things, the Senator verified reports coming to me about Red China's participation in the affairs of other countries. For example, in Angola, Red China is definitely supporting one faction there. There are three factions, as I understand it, fighting each other. The Soviet Union supports one, the Red Chinese support the other, and it is not clear who is supporting the third.

But in any case, I commend the distinguished Senator for a delightful half-hour, and I am looking forward to reading the entire text of his report.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for his comments.

ORDER FOR RECOGNITION OF SENATOR HUDDLESTON TOMORROW, AND SENATOR PROXMIRE ON MONDAY, SEPTEMBER 8, 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the two leaders or their designees have been recognized under the standing order, the Senator from Kentucky (Mr. HUDDLESTON) be recognized for not to exceed 15 minutes; and that on Monday, the Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes, after the two leaders or their designees have been recognized.

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

DESIGNATION OF PERIOD FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that tomorrow, after the recognition of the Senator from Kentucky (Mr. HUDDLESTON) under the order just entered, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 10 minutes each.

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

CONFERENCE REPORT ON H.R. 4222

Mr. ROBERT C. BYRD. Mr. President, tomorrow the Senate will take up the conference report on H.R. 4222, school and child nutrition.

It is my understanding that Mr. McGOVERN will offer a motion to recommit that conference report, and there will be a rollcall vote on that motion.

ORDER FOR ADJOURNMENT FROM FRIDAY, SEPTEMBER 5, 1975, TO MONDAY, SEPTEMBER 8, 1975, AT 12 NOON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow it stands in adjournment until the hour of 12 noon on Monday next.

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

ORDER FOR VOTE ON PRESIDENT'S VETO ON S. 1849

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the attempt to override the President's veto on S. 1849 occur on Wednesday next at the hour of 3 p.m.

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

ADJOURNMENT UNTIL 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 11 a.m. tomorrow morning.

The motion was agreed to; and at 6:15 p.m., the Senate adjourned, until tomorrow, Friday, September 5, 1975, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate September 4, 1975:

NATIONAL TRANSPORTATION SAFETY BOARD

Isabel A. Burgess, of Arizona, to be a member of the National Transportation Safety Board for the term expiring December 31, 1979. (Reappointment.)

DEPARTMENT OF JUSTICE

Earl J. Silbert, of the District of Columbia, to be U.S. attorney for the District of Columbia for the term of 4 years, vice Harold H. Titus, Jr., resigned.

HOUSE OF REPRESENTATIVES—*Thursday, September 4, 1975*

The House met at 12 o'clock noon.

Rev. Robert T. Casey, Culmore United Methodist Church, Falls Church, Va., offered the following prayer:

Our Father, You gave us hearts to feel and to care. Take away any calluses or hardness that they may be sensitive to the cries of the hurt.

You gave us minds to think and to plan. Keep them from pettiness and needless distractions that they may work imaginatively and incisively to bring about the right society.

You gave us wills to act. Free them from the desire to do the expedient or personally advantageous that they may forthrightly pursue the common good.

We come to You, for we know that in and of ourselves we are incapable of achieving the right ends. We believe, though, that Your grace is sufficient. We ask Your help and we thank You for it. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8121. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8121) entitled "An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1976, and the period ending September 30, 1976, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PASTORE, Mr. McCLELLAN, Mr. MANSFIELD, Mr. HOLLINGS, Mr. MAGNUSON, Mr. EAGLETON, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. SPARKMAN, Mr. HRUSKA, Mr. FONG, Mr. BROOKE, Mr. HATFIELD, Mr. STEVENS, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Senate further insists upon its amendment to the bill (H.R. 6674) entitled "An act to authorize appropriations during the fiscal year 1976, and the period beginning July 1, 1976, and ending September 30, 1976, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes," disagreed to by the House; agrees to the further conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. JACKSON, Mr. CANNON, Mr. McINTYRE, Mr. HARRY F.